

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
February 23, 2015 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Karen Hall, Lori Litzen, Jim Coleman, Barbara Landers, and Lyndell Peterson.

STAFF PRESENT: PJ Conover, Brittney Molitor, Cassie Bolstad, Jeri Ervin, Colin Hensley, and Kinsley Groote (SAO)

ROLL CALL

1. APPROVAL OF THE FEBRUARY 9, 2015, MINUTES
Moved by Hall and seconded by Landers to approve the minutes of the February 9, 2015, Planning Commission Meeting. Vote: unanimous (5 to 0).

2. APPROVAL OF THE AGENDA
Moved by Landers and seconded by Litzen to approve the Agenda of the February 23, 2015, Planning Commission Meeting, including the Consent Calendar, with the removal of Item #9 and Item #10. Vote: unanimous (5 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 11-02:** Jeff and Cheryl DeVeney. 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.

(Continued from the January 26, 2015, Planning Commission meeting.)

To recommend to continue the review of Conditional Use Permit / CU 11-02 to the March 23, 2015, Planning Commission meeting.

Vote: unanimous (5 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 12-01:** Eric and Amy Wagner. To review a gunsmithing business as a home occupation in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 4, Block 5, Pine Cliff Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 12-01 with the following eight (8) conditions:

1. **That the business shall be operated by members of the family residing on the premises and that the addition of another employee would require a review of this Conditional Use Permit and the specifications of the on-site wastewater treatment system to be reviewed and approved by DENR;**
2. **That the home occupation, including all associated storage, continue to be conducted entirely indoors;**
3. **That the home occupation continue to be secondary to the primary, residential use of the property, and the residential character of the property be maintained;**
4. **That no on-premise retail sales be allowed;**
5. **That the applicant continue to comply with all applicable local, state, and federal laws and a current copy of the applicant's Federal Firearms License from the U.S. Bureau of ATF be kept on file with the Planning Department;**
6. **That any modification or expansion of the home occupation shall require the Conditional Use Permit to be amended;**
7. **That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property; and,**
8. **That this Conditional Use Permit be reviewed in three (3) years or on a complaint basis, or as deemed necessary by either the Board of Commissioners or the Planning Commission to verify that all conditions of approval are being met.**

Vote: unanimous (5 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 13-03:** Philip and Colleen Hunter. To review accessory structures (wood shed and a greenhouse) without a principal structure in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 6 of Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 13-03 to the April 13, 2015, Planning Commission meeting.

Vote: unanimous (5 to 0).

6. **CONDITIONAL USE PERMIT REVIEW / CU 14-03:** Home Quest, Inc.; Mike Harmon - Agent. To review storage units to be located on the subject property in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Tract A of Lot B in the NE1/4NW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 14-03 to the March 23, 2015, Planning Commission meeting.

Vote: unanimous (5 to 0).

7. **CONDITIONAL USE PERMIT REVIEW / CU 15-02:** Valerie Naylor. To allow for an accessory structure prior to a primary structure, a garage, in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lots 7 and 8 of Lot 1 of SW1/4SW1/4, Section 14, T1N, R5E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 15-02 with the following seven (7) conditions:

1. **That the accessory structure be used for personal use only and no commercial-type uses;**
2. **That the property remains free of debris at all times;**
3. **That the address, once assigned to the property, be posted so it is clearly visible from Custer Trails Road in accordance with Pennington County's Ordinance #20;**
4. **That an Approach Permit be obtained prior to obtaining a Building Permit;**
5. **That a Building Permit be obtained for an structure exceeding 144 square feet or located on a permanent foundation;**

6. **That all natural drainage paths be maintained; and,**
7. **That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or County Board of Commissioners to verify that all Conditions of Approval are being met.**

Vote: unanimous (5 to 0).

8. **VACATION OF PLAT / VP 14-02:** Schurgerland, LLC. To vacate that part of Lots 10, 11, and 12 located in Pennington County of Pathfinder 1 Subdivision in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

EXISTING LEGAL: Lots 1-12 of Pathfinder 1 Subdivision, all located in the SE1/4, Section 9, T2N, R9E, BHM, Meade County and Pennington County.

PROPOSED LEGAL: W1/2SE1/4 and SE1/4SE1/4, Section 9, T2N, R9E, BHM, Meade County and Pennington County.

