

**DRAFT MINUTES  
PENNINGTON COUNTY PLANNING COMMISSION  
May 24, 2021 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Rich Marsh, Charlie Johnson, Karen McGregor, Kathy Johnson, Sande Runde, and Gary Drewes.

STAFF PRESENT: Brittney Molitor, Chutima Supboon, Mindy Martinez, Cody Sack, Jason Theunissen, Cullen McNeece (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE MAY 10, 2021, MINUTES  
**Moved by Drewes and seconded by C. Johnson to approve the Minutes of the May 10, 2021, Planning Commission meeting, with a correction to Items #9 and #10 to reflect a vote of 4 to 0. Vote: unanimous 6 to 0.**
  
2. APPROVAL OF THE MAY 17, 2021, MINUTES  
**Moved by Drewes and seconded by Runde to approve the Minutes of the May 17, 2021, Planning Commission meeting. Vote: unanimous 6 to 0.**
  
3. APPROVAL OF THE AGENDA  
**Moved by C. Johnson and seconded by McGregor to approve the Consent Agenda of the May 24, 2021, Planning Commission meeting. Vote: unanimous 6 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 18-01:** Ron Weifenbach. To review for seasonal retail sales of Class C fireworks in a General Commercial District in accordance with Sections 204-D, 209, and 510 of the Pennington County Zoning Ordinance.

All, Block 8, Harney Peak View Addition, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 18-01 with the following ten (10) conditions:**

1. That the proposed use be limited to: seasonal retail sales of Class C fireworks;
2. That the sale of fireworks be limited to June 27<sup>th</sup> to July 5<sup>th</sup> and from the hours of 7 a.m. to 12 a.m. and December 28<sup>th</sup> to January 1<sup>st</sup> of each year from the hours of 7 a.m. to 12 a.m.;
3. That a minimum of 21 parking spaces be provided, each parking space must be a minimum of 9 feet x 18 feet and be maintained in a dust free manner;
4. That a minimum of one (1) port-a-potty be available to the public and be accessible for pumping and or removal when necessary, if the existing facilities in the structure are not accessible by the public;
5. That the applicant also ensures the safety of the customers by providing adequate security, fire protection, and a phone available to the public in case of an emergency;
6. That no parking be located within the right-of-way of School Drive and Jolly Lane;
7. That the applicant obtains approved Sign Permits prior to any signs being placed on the property, in accordance with § 312 of the Pennington County Zoning Ordinance (PCZO);
8. That the applicant obtain all necessary permits/licenses from other governing bodies for operation of the Class C Fireworks, including, but not limited to: approval from the South Dakota State Fire Marshal's office and a Sales Tax License from the South Dakota Department of Revenue;
9. That temporary structures (which may require temporary Building Permits), such as tents and port-a-potties, only be erected when needed and not on a permanent basis; and,
10. That this Conditional Use Permit be reviewed at the May 23, 2022, Planning Commission meeting to verify that all necessary Permits have been obtained from the State of South Dakota pertaining to the sale of Class C Fireworks; or as directed by the Planning Commission or Board of Commissioners or on a complaint basis.

**Vote: unanimous 6 to 0.**

5. **CONDITIONAL USE PERMIT REVIEW / CU 18-14:** All American Sales; Doug Bellinger - Agent. To review seasonal retail sales of Class C Fireworks in a Heavy Industrial District in accordance with Sections 204, 212, and 510 of the Pennington County Zoning Ordinance.

Lots A and B of Tract B of SW1/4 Less Lot H3 of said Lot B, including Lot H2 of Tract B, Section 27, T2N, R8E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 18-14 with the following thirteen (13) conditions:

