

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**February 22, 2010 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Charlie Johnson, Jeff Hoffmann, Warren Fisk, Kevin Kuehn, Russell Andrews, Fred Weishaupl, and Nancy Trautman.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, and Jeri Ervin. Patrick Grode (SAO Office).

ROLL CALL

1. APPROVAL OF THE FEBRUARY 8, 2010, MINUTES  
**Moved by Weishaupl and seconded by Hoffmann to approve the minutes of the February 8, 2010, Planning Commission meeting. Vote: unanimous (7 to 0).**
  
2. APPROVAL OF THE AGENDA  
**Moved by Hoffmann and seconded by Weishaupl to approve the February 22, 2010, Planning Commission meeting, including the Consent Calendar, with the removal of Item #6. Vote: unanimous (7 to 0). Commission Fisk stated he would abstain from voting on Item #5.**

**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 06-23: Gordon Howie. 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 J, Plateau Subdivision, located in the SW1/4 of the NE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Conditional Use Permit / CU 06-23 with the following six (6) 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. All posted boundary line corners and posts must be protected;
3. That the property be kept clean of junk and debris and if at any time the Ordinance Enforcement officer declares this property a nuisance this Conditional Use Permit be reviewed immediately;
4. That the applicant ensures that all natural drainage ways must be maintained and are not blocked;
5. That a manufactured home measuring at least sixteen (16) feet by seventy-five (75) feet have a peaked non-reflective type roof and wood or simulated wood type siding; and,
6. That this Conditional Use Permit be reviewed at the time a Building Permit is obtained for a SWMH to be located on the property or on a complaint basis.

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

4. **CONDITIONAL USE PERMIT REVIEW / CU 09-01:** Harney Mountain, LLC; J. Scull Construction - Agent. To review a double-wide mobile home to be used as a temporary residence while constructing a stick-built residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Government Lot 1 of Section 33, T1S, R5E, BHM, Pennington County, South Dakota, excepting there from Substation Lot in the NE1/4 of said Section 33, as shown on the plat filed in Plat Book 3, Page 135; and excepting there from any highway and railroad rights-of-way contained therein.

**To recommend to revoke Conditional Use Permit / CU 09-01 with the applicant's concurrence.**

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

5. **CONDITIONAL USE PERMIT REVIEW / CU 09-02:** Herman Jones; Fisk Land Surveying – Agent. To review seasonal RV campsites to be used by employees in a Highway Service District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Fort Hayes Subdivision, Section 34, T1N, R7E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Conditional Use Permit / CU 09-02 with the following fourteen (14) conditions:**

- 1. That no more than five (5) recreational vehicle sites be allowed;**
- 2. That each site measures at least 8 foot by 30 foot;**
- 3. That the RV sites only be used by the applicant's seasonal employees and only between the months of May 1<sup>st</sup> through September 30<sup>th</sup>;**
- 4. That a minimum 20 foot separation be provided between each RV site;**
- 5. That each camper site be clearly identified to ensure the 20 foot space separation is being maintained and to prevent encroachment onto the adjacent property;**
- 6. That each RV site be equipped with electrical hookups and water and sewer hookups;**
- 7. That each campsite includes parking space for one (1) vehicle other than a recreational vehicle. The parking space must be constructed so no portion of the vehicle extends within the 20 foot separation or onto the adjacent property to the west;**
- 8. That identification be placed on the building which houses the diesel storage tank to identify the contents located within the enclosed structure;**
- 9. If any construction occurs, which will disturb more than one acre, then a Storm Water Construction Permit must be obtained prior to performing any work from the DENR;**
- 10. That the RV sites are hooked up to the existing 1,000 gallon septic tank located on-site;**
- 11. That the applicant contact the Rapid City Public Works Department for the necessary permits prior to any alterations or improvements being made to the wastewater system;**
- 12. That a minimum 10 foot separation be maintained between the RV structures and the propane tanks located on the property;**
- 13. That no open fires are allowed; and,**
- 14. That this Conditional Use Permit be reviewed upon a complaint basis only.**

**Vote: unanimous (6 to 0).**

7. **CONDITIONAL USE PERMIT / CU 10-05:** Cheyenne River Ranchettes - Owner (Emil Jares); Jim Peterson – Agent. To allow for an RV Park and tent camping sites in a Highway Service District in accordance with Sections 210, 306, and 510 of the Pennington County Zoning Ordinance.

