

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
January 25, 2010 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Jeff Hoffmann, Warren Fisk, Kevin Kuehn, Russell Andrews, Fred Weishaupl, and Ethan Schmidt.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE JANUARY 11, 2010, MINUTES
Moved by Weishaupl and seconded by Hoffmann to approve the minutes of the January 11, 2010, Planning Commission meeting. Vote: unanimous (6 to 0).

2. APPROVAL OF THE AGENDA
Moved by Kuehn and seconded by Hoffmann to approve the January 25, 2010, Planning Commission meeting, including the Consent Calendar with the removal of Item #5. Vote: unanimous (6 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 89-18:** Brian McKiernan. To review a home occupation to operate a computer software business in a Low Density Residential District in accordance with Section 207-C-1 of the Pennington County Zoning Ordinance.

Lot A of McKiernan Heights, NW1/4, NE1/4 of Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the review of Conditional Use Permit / CU 89-18 with the following twelve (12) conditions:

1. **That this Conditional Use Permit shall be revoked when Brian and Rena McKiernan no longer operate the business and/or sell the property;**

2. **That the home occupation be allowed to operate out of the single-family residence and/or the 24-foot by 64-foot accessory structure;**

3. That the following minimum off-street parking requirements be met: two (2) spaces for the single-family residence and one (1) parking space per 300 square feet of useable floor area of the office, plus two (2) spaces per each three (3) employees;
4. That the hours of operation be between 7:00 a.m. and 9:00 p.m.;
5. That a Building Permit be obtained for any new structures exceeding 144 square feet and located on a permanent foundation, which will require a site plan to be reviewed and approved by the Planning Director;
6. That the applicant be limited to one (1) wall sign and one (1) free-standing sign, not to exceed twenty-four (24) square feet each in the area for the home occupation. A Sign Permit shall be obtained prior to the installation of any sign;
7. That no stock or trade shall be displayed or stored outside the enclosed structures located on the property;
8. That the applicant obtains and maintains a Sales Tax License;
9. That the home occupation be equipped with a minimum of two (2) battery operated smoke alarms and a 2 ½ lb. ABC fire extinguisher at each exit;
10. That the home occupation be limited to a software marketing business. Any expansion beyond this will require the Conditional Use Permit to be reviewed;
11. That the number of employees be limited to three (3) in addition to family members; and,
12. That this Conditional Use Permit be reviewed in three (3) years or upon a complaint-basis to determine that all conditions are being met.

Vote: unanimous (6 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 08-04:** Lori L. Walker; Robert Raker – Agent. To review a 33 foot wind turbine in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

A 200 foot by 600 foot strip on the west side of the NE1/4 SW1/4 of Section 5, T1S, R16E, BHM, Pennington County, South Dakota.

To recommend approval of the review of Conditional Use Permit / CU 08-04 with the following nine (9) conditions:

1. That the applicant amend Building Permit #08-27 to allow for the wind turbines to be installed and removed on a temporary basis as long as they do not exceed an overall height of 35 feet;
2. That the wind measurement tower not exceed 35 feet in height;
3. That proper setbacks be maintained for all structures located on the property including a minimum of 25 feet from all property lines or else an approved Setback Variance be obtained;
4. That the wind turbine be located a sufficient distance from other structures and infrastructure on the property so that if the wind turbine were to fall over, it would specifically not affect WREA's power lines;
5. That the applicant adhere to any applicable requirements of WREA regarding the wind turbine's electrical connections and metering;
6. That the applicant take any reasonable measures to control the amount of noise generated from the wind turbine so as to not constitute a nuisance to surrounding property owners;
7. That a Building Permit be obtained for any structure exceeding 144 square feet and located on a permanent foundation, which include necessary site plans to be reviewed and approved by the Planning Director;
8. That any future additions of equipment to the site or tower require this Conditional Use Permit to be reviewed by the Pennington County Planning Department; and,
9. That this Conditional Use Permit be reviewed on a complaint basis only.

Vote: unanimous (6 to 0).