1. That prior to operation, the applicant submits all necessary permits/licenses from other governing bodies for operation of the Class C Fireworks, including, but not limited to: written approval from the South Dakota State Fire Marshal's office and a Sales Tax License from the South Dakota Department of Revenue;
2. That the address, 4707 South Interstate 90 Service Road, Unit 1 and Unit 2, be posted in accordance with Pennington County Ordinance #20;
3. That the proposed use be limited to: seasonal retail sales of Class C fireworks;
4. That the sale of fireworks be limited to June 1st to July 5th of each year and from the hours of 7 a.m. to 12 a.m.;
5. That a minimum of 25 parking spaces be provided on-site, each parking space must be a minimum of 9 feet x 18 feet and be maintained in a dust free manner;
6. That a minimum of one (1) port-a-potty be available to the public and be accessible for pumping and/or removal when necessary, if the existing facilities in the structure are not accessible by the public;
7. That the applicant ensures the safety of the customers by providing adequate security, fire protection, and a phone available to the public in case of an emergency;
8. That no parking be along the frontage road;
9. That the applicant obtains approved Sign Permits prior to any signs being placed on the property, in accordance with section 312 of the Pennington County Zoning Ordinance (PCZO);
10. That temporary structures (which may require temporary Building Permits), such as tents and port-a-potties, only be erected when needed and not on a permanent basis;
11. That no hot work (any activity or process that involves open flames or that generates sparks or heat) occurs in the same building when fireworks are present;
12. That no fireworks be stored on the subject property outside of May 1st – July 15th of each year; and,

13. **That this Conditional Use Permit be reviewed no later than the second meeting in May 2022 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 6 to 0.**

## **END OF CONSENT AGENDA**

6. CONDITIONAL USE PERMIT / CU 21-03: Rodney and Theresa Cassidy. To allow a Guest House on the subject property in a Low Density Residential District in accordance with Sections 207, 318, and 510 of the Pennington County Zoning Ordinance.

Lot 5, Block 3, Forest Homes Development, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

(Continued from the February 22, 2021, Planning Commission meeting.)

Supboon stated this item was continued from the February 22, 2021, Planning Commission meeting to allow the applicant time to address the violations on the property.

Staff recommended to continue Conditional Use Permit / CU 21-03 to the November 22, 2021, Planning Commission meeting to allow the applicant time to bring the property into compliance.

Discussion followed.

**Moved by Runde and seconded by Drewes to continue Conditional Use Permit / CU 21-03 to the November 22, 2021, Planning Commission meeting to allow the applicant time to bring the property into compliance.**

**All voting aye, the Motion carried 6 to 0.**

7. CONDITIONAL USE PERMIT / CU 21-23: Mark Erickson. To allow for a Specialty Resort in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot A of Lot 4, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

(Continued from the May 10, 2021, Planning Commission meeting.)

Supboon reviewed the Staff Report stating the applicant has applied for a Conditional Use Permit to allow for a Specialty Resort.

Staff recommended approval of Conditional Use Permit / CU 21-23 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy based on SD DENR approval, be limited to eighteen (18) people (total includes the main residence and the bunk house);
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 DENR;
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 proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;
5. That the applicant maintains current licenses with the South Dakota Department of Health (Specialty Resort 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 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 and that a copy of said plan be kept on file at the Planning Department;
7. That a minimum of five (5) off-street parking spaces be provided on-site 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 at the main residence and the bunk house, with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Specialty Resort;
9. That the main residence's address (13599 Highway 40) and the bunk house's address (13601 Highway 40) be posted on each structure at all times and at the driveway at the intersection of Highway 40, in accordance with Pennington County's Ordinance #20;
10. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:05, which regulates Specialty Resorts;
11. That an approved Sign Permit be obtained prior to the placement of any on-premise sign(s);

12. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of the Special Flood Hazard Area located on the subject property;
13. That a color map illustrating where the Special Flood Hazard Area is located on the property, as determined by the Federal Emergency Management Agency (FEMA), be posted during operation of the Specialty Resort;
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 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 Runde and seconded by K. Johnson to approve of Conditional Use Permit / CU 21-23 with the following seventeen (17) conditions:**

- 1. That the maximum overnight occupancy based on SD DENR approval, be limited to eighteen (18) people (total includes the main residence and the bunk house);**
- 2. That quiet hours are from 10 p.m. to 7 a.m.;**
- 3. 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 DENR;**
- 4. 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;**
- 5. That the applicant shall provide the phone number and/or internet address to clients regarding the current day's fire condition, as pertaining to the use of the fire pit;**
- 6. That proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;**
- 7. That the applicant maintains current licenses with the South Dakota Department of Health (Specialty Resort License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;**

