

**DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
May 26, 2020 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Rich Marsh, Travis Lasseter, Sandra Runde, Lloyd LaCroix, Kathy Johnson (teleconference), Jim Coleman (teleconference), and Sonny Rivers (teleconference).

STAFF PRESENT: Brittney Molitor (teleconference), Jason Theunissen, Cody Sack, Michaele Hofmann (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE MAY 11, 2020, MINUTES

Moved by Lasseter and seconded by Runde to approve the Minutes of the May 11 27, 2020, Planning Commission meeting. Roll Call: Marsh – aye, Coleman – aye; LaCroix – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

2. APPROVAL OF THE AGENDA

Moved by Runde and seconded by Lasseter to approve the Agenda of the May 26, 2020, Planning Commission meeting. Roll Call: Marsh – aye, Coleman – aye; LaCroix – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

Moved by LaCroix and seconded by Lasseter to approve the Consent Agenda of the May 26, 2020, Planning Commission meeting, with the removal of Item #9. Roll Call: Marsh – aye, Coleman – aye; LaCroix – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 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 are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. **CONDITIONAL USE PERMIT REVIEW / CU 14-23:** Keystone Adventures, Inc.; Andrew Busse – Agent. To review a golf driving range and helipad in a Highway Service Zoning District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

The Unplatted Balance of Government Lot 16 less Right-of-Way; and the Unplatted Balance of Government Lot 21 less Right-of-Way, Section 31, T1S, R6E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 14-23 with the following sixteen (16) conditions:

- 1. That this Conditional Use Permit allows for a golf driving range and two (2) helipads on the subject property with chartered helicopter tours to be operated from the site;**
- 2. That no commercial helicopter tour will depart before 9:00 a.m. or after 7:00 p.m. during peak season (Memorial Day to Labor Day);**
- 3. That no commercial helicopter tour will depart before 9:00 a.m. or after 6:00 p.m. during non-peak season (April 1st to December 31st);**
- 4. That the term “commercial helicopter tours” be defined as those given to ticketed customers for the purpose of recreation and enjoyment;**
- 5. That the number of helicopters flying for the purposes of commercial helicopter tours be limited to two (2) at any given time during hours of operation;**
- 6. That the helipad be allowed to be utilized on a limited basis for public service type commercial helicopter tour operations, including, but not limited to, Life Flight, utility patrols, fire fighting, National Guard, etc.;**
- 7. That the lower helipad (nearest to Highway 16A) be utilized as the primary point of takeoff and departure and the upper helipad only be utilized as a backup when warranted by environmental conditions;**
- 8. That off-street parking be provided on-site in accordance with the requirements of Section 310 of the Pennington County Zoning Ordinance (PCZO) for commercial recreation uses;**
- 9. That the applicant adhere to FAA regulations at all times and that all other applicable federal, state, and local requirements be continually met;**
- 10. That fuel storage on the property be approved and meet the requirements of the South Dakota Department of Environment and Natural Resources (SD DENR) and the Environmental Protection Agency (EPA) at all times;**
- 11. That access to the helipads be limited to employees and customers escorted by employees;**
- 12. That the comments provided by the U.S. Forest Service be adhered to at all times;**

13. That a Sign Permit be obtained prior to the installation of any additional signs on the property. All new signs must meet the requirements of Section 312 of the PCZO;
14. That the property (24035 Highway 16A) be clearly visible at all times from both directions of travel along Highway 16A, in accordance with Pennington County Ordinance #20;
15. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met; and,
16. That prior to transfer of the property, the landowner notify the Planning Director and Conditional Use Permit / CU 14-23 be reviewed.

Vote: unanimous 7 to 0.

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 of 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 27th to July 5th and from the hours of 7 a.m. to 12 a.m. and December 28th to January 1st 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 Section 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 25, 2021, 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 7 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 18-09:** Scott and Christine Grierson. To review a Recreational Vehicle to be used as temporary living quarters on the subject property (Lot 6) while building a single-family residence on Lot 5 in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 6, Block 3, Pactola Estates, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

To continue the review of Conditional Use Permit / CU 18-09 to the July 13, 2020, Planning Commission meeting with the following two (2) conditions:

1. That the applicant obtain an approved On-Site Wastewater Treatment System Construction Permit for the RV prior to the July 13, 2020 Planning Commission meeting, on the subject property; and,
2. That the That the address assigned for the property (12524 Jax Ct.) be clearly posted on the Recreational Vehicle, prior to the July 13, 2020 Planning Commission meeting while it is being utilized as living quarters, in accordance with Pennington County's Ordinance #20.

Vote: unanimous 7 to 0.

6. **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 of 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 2021 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 7 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CU 19-05:** Fat Boys, Inc.; Bob Fuchs – Agent. To review a campground on the subject property to include RV sites, tent camping, cabins, and a motel in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 1-3 less Lot 1A of Spring Creek Palisades, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 19-05 with the following twenty-two (22) conditions:

1. That the uses of the Conditional Use Permit allow for only: four (4) hotel rooms (one bedroom, bath, and kitchen in each hotel room), seventeen (17) Recreational Vehicle Sites (a recreational vehicle is not to include Park Model Homes or Tiny Homes), ten (10) cabins with no plumbing, ten (10) tent sites, a minimum of forty-one (41) parking spaces, bathhouse (bathrooms, shower, and laundry), and the sale of beer and wine (with applicable licenses). An increase in these uses shall require CU 19-05 to be amended in the same manner as a new Conditional Use Permit, per Section 510 of the Pennington County Zoning Ordinance;
2. That “Temporary” shall mean those structures, systems, and/or tents established for a fixed period of time with the intent that such structure, system, and/or tent be removed or disassembled upon expiration of the fixed period of time unless permission is granted by way of a review of CU 19-05 not to exceed 180-calendar days;
3. That an approved Temporary Building Permit be obtained for any temporary 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;
4. That an approved Building Permit be obtained for any non-temporary 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;

5. That an approved Building Permit be obtained for any use of Alternative Energy Systems on the subject property, in accordance with Section 317 of the Pennington County Zoning Ordinance;
6. That the minimum required setbacks of a Limited Agriculture District and Highway Service District be continually maintained on the subject property, or approved Setback Variance(s) be obtained;
7. That addresses be assigned to the subject property, along with other identifying site numbers, and posted in accordance with Pennington County's Ordinance #20;
8. That an approved On-Site Wastewater Construction Permit be obtained prior to any on-site wastewater treatment system being installed on the subject property, which will also require review and approval by the South Dakota Department of Environmental and Natural Resources prior to the operation of the campground;
9. That a minimum of 41 parking spaces be provided in accordance with Pennington County Zoning Ordinance Section 310;
10. That a Sign Permit be obtained prior to the installation of any signs on the subject property. All signs must meet the requirements of Section 312 of the Pennington County Zoning Ordinance;
11. That the applicant maintains all necessary permits from other governing bodies for the operation, including, but not limited to, approval from the South Dakota Department of Health and a Sales Tax License from the South Dakota Department of Revenue;
12. 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 and updated, by the Operator, as needed, and provided at the time of each review of CU 19-05;
13. That the applicant provide each overnight quest with a map showing the Special Flood Hazard Area in relation to the subject property and proper evacuation routes;
14. That, at a minimum, a Floodplain Development Permit be approved prior to any work being done within a Special Flood Hazard Area;
15. That the property remains free of debris and junk vehicles and all structures be well-maintained;

16. That all existing drainage ways be maintained and that erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water per PCZO's. This includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures;
17. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
18. That quiet hours for the campground be between 10 p.m. and 8 a.m.;
19. That emergency turn-arounds be provided on-site;
20. That the applicant comply with SDCL 34-18, which regulates Lodging and Food Service Establishments and Campgrounds;
21. 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 impact on adjacent land uses as determined by the Planning Director shall require a review or amendment of this Conditional Use Permit; and,
22. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

8. **CONDITIONAL USE PERMIT REVIEW / CU 19-10:** Jeff and Jodi Sugrue. To review a multi-family dwelling in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Tract C, Block 5, Silver City Subdivision, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 19-10 with the following seven (7) conditions.

1. That a minimum of four (4) off-street parking spaces continue to be provided on-site, each measuring a minimum of nine (9) feet by 18 feet, surfaced with gravel, concrete or asphalt, and maintained in a dust-free manner;
2. That the existing approach must be used and no additional approaches will be allowed unless approved by the County Highway Department and that the residence and the addresses of each unit be properly posted so they are in accordance with Pennington County Ordinance #20;

3. **That the property continue to be kept free of debris and junk vehicles;**
4. **That once the living quarters for CU 19-10 are no longer in use as a multi-family dwelling, CU 19-10 shall end;**
5. **That the landowner continue to ensure that smoke alarms and fire extinguishers be properly installed and/or maintained in working order in each unit;**
6. **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,**
7. **That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as deemed necessary by either the Pennington County Board of Commissioners or Planning Commission to verify that all conditions are being met.**

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA

9. CONDITIONAL USE PERMIT REVIEW / CU 19-11: Paul and Rebecca Freidel. To review 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 6, Cedar Gulch Subdivision, Section 4, T1S, R6E, BHM, Pennington County, South Dakota.

Commissioner Runde asked to have Item #9 removed from the Consent Agenda for discussion.

Staff recommended approval of the extension of Conditional Use Permit / CU 19-11 with conditions.

Discussion followed.

Moved by LaCroix and seconded by Lasseter to approve of the extension of Conditional Use Permit / CU 19-11 with the following eight (8) conditions:

1. **That the rental or lease of the Guest House or the use of the Guest House as a permanent residence for a second family on the premises shall be prohibited;**

2. That the Guest House shall not be used for more than 180 days per calendar year;
3. That the primary dwelling be continually classified as owner-occupied and proof of status be provided to the Planning Department upon request, in accordance with PCZO Section 318(B)(10);
4. That all necessary utilities for the Guest House shall be extended from the primary dwelling unit's services. No separate meters for the Guest House shall be allowed, unless required by the utility service provider;
5. That both of the addresses assigned for the primary residence and the Guest House be posted so they are clearly visible from Longhorn Court, in accordance with Pennington County Ordinance #20;
6. That the Guest House be continually utilized and maintained in accordance with all requirements of the PCZO, with emphasis on Section 318, or a Variance(s) be obtained and approved to waive any requirements;
7. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,
8. 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.

Roll Call: Marsh – aye, Coleman – aye; LaCroix – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

10. REZONE / RZ 20-02 AND COMPREHENSIVE PLAN AMENDMENT / CA 20-02: Dick Kompus. To rezone 6.3 acres from Limited Agriculture District to Suburban Residential District and to change the Future Land Use from Planned Unit Development Sensitive to Suburban Residential District in accordance with Sections 206, 208, 213, and 508 of the Pennington County Zoning Ordinance.

Tract 2 of Lot B and C, Elkhorn Placer MS #1502 Mining, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has for a Rezone to rezone 6.3 acres from Limited Agriculture District to Suburban Residential District and to change the Future Land Use from Planned Unit Development Sensitive to Suburban Residential District.

Staff recommended approval of Rezone / RZ 20-02 and Comprehensive Plan Amendment / CA 20-02.

Discussion followed.

Moved by LaCroix and seconded by Lasseter to approve of Rezone / RZ 20-02 and Comprehensive Plan Amendment / CA 20-02.

Roll Call: Marsh – aye, Coleman – aye; LaCroix – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

11. CONDITIONAL USE PERMIT / CU 20-08: Schad Corp., Cody Schad. To allow a contractor's equipment storage yard and a saw mill on the subject property in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 3R, Marvin Subdivision, Section 16, T2N, R7E, BHM, Pennington County, South Dakota.

(Continued from the May 11, 2020, Planning Commission meeting.)

Sack stated this item was continued from the May 11, 2020, Planning Commission meeting to address concerns of the Planning Commission and surrounding neighbors, and, Sack further stated the applicant is now asking that the Conditional Use Permit be denied without prejudice.

Staff is recommending denial of Conditional Use Permit / CU 20-08.

If the Planning Commission chooses to approve Conditional Use Permit / CU 20-08, Staff recommended the following fourteen (14) conditions be included:

1. That an address must be posted at the entrance to the contractor's equipment storage yard and sawmill in accordance with Ordinance #20;
2. That this Conditional Use Limited to a contractor's storage equipment yard and saw mill;
3. That the amount of lumber produced be limited as to not create a manufacturing or commercial business;
4. That any lumber produced on the subject property be for personal use only and not sold for profit;
5. That emergency contact information for the storage yard be posted at the entrance of the storage yard;
6. That dust control measures be implemented to reduce the amount of dust from trucks leaving and entering the storage yard;
7. That if chemicals, fuel, and refuse are stored on the site, they have secondary containment;

8. That the minimum number of required parking spaces shall be provided in accordance with Pennington County Zoning Ordinance Section 310(A)(t), which requires parking or storage for all vehicles used directly in the conduct of such industrial use, plus one parking space for every three employees on the premise at maximum employment on a single shift;
9. That erosion control measures be implemented around the site to prevent sediment leaving the site;
10. That the property remains free of junk and debris at all times;
11. That adequate space is provided for parking in the storage yard;
12. That upon completion of the project, all equipment, structures, and stockpiles associated with the contractor's equipment storage yard must be removed;
13. That the site is revegetated as required in Section 507(A) of the Pennington County Zoning Ordinance and the Pennington County Storm Water Quality Manual; and,
14. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Lasseter and seconded by Coleman to deny Conditional Use Permit / CU 20-08.

Roll Call: Marsh – aye, Coleman – aye; LaCroix – aye; Lasseter – aye, Rivers – aye, and Runde - aye. Johnson – no. Roll Call Vote: carried 6 to 1.

12. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the May 11, 2020, Planning Commission meeting.

13. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

14. ITEMS FROM THE STAFF

- A. Planning Department. Theunissen stated the office is now accepting credit cards for payment.

15. ITEMS FROM THE MEMBERSHIP

Commissioner LaCroix thanked the Planning Commission for their work.

16. ADJOURNMENT

Moved by Lasseter and seconded by Runde to adjourn.

Roll Call: Marsh – aye, Coleman – aye; LaCroix – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

The meeting adjourned at 9:56 a.m.

Rich Marsh, Chairperson