

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
November 12, 2013 @ 9:00 a.m.
County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Lori Litzen, Bill McCollam, and Ken Davis.

STAFF PRESENT: Lysann Zeller, PJ Conover, Jeri Ervin, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE OCTOBER 28, 2013, MINUTES
Moved by McCollam and seconded by Litzen to approve the October 28, 2013, Planning Commission minutes. Vote: unanimous (4 to 0).

2. APPROVAL OF THE AGENDA
Moved by Davis and seconded by McCollam to approve the November 12, 2013, Planning Commission Agenda, with the removal of Item #7. Vote: unanimous (4 to 0).

CONSENT CALENDAR

The following items have been placed on the Consent Calendar for action to be taken on all items in accordance with staff's recommendation by a single vote. Any item may be removed from the Consent Calendar, by any Planning Commissioner, staff member, or audience member for separate consideration. The findings of this Planning Commission are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. **CONDITIONAL USE PERMIT REVIEW / CU 07-41:** Gloria Roseland. To review a single-wide manufactured home as a single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 3A, Block 11, Ashland Subdivision No. 3, Section 15, T2N, R8E, BHM, Pennington County, South Dakota.

(Continued from the October 28, 2013, Planning Commission meeting.)

To revoke Conditional Use Permit / CU 07-41.

Vote: unanimous (4 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 11-02:** Jeff and Cheryl DeVeny. To review two internally, illuminated, on-premise signs within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

Lot 3 of Lot D, Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 11-02 with the following eleven (11) conditions:

1. **That this Conditional Use Permit only allows for one internally, illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District;**
2. **That access to the site be taken from Highway 385 and not from Penalua Gulch Road;**
3. **That all lighting be installed and maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;**
4. **That the sign must meet a minimum of a five (5) foot setback from the front property line and ten (10) foot setbacks from all side property lines. Also, that no part of the sign or infrastructure used for lighting be placed in a right-of-way;**
5. **That a Sign Permit be obtained for any on-premise signs, which requires a site plan to be reviewed and approved by the Planning Director;**
6. **That the sign conform to all regulations in Section 312 of the Pennington County Zoning Ordinance;**
7. **That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated;**
8. **That only on-premise advertising be allowed on the existing sign and no off-premise advertising is allowed unless an approved Zoning Variance is obtained from the Pennington County Board of Commissioners waiving the distance to the nearest dwelling unit requirement and this CUP is amended to allow for an off-premise sign;**

9. That the existing on-premise sign be removed by January 2014, if it continues to advertise for Big Horn Crossing restaurant, in accordance with Section 312-B-d of the Zoning Ordinance;
10. That this Conditional Use Permit be revoked in January of 2015 if the approved use (one (1) illuminated on-premise sign) is not established on the property at that time or the applicant apply for a one (1) year extension in accordance with Section 510-E of the Zoning Ordinance; and,
11. That this Conditional Use Permit be reviewed in January of 2015 or on a complaint basis.

Vote: unanimous (4 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 12-30:** Ruby and Frank Matejcik. To review a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

That Part of the SE1/4SE1/4 lying north and east of Slate Prairie Road, Section 26, T1N, R3E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 12-30 with the following eight (8) conditions:

1. That the maximum overnight occupancy, based on DENR's approval, be limited to six (6) people and the maximum daytime occupancy be limited to nine (9) people;
2. That the applicant maintains current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that current copies of these Licenses be provided to the Planning Department;
3. That a minimum of two (2) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) by eighteen feet and maintained in a dust-free manner;
4. That an interior informational sign be posted in accordance with the requirements of Section 319-G., during operation of the residence as a VHR;
5. That the lot address be posted at all times so it is clearly visible from Slate Prairie Road, including reflective numbering, in accordance with Ordinance #20;
6. That the applicant ensures the VHR is operated in accordance with the requirements of Section 319-F. (Performance Standards) at all times;

7. That the Section Line right-of-way encroachment issue appears to have been corrected, however, it is ever determined that a Section Line encroachment issue still exists, it shall be corrected by the applicant at that time; and,
8. That this Conditional Use Permit be reviewed in three (3) years or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (4 to 0).