8. 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 and that a copy of said plan be kept on file at the Planning Department;
9. That a minimum of five (5) off-street parking spaces be provided on-site each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
10. That an interior informational sign be posted at the main residence and the bunk house, with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Specialty Resort;
11. That the main residence's address (13599 Highway 40) and the bunk house's address (13601 Highway 40) be posted on each structure at all times and at the driveway at the intersection of Highway 40, in accordance with Pennington County's Ordinance #20;
12. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:05, which regulates Specialty Resorts;
13. That an approved Sign Permit be obtained prior to the placement of any on-premise sign(s);
14. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of the Special Flood Hazard Area located on the subject property;
15. That a color map illustrating where the Special Flood Hazard Area is located on the property, as determined by the Federal Emergency Management Agency (FEMA), be posted during operation of the Specialty Resort;
16. 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,
17. 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 6 to 0.

8. CONDITIONAL USE PERMIT / CU 21-27: Gene Rossman. To live in a Recreational Vehicle while building a residence and working on the subject property in a Rural Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Pine Meadow Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

Supboon reviewed the Staff Report stating the applicant has applied for a Conditional Use Permit to live in a Recreational Vehicle, while building a residence and working to clean up the subject property.

Staff recommended approval of Conditional Use Permit / CU 21-27 with the following eleven (11) conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as temporary living quarters on the subject property;
2. That the address, 22890 Pine Meadows Court, be clearly posted on the RV while it is being utilized as living quarters and at the end of the approach clearly visible from both directions of travel along Pine Meadows Court;
3. That the applicant adheres to the U.S. Forest Service's requirements at all times;
4. That the minimum setback requirements of a Rural Residential District be maintained on the subject property, or approved Setback Variance(s) be obtained;
5. That the minimum 58-foot Section Line be maintained on the property;
6. That prior to utilizing a RV as a temporary living quarters, the applicant obtains an Operating Permit;
7. That the RV no longer be used as a residence once the cabin is finished and habitable, following which it only be allowed to be parked on the property;
8. 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;
9. That the property remains free of debris and junk vehicles;
10. That the applicant adheres to Pennington County Zoning Ordinance Section 510; and,
11. 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 Runde and seconded by K. Johnson to approve of Conditional Use Permit / CU 21-27 with the following eleven (11) conditions:**

- 1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as temporary living quarters on the subject property;**
- 2. That the address, 22890 Pine Meadows Court, be clearly posted on the RV while it is being utilized as living quarters and at the end of the approach clearly visible from both directions of travel along Pine Meadows Court;**
- 3. That the applicant adheres to the U.S. Forest Service's requirements at all times;**
- 4. That the minimum setback requirements of a Rural Residential District be maintained on the subject property, or approved Setback Variance(s) be obtained;**
- 5. That the minimum 58-foot Section Line be maintained on the property;**
- 6. That prior to utilizing a RV as a temporary living quarters, the applicant obtains an Operating Permit;**
- 7. That the RV no longer be used as a residence once the cabin is finished and habitable, following which it only be allowed to be parked on the property;**
- 8. 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;**
- 9. That the property remains free of debris and junk vehicles;**
- 10. That the applicant adheres to Pennington County Zoning Ordinance Section 510; and,**
- 11. That this Conditional Use Permit be reviewed in three (3) months, 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 6 to 0.**

9. LAYOUT PLAN / LPL 21-25: Lorraine and Doug Smith; Fisk Land Surveying – Agent. To subdivide and create Lots 1 and 2 of RDS Subdivision in accordance Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: E1/2S3/4NE1/4SW1/4; E1/2SE1/4SW1/4 Less That PT Lying S of Highway, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2 of RDS Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Layout Plan to create Lots 1 and 2 of RDS Subdivision.