Lot 1R, Three Forks Subdivision, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

**To recommend approval of Conditional Use Permit / CU 10-05 with the following twenty-two (22) conditions:**

1. **That no more than 31 recreational vehicle sites be allowed. Each recreational vehicle site shall measure a minimum of 44 feet long by 24 foot wide;**
2. **That no more than 37 tent sites be allowed. Each tent site shall measure a minimum of 24 feet wide by 34 feet deep;**
3. **That each campsite (RV or tent) must include one (1) parking space for a vehicle (in addition to the recreation vehicle, where applicable) and the parking space must be constructed so no portion of the vehicle extends onto any interior roadway;**
4. **That the applicant maintain some type of barrier (i.e. fence, boulders) around the on-site wastewater system to prevent any parking and/or camping over top of the on-site wastewater system and that proper setbacks to the on-site wastewater system be maintained;**
5. **That prior to operation of the RV Park the applicant must first receive commercial approval from SD DENR for the existing wastewater system consisting of a 4200 septic tank, 9000 gallon septic tank and a 54-foot by 109-foot absorption system. A copy of the approval letter from DENR must be provided to the Planning Department prior to the operation of the park;**
6. **That each recreational vehicle site be equipped with water and electric hook-ups;**
7. **That each campsite must be equipped with a numbered sign which is attached to a post on or near the campsite;**
8. **That a minimum 10 foot separation be provided between each RV site;**
9. **That any monuments establishing property boundaries be replaced as necessary;**

10. That dust control measures be implemented to prevent dust from leaving the site and impacting the adjacent properties and/or street(s);
11. That the SWMH be removed from the property if the caretaker of the campground chooses not to reside in it;
12. That the residential living space in the Office building not be utilized as a full-time residence if the caretaker of the campground chooses to occupy the SWMH as a permanent residence;
13. That prior to the operation of the campground, the internal driveway be constructed to consist of a looped driveway;
14. That all the interior streets shall be a minimum of 24 feet in width and surfaced with gravel (minimum of 4 inches), concrete or asphalt and maintained in a dust free manner;
15. That any alterations or additions to the on-site wastewater disposal system be reviewed and approved by the South Dakota Department of Natural Resources and the Pennington County Environmental Planner;
16. That an Approach Permit be obtained from the South Dakota Department of Transportation for any revisions to the existing approach or the addition of approaches;
17. If any construction occurs, which will disturb more than one acre, then a Storm Water Construction Permit must be obtained prior to performing any work from the DENR;
18. That the RV Park conforms to all regulations in Section 306 of the Pennington County Zoning Ordinance;
19. That the applicants conform to all applicable State and County regulations, including those established by the South Dakota Departments of Environmental and Natural Resources and Health;
20. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office;
21. That this Conditional Use Permit be reviewed in one (1) year or upon a complaint basis; and,
22. 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 Pennington County Planning Director.**

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

## **END OF CONSENT CALENDAR**

6. CONDITIONAL USE PERMIT / CU 09-37: Kim Smith/I-90 Cold Storage. To allow for a 122 foot tall wind generator (total height) in a Heavy Industrial District in accordance with Sections 212-C and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Tract B in N1/2SE1/4 and the west 606.12 feet of Lot H-2 of Tract B, Section 27, T2N, R8E, BHM, Pennington County, South Dakota.

(Continued from the January 11, 2010, Planning Commission meeting.)

Commissioner Johnson asked to have this item pulled from the Consent Calendar to discuss the language in the FAA letter where it states: "This determination expires on 01/20/2012." He expressed concern that the Conditional Use Permit (CUP) would not be extended beyond this date.

Jennissen responded that the applicant could be required to be updated with the FAA on a continuous basis.

Commissioner Johnson also stated that he would like to add another condition indicating that FAA requirements have to be maintained.

Jennissen explained that the CUP will be reviewed in two years and if the applicant has not updated with the FAA, it can be revoked.

Discussion followed on FAA requirements and review of the Conditional Use Permit.

Commissioner Kuehn recommended changing the review period in Condition #8 to be December 2011.

Jennissen stated he is not opposed to changing the review date.

