

**MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
July 8, 2024 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Charlie Johnson, Karen McGregor, Lori Litzen, Mikal Lewis, Kevin Kuehn, John Santana, and Travis Lasseter.

STAFF PRESENT: Jason Theunissen, Megan Talmage, Cody Sack, Jeri Ervin, and Alexa Moeller (SAO).

ROLL CALL

1. ELECTION OF OFFICERS

Theunissen stated the Planning Commission elects new officers during the first annual organizational meeting in July of each year. Theunissen then opened the nominations for officer positions.

Moved by Johnson and seconded by Lewis to nominate Karen McGregor as the Chairperson. All voting, the Motion carried 6 to 0. Commissioner Lasseter abstained.

Moved by Johnson and seconded by Litzen to nominate Mikal Lewis as the Vice Chairperson. All voting, the Motion carried 6 to 0. Commissioner Lasseter abstained.

Moved by Kuehn and seconded by Litzen to nominate Charlie Johnson as the Second Vice-Chairperson. All voting, the Motion carried 6 to 0. Commissioner Lasseter abstained.

2. APPROVAL OF THE JUNE 24, 2024, MINUTES

Moved by Lewis and seconded by Johnson to approve the Minutes of the June 24, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.

3. APPROVAL OF THE AGENDA

Moved by Lewis and seconded by Kuehn to approve the Agenda of the July 8, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.

4. APPROVAL OF THE CONSENT AGENDA

Moved by Kuehn and seconded by Lewis to approve the Consent Agenda of the July 8, 2024, Planning Commission meeting, with the removal of Item #7. 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.

5. **CONDITIONAL USE PERMIT REVIEW / CUR 14-19**: Mark and Norma Broin. To review an accessory structure (shed/garage) prior to a primary structure in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Tract B of Lot 1 of NW1/4NW1/4, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

(Continued from the June 10, 2024, Planning Commission meeting.)

To approve of Conditional Use Permit Review / CUR 14-19 with the following nine (9) conditions:

1. **That the existing approach off of Marshall Gulch Road continues to be utilized or else an Approach Permit be obtained from the County Highway Department and the existing approach be abandoned;**
2. **That if the applicant chooses to install any plumbing within or on the outside of the accessory structure, it be hooked into a proper means of wastewater disposal with overall adherence to all necessary State and County regulations and an On-Site Wastewater Construction Permit be obtained.**
3. **That the accessory structures continue to be used for personal use only and no commercial uses;**
4. **That the property continues to remain free of debris at all times;**
5. **That all natural drainage paths continue to be maintained;**
6. **That the address continues to be posted so it is clearly visible from Marshall Gulch Road in accordance with Pennington County's Ordinance #20;**
7. **That prior to any construction/disturbance being conducted within the 100-year floodplain boundaries, a Floodplain Development Permit be obtained;**
8. **That the applicant continues to adhere to all USFS regulations; and,**
9. **That this Conditional Use Permit be reviewed on a complaint basis, or as directed by the Pennington County Planning Commission to verify that all Conditions of Approval are being met.**

Vote: unanimous 7 to 0.

6. **CONDITIONAL USE PERMIT REVIEW / CUR 23-16**: Lynne Messersmith. To review a Vacation Home Rental in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 1B, T and J Price Subdivision, Section 1, T2S, R5E, BHM, Pennington County, South Dakota.

To approval of Conditional Use Permit Review / CUR 23-16 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 six people and the maximum daytime occupancy be limited to twelve 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;**
- 4. That the applicant provides 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 (12995 Old Hill City Road) 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 Lee Ann McDonald, 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.
16. That this Conditional Use Permit be reviewed in three years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

8. **MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PUR 23-05**: ANCO Developments, LLC. To review a Telecommunications Tower in a Planned Unit Development District in accordance with the Pennington County Zoning Ordinance.

Lot 7, Walker Placer MS 551, Section 12, T2S, R4E, BHM, Pennington County, South Dakota.

To recommend approval of Major Planned Unit Development Amendment Review / PUR 23-05 with the following five (5) conditions:

1. That each cabin site have a minimum of (2) two off-street parking spaces; each measuring at least 9 feet by 18 feet and that they are kept in a dust free manner;
2. That prior to County Board approval, the existing and proposed use of the sewage system shall be reviewed and approved by the South Dakota Department of Agriculture and Natural Resources. If the existing system will not support the increased use, the system must be upgraded as necessary. Plan and specifications for any work on sewage lagoons must be submitted to the South Dakota Department of Environment and Natural Resources for review and approval prior to approval by this office;

3. That the minimum setback of twenty-five (25) feet from any property line be provided for all new cabins;
4. That one telecommunication tower be allowed in the Planned Unit Development; and,
5. That this Major Planned Unit Development Amendment 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.

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA

7. CONDITIONAL USE PERMIT REVIEW / CUR 23-26: Mike Wagner. To review motor vehicle rentals in a Highway Service District in accordance with the Pennington County Zoning Ordinance.

Lot 3 of Lot D, Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

Commissioner Johnson requested this item be removed from the Consent Agenda for discussion.

Staff recommend approval of Conditional Use Permit Review / CUR 23-26 with nineteen (19) conditions.

Discussion followed.

Moved by Johnson and seconded by Litzen to approve of Conditional Use Permit Review / CUR 23-26 with the following nineteen (19) conditions:

1. That the permitted use be limited to the rental of 20 vehicles, to include 10 UTVs and 10 cars;
2. That all assigned addresses be posted so they are clearly visible, in accordance with Pennington County Ordinance #20;
3. That access to the site be only from the approved South Dakota Department of Transportation approved approach and any additional approaches off of Highway 385 be approved by SD DOT;
4. That at least 27 off-street parking spaces be designated per Pennington County Zoning Ordinance (PCZO) § 310;

5. That all UTVS and cars are to be parked on paved or gravel surfaces;
6. That any On-site Wastewater Treatment System comply with PCZO and SD Department of Agriculture and Natural Resources requirements;
7. That the days of operation for the rentals be allowed seven (7) days each week, and the hours of operation, for the above-mentioned, shall be between 7 a.m. and 7 p.m. only;
8. That operation of the motor vehicle rentals be from April 15th to November 1st;
9. That prior to the placement of any on-premise signs, the applicant must adhere to PCZO § 312;
10. That the UTVs be thoroughly cleaned after use, to prevent the spread of invasive weeds;
11. That a portable fire extinguisher with a minimum 2A:10B:C rating shall be placed in each structure supporting the UTV rental or maintenance so it is accessible at all times;
12. That fueling operations for the UTVs and cars occur off-site;
13. That vehicle maintenance be performed within a designated structure and that no junk or parts be allowed to accumulate on the subject property;
14. That all lighting to be installed is maintained to minimize spillage of light outside of the area, so as not to create a nuisance. Lighting must be effectively shielded to prevent beams or rays from being directed towards any portion of the traveled ways and must not be of such intensity or brilliance as to cause glare or impair the vision of any motor vehicle drivers;
15. That the applicant obtains all necessary permits from other governing bodies for the operation, including, but not limited to, a sales tax license from the South Dakota Department of Revenue;
16. That no disturbance within the boundaries of the FEMA designated Special Flood Hazard Area or Floodway occur without an approved Floodplain Development Permit;
17. 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;
18. That a temporary Building Permit be obtained for the office, and,

19. That this Conditional Use Permit be reviewed in one year, or as directed by the Planning Commission or on a complaint basis.

All voting aye, the Motion carried 7 to 0.

9. CONDITIONAL USE PERMIT / COCU 24-0019: Mervin Hilty. To allow a Home Occupation, woodworking, on the subject property in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

S1/2SW1/4NE1/4 and that part of SE1/4 in Pennington County and Custer County, Section 20, T2S, R9E, BHM, Pennington County, South Dakota.

(Continued from the June 24, 2024, Planning Commission meeting.)

Talmage reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a Home Occupation, woodworking, on the subject property.

Staff recommended approval of Conditional Use Permit / COCU 24-0019 with the following sixteen (16) conditions:

1. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
2. That the home occupation shall be operated completely within the proposed shop on the property;
3. That all associated materials be kept entirely within the existing accessory structure;
4. That any structure constructed by the home occupation be removed from the property within 180 days;
5. That a Sign Permit be obtained for any on-premise sign located on the property in accordance with PCZO §312;
6. That the applicant complies with all applicable local, state, and federal laws;
7. That the applicant obtain all necessary permits from other governing bodies for operation of the home occupation including, but not limited to, a Sales Tax License from the South Dakota Department of Revenue;
8. That an address be assigned to the structure being used for the home occupation and the addresses be properly posted on the structure and where the driveway meets Assurance Lane;
9. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;

10. That the home occupation shall be operated by a member of the family residing on the premises;
11. That a portable fire extinguisher with a minimum 2 A-BC rating shall be available at all times and the fire extinguisher shall be inspected and tagged annually;
12. That the applicant obtain an Approach Permit from the Pennington County Highway Department;
13. That the recorded easement be improved to Ordinance 14 Standards or a Variance be obtained before operation of the home occupation;
14. That the home occupation be limited to a woodworking shop. Any expansion beyond this would require the Conditional Use Permit to be reviewed and amended;
15. That this Conditional Use Permit shall end upon sale or transfer of the subject property; and,
16. That this Conditional Use Permit be reviewed in six months, on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Lewis and seconded by Kuehn to approve of Conditional Use Permit / COCU 24-0019 with the following sixteen (16) conditions:

- 1. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;**
- 2. That the home occupation shall be operated completely within the proposed shop on the property;**
- 3. That all associated materials be kept entirely within the existing accessory structure;**
- 4. That any structure constructed by the home occupation be removed from the property within 180 days;**
- 5. That a Sign Permit be obtained for any on-premise sign located on the property in accordance with PCZO §312;**
- 6. That the applicant complies with all applicable local, state, and federal laws;**

7. That the applicant obtain all necessary permits from other governing bodies for operation of the home occupation including, but not limited to, a Sales Tax License from the South Dakota Department of Revenue;
8. That an address be assigned to the structure being used for the home occupation and the addresses be properly posted on the structure and where the driveway meets Assurance Lane;
9. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;
10. That the home occupation shall be operated by a member of the family residing on the premises;
11. That a portable fire extinguisher with a minimum 2 A-BC rating shall be available at all times and the fire extinguisher shall be inspected and tagged annually;
12. That the applicant obtain an Approach Permit from the Pennington County Highway Department;
13. That the recorded easement be improved to Ordinance 14 Standards or a Variance be obtained before operation of the home occupation;
14. That the home occupation be limited to a woodworking shop. Any expansion beyond this would require the Conditional Use Permit to be reviewed and amended;
15. That this Conditional Use Permit shall end upon sale or transfer of the subject property; and,
16. That this Conditional Use Permit be reviewed in six months, on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

All voting aye, the Motion carried 7 to 0.

10. CONDITIONAL USE PERMIT / COCU 24-0020: Pamela Phillips and Wayne Goldsberry. To utilize the existing residence as a caregiver residence in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 49B of Lot D, Sweetbriar Heights Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

Talmage reviewed the Staff Report indicating the applicant's applied for a Conditional Use Permit to utilize the existing residence as a caregiver residence.

Staff recommended approval of Conditional Use Permit / COCU 24-0020 with the following nine (9) conditions:

1. That the addresses for both the single-family residence and the proposed caregiver's residence be posted on each residence and so that it can be seen from both directions of travel on Covington Drive in accordance with Pennington County's Ordinance #20;
2. That within 60 days, the applicant apply for Building Permits for the two unpermitted structures and pay any associated penalty fees;
3. That the applicant obtain an Approach Permit for the southern approach from the Pennington County Highway Department;
4. 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;
5. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property or a setback Variance be obtained;
6. That the caregiver's residence uses the existing approach off of Covington Drive and no additional approach is allowed;
7. That the subject property remains free of debris and junk vehicles;
8. That once care is no longer needed, either the caregiver's residence be removed from the subject property; and,
9. That this Conditional Use Permit be reviewed within 30 days of the subject property being platted, 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.

Discussion followed.

Moved by Johnson and seconded by Kuehn to remove Condition #3 of the Conditions of Approval. All voting aye, the Motion carried 7 to 0.

Moved by Johnson and seconded by Lewis to approve of Conditional Use Permit / COCU 24-0020 with the following eight (8) conditions:

1. That the addresses for both the single-family residence and the proposed caregiver's residence be posted on each residence and so that it can be seen from both directions of travel on Covington Drive in accordance with Pennington County's Ordinance #20;
2. That within 60 days, the applicant apply for Building Permits for the two unpermitted structures and pay any associated penalty fees;

3. 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;
4. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property or a setback Variance be obtained;
5. That the caregiver's residence uses the existing approach off of Covington Drive and no additional approach is allowed;
6. That the subject property remains free of debris and junk vehicles;
7. That once care is no longer needed, either the caregiver's residence be removed from the subject property; and,
8. That this Conditional Use Permit be reviewed within 30 days of the subject property being platted, 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.

All voting aye, the Motion carried 7 to 0.

11. EXECUTIVE SESSION.

Executive Session was not needed.

12. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the June 24, 2024, Planning Commission meeting, with the exception of Ordinance Amendment 24-09 to amend Section 904-C Dead End Roads of the Subdivision Regulations. This item was continued to the July 16th Board meeting.

13. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

14. ITEMS FROM THE STAFF

A. Building Permit Report. Theunissen reviewed the June Building Permit Report.

15. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

16. ADJOURNMENT

Moved by Johnson and seconded by Litzen to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at 9:54 a.m.

Karen McGregor, Chairperson