

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**April 10, 2023 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Charlie Johnson, Jim Coleman, Karen McGregor, Kevin Kuehn, Kevin Burton, Mikal Lewis, and Travis Lasseter.

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

ROLL CALL

1. APPROVAL OF THE MARCH 27, 2023, MINUTES  
**Moved by McGregor and seconded by Kuehn to approve the Minutes of the March 27, 2023, Planning Commission meeting, with a correction on page 8 to note six Conditions of Approval for Agenda Item #10. Vote: unanimous 7 to 0.**
  
2. APPROVAL OF THE MARCH 29, 2023, MINUTES  
**Moved by Burton and seconded by Lewis to approve the Minutes of the March 29, 2023, Planning Commission meeting. Vote: unanimous 7 to 0.**
  
3. APPROVAL OF THE AGENDA  
**Moved by McGregor and seconded by Lasseter to approve the Agenda of the April 10, 2023, Planning Commission meeting. Vote: unanimous 7 to 0.**  
  
**Moved by Lewis and seconded by Lasseter to approve the Consent Agenda of the April 10, 2023, Planning Commission meeting, with the removal of Items #7 and #10. Vote: unanimous 7 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.

4. **CONDITIONAL USE PERMIT REVIEW / CU 10-03**: Mike and Stacy Howe. To review a dog/cat boarding kennel in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot 1, Engesser Subdivision, Section 24, T1N, R8E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 10-03 with the following eleven (11) conditions:**

1. That the Conditional Use Permit be limited to a dog and cat boarding kennel only and that a maximum of two (2) additional employees not residing on the premises may be employed by the home occupation. Any expansion beyond this will require an amendment for this Conditional Use Permit to be applied for;
2. That the boarding of dogs/cats not exceed a maximum of 30 animals at one time. Any additional animals would require a review by the Planning Department and an amendment to the Conditional Use Permit;
3. That reasonable measures continue to be taken to control odors and noises produced by the dogs so as to not constitute a nuisance to the general public;
4. That the applicant continues to adhere to all necessary County, State and Federal regulations, including those of the Environmental Protection Agency (EPA) and maintain the necessary permits to conduct the organization's activities;
5. That the address, 8507 Dunn Road, continue to be posted both at the approach to the property and on the primary structure itself in accordance with Ordinance #20;
6. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
7. That a Floodplain Development Permit shall be submitted for review and approval prior to any work or placement of any structure within the boundaries of the 100-year floodplain;
8. That a minimum of eight (8) off-street parking spaces continue to be provided. Each parking space shall measure at least nine (9) feet by 18-feet and shall be kept in a dust free manner;
9. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;
10. That any change in the use or expansion of the kennel, would require approval by the Humane Society and, at a minimum, a review by the Planning Department. This Conditional Use Permit may need to be re-advertised and new notices resent if the change or expansion requires a hearing in front of the Planning Commission; and,
11. That this Conditional Use Permit be reviewed on a complaint basis, or by the Planning Commission and/or Board of Commissioners to ensure that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

5. **CONDITIONAL USE PERMIT REVIEW / CU 16-02**: Eva Olson. To review a single-wide mobile home in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

That PT of E1/2E1/2SW1/4NW1/4 lying S of Hwy 14-16 ROW less W 97 ft; SE1/4NW1/4 lying S of Hwy 14-16 ROW; SW1/4NE1/4 lying S of Hwy 14-16 ROW; That PT of SW1/4NE1/4 lying between I-90 and Hwy 14-16 ROW; That PT of E1/2E1/2NW1/4NW1/4 lying S of Hwy 14-16 ROW, Section 27, T2N, R10E, BHM, Pennington County, South Dakota.

**To end Conditional Use Permit / CU 16-02 with the applicant's concurrence, as it is no longer needed.**

**Vote: unanimous 7 to 0.**

6. **CONDITIONAL USE PERMIT REVIEW / CU 17-42**: Kyle and Kristina Volmer. To review living in a Recreational Vehicle while building a single-family residence on the subject property in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

SE1/4 of GL4, Section 7, T1N, R13E, BHM, Pennington County, South Dakota.

**To end Conditional Use Permit / CU 17-42 with the applicant's concurrence, as it is no longer needed.**

**Vote: unanimous 7 to 0.**

8. **CONDITIONAL USE PERMIT REVIEW / CU 22-02**: William and Mavis Jeffery. To review a multi-family residence on the subject property in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 4, Block 1, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 22-02 with the following seven (7) conditions:**

1. **That a minimum of 4 off-street parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet, surfaced with gravel, concrete or asphalt, and maintained in a dust-free manner, in accordance with Pennington County Zoning Ordinance (PZCO) § 310-A-9-1;**
2. **That the applicant adheres the requirement of PCZO § 303;**
3. **That the minimum setback requirements of Suburban Residential District be continually maintained on the property;**
4. **That the address, 3210 Reservoir Road, be posted on the residence and at the end of the driveway where it intersects Reservoir Road, in accordance with Pennington County Ordinance #20;**

5. That the address, 3212 Reservoir Road, be posted on the structure once the multi-family dwelling unit is livable and at the end of the driveway where it intersects Reservoir Road, in accordance with Pennington County Ordinance #20;
6. 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; and,
7. That this Conditional Use Permit be reviewed in 1 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 7 to 0.**

9. **PLANNED UNIT DEVELOPMENT REVIEW / PU 93-01:** George Bieber. To review a Recreational Resort in accordance with the Pennington County Zoning Ordinance.

NE1/4NE1/4, Section 11, T1N, R5E, BHM, Pennington County, South Dakota.

**To recommend to continue the review of Planned Unit Development / PU 93-01 to the June 12, 2023, Planning Commission meeting with one (1) condition.**

1. That the applicant applies for a Major Planned Unit Development to amend the Planned Unit Development as the property is no longer used as a Recreational Resort.

**Vote: unanimous 7 to 0.**

11. **PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PU 21-18:** Lisa McCrory. To review a Planned Unit Development Overlay to allow a Recreational Resort to include uses, such as: swimming pool, golf course, Vacation Home Rentals, RV site and a pole barn to include a butcher processing shop in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

S1/2 of Peacock Lode MS 962, Section 35, T1S, R5E, BHM, Pennington County, South Dakota.

**To recommend to continue the review of Planned Unit Development Overlay / PU 21-18 to the July 24, 2023, Planning Commission meeting with the following one (1) condition:**

1. That the applicants obtain an approved Variance to reduce the setback for the primary residence or submits a stamped survey that shows the residence meets setbacks.

**Vote: unanimous 7 to 0.**

**END OF CONSENT AGENDA**

7. CONDITIONAL USE PERMIT REVIEW / CU 20-27: Doug and Wendy Skogen. To allow an accessory structure, a shed, prior to a primary structure in an Agriculture District in accordance with of the Pennington County Zoning Ordinance.

Lot 2 of Tract B, HES No. 281, Section 15, T2S, R6E, BHM, Pennington County, South Dakota.

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

Staff recommended approval of the extension of Conditional Use Permit / CU 20-27 with ten (10) conditions.

Discussion followed.

**Moved by Lewis and seconded by Burton to approve the extension of Conditional Use Permit / CU 20-27 with the following ten (10) conditions:**

- 1. That the address, 13350 Greyhound Gulch Road, be posted on the proposed accessory structure, and at the end of the driveway off of Greyhound Gulch Road, so it is visible from both directions of travel on Greyhound Gulch Road, in accordance with Pennington County's Ordinance #20;**
- 2. That the proposed accessory structure be used for personal use only, no commercial-type uses are allowed;**
- 3. That an approved Building Permit be obtained for any structures exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;**
- 4. That the minimum setback requirements of an Agriculture District be maintained on the property or the appropriate Variance(s) be obtained;**
- 5. That the property be kept free of junk and debris;**
- 6. That all the natural drainage paths be maintained;**
- 7. That an approved On-Site Wastewater Treatment System Construction Permit be obtained prior to the installation of any On-Site Wastewater Treatment System on the property;**
- 8. That the applicant adheres to the U.S. Forest Service requirements at all times;**
- 9. That the applicant adheres to Section 510(E) regarding the time limit on Conditional Use Permit established uses, and;**
- 10. That this Conditional Use Permit be reviewed 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 7 to 0.**

10. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 20-05: Brian and Melissa Bowers. To review a swimming pool located in the front yard setback in a Planned Unit Development in accordance with the Pennington County Zoning Ordinance.

