

**MINUTES  
PENNINGTON COUNTY PLANNING COMMISSION  
July 22, 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 Ron Rossknecht.

STAFF PRESENT: Brittney Molitor, Jason Theunissen, Megan Talmage, Cody Sack, Jeri Ervin, and Tyler Sobczak (SAO).

ROLL CALL

1. APPROVAL OF THE JULY 8, 2024, MINUTES  
**Moved by Rossknecht and seconded by Lewis to approve the Minutes of the July 8, 2024, Planning Commission meeting, with a correction on page 11 for Item #10 to remove Condition #3 and approve with eight (8) conditions. Vote: unanimous 7 to 0.**
2. APPROVAL OF THE AGENDA  
**Moved by Johnson and seconded by Kuehn to approve the Agenda of the July 22, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.**
3. APPROVAL OF THE CONSENT AGENDA  
**Moved by Kuehn and seconded by Lewis to approve the Consent Agenda of the July 22, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.**

**CONSENT AGENDA**

The following items have been placed on the Consent Agenda for action to be taken on all items in accordance with staff's recommendation by a single vote. Any item may be removed from the Consent Agenda, by any Planning Commissioner, staff member, or audience member for separate consideration. The findings of this Planning Commission, on certain items from this agenda, are recommendations to the Pennington County Board of Commissioners who will make the final decision.

4. **CONDITIONAL USE PERMIT REVIEW / CUR 95-53:** Heavy Constructors. To review a solid waste disposal site in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

SW1/4, Section 34, T2N, R8E, BHM, Pennington County, South Dakota.

**To end Conditional Use Permit Review / CUR 95-53, as it is located inside the City Limits of Rapid City.**

**Vote: unanimous 7 to 0.**

5. **CONDITIONAL USE PERMIT REVIEW / CUR 17-37**: Ken Denke. To review the use of a camper as temporary living quarters on the subject property, not to exceed 180 days a year, in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

All, Hidden Treasure Lode MS 607, Section 26, T1N, R4E, BHM, Pennington County, South Dakota.

**To approve Conditional Use Permit Review / CUR 17-37 with the following seven (7) 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 unless the Landowner(s) receives an approved Variance;**
2. **That any graywater created by the RV must be collected in the RV holding tank prior to discharge and must not create a public nuisance or be allowed to enter any waters of the state;**
3. **That the address assigned to the property continue to be clearly posted in accordance with Pennington County Ordinance #20;**
4. **That the minimum setback requirements of an Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;**
5. **That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;**
6. **That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,**
7. **That this Conditional Use Permit be reviewed 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.**

6. **CONDITIONAL USE PERMIT REVIEW / CUR 18-24**: Plainsview Mobile Manor. To review an existing mobile home park (Plainsview Mobile Manor) in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Tract 2, Plainsview Subdivision, Section 23, T2N, R8E, BHM, Pennington County, South Dakota.

**To continue Conditional Use Permit Review / CUR 18-24 to the August 26, 2024, Planning Commission meeting.**

**Vote: unanimous 7 to 0.**

7. **CONDITIONAL USE PERMIT REVIEW / CUR 23-24:** Walter and Barbara Digmann; John Digmann-Agent. To review an Accessory Dwelling Unit in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot B, Gold King Lode MS 2064, Section 28, T1S, R6E, BHM, Pennington County, South Dakota, Section 27, T1N, R6E, BHM, Pennington County, South Dakota.

**To approve Conditional Use Permit Review / CUR 23-24 with the following thirteen (13) conditions:**

1. **That only one Accessory Dwelling Unit (ADU) be allowed;**
2. **That the ADU *not* exceed two stories, two bedrooms, or 700 square feet;**
3. **That the ADU has a residential appearance and cannot be a Recreational Vehicle;**
4. **That the addresses assigned to the ADU and the primary residence continue to be posted on each residence and at the end of the driveway where it intersects Klondike Road so they are clearly visible, in accordance with Pennington County Ordinance #20;**
5. **That the On-site Wastewater Treatment System (OSWTS) complies with § 331 of the Pennington County Zoning Ordinance;**
6. **That all necessary permits are obtained prior to any additions and/or alterations to the ADU or upgrades/alterations to the OSWTS;**
7. **That all utilities for the ADU be extended from the primary residence and be on one (1) meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;**
8. **That home occupations of the ADU are prohibited;**
9. **That the principal dwelling on the property be owner occupied or utilized as a long-term rental;**
10. **That at least 1 off-street parking space be provided for the ADU;**
11. **That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;**
12. **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,**
13. **That this Conditional Use Permit be reviewed in 3 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. **CONDITIONAL USE PERMIT REVIEW / CUR 24-0010**: RFL Holdings, LLC; Ryan Remington. To review a Vacation Home Rental in an Agriculture District and Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lots 29-33 of SW1/4NW1/4, Section 31, T2N, R7E, BHM, Pennington County, South Dakota.

**To approve Conditional Use Permit Review / CUR 24-0010 with the following sixteen (16) conditions:**

1. **That the maximum overnight occupancy be limited to eight (8) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) §§ 319(F)(1) and (F)(13);**
2. **That the applicant obtains proper permits prior to utilizing a fire pit on the subject property and all fire restrictions be followed at all times. A copy of said permit shall be filed with the Conditional Use Permit documents at the Pennington County Planning Department;**
3. **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 restriction, as pertaining to the use of a fire pit;**
4. **That each review of Conditional Use Permit / COCU24-0010, includes a \$100 fee;**
5. **That the applicants continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;**
6. **That the applicant 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 three (3) off-street parking space(s) be provided on-site, per Pennington County Zoning Ordinance (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 updated and posted in accordance with the requirements of PCZO § 319(G), with 9-1-1 and contact information of the Pennington County Sheriff Department and the nearest Fire Department respectively, during operation of the Vacation Home Rental, § 319(G)(1)(n);**
9. **That prior to operation, the lot address (6517 South Canyon Road) be continually posted on the residence at all times and so it is clearly visible from South Canyon Road in accordance with Pennington County's Ordinance #20;**

10. That the applicant ensure the Vacation Home Rental is continually operated in accordance with the requirements of PCZO § 319(F) (Performance Standards) at all times;
11. That if the person designated as the Local Contact is ever changed, from Adam Perrigo, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;
12. That all applicable Federal, State, and local regulations 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, if a Special Flood Hazard Areas (SFHA) is located within one (1) mile of the Vacation Home Rental, then a color map illustrating where the SFHA is located, as determined by the Federal Emergency Management Agency, shall be posted;
15. 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,
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.**

9. **PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PUR 22-05:** River Country Limited Partnership; Angela Lytle. To review a Planned Unit Development Overlay to allow a Recreational Resort to include Recreational Vehicles, a wedding venue, a Bed and Breakfast, and outdoor recreational activities in accordance with the Pennington County Zoning Ordinance.

W1/2W1/2 of Section 36, T2N, R14E; GL 5-7; E330 ft of GL 8 of Section 35, T2N, R14E; GL 5-6; E1/2NE1/4; GL 7-8; NE1/4SE1/4 of Section 26, T2N, R14E; ALL LESS ROW of Section 25, T2N, R14E; ALL LESS ROW of Section 24, T2N, R14E; E1/2NE1/4; GL 5-8 of Section 23, T2N, R14E; GL 5-6; SE1/4SE1/4 of Section 14, T2N, R14E; GL 4-5; S1/2SW1/4; NW1/4SE1/4; S1/2SE1/4 of Section 13, T2N, R14E; GL 1-3 of Section 31, T2N, R15E; SE1/4NW1/4, SE1/4SW1/4, Lot 1-4 of Section 30, T2N, R15E; GL 2-4 of Section 19, T2N, R15E, BHM, Pennington County, South Dakota.

**To recommend approval of Planned Unit Development Overlay Review / PUR 22-05 with the following twenty-six (26) conditions:**

1. That the approved uses of the Recreational Resort include: Recreational Vehicle (RV) spots, Bed and Breakfast, outdoor recreational activities, and outdoor weddings;
2. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
3. That daily and event operations be conducted by owners, on-site manager, and local contact as necessary;
4. That all natural drainage paths be continually maintained;
5. That the applicant obtains an approved Sign Permit prior to the placement of any on or off-premise sign;
6. That all assigned addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;
7. That prior to operation, each RV parking spot be marked with a unique spot number clearly visible from the driveway;
8. That prior to operation, the applicant obtains County Emergency Services approval of the numbering plan for the Recreational Vehicle sites and a final copy be kept on file with the Planning Department;
9. That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;
10. That prior to operation, port-a-lets or SD DANR approved incinerator toilets be located near each RV parking spot to serve as a means of wastewater disposal and that SD DANR approval for the incinerator toilets or a service contract for the port-a-lets be provided to the Planning Department;
11. That a minimum of 1 parking space per 5 customers be provided on-site for outdoor weddings and recreation activities, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with the Pennington County Zoning Ordinance (PCZO) § 310;
12. That a minimum of 5 parking spaces be provided on-site for the Bed and Breakfast, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with the Pennington County Zoning Ordinance (PCZO) § 310;
13. That quiet hours of the Recreational Resort be from 11:00 p.m. to 7:00 a.m.;
14. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;

15. That prior to operation, all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue be obtained for the Bed and Breakfast;
16. That, if fire pits are used, the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times;
17. That, if fire pits are used, the applicant shall provide the phone number and/or internet address to guests regarding the current day's fire condition, as pertaining to the use of the fire pit;
18. That the maximum number of people staying at the Bed and Breakfast adhere to the South Dakota Lodging Establishment's Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
19. That the applicants comply with South Dakota Codified Law 34-18;
20. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must adhere to PCZO § 331 and South Dakota Administrative Rules 74:53:01;
21. That the Bed and Breakfast must comply with PCZO §323;
22. That any RV Park / Sites must comply with PCZO §306;
23. That if average daily traffic exceeds 250, the section of Crooked Creek Road from I-90 to Highway 1416 must be improved to pavement in accordance with Ordinance 14;
24. That setbacks for all structures shall comply with those required in an Agriculture District;
25. That significant changes in the use or impacts on the subject property, as determined by the Planning Director, shall require an amendment to this Planned Unit Development Overlay; and,
26. That this Planned Unit Development Overlay be reviewed in 3 years, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

10. **PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PUR 23-06:** Horse Creek, LLC; Garret Kuchenbecker. To review a Recreational Resort in a Commercial District in accordance with the Pennington County Zoning Ordinance.

Lot 17 Less Outlot 1 and Right-of-Way (also in Section 3) and Outlot 1 of Lot 17 and 30 feet Right-of-Way, all located in Saxon Placer MS 1250, Section 2, T1S, R5E, BHM, Pennington County, South Dakota.

**To recommend approval of Planned Unit Development Overlay Review / PUR 23-06 with the following twenty-four (24) conditions:**

1. **That the approved uses of the Recreational Resort include: cabin rentals (vacation home rentals), park models, bath houses, laundry facilities, staff offices, event venue, and recreational vehicle sites;**
2. **That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;**
3. **That daily and event operations continue to be conducted by owners, on-site manager, and local contact as necessary;**
4. **That guest count for events and the restaurant continue to be combined, not to exceed the maximum occupancy of the restaurant;**
5. **That all natural drainage paths be continually maintained;**
6. **That the applicant obtains an approved Sign Permit prior to the placement of any on or off-premise sign;**
7. **That all assigned addresses continue to be properly posted in accordance with Pennington County's Ordinance #20;**
8. **That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;**
9. **That a minimum of 80 parking spaces continue to be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with the Pennington County Zoning Ordinance (PCZO) § 310;**
10. **That quiet hours in the Recreational Resort continue to be from 11:00 p.m. to 7:00 a.m.;**
11. **That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;**
12. **That any Vacation Home Rental within the Recreational Resort obtain all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue;**



13. That a smoke detector be placed in each sleeping room utilized for a Vacation Home Rental, with a minimum of at least 1 smoke detector per floor;
14. That the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times;
15. That a portable fire extinguisher with a minimum 2-A:10-B:C rating be placed on each floor level of a Vacation Home Rental so it be accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
16. That the maximum number of people staying at any Vacation Home Rental adhere to the South Dakota Lodging Establishment's Health and Safety Manual, South Dakota Department of Agriculture and Natural Resources, and Pennington County requirements;
17. That the applicant complies with South Dakota Codified Law 34-18;
18. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must adhere to PCZO § 331 and South Dakota Administrative Rules 74:53:01;
19. That any Vacation Home Rentals must comply with PCZO §319;
20. That any Recreation Vehicle Park / Site must comply with PCZO §306;
21. That setbacks for all structures comply with those required in a Commercial District;
22. That an approved Floodplain Development Permit be obtained prior to any disturbance or placement of structures within the boundaries of the Special Flood Hazard Area;
23. That significant changes in the use or impacts on the subject property, as determined by the Planning Director, shall require an amendment to this Planned Unit Development Overlay; and,
24. That this Planned Unit Development Overlay be reviewed in 1 year, on a complaint basis, or as deemed necessary by the Planning Director, the Planning Commission, or Board of Commissioners to verify all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

11. **MINING PERMIT REVIEW / MPR 14-03:** Pennington County Highway Department. To review the extraction of gravel to be crushed to specifications, and to stockpile material on a portion of the subject property to maintain roads in the area in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

All of Section 28, T1S, R3E, BHM, Pennington County, South Dakota.

**To recommend approval of Mining Permit Review / MPR 14-03 with the following nine (9) conditions:**

1. **That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water Discharges Associated with Industrial Activities be continually met;**
2. **That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the Mining Activity;**
3. **That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mining & Minerals Permits be continually met;**
4. **That the applicant submit a copy of the annual Mine License Report and a copy of the Mine License to the Planning Director when it is renewed;**
5. **That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;**
6. **That erosion control measures be implemented around the stockpiles to prevent sediment from leaving the site and, in addition, any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site or entering drainage ways;**
7. **That site inspections be done at least weekly during the period of construction or monthly, if no construction activity is occurring on the site (temporary stabilization is required if activity on the site is dormant for more than 21 days), and within 24 hours following a storm event of at least 0.5” or a snowmelt event that causes surface erosion;**
8. **That the site shall be revegetated as required in Section 507-A(5)(c); and,**
9. **That this Mining Permit be reviewed in one (1) year, and may be reviewed on a complaint basis, or as directed by the Planning Commission or the Board of Commissioners to verify that all conditions of approval are being met.**

**Vote: unanimous 7 to 0.**

12. **MINING PERMIT REVIEW / MPR 14-04**: Pennington County Highway Department. To review excavating and extracting gravel for road resurfacing in the area in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

E1/2SE1/4 of Section 7, T2N, R15E, BHM, Pennington County, South Dakota.

**To recommend approval of Mining Permit Review / MPR 14-04 with the following nine (9) conditions:**

1. **That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water Discharges Associated with Industrial Activities be continually met;**
2. **That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the Mining Activity;**
3. **That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mining & Minerals Permits be continually met;**
4. **That the applicant submit a copy of the annual Mine License Report and a copy of the Mine License to the Planning Director when it is renewed;**
5. **That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;**
6. **That erosion control measures be implemented around the stockpiles to prevent sediment from leaving the site and, in addition, any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site or entering drainage ways;**
7. **That site inspections be done at least weekly during the period of construction or monthly, if no construction activity is occurring on the site (temporary stabilization is required if activity on the site is dormant for more than 21 days), and within 24 hours following a storm event of at least 0.5” or a snowmelt event that causes surface erosion;**
8. **That the site shall be revegetated as required in § 507(N);**
9. **That this Mining Permit be reviewed in five (5) years, and may be reviewed on a complaint basis, or as directed by the Planning Commission or the Board of Commissioners to verify that all conditions of approval are being met.**

**Vote: unanimous 7 to 0.**

**END OF CONSENT AGENDA**

**Moved by Lewis and seconded by Kuehn to wave rules to discuss similar Agenda Items #13 and #14 at the same time and to vote on each item separately. All voting aye, the Motion carried 7 to 0.**

13. CONDITIONAL USE PERMIT / COCU 24-0022: Yarotek, LLC; Mark Tippet – Agent. To allow a utility-scale solar energy system in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

SE1/4 of Section 12, T1S, R11E; E1/2SW1/4, Lot 3-4; SE1/4 of Section 7; T1S, R12E; and GL 1-4; E1/2W1/2; E1/2 of Section 18, T1S, R12E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a utility-scale solar energy system on the subject properties.

Staff recommended approval of Conditional Use Permit / COCU 24-0022 with the following twenty-eight (28) conditions:

1. That Building Permits are obtained for all solar modules prior to construction;
2. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the Facility area;
3. That the address of all operational structures be posted in accordance with Ordinance #20 following completion of the structure;
4. That setbacks from the property lines and all utilities be maintained for all structures located on the property, or an approved Setback Variance(s) be obtained;
5. That an approved Approach Permit(s) be obtained, if necessary, from the approving Street Authority and that a copy of the approved Approach Permit be sent to the Pennington County Planning Department;
6. That a Storm Water Permit is obtained to prior to any land disturbance;
7. That the property owner signs the Noxious Weed Plan and it be followed at all times;
8. That the design of the solar energy system must conform to applicable local, state and national solar codes and standards at all times;
9. That prior to placement of construction materials and prior to construction of all solar modules, a Conditional Use Permit is obtained for the temporary contractor's equipment storage yard prior to construction of all solar modules;
10. That no junk material, vehicles, or debris is stored on the site at any given time;
11. That any natural drainage ways and paths be continually maintained;

12. That all exterior lights must use hoods and lens that cast light downward;
13. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
14. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
15. That the Planning Department is provided with the safety/access information in case of an emergency;
16. That the proposed structure(s) maintain the 35-foot height requirement, with the exception of utility poles as exempted in Section 204(D) of the PCZO, or an approved Variance(s) be obtained;
17. That the solar panels be non-reflective and unobtrusive at all times;
18. That temporary fencing is installed during construction to ensure livestock are protected;
19. That any private access roads or portions of Sections Lines be constructed to Ordinance 14 Standards or a request to waive these Standards be approved by the Board of Commissioners;
20. That prior to any work being done in a Section Line Right-of-Way, an approved Road Construction in a Section Line Right-of-Way be obtained;
21. That a Haul Road Agreement, if required, is in place with the County Highway Department prior to construction of the facility;
22. That all design and installation work shall comply with all applicable provisions in the National Electric Code, International Building Code, the International Residential Code, International Commercial Building Code, and State Fire Code;
23. That no advertising signage shall be placed on any portion of the solar facility;
24. That an approved Floodplain Development Permit is obtained prior to any disturbance or placement of structures in the designated Special Flood Hazard Area;
25. That financial surety equal to the gross cost of decommissioning the facility will be posted and retained by Pennington County prior to the issuance of Building Permits;
26. That any on-site wastewater treatment system(s) are subject to the requirements of Section 331 of the Pennington County Zoning Ordinance;
27. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line; and,

28. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis or as directed by the Planning Commission or Board of Commissioners.

Molitor further stated there is a request to continue the item to either the August 12<sup>th</sup> or August 26<sup>th</sup> Planning Commission meeting.

Discussion followed.

Moved by Johnson and seconded by Rossknecht to continue Conditional Use Permit / COCU 24-0022 to the August 12<sup>th</sup> or August 26<sup>th</sup> Planning Commission meeting. All voting aye, the Motion carried 7 to 0.

**Reconsideration of Motion to Continue: Moved by Johnson and seconded by Kuehn to reconsider Conditional Use Permit / COCU 24-0022 for discussion. All voting aye, the Motion carried 7 to 0.**

Discussion further followed.

**Moved by Johnson and seconded by Rossknecht to continue Conditional Use Permit / COCU 24-0022 to the August 26, 2024, Planning Commission meeting.**

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

14. CONDITIONAL USE PERMIT / COCU 24-0023: Yarotek, LLC; Mark Tippet – Agent. To allow a utility-scale wind energy system in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

SE1/4 of Section 12, T1S, R11E; E1/2SW1/4, Lot 3-4; SE1/4 of Section 7; T1S, R12E; and GL 1-4; E1/2W1/2; E1/2 of Section 18, T1S, R12E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a utility-scale wind energy system on the subject properties.

Staff recommended approval of Conditional Use Permit / COCU 24-0023 with the following twenty-six (26) conditions:

1. That Building Permits are obtained for all wind turbines prior to construction;
2. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the Facility area;
3. That the address of all operational structures be posted in accordance with Ordinance #20 following completion of the structure;
4. That setbacks from the property lines and all utilities be maintained for all structures located on the property, or an approved Setback Variance(s) be obtained;

5. That an approved Approach Permit(s) be obtained, if necessary, from the approving Street Authority and that a copy of the approved Approach Permit be sent to the Pennington County Planning Department;
6. That a Storm Water Permit is obtained to prior to any land disturbance;
7. That the property owner signs the Noxious Weed Plan and it be followed at all times;
8. That the design of the wind energy system must conform to applicable local, state and national codes and standards at all times;
9. That no junk material, vehicles, or debris is stored on the site at any given time;
10. That any natural drainage ways and paths be continually maintained;
11. That all exterior lights must use hoods and lens that cast light downward;
12. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
13. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
14. That the Planning Department is provided with the safety/access information in case of an emergency;
15. That the proposed structure(s), not including the wind turbines, maintain the 35-foot height requirement, with the exception of utility poles as exempted in Section 204(D) of the Zoning Ordinance, or an approved Variance(s) be obtained;
16. That temporary fencing is installed during construction to ensure livestock are protected;
17. That any private access roads or portions of Sections Lines be constructed to Ordinance 14 standards or a request to waive these Standards be approved by the Board of Commissioners;
18. That prior to any work being done in a Section Line Right-of-Way, an approved Road Construction in a Section Line Right-of-Way be obtained;
19. That a Haul Road Agreement, if required, is in place with the County Highway Department prior to construction of the facility;
20. That all design and installation work shall comply with all applicable provisions in the National Electric Code, International Building Code, the International Residential Code, International Commercial Building Code, and State Fire Code;
21. That no advertising signage shall be placed on any portion of the wind facility;

22. That an approved Floodplain Development Permit is obtained prior to any disturbance or placement of structures in the designated Special Flood Hazard Area;
23. That financial surety equal to the gross cost of decommissioning the facility will be posted and retained by Pennington County prior to the issuance of Building Permits;
24. That any on-site wastewater treatment system(s) are subject to the requirements of Section 331 of the Pennington County Zoning Ordinance;
25. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line; and,
26. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis or as directed by the Planning Commission or Board of Commissioners.

Molitor further stated there is a request to continue the item to either the August 12<sup>th</sup> or August 26<sup>th</sup> Planning Commission meeting.

**Moved by Johnson and seconded by Lewis to continue Conditional Use Permit / COCU 24-0023 to the August 26, 2024, Planning Commission meeting.**

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

The Planning Commission recessed for 10 minutes.

15. EXECUTIVE SESSION.

Executive Session was not needed.

16. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the July 8, 2024, Planning Commission meeting,

17. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

18. ITEMS FROM THE STAFF

There were no items from Staff.

19. ITEMS FROM THE MEMBERSHIP

There were no items from the Membership.



20. ADJOURNMENT

**Moved by Rossknecht and seconded by Litzen to adjourn.**

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

**The meeting adjourned at 11:02 a.m.**

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Karen McGregor, Chairperson