**Moved by Weishaupl and seconded by Kuehn to approve of Conditional Use Permit 09-37 with the following eight (8) conditions:**

- 1. That a Building Permit be obtained prior to installation of the wind generator tower and that a professional engineer certify the structural**

**integrity of the tower and/or anchoring system prior to issuance of the Building Permit;**

- 2. That the applicant provides a copy of the results of the Obstruction Evaluation / Airport Airspace Analysis from the FAA prior to issuance of a Building Permit for the wind generator tower;**
- 3. That a security fence be installed and maintained around the wind generator tower;**
- 4. That the wind generator total tower height not exceed 122 feet;**
- 5. That proper setbacks be maintained, including a minimum of 25 feet from all property lines and a minimum of 58 feet from any Section Lines or else an approved Setback Variance be obtained;**
- 6. That the applicant maintains compliance with any Federal, State or County regulations for the wind generator tower;**
- 7. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
- 8. That this Conditional Use Permit be reviewed in December 2011 or on a complaint basis to verify that all conditions of approval are being met.**

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

8. CONDITIONAL USE PERMIT / CU 10-04: Deep Creek Outfitters; Matt Eisenbraun – Agent. To allow a home occupation, a gunsmithing business, in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The NE1/4, S1/2NW1/4, and the SW1/4, Section 9, T4N, R16E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant is requesting a Conditional Use Permit to allow a gunsmith shop in a General Agriculture District. The applicant has indicated the gunsmithing will include repair, restoration and modification of firearms. The applicant has also stated that he has applied for all state and federal paperwork for a Federal Firearms License, including Sales and Excise Tax.

Staff recommended approval of Conditional Use Permit 10-04 with the following eleven (11) conditions:

1. That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than 162 square feet, nor less than 9 feet by 18

feet; surfaced with gravel, concrete or asphalt and maintained in a dust free manner;

2. That a Building Permit 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;
3. That the applicant ensures the residential/agricultural character of the property is maintained;
4. That the home occupation be conducted by members of the family residing on the premises and no more than one (1) additional person;
5. That the applicant obtain any Federal and State Licenses and copies of those licenses be submitted to the Planning Office;
6. That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed four (4) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located in any public right-of-ways;
7. That if the applicant installs plumbing in the shop, the septic system be approved by the South Dakota Department of Environment and Natural Resources;
8. That the address be properly posted on both the residence and at the approach so it is visible in both directions from 213<sup>th</sup> Street in accordance with Pennington County's Ordinance #20;
9. That the applicant obtains an Excise Sales Tax License as required by the South Dakota Department of Revenue;
10. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; 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.

Commissioner Kuehn questioned Condition #6 which only allows a home occupation business sign to be four (4) square feet in area. He feels this sign would be incredibly small and hard to read.

Zeller responded that she believes the Sign Ordinance states that a home occupation sign shall not exceed six (6) square feet in area but most of the Conditional Use Permits allow home occupation signs four (4) square feet in area.

Jennissen commented that the condition could be changed to allow the business sign for the home occupation to be six (6) square feet in area.

Moved by Hoffmann and seconded by Fisk to approve of Conditional Use Permit 10-04 with the change in Condition #6 to allow a business sign for the home occupation to be six (6) square feet in area.

Mr. Matt Eisenbraun, applicant, appeared and discussed the proposed application. He spoke of the necessary permits and licenses and explained that he is required to obtain a Federal Firearms License which is regulated by the ATF. He further indicated he will be fixing firearms that will be shipped in for repair and possibly testing the firearms for accuracy to make sure they are repaired.

**Moved by Hoffmann and seconded by Fisk to approve of Conditional Use Permit 10-04 with the following eleven (11) conditions:**

- 1. That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than 162 square feet, nor less than 9 feet by 18 feet; surfaced with gravel, concrete or asphalt and maintained in a dust free manner;**
- 2. That a Building Permit 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;**
- 3. That the applicant ensures the residential/agricultural character of the property is maintained;**
- 4. That the home occupation be conducted by members of the family residing on the premises and no more than one (1) additional person;**
- 5. That the applicant obtain any Federal and State Licenses and copies of those licenses be submitted to the Planning Office;**
- 6. That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed six (6) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located in any public right-of-ways;**
- 7. That if the applicant installs plumbing in the shop, the septic system be approved by the South Dakota Department of Environment and Natural Resources;**

8. That the address be properly posted on both the residence and at the approach so it is visible in both directions from 213<sup>th</sup> Street in accordance with Pennington County's Ordinance #20;
9. That the applicant obtains an Excise Sales Tax License as required by the South Dakota Department of Revenue;
10. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; 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.

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

9. ORDINANCE AMENDMENT / OA 10-01: Pennington County. To amend Section 500.10 of the Pennington County Subdivision Regulations.

(Continued from the February 8, 2010, Planning Commission meeting.)

Jennissen reviewed that this Ordinance Amendment had been continued in order to update and clarify the requirements for when on-site wastewater treatment systems are to be utilized on platted lots.

Staff recommended approval of Ordinance Amendment 10-01 to amend Section 500.10 of the Pennington County Subdivision Regulations.

Commissioner Weishaupl suggested changing the word "may" to "shall" in criteria No. 2 of the last sentence because these are alternate systems and not standard systems, so they should require engineering.