(Continued from the January 12, 2015, Planning Commission meeting.)

To recommend to continue the Vacation of Plat / PL 14-02 to the March 9, 2015, Planning Commission meeting.

Vote: unanimous (5 to 0).

END OF CONSENT CALENDAR

9. **REZONE / RZ 15-01:** Dolores Sjveren; D.C. Scott Surveyors – Agent. To rezone 3.477 acres from Limited Agriculture District to Low Density Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Being 3.477 acres of land consisting of the East 285.96 feet of the West 1013.00 feet of the South 529.63 feet in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section 12, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, said 3.477 acres of land being more particularly described by metes and bounds as follows: COMMENCING, for location purposes only, at the Southwest corner of said Section 12, being at the intersection of Longview Road and Anderson Road, both public highways with right-of-way widths of 66 feet; Thence, North 89° 59' 20" East, along the South line of Section 12 and centerline of Longview Road, a distance of 727.04 feet to the POINT OF BEGINNING of the herein described tract; Thence, North 00° 05' 20" East, parallel to and 727.04 feet distant from the West

line of Section 12 and centerline of Anderson Road, a distance of 529.63 feet to a point for corner; Thence, North 89° 59' 20" East, parallel to and 529.63 feet distant from the South line of Section 12 and centerline of Longview Road, a distance of 285.96 feet to a point for corner; Thence, South 00° 05' 20" West, parallel to and 1013.00 feet distant from the West line of Section 12 and centerline of Anderson Road a distance of 529.63 feet to a point for corner on the South line of Section 12 and centerline of Longview Road; Thence, South 89° 59' 20" West, along the South line of Section 12 and centerline of Longview Road, a distance of 285.96 feet to the POINT OF BEGINNING and containing 3.477 acres (151,453 square feet) more or less, of land.

Ms. Tina Mullally, a member of the public, appeared and asked to have this item removed from the Consent Calendar.

Conover reviewed the Staff Report indicating the applicant has applied to rezone 3.477 acres from Limited Agriculture District to Low Density Residential District. He further explained that, in further research, the applicant also needs to amend the Pennington County Comprehensive Plan, and both applications will be heard at the March 9, 2015, Planning Commission meeting.

Staff recommended to continue Rezone / RZ 15-01 to the March 9, 2015, Planning Commission meeting.

Ms. Mullally commented that her concerns have been addressed.

Moved by Hall and seconded by Landers to continue Rezone / RZ 15-01 to the March 9, 2015, Planning Commission meeting.

All voting aye, the Motion carried 5 to 0.

10. CONSTRUCTION PERMIT / CP 15-02: City of Rapid City. To complete the City of Rapid City's Long View Road Water Transmission Main Extension. The proposed project includes installation of 10,763 linear feet of new 16" City water main in the Rapid Valley area along Long View Road.

Sections 13 and 18, T1N, R8E and R9E, BHM, Pennington County, South Dakota.

Ms. Tina Mullally, a member of the public, appeared and asked to have this item removed from the Consent Calendar.

Molitor reviewed the Staff Report indicating the City of Rapid City has applied for a Construction Permit to complete the Long View Water Main Extension. The proposed project includes installation of 10,763 linear feet of new 16" City water main in the Rapid Valley area along Long View Road. The water line will be installed from Anderson Road to the Airport, along the south portion of Long View.

Staff recommended approval of Construction Permit / CP 15-02 with the follow eleven (11) conditions, and to include the word “year” in Condition #11.

1. That a Notice of Intent (NOI) is submitted to the South Dakota Department of Environment and Natural Resources General Permits for Storm Water Discharges Associated with Construction Activities within sixty (60) days of approval of CP 15-02;
2. That Temporary Construction Easements are granted from all affected property owners prior to commencement of Construction Activity;
3. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permits for Storm Water Discharges Associated with Construction Activities be continually met;
4. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction;
5. That the conditions of approval of the City of Rapid City’s Air Quality Permit be continually met;
6. That the contractor identify a staging area for the project and obtain a Conditional Use Permit from Pennington County if the area is located within Pennington County’s jurisdiction and not within a Commercial Zoning District;
7. That if the applicant provides self-contained toilets on-site, that there is one (1) unit per 50 employees and they must meet all State and County regulations, including setbacks;
8. That at the time the applicant starts hauling material on County Roads, the haul route be approved by the Pennington County Highway Department and a Haul Road Agreement be obtained;
9. That the contractor make efforts to protect the Hawthorne Ditch and work around irrigation season, if possible;
10. That the disturbed areas be re-vegetated as required in Section 507-A(5)(c); and,
11. That this Construction Permit expires one (1) year from approval date, and may be reviewed on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.