6. **MINOR PLAT / PL 09-32 AND SUBDIVISION REGULATIONS VARIANCE / SV 09-09:** David and Andrea Allard. To reconfigure lot lines to create Lot BR of Lot 1, Allard Subdivision and Lot 15R2, Block 5, Pine Cliff Subdivision and to waive submittal of soil profile information, percolation tests, topography at 2 foot contour intervals, to dedicate additional right-of-way on Siding Lane, and engineered road plans and road improvements to Pine Cliff Drive, Timber Lane, and Siding Lane in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot B of Lot 1, Allard Subdivision, and Lot 15R, Block 5, Pine Cliff Subdivision, all located in Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot BR of Lot 1, Allard Subdivision, and Lot 15R2, Block 5, Pine Cliff Subdivision, all located in Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

(Continued from the December 7, 2009, Planning Commission meeting.)

To recommend denial without prejudice of Subdivision Regulations Variance / SV 09-09 and Minor Plat / PL 09-32, per the applicant's request.

Vote: unanimous (6 to 0).

7. **CONDITIONAL USE PERMIT REVIEW / CU 00-29:** Lorraine Smith. To review a double-wide manufactured home as a caretaker's residence in a General Agriculture District in accordance with Sections 204-D and Section 510 of the Pennington County Zoning Ordinance.

S3/4NE1/4SW1/4 and SE1/4SW1/4 Less portion lying south of highway of Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 00-29 with the following five (5) 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 applicant continues to remove the debris and junk on the property;**
3. **That one of the homes is removed from the property when Chuck Halverson is no longer in need of a caretaker;**
4. **That the manufactured home have factory installed wood, hardboard or siding with a wood appearance and factory installed peaked non-reflective roof; and,**
5. **That this Conditional Use Permit be reviewed on September 13, 2010 to ensure that the yard accumulation, including the scrap material, has been removed from site and/or placed within an enclosed structure.**

Vote: unanimous (6 to 0).

END OF CONSENT CALENDAR

5. CONDITIONAL USE PERMIT REVIEW / CU 08-06: Robert and Melody Riggins. To review a single-wide manufactured home as a temporary residence while constructing a stick-built home in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

SW1/4SE1/4 of Section 12, T1N, R9E, BHM, Pennington County, South Dakota.

Commissioner Schmidt asked to have this item removed from the Consent Calendar to discuss if the Construction Schedule and the On-Site Wastewater Construction Permit have been submitted.

Schmierer stated no and explained that when the applicants apply for the Building Permit for the stick-built residence, that is when those documents will need to be submitted.

Commissioner Andrews wanted to know when the manufactured home was placed on the property.

Schmierer stated a Building Permit for the manufactured home was issued in 2008.

Discussion followed.

Moved by Hoffmann and seconded by Fisk to approve of the extension of Conditional Use Permit 08-06 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 an On-Site Wastewater Construction Permit be obtained prior to obtaining a Building Permit;**
- 3. That the residence be located outside of the Ellsworth Air Force Installation Compatible Use Area (noise zone) outlined in Section 315 of the Pennington County Zoning Ordinance;**
- 4. That the existing access off of Longview Road be utilized for the new single-family residence;**
- 5. That the address be properly posted on both the residence and the approach from Longview Road in accordance with Pennington County's Ordinance #20;**
- 6. That once the new single-family residence is habitable, the applicant obtains an approved Removal Permit for the existing residence prior to its removal from the property;**

7. **That the proper setbacks of 25 feet from all property lines be maintained for any structures on the property;**
8. **That at time of Building Permit submittal the applicant have a construction plan in place and timeframe of completion of the stick-built home;**
9. **That the applicant signs a Statement of Understanding agreeing to the above conditions; and,**
10. **That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.**

All voting aye, the Motion carried 6 to 0.

8. LAYOUT PLAT / PL 10-05: Joyce Bintliff/Barbara Lee. To create a three acre lot, Lot C of HES #336 Revised, in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All of HES #336 Revised, Section 2, T2S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot C of HES #336 Revised, Section 2, T2S, R5E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating that the applicants have submitted a Layout Plat request to create a three acre lot from a portion of an existing 107.05 acre parcel. The applicants have indicated the purpose for creating the proposed lot is to create an individual lot around an existing house and on-site wastewater system that may be sold to a family member, separate from the remainder of the ranch

Staff had originally recommended approval of Layout Plat 10-05 with twelve (12) conditions but since the applicants have signed the original application form, staff recommended approval with the following eleven (11) conditions:

1. That prior to County Board approval of the Final Plat, the proposed lot either be rezoned to Low Density Residential or else the applicant obtain a Lot Size Variance to reduce the minimum lot size requirement in a Limited Agriculture District;
2. That prior to County Board approval of the Final Plat, the applicant improve the road providing access through the proposed lot to Low Density Residential Local/Collector Road Standards, including 66 feet of right-of-way with a 24 foot wide, 4 inch graveled driving surface, or else a surety be posted for the road improvements or an approved Subdivision Regulations Variance be obtained waiving this requirement;

3. That prior to County Board approval of the Final Plat, the applicant provide engineered road construction plans for the road providing access to the proposed lot or else obtain an approved Subdivision Regulations Variance waiving this requirement;
4. That an approved Floodplain Development be obtained prior to any road improvements being conducted within the boundaries of the 100-year floodplain for Battle Creek;
5. That the address for the residence on proposed Lot C be posted at the approach onto Old Hill City Road in accordance with Pennington County's Ordinance #20 prior to Final Plat approval;
6. That a reserve drainfield area (easement) be dedicated on the plat and reviewed and approved by the Environmental Planner prior to approval of the Preliminary Plat;
7. That the minimum setback requirements be met from the existing structures and utilities to the proposed lot lines and, if applicable, a Variance be obtained from DENR for any alterations to the existing on-site wastewater system if it is determined to not be meeting the minimum separation distance to any nearby wells;
8. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines on the Preliminary Plat in accordance with Section 500.4-9-a or an approved Subdivision Regulations Variance be obtained waiving this requirement;
9. That an updated as-built site plan be provided at the time of Preliminary Plat submittal showing the location of the existing structures and utilities in relation to the proposed three (3) acre lot lines;
10. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, including, but not limited to, topographic information to be provided of the subject property at five (5) foot contour intervals, or else the applicant obtain an approved Subdivision Regulations Variance waiving any of the requirements that are not met; and,
11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Schmidt wanted to know minimum lot size in a Limited Agriculture Zoning District.

Zeller commented that the minimum lot size is 10 acres and added that the applicants will either have to apply to rezone the property or obtain a Lot Size Variance to create the proposed three acre lot.

Commissioner Schmidt discussed the Environmental Planner's comments regarding the shallow well and septic system currently not meeting the required setback and asked staff if the applicants will need to apply for a Variance.

Zeller stated the applicants did obtain approval from DENR for a Variance in 2002 and explained that the Environmental Planner noted that if there are any alterations to the existing septic system, approval will be required from the State and Planning Department.

Commissioner Hoffmann responded that a 10 acre lot size is more suitable and appropriate to the area and stated he would not support the proposed application.

Commissioner Andrews wanted to know what the Future Land Use is for the area.

Zeller responded that she believes it to be Planned Unit Development Sensitive.

Discussion followed on surrounding properties regarding lot sizes and zoning districts.

Commissioner Kuehn commented that he would support the motion for the proposed lot.

Mr. Quentin Riggins, agent, appeared and provided a brief background on the proposed application. He further added that the creation of this lot is the last lot that will be platted from the property.

Commissioner Fisk asked Mr. Riggins if the applicants were okay with the conditions of approval.

Mr. Riggins said yes, though they would likely be seeking some Variances.

Commissioner Hoffmann further discussed an application submitted by Ford Ranch for a 1 acre lot that was denied.

Moved by Fisk and seconded by Weishaupl to approve of Layout Plat 10-05 with eleven (11) conditions.

Commissioner Schmidt expressed concern about the proposed lot and wanted to know when the other two lots were created on the property.

Zeller stated they were created in 1971 and 1974.

Commissioner Schmidt discussed the expansion of the lot into a 10 acre lot.

Mr. Riggins indicated the applicants would have issues if they try to create a 10 acre lot, such as costs in reapplying and the applicants only want the smaller lot for a family member.

Moved by Fisk and seconded by Weishaupl to approve of Layout Plat 10-05 with the following eleven (11) conditions:

- 1. That prior to County Board approval of the Final Plat, the proposed lot either be rezoned to Low Density Residential or else the applicant obtain a Lot Size Variance to reduce the minimum lot size requirement in a Limited Agriculture District;**
- 2. That prior to County Board approval of the Final Plat, the applicant improve the road providing access through the proposed lot to Low Density Residential Local/Collector Road Standards, including 66 feet of right-of-way with a 24 foot wide, 4 inch graveled driving surface, or else a surety be posted for the road improvements or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 3. That prior to County Board approval of the Final Plat, the applicant provide engineered road construction plans for the road providing access to the proposed lot or else obtain an approved Subdivision Regulations Variance waiving this requirement;**
- 4. That an approved Floodplain Development be obtained prior to any road improvements being conducted within the boundaries of the 100-year floodplain for Battle Creek;**
- 5. That the address for the residence on proposed Lot C be posted at the approach onto Old Hill City Road in accordance with Pennington County's Ordinance #20 prior to Final Plat approval;**
- 6. That a reserve drainfield area (easement) be dedicated on the plat and reviewed and approved by the Environmental Planner prior to approval of the Preliminary Plat;**
- 7. That the minimum setback requirements be met from the existing structures and utilities to the proposed lot lines and, if applicable, a Variance be obtained from DENR for any alterations to the existing on-site wastewater system if it is determined to not be meeting the minimum separation distance to any nearby wells;**
- 8. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines on the Preliminary Plat in accordance with Section 500.4-9-a or an approved Subdivision Regulations Variance be obtained waiving this requirement;**

9. That an updated as-built site plan be provided at the time of Preliminary Plat submittal showing the location of the existing structures and utilities in relation to the proposed three (3) acre lot lines;
10. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, including, but not limited to, topographic information to be provided of the subject property at five (5) foot contour intervals, or else the applicant obtain an approved Subdivision Regulations Variance waiving any of the requirements that are not met; and,
11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

All voting, the Motion carried 4 to 2. Commissioners Andrews, Fisk, Kuehn, and Weishaupl voted yes. Commissioners Schmidt and Hoffmann voted no.

9. PRELIMINARY PLAT / PL 10-06: Harney Mountain, LLC; Bill Welk – Agent. To create Lots 1-8 of Block 1 and Lots 1-5 of Block 2 of Harney Mountain Estates in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: GL 1, 3, 4, 7, & 9; That part of GL 8 lying North of Old Hill City Road; Part of GL 2; Part of SE1/4NE1/4; February #2 Lode MS #667 located in Section 33 and Part of the NW1/4NW1/4 located in Section 34, all in T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1-8 of Block 1 and Lots 1-5 of Block 2 of Harney Mountain Estates, Sections 33 and 34, T1S, R5E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant has applied to create 13 lots for Harney Mountain Estates Subdivision and the applicant is only platting those lots located north of Old Hill City Road.

Staff recommended approval of Preliminary Plat 10-06 with the following eleven (11) conditions:

1. That prior to County Board approval of the Final Plat, the internal roads must be improved to a minimum of Local Road Standards with a minimum right-of-way of 66 feet with a minimum driving surface of 24 feet or obtain approval of a Subdivision Regulations Variance waiving this requirement;
2. That prior to filing the Final Plat with Register of Deeds, the property must be rezoned to Limited Agriculture District;
3. That the acreage of the roads be labeled on the plat;

4. That Prior to County Board approval of the Final Plat, a Noxious Weed Plan is signed;
5. That prior to filing the Final Plat with Register of Deeds, the developer files a Maintenance Agreement in a form satisfactory to the State's Attorney to ensure the satisfactory condition of the required improvements for a period of five (5) years after the date-of-acceptance by the Board;
6. That a Road District (for public rights-of-way) be formed to maintain the interior roads;
7. That the Final Plat has ten (10) foot utility and drainage easement located along all property lines;
8. That residential sprinkler systems be installed in each and every home;
9. That a Homeowner's Association be formed to maintain any common areas and private access easements within the development;
10. That a Stormwater Permit be issued by DENR for any disturbance greater than one acre and be obtained prior to the application and issuance of a Pennington County Construction Permit; and,
11. That both Equalization's and Register of Deed's comments be addressed on the Final Plat.

Commissioner Weishaupl spoke of the change in reconfiguration of the proposed platted area.

Jennissen stated the applicant has decided not to plat the lots located south of Old Hill City Road. Only the property located to the north of Old Hill City Road will be platted.

Commissioner Weishaupl also questioned if the street widths and street names will be in compliance.

Jennissen stated yes.

Moved by Hoffmann and seconded by Kuehn to approve of Preliminary Plat 10-06 with the following eleven (11) conditions:

- 1. That prior to County Board approval of the Final Plat, the internal roads must be improved to a minimum of Local Road Standards with a minimum right-of-way of 66 feet with a minimum driving surface of 24 feet or obtain approval of a Subdivision Regulations Variance waiving this requirement;**

2. That prior to filing the Final Plat with Register of Deeds, the property must be rezoned to Limited Agriculture District;
3. That the acreage of the roads be labeled on the plat;
4. That Prior to County Board approval of the Final Plat, a Noxious Weed Plan is signed;
5. That prior to filing the Final Plat with Register of Deeds, the developer files a Maintenance Agreement in a form satisfactory to the State's Attorney to ensure the satisfactory condition of the required improvements for a period of five (5) years after the date-of-acceptance by the Board;
6. That a Road District (for public rights-of-way) be formed to maintain the interior roads;
7. That the Final Plat has ten (10) foot utility and drainage easement located along all property lines;
8. That residential sprinkler systems be installed in each and every home;
9. That a Homeowner's Association be formed to maintain any common areas and private access easements within the development;
10. That a Stormwater Permit be issued by DENR for any disturbance greater than one acre and be obtained prior to the application and issuance of a Pennington County Construction Permit; and,
11. That both Equalization's and Register of Deed's comments be addressed on the Final Plat.

All voting aye, the Motion carried 6 to 0.

10. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the January 11, 2010, Planning Commission meeting.

11. ITEMS FROM THE PUBLIC

Mrs. Barb Lindberg appeared and spoke about her background. She stated that she does not have a degree but mainly works with under privileged families that deal with drug and alcohol situations. She added that she has lived in Rapid City for about 23 years and wanted to get more involved with the community. She further added that she is a research and data person and likes to provide information to the public to make them better informed.

Mr. George Ferebee appeared and feels the larger issue is: who are the servants and who are the masters. He believes any official who serves on any Board is the servant and the public are the masters. He further commented that people in public service do not have a right to know the background of other people or to ask questions and feels the throne is for the public.

12. ITEMS FROM THE STAFF

- A. Wind Generator Ordinance. Jennissen reviewed the proposed Wind Generator Ordinance.

Discussion followed on the draft Ordinance.

Commissioner Fisk suggested additional research is needed by staff before the item is brought back before the Planning Commission.

Mr. Ferebee wanted to know if the Ordinance is really needed and also wanted to know who suggested one be drafted.

Jennissen stated there had been some discussion and he had been directed to develop a Wind Generator Ordinance.

Mr. Ferebee responded that he believes the County Commissioners should be the ones to give the direction and not the Planning Commission, or the Planning Department to decide if an Ordinance is needed. He also feels it is excessive for the Planning Department to put more government on the people.

13. ITEMS FROM THE MEMBERSHIP

- A. Commissioner Fisk spoke of applicants receiving Staff Reports in a timely manner and suggested Staff Reports be sent by e-mail.

14. DISCUSSION ITEMS

There were no discussion items.

15. ADJOURNMENT

Moved by Hoffmann and seconded by Fisk to adjourn.

All voting aye, the Motion carried 6 to 0.

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

Russell Andrews, First Vice-Chairperson