Staff recommended approval of Layout Plan / LPL 21-25 with the following twelve (12) conditions:

1. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to 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 the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;
3. That prior to the Plat being Recorded at Register of Deeds, the applicant obtains a Rezone or a Lot size Variance for the proposed lots;
4. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;
5. That prior to filing the Plat with the Register of Deeds, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
6. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;
7. That the applicant ensures that all-natural drainage ways are maintained and are not blocked;
8. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
9. That the applicant ensures that all-natural drainage ways are maintained and are not blocked;
10. That both lots use the existing approach off of Forest Road;
11. 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;

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

Discussion followed.

**Moved by Drewes and seconded by McGregor to approve of Layout Plan / LPL 21-25 with the following ten (10) conditions:**

- 1. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to 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 the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;**
- 3. That prior to the Plat being Recorded at Register of Deeds, the applicant obtains a Rezone or a Lot size Variance for the proposed lots;**
- 4. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;**
- 5. That prior to filing the Plat with the Register of Deeds, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**
- 6. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;**
- 7. That the applicant ensures that all-natural drainage ways are maintained and are not blocked;**
- 8. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;**
- 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 Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.**

**All voting aye, the Motion carried 6 to 0.**

Commissioner Runde left the meeting at 10:07 a.m.

10. LAYOUT PLAN / LPL 21-26: Dana Kjerstad. To combine lots to create Tract 35 Revised of Rushmore Ranch Estates Subdivision in accordance Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 34 Revised (also in Section 8) and Tract 35 of Rushmore Ranch Estates Subdivision, Section 7, T2S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract 35 Revised of Rushmore Ranch Estates Subdivision, Section 7, T2S, R7E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Layout Plan to combine lots to create Tract 35 Revised of Rushmore Ranch Estates Subdivision.

Staff recommended approval of Layout Plan / LPL 21-26 with the following seven (7) conditions:

1. That the applicant ensures all natural drainage ways are maintained and are not blocked;
2. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
3. That at the time of the Preliminary Plat application submittal, the proposed Plat be prepared by a Registered Land Surveyor;
4. That prior to recording the Final Plat at Register of Deeds, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Tract 2, to be reviewed by the Pennington Environmental Planner or obtain an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;
6. That at the time of Preliminary Plat submittal, 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; and,
7. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

**Moved by K. Johnson and seconded by C. Johnson to approve of Layout Plan / LPL 21-26 with the following seven (7) conditions:**

- 1. That the applicant ensures all natural drainage ways are maintained and are not blocked;**
- 2. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;**
- 3. That at the time of the Preliminary Plat application submittal, the proposed Plat be prepared by a Registered Land Surveyor;**
- 4. That prior to recording the Final Plat at Register of Deeds, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Tract 2, to be reviewed by the Pennington Environmental Planner or obtain an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 5. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;**
- 6. That at the time of Preliminary Plat submittal, 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; and,**
- 7. That approval of this Layout Plan 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.**

Commissioner Runde returned to the meeting at 10:10 a.m.

11. MINOR PLAT / MPL 21-29: Shane Swedlund; Fisk Land Surveying – Agent. To subdivide and create Lots 1 and 2 of Marshall Gulch Subdivision No. 2 and Dedicated Right-of-Way in accordance Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 2 B West Sub-Div of Lot 2 of SW1/4NW1/4, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1 and Lot 2 of Swedlund Subdivision and Dedicated Right-of-Way, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Minor Plat to subdivide and create Lots 1 and 2 of Marshall Gulch Subdivision No. 2 and Dedicated Right-of-Way.

Staff recommended approval of Minor Plat / MPL 21-29 with the following five (5) conditions:

1. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
2. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met;
3. That prior to filing the mylar with the Register of Deeds, 8-foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines;
4. That the applicant ensures all-natural drainage ways are maintained and not blocked; and,
5. That following platting of the proposed lot, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.

Discussion followed.

