

**MINUTES  
PENNINGTON COUNTY PLANNING COMMISSION**

**August 9, 2010 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Charlie Johnson, Jeff Hoffmann, Fred Weishaupl, Kevin Kuehn, Karen Hall, Jim Coleman, and Brenda Young.

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

ROLL CALL

1. APPROVAL OF THE JULY 26, 2010, MINUTES  
**Moved by Weishaupl and seconded by Johnson to approve the minutes of the July 26, 2010, Planning Commission meeting. Vote: unanimous (7 to 0).**
  
2. APPROVAL OF THE AGENDA  
**Moved by Young and seconded by Hall to approve the August 9, 2010, Planning Commission Agenda, including the Consent Calendar, with the removal of Items #4, #6, #8, #9, #10, #11, and #12. 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 90-48:** Kate Roseland. To review a single-wide manufactured home as a caretaker's residence in a Suburban Residential District in accordance with Section 204-D of the Pennington County Zoning Ordinance.

Lot 7, Block 4, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

**To recommend to continue the review of Conditional Use Permit / CU 90-48 to the August 23, 2010, Planning Commission meeting.**

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

5. **CONDITIONAL USE PERMIT REVIEW / CU 05-22:** Jeffrey Munson. To review a Bed and Breakfast in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 5, Seven Hills Subdivision, Section 32, T2N, R3E, BHM, Pennington County, South Dakota.

**To recommend to revoke Conditional Use Permit / CU 05-22 with the applicant's concurrence.**

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

7. **CONDITIONAL USE PERMIT REVIEW / CU 07-36:** Shannon and Trina Fisher. 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 A of Lot 4, Ashland Subdivision No. 3, Section 15, T2N, R8E, BHM, Pennington County, South Dakota.

**To recommend to revoke Conditional Use Permit / CU 07-36 with the applicant's concurrence.**

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

## **END OF CONSENT CALENDAR**

4. **CONDITIONAL USE PERMIT REVIEW / CU 04-35:** Joe and Jan Theberge. To review ten 30 foot by 150 foot storage buildings in a General Commercial District in accordance with Sections 209-C-5 and 510 of the Pennington County Zoning Ordinance.

Tract 1 of the SE1/4, Section 11, T1N, R6E, BHM, Pennington County, South Dakota.

Commissioner Weishaupl asked to have this item removed from the Consent Calendar to discuss Condition #10. He would like the application denied without prejudice so the applicants will be required to reapply and notify the surrounding property owners. He also asked if the applicants have submitted a site plan.

Jennissen explained that the property was originally zoned Heavy Industrial for the use of a sawmill and was later rezoned to General Commercial District to fit the area better. A Conditional Use Permit was then approved for storages units and Jennissen further stated that a site plan would be submitted when the applicants apply for a Building Permit.

Commissioner Weishaupl expressed concern with the two Section Lines on the property and if the applicants are able to meet those setbacks, since it was not discussed in the Staff Report.

Jennissen comment that the applicants would still have to meet all setbacks when a Building Permit is applied for.

Discussed followed on Condition #10 regarding the notification procedure to the surrounding property owners.

**Moved by Weishaupl and seconded by Young to approve of the extension of Conditional Use Permit 04-35 with the following eleven (11) 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 a minimum of four parking spaces be provided and a loading and unloading zone be provided for all storage units that run along the units and must have four 4 inches of gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;**
- 3. That ten (10) storage buildings be allowed on the subject property not to exceed 30 feet by 150 feet. Any additional storage buildings would require review by the Planning Commission;**
- 4. That the businesses address needs to be posted on the property to be clearly visible and to be maintained in accordance with Ordinance No. 20;**
- 5. That any lighting used to illuminate any off-street parking or on premise lighting shall be so arranged as to deflect the light from all adjoining residences;**
- 6. On-premise sign(s) shall be allowed with an approved Sign Permit. The on-premise sign shall not exceed 25 feet in height and have a maximum display area of 250 square feet on each side and not have more than two sides;**
- 7. That prior to a Building Permit being issued for the first storage unit, a drainage plan addressing run-off shall be reviewed and approved by the County Drainage Engineer;**
- 8. That prior to any Building Permit being issued on the property, the applicant shall provide documentation from the S.D. Department of Transportation acknowledging the use of the existing approaches for commercial use;**
- 9. That the hours of operation for the storage units be from 6:00 a.m. to 10:00 p.m.;**
- 10. That prior to starting construction of the storage units, this Conditional Use Permit be reviewed and the applicant's notify the surrounding property owners in accordance with Section 510 of the Pennington County Zoning Ordinance; and,**

**11. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to ensure that all conditions are being met.**

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

6. CONDITIONAL USE PERMIT REVIEW / CU 05-30: Melvin and Mary Leui; Debarah Leui – Agent. To review a second manufactured home on the property to be used as a caretaker’s residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

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

Commissioner Weishaupl asked to have this item removed from the Consent Calendar to discuss the number of unlicensed vehicles the applicant is allowed, since the Nuisance Ordinance does not allow any unlicensed vehicles on properties in Pennington County.