Ms. Tina Mullally, member of the public, appeared, and stated she lives on Long View Road and expressed concern with the comments from the Hawthorne Ditch. She further spoke of the Haul Road Agreement, and wanted to know where the dirt from the project will be placed.

Discussion followed.

Moved by Hall and seconded by Landers to approve of Construction Permit / CP 15-02 with the follow eleven (11) conditions, and to include the word “year” in Condition #11.

- 1. That a Notice of Intent (NOI) is submitted to the South Dakota Department of Environment and Natural Resources General Permits for Storm Water Discharges Associated with Construction Activities within sixty (60) days of approval of CP 15-02;**
- 2. That Temporary Construction Easements are granted from all affected property owners prior to commencement of Construction Activity;**
- 3. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permits for Storm Water Discharges Associated with Construction Activities be continually met;**
- 4. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction;**
- 5. That the conditions of approval of the City of Rapid City’s Air Quality Permit be continually met;**
- 6. That the contractor identify a staging area for the project and obtain a Conditional Use Permit from Pennington County if the area is located within Pennington County’s jurisdiction and not within a Commercial Zoning District;**
- 7. That if the applicant provides self-contained toilets on-site, that there is one (1) unit per 50 employees and they must meet all State and County regulations, including setbacks;**
- 8. That at the time the applicant starts hauling material on County Roads, the haul route be approved by the Pennington County Highway Department and a Haul Road Agreement be obtained;**
- 9. That the contractor make efforts to protect the Hawthorne Ditch and work around irrigation season, if possible;**
- 10. That the disturbed areas be re-vegetated as required in Section 507-A(5)(c); and,**
- 11. That this Construction Permit expires one (1) year from approval date, and may be reviewed on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.**

All voting aye, the Motion carried 5 to 0.

13. REZONE / RZ 14-12 AND COMPREHENSIVE PLAN AMENDMENT / CA 14-09: Gordon and Carmen Abernathie. To rezone 3.5 acres from Low Density Residential District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use Map from Low Density Residential District to Suburban Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lot C of W-M Subdivision, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

(Continued from the January 26, 2015, Planning Commission meeting.)

Conover reviewed the Staff Report indicating the applicants have applied to rezone 3.5 acres from Low Density Residential District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use Map from Low Density Residential District to Suburban Residential District. Conover explained that staff has been meeting with the applicants and their agent to further research options for the applicants.

Staff recommended to continue Rezone / RZ 14-12 and Comprehensive Plan Amendment / CA 14-09 to the March 9, 2015, Planning Commission meeting.

Moved by Landers and seconded by Hall to continue Rezone / RZ 14-12 and Comprehensive Plan Amendment / CA 14-09 to the March 9, 2015, Planning Commission meeting.

All voting aye, the Motion carried 5 to 0.

14. PLANNED UNIT DEVELOPMENT REVIEW / PU 02-04: Deerfield Park Condominiums. To review an existing Planned Unit Development in accordance with Section 213 of the Pennington County Zoning Ordinance.

Deerfield Park Condominium Units 1 through 10, Section 2, T1S, R3E, BHM, Pennington County, South Dakota.

(Continued from the January 12, 2015, Planning Commission meeting.)

Conover reviewed the Staff Report indicating this is a review of an existing Planned Unit Development. Staff had received a complaint that other units were being rented that are not designated to be rented. Staff had also been working with other property owner's to see if they would apply for an amendment to the Planned Unit Development, but, to-date, no applications have been submitted to the Planning Department.

Staff recommended to continue the review of Planned Unit Development / PU 02-04 to the March 23, 2015, Planning Commission meeting to verify that the Conditions of Approval are being met and the concerns of the complainant are being addressed.

Moved by Hall and seconded by Litzen to continue the review of Planned Unit Development / PU 02-04 to the March 23, 2015, Planning Commission meeting to verify that the Conditions of Approval are being met and the concerns of the complainant are being addressed.

All voting aye, the Motion carried 5 to 0.

