

**DRAFT MINUTES  
PENNINGTON COUNTY PLANNING COMMISSION**

**September 27, 2021 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Rich Marsh, Charlie Johnson, Karen McGregor, Sande Runde, Jim Coleman, and Ron Rossknecht.

STAFF PRESENT: Brittney Molitor, Cody Sack, Chutima Supboon, Madisen Ransom, Jason Theunissen, Jeri Ervin, and Megan Krueger (State's Attorney's Office).

ROLL CALL

1. APPROVAL OF THE SEPTEMBER 13, 2021, MINUTES

**Moved by Johnson and seconded by McGregor to approve the Minutes of the September 13, 2021, Planning Commission meeting. Vote: unanimous 6 to 0.**

2. APPROVAL OF THE AGENDA

**Moved by Rossknecht and seconded by Runde to approve the Agenda of the September 27, 2021, Planning Commission meeting. Vote: unanimous 6 to 0.**

**Moved by Rossknecht and seconded by Johnson to approve the Consent Agenda of the September 27, 2021, Planning Commission meeting, with the removal of Item #4. Vote: unanimous 6 to 0.**

**CONSENT AGENDA**

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

3. **CONDITIONAL USE PERMIT REVIEW / CU 18-23:** BCS Invest, LLC; Kevin Haberstroh. To review six storage units and a caretaker / manager's residence on the subject property in a General Commercial District / Agriculture District in accordance with Sections 205, 211, and 506 of the Pennington County Zoning Ordinance.

Lot 2 (also in Section 19), Heavlin #2 Addition, Section 30, T1N, R9E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 18-23 with the following seventeen (17) conditions:**

1. **That setbacks be in accordance with Section 209 of the Pennington County Zoning Ordinance (PCZO) or approved Variance(s) be obtained;**

2. That upon sale/transfer of the property, the new landowner(s) notify the Planning Director of the sale/transfer in writing; and the new landowner, applicant, or agent notify the surrounding property owners in accordance with Section 510 of the PCZO;
3. 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 additional Staff as deemed necessary by the Planning Director;
4. That a minimum of 4 parking spaces be provided at the location of the storage unit office and a loading and unloading zone be provided for all storage units. The interior roadways must have 4 inches of gravel, concrete, or asphalt and be maintained in such a manner that no dust will result from continuous use;
5. That, in addition to existing car sales, only the following be allowed on the subject property with approved Permits:
  - A. 6 storage unit buildings, not to exceed the square footage as indicated on the applicant's site plan included with this Staff Report;
  - B. 1 Office;
  - C. 1 Shop; and,
  - D. 1 Caretaker's residence, only to be lived in by an individual engaged in the day-to-day operation of the storage unit business and not to be used as a Vacation Home Rental
6. That additional non-storage unit structures placed on the subject property may require the Conditional Use Permit to be amended and reviewed by the Planning Commission;
7. That Floodplain Development Permits shall be required for construction in the Special Flood Hazard Area;
8. That the office/shop building and the caretaker's residence are assigned separate addresses and posted, clearly visible and maintained in accordance with Pennington County Ordinance #20;
9. That any lighting used to illuminate off-street parking or on-premise lighting shall be so arranged as to deflect the light away from all adjoining residences;
10. That no more than 2 on-premise signs shall be allowed in accordance with § 312 of the PCZO, with an approved Sign Permit;
11. That prior to approval of a Building Permit, the applicant complete the Planning Department memo for the Federal Aviation Administration's Federal Regulation for Obstruction Evaluation / Airport Airspace Analysis;

12. That the hours of operation for the storage units be from 6:00 a.m. to 10:00 p.m. and a sign be posted indicating after hours contact with the owner's or caretaker's phone number, which must be clearly visible at the entrance of the lot;
13. That the applicant ensure that all natural drainage ways must be maintained and are not blocked;
14. That any work encompassing over 1 acre will require the applicant to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environmental and Natural Resources;
15. That the property continually remains free of junk and debris;
16. That if any increase of impervious area is greater than 15%, the property owner shall provide storm water treatment of the runoff generated by the first 0.5" of rainfall (See Pennington County Storm Water Manual); and,
17. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as deemed necessary by either the Pennington County Planning Commission or Board of Commissioners to ensure that all conditions are being met.