Commissioner Kuehn also expressed concern over the number of unlicensed vehicles and questioned if the applicant is recycling them.

Zeller stated she did not believe so.

Jennissen addressed the four unlicensed vehicles the applicant is allowed and stated that, at the time the applicant applied for the Conditional Use Permit, it was interpreted that they were allowed to have four unlicensed vehicles on the property, based on the definition for “Automobile Wrecking” in the Zoning Ordinance.

Discussion followed.

Moved by Commissioner Weishaupl to approve of the extension of Conditional Use Permit 05-30 with the removal of Condition #10 to allow four unlicensed vehicles on the property.

Commissioner Hoffmann explained to the Planning Commission that staff is recommending to continue the item to the September 13, 2010, Planning Commission meeting.

Commissioner Weishaupl withdrew his Motion to approve of the extension.

Moved by Weishaupl and seconded by Johnson to continue the review of Conditional Use Permit 05-30 to the September 13, 2010, Planning Commission meeting.

Zeller asked for direction from the Planning Commission since Condition #10 allows for up to four unlicensed vehicles.

Commissioner Hoffmann stated staff should review the Nuisance Ordinance with legal counsel and bring back a recommendation to the September 13<sup>th</sup> Planning Commission meeting to be discussed at that time.

**Moved by Weishaupl and seconded by Johnson to continue the review of Conditional Use Permit 05-30 to the September 13, 2010, Planning Commission meeting.**

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

8. CONDITIONAL USE PERMIT REVIEW / CU 07-44: Carson Aasen; Kirsten Lockhart - Owner. To review a 190 foot radio antenna in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The SE1/4 of the NE1/4 of Section 2, T1N, R8E, BHM, Pennington County, South Dakota.

(Continued from the July 26, 2010, Planning Commission meeting.)

Zeller asked to have this item removed from the Consent Calendar to discuss the fencing around the radio tower. Zeller stated she was able to contact the applicant regarding the fencing and he indicated that AM/FM towers are “hot” or electrically charged and a chain-linked fence would not be appropriate for the tower.

Commissioner Johnson commented that he is concerned with security for the tower.

Commissioner Weishaupl asked if the new Telecommunications Ordinance addresses chain-linked fencing around towers.

Jennissen stated the Ordinance only addresses cell towers.

Zeller suggested continuing the review to the August 23, 2010, Planning Commission meeting in order for staff to contact the applicant to discuss the type of fencing the applicant is able to provide.

Discussion followed.

**Moved by Johnson and seconded by Hall to continue the review of Conditional Use Permit 07-44 to the August 23, 2010, Planning Commission meeting.**

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

9. LAYOUT PLAT / PL 10-29: Robert Hammerquist/Randall Hammerquist. To create Lot D of Government Lot 3 in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 2 of Lot C of GL 2; Balance GL 3 (NE1/4NW1/4), Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot D of Government Lot 3 Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

Commissioner Johnson asked to have this item removed from the Consent Calendar to discuss changing the recommendation to read that this item be continued for 30 days in order for the applicant to address the concerns from the Layout Plat.

Zeller commented that she does not support continuing this item because the applicant can address staff's concerns before submittal of the Preliminary Plat application.

Moved by Johnson to continue Layout Plat 10-29 to the August 23, 2010, Planning Commission meeting in order for the applicant to address the 14 concerns of staff.

Jennissen commented that Layout Plats are a list of conditions the applicant needs to meet in order to move forward with the project. If the applicant wishes to proceed further with the platting process, those items need to be addressed. Staff is not recommending approval or denial.

Commissioner Johnson further stated he would like to continue the item in order for the applicant to appear before the Planning Commission to review the conditions before proceeding with the application.

Commissioner Weishaupl stated he would second the motion to continue the item to the August 23, 2010, Planning Commission meeting.

Discussion followed.

