

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
March 27, 2023 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Charlie Johnson, Karen McGregor, Kevin Kuehn, Mikal Lewis, and Ron Rossknecht.

STAFF PRESENT: Brittney Molitor, Kelsey Rausch, Megan Talmage, Christine Phillip, Jason Theunissen, Megan Krueger (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE MARCH 13, 2023, MINUTES
Moved by McGregor and seconded by Kuehn to approve the Minutes of the March 13, 2023, Planning Commission meeting. Vote: unanimous 5 to 0.

2. APPROVAL OF THE AGENDA
Moved by Rossknecht and seconded by Kuehn to approve the Agenda of the March 27, 2023, Planning Commission meeting. Vote: unanimous 5 to 0.

Moved by Lewis and seconded by Kuehn to approve the Consent Agenda of the March 27, 2023, Planning Commission meeting, with the removal of Item #8. Vote: unanimous 5 to 0.

CONSENT AGENDA

The following items have been placed on the Consent Agenda 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 Agenda, by any Planning Commissioner, staff member, or audience member for separate consideration. The findings of this Planning Commission, on certain items from this agenda, are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. **CONDITIONAL USE PERMIT REVIEW / CU 71-04:** David Allard. To review a mobile home park in a Commercial District in accordance with the Pennington County Zoning Ordinance.

Lot 1 of Lot D of SW1/4SE1/4 and RR Right-of-Way Across Lot 1, Subdivision of Section 31, 2N-6E, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 71-04 with the applicant's concurrence, as it is no longer needed.

Vote: unanimous 5 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CU 18-22:** Hay Yard Hills, LLC; Rodney Sather. To review a Vacation Home Rental in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Tract A of Lot 1, Harrington Subdivision, Section 19, T2S, R7E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 18-22 with the following fifteen (15) conditions:

1. **That the maximum overnight occupancy continue to be limited to ten (10) people and the maximum daytime occupancy be limited to twenty (20);**
2. **That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DANR;**
3. **That all necessary permits are obtained prior to any additions and/or alterations to the structure or upgrades/alterations to the on-site wastewater treatment system;**
4. **That each review of Conditional Use Permit / CU 18-22, be subject to PCZO § 511(F)(3), which imposes a \$100 fee per review;**
5. **That the applicant continually maintain a current lodging license with the South Dakota Department of Health (SD DH) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;**
6. **That the applicant continually maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;**
7. **That a minimum of three (3) off-street parking spaces continue to be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;**
8. **That an interior informational sign(s) continue to be posted in accordance with the requirements of PCZO §319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental;**
9. **That the lot address (13621 Battle View Road) continue to be posted on the residence at all times and so it is clearly visible from Battle View Road, in accordance with Pennington County's Ordinance #20;**

10. That the applicant ensure the Vacation Home Rental is operated in accordance with the requirements of PCZO § 319(F) (Performance Standards) at all times;
11. That if the person designated as the Local Contact is ever changed from Kathleen Lewis, the interior informational sign be updated and the applicant re-notify the Planning Director and PCZO § 319(C)(5)(c) be enforced;
12. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;
13. That an approved Sign Permit be obtained prior to the placement of any sign(s) per PCZO § 312;
14. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,
15. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 5 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 18-39**: Michael Buseti. To review a Vacation Home Rental in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 5, Gold Mountain Subdivision, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 18-39 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on SD DANR approval, continue to be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);
2. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DANR;
3. That all necessary permits are obtained prior to any additions and/or alterations to the structure or upgrades/alterations to the on-site wastewater treatment system;
4. That each review of Conditional Use Permit / CU 18-39, be subject to PCZO § 511(F)(3), which imposes a \$100 fee per review;

5. That the applicant continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;
6. That the applicant continually maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
7. That a minimum of two (2) off-street parking spaces continue to be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
8. That an interior informational sign continue to be posted in accordance with the requirements of PCZO §319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental;
9. That the lot address (12284 Gold Mountain Loop) continue to be posted on the residence at all times and so it is clearly visible from Gold Mountain Loop, in accordance with Pennington County's Ordinance #20;
10. That the applicant ensure the Vacation Home Rental is continually operated in accordance with the requirements of PCZO § 319(F) (Performance Standards) at all times;
11. That if the person designated as the Local Contact is ever changed from Mike Busetti, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;
12. That all applicable Federal, State, and local regulations continue to be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;
13. That an approved Sign Permit be obtained prior to the placement of any sign(s);
14. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
15. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Note: unanimous 5 to 0.

6. **CONDITIONAL USE PERMIT REVIEW / CU 21-11:** Travis Crisman; Theodore Crisman - Owner. To review a 12' x 60' single-wide mobile home in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Also in Section 32 (T1S, R4E), HES 306, Section 5, T2S, R4E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 21-11 with the applicant's concurrence, as it is no longer needed.

Vote: unanimous 5 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CU 21-67:** Kelley and Kasey Kurtz. To live in a double-wide mobile home, while building a single-family residence on the subject property and then the double-wide mobile home will be removed from the property in accordance with the Pennington County Zoning Ordinance.

Lot 10, Collins Addition, Section 20, T2N, R5E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 21-67 with the following six (6) conditions:

1. **That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;**
2. **That the address is clearly posted on the residence and at the driveway in accordance with Pennington County's Ordinance #20;**
3. **That the subject property not contain more than one (1) residential structure (i.e. single-family residence or living quarters);**
4. **That the minimum setback requirements of an Agriculture District be continually maintained on the property or the appropriate Setback Variance(s) be obtained;**
5. **That the double-wide mobile home be removed from the property once the single-family residence is habitable or the expiration of the Building Permit for the single-family residence, whichever comes first;**
6. **That the subject property remains free of debris and junk vehicles; and,**
7. **That this Conditional Use Permit be reviewed in one year, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.**

Vote: unanimous 5 to 0.

END OF CONSENT AGENDA

8. CONDITIONAL USE PERMIT AMENDMENT REVIEW / CU 22-06: Kent and Kim Disse. To review a gunsmithing business to allow for the buying and selling of new and used firearms in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot C of Lot 3 of Tract 1, Tigerville Subdivision, Section 9, T1S, R4E, BHM, Pennington County, South Dakota.

Commissioner Lewis requested this Item be removed from the Consent Agenda for discussion.

Staff recommended approval of the extension of Conditional Use Permit Amendment / CU 22-06 with fourteen (14) conditions.

Discussion followed.

Moved by Lewis and seconded by McGregor to approve the extension of Conditional Use Permit Amendment / CU 22-06 with the following fourteen (14) conditions:

- 1. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;**
- 2. That the gunsmithing and service business shall be operated completely within the existing accessory structure located on the property;**
- 3. That no business sign be posted on the property;**
- 4. That no on-premise retail sales be allowed;**
- 5. That the home occupation, including all associated storage, be conducted entirely indoors;**
- 6. That the applicant complies with all applicable local, state, and federal laws and a current copy of the applicant's Federal Firearms License from the U.S. Bureau of ATF be kept on file with the Planning Department;**
- 7. That an address be assigned to the structure being used for the business and the address be properly posted on both the structure and at the approach so it is visible in both directions from Tigerville Road in accordance with Pennington County's Ordinance #20;**
- 8. That the applicant acquires an Excise Sales Tax License as required by the South Dakota Department of Revenue prior to operation;**
- 9. That the applicant notifies the Hill City Fire Department prior to operation of the business and a copy of the letter shall also be provided to the Planning Department to place in the file prior to operation;**

10. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;
11. That the applicant takes reasonable measures to prevent the disposal of materials into the on-site wastewater treatment system;
12. That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property;
13. That the home occupation shall be operated by a member of the family residing on the premises; and,
14. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all conditions of approval are being met.

Vote: unanimous 5 to 0.

9. CONDITIONAL USE PERMIT / CU 23-07: David and Angela Roland. To allow a multiple-family dwelling in a Rural Residential District in accordance with the Pennington County Zoning Ordinance

Lot 3A, Hill City Heights Subdivision, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

Talmage reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a multi-family dwelling.

Staff had recommended approval, but is now recommending to continue Conditional Use Permit / CU 23-07.

Discussion followed.

Moved by Rossknecht and seconded by Lewis to continue Conditional Use Permit / CU 23-07 to the April 10, 2023, meeting to address concerns of the Planning Commission.

All voting aye, the Motion carried 5 to 0.

10. CONDITIONAL USE PERMIT / CU 23-08: TNS Holdings II, LLC; Tom St. Hill. To allow an illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District in accordance with the Pennington County Zoning Ordinance

Lot A of SE1/4NE1/4, Section 34, T1N, R7E, BHM, Pennington County, South Dakota.

Phillip reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow an illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit on the subject property.

Staff recommended approval of Conditional Use Permit / CU 23-08 with the following six (6) conditions:

1. That all lighting be continually maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;
2. That additional Sign Permit(s) be obtained for any on-premise signs, which requires a site plan to be reviewed and approved by the Planning Director;
3. That the sign continually conforms to all regulations in § 312 of the Pennington County Zoning Ordinance;
4. That the sign must continually meet a minimum of a five (5) foot setback from the front property lines and maintain proper setbacks from all side and rear property lines;
5. That the sign continues to be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated; and,
6. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Rossknecht and seconded by McGregor to approve of Conditional Use Permit / CU 23-08 with the following six (6) conditions:

- 1. That all lighting be continually maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;**
- 2. That additional Sign Permit(s) be obtained for any on-premise signs, which requires a site plan to be reviewed and approved by the Planning Director;**
- 3. That the sign continually conforms to all regulations in § 312 of the Pennington County Zoning Ordinance;**

4. **That the sign must continually meet a minimum of a five (5) foot setback from the front property lines and maintain proper setbacks from all side and rear property lines;**
5. **That the sign continues to be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated; and,**
6. **That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.**

All voting aye, the Motion carried 5 to 0.

11. REZONE / RZ 23-04: Tara Darby; KTM Design Solutions - Agent. To rezone from Agriculture District to Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot C of SW1/4NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone from Agriculture District to Suburban Residential District.

Staff recommended approval of Rezone / RZ 23-04.

Discussion followed.

Moved by Lewis and seconded by Kuehn to approve of Rezone / RZ 23-04.

All voting aye, the Motion carried 5 to 0.

12. REZONE / RZ 23-05: Allan Prince and Verlynn Prince; KTM Design Solutions - Agent. To rezone from Agriculture District to Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

W175 feet of N90 feet of Tract G in NW1/4 and SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone from Agriculture District to Suburban Residential District.

Staff recommended approval of Rezone / RZ 23-05.

Discussion followed.

Moved by Kuehn and seconded by Lewis to approve of Rezone / RZ 23-05.

All voting aye, the Motion carried 5 to 0.

13. PRELIMINARY PLAN / PPL 23-06: Argyle Properties, LLC; Anita Lee. To subdivide and create Lots 1 and 2 of Argyle Subdivision in accordance with the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 5, Baumgartner Subdivision, Section 25, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2, Argyle Subdivision, Section 25, T1S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Preliminary Plan to subdivide and create Lots 1 and 2 of Argyle Subdivision.

Staff recommended approval of Preliminary Plat / PPL 23-06 with the following ten (10) conditions:

1. That at the time of submittal of the Final Plat, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That at the time of submittal for the Final Plat, the plat meets all the requirements of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;
3. That at the time of submittal for the Final Plat, the access easement be labeled “66-foot-wide Access Easement”;
4. That the applicant improves Hidden Valley Road to 24-foot-wide or obtain an approved Subdivision Regulations Variance waiving this requirement;
5. That prior to the mylar being filed at Register of Deeds, any road improvements to Hidden Valley Trail be completed or surety for the road improvements be posted.
6. That at the time of submittal of the Final Plat, the proposed Plat be prepared by a Registered Land Surveyor;
7. That the applicant ensures all-natural drainage ways are maintained and are not blocked and all necessary drainage ways are noted on the plat;
8. That at the time of submittal of the Preliminary Plan, the Certifications on the Final Plat be in accordance with § 1701 and 1703 of the Pennington County Subdivision Regulations;
9. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

10. That approval of this Preliminary Plat does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by Lewis and seconded by Kuehn to approve of Preliminary Plat / PPL 23-06 with the following ten (10) conditions:

1. That at the time of submittal of the Final Plat, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That at the time of submittal for the Final Plat, the plat meets all the requirements of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;
3. That at the time of submittal for the Final Plat, the access easement be labeled "66-foot-wide Access Easement";
4. That the applicant improves Hidden Valley Road to 24-foot-wide or obtain an approved Subdivision Regulations Variance waiving this requirement;
5. That prior to the mylar being filed at Register of Deeds, any road improvements to Hidden Valley Trail be completed or surety for the road improvements be posted.
6. That at the time of submittal of the Final Plat, the proposed Plat be prepared by a Registered Land Surveyor;
7. That the applicant ensures all-natural drainage ways are maintained and are not blocked and all necessary drainage ways are noted on the plat;
8. That at the time of submittal of the Preliminary Plan, the Certifications on the Final Plat be in accordance with § 1701 and 1703 of the Pennington County Subdivision Regulations;
9. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
10. That approval of this Preliminary Plat does not constitute approval of any further applications to be submitted for the above-described property.

All voting aye, the Motion carried 5 to 0.

14. VACATION OF PLAT / VP 23-02: Michael Huot. To vacate a portion of a private roadway easement on the plat.

Lot B Revised, Anaconda Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Vacation of Plat to vacate a portion of private roadway easement on the plat.

Staff recommended approval of Vacation of Plat / VP 23-02 with the following one (1) condition:

1. That all necessary resolutions for Vacation of Plat / VP 23-02 be recorded by the applicant at the Register of Deeds' Office.

Discussion followed.

Moved by Rossknecht and seconded by Kuehn to approve of Vacation of Plat / VP 23-02 with the following one (1) condition:

1. **That all necessary resolutions for Vacation of Plat / VP 23-02 be recorded by the applicant at the Register of Deeds' Office.**

All voting aye, the Motion carried 5 to 0.

15. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the March 13, 2023, meeting.

16. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

17. ITEMS FROM THE STAFF

There were no items from Staff.

18. ITEMS FROM THE MEMBERSHIP

- A. Special PC Meeting – March 29, 2023, at 4:00 p.m. Chairman Johnson stated the Special Planning Commission meeting is scheduled for Wednesday, March 29th at 4:00 p.m. to hear public testimony and this will be the last meeting for public testimony.

19. ADJOURNMENT

Moved by McGregor and seconded by Lewis to adjourn. All voting aye, the Motion carried 5 to 0.

The meeting adjourned at 9:50 a.m.

Charlie Johnson, Chairperson