**Vote: unanimous 6 to 0.**

#### **END OF CONSENT AGENDA**

4. CONDITIONAL USE PERMIT REVIEW / CU 20-15: Greg Helgeson. To review a single-wide mobile home to be used as a single-family residence on the subject property in a Agriculture District in accordance with Sections 206 and 506 of the Pennington County Zoning Ordinance.

W1/2NE1/4NE1/4 (aka W1/2 GL 1), Section 5, T2S, R7E, BHM, Pennington County, South Dakota.

Comissioner Johnson asked to have this Item removed from the Consent Agenda for discussion.

Staff recommended to continue the review of Conditional Use Permit / CU 20-15 to the October 25, 2021, Planning Commission meeting.

Discussion followed.

**Moved by Johnson and seconded by Runde to continue the review of Conditional Use Permit / CU 20-15 to the October 25, 2021, Planning Commission meeting.**

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

5. CONDITIONAL USE PERMIT / CU 21-55: David and Helene Weldon. To live in the existing pole barn with living quarters while building a residence on the subject property in an Agriculture District in accordance with Sections 205 and 506 of the Pennington County Zoning Ordinance.

Less Right-of-Way, Star Lode Mining Claim MS 2148, Section 13, T2S, R6E, BHM, Pennington County, South Dakota.

Ransom reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to live in the existing pole barn with living quarters while building a residence on the subject property.

Staff recommended approval of Conditional Use Permit / CU 21-55 with the following eight (8) conditions:

1. That within 90 days an approved Building Permit be obtained for the proposed single-family residence prior to any construction, which requires a site plan to be reviewed and approved by the Planning Director;
2. That an approved On-Site Wastewater Treatment System Construction Permit be obtained prior to the installation of any On-Site Wastewater Treatment System on the property;
3. That the address, 13550 Highway 40 be clearly posted on the existing pole barn and at the end of the driveway clearly visible from both directions of travel along Highway 40, in accordance with Pennington County Ordinance #20;
4. That the minimum setback requirements for an Agriculture District be maintained on the property or the appropriate Variance(s) be obtained;
5. That the applicant applies for a Conditional Use Permit for the pole barn to be used as a guest house or accessory dwelling unit within 90 days of the proposed single-family residence being habitable or the living quarters be removed;
6. That a 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;
7. That the property remain free of junk and debris; and
8. 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.

Discussion followed.

**Moved by Coleman and seconded by McGregor to approve of Conditional Use Permit / CU 21-55 with the following eight (8) conditions:**

- 1. That within 90 days an approved Building Permit be obtained for the proposed single-family residence prior to any construction, which requires a site plan to be reviewed and approved by the Planning Director;**
- 2. That an approved On-Site Wastewater Treatment System Construction Permit be obtained prior to the installation of any On-Site Wastewater Treatment System on the property;**
- 3. That the address, 13550 Highway 40 be clearly posted on the existing pole barn and at the end of the driveway clearly visible from both directions of travel along Highway 40, in accordance with Pennington County Ordinance #20;**
- 4. That the minimum setback requirements for an Agriculture District be maintained on the property or the appropriate Variance(s) be obtained;**
- 5. That the applicant applies for a Conditional Use Permit for the pole barn to be used as a guest house or accessory dwelling unit within 90 days of the proposed single-family residence being habitable or the living quarters be removed;**
- 6. That a 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;**
- 7. That the property remain free of junk and debris; and**
- 8. 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.**

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

6. LAYOUT PLAN / LPL 21-60: Dennis and Wyonne Kaemingk; Fisk Land Surveying - Agent. To combine three lots to create Lot 4R, Block 8 of Forest Home Development Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 4, 5 and 6, Block 8, Forest Homes Development Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 4R, Block 8, Forest Homes Development Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Layout Plan to combine three lots to create Lot 4R, Block 8 of Forest Home Development Subdivision.