**Moved by Johnson and seconded by Weishaupl to continue Layout Plat 10-29 to the August 23, 2010, Planning Commission meeting.**

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

10. CONDITIONAL USE PERMIT / CU 10-24: Black Hills Electric Cooperative. To rebuild an electrical substation in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot A of NW1/4NW1/4, Section 21, T1S, R8E, BHM, Pennington County, South Dakota.

Schmierer asked to have this item removed from the Consent Calendar to inform the Planning Commission that the applicant's design plans for the electrical substation have changed. Schmierer stated the applicant did contact staff, prior to the meeting, and indicated their design plans changed from an underground design to an overhead design. She further commented that the Lower Spring Creek Substation will look similar to the Rockerville Substation. Schmierer reviewed the new design plans and pictures of the Rockerville Substation with the Planning Commission.

Discussion followed.

**Moved by Weishaupl and seconded by Kuehn to approve of Conditional Use Permit 10-24 with the following eleven (11) conditions:**

- 1. That a Building Permit be obtained for structures exceeding 144 square feet or located on a permanent foundation which will require a site plan to be reviewed and approved by the Planning Director;**
- 2. That an approved Floodplain Development Permit be obtained prior to any dirt work being performed within the floodplain boundaries;**
- 3. That a Stormwater Construction Permit be obtained from the South Dakota Department of Environmental and Natural Resources prior to the start of dirt work on the property. A copy of the permit shall be provided to the Planning Department;**
- 4. That all existing drainage ways be maintained and that erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water;**
- 5. That the applicants ensure the noise levels do not exceed those approved by the South Dakota Public Utilities Commission;**
- 6. That the facility be secured with a chain linked fence at least seven feet in height;**
- 7. That any existing or future fence be located outside the public right-of-ways;**
- 8. That two (2) off-street parking spaces be provided. Each space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner;**
- 9. That an Approach Permit be obtained from the County Highway Department prior to the relocation of the approach;**
- 10. That only one approach be allowed from Lower Spring Creek Road; and,**
- 11. That the Conditional Use Permit be reviewed in two (2) years to verify compliance with the conditions of approval.**

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

11. MINOR PLAT / PL 10-30 AND SUBDIVISION REGULATIONS VARIANCE / SV 10-08: Adrian and Cheryl Goodhue. To reconfigure the lot lines to create Lots 8R and 9R, Block 4, Pactola Estates, and to waive platting requirements in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 8 and 9, Block 4, Pactola Estates, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 8R and 9R, Block 4, Pactola Estates, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

Commissioner Weishaupl asked to have this item removed from the Consent Calendar to discuss the application. He wanted to know why the applicants are platting.

Jennissen explained that the applicants' driveway is encroaching on the neighbors' property and the applicants wanted the driveway to be a part of their lot.

**Moved by Johnson and seconded by Weishaupl to approve of Subdivision Regulations Variance 10-08 to waive the submittal of engineered road construction plans and road improvements and approval of Minor Plat #10-30 with the following two (2) conditions:**

- 1. That all structures and the existing on-site wastewater disposal system meet all the required setbacks from the proposed future lot lines; and,**
- 2. That prior to County Board approval of the Minor Plat, the two lots either be rezoned to Suburban Residential District or Lot Size Variances be obtained to allow the 1.752 acre and 1.481 acre lots.**

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

12. CONDITIONAL USE PERMIT REVIEW / CU 91-59: Melissa Ehrhardt. To review a mobile home as a single-family residence in a Suburban Residential District in accordance with Section 208-C-19 of the Pennington County Zoning Ordinance.

Tract C of Lot 6, Berger Subdivision, Section 14, T2N, R8E, BHM, Pennington County, South Dakota.

Commissioner Weishaupl asked to have this item removed from the Consent Calendar to discuss the property being located within one mile from the city limits of Box Elder and he wanted to know if the applications are routed to the city of Box Elder.

Schmierer responded that, when Conditional Use Permits are reviewed, the item is not routed to reviewing agencies. When a new Conditional Use Permit request is received, the item would be routed to the City of Box Elder.

Commissioner Johnson asked if staff is comfortable with approving the extension of the Conditional Use Permit with existing violations on the property.

Schmierer stated the violations will be cleared by August 15<sup>th</sup> when the single-wide mobile home is removed from the property.

**Moved by Johnson and seconded by Weishaupl to approve of the extension of Conditional Use Permit 91-59 with the following three (3) 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 property be kept clear of debris and inoperable automobiles; and,**
- 3. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis.**

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

13. CONDITIONAL USE PERMIT / CU 10-22: Bobbie Johnson; Valerie Johnson – Agent. To allow a single-wide manufactured home to be used as a single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot G of Lot 6 of Tract A, Metz Addition, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

(Continued from the July 26, 2010, Planning Commission meeting.)

