

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
September 9, 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 Deb Hadcock.

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

ROLL CALL

1. APPROVAL OF THE AUGUST 26, 2024, MINUTES
Moved by Johnson and seconded by Litzen to approve the Minutes of the August 26, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.
2. APPROVAL OF THE AGENDA
Moved by Kuehn and seconded by Lewis to approve the Agenda of the September 9, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.
3. APPROVAL OF THE CONSENT AGENDA
Moved by Lewis and seconded by Kuehn to approve the Consent Agenda of the September 9, 2024, Planning Commission meeting, with amended language on Item #4, page 4 of the Staff Report. 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 15-05:** Beach House, LLC / Troy Schmidt. To review a Vacation Home Rental in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot A-9 Revised, Palmer Gulch Estates, Section 34, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit Review / CUR 15-05 with the following fifteen (15) conditions:

1. **That the maximum overnight occupancy, based on South Dakota Department of Agriculture and Natural Resources (SD DANR) approval, continue to be limited to six (6) people and the maximum daytime occupancy be limited to nine (9) people;**

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 DANR;
3. That the applicant continues to 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 prior to the operation of the Vacation Home Rental;
4. That a minimum of three (3) off-street parking spaces continue to be provided on-site, each measuring a minimum of nine (9) feet by eighteen (18) feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
5. That an interior informational sign continues to be posted with 9-1-1 and 394-2151 listed as contacts for Fire Department and Sheriff's Department, during the operation of the residence as a VHR;
6. That the lot address (12722 Watson Parker Road) continues to be posted on the residence and the approach at all times so it is clearly visible from 12722 Watson Parker Road, in accordance with Ordinance #20;
7. That the applicant ensure the VHR is operated in accordance with the requirements of Section 319-F (Performance Standards) at all times;
8. That prior to any work being conducted within the boundaries of the Special Flood Hazard area, an approved Floodplain Development Permit be obtained;
9. That if the person designated as the Local Contact is ever changed from Lesia McLaughlin, 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;
10. That all applicable Federal, State, and local regulations continue to be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;
11. That the applicant obtains an approved Building Permit 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;
12. That the proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;

13. That the applicants 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;
14. That each review of Conditional Use Permit / CU 15-05, be subject to a \$100 fee per review; and,
15. That this Conditional Use Permit be reviewed in three (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.

5. **CONDITIONAL USE PERMIT REVIEW / CUR 18-27:** John and Vicki Hansen. To review a Recreational Vehicle to be used for no more than 180 calendar days on the subject property (seasonally) and to also allow a carport to cover the Recreational Vehicle and deck in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 5 (also in Section 20), Black Metal Lode MS 1986, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit Review / CUR 18-27 with the following ten (10) conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property (Lot 5, Black Metal Lode MS 1986) at any time;
2. That the RV may not be utilized as living quarters for more than 180 days per calendar year;
3. That the applicants be allowed to construct one (1) RV carport and one (1) deck, with the issuance of approved Building Permits;
4. That the applicant works with South Dakota Wildland Fire to develop a Fire Mitigation plan and a copy of the plan be provided to the Planning Department;
5. That the address assigned for the property (12491 Tall Pine Road) continue to be clearly posted on the RV while it is being utilized as living quarters and at the driveway, in accordance with Pennington County's Ordinance #20;
6. That while the RV is being used as living quarters it be hooked into an approved On-Site Wastewater Treatment System;
7. That the minimum setback requirements of a Rural Residential District be continually maintained on the subject property, or an approved Setback Variance be obtained;

8. That the subject property continues to remain free of debris and junk vehicles, in accordance with Ordinance #106;
9. 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,
10. That this Conditional Use Permit be reviewed in one (1) year, 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 23-29:** Joy Johnson and Errol Flynn. To review a Home Occupation to make and sell ceramics in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 14, Back Country Subdivision, Section 29, T1N, R9E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit Review / CUR 23-29 with the following nineteen (19) 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 existing accessory structure located on the property;
3. That all associated storage materials be kept entirely within the existing accessory structure;
4. That the applicant ensure the residential character of the property is maintained;
5. That a Sign Permit be obtained for any on-premise sign located on the property;
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 the address be properly posted on both the structure and at the approach so it is visible from both directions of travel on Back Country Trail in accordance with Pennington County Ordinance #20;

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 the kiln continue to be installed to the manufacturer's recommendations;
12. 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;
13. That a smoke detector be placed in the accessory structure;
14. That the applicant maintain an Emergency Plan and post the plan in the accessory structure and that a copy of said plan be kept on file at the Planning Department;
15. That the applicant continually maintain distance to combustible materials;
16. That the applicant obtains an Operating Permit from the City of Rapid City by May of 2025;
17. That this Conditional Use Permit shall be scheduled for a Revocation Hearing upon sale or transfer of the subject property;
18. That the home occupation be limited to making and selling ceramics and any expansion beyond this would require the Conditional Use Permit to be reviewed and amended; and,
19. That this Conditional Use Permit be reviewed in three (3) years, 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.

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA

7. CONDITIONAL USE PERMIT / COCU 24-0027: David and Angela Dorn. To allow for animal sporting events, dog sport events, in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

N1/2S1/2SW1/4NW1/4, N1/2S1/2SE1/4NW1/4 of Section 17, T2N, R8E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow for animal sporting events, dog sport events, on the subject property.

Staff recommended to continue Conditional Use Permit / COCU 24-0027 to the October 16, 2024, Planning Commission meeting to allow the applicants time to bring the property into compliance by obtaining approved Building Permits for the four unpermitted structures and to obtain approved Approach Permits.

Discussion followed.

Moved by Hadcock and seconded by Kuehn to continue Conditional Use Permit / COCU 24-0027 to the October 16, 2024, Planning Commission meeting to allow the applicants time to bring the property into compliance by obtaining approved Building Permits for the four unpermitted structures and to obtain approved Approach Permits.

All voting aye, the Motion carried 7 to 0.

8. MINOR PLAN / COMPL 24-0002: Morris Evans. To subdivide and create Lots 3 and 4 of Bonnita Subdivision in accordance with the Pennington County Subdivision Regulations.

EXISTING LEGAL: NE1/4NE1/4 Less N231 ft Lying W off CL of Neck Yoke RD, Less Bonnita Sub and Less N282 ft of E167 ft of W217 ft of S600 ft of SE1/4NE1/4NE1/4; NW1/4NE1/4 Less N231 ft and Less W611 ft; SW1/4NE1/4 Less W611 ft Lying N of CL of Neck Yoke RD; SE1/4NE1/4 Lying W of Neck Yoke RD, Section 21, T1S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 3 and Lot 4 of Bonnita Subdivision, Section 21, T1S, R7E, BHM, Pennington County, South Dakota.

Talmage reviewed the Staff Report indicating the applicants have applied for a Minor Plan to subdivide and create Lots 3 and 4 of Bonnita Subdivision.

Staff recommended approval of Minor Plan / COMPL 24-0002 with the following four (4) conditions:

1. That prior to filing the mylar with Register of Deeds, the certificates be in accordance with § 1701 and 1703;
2. That prior to filing the mylar with Register of Deeds, the plat meets the requirements of § 303 of the Pennington County Subdivision Regulations;
3. That the applicant ensures all natural drainage ways are maintained and not blocked; and,
4. That prior to filing the mylar at Register of Deeds, the Highway Department's comments are addressed.

Discussion followed.

Moved by Johnson and seconded by Lewis to approve of Minor Plan / COMPL 24-0002 with the following four (4) conditions:

- 1. That prior to filing the mylar with Register of Deeds, the certificates be in accordance with § 1701 and 1703;**
- 2. That prior to filing the mylar with Register of Deeds, the plat meets the requirements of § 303 of the Pennington County Subdivision Regulations;**
- 3. That the applicant ensures all natural drainage ways are maintained and not blocked; and,**
- 4. That prior to filing the mylar at Register of Deeds, the Highway Department's comments are addressed.**

All voting aye, the Motion carried 7 to 0.

9. MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / COPU 24-0006: J&A Recreation, LLC; Justin Buhler. To amend the existing Planned Unit Development to add two cabins and two Recreational Vehicle sites to the subject property in accordance with the Pennington County Zoning Ordinance.

Lot 1, Whispering Wind Subdivision, Section 27, T1S, R5E, BHM, Pennington County, South Dakota.

Talmage reviewed the Staff Report indicating the applicant has applied for a Major Planned Unit Development Amendment to add two cabins and two Recreational Vehicle sites to the subject property.

Staff recommended approval of Major Planned Unit Development Amendment / COPU 24-0006 with the following twenty-two (22) conditions:

1. That the uses allowed with this Planned Unit Development be a eleven (11) site RV Park, six (6) attached cabins for rental purposes with restroom facilities, one (1) duplex with a residence and rental unit, one (1) single-family residence, one (1) low water bridge, one (1) central pavilion, four (4) detached rental cabins, accessory structures, an outdoor meeting space to include a bar area, fireplace, and cooking area, and including any associated improvements;
2. That twenty-five (25) foot setbacks be maintained along all exterior lot lines, which abut properties under different ownership;
3. That each RV site must include one (1) parking space for a vehicle (in addition to the recreation vehicle, where applicable) and the parking space must be constructed so no portion of the vehicle extends onto any interior roadway;
4. That the interior one-way road shall be a minimum of 15 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner. All other interior roads shall be a minimum of 24 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner;

5. That a Floodplain Development Permit shall be submitted for review and approval prior to any work or placement of any structure(s) within the boundaries of the 100-year floodplain;
6. That natural drainage paths be maintained and/or any alterations to the natural drainage paths be adequately compensated for in accordance with §507 of PCZO.
7. That the applicant maintain some type of barrier (i.e. fence, boulders) around the on-site wastewater system to prevent any parking and/or camping over top of the on-site wastewater system and that proper setbacks to the on-site wastewater system be maintained;
8. That any new On-site Wastewater systems be installed in accordance with all Department of Agriculture and Natural Resources regulations, including a minimum 100 foot setback for the absorption area from the high water line of the Palmer Creek;
9. That a minimum ten (10) foot separation be maintained at all times between each RV site;
10. That the internal road network not exceed a maximum of an eight (8) percent grade;
11. That each RV has a lot number clearly posted and Guests made aware of the complete address should they need to call 9-1-1;
12. That the RV Park conforms to all regulations in § 306 of the Pennington County Zoning Ordinance;
13. That the applicants conform to all applicable State and County regulations, including those established by the South Dakota Departments of Agriculture and Natural Resources and Health;
14. That Operating Permits be obtained for all existing on-site wastewater treatment systems on the property;
15. That the applicant notify the Pennington County Onsite Wastewater Specialist concerning the overall plan for the onsite wastewater treatment systems for review and approval by the Pennington County Environmental Planner and South Dakota Department of Environment and Natural Resources (SD DANR);
16. That the property address be posted so that it is visible from both directions of S. Highway 16, in accordance with Pennington County's Ordinance #20;
17. That each habitable structure be identified with a unique unit number that is posted on the exterior of the cabin, next to the main entrance door, using characters that are reflective and at least 4" in height by 3" wide. Guests at the cabin should be advised or given a card that lists the complete address in the event they need to call 9-1-1;

18. That the new residence have a separate physical address from the existing house, and the address number be posted on the new house in accordance with County Ordinance #20;
19. That an approved Construction Permit be obtained for any land disturbance greater than 10,000 square feet. Construction must meet all the requirements of § 507 of PCZO;
20. That the comments provided by the U.S. Forest Service be adhered to at all times;
21. That the applicant maintain the appropriate permits from Pennington County and any other appropriate agency to selling Beer and Wine on the subject property; and,
22. That this Planned Unit Development Amendment be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to ensure that all Conditions of Approval are being met.

Talmage noted a correction to Condition #1 to note that there are 4 detached cabins instead of 2 cabins.

Discussion followed.

Moved by Litzen and seconded by Kuehn to recommend approval of Major Planned Unit Development Amendment / COPU 24-0006 with the following twenty-two (22) conditions:

- 1. That the uses allowed with this Planned Unit Development be a eleven (11) site RV Park, six (6) attached cabins for rental purposes with restroom facilities, one (1) duplex with a residence and rental unit, one (1) single-family residence, one (1) low water bridge, one (1) central pavilion, four (4) detached rental cabins, accessory structures, an outdoor meeting space to include a bar area, fireplace, and cooking area, and including any associated improvements;**
- 2. That twenty-five (25) foot setbacks be maintained along all exterior lot lines, which abut properties under different ownership;**
- 3. That each RV site must include one (1) parking space for a vehicle (in addition to the recreation vehicle, where applicable) and the parking space must be constructed so no portion of the vehicle extends onto any interior roadway;**
- 4. That the interior one-way road shall be a minimum of 15 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner. All other interior roads shall be a minimum of 24 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner;**

5. That a Floodplain Development Permit shall be submitted for review and approval prior to any work or placement of any structure(s) within the boundaries of the 100-year floodplain;
6. That natural drainage paths be maintained and/or any alterations to the natural drainage paths be adequately compensated for in accordance with §507 of PCZO.
7. That the applicant maintain some type of barrier (i.e. fence, boulders) around the on-site wastewater system to prevent any parking and/or camping over top of the on-site wastewater system and that proper setbacks to the on-site wastewater system be maintained;
8. That any new On-site Wastewater systems be installed in accordance with all Department of Agriculture and Natural Resources regulations, including a minimum 100 foot setback for the absorption area from the high water line of the Palmer Creek;
9. That a minimum ten (10) foot separation be maintained at all times between each RV site;
10. That the internal road network not exceed a maximum of an eight (8) percent grade;
11. That each RV has a lot number clearly posted and Guests made aware of the complete address should they need to call 9-1-1;
12. That the RV Park conforms to all regulations in § 306 of the Pennington County Zoning Ordinance;
13. That the applicants conform to all applicable State and County regulations, including those established by the South Dakota Departments of Agriculture and Natural Resources and Health;
14. That Operating Permits be obtained for all existing on-site wastewater treatment systems on the property;
15. That the applicant notify the Pennington County Onsite Wastewater Specialist concerning the overall plan for the onsite wastewater treatment systems for review and approval by the Pennington County Environmental Planner and South Dakota Department of Environment and Natural Resources (SD DANR);
16. That the property address be posted so that it is visible from both directions of S. Highway 16, in accordance with Pennington County's Ordinance #20;
17. That each habitable structure be identified with a unique unit number that is posted on the exterior of the cabin, next to the main entrance door, using characters that are reflective and at least 4" in height by 3" wide. Guests at the cabin should be advised or given a card that lists the complete address in the event they need to call 9-1-1;

18. That the new residence have a separate physical address from the existing house, and the address number be posted on the new house in accordance with County Ordinance #20;
19. That an approved Construction Permit be obtained for any land disturbance greater than 10,000 square feet. Construction must meet all the requirements of § 507 of PCZO;
20. That the comments provided by the U.S. Forest Service be adhered to at all times;
21. That the applicant maintain the appropriate permits from Pennington County and any other appropriate agency to selling Beer and Wine on the subject property; and,
22. That this Planned Unit Development Amendment be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to ensure that all Conditions of Approval are being met.

All voting aye, the Motion carried 7 to 0.

10. ORDINANCE AMENDMENT / OA 24-10: Pennington County. To amend Section 324 “Accessory Dwellings” [to amend and supersede the existing Section 324 “Accessory Dwellings”] of the Pennington County Zoning Ordinance.

Molitor reviewed the Staff Report indicating this is a proposed Ordinance Amendment to amend Section 324 Accessory Dwellings.

Staff recommended approval of Ordinance Amendment / OA 24-10.

Discussion followed.

Moved by Kuehn and seconded by Lewis to approve of Ordinance Amendment / OA 24-10.

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

Moved by Lewis and seconded by Johnson to wave rules to discuss similar Agenda Items #11 and #12 at the same time and to vote on each item separately. All voting aye, the Motion carried 7 to 0.

11. 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.

(Continued from the August 26, 2024, Planning Commission meeting.)

Molitor stated this item was continued from the August 26, 2024, Planning Commission meeting to allow the applicant time to meet with the neighboring community regarding the proposed project.

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.

Discussion followed.

Commissioner Santana left the meeting at 10:51 a.m.

Commissioner Santana returned to the meeting at 10:52 a.m.

Commissioner Lewis left the meeting at 11:27 a.m.
Commissioner Lewis returned to the meeting at 11:28 a.m.

Moved by Johnson and seconded by Lewis to continue Conditional Use Permit / COCU 24-0022, with guidance from the Planning Department for a site visit to the subject property within 30 days.

Discussion further followed.

Substitute Motion: Moved by Johnson and seconded by Lewis to continue Conditional Use Permit / COCU 24-0022 to the October 16, 2024, Planning Commission meeting, with guidance from the Planning Department for a site visit to the subject property within two weeks.

All voting aye, the Motion carried 7 to 0.

12. 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.

(Continued from the August 26, 2024, Planning Commission meeting.)

Molitor stated this item was continued from the August 26, 2024, Planning Commission meeting to allow the applicant time to meet with the neighboring community regarding the proposed project.

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 PCZO, 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.

Discussion followed.

Moved by Johnson and seconded by Lewis to continue Conditional Use Permit / COCU 24-0023 to the October 16, 2024, Planning Commission meeting, with guidance from the Planning Department for a site visit to the subject property within two weeks.

All voting aye, the Motion carried 7 to 0.

13. EXECUTIVE SESSION.

Executive Session was not needed.

14. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the August 26, 2024, Planning Commission meeting.

15. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

16. ITEMS FROM THE STAFF

A. Building Permit Report. Molitor reviewed the August 2024 Building Permit Report.

17. ITEMS FROM THE MEMBERSHIP

Commissioner Litzen will not be in attendance for the September 23rd meeting.

Molitor stated the Board of Adjustment will remain at the Board of Commissioners meetings, and also noted that the Reno Gulch Storage Units will be required to submit a Drainage Plan.

18. ADJOURNMENT

Moved by Hadcock and seconded by Lewis to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at 12:10 p.m.

Karen McGregor, Chairperson