Staff recommended approval of Layout Plan / LPL 21-60 with the following eleven (11) conditions:

1. That prior to submittal of the Minor Plat, the applicant obtains an approved Rezone for proposed Lot 4R;
2. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
3. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;
4. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;
5. That at the time of Minor Plat submittal, the formally in the Plat heading be corrected and a new lot designation be made;
6. That prior to filing the Plat with the Register of Deeds, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
7. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;
8. That the applicant ensures that all-natural drainage ways are maintained and are not blocked;
9. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
10. 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,
11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

**Moved by Rossknecht and seconded by Coleman to approve of Layout Plan / LPL 21-60 with the following eleven (11) conditions:**

- 1. That prior to submittal of the Minor Plat, the applicant obtains an approved Rezone for proposed Lot 4R;**
- 2. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 3. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;**
- 4. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;**
- 5. That at the time of Minor Plat submittal, the formally in the Plat heading be corrected and a new lot designation be made;**
- 6. That prior to filing the Plat with the Register of Deeds, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**
- 7. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;**
- 8. That the applicant ensures that all-natural drainage ways are maintained and are not blocked;**
- 9. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;**
- 10. 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,**
- 11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.**

All voting aye, the Motion carried 6 to 0.

7. LAYOUT PLAN / LPL 21-61: PDQ Construction Inc.; Justin DeVeney. To combine two lots to create Lot 7R of The Forks at Remmington Ranch Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 7 and Lot 8, The Forks at Remmington Ranch Subdivision, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 7R, The Forks at Remmington Ranch Subdivision, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Layout Plan to combine two lots to create Lot 7R of The Forks at Remmington Ranch Subdivision.

Staff recommended approval of Layout Plan / LPL 21-61 with the following nine (9) conditions:

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



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

Discussion followed.

**Moved by Rossknecht and seconded by Runde to approve of Layout Plan / LPL 21-61 with the following nine (9) conditions:**

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

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

8. REZONE / RZ 21-27: Bret and Sandra Estes; Ferber Engineering - Agent. To rezone 14.82 acres from Agriculture District to Ranchette District in accordance with Sections 205, 206 and 504 of the Pennington County Zoning Ordinance.

Tract 4 of NW1/4 Less Lot H1, Section 31, T1N, R7E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 14.82 acres from Agriculture District to Ranchette District.

Staff recommended approval of Rezone / RZ 21-27.

**Moved by Johnson and seconded by McGregor to approve of Rezone / RZ 21-27.**

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

9. LAYOUT PLAN / LPL 21-62: Jack and Marie Ziemer. To combine 2 lots to create Lot 8A of Block 3 of Pactola Estates Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 8 and Lot 10, Block 3, Pactola Estates Subdivision, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 8A, Block 3, Pactola Estates Subdivision, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

Supboon reviewed the Staff Report indicating the applicant has applied for a Layout Plan to combine two lots to create Lot 8A of Block 3 of Pactola Estates Subdivision.

Staff recommended approval of Layout Plan / LPL 21-62 with the following eleven (11) conditions:

1. That at the time of Minor Plat submittal, the Plat be prepared by a South Dakota Registered Land Surveyor;
2. That prior to Minor Plat submittal, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
3. That at the time of Minor Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
4. That at the time of Minor Plat submittal, the plat heading be corrected, per Register of Deeds comments contained in this report;

5. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
6. That at the time of Minor Plat submittal, the existing Access Easement be dedicated on the plat or be vacated;
7. That prior to the mylar being filed at Register of Deeds, the applicant obtains an approved Rezone and Comprehensive Plan Amendment;
8. That the applicant ensures drainage ways are maintained and not blocked;
9. That following platting of the proposed lots, any On-Site Wastewater Treatment System(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
10. 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,
11. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

**Moved by McGregor and seconded by Coleman to approve of Layout Plan / LPL 21-62 with the following eleven (11) conditions:**