Schmierer reviewed that this item had been continued for two weeks in order for the Environmental Planner to perform another site visit the property to take new measurements for the proposed wastewater system to the neighboring well.

The Environmental Planner, Aaron Olson, appeared and discussed the site visit to the subject property. He indicated that the neighbor's well (Mr. Jerald Frasier) does meet the setbacks for the proposed wastewater system; however Mr. Frasier also noted running water on his property. Staff found drainage through the area and the running water indicated a spring which resurfaces along side the applicant's property. Staff found that the spring ties into Battle Creek. Staff further explained the applicant will now need to meet the 100 foot setback from the spring and a 150 foot setback from the shallow well.

Commissioner Weishaupl discussed the size of the property and questioned if the property is 100 feet in width.

Olson commented that the applicant would have a hard time meeting the setbacks.

Mr. Jerald Frasier, neighbor, appeared and stated that another neighbor, the Little Bulls, also have a shallow well about 15 feet deep. He also expressed concern with the drainage from the property.

Discussion followed between staff and the Planning Commission on setbacks, placement of the manufactured home, installing a holding tank, and drainage from the property.

Mr. Phil Lervaag, neighbor, appeared and stated he lives on Lot C, which is to the north of the subject property. He provided a brief history of the applicant's property stating that it has been vacant for a number of years because of drainage issues. He expressed concern with the 16 foot easement that provides access into the neighborhood and only one means of ingress/egress to the area. He stated emergency vehicles would not be able to turnaround or enter onto the subject property. He also expressed concern that the manufactured home will become a rental in the future.

Commissioner Kuehn asked the Environmental Planner if there have been any radiuses done from the wells, to see if there is a spot on the property that will fit a drainfield.

Olson indicated that a new set of measurements would need to be taken because of the spring that was found, and a new profile hole will also need to be dug because it does not meet the setbacks from the spring.

Commissioner Hoffmann asked if staff's recommendation is to continue the item, based upon the Environmental Planner's findings.

Jennissen added that the Conditional Use Permit could be approved to allow the proposed use since the applicants will have to obtain a Septic Permit and have the option to utilize holding tanks, if a conventional system won't fit.

Commissioner Hoffmann suggested adding Condition #8 to state: "That the applicant meets all required setbacks for the spring and wells or utilizes a holding tank for the wastewater."

Jennissen responded that the applicant will need to meet DENR and the Zoning Ordinance requirements and recommended Condition #8 state: "That the septic system meets DENR requirements and the Pennington County Zoning Ordinance requirements."

Commissioner Johnson wanted to know what types of homes are located in the area.

Schmierer stated there is a mixture of single-family residences and manufactured homes.

Commissioner Kuehn expressed concern with the groundwater on the property.

Ms. Bobbie Johnson, applicant, appeared and stated she is agreeable with the use of holding tanks and their intent is not to rent the manufactured home, but to have her daughter live there and also help care for her parents.

Moved by Johnson and seconded by Kuehn to approve with an additional condition: "That the applicant meets all required setbacks for the spring and wells and utilizes a holding tank for the wastewater."

Jennissen stated staff would prefer to have a drainfield on the property, as the use of holding tanks is the last option. With the use of holding tanks, the tanks are required to be pumped on a regular basis and those records are to be forwarded to the Planning

Department. There is concern that waste from holding tanks will also be dumped in a non-designated place.

Discussion followed.

**Moved by Johnson and seconded by Kuehn to approve of Conditional Use Permit 10-22 with the following eight (8) conditions:**

- 1. That an address be assigned for the property and properly posted on the single-wide mobile home in accordance with Pennington County's Ordinance #20;**
- 2. That the property remains free of debris and junk vehicles;**
- 3. That the applicant ensures that all natural drainage ways be maintained and not blocked;**
- 4. That the mobile home installed on the property has a peaked non-reflective type roof and wood or simulated wood-type siding that is continually maintained;**
- 5. 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;**
- 6. That the applicant meets all required setbacks for the spring and wells and utilizes a holding tank for the wastewater;**
- 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 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.**

14. MINOR PLAT / PL 10-26 AND SUBDIVISION REGULATIONS VARIANCE / SV 10-07: Cheryl and Todd Bachman; Sanders Family Trust. To reconfigure lot lines to create Tract Adonis and Tract Sunshine and to waive the requirement for submittal of percolation tests and soil profile information in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Adonis No. 3 Lode M.S. 1068 in Section 23 and Sunshine No. 8 Lode M.S. 1068 in Section 26, all located in T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract Adonis located in Section 23 and Tract Sunshine in Section 26, all located in T1N, R5E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report indicating the applicants have submitted a Minor Plat request to reconfigure the lot lines between two existing mining claim lots into Tract Adonis and Tract Sunshine. The purpose of the lot line reconfiguration is to correct an encroachment violation. Specifically, a portion of the residence, which was to be constructed entirely on Tract Adonis, was constructed across the common south lot line and onto Tract Sunshine.