6. **CONDITIONAL USE PERMIT / CU 13-23:** Todd Sime. To allow accessory buildings without a principal structure in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 7 of Tract C, Hook J Subdivision, Section 1, T1S, R9E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 13-23 with the following eleven (11) conditions:

1. That the existing approach off of Derby Lane be utilized and no new approaches be created;
2. That prior to November 2015 the applicant must do one of the following: 1) obtain an Operating Permit for the existing on-site waste water system; or, 2) abandon the existing on-site wastewater system. If the applicant desires to utilize the existing on-site wastewater system in the meantime, an Operating Permit must be obtained prior to doing so;
3. That, if the applicant chooses to install any type of plumbing within either pole barn, it be hooked into a proper means of wastewater disposal with overall adherence to all necessary State and County regulations;
4. That the applicant maintain all required setbacks during new construction;
5. That during construction of the new pole barn, the applicant implement erosion control measures such as silt fences, wattles, and/or berms to prevent sediment from entering into Rapid Creek;
6. That the accessory structures be used for personal use only and no commercial-type uses;
7. That the property remain free of debris and junk vehicles;
8. That all natural drainage paths be maintained;

9. That the address assigned to the property (23525 Derby Lane) be posted so it is clearly visible from Derby Lane in accordance with Pennington County's Ordinance #20;
10. That prior to any work being conducted within the 100-year floodplain boundaries, a Floodplain Development Permit be obtained; and,
11. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis or as directed by the Pennington County Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous (4 to 0).

8. **MINOR PLAT / PL 13-22 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-10:** Holy Smoke, Inc.; Danielle Banks – Agent. To create Tract 1 of Holy Smoke Addition and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot A Revised of Holy Smoke Addition and The Unplatted Balance of GL 16 less ROW and The Unplatted Blance of GL 21 less ROW in Section 31, T1S, R6E; Lot C (also in Section 31, T1S, R6E) and Lot D (also in Section 5, T2S, R6E and Sections 31 and 32, T1S, R6E) of Holy Smoke Addition; and All of Ben Bolt Lode, MS, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract 1 of Holy Smoke Addition, Sections 31 and 32, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Subdivision Regulations Variance / SV 13-10 to waive Section Line Highway improvements; access easement improvements; width requirements of the access easements; and engineered road construction plans for both the Section Line Highway and access easements and approval of Minor Plat / PL 13-22 with the following one (1) condition:

1. That prior to filing the plat with Register of Deeds, the Certificate of Planning Director be removed or crossed off.

Vote: unanimous (4 to 0).

9. **LAYOUT PLAT / PL 13-24 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-12:** Neil Tschetter; Fisk Land Surveying – Agent. To reconfigure lot lines to create Lot 10 Revised of Black Forest Village and Tract A Revised of Berry Development and to waive platting requirements in accordance with Sections 400.1 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 10 (of Government Lot 9) in Black Forest Village and Lot 10 (also in Section 15) of Tract A less a Portion of Lot 3R of Black Forest Village in Berry

Development all located in Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 10 Revised of Black Forest Village and Tract A Revised of Berry Development, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

To recommend approval of Subdivision Regulations Variance / SV 13-12 to waive percolations tests, soil profile information, topography at a five foot contour interval, and dedication and improvements to the access easements and Section Line Highway improvements and approval of Layout Plat / PL 13-24 with the following eight (8) conditions:

- 1. That at the time of Minor Plat submittal, engineered road construction plans be submitted for 33 foot access easements and the Section Line ROW or a Subdivision Regulations Variance be obtained waiving this requirement;**
- 2. That at the time of Minor Plat submittal, the applicant submits percolation tests for both lots to be reviewed and approved by the Environmental Planner or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
- 3. That at the time of submittal of the Minor Plat, Section Line ROW be improved to Ordinance 14 standards or a Subdivision Regulations Variance be obtained waiving this requirement;**
- 4. That at the time of Minor Plat submittal, the applicants submit topography at a five foot contour interval or a Subdivision Regulations Variance be obtained waiving this requirement;**
- 5. That prior to filing the plat with Register of Deeds, an Operating Permit be obtained for proposed Revised Lot B;**
- 6. That Lot 10 of Black Forest Village be rezoned from General Agriculture District to Suburban Residential District;**
- 7. That prior to Building Permit issuance, the applicant have an acceptable fire mitigation plan from the Pennington County Fire Coordinator; and,**
- 8. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.**

Vote: unanimous (4 to 0).

10. **REZONE / RZ 13-15 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-09:** Neil Tschetter. To rezone .26 acre from General Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Suburban Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lot 10 (of Gov't Lot 9), Black Forest Village, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

(Continued from the October 14, 2013, Planning Commission meeting.)

To recommend approval of Rezone / RZ 13-15 and approval of Comprehensive Plan Amendment / CA 13-09.

Vote: unanimous (4 to 0).

END OF CONSENT CALENDAR

7. **MINOR PLAT / PL 13-21:** Alison Lewis; Fisk Land Surveying - Agent. To create Lot 4 Revised of Engberg Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 4, 5, 7, 8, 9, and 10, Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 4 Revised, Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

Zeller stated the Agent asked to have this item removed from the Consent Calendar to discuss the one Condition of Approval. Zeller further reviewed the Staff Report with the Planning Commission and explained that the property does not contain any floodplain; therefore, staff is recommending that the condition requiring a Floodplain Statement be included on the Minor Plat be removed, as it is not needed.

Moved by Davis and seconded by Litzen to approve of Minor Plat / PL 13-21.

All voting aye, the Motion carried 4 to 0.

11. **CONDITIONAL USE PERMIT REVIEW / CU 09-33:** Colonial Pine Hills Sanitary District; CETEC Engineering – Agent. To review a utility well house in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Block 1, Whispering Pines Subdivision, Section 32, T1N, R7E, BHM, Pennington County, South Dakota.

Conover stated this is a review of a Conditional Use Permit for a utility well house in the Colonial Pine Hills Sanitary District that was originally approved in 2009 and again reviewed and approved in October of 2011. Conover explained that when staff performed a site visit to the property in November of 2013, staff found the facility to be enclosed with a six foot tall chain-link fence, even though Condition #2 states that the fence be at least seven feet in height. Conover further noted that staff is not opposed to changing the height requirement of the fence to six feet.

Staff recommended approval of the extension of Conditional Use Permit 09-33 with the following five (5) conditions:

1. That a minimum of two (2) off-street parking spaces be provided. Each space shall measure at least nine (9) feet by 18 feet and shall be maintained in a dust-free manner;
2. That the facility be secured with a fence at least six (6) feet in height, but no fencing or barriers shall be allowed in the Section Line right-of-way;
3. That the address be properly posted so it is visible from Croyle Avenue in accordance with Ordinance #20;
4. That proper setbacks from the property lines and bordering Section Line be maintained for all structures located on the property; and,
5. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis or as directed by the Planning Commission to determine that all conditions are being met.

Moved by Davis and seconded by McCollam to approve of the extension of Conditional Use Permit / CU 09-33 with the following five (5) conditions:

- 1. That a minimum of two (2) off-street parking spaces be provided. Each space shall measure at least nine (9) feet by 18 feet and shall be maintained in a dust-free manner;**
- 2. That the facility be secured with a fence at least six (6) feet in height, but no fencing or barriers shall be allowed in the Section Line right-of-way;**
- 3. That the address be properly posted so it is visible from Croyle Avenue in accordance with Ordinance #20;**

4. **That proper setbacks from the property lines and bordering Section Line be maintained for all structures located on the property; and,**
5. **That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis or as directed by the Planning Commission to determine that all conditions are being met.**

All voting aye, the Motion carried 4 to 0.