- 1. That at the time of Minor Plat submittal, the Plat be prepared by a South Dakota Registered Land Surveyor;**
- 2. That prior to Minor Plat submittal, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;**
- 3. That at the time of Minor Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**
- 4. That at the time of Minor Plat submittal, the plat heading be corrected, per Register of Deeds comments contained in this report;**
- 5. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;**

6. **That at the time of Minor Plat submittal, the existing Access Easement be dedicated on the plat or be vacated;**
7. **That prior to the mylar being filed at Register of Deeds, the applicant obtains an approved Rezone and Comprehensive Plan Amendment;**
8. **That the applicant ensures drainage ways are maintained and not blocked;**
9. **That following platting of the proposed lots, any On-Site Wastewater Treatment System(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;**
10. **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,**
11. **That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.**

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

10. CONDITIONAL USE PERMIT / CU 21-54: Katie Smirnova and Brett Walfish. To allow the Rushmore Music Festival three-week summer camp program to be held on the subject property, in July, in an Agriculture District in accordance with Sections 205 and 506 of the Pennington County Zoning Ordinance.

Lot C2, Brassfield Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

Supboon reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow for the Rushmore Music Festival three-week summer camp program to be held on the subject property, in July of each year.

Staff recommended approval of the withdrawal of Conditional Use Permit / CU 21-54.

Discussion followed.

Commissioner Runde left the meeting at 9:59 a.m.

Commssioner Runde returned to the meeting at 10:02 a.m.

**Moved by Rossknecht and seconded by McGregor to approve of the withdrawal of Conditional Use Permit / CU 21-54.**

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

11. REZONE / RZ 21-10: Ian Estes and Brad Estes; Fisk Land Surveying - Agent. To rezone 10.95 acres from Agriculture District and Rural Residential District to Rural Residential District in accordance with Sections 205, 207, and 504 of the Pennington County Zoning Ordinance.

Lot 1, Ridgeland Heights No. 2 Subdivision, Section 35, T2N, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 10.95 acres from Agriculture District and Rural Residential District to Rural Residential District.

Staff recommended approval of Rezone / RZ 21-10.

Commissioner Rossknecht left the meeting at 10:17 a.m.

Commissioner Rossknecht returned to the meeting at 10:18 a.m.

Discussion followed.

**Moved by Runde and seconded by Rossknecht to approve of Rezone / RZ 21-10.**

**All voting, the Motion carried 5 to 1. Commissioner McGregor voted no.**

12. CONDITIONAL USE PERMIT / CU 21-56: Alex and Holly Niemann, ANH Enterprises, Inc. To allow for the rental of 36 UTVs (6 back-ups) and 6 slingshots to include a washing area, parking area, and 36-40 employees in a Highway Service District in accordance with Sections 212 and 506 of the Pennington County Zoning Ordinance.

Lot G, Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow for the rental of 36 UTVs (6 back-ups) and 6 slingshots to include a washing area, parking area, and 36-40 employees in a Highway Service District.

Staff recommended approval of Conditional Use Permit / CU 21-56 with the following twenty (20) conditions:

1. That the permitted use be limited to the rental of 48 vehicles, to include 36 primary UTVs, 6 reserve UTVs, and 6 Slingshot roadsters;
2. That within 30 days of approval, the applicant obtains current Operating Permits for the two On-site Wastewater Treatment Systems;
3. That all assigned addresses be posted so they are clearly visible, in accordance with Pennington County Ordinance #20;

4. That access to the site be only from the approved South Dakota Department of Transportation (SDDOT) approved approach and any additional approaches off of Highway 385 be approved by SDDOT;
5. That at least 40 off-street parking spaces be designated, to include 20 off-street parking spaces for customers and 20 additional parking spaces for employees, per Pennington County Zoning Ordinance (PCZO) § 310;
6. That any On-site Wastewater Treatment System comply with PCZO and SD Department of Agriculture and Natural Resources requirements (SD DANR);
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 prior to the placement of any on-premise signs, the applicant must adhere to PCZO § 312;
9. That the UTVs be thoroughly cleaned after use, to prevent the spread of invasive weeds;
10. That a designated equipment wash area be designated and utilized to ensure no runoff is allowed to exit the subject property or enter into any waters of the state;
11. That within 6 months, a self-contained wash system be installed to mitigate noise and prevent runoff from exiting the subject property or entering into any waters of the state.
12. That any solid waste accumulated from washing operations be disposed of properly;
13. That a portable fire extinguisher with a minimum 2A:10B:C rating shall be placed in each structure supporting the UTV rentals so it is accessible at all times;
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 all U.S. Forest Service comments be adhered to, including the protection of all National Forest System (NFS) lands boundaries, with no access, utilities, or parking allowed on NFS lands;
16. 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;

