

APPROVED MINUTES  
**CUSTER COUNTY PLANNING COMMISSION**  
**Regular Meeting January 5, 2010**

**Planning Commission Members present:**

Phil Lampert	Steve Langendorf	Dean Johnson	Sue Brown
June Johnston	Walker Witt	Sheila Green	Andy Kelford

**Planning Dept. Staff present:** David Green, Lili Momeyer

**Guests Present:** Ron Fisk, Ed Johnson, David Drach, Mark Hartman, Lis Hollmann, Karl Von Rump

**Call to Order:** Chairman Phil Lampert called the meeting to order at 5:00 in the Commissioners' Room of the Custer County Courthouse Annex.

**Approval of Agenda:** Process of changing Ordinance 2 was added to the agenda. Brown moved, seconded by Langendorf, to approve the agenda. The motion was approved unanimously.

**A. Approval of the Minutes of the Regular Meeting held on December 1, 2009.**

Langendorf asked that the access issue with Lot 4 of WYDRPI - SD088 Subdivision be added to the minutes. Langendorf moved, seconded by Johnson, to approve the Minutes. The motion was approved unanimously.

**B. Permit, Petition, and Plat Review:**

**Agenda Item #1: PLAT - ARP SUBDIVISION** - Plat of Tract Lewis of Tract Mahrt of ARP Subdivision located in NW4SW4 of Section 18, T4S, R4#, BHM, Custer County, SD. Mike Lewis, applicant.

**Discussion:** Planning Director (D. Green) noted that this plat was prepared 10 years ago. There are some issues and no surveyor yet to correct them. There is also a fairly large floodplain on the property that needs to be identified.

S. Green moved to approve the preliminary plat with the Planning Director's recommendation. Witt seconded the motion. The motion passed unanimously.

**Agenda Item #2: PLAT - WYDRPI - SD088 SUBDIVISION** - Plat of SD088 - Lot 1 through SD088 - Lot 4 of WYDRPI - SD088 Subdivision and Dedicated Right-of-Way. Located in the S2NW4 and SW4 of Section 5, T3S, R12E, BHM and the NE4 and SW4 of Section 7, T3S, R12E, BHM, and the NW4 of Section 18, T3S, R12E, BHM, Custer County, South Dakota. Wyoming Dakota Railroad Properties, Inc., applicant.

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**Discussion:** Langendorf made a motion to take this plat off the table. Witt seconded the motion. The Planning Director stated that this plat has been discussed at several Board meetings for better clarification. He also stated that he received the narrative recently from the applicants, and the narratives are the same for both of the plats that are up before the Planning Commission. He said his recommendations are the same on both plats. Langendorf inquired about the details of Lot #4 regarding the access. Fisk replied that at the south point Lot 4 touches the right of way for the section line and inquired if this sufficed as legal access. D. Green said we should look at this as an Industrial Subdivision and that section lines should be acceptable for access. He indicated that adjacent land was not identified on the plat and that there was only 186 feet between two side lines. Ordinance 2 states that there needs to be 200 feet between lot lines. Witt inquired if anything in Ordinance 2 allows for disapproval for use as a railroad. D. Green stated the Comprehensive Plan allows for the approval of a plat as one process and the approval of the proposed use. There was discussion about water rights and the consequences of approving this as an Industrial Plat if the railroad does not go through. It was suggested that an easement to Lot 4 will address the issue of no access other than the section line.

Brown motioned that this preliminary plat is approved contingent upon making sure the section line is traversable, the 200 foot dimension is met, the water rights are addressed, adjacent land is labeled and an easement is written on the plat. Witt seconded the motion. The motion passed unanimously.

**Agenda Item #3 PLAT - WYDRPI - SD082 SUBDIVISION** - Plat of SD082 - Lot 1 of WYDRPI - SD082 Subdivision Located in the SE4 of Section 21, T3S, R11E, BHM, and the SW4SW4 of Section 22, T3S, R11E, BHM, Custer County, South Dakota. Wyoming Dakota Railroad Properties, Inc., applicant.

**Discussion:** Langendorf made a motion to take this plat off the table. Witt seconded the motion. D. Green said this plat has the same issues as the previous plat and that the narrative is the same.

Brown motioned that this preliminary plat is approved contingent upon making sure the section line is traversable, the water rights are addressed, adjacent land is labeled and an easement is written on the plat. Witt seconded the motion. The motion passed unanimously.

**Agenda Item #4: ACCESS REVIEW** - New Parcel No. 1 Aliquot Descriptions E2NE4SE4 and E2W2NE4SE4 and SW4SW4NE4SE4 and SE4SE4NW4SE4. New Parcel No. 2 Aliquot Descriptions NW4SW4NE4SE4 and NE4SE4NW4SE4. United Land Management, applicant.

**Discussion:** The Planning Director stated that since ownership and use of these particular parcels is unique, the County should consider looking at this development in a

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different manner than as prescribed in Ordinance 2. D. Green recommended pursuing a development agreement such as is common in a planned unit development (PUD). However, Ordinance 2 has no classification for a PUD. Witt recommended that Custer County needs to pursue establishing a process to be able to negotiate the PUD type of development agreements. It was noted that the land owner can secure a building permit at this time without doing a development agreement or subdividing their lands. Ed Johnson (owner's representative) stated that even though previous permits have been issued as commercial permits, they do not have any intent to pursue commercial use on their properties. Ed stated that they would like to work with the County to pioneer a PUD agreement, but that they do need a building permit now. Von Rump spoke about not wanting the road improved as this would encourage further subdivisions of land in the area. Discussion ensued about placing a moratorium after the above mentioned building permit is issued to work out implementing a PUD. D. Green said that the road improvements should to be done in sections as opposed to doing it all at once as that may create logistical problems and be a disruption to the adjacent land owners. The Planning Commission directed D. Green to work with Ed Johnson and move forward with a development agreement.

**C. Other Items:**

There was discussion about revising Ordinance 2. It was decided that the Planning Department and the Planning Commission will work on a portion of it every meeting. D. Green pointed out that undertaking this process will not only involve revising the subdivision ordinance but may also include implementing land use restrictions such as zoning. A list of potential definitions to be included in the ordinance will be supplied at the February meeting of the Planning Commission.

The meeting was declared adjourned by Lampert at 6:25 p.m.

Respectfully submitted,

David Green