Lot 6, Block 2, Sheridan Lake Highlands, Section 34, T1N, R6E, BHM, Pennington County, South Dakota.

Commissioner Kuehn requested to have this Item removed from the Consent Agenda for discussion.

Staff recommended approval of the extension of Minor Planned Unit Development Amendment / PU 20-05 with seventeen (17) conditions.

Discussion followed.

**Moved by Kuehn and seconded by Lasseter to approve the extension of Minor Planned Unit Development Amendment / PU 20-05 with the following seventeen (17) conditions:**

- 1. That the Planned Unit Development consists of residential lots, three well lots, reservoir lot and one lot reserved for a community wastewater disposal system;**
- 2. That the minimum residential and sewer lot size be a minimum of two acres;**
- 3. That each proposed lot have areas for a single-family residence, accessory structures, and two drainfields sites if not hooked up to the community drain field;**
- 4. That if an adequate drainfield area can be found on a lot then it could be utilized and the common drain field could be utilized as the reserve drain field. If an adequate drain field area cannot be found on a particular lot, the common drain field area must be utilized;**
- 5. That a minimum of two off-street parking spaces be provided for each residential lot. All off-street parking spaces on the site shall measure at least nine feet by eighteen feet, be surfaced with gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;**
- 6. That no off-premise signs be allowed within the Planned Unit Development;**
- 7. That the Planning Director may allow additional development or construction which is consistent with the existing development on this property; significant changes in the use or impacts on adjacent land uses as determined by the Planning Director shall require an amendment to this Planned Unit Development;**

8. That a Building Permit be obtained for any structures 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;
9. That the required minimum setbacks for all structures be a minimum of 25 feet from all property lines;
10. That each unit has an individual address that must be posted in accordance with Pennington County Ordinance Amendment #20;
11. That two means of ingress and egress be provided to the property or obtain a Subdivision Regulation Variance waiving this requirement;
12. That all roads be improved to a minimum of Local Road standards, which includes a minimum of 24-feet in driving surface and 50-feet of right-of-way or obtain a Subdivision Regulation Variance waiving this requirement;
13. That a road district be formed to maintain the roads;
14. That the Homeowner's Association or Water Association maintain the water reservoir;
15. That the sewer lot be reserved for a community drainfield and reserve community drainfield;
16. That a private swimming pool be allowed in a front yard on Lot 6, Block 2, Sheridan Lake Highlands, Section 34, T1N, R6E, BHM, Pennington County, South Dakota; and,
17. That this Planned Unit Development be reviewed on a complaint basis or as directed by the Planning Director, Planning Commission, or County Board of Commissioners.

All voting aye, the Motion carried 7 to 0.

12. CONDITIONAL USE PERMIT / CU 23-07: David Roland. To allow a multiple-family dwelling on the subject property 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.

(Continued from the March 27, 2023, Planning Commission meeting)

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

Staff had originally recommended approval of Conditional Use Permit, but are now recommending approval of the withdrawal of Conditional Use Permit / CU 23-07, with the applicant's concurrence.

Discussion followed.

**Moved by Coleman and seconded by Burton to approve the withdrawal of Conditional Use Permit / CU 23-07, with the applicant's concurrence.**

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

13. CONDITIONAL USE PERMIT / CU 23-09: Brian and Jennifer Feistner. To allow a Vacation Home Rental on the subject property a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot B, Kjerstad Addition, 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 Vacation Home Rental.

Staff recommended approval of Conditional Use Permit / CU 23-09 with the following sixteen (16) conditions:

1. That the maximum overnight occupancy, based on the Department of Agriculture and Natural Resources (DANR), be limited to ten people and the maximum daytime occupancy be limited to twenty people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);
2. That if an addition is constructed on the single-family residence 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 DANR;
3. That the use of open fires, fireworks, charcoal burning grills, gas fired grills, or other devices shall not be allowed without permission from the Property Manager or Owner;
4. That the applicant provide the phone number and/or internet site address to clients, so they may be made aware of the current day's fire conditions and restrictions, as pertaining to the use of a fire pit or any other burning.
5. That the applicant continually maintains current licenses with the South Dakota Department of Health (Vacation Home License), the Department of Revenue (Sales Tax License), and South Dakota Department of Wildland Fire (Campfire Permit) and that copies of these licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
6. That the applicant maintains 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;