17. That no disturbance within the boundaries of the FEMA designated Special Flood Hazard Area or Floodway occur without an approved Floodplain Development Permit;
18. 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;
19. That the Planning Director may allow additional uses, which are consistent with the uses approved in this permit. Significant changes in the use or impacts on adjacent lands shall require an amendment to this permit; and,
20. That this Conditional Use Permit be reviewed at the October 11, 2021, Planning Commission meeting to ensure adequate controls are in place to prevent runoff from the wash area from leaving the subject property.

Discussion followed.

**Moved by Rossknecht and seconded Johnson to continue Conditional Use Permit / CU 21-56 to the October 11, 2021, Planning Commission meeting in order for the applicant to address concerns of the Planning Commission.**

**All voting aye, the Motion carried.**

Planning Commission recessed at 11:06 a.m.

Planning Commission reconvened at 11:16 a.m.

13. PLANNED UNIT DEVELOPMENT REVIEW / PU 16-03: Dan and Nancy Evangelisto / Century Home Crafters, LLC; Century Land Holdings, LLC; and Summer Creek Inn, LLC. To review a Planned Unit Development to allow for a Specialty Resort Development to include uses, such as vacation home rentals, weddings, receptions, picnics, family reunions, single-family residences, bed and breakfast, storage gift shop, spa, cabana, bistro, detached accessory structure with living quarters, duplex, etc., on the subject properties, in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 3 and that 1/2 of private drive adjacent to said lot; Lot 4; Lot 7 and that 1/2 of private drive adjacent to said lot; Lot 10 and that 1/2 of private drive adjacent to said lot; Lot 11 and that 1/2 of private drive adjacent to said lot; Lot 12 and that 1/2 of private drive adjacent to said lot; Lot 13 and that 1/2 of private drive adjacent to said lot; Lot 14 and that 1/2 of private drive adjacent to said lot; Lot 15 and that 1/2 of private drive adjacent to said lot; Lot 16 and that 1/2 of private drive adjacent to said lot; Lot 17 and that 1/2 of private drive adjacent to said lot; Lot 18 and that 1/2 of private drive adjacent to said lot; Lot 19 and that 1/2 of private drive adjacent to said lot; Lot 20 and that 1/2 of private drive adjacent to said lot; Lot 21, Lot 22 and that part of private drive adjacent to said lot; Lot 23B and that 1/2 of private drive adjacent to said lot; Lot 27 and that 1/2 of private drive adjacent to said lot; Lot 28 and that 1/2 of private drive adjacent to said lot; Lot 29 and that 1/2 of private drive adjacent to said lot; Lot 30 and that 1/2 of private drive adjacent to said lot; Lot 31 and that 1/2 of private drive adjacent to said lot, Lot 32 and

that 1/2 of private drive adjacent to said lot; Lot 33 and that 1/2 of private drive adjacent to said lot; Lot 34 and that 1/2 of private drive adjacent to said lot; Lot 35 and that 1/2 of private drive adjacent to said lot; Lot 36 and that 1/2 of private drive adjacent to said lot; Lot 37 and that 1/2 of private drive adjacent to said lot; Lot 41 and that 1/2 of private drive adjacent to said lot; Lot 42 and that 1/2 of private drive adjacent to said lot; Lot 43 and that 1/2 of private drive adjacent to said lot; Lot 44, Lot 45 and that 1/2 of private drive adjacent to said lot; all located in Custer Trails Subdivision #1, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

Molitor stated this is a review of the applicant's Planned Unit Development to allow for a Specialty Resort Development to include uses, such as vacation home rentals, weddings, receptions, picnics, family reunions, single-family residences, bed and breakfast, storage gift shop, spa, cabana, bistro, detached accessory structure with living quarters, duplex, etc., on the subject properties.