12. CONDITIONAL USE PERMIT REVIEW / CU 10-37: Kolin and Michele Sperle; Chuck Taylor – Agent. To review an accessory structure, a caboose, in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot C-15, Wolframite Estates, Section 34, T1S, R5E, BHM, Pennington County, South Dakota.

Conover stated this is a review of a Conditional Use Permit to allow an accessory structure, a caboose, prior to a principal structure. Conover noted that in the previous Conditions of Approval, the applicant will need to have applied for a Building Permit by November 28, 2013, to construct a single-family residence on the property. Conover stated that staff contacted the applicant and he is not able to build a residence for at least three years and further asked for an extension of his Conditional Use Permit. Conover also stated that staff has not received complaints from the neighboring landowners, since December of 2010, regarding the applicant building a primary residence and staff will be recommending approval of the extension.

Staff recommends approval of the extension of Conditional Use Permit / CU 10-37 with the following six (6) conditions:

1. That the lot address continues to be properly posted in accordance with Pennington County's Ordinance #20 so it is clearly visible at the intersection of the driveway with Wolframite Road;
2. That the caboose be utilized as a studio/workshop only and shall contain no residential living quarters. If the applicant chooses to reside within the caboose, a new Conditional Use Permit shall be obtained and the Building Permit shall be amended;
3. That the caboose be used for personal use only. No commercial activity shall be permitted;
4. That the property remains free of debris and junk vehicles;

5. That a Building Permit for a single-family residence be applied for within three (3) years or the Conditional Use Permit be amended to use the caboose as a primary structure; and,
6. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis or as directed by the Pennington County Planning Commission.

Commissioner Zvejnieks questioned whether this item should be reviewed in one year instead of two years to address the applicant building a residence within the 5-year timeframe, as expressed by the neighbors when the applicant initially applied for the Conditional Use Permit. Commissioner Zvejnieks asked how similar reviews are typically handled.

Zeller responded that this is an unusual circumstance since Conditional Use Permits for accessory structures do not normally include a condition requiring that a Building Permit be applied for by a specific timeframe to build a residence, but a condition was added to the original approval of this CUP to address the neighbor's concerns. Staff also stated a review in one year could be done, but the applicant has indicated he will not be able to build for three years.

Commissioner Litzen asked if the applicant utilizes the structure as a workshop.

Conover stated the caboose is used as a hobby shop for the applicant's personal use.

Discussion followed.

Moved by Litzen and seconded by McCollam to approve of the extension of Conditional Use Permit / CU 10-37 with the following six (6) conditions:

- 1. That the lot address continues to be properly posted in accordance with Pennington County's Ordinance #20 so it is clearly visible at the intersection of the driveway with Wolframite Road;**
- 2. That the caboose be utilized as a studio/workshop only and shall contain no residential living quarters. If the applicant chooses to reside within the caboose, a new Conditional Use Permit shall be obtained and the Building Permit shall be amended;**
- 3. That the caboose be used for personal use only. No commercial activity shall be permitted;**
- 4. That the property remains free of debris and junk vehicles;**
- 5. That a Building Permit for a single-family residence be applied for within three (3) years or the Conditional Use Permit be amended to use the caboose as a primary structure; and,**

6. **That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis or as directed by the Pennington County Planning Commission.**

All voting aye, the Motion carried 4 to 0.

13. PRELIMINARY PLAT / PL 13-23 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-11: Grant Bolt / Greg Bolt. To create Lots 2, 3, 4, 5, and 6 of Back Road Subdivision and to waive platting requirements in accordance with Sections 400.2 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Government Lot 1 in the NW1/4SE1/4, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 2, 3, 4, 5, and 6 of Back Road Subdivision, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicants have applied to create Lots 2, 3, 4, 5, and 6 of Back Road Subdivision and to waive platting requirements.

Zeller also explained that Condition #7 of the Layout Plat required a Fire Mitigation Plan to be submitted by the applicants for review and approval by the Pennington County Fire Coordinator. A Fire Mitigation Plan was submitted and has been reviewed by the Fire Coordinator, Denny Gorton. Mr. Gorton provided several comments in response to the plan; however, the Subdivision Regulations only require Fire Mitigation Plans for subdivisions consisting of seven (7) or more lots, which does not apply to the applicant's proposed platting of five (5) lots. Nonetheless, due to the known fire hazard of the area, staff felt it appropriate to incorporate the Fire Coordinator's comments in the Conditions of Approval.

Staff recommended approval of Subdivision Regulations Variance 13-11 to waive the requirements for percolation test results to be submitted for each of the proposed lots, for the scale of the plat to be no greater than one (1) inch equals 100 feet, and for topography information to be provided at a five (5) foot contour interval.

Staff recommended approval of Preliminary Plat 13-23 with the following eight (8) conditions:

1. That the Resolution by Governing Board Certificate shown on the plat be changed to Certification on Plat by County Auditor (Final Plat) in accordance with Section 400.3-1-n-3(b) of the Subdivision Regulations;
2. That the size of the final mylar version of the plat be in accordance with state statute as indicated in the Register of Deed's comments, either 8½" by 14," 11" by 17," or 15" by 26;"

3. That Silver Mountain Road be dedicated as public right-of-way on the plat;
4. That fire mitigation measures be conducted on the subject property in accordance with the Pennington County Fire Coordinator's comments and that this be verified by the Fire Coordinator prior to approval of the Final Plat;
5. That all existing Forest Service land markers be removed prior to approval of the Final Plat;
6. That all lot addresses be posted at the shared approaches to clearly identify home locations in accordance with Pennington County's Ordinance #20;
7. That a length be dedicated on the Final Plat for the 40-foot-wide shared access easements on Lots 2 and 3 and Lots 4 and 5; and,
8. That proposed Lot 3 have a depth restriction of 24" for the absorption field due to the soil profile hole only being six (6) feet deep, unless a deeper soil profile hole is dug and inspected prior to submittal of an On-Site Wastewater Construction Permit for this lot.

Commissioner Zvejnieks spoke of Subdivision Regulation requirements frequently being waived when platting and suggested amending the Ordinance to eliminate the need for so many Variances.

Zeller responded and indicated that each application is handled on a case-by-case basis, but agreed that this should be looked into since the majority of plat requests are to have the scale and topography requirements waived.

Commissioner Davis discussed the Fire Coordinator's comments and noted that the recommendations for building materials and sprinklers are not required by Pennington County.

Zeller confirmed this and stated that staff did not include these recommendations in the Conditions of Approval, as Pennington County does not enforce a building code.

Commissioner Litzen spoke of a recent application where the applicant was required to implement a Fire Mitigation Plan.

Zeller explained that Mr. Jim Steele, who submitted a Rezone request to Pennington County, but is platting through the City of Rapid City, was required to submit a Fire Mitigation Plan with the City and not Pennington County.

Commissioner McCollam also commented on implementing fire migration measures before approval of the Final Plat, as it is worded in Condition #4.

Zeller said she would reword the language in Condition #4 to specifically address only the removal of all downed trees and dead trees and the clearing of other vegetation on the property.

Mr. Greg Bolt, applicant, appeared and discussed the Conditions of Approval and stated he is okay with the recommendations. He further indicated that they plan on removing all the downed trees, given enough time to accomplish it.

Discussion followed.

Moved by McCollam and seconded by Davis to approve with corrections to Condition #4.

Commissioner Litzen clarified what the corrections will be and if it will be required before Final Plat approval.

Commissioner McCollam said the property would be thinned, according to the Fire Mitigation Plan.

Zeller reminded the Planning Commission that the way Condition #4 reads, the property will need to be cleaned prior to Final Plat approval

Commissioner McCollam withdrew his Motion.

Mr. Bolt said they would prefer to have the fire mitigation measures done prior to building.

Commissioner Davis commented that fire mitigation measures should be done prior to a Building Permit being applied for.

Commissioner Litzen stated that Condition #4 could read: "That fire mitigation measures on the trees be conducted prior to a Building Permit being applied for."

SUBSTITUTE MOTION: Moved by Litzen to approve with Condition #4 stating: "That fire mitigation measures on the trees be conducted prior to a Building Permit being applied for."

Mr. Grant Bolt asked if this is a requirement or a suggestion.

Commissioner Litzen informed Mr. Bolt that if it is included in the Conditions of Approval, it is a requirement they will need to meet before obtaining a Building Permit.

SUBSTITUTE MOTION Seconded by Zvejnieks.

Discussion followed on whether or not to include language in Condition #4 to clarify that the fire mitigation measures are required for each lot prior to issuance of a Building Permit.

Zeller recommended Condition #4 state: “That fire mitigation measures on the trees be conducted in accordance with the Pennington County’s Fire Coordinator’s comments prior to approval of a Building Permit, on each of the proposed lots.”

SECOND SUBSTITUTE MOTION: Moved by Zvejnieks and seconded by McCollam to approve of Subdivision Regulations Variance 13-11 to waive the requirements for percolation test results to be submitted for each of the proposed lots, for the scale of the plat to be no greater than one (1) inch equals 100 feet, and for topography information to be provided at a five (5) foot contour interval, and also approval of Preliminary Plat 13-23 with the following eight (8) conditions:

- 1. That the Resolution by Governing Board Certificate shown on the plat be changed to Certification on Plat by County Auditor (Final Plat) in accordance with Section 400.3-1-n-3(b) of the Subdivision Regulations;**
- 2. That the size of the final mylar version of the plat be in accordance with state statute as indicated in the Register of Deed’s comments, either 8½” by 14,” 11” by 17,” or 15” by 26;”**
- 3. That Silver Mountain Road be dedicated as public right-of-way on the plat;**
- 4. That fire mitigation measures on the trees be conducted in accordance with the Pennington County’s Fire Coordinator’s comments prior to approval of a Building Permit, on each of the proposed lots;**
- 5. That all existing Forest Service land markers be removed prior to approval of the Final Plat;**
- 6. That all lot addresses be posted at the shared approaches to clearly identify home locations in accordance with Pennington County’s Ordinance #20;**
- 7. That a length be dedicated on the Final Plat for the 40-foot-wide shared access easements on Lots 2 and 3 and Lots 4 and 5; and,**
- 8. That proposed Lot 3 have a depth restriction of 24” for the absorption field due to the soil profile hole only being six (6) feet deep, unless a deeper soil profile hole is dug and inspected prior to submittal of an On-Site Wastewater Construction Permit for this lot.**

All voting aye, the Motion carried 4 to 0.

14. CONDITIONAL USE PERMIT REVIEW / CU 09-25: Steve Hobart. To review a ranch hand's residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The W1/2W1/2SW1/4NE1/4, Section 16, T1S, R3E, BHM, Pennington County, South Dakota.

(Continued from the July 8, 2013, Planning Commission meeting.)

Zeller stated this is a review of a Conditional Use Permit to allow a single-wide manufactured home as a ranch hand's residence on the subject property. Zeller further explained that, since the last review of the Conditional Use Permit for the ranch hand's residence, the applicant was to have completed a soil profile hole and percolation tests and apply for an On-Site Wastewater Construction Permit. On July 8, 2013, Planning Commission extended CU 09-25 to the November 12, 2013, Planning Commission meeting with the understanding that the applicant will have conducted the percolation tests and soil profile information for the ranch residence that has been located on the property since 2011. Staff has tried to contact the applicant, but has not heard from him as to the status of these tests being done.

Staff recommended that, since the applicant has not submitted an On-Site Wastewater Treatment System Construction Permit prior to November 12, 2013, Conditional Use Permit 09-25 be revoked and the ranch hand residence be removed from the property.

Commissioner Zvejnieks discussed a timeframe for removal of the single-wide mobile home.

Zeller commented that a timeframe to have the home removed from the property would be a good idea, whether it is 30 or 60 days, etc.

Commissioner Zvejnieks spoke of sending a certified letter to the applicant, prior to revoking the Conditional Use Permit, since the applicant has not been in contact with staff, even though staff has tried to make contact with him numerous times.

Commissioner Davis spoke of extending the Conditional Use Permit and including language that a suitable wastewater system be installed, prior to the ranch hand's residence being inhabited.

Commissioner Zvejnieks asked if a certified letter was sent to the applicant.

Zeller said no and recommended continuing the item in order to so or approving with the recommended change to Condition #1.

Moved by Davis and seconded by Litzen to approve of the extension of Conditional Use Permit 09-25 with the following five (5) conditions:

1. That a suitable on-site wastewater treatment system be installed and approved by the Environmental Planner, prior to the ranch hand's residence being inhabited;
2. That an address be posted along Gillette Prairie Road which is visible from both directions of Gillette Prairie Road and posted on each residence on the property in accordance with Ordinance #20;
3. That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
4. That the conditions of the existing Conditional Use Permits be applicable to the property; and,
5. That this Conditional Use Permit be reviewed in two (2) years or upon a complaint basis.

All voting aye, the Motion carried 4 to 0.

15. REZONE / RZ 13-13 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-07: Mitch Morris. To rezone 151.36 acres and 30.49 acres from General Agriculture District and Light Industrial District to General Commercial District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Limited Agriculture District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Being 151.36 acres of land located in the E1/2 of Section 32, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, said 151.36 acres of land being more particularly described by metes and bounds as follows, all measurements are to be considered as being followed by the words "more or less"; BEGINNING at the southwest corner of Lot 1 of the SW1/4 SE1/4 of Section 32, Township 1 North, Range 8 East of the Black Hills Meridian, on the south line of Section 32 at the intersection of the east right-of-way line of South Dakota Highway 79; Thence, North 06°32'53" West, along the west line of said Lot 1 of the SW1/4 SE1/4 of Section 32 and east right-of-way line of SD Highway 79, a distance of 4310.98 feet to a point on the easterly line of Lot A of the NW1/4 NE1/4 of Section 32 as shown on plat recorded in Highway Plat Book 9, Page 93, in the office of the Pennington County Register of Deeds, in a curve from which the center of curvature bears North 48°17'34" West a distance of 103.00 feet; Thence, southwesterly, following the easterly line of said Lot A of the NW1/4 NE1/4 of Section 32, along a curve to the right having a radius of 103.00 feet, a central angle of 35°53', for an arc distance of 64.51 feet to a point of tangency; Thence, South 77°35'27" West, continuing to follow the easterly line of said Lot A of the NW1/4 NE1/4 of Section 32, a distance of 4.12 feet to a point for corner on the east right-of-way line of SD Highway 79, in a curve from which the center of curvature bears South 73°13'38" West a distance of 3920 feet; Thence, northwesterly, along a curve to the left having a radius of 3920 feet, a

central angle of 00°29'02", for an arc length of 33.11 feet to point for corner on the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32; Thence, North 77°35'27" East, following the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, a distance of 6.78 feet to a point of curvature; Thence, northeasterly, continuing to follow the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, along a curve to the left having a radius of 70.00 feet, a central angle of 84°05'03", for an arc length of 102.73 feet to a point of tangency; Thence, North 06°29'36" West, continuing to follow the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, a distance of 606.16 feet to a point of curvature; Thence, northwesterly, continuing to follow the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, along a curve to the left having a radius of 1432.39 feet, a central angle of 05°45'52", for an arc length of 144.11 feet to point for corner on the west line of the E1/2 of Section 32; Thence, North 00°01'24" East, along the west line of the E1/2 of Section 32, a distance of 206.71 feet to the northwest corner of the E1/2 of Section 32; Thence, South 89°48'35" East, along the north line of the E1/2 of Section 32, a distance of 2656.84 feet to the northeast corner of Section 32; Thence, South 00°04'45" West, along the east line of Section 32, a distance of 500.00 feet to a point for corner; Thence, North 89°48'35" West, parallel to and 500 feet distant from the north line of the E1/2 of Section 32, a distance of 1514.54 feet to a point for corner; Thence, South 06°22'35" East, a distance of 4844.00 feet to a point for corner on the south line of the E1/2 of Section 32; Thence, North 89°36'35" West, along the south line of the E1/2 of Section 32, a distance of 1088.72 feet to the POINT OF BEGINNING and containing 151.36 acres, more or less, of land.

Being 30.49 acres of land located in the N1/2 NW1/4 of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, said 30.49 acres of land being more particularly described by metes and bounds as follows, all measurements are to be considered as being followed by the words "more or less"; BEGINNING at the northwest corner of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian; Thence, South 89°51'35" East, along the north line of the NW1/4 of Section 33, a distance of 2656.84 feet to the northeast corner of the NW1/4 of Section 33; Thence, South 00°08'05" West, along the east line of the NW1/4 of Section 33, a distance of 500.00 feet to a point for corner; Thence, North 89°51'35" West, parallel to and 500 feet distant from the north line of the NW1/4 of Section 33, a distance of 2656.35 feet to a point for corner on the west line of the NW1/4 of Section 33; Thence, North 00°04'45" East, a distance of 500.00 feet to the POINT OF BEGINNING and containing 30.49 acres, more or less, of land.

(Continued from the October 14, 2013, Planning Commission meeting.)

Zeller reviewed the Staff Report indicating these items had been continued from the October 14, 2013, Planning Commission meeting with the understanding the applicant would be submitting a Conditional Use Permit application to have a residence in a General Commercial Zoning District prior to commercial use and to also pay a \$100 continuation fee at the time the applicant applies for the Conditional Use Permit. As of November 4, 2013, the applicant has not submitted a CUP application, nor has he paid

the \$100 continuation fee. The applicant has had several opportunities to submit a Conditional Use Permit and has failed to do so.

Staff recommended Rezone 13-13 and Comprehensive Plan Amendment 13-06 be denied without prejudice.

Moved by Zvejnieks to deny without prejudice, Rezone 13-13 and Comprehensive Plan Amendment 13-06, due to lack of action by the applicant.

Motion died for lack of a second.

SUBSTITUTE MOTION: Moved by Davis and seconded by McCollam to deny Rezone 13-13 and Comprehensive Plan Amendment 13-06.

Commissioner Litzen asked to staff to explain “to deny without prejudice” vs. “to deny”.

Zeller reviewed this with the Planning Commission.

All voting aye, the Motion carried 4 to 0.

16. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission’s recommendations from the October 14th and October 28th Planning Commission meetings with the exception of Rezone / RZ 13-19 (James and Charlette Steele), which was continued to the November 19th Board of Commissioners’ meeting.

17. ITEMS FROM THE PUBLIC

There were no items from the public.

18. ITEMS FROM THE STAFF

A. Building Permit Report. Conover reviewed the Building Permit Report for October 2013.

B. Rapid City Comprehensive Plan. Zeller stated that staff recently attended the Rapid City Comprehensive Plan meetings and the consultants have invited the Pennington County Planning Commission and Board of Commissioners to attend future public meetings. The consultants will return in January and it may be possible for them to do a presentation for Pennington County.

Commissioner Zvejnieks commented that the presentation could be part of a scheduled Planning Commission meeting or the Planning Commission can hold a specific special meeting.

Commissioner McCollam recommended a special Planning Commission meeting be scheduled.

- C. Planning Commission Quorum and Votes. Deputy State's Attorney, Patrick Grode, reviewed the By-Laws and votes needed for quorum purposes to approve an item, to continue an item, to deny an item, or in a tie vote, to place the item on the next scheduled Planning Commission Agenda.

19. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

20. DISCUSSION ITEMS

There were no discussion items.

21. ADJOURNMENT

Moved by Davis and seconded by Litzen to adjourn.

All voting aye, the Motion carried 4 to 0.

The meeting adjourned at **10:00 a.m.**

Chairperson, Sig Zvejnieks