7. That a minimum of one off-street parking space per bedroom 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 be posted in accordance with the requirements of PCZO § 319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff's Office, during operation of the Vacation Home Rental;
9. That the lot address (23938 Highway 385) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Highway 385, in accordance with Pennington County Ordinance #20;
10. That the applicant ensures 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 Shane Binger, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail;
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);
14. That an approved Building Permit be obtained for any future 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 the basement be for recreational activities or storage only; and,
16. That this Conditional Use Permit be reviewed in one 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 McGregor and seconded by Lewis to approve of Conditional Use Permit / CU 23-09 with the following sixteen (16) conditions:**

- 1. That the maximum overnight occupancy, based on the Department of Agriculture and Natural Resources (DANR), be limited to ten people and the maximum daytime occupancy be limited to twenty people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);**
- 2. That if an addition is constructed on the single-family residence 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 DANR;**

3. That the use of open fires, fireworks, charcoal burning grills, gas fired grills, or other devices shall not be allowed without permission from the Property Manager or Owner;
4. That the applicant provide the phone number and/or internet site address to clients, so they may be made aware of the current day's fire conditions and restrictions, as pertaining to the use of a fire pit or any other burning.
5. That the applicant continually maintains current licenses with the South Dakota Department of Health (Vacation Home License), the Department of Revenue (Sales Tax License), and South Dakota Department of Wildland Fire (Campfire Permit) and that copies of these licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
6. That the applicant maintains 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;
7. That a minimum of one off-street parking space per bedroom 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 be posted in accordance with the requirements of PCZO § 319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff's Office, during operation of the Vacation Home Rental;
9. That the lot address (23938 Highway 385) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Highway 385, in accordance with Pennington County Ordinance #20;
10. That the applicant ensures 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 Shane Binger, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail;
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);

14. That an approved Building Permit be obtained for any future 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 the basement be for recreational activities or storage only; and,
16. That this Conditional Use Permit be reviewed in one 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 7 to 0.

Moved by Lewis and seconded by McGregor to wave rules to discuss directly related and similar Agenda Items #14 and #15 at the same time. All voting aye, the Motion carried 7 to 0.

14. COMPREHENSIVE PLAN AMENDMENT / CA 23-02: Par Properties, LLC / Paul Zweifel; All Aspects – Agent. To amend the Comprehensive Plan to change the Future Land Use from Ranchette District to Rural Residential District.

SE1/4SW1/4NE1/4, Section 27, T2N, R3E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Comprehensive Plan Amendment and Rezone to change the Future Land Use from Ranchette District to Rural Residential District and to rezone from Agriculture District to Rural Residential District.

Staff recommended to deny without prejudice Comprehensive Plan Amendment / CA 23-02.

Discussion followed.

Moved by Lasseter and seconded by Lewis to deny without prejudice Comprehensive Plan Amendment / CA 23-02.

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

15. REZONE / RZ 23-03: Par Properties, LLC / Paul Zweifel; All Aspects – Agent. To rezone from Agriculture District to Rural Residential District in accordance with the Pennington County Zoning Ordinance.

SE1/4SW1/4NE1/4, Section 27, T2N, R3E, BHM, Pennington County, South Dakota.

Staff recommended to deny without prejudice Rezone / RZ 23-03.

Moved by Lasseter and seconded by Kuehn to deny without prejudice Rezone / RZ 23-03.

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

16. COUNTY BOARD REPORT

The Board of Commissioners continued the Planning Commission's recommendations from the March 27, 2023, meeting to the Board meeting on Tuesday, May 2nd, as the regular Board meeting was moved to April 6th because of the snow storm.

17. ITEMS FROM THE PUBLIC

18. ITEMS FROM THE STAFF

A. Building Permit Report Molitor reviewed the March 2023 Building Permit Report.

B. State's Attorney's Office. Megan Krueger, Deputy State's Attorney, informed the Planning Commission that she has accepted another position within the State's Attorney's Office. She further stated there will be a replacement for her position working with the Planning Department.

19. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

20. ADJOURNMENT

**Moved by Lasseter and seconded by Burton to adjourn.**

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

**The meeting adjourned at 9:42 a.m.**

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Charlie Johnson, Chairperson