11. CONDITIONAL USE PERMIT / CU 15-01: Sheri Tonner. To allow a single-wide mobile home to be used as a single-family residence while constructing a single-family residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The E1/2SW1/4NE1/4; E1/2W1/2SW1/4NE1/4; W1/2W1/2SE1/4 NE1/4; S1/2SE1/4NW1/4NE1/4; SE1/4SW1/4NW1/4NE1/4; SW1/4SW1/4NE1/4 NE1/4, Section 16, T1S, R7E, BHM, Pennington County, South Dakota.

Bolstad reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a single-wide mobile home to be used as a single-family residence while constructing a single-family residence on the subject property.

Staff recommended approval of Conditional Use Permit / CU 15-01 with the following eleven (11) conditions:

1. That the applicant clears the property of junk and debris to resolve the Ordinance 106 violations;
2. That the property is kept free of junk and debris;
3. That a Building Permit be obtained for the single-wide mobile home before it is moved onto the property;
4. That a Removal Permit be obtained for the existing single-family residence prior to demolition;
5. That a Building Permit be obtained for any structures over 144 square feet or placed on a permanent foundation on the property, which requires a site plan to be reviewed and approved by the Planning Director;
6. That the lot address be clearly posted on the residence and road, so as to be visible from both directions on Windmill Road, in accordance with Pennington County's Ordinance #20;

7. That the mobile home installed on the property have peaked non-reflective type roofs and wood or simulated wood-type siding that are continually maintained;
8. That the minimum setback requirements of a General Agriculture District be continually maintained on the property;
9. That the existing single-family residence not be used for any purpose other than cold storage, with no utilities connected;
10. That the applicant adhere to Zoning Ordinance Section 510-E regarding the time limit on Conditional Use Permit approval; and,
11. That this Conditional Use Permit be reviewed in six (6) months, on a complaint basis, or as directed by the Pennington County Planning Board of Commissioners and/or County Planning Commission to verify that all conditions of approval are being met.

Ms. Sheri Tonner, applicant, appeared and provided a brief history of the subject property. She stated the property was purchased due to a foreclosure, and she is also in the process of cleaning up all the debris and junk left by the previous owner.

Commissioner Hall expressed concern with the vacant structure being used as storage.

Ms. Tonner stated she would be storing her bikes, kayaks, lawn mower, etc.

Discussion followed.

Moved by Landers and seconded by Hall to approve of Conditional Use Permit / CU 15-01 with the following eleven (11) conditions:

- 1. That the applicant clears the property of junk and debris to resolve the Ordinance 106 violations;**
- 2. That the property is kept free of junk and debris;**
- 3. That a Building Permit be obtained for the single-wide mobile home before it is moved onto the property;**
- 4. That a Removal Permit be obtained for the existing single-family residence prior to demolition;**
- 5. That a Building Permit be obtained for any structures over 144 square feet or placed on a permanent foundation on the property, which requires a site plan to be reviewed and approved by the Planning Director;**

6. That the lot address be clearly posted on the residence and road, so as to be visible from both directions on Windmill Road, in accordance with Pennington County's Ordinance #20;
7. That the mobile home installed on the property have peaked non-reflective type roofs and wood or simulated wood-type siding that are continually maintained;
8. That the minimum setback requirements of a General Agriculture District be continually maintained on the property;
9. That the existing single-family residence not be used for any purpose other than cold storage, with no utilities connected;
10. That the applicant adhere to Zoning Ordinance Section 510-E regarding the time limit on Conditional Use Permit approval; and,
11. That this Conditional Use Permit be reviewed in six (6) months, on a complaint basis, or as directed by the Pennington County Planning Board of Commissioners and/or County Planning Commission to verify that all conditions of approval are being met.

Commissioner Landers noted the applicant is doing her due diligence to comply.

All voting aye, the Motion carried 5 to 0.

12. CONSTRUCTION PERMIT / CP 15-01: Cody Schad; Keystone Adventures, Inc. To level an area for a helipad and build a road on the subject property in accordance with Section 507 of the Pennington County Zoning Ordinance.

Unplatted Balance of GL 16 less Right-of-Way; Unplatted Balance of GL 21 less Right-of-Way; Section 31, T1S, R6E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Construction Permit to level an area for a helipad and build a road on the subject property. Molitor explained that there is an approved Conditional Use Permit (14-23) for Keystone Adventures, but, as part of those conditions, the applicant is required to meet several Conditions of Approval, including Conditions #2 and #3:

2. That a Construction Permit be obtained for any land disturbance greater than 10,000 square feet and that all requirements of Section 507 (Construction Permits) of the Zoning Ordinance be continually maintained;
3. That prior to issuance of any Permits for development of the property, beyond this Conditional Use Permit, legal access, which meets the requirements of Section 313 (Access Easements) of the Zoning Ordinance, be demonstrated and approval

of an Approach Permit be obtained from the South Dakota Department of Transportation;

Molitor further stated the contractor started work prior to approval of the Construction Permit, and staff has received several complaints regarding the work performed on the subject property and with the conditions of the Conditional Use Permit.

Molitor noted that staff has been working with the property owner and, if the Construction Permit is approved, this will help bring the property into compliance.

Staff recommended approval of Construction Permit / CP 15-01 with the following ten (10) conditions:

1. That a Notice of Intent (NOI) is submitted to the South Dakota Department of Environment and Natural Resources for General Permit for Storm Water Discharges Associated with Construction Activities;
2. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permits for Storm Water Discharges Associated with Construction Activities be continually met;
3. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction;
4. That the applicant notifies Fire Dispatch that they will be working on a particular day, and the approximate hours of operation;
5. That a revised Construction Permit application and Site Plan be submitted for review and approval if major revisions to the original plan are needed;
6. That erosion control measures, such as seeding and mulching the disturbed area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the Construction Activity has stopped. All erosion control methods (mulch and seed) need to be certified noxious weed-free;
7. That any monuments establishing property boundaries be replaced as necessary;
8. That legal access, which meets the requirements of Section 313 (Access Easements) of the Zoning Ordinance, be demonstrated and approval of an Approach Permit be obtained from the South Dakota Department of Transportation;
9. That the applicant or landowner pay the necessary penalty fees associated with work commencing prior to approval of the Construction Permit; and

10. That this Construction Permit expires one (1) year from approval date, and may be reviewed on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.

Molitor further stated that she did speak with the DOT on Friday, February 20th, and the applicant has obtained legal access, which then Condition #8 can be removed and staff would also like to add the word “year” in Condition #10.

Chairman Litzen spoke of the complaints staff has received and wanted to know if there are multiple complaints.

Molitor said staff has received multiple complaints.

Commissioner Coleman wanted to know the nature of the complaints.

Molitor responded and stated the complaints are addressed to the Conditional Use Permit.

Mr. Jon Boland, a member of the public and nearby landowner, appeared and discussed the Conditional Use Permit that was approved for a golf driving range and helipad. Mr. Boland expressed concern with the proposed helipad and helicopter and commented that this use affects more property owners than were notified within the 500 feet. He would like to file a complaint and have the Conditional Use Permit reviewed.

Discussion followed.

Moved by Coleman and seconded by Landers to continue Construction Permit / CP 15-01 to the March 9, 2015, Planning Commission meeting.

All voting aye, the Motion carried 5 to 0.

15. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission’s recommendations from the February 9, 2015, Planning Commission meeting.

16. ITEMS FROM THE PUBLIC

Mr. Jon Boland, a member of the public, appeared and expressed concern with the Conditional Use Permit of Keystone Adventures (CU 14-23). He has filed a complaint with the Planning Department in order for the Conditional Use Permit to be reviewed.

Chairman Litzen stated the Conditional Use Permit will be reviewed at an upcoming scheduled Planning Commission meeting.

17. ITEMS FROM THE STAFF

- A. Building Inspection. Conover informed the Planning Commission that the Board of Commissioners asked the Planning Director to research implementing a Building Inspection Program and how that cost would relate to the cost of Building Permits.
- B. 2015 Western SD Hydrology Conference. Conover stated the Western SD Hydrology Conference is scheduled for April 15th at the Rushmore Plaza Civic Center.

18. ITEMS FROM THE MEMBERSHIP

Commissioner Petersen spoke of rules/regulations and consistency in Nuisance and Zoning Violations with property owners.

19. ADJOURNMENT

Moved by Hall and seconded by Coleman to adjourn.

All voting aye, the Motion carried 5 to 0.

The meeting adjourned at 9:54 a.m.

Lori Litzen, First Vice -Chairperson