Zeller explained that this wording was left in to give the Environmental Planner discretion as to when to require engineered systems, since the utilization of holding tanks, as an alternate system, for example, wouldn't require engineering.

Commissioner Weishaupl also questioned the last sentence in criteria No. 5 where the reserve area may be required to be dedicated as an easement.

Jennissen responded that it would be an easement to specifically state that it would be for a reserve on-site wastewater treatment area.

Commissioner Trautman questioned if the amendment to Section 500.10 is what is typically already required for all plats submitted to the office.

Jennissen stated yes.

**Moved by Fisk and seconded by Hoffmann to approve of Ordinance Amendment 10-01 to amend Section 500.10 of the Pennington County Subdivision Regulations.**

**All voting, the Motion carried 6 to 1. Commissioner Johnson voted no.**

10. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the February 8, 2010, Planning Commission meeting.

11. ITEMS FROM THE PUBLIC

Mr. James Harbert, resident of New Underwood, appeared and expressed concern that the City of New Underwood could require their church to connect to the New Underwood sewer system, based upon information he has read in the proposed Ordinance.

Jennissen stated that Pennington County does not have jurisdiction inside the City of New Underwood and encouraged Mr. Harbert to contact the City of New Underwood and discuss this with them. He also explained that the proposed Ordinance would not affect the church property in regards to making them connect to the sewer system of the City of New Underwood.

Ms. Karen Rummer, resident of Johnson Siding, appeared and spoke of the Planning Commission and Board of Commissioners. She thanked them for doing a good job by scheduling public meetings and also thanked them for their commitment and hard work, and requested that all Planning Commission members and Board of Commissioners appear at the public meetings to hear public comment.

Mrs. Barb Lindberg appeared and spoke of the proposed Ordinance and further stated that it was her understanding each homeowner had the ability to inspect and pump their own septic tank.

Commissioner Johnson clarified that anyone can apply to be certified to inspect septic tanks.

Mrs. Lindberg further added that she did not make accusations against the Planning Commission or Board of Commissioners and would like an honor system while proceeding with the proposed Ordinance. She stated they will still continue to educate the public and doesn't want it to interfere with what the Planning Commission or Board of Commissioners do, and commented that they will be sending out over 5,000 pieces of educational material to the public. She encouraged the Commission to suspend the Ordinance and initiate it on a trial basis before proceeding with the actual Ordinance. She also added that it will be an extreme fight which will divide the public. She also spoke of initiating Bill 1250, but asked the Legislation to table it because of revisions and amendments.

Mr. Bud Rummer, resident of Johnson Siding, appeared and spoke in opposition to the proposed Ordinance. He feels that residents will repair their septic systems, if they are failing. He believes the Planning Commission and Board of Commissioners are going on theories and presumptions without evidence to support the Ordinance.

12. ITEMS FROM THE STAFF

There were no items from staff.

13. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

14. DISCUSSION ITEMS

A. On-Site Wastewater Ordinance.

Jennissen reviewed the proposed scheduled meetings with the Planning Commission and the public.

Commissioner Johnson reviewed the agenda formats for the public meetings and the legal hearings with the public and Planning Commission.

**Moved by Johnson and seconded by Weishaupl to allow the chair to waive the rules to allow one person to present rebuttal and/or take exception to the proposed format of the meetings in discussion and to also allow the same individual to answer questions of the Planning Commission.**

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

Meeting recessed at 10:02 a.m.

Meeting reconvened at 10:10 a.m.

Mrs. Barb Lindberg spoke of rescheduling the April 1<sup>st</sup> meeting in Rockerville to sometime during the week of April 5<sup>th</sup> because of the upcoming Easter Holiday.

Discussion further followed between the Planning Commission, staff, Mrs. Lindberg and the public regarding the public meeting format and legal hearing format.

Mr. Patrick Grode, Deputy State's Attorney, appeared and also clarified that the one legal hearing may extend to three hearings.

**SUBSTITUTE MOTION: Moved by Weishaupl and seconded Kuehn to move forward with the recommendations of the public meetings and legal hearings format with the change that all public meetings and legal hearings start at 6 p.m. and to change the date for the Rockerville public meeting, based upon availability.**

Ms. Karen Hall also commented that those who are also in favor of the proposed Ordinance be allowed to speak at the public meetings and legal hearings.

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

15. ADJOURNMENT

**Moved by Weishaupl and seconded by Hoffmann to adjourn.**

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

The meeting adjourned at **11:27 a.m.**

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Charlie Johnson, Chairperson