Staff recommended to continue the review of Planned Unit Development / PU 16-03 to the October 11, 2021, Planning Commission meeting, as the applicants have submitted a Major Planned Unit Development Amendment to address Conditions of Approval.

Discussion followed.

**Moved by Coleman and seconded by McGregor to continue the review of Planned Unit Development / PU 16-03 to the October 11, 2021, Planning Commission meeting.**

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

14. REZONE / RZ 21-26: Pink Cabin, LLC; KTM Design - Agent. To rezone 6.68 acres from Suburban Residential District to Urban Residential District in accordance with Sections 209, 210, and 504 of the Pennington County Zoning Ordinance.

Located on the following metes and bounds description: Commencing at the Northeast corner of Lot 1, Block 2, of Colvins Subdivision, located in Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; THENCE (1) with the easterly boundary of said Colvins Subdivision, South 2°04'19" West, 18.48 feet to the point of beginning; THENCE (2) leaving said easterly boundary, South 88°28'10" East, 59.99 feet to a point on the westerly boundary of Murphy Ranch Estates Subdivision; THENCE (3) with said westerly boundary, South 1°54'07" West, 89.16 feet to the beginning of a curve; THENCE (4) with said westerly boundary, on a curve turning to the left with an arc length of 70.79 feet, with a radius of 70.00 feet, with a chord bearing of S27°04'07"E, with a chord length of 67.81 feet; THENCE (5) with said westerly boundary, South 56°02'22" East, 119.62 feet to the beginning of a non-tangent curve; THENCE (6) with said westerly boundary, on a curve turning to the left with an arc length of 98.43 feet, with a radius of 52.00 feet, with a chord bearing of N81°29'18"E, with a chord length of 84.38 feet to the beginning of a curve; THENCE (7) with said westerly boundary, on a curve turning to the right with an arc length of 16.64 feet, with a radius of 40.00 feet, with a chord bearing of N39°01'47"E, with a chord length of 16.53 feet; THENCE (8) with said westerly boundary, South 2°24'46" West, 100.20 feet; THENCE (9) with said westerly boundary, South 2°03'13" West, 76.79 feet; THENCE (10) with said westerly



boundary, South 2°03'13" West, 76.00 feet; THENCE (11) with said westerly boundary, South 2°03'13" West, 76.00 feet; THENCE (12) with said westerly boundary, South 2°03'13" West, 76.00 feet; THENCE (13) with said westerly boundary, South 2°03'13" West, 76.00 feet; THENCE (14) with said westerly boundary, South 2°03'13" West, 76.00 feet; THENCE (15) with said westerly boundary, South 6°29'19" East, 78.79 feet to the beginning of a non-tangent curve; THENCE (16) with said westerly boundary, on a curve turning to the left with an arc length of 29.14 feet, with a radius of 450.36 feet, with a chord bearing of S27°38'35"E, with a chord length of 29.13 feet to the beginning of a curve; THENCE (17) with said westerly boundary, on a curve turning to the left with an arc length of 228.15 feet, with a radius of 834.33 feet, with a chord bearing of S22°07'33"E, with a chord length of 227.44 feet; THENCE (18) with said westerly boundary, South 13°04'11" East, 52.14 feet; THENCE (19) leaving said westerly boundary, South 81°11'31" West, 14.98 feet to the beginning of a curve; THENCE (20) on a curve turning to the left with an arc length of 98.15 feet, with a radius of 174.00 feet, with a chord bearing of S65°01'54"W, with a chord length of 96.86 feet; THENCE (21) North 41°09'45" West, 52.00 feet; THENCE (22) North 48°43'36" West, 60.36 feet; THENCE (23) North 88°02'33" West, 233.61 feet to a point on the easterