

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**November 25, 2013 @ 9:00 a.m.**  
County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Karen Hall, Jim Coleman, Lori Litzen, Bill McCollam, Barbara Landers, and Ken Davis.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, PJ Conover, Brittney Molitor, Kelsey Rausch, Jeri Ervin, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE NOVEMBER 12, 2013, MINUTES  
**Moved by Litzen and seconded by McCollam to approve the November 12, 2013, Planning Commission minutes. Vote: unanimous (7 to 0).**
2. APPROVAL OF THE AGENDA  
**Moved by Hall and seconded by Litzen to approve the November 25, 2013, Planning Commission Agenda, with the removal of Item #5. Vote: unanimous (7 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 05-30:** Melvin and Mary Leui; Debarah Leui – Agent. To review a second manufactured home on the property to be used as a caretaker's residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 3, Block 7, Ashland Subdivision #2, Section 15, T2N, R8E, Pennington County, South Dakota.

(Continued from the September 23, 2013, Planning Commission meeting.)

**To approve of the extension of Conditional Use Permit / CU 05-30 with the following ten (10) conditions:**

1. **That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;**

2. That the caretaker's residence must have a minimum of two (2), nine (9) foot by eighteen (18) foot parking spaces;
3. That the caretaker's residence must use the existing access approach from Ashland Road;
4. That the addresses for both the primary and second residence be posted at the intersection of the driveway and Ashland Road, visible from both directions of travel along Ashland Road, in accordance with Ordinance #20;
5. That the caretaker's residence be removed when care is no longer needed or the property be subdivided at that time to allow the caretaker's residence to be the principle structure on its own lot;
6. That the septic system of the removed residence be properly abandoned in accordance with State Administrative Rules for on-site wastewater systems;
7. That the property must be kept free from debris;
8. That any construction material on the property must be stacked in an orderly manner;
9. That the property be kept clear of unlicensed or inoperable vehicles; and,
10. That this Conditional Use Permit is to be reviewed in three (3) years or on a complaint basis.

**Vote: unanimous (7 to 0).**

4. **CONDITIONAL USE PERMIT REVIEW / CU 07-47:** Randy Babcock; Exergy Development Group. To review a wind measurement tower, not to exceed 200 feet in height, in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Government Lot 4; SE1/4SW1/4; S1/2SE1/4, Section 30, T4N, R16E, BHM, Pennington County, South Dakota.

**To continue the review of Conditional Use Permit / CU 07-47 to the January 13, 2014, Planning Commission meeting.**

**Vote: unanimous (7 to 0).**

6. **CONDITIONAL USE PERMIT / CU 13-24:** Scott Buckley; Jim Peterson – Agent. To allow for a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Part of Sherman Placer MS #821 and Lot A of Sherman Placer MS #821, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

**To approve of Conditional Use Permit / CU 13-24 with the following eleven (11) conditions:**

1. That the maximum overnight occupancy, based on DENR's approval, be limited to four (4) people and the maximum daytime occupancy be limited to six (6) people;
2. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from DENR;
3. That the applicant maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these Licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
4. 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;
5. That an interior informational sign be posted in accordance with the requirements of Section 319-G., during operation of the residence as a VHR;
6. That the lot address be posted at all times so it is clearly visible from Old Hill City Road, in accordance with Ordinance #20;
7. That the applicant ensure the VHR is operated in accordance with the requirements of Section 319-F. (Performance Standards) at all times;
8. That prior to any work being conducted within the boundaries of the 100-year floodplain, a Floodplain Development Permit be obtained;
9. That a Burn Permit be obtained from the State Division of Wildland Fire for the outside fire pit on the property and a copy of this permit be provided by the applicant to the Planning Department prior to operating of the Vacation Home Rental, or else, the fire pit be abandoned;

10. That if the person designated as the Local Contact is ever changed from Jim Peterson, the interior informational sign be updated and the applicant re-notify the surrounding landowners within 500 feet via notices sent first-class; and,
11. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to verify that all conditions of approval are being met.

**Vote: unanimous (7 to 0).**

7. **CONDITIONAL USE PERMIT / CU 13-25**: Prairie Berry, LLC; Matt Keck – Agent. To allow two illuminated on-premise signs within 1,500 feet of a dwelling unit and residential zoning district in a Highway Service District in accordance with Sections 210, 312, and 510 of the Pennington County Zoning Ordinance.

Lot 1, Addie Camp Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

**To approve of Conditional Use Permit / CU 13-25 with the following five (5) conditions:**

1. 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;
2. That the sign must meet a minimum of a five (5) foot setback from the front property lines and maintain proper setbacks from all side and rear property lines;
3. That the sign conform to all regulations in Section 312 of the Pennington County Zoning Ordinance;
4. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
5. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to verify that all conditions of approval are being met.

**Vote: unanimous (7 to 0).**

**END OF CONSENT CALENDAR**

5. **TELECOMMUNICATIONS FACILITY PERMIT REVIEW / TC 09-04:** AT&T; Clayton and Francis Baker. To review a 190 foot monopole communications tower in a General Agriculture District in accordance with Sections 205, 316, and 510 of the Pennington County Zoning Ordinance.

Part of the NE1/4SW1/4 North of Highway and less Strato Bowl Subdivision and less Right-of-Way in Strato Bowl Subdivision, Section 13, T1S, R6E, BHM, Pennington County, South Dakota.

Staff asked to have this item removed from the Consent Calendar to recommend continuing the review to the December 9<sup>th</sup> Planning Commission meeting. Conover explained that there is new agent for AT&T, for this file, and staff is recommending the continuance in order for the agent to be able to review the Conditions of Approval and be in compliance.

**Moved by Landers and seconded by Hall to continue the review of Telecommunications Facility Permit / TC 09-04 to the December 9, 2013, Planning Commission meeting.**

**All voting aye, the Motion carried 7 to 0.**

8. **APPEAL OF PLANNING DIRECTOR'S DECISION:** Harold J. Marlow. To appeal the requirement of Section 204-J-5 of the Pennington County Zoning Ordinance.

Lot 10R, Block 1, Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota.

Molitor explained that Mr. Marlow is appealing the Planning Director's decision that there is a cesspool located on the subject property and it is to be abandoned, filled in, and connected to the drainfield.

Molitor noted that the residence on the property was built in 1971 and the Building Permit indicates that there is a 1,000 gallon septic tank and a 1,500 gallon cesspool that were installed on the property at that time and a drainfield would be installed at a later date. There is also a Conditional Use Permit for a Guest House above the carport and this was approved in 1992, but there are no records for the building to determine if it is connected to the existing septic tank and cesspool. Also, in reviewing the property, Mr. Marlow's property is located near the boundaries of the Madison Aquifer Recharge Area and above Spring Creek, which is in the Lower Spring Creek Watershed.

Commissioner Zvejnieks asked staff to review the definitions of a drywell, seepage pit, and cesspool.

Molitor reviewed these definitions and also spoke of Pennington County's Wastewater requirements, per Section 204-J of Zoning Ordinance, and what is allowed and further discussed the correspondence between staff and Mr. Marlow.

Commissioner Coleman clarified that the dry well has become a seepage pit by virtue of the effluent going into it.

Molitor said that is correct.

Commissioner McCollam also spoke of the dry well that has become a seepage pit.

Molitor noted that staff believes there is a drainfield that was installed in 1991, per Mr. Marlow; however, a permit could not be located for the drainfield.

Commissioner Hall questioned how the effluent gets from the seepage pit into the drainfield.

Molitor stated that staff is unable to determine this and staff is requesting that Mr. Marlow bypass the cesspool and go directly from the septic tank into the drainfield.

Commissioner Landers asked if a permit was required in 1991 to install a new system.

Jennissen explained that a permit is required, but that doesn't mean everyone applied for one.

Commissioner Litzen spoke of Mr. Marlow's comments in his letter referencing that Olson Construction installed a drainfield in 1991 and asked if there are any records for this.

Molitor said no.

Mr. Harold J. Marlow, appellant, appeared and provided the Planning Commission with copy of his correspondence to the Planning Department, his definition of a cesspool, copy of a Statement from Olson Excavating, and a 2012 Drinking Water Report. He stated that he does not have a cesspool on his property and further spoke of the original disposal system containing a septic tank that discharged the liquid into a dry well. This dry well became inoperable 1991 as the soil became saturated with the liquid and the system backed up, overflowing through the ventilator pipe. Mr. Marlow also stated the soil surrounding the dry well is impermeable and cannot release liquid into the soil. Mr. Marlow believes the dry well to be inoperable and, in 1991, he had Olson Construction install a drainfield. Mr. Marlow further stated the community well is 1,000 feet deep and several hundred feet above Spring Creek and the report he provided does not show any contamination.

Discussion followed.

**Moved by McCollam and seconded by Hall to deny Mr. Marlow's Appeal of the Planning Director's Decision, due to lack of information presented, and to also have**

**the appellant determine where the pipe from the septic tank goes and where the pipe from the dry well goes.**

Commissioner Davis clarified with Mr. Marlow that he can also appeal the Planning Commission's decision to the Board of Commissioners.

**All voting aye, the Motion carried 7 to 0.**

9. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the November 12, 2013, Planning Commission meeting.

10. ITEMS FROM THE PUBLIC

Mr. Jim Peterson appeared and spoke of the requirements for Vacation Home Rentals. He stated his concern about is the requirement where the Conditional Use Permit for a Vacation Home Rental is revoked upon sale. He recently had an applicant apply for a Conditional Use Permit and obtain approval and then the property sold, which revoked the Conditional Use Permit. Then the new buyer had to apply again for a new Conditional Use Permit and obtain approval in order to operate the property as a Vacation Home Rental, even though the applicant listed on both Conditional Use Permit Applications had not changed. Mr. Peterson recommended this requirement be changed so that prospective buyers of VH Rental properties do not have to apply twice.

Commissioner Zvejnieks commented that the Vacation Home Rental Ordinance is working how it was designed to and suggested this may be looked at in the future.

Commissioners Landers and Coleman concurred with Commission Zvejnieks.

Discussion followed on the current requirements for Vacation Home Rentals and to also have staff research ways for new buyers to obtain approval of a Conditional Use Permit for a VH Rental and the Conditional Use Permit not being revoked upon sale when the prospective buyer is known.

11. ITEMS FROM THE STAFF

A. Jennissen invited the Planning Commission and the Board of Commissioners to the Planning Office on December 9<sup>th</sup> for treats, following the meeting, as staff would like to show their appreciation for all the hard work the members do throughout the year.

B. Pennington County Comprehensive Plan. Jennissen informed the Planning Commission that the City of Rapid City is spending around \$230,000 to update their plan. Jennissen also stated he will be is requesting a proposal from the consultants for Pennington County.

Commissioner Zvejnieks asked that a meeting be scheduled for a presentation to Pennington County. Jennissen indicated that he will be scheduling a Planning Commission meeting for the presentation.

Commissioner Litzen also asked that Jennissen provide the consultants with the Planning Commissioner's e-mail addresses so that they are included in any upcoming meetings and correspondence.

12. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

13. DISCUSSION ITEMS

There were no discussion items.

14. ADJOURNMENT

**Moved by Davis and seconded by Hall to adjourn.**

**All voting aye, the Motion carried 7 to 0.**

The meeting adjourned at **10:23 a.m.**

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Chairperson, Sig Zvejnieks