**Moved by Drewes and seconded by McGregor to approve of Minor Plat / MPL 21-29 with the following five (5) conditions:**

- 1. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;**
- 2. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met;**
- 3. That prior to filing the mylar with the Register of Deeds, 8-foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines;**
- 4. That the applicant ensures all-natural drainage ways are maintained and not blocked; and,**
- 5. That following platting of the proposed lot, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.**

**All voting aye, the Motion carried 6 to 0.**

12. MINOR PLAT / MPL 21-27: TDG Real Estate, Mike Gennaro. To subdivide and create Lots 1 and 2 of Marshall Gulch Subdivision No. 2 and Dedicated Right-of-Way in accordance Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All, Glendale No. 1 Lode MS 1111, Section 14, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract A and Tract B of Glendale Lode No. 1 MS 1111, Section 14, T2S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Minor Plat to subdivide and create Lots 1 and 2 of Marshall Gulch Subdivision No. 2 and Dedicated Right-of-Way.

Staff recommended approval of Minor Plat / MPL 21-27 with the following eight (8) conditions:

1. That prior to filing the mylar with the Register of Deeds, the Certifications on the plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
2. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
3. That prior to filing the mylar with the Register of Deeds, the owner acknowledgement reflect Michael Gennaro is signing on behalf for TDG Real Estate LLC;
4. That prior to filing the mylar with the Register of Deeds, 8-foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines;
5. That prior to filing the mylar with the Register of Deeds, the applicant provides percolation tests and soil profile hole information for proposed Tract A and Tract B or obtain an approved Subdivision Regulations Variance to waive these requirements;
6. That prior to the mylar being filed at Register of Deeds, the applicant obtains either an approved Rezone and Comprehensive Plan Amendment or Lot Size Variances for the proposed lots;
7. That the applicant ensures all natural drainage ways are maintained and not blocked; and,

8. That following platting of the proposed lot, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.

Discussion followed.

**Moved by C. Johnson and seconded by McGregor to approve of Minor Plat / MPL 21-27 with the following eight (8) conditions:**

1. That prior to filing the mylar with the Register of Deeds, the Certifications on the plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
2. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
3. That prior to filing the mylar with the Register of Deeds, the owner acknowledgement reflect Michael Gennaro is signing on behalf for TDG Real Estate LLC;
4. That prior to filing the mylar with the Register of Deeds, 8-foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines;
5. That prior to filing the mylar with the Register of Deeds, the applicant provides percolation tests and soil profile hole information for proposed Tract A and Tract B or obtain an approved Subdivision Regulations Variance to waive these requirements;
6. That prior to the mylar being filed at Register of Deeds, the applicant obtains either an approved Rezone and Comprehensive Plan Amendment or Lot Size Variances for the proposed lots;
7. That the applicant ensures all natural drainage ways are maintained and not blocked; and,
8. That following platting of the proposed lot, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.

All voting aye, the Motion carried 6 to 0.



13. LAYOUT PLAN / LPL 21-28: Jeff Hermanson. To combine lots to create Lot 8R of Burns Placer MS 697 in accordance Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 7, Lot 8, and S1/3 of Lot 9 of Burns Placer MS 697, Section 24, T1S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 8R of Burns Placer MS 697, Section 24, T1S, R4E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report stating the applicant has applied for a Layout Plan to combine lots to create Lot 8R of Burns Placer MS 697.

Staff recommended approval of Layout Plan / LPL 21-28 with the following ten (10) conditions:

1. That prior to Minor Plat submittal, the applicant works with Staff to identify the shed and carport locations and obtain approved Floodplain Development and Building Permits, if required;
2. That at the time of Minor Plat submittal, the 100-year Floodplain limits be identified on the plat, in accordance with FEMA maps;
3. That at the time of Minor Plat submittal, the plat be prepared by a South Dakota Registered Land Surveyor;
4. That prior to Minor Plat submittal, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
5. That at the time of Minor Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
6. That at the time of Minor Plat submittal, 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;
7. That prior to the mylar being filed at Register of Deeds, the applicant obtains an approved Approach Permit from County Highway;
8. That prior to the mylar being filed at Register of Deeds, the applicant obtains either an approved Rezone and Comprehensive Plan Amendment or Lot Size Variances for the proposed lot;
9. That the applicant ensures all natural drainage ways are maintained and not blocked; and,

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

Discussion followed.

**Moved by C. Johnson and seconded by Drewes to approve of Layout Plan / LPL 21-28 with the following ten (10) conditions:**

- 1. That prior to Minor Plat submittal, the applicant works with Staff to identify the shed and carport locations and obtain approved Floodplain Development and Building Permits, if required;**
- 2. That at the time of Minor Plat submittal, the 100-year Floodplain limits be identified on the plat, in accordance with FEMA maps;**
- 3. That at the time of Minor Plat submittal, the plat be prepared by a South Dakota Registered Land Surveyor;**
- 4. That prior to Minor Plat submittal, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;**
- 5. That at the time of Minor Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**
- 6. That at the time of Minor Plat submittal, 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;**
- 7. That prior to the mylar being filed at Register of Deeds, the applicant obtains an approved Approach Permit from County Highway;**
- 8. That prior to the mylar being filed at Register of Deeds, the applicant obtains either an approved Rezone and Comprehensive Plan Amendment or Lot Size Variances for the proposed lot;**
- 9. That the applicant ensures all natural drainage ways are maintained and not blocked; and,**
- 10. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.**

**All voting aye, the Motion carried 6 to 0.**

Commissioner K. Johnson stated she would be abstaining from Items #14, #15, and #16 and left the meeting for these items.

14. COMPREHENSIVE PLAN AMENDMENT / CA 21-10: Lyndon Bolt; Renner Associates- Agent. To amend the Comprehensive Plan to change the Future Land Use to Rural Residential District in accordance Sections 207 and 508 of the Pennington County Subdivision Regulations.

Hare Lippa Tract (aka Pt of Lot 1; Parcel 1 of Lot 4 Less Right-of-Way; and Parcel 3 of Lot 3 Less Right-of-Way, Sections 2 and 3, T2S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed that the applicant has applied for a Comprehensive Plan Amendment to change the Future Land Use to Rural Residential District.

Staff recommended to continue Comprehensive Plan Amendment / CA 21-10 to the June 28, 2021, Planning Commission meeting.

**Moved by Drewes and seconded by C. Johnson to continue Comprehensive Plan Amendment / CA 21-10 to the June 28, 2021, Planning Commission meeting.**

**All voting aye, the Motion carried 5 to 0.**

15. REZONE / RZ 21-15: Lyndon Bolt; Renner Associates- Agent. To rezone to Rural Residential District in accordance Sections 207 and 508 of the Pennington County Subdivision Regulations.

Hare Lippa Tract (aka Pt of Lot 1; Parcel 1 of Lot 4 Less Right-of-Way; and Parcel 3 of Lot 3 Less Right-of-Way, Sections 2 and 3, T2S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed that the applicant has applied for a Rezone to rezone to Rural Residential District.

Staff recommended to continue Rezone / RZ 21-15 to the June 28, 2021, Planning Commission meeting.

**Moved by McGregor and seconded by Drewes to continue Rezone / RZ 21-15 to the June 28, 2021, Planning Commission meeting.**

**All voting aye, the Motion carried 5 to 0.**

16. PRELIMINARY PLAT / PPL 21-24: Lyndon Bolt; Renner Associates- Agent. To create Lots 1 through 6 of Elkhorn Estates in accordance Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Hare Lippa Tract (aka Pt of Lot 1; Parcel 1 of Lot 4 Less Right-of-Way; and Parcel 3 of Lot 3 Less Right-of-Way, Sections 2 and 3, T2S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 through 6 of Elkhorn Estates, Sections 2 and 3, T2S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report stating the applicant has applied for a Preliminary Plat to create Lots 1 through 6 of Elkhorn Estates.