The applicants have also submitted a Subdivision Regulations Variance request to waive the requirement to submit percolation tests and soil profile information for Tract Sunshine, which is currently vacant.

The County Environmental Planner and Water Protection Coordinator both noted the soils located on the property are very poor. The Environmental Planner recommended soil profile and percolation tests are submitted prior to the Minor Plat being approved by County Board.

Although Tract Sunshine is 10 acres in size, the topography and severe soil types located on-site have the potential to limit the type of wastewater system installed on-site. In addition, the drainage channels traversing through the site also pose limitations as to where a wastewater system can be installed. Due to the aforementioned limitations, staff does not support the request to waive soil profile and percolation test information. Staff believes this information should be submitted prior to County Board approval of the Minor Plat to ensure any necessary notes regarding the type of wastewater system (conventional and/or non-conventional) are added as notes on the plat. In addition, it may be necessary to identify drainfield easements on the plat, if it is determined by the Environmental Planner, after reviewing the soil profile and percolations tests, due to the soil limitations and the drainage channel traversing through the property

Staff recommended denial of Subdivision Regulations Variance to waive the requirement to submit soil profile and percolation tests for proposed Tract Sunshine and recommended approval of Minor Plat 10-26 with the following four (4) conditions:

1. That the applicants post the road sign for Sanders Ranch Road prior to the recording of the Minor Plat;
2. That prior to County Board approval of the Minor Plat, the applicant provides soil profile and percolation tests information for proposed Tract Sunshine;
3. That prior to submittal of the mylar, the access easement which traverses through Gov't 2 and Gov't 4 be labeled as a 66-foot-wide access easement; and,
4. That Black Hills Electric Cooperative's rights to operate and maintain the overhead line are not diminished or adversely affected in any way by the proposed subdivision.

Commissioner Weishaupl discussed Condition #3 where the access easement is to be labeled on the mylar and questioned why the improvements for the road to Local Standards is not part of the Conditions of Approval.

Schmierer stated those improvements were waived on May 18<sup>th</sup> by the Board of Commissioners.

Mrs. Cheryl Bachmann, applicant, appeared and stated that they should not be required to submit the requested information and feels the new owner should be required to submit soil profile and percolation test information. She further added that the property is for sale.

Commissioner Johnson discussed the plat application with the applicant and ownership of the two properties.

Mrs. Bachmann stated she will be inheriting Sunshine Lode #8, which is the other parcel that is being platted.

Commissioner Johnson commented that, with the applicant taking ownership of Sunshine Lode #8, there would be a need for percolation tests and soil profile information.

Jennissen stated the applicant is not increasing density, only reconfiguring lot lines, but staff would like it noted on the plat that an alternative system is needed, if the soils are severe. This would information would then be available for potential buyers.

Commissioner Kuehn stated he would not support staff's request to deny the Subdivision Regulations Variance, but understand their position in requiring the information. He indicated that potential buyers should provide their own percolation tests.

Commissioner Johnson disagreed and stated this information should be required on the plat so that potential buyers know information about the property before it is purchased.

Discussion followed.

**Moved by Weishaupl and seconded by Young to deny Subdivision Regulations Variance to waive the requirement to submit soil profile and percolation tests for proposed Tract Sunshine and approval of Minor Plat 10-26 with the following four (4) conditions:**

- 1. That the applicants post the road sign for Sanders Ranch Road prior to the recording of the Minor Plat;**
- 2. That prior to County Board approval of the Minor Plat, the applicant provides soil profile and percolation tests information for proposed Tract Sunshine;**

3. That prior to submittal of the mylar, the access easement which traverses through Gov't 2 and Gov't 4 be labeled as a 66-foot-wide access easement; and,
4. That Black Hills Electric Cooperative's rights to operate and maintain the overhead line are not diminished or adversely affected in any way by the proposed subdivision.

All voting aye, the Motion carried 6 to 1. Commissioner Kuehn voted no.

