

**MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
March 8, 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 Brenda Young.

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

ROLL CALL

1. APPROVAL OF THE FEBRUARY 22, 2010, MINUTES
Moved by Weishaupl and seconded by Young to approve the minutes of the February 22, 2010, Planning Commission meeting. Vote: unanimous (7 to 0).

2. APPROVAL OF THE AGENDA
Moved by Hoffmann and seconded by Fisk to approve the March 8, 2010, Planning Commission meeting, including the Consent Calendar, with the removal of Item #7. 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 89-36:** Clyde and Diane Graumann. To review a roofing business as a home occupation in a Suburban Residential District in accordance with Section 208-C-6 of the Pennington County Zoning Ordinance.

Lot 1R, Carlin Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 89-36 with the following eight (8) conditions:

1. **That the hours of operation be between 6:00 am and 7:00 pm;**

2. **That this Conditional Use Permit be revoked when Clyde and Dianne Graumann no longer operate the business and /or sell the property;**

3. That one sign may be located no closer than seventeen feet from the street right-of-way and may not be larger than four (4) square feet;
4. That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purposes other than that of a residential use;
5. That members of the family residing on the premises and no more than six additional employees shall operate the business;
6. That the applicant's one employee be allowed to park in the driveway, however, any additional employees will be required to park in the area to the west side of the residence or the applicant will be obligated to provide screening for the parking area to the front of the residence by means of fencing or landscaping;
7. That the applicant obtain an approved Building Permit 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; and,
8. This Conditional Use Permit be reviewed in three (3) years or on a complaint basis.

Vote: unanimous (7 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 92-42:** Sunnyside Mobile Home Court; Rodney Vollmer – Agent. To review a mobile home park in a Suburban Residential District in accordance with Sections 208-C-2 and 510 of the Pennington County Zoning Ordinance.

The SE1/4NE1/4, Section 17, T2N, R7E, BHM, including that portion designated as a private lane lying in the SE1/4NE1/4SE1/4, Section 17, T2N, R7E, BHM, as shown on the plats filed in Plat Book 9, Page 161 and Plat Book 12, Page 274, excepting there from Lot A of the SE1/4NE1/4 NE1/4SE1/4, Section 17, T2N, R7E, BHM, as shown on the plat filed in Plat Book 9, Page 161 and EXCEPTING there from Lots C and D of King Subdivision, as shown on the plat filed in Plat Book 12, Page 274.

To recommend approval of the extension of Conditional Use Permit / CU 92-42 with the following eight (8) conditions:

1. That the gate remains closed, but may still be used for the purpose of emergency ingress/egress;

2. That any new roads be constructed to the same standards as the existing roads within the mobile home park. All new road construction will require that a Construction Permit be obtained;
3. That prior to any mobile or manufactured home being placed or removed from the mobile home park, a Building Permit is obtained from the County Planning Department;
4. That all mobile homes shall have a minimum 20 foot separation between units, a minimum front yard setback of ten (10) feet from all access roads within the mobile home park, and a minimum rear and side yard setback on both sides of the parcel of not less than ten (10) feet;
5. That the addition of accessory structures be allowed through the issuance of a Building Permit, at a nominal fee, that will include necessary site plans to be reviewed and approved by the Planning Director;
6. That the mobile home park continues to be provided with an on-site management office;
7. That garages and carports be allowed to be five (5) feet from interior roads within the manufactured or mobile home park; and,
8. That this Conditional Use Permit be reviewed in four (4) years or on a complaint basis.

Vote: unanimous (7 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 96-11:** Donald and Norma Lynde. To review a double-wide manufactured home as a caretaker's residence in a General Agriculture District in accordance with Section 510 of the Pennington County Zoning Ordinance.

SE1/4NW1/4, except Lot A, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 96-11 with the following five (5) conditions:

1. That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
2. That the manufactured home has wood, hardboard or simulated wood siding;

3. That the mobile home has a wood or asphalt shingled roof;
4. That the mobile home be removed at such time that the family member no longer needs assistance or the property be subdivided into separate lots; and
5. That this Conditional Use Permit be reviewed in two (2) years to verify compliance with Condition #4 or upon a complaint basis.

Vote: unanimous (7 to 0).

6. **CONDITIONAL USE PERMIT REVIEW / CU 08-15:** April Rose Espericueta; Verizon Wireless – Agent. To review a 100 foot communications tower in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 10, Holy Cow Ranch Subdivision, Section 19, T1N, R9E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 08-15 with the following ten (10) conditions:

1. That prior to Planning Commission approval, the applicant obtains approval of a SDCL 11-6-19 review with the Rapid City Growth Management Department;
2. That Building Permits 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;
3. That the security fence be installed and maintained around the tower and equipment shelter;
4. That two (2) parking spaces on the site continue to be maintained in a dust free manner;
5. 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;
6. That a professional engineer certify the structural integrity of the tower and anchoring system prior to the issuance of an approved Building Permit;
7. That emergency radio communication equipment be allowed on the tower, if it does not interfere with their broadcast equipment;
8. That Verizon allow other additional carriers to co-locate on the tower;

9. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,

10. That this Conditional Use Permit be reviewed on a complaint basis only.

Vote: unanimous (7 to 0).

8. **LAYOUT PLAT / PL 10-10:** Tom Farnsworth; Wesley Buckmaster – Agent. To create Tracts A and B of HES No. 632 in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All of HES No. 632 of Section 22 and Lot 9 less RTY of Section 27, all located in T1S, R1E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tracts A and B of HES No. 632 of Sections 22 and 27, T1S, R1E, BHM, Pennington County, South Dakota.

To recommend approval of Layout Plat / PL 10-10 with the following twelve (12) conditions:

1. That prior to applying for the Minor Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Tract B of HES #632 to be reviewed by the Environmental Planner or else a Subdivision Regulations Variance be obtained waiving this requirement;
2. That an approved Floodplain Development Permit be obtained prior to any work that is to be done within the boundaries of the 100-year floodplain;
3. That the limits of the 100-year floodplain be shown on the plat in accordance with current FEMA maps;
4. That the proposed legal description be revised in accordance with the Register of Deeds' comments prior to submittal of the Minor Plat;
5. That all setbacks from lot lines be maintained for the existing structures and utilities as a result of the proposed lot reconfiguration;
6. That a site plan showing the location of all existing structures and associated utilities and identifying the existing and any proposed approaches on proposed Tracts A and B be submitted with the Minor Plat application or else a Subdivision Regulations Variance be obtained waiving this requirement;

7. That an approved Approach Permit from the County Highway Department be obtained prior to the alteration of any existing or construction of any new approaches providing access to the proposed lots;
8. That prior to County Board approval of the Minor Plat, the applicant improve the Section Lines to Ordinance 14 Standards or else obtain a Subdivision Regulations Variance waiving this requirement;
9. That prior to County Board approval of the Minor Plat, the applicant improve the roads providing access to the proposed lots to General Agriculture District Local/Collector Road Standards, a surety be posted for the road improvements, or else an approved Subdivision Regulations Variance be obtained waiving this requirement;
10. That prior to County Board approval of the Preliminary Plat, the applicant provide engineered road construction plans for any road improvements to be made or else a Subdivision Regulations Variance be obtained waiving this requirement;
11. That at the time of submittal for the Minor Plat, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, including the Plat to be scaled at not more than one (1) inch equals one hundred (100) feet, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met; and,
12. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Vote: unanimous (7 to 0).

END OF CONSENT CALENDAR

7. FINAL PLAT / PL 10-09: Pehrr West Land Company; Robert and Kathryn Pearson – Agent. To create Lots 1-4 and Common Lot A of Block 1; Lots 1-4 of Block 2; Lots 1, 3, and 4 of Block 3; and Common Lot B of Block 5 all of Mountain Meadows Subdivision, Phase 1, in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: NW1/4 less Rushmore Ranch Estates less ROW, Section 17; S1/2SW1/4 less Rushmore Ranch Estates Subdivision, Section 8; and Tract 14R of Rushmore Ranch Estates Subdivision, all located in T2S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1-4 and Common Lot A of Block 1; Lots 1-4 of Block 2; Lots 1, 3, and 4 of Block 3; and Common Lot B of Block 5 of Mountain Meadows Subdivision, Phase 1, T2S, R7E, BHM, Pennington County, South Dakota.

Schmierer requested to have this item removed from the Consent Calendar to discuss removing Conditions #5, #6, and #7 of the Conditions of Approval, since the applicant addressed these conditions and to also modify the wording of Condition #1 to state: "That prior to recording the Final Plat, a Certificate of Approval from South Dakota Department of Environment and Natural Resources for the Mountain Meadows drinking water system be provided." Schmierer stated this modification is because DENR would not issue the Certificate until the plat is approved and staff cannot approve the plat until DENR approval is received.

Commissioner Weishaupl asked what the Common Lots will be used for.

Schmierer stated be open space.

Commissioner Weishaupl questioned the naming of Lots 1, 3, and 4 of Block 3. He wanted to know where Lot 2 is located.

Schmierer responded that this may be an oversight by the surveyor but didn't see an issue with the lots not being consecutively numbered.

Commissioner Weishaupl further discussed the unnamed road in the unplatted portion of the subdivision by Lot 1 of Block 3 with no temporary turnaround. He wanted know if this portion never gets subdivided, how anyone would attempt to turn into this road and then turn around.

Schmierer explained that this used to be a road but with the reduced number of lots being platted in Phase 1, the lots that were to take access off the road were eliminated; therefore, the applicant is not required to improve the road.

Commissioner Kuehn discussed Conditions #14 and #15 regarding the advanced treatment units and the 3-year inspection requirement. He questioned if the inspection process for the units is less than three years.

Schmierer commented that the applicant has chosen to use a system which requires a review period every three years, but the applicant could provide more information regarding the inspection process.

Commissioner Andrews explained that there are warning systems on the units which indicate if it is not functioning correctly.

Mr. Bob Pearson, applicant, appeared and explained there are telemetry controls on the system that send an alarm in case something did go wrong. He added that they have also put in place a cleaning plan for every six months.

Commissioner Johnson questioned Mr. Pearson about maintaining the existing water pressure in Rushmore Ranch Estates once Mountain Meadows ties into the system.

Mr. Pearson stated he has addressed this through the Executive Summary prepared by Advanced Engineering.

Commissioner Johnson asked if this will be monitored on a continuous basis.

Mr. Pearson stated yes.

Moved by Weishaupl and seconded by Kuehn to approve of Final Plat / PL 10-09 with the following sixteen (16) conditions:

- 1. That prior to recording the Final Plat, a Certificate of Approval from South Dakota Department of Environment and Natural Resources for the Mountain Meadows drinking water system be provided;**
- 2. That prior to the mylar being submitted, the title heading on the plat be revised to reflect the comments received from the Department of Equalization and Register of Deeds Office;**
- 3. That prior to the mylar being submitted, a note shall be added to the plat that states: “All homes constructed in Mountain Meadows Subdivision shall be equipped with a residential fire sprinkler system. Signed documentation shall be provided by the supplier prior to the issuance of a Building Permit for a single-family residence;”**
- 4. That prior to the mylar being submitted, a note shall be added to the plat that states: “When a total of 65 Building Permits have been issued between Mountain Meadows Subdivision and Rushmore Ranch Estates, no additional Building Permits shall be issued for a single-family residence until the added water storage is guaranteed by surety being posted or improvements under construction;”**
- 5. That prior to the mylar being submitted, a note shall be added to the plat that states: “The additional water storage for Mountain Meadows Subdivision and Rushmore Ranch Estates shall be in place and operational prior to the issuance of the 80th Building Permit (combined between the two aforementioned subdivisions) for a single-family residence;”**
- 6. That prior to County Board approval of the Final Plat, the applicant shall provide documentation identifying where the future reservoir for Mountain Meadows Subdivision and Rushmore Ranch Estates Subdivision will be located. The document shall be filed simultaneously with the mylar for Mountain Meadows Subdivision at the Register of Deeds Office;**

7. That prior to the mylar being prepared, the portion of “Eleanor Road” identified on the plat shall be changed to “Eleanor Drive;”
8. That prior to County Board approval of the Final Plat, the applicant shall provide new road name for “Eliza Court” to the Emergency Service Coordinator for review and approval;
9. That the approved Fire Mitigation Plan be implemented and adhered to at all times;
10. That the developer of Mountain Meadows Subdivision work with the Pennington County Environmental Planner, Water Protection Coordinator, and South Dakota Department of Environment and Natural Resources to ensure functionally effective wastewater systems (advanced pre-treatment systems) are installed on each lot;
11. That the advanced treatment units be inspected every three years to ensure they are maintained in accordance to manufacturer’s requirements. The inspection reports shall be submitted to the Pennington County Environmental Planner for review;
12. That the advanced treatment systems be maintained in accordance to the manufacturer’s guidelines and that each property owner enters into a contract with a certified/approved O&M provider for the type of system installed for the duration the system is utilized;
13. That a Fire Flow of 500 gallons per minute (gpm) be provided if all homes are equipped with residential fire sprinkler systems, per NFPA standards. If all homes are not equipped with such systems, then the 1,000 gpm must be provided;
14. The applicant protects all drainage ways and limit runoff from the subject property by implementing proper Best Management Practices in accordance with the Storm Water Pollution Prevention Plan;
15. That the developer continues to submit erosion and sediment control inspection reports to the Water Coordinator as necessary; and,
16. That all addresses be posted in accordance with Ordinance #20.

All voting aye, the Motion carried 7 to 0.

9. CONDITIONAL USE PERMIT REVIEW / CU 08-12: Dan and Nancy Evangelisto. To review a Bed and Breakfast in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lots 3-4, Custer Trails Subdivision, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating this is a review of a Conditional Use Permit for a Bed and Breakfast and stated the applicants are not meeting Conditions #3, #6, and #12. The applicants were to remove the approach from Taylor Ranch Road and restore it to its previous condition, which they have not done; research was done online and staff found that the applicants are renting ten rooms and a Bed and Breakfast only allows five rooms to be rented out; and it is also approved through the State as a Specialty Resort and not as a Bed and Breakfast. The applicants need to amend the Conditional Use Permit to bring the property into compliance.

Staff recommended continuing the review of Conditional Use Permit 08-12 to the June 28, 2010, meeting in order to allow the applicants time to amend their Conditional Use Permit to bring the subject property into compliance.

Moved by Young and seconded by Hoffmann to continue the review of Conditional Use Permit 08-12 to the June 28, 2010, Planning Commission meeting in order to allow the applicants time to amend their Conditional Use Permit to bring the subject property into compliance.

Discussion followed.

Moved by Young and seconded by Hoffmann to continue the review of Conditional Use Permit 08-12 to the June 28, 2010, Planning Commission meeting in order to allow the applicants time to amend their Conditional Use Permit to bring the subject property into compliance.

All voting aye, the Motion carried 7 to 0.

10. CONDITIONAL USE PERMIT REVIEW / CU 06-31: Verizon Wireless/Lloyd Byram. To review a 120 foot communications tower in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Government Lot 4 less East 410 feet; NE1/4SW1/4, Section 4, T1S, R8E, BHM, Pennington County, South Dakota.

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

Jennissen reviewed the Staff Report indicating that this item has been continued a number of times in order for access issues between the applicant and the landowner to the south, Mr. Patrick Foley, to be resolved. More specifically, Mr. Foley has claimed that he owns a portion of the access road to the leased site and he is not in favor of paving the access road as required by the City through the approval of an SDCL 11-6-19 Review. To date, the matter between the two parties has not been resolved. Furthermore, after

reviewing the conditions of approval, it appears the applicant is complying with all the conditions. A Building Permit was issued in June 2007 for the placement of a 120 foot tower. Staff believes there is no choice but to recommend revocation of this permit and have the cell tower removed from the property.

Staff recommended revocation of Conditional Use Permit 06-31 and to have the cell tower removed from the property and the property reclaimed.

Jennissen further added that the recommendation could be changed, if it is shown that the access issue is being resolved.

Commissioner Hoffmann clarified that the new recommendation would be to continue.

Jennissen responded the Motion will be left up to the Planning Commission.

Ms. Kristen Taggert, from Bangs McCullen Law Firm, appeared and stated she is representing the Byrams. She reviewed the Conditional Use Permit the applicants obtained and commented that every time an agreement has been reached between the applicants and Mr. Foley, a signature has not been forthcoming from Mr. Foley. Mr. Foley has also blocked access to the Trap Club property and the Byrams' property. Mr. Foley has granted a temporary easement to the Byrams that he can revoke with a 30-day notice. Ms. Taggert indicated that she has been working with the State's Attorney's Office and the Planning Department to reopen a small portion of the Section Line that was inadvertently closed and is requesting that this item be continued in order for the Byrams to submit an application to reopen the Section Line.

Commissioner Johnson questioned whether a 90 day continuance would be sufficient.

Ms. Taggert responded that they are comfortable with a 90 day continuance.

Commissioner Johnson wanted to know if a temporary access easement can be obtained in order to gravel the portion of the Section Line, so that this matter may move forth, and then the applicants can still work with the City of Rapid City for approval, prior to the 2-year review period from the County Planning Department.

Jennissen explained the applicants do have the option of gaining access to the subject property from the north, but there is not an existing road or temporary driving path in place to access the site from the north.

Mrs. Dianne Byram, applicant, appeared and stated that placing a temporary road across their property to gain access to the tower site will cost them about \$40,000. She also commented that Verizon has worked diligently with Mr. Foley to resolve this issue.

Mr. Jay Littlejohn, attorney for Verizon Wireless, appeared and provided the Planning Commission with documentation of a timeline of when the Section Line was relocated.

He reviewed the original Section Line Highway, when it was relocated, and the portion of the Section Line Highway proposed to be reopened.

Commissioner Weishaupl asked Mr. Littlejohn if the Byrams have been using the road and driveway to their property for many years.

Mr. Littlejohn stated yes and added that the Trap Club has also been using the Section Line, by prescriptive easement and right, until January of 2003, when there was no longer the right to use it.

Commissioner Weishaupl added that the tower can be moved to a different site on the property, at an added expense, and also asked if the Byrams have offered to buy the right-of-way.

Mrs. Byram stated yes, but Mr. Foley wants a certain amount of money.

Commissioner Johnson suggested continuing this item to the March 22, 2010, Planning Commission meeting in order for the Planning Department do to more research to resolve the issue.

Jennissen stated he has spoken with Jay Alderman from the State's Attorney's Office regarding the Section Line and there is a provision which allows the County Board to reopen a Section Line.

Moved by Johnson and seconded by Kuehn to continue the review of Conditional Use Permit 06-31 to the March 22, 2010, Planning Commission meeting.

Commissioner Kuehn asked if there were any pictures to document the condition of the road.

Mr. Littlejohn stated the road is about 20-feet-wide and it is somewhat muddy, but not impassable.

Discussion followed on contacting the City regarding the 11-6-19 Review and not paving the road.

Commissioner Hoffmann commented that he would support the motion to continue the review.

Commissioner Fisk added that he would abstain from voting on this item.

Moved by Johnson and seconded by Kuehn to continue the review of Conditional Use Permit 06-31 to the March 22, 2010, Planning Commission meeting.

All voting aye, the Motion carried 6 to 0. Commissioner Fisk abstained from voting.

11. PRELIMINARY PLAT / PL 10-11 AND SUBDIVISION REGULATIONS VARIANCE / SV 10-03: Joyce Bintliff/Barbara Lee. To create Lot C of HES #336 Revised and to waive road improvements, to waive submittal of engineered road construction plans, and to waive topography at 5 foot contour intervals in accordance with Sections 400.2 and 700.1 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 the applicant has applied for a Preliminary Plat to create a three acre lot, Lot C of HES #336, from a portion of an existing 107.050 acre parcel. The applicant has indicated the purpose of platting the proposed lot is to create a separate lot containing an existing house and on-site wastewater treatment system for a family member. In addition to the Preliminary Plat request, the applicant is also requesting a Subdivision Regulations Variance to waive several platting requirements, including road improvements, engineered road construction plans, and topography information at a five (5) foot contour intervals.

Staff recommended approval of the portion of Subdivision Regulations Variance 10-03 to waive the requirement to provide topography at a five (5) foot contour intervals and denial of the portion to waive the requirements for the road to be improved to Local/Collector Road Standards and engineered road construction plans to be provided and recommended approval of Preliminary Plat 10-11 with the following seven (7) 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 to 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 addresses for the residences on existing Lots A & B and 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 the reserve drainfield easement be dedicated separate from the plat document and recorded at the Register of Deeds and the easement shown on the plat document reference the filing information from the Register of Deeds; and,
7. That prior to County Board approval of the Preliminary Plat, the site plan show the setback distances from the structures and utilities to the proposed lot lines of Lot C. If it is determined that adequate setbacks are not being maintained, an approved Setback Variance may be required to be obtained prior to Final Plat approval.

Commissioner Weishaupl questioned why road improvements are required.

Zeller stated that since the applicants are increasing density, from three lots to four lots, and another Building Permit would be able to be obtained for a residence on the balance of HES #336 Revised, the road improvements are warranted. Furthermore, the existing road conditions, including the easement width and driving surface width, are significantly less than the minimum requirements in the Subdivision Regulations and staff feels some accommodation must be made by the applicant in order to ensure that access to the proposed lot is adequate.

Commissioners Weishaupl and Fisk both commented they are in agreement that road improvements should not be required, since the road has been used a driveway for over 30 years or more.

Zeller stated the easement width is very narrow and staff wants to ensure adequate access is provided to the proposed lot.

Commissioner Johnson also discussed the 1880 Train railroad crossing and questioned whether the applicants' access is legal and wanted to know whether staff has researched this matter further.

Zeller responded that she did not know of any issues at this time but would contact the representatives of the 1880 Train to discuss this, if this is what the Planning Commission requests.

Mr. Quentin Riggins, attorney for the applicants, appeared and discussed the railroad issue and commented that his clients have not had any contact from the railroad, and

further asked that all the Variance requests be granted since the road has been used by the applicants for many years.

Commissioner Fisk commented that there should be sufficient amount of time to address the 1880 Train issue before Final Plat approval.

Moved by Weishaupl and seconded by Fisk to approve of Subdivision Regulations Variance 10-03 and Preliminary Plat 10-11 with the added condition that the applicants resolve any issues with the 1880 Train before submittal of the Final Plat.

Commissioner Hoffmann discussed consistency as the Planning Commission moves forward with waiving road improvements and also added that he would support the motion to approve.

Moved by Weishaupl and seconded by Fisk to approve of Subdivision Regulations Variance 10-03 to waive the requirement to provide topography at a five (5) foot contour intervals, to waive the requirements for the road to be improved to Local/Collector Road Standards, and to waive submittal of engineered road construction plans and to approve of Preliminary Plat 10-11 with the following eight (8) 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 to 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 addresses for the residences on existing Lots A & B and 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 the reserve drainfield easement be dedicated separate from the plat document and recorded at the Register of Deeds and the easement shown on the plat document reference the filing information from the Register of Deeds;
7. That prior to County Board approval of the Preliminary Plat, the site plan show the setback distances from the structures and utilities to the proposed lot lines of Lot C. If it is determined that adequate setbacks are not being maintained, an approved Setback Variance may be required to be obtained prior to Final Plat approval; and
8. That prior to Final Plat approval, the applicant addresses all issues regarding the 1880 Train railroad right-of-way.

All voting aye, the Motion carried 7 to 0.

12. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the February 22, 2010, Planning Commission meeting.

13. ITEMS FROM THE PUBLIC

There were no items from the public.

14. ITEMS FROM THE STAFF

- A. Building Permit Report. Jennissen reviewed the Building Permit Report for February 2010.

15. ITEMS FROM THE MEMBERSHIP

- A. Public Meetings for the On-Site Wastewater Treatment Systems Ordinance. Commissioner Johnson discussed the scheduled dates and locations of public meetings with the Planning Commission. He reviewed the presentation time and a handout that will be given at the meetings.

16. DISCUSSION ITEMS

There were no discussion items.

17. ADJOURNMENT

Moved by Weishaupl and seconded by Hoffmann to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at **10:35 a.m.**

Charlie Johnson, Chairperson