Staff recommended approval of Preliminary Plat / PPL 21-24 with the following nine (9) conditions:

1. That at the time of Final Plat submittal, the 66' utility and access easement be identified as a named right-of-way on the plat, per Emergency Services comments;
2. That prior to Final Plat submittal, the Certifications on the Preliminary Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
3. That at the time of Final Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
4. That at the time of Final Plat submittal, 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;
5. That prior to the mylar being filed at the Register of Deeds, the applicant obtains an approved Variance to allow two approaches on a single lot (proposed Lot 2);
6. That prior to the mylar being filed at the Register of Deeds, the applicant obtains an approved Rezone for proposed Lots 1-6 and Comprehensive Plan Amendment (as applicable) or obtain an approved Lot Size Variance for the proposed lots;
7. That the applicant ensures all natural drainage ways are maintained and not blocked; and,
8. That within 60 days of the mylar being filed at the Register of Deeds, the applicant applies for a Conditional Use Permit for the 20' x 80' detached garage on proposed Lot 3;
9. 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 Runde and seconded by C. Johnson to approve of Preliminary Plat / PPL 21-24 with the following nine (9) conditions:**

- 1. That at the time of Final Plat submittal, the 66' utility and access easement be identified as a named right-of-way on the plat, per Emergency Services comments;**
- 2. That prior to Final Plat submittal, the Certifications on the Preliminary Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;**
- 3. That at the time of Final Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**
- 4. That at the time of Final Plat submittal, 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;**
- 5. That prior to the mylar being filed at the Register of Deeds, the applicant obtains an approved Variance to allow two approaches on a single lot (proposed Lot 2);**
- 6. That prior to the mylar being filed at the Register of Deeds, the applicant obtains an approved Rezone for proposed Lots 1-6 and Comprehensive Plan Amendment (as applicable) or obtain an approved Lot Size Variance for the proposed lots;**
- 7. That the applicant ensures all natural drainage ways are maintained and not blocked;**
- 8. That within 60 days of the mylar being filed at the Register of Deeds, the applicant applies for a Conditional Use Permit for the 20' x 80' detached garage on proposed Lot 3; and,**
- 9. 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.**

Commissioner K. Johnson returned to the meeting.

17. CONDITIONAL USE PERMIT / CU 21-28: Travis Green. To allow an accessory structure, a pole barn, as a primary structure on the subject property in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

S425 feet of N850 feet of W1075 feet of SW1/4SW1/4, Section 13, T1N, R9E, BHM, Pennington County, South Dakota.

Molitor reviewed that the applicant has applied for a Conditional Use Permit to allow an accessory structure, a pole barn, as a primary structure on the subject property.

Staff had originally recommend to continue Conditional Use Permit / CU 21-28 to the June 28, 2021, Planning Commission meeting, but now are recommending to continue to the June 14th meeting, as the applicant will be sending the Notice of Hearing letters to meet the June 14th meeting.

**Moved by Drewes and seconded by McGregor to continue Conditional Use Permit / CU 21-28 to the June 14, 2021, Planning Commission meeting.**

**All voting aye, the Motion carried 6 to 0.**

18. ORDINANCE AMENDMENT / OA 21-09: Pennington County. To amend Section 508 “Zoning or Rezoning” [to amend and supersede the existing Section 508 “Zoning or Rezoning”] of the Pennington County Zoning Ordinance.

Molitor reviewed the Staff Report indicating this is an Ordinance Amendment to amend Section 508 of the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 21-09

Discussion followed.

**Moved by K. Johnson and seconded by C. Johnson to approve Ordinance Amendment / OA 21-09.**

**All voting aye, the Motion carried 6 to 0.**

Commissioner McGregor left the meeting at 10:30 a.m.

19. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission’s recommendations from the May 10, 2021, Planning Commission meeting with the exception of Preliminary Plat 21-17: Keith Lau to subdivide and create Lots 5R and 5B of Lau Subdivision. This item was continued to the June 1<sup>st</sup> BOC meeting.

20. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

21. ITEMS FROM THE STAFF

- A. Update - Special Planning Commission Meeting May 17th. Molitor provided an update regarding the Special Planning Commission meeting.

22. ITEMS FROM THE MEMBERSHIP

Commissioner K. Johnson stated she will not be in attendance for the June 14th meeting.

23. ADJOURNMENT

**Moved by K. Johnson and seconded by C. Johnson to adjourn.**

**All voting aye, the Motion carried 6 to 0.**

**The meeting adjourned at 10:32 a.m.**

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Rich Marsh, Chairperson