15. REZONE / RZ 10-01: Yasmeen Dream. To rezone 27.58 acres from General Agriculture District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

COMPREHENSIVE PLAN AMENDMENT / CA 10-01: Yasmeen Dream. To amend the Comprehensive Plan to change the Future Land Use from Low Density Residential District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

METES AND BOUNDS LEGAL DESCRIPTION (Rezone): Commencing at the E1/4 corner of Section 19, T1N, R9E, BHM, common to the W1/4 corner of Section 20 T1N, R9E, BHM and the point of beginning; Thence, first course: S00°00'00"E, along the section line common to said Section 19 and said Section 20, a distance of 1320.00 feet to the section 1/16<sup>th</sup> line; Thence, second course: N90°00'00"W, along the section 1/16<sup>th</sup> line, a distance of 660.00 feet; Thence third course: N00°00'00"E, a distance of 1820.00 feet; Thence, fourth course: N90°00'00"E, a distance of 660.00 feet, to a point on the section line common to said Section 19, and said Section 20; Thence, fifth course: S00°00'00"E, along the section line common to said Section 19 and said Section 20, a distance of 500.00 feet to the said E1/4 corner of Section 19, common to the said W1/4 corner of Section 20, and the point of beginning. Said Parcel contains 1,201,200 square feet or 27.58 acres more or less.

METES AND BOUNDS LEGAL DESCRIPTION (Comprehensive Plan Amendment): Commencing at; the E1/4 corner of Section 19, T1N, R9E, BHM, common to the W1/4 corner of Section 20 T1N, R9E, BHM and the point of beginning; Thence, first course: N90°00'00"W, along the section ¼ line of said Section 19, a distance of 660.00 feet; Thence, second course: N00°00'00"E, a distance of 500.00 feet; Thence, third course: N90°00'00"E, a distance of 660.00 feet, to a point on the section line common to said Section 19, and said Section 20; Thence, fourth course: S00°00'00"E, along the section line common to said Section 19 and said Section 20, a distance of 500.00 feet to the said E1/4 corner of Section 19, common to the said W1/4 corner of Section 20, and the point of beginning. Said Parcel contains 330,000 square feet or 7.58 acres more or less.

Jennissen reviewed the Staff Report indicating the applicant is requesting to rezone 27.58 acres from General Agriculture District to General Commercial District. The applicant is also requesting to amend the Comprehensive Plan from Low Density Residential District to General Commercial District for a portion of this rezoning request. The property is

currently part of a larger tract of land owned by the applicant and is all currently zoned General Agriculture District.

The Future Land Use Plan for Pennington County identifies a majority of the property as General Commercial District. The Future Land Use Plan identifies the northern portion of the property as Low Density Residential District. The Comprehensive Plan must also be amended for the northern portion to be rezoned from General Agriculture District to Low Density Residential District.

Staff recommended approval of Rezone 10-01 for the portion that matches Pennington County's Comprehensive Plan. Staff recommended denial of Comprehensive Plan Amendment 10-01 to amend the Comprehensive Plan from Low Density Residential to General Commercial District.

Mr. Hanai Shafai, applicant/owner, appeared and discussed the proposed application. He spoke of drainage to the property, access, possible residential development next to the airport, buffer zones, and future development in the area, and he also asked that his application be approved.

Commissioner Young commented on the 100-year floodplain on the property.

Jennissen explained the applicant would need to meet the requirements for the floodplain with regards to development of the property.

Commissioner Johnson wanted to know the amount of acreage that would be changed to the Comprehensive Plan Amendment to General Commercial District from Low Density Residential.

Jennissen stated 7.58 acres.

**Moved by Johnson and seconded by Kuhlen to approve of Rezone 10-01 to rezone 27.58 acres from General Agriculture District to General Commercial District and to approve the Comprehensive Plan Amendment 10-01 for a portion of the rezone request from Low Density Residential District to General Commercial District.**

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

16. LAYOUT PLAT / PL 10-27: Linda and Larry Pearson. To create Lots 3, 4, and 5 of Hill City Heights in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All less Hill City Heights (also in Section 31), White Whale Lode, MS 664 in Section 30 and GL 17 less Hill City Heights, all located in T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 3, 4, and 5, Hill City Heights, Sections 30 and 31, T1S, R5E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant has applied for a Layout Plat to create Lots 3, 4 and 5 of Hill City Heights. The property currently consists of two unplatted parcels. Both parcels are split by either the 66 foot easement or the unplatted portion of the other lot. The proposed plat is creating three lots out of the two unplatted portions.

Staff recommended approval of Layout Plat 10-27 with the following nine (9) conditions:

1. That prior to County Board approval of the Preliminary Plat, the applicant provides a second means of ingress and egress or obtains approval of a Subdivision Regulations Variance waiving this requirement;
2. That prior to applying for a Preliminary Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information for each lot or obtains approval of a Subdivision Regulations Variance waiving this requirement;
3. That the Section Line Highway be improved to Ordinance 14 Standards, which includes 24 foot-wide driving surface with a minimum of four inches of gravel or obtain approval of a Subdivision Regulations Variance waiving this requirement;
4. That at the time of Preliminary Plat submittal, the applicant submits engineered road construction plans for the Section Line Highway or obtains approval of a Subdivision Regulations Variance waiving this requirement;
5. That prior to County Board approval of the Preliminary Plat, the applicant submits topography at five (5) foot contour intervals or obtains approval of a Subdivision Regulations Variance waiving this requirement;
6. That at the time of submittal of the Preliminary Plat, the applicant submits engineered construction plans for Forest Street or obtains a Subdivision Regulations Variance waiving this requirement;
7. That the roads are built to Local Road Standards, which includes a 24 foot driving surface with a minimum of 4 inches of gravel or approval of a Subdivision Regulations Variance be obtained waiving this requirement;
8. That an intermediate turn-around be constructed within the development or a Subdivision Regulations Variance is obtained waiving this requirement; and,
9. That the Final Plat removes the old property lines within the existing Lots 1 and 2 of Hill City Heights Subdivision.

Mr. Larry Pearson, applicant, appeared and discussed the proposed application. He commented that he does not have a problem with the conditions, with the exception of the required road improvements, and added that the road is 20-foot-wide and the grade exceeds 10 to 12 percent. He also expressed concern with the amount of rock that needed to be removed when the road was first built and feels it will be very expensive to improve

the road for the required improvements, but will work with staff to meet the conditions of approval.

Commissioner Weishaupl questioned how many homes take access from the road.

Jennissen stated there are between 50 to 60 residences.

Discussion followed.

**Moved by Young and seconded by Coleman to approve of Layout Plat 10-27 with the following nine (9) conditions:**

- 1 That prior to County Board approval of the Preliminary Plat, the applicant provides a second means of ingress and egress or obtains approval of a Subdivision Regulations Variance waiving this requirement;**
- 2. That prior to applying for a Preliminary Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information for each lot or obtains approval of a Subdivision Regulations Variance waiving this requirement;**
- 3. That the Section Line Highway be improved to Ordinance 14 Standards, which includes 24 foot-wide driving surface with a minimum of four inches of gravel or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
- 4. That at the time of Preliminary Plat submittal, the applicant submits engineered road construction plans for the Section Line Highway or obtains approval of a Subdivision Regulations Variance waiving this requirement;**
- 5. That prior to County Board approval of the Preliminary Plat, the applicant submits topography at five (5) foot contour intervals or obtains approval of a Subdivision Regulations Variance waiving this requirement;**
- 6. That at the time of submittal of the Preliminary Plat, the applicant submits engineered construction plans for Forest Street or obtains a Subdivision Regulations Variance waiving this requirement;**
- 7. That the roads are built to Local Road Standards, which includes a 24 foot driving surface with a minimum of 4 inches of gravel or approval of a Subdivision Regulations Variance be obtained waiving this requirement;**
- 8. That an intermediate turn-around be constructed within the development or a Subdivision Regulations Variance is obtained waiving this requirement; and,**
- 9. That the Final Plat removes the old property lines within the existing Lots 1 and 2 of Hill City Heights Subdivision.**

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

17. LAYOUT PLAT / PL 10-28: Valiant Vineyards/Eldon Nygaard. To create Lot G of Murray Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot F of Murray Subdivision and the unplatted PT in NW1/4SW1/4 lying NW of Country Road and SE of Lot H3 in Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot G of Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

Jenissen reviewed the Staff Report indicating the applicant has applied for a Layout Plat to combine two lots and vacate a right-of-way located between the two lots. The applicant has also submitted a Construction Permit to reconstruct a portion of Robin's Roost Road.

Staff recommended approval of Layout Plat 10-28 with the following thirteen (13) conditions:

1. That at the time of Preliminary Plat submittal, engineered road construction plans be submitted for Robins Roost Road or a Subdivision Regulations Variance be obtained waiving this requirement;
2. That the new alignment of Robins Roost Road be redesigned to meet Pennington County Subdivision Regulations or a Subdivision Regulations Variance be obtained waiving this requirement;
3. That Robins Roost Road be widened to a 66 foot right-of-way and be improved to a 32 foot paved road or obtain approval of a Subdivision Regulations Variance waiving this requirement;
4. That the applicant obtains approval from the South Dakota Department of Transportation for the construction work within their right-of-way;
5. That at the time of submittal of the Preliminary Plat, the plat shows the boundaries of the 100-year floodplain;
6. That at the time of submittal of the Preliminary Plat, the applicant submits topography at 5 foot contour intervals or obtain approval of a Subdivision Regulations Variance waiving this requirement;
7. That at the time of submittal of the Preliminary Plat, the applicant must submit information in regards to water supply;

8. That at the time of submittal of the Preliminary Plat, the applicant submits an overall site plan for the proposed uses of the proposed lot;
9. That if any work is to take place within Spring Creek, the applicant work with the Army Corp. of Engineers and obtain a 404 Permit, if needed;
10. That prior to any work being conducted within the 100-year floodplain, a Floodplain Development Permit be obtained;
11. That if the applicant disturbs more than one acre of land, a Stormwater Construction Permit be obtained;
12. That the Final Plat be drawn in accordance with the requirements of Section 400.3 of the Pennington County Subdivision Regulations, including all certifications; and,
13. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Johnson discussed the proposed application and commented on percolation tests and soil profile information. He expressed concern that this information needs to be provided because Spring Creek is located very close to the subject property.

Jennissen explained that there is already a drainfield for the winery and the applicant's intent is to combine the two lots into one lot.

Commissioner Young asked if the applicant is at the meeting to discuss the application.

Jennissen stated he is not.

Moved by Johnson and seconded by Hall to continue Layout Plat 10-28 to the August 23, 2010, Planning Commission meeting in order for the applicant to appear and address concerns of the Planning Commission.

Jennissen added that the applicant's Construction Permit will also be heard at the August 23<sup>rd</sup> meeting.

**Moved by Johnson and seconded by Hall to continue Layout Plat 10-28 to the August 23, 2010, Planning Commission meeting in order for the applicant to appear and address concerns of the Planning Commission.**

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

18. CONDITIONAL USE PERMIT / CU 10-23: Frank Boyle. To allow for a Recreational Vehicle Park with four proposed RV sites in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

That portion of Lot 1 located in Pennington County of Boyle Subdivision, Section 7, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the July 26, 2010, Planning Commission meeting.)

Jennissen stated that this item had been continued from the July 26, 2010, Planning Commission meeting in order for the applicant to meet with staff regarding the proposed use and to address the current floodplain violation on the property.

Staff recommended Conditional Use Permit 10-23 be continued to the August 23, 2010, Planning Commission meeting to allow the applicant time to obtain approval of an on-site wastewater disposal system for the Recreational Vehicle sites and to clear the floodplain violation.

Mr. Frank Boyle, applicant, appeared and discussed the proposed application. He stated that he has wastewater hookups on three of the four sites and added that he would not have submitted the application, if he would have known the State requires that he provide a wastewater disposal system, which must be approved by South Dakota Department of Environment and Natural Resources. He further discussed the existing floodplain complaint on the subject property.

Commissioner Hoffmann asked the applicant if the complaint pertains to the proposed application.

Jennissen explained that the violation does pertain to the property because the violation needs to be cleared before approval can be obtained for the Conditional Use Permit.

Discussion followed.

**Moved by Young and seconded by Hall to continue Conditional Use Permit 10-23 to the August 23, 2010, Planning Commission meeting.**

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

19. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the July 26, 2010, Planning Commission meeting and the Appeal of Conditional Use Permit 10-08 (Hinckley) was approved with added and amended conditions.

20. ITEMS FROM THE PUBLIC

There were no items from the public.

21. ITEMS FROM THE STAFF

A. Building Permit Report. Jennissen reviewed the Building Permit Report for July.

- B. Wind Generator Committee: Jennissen stated he would like to create a committee to draft a Wind Generator Ordinance and he would like two Planning Commission members to volunteer their time. Commissioners Hall and Coleman both stated they would volunteer for the committee.

22. ITEMS FROM THE MEMBERSHIP

- A. Commissioner Hoffmann spoke of meeting conduct with the Planning Commission.

23. DISCUSSION ITEMS

There were no discussion items.

24. ADJOURNMENT

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

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

The meeting adjourned at **11:47 a.m.**

---

Jeff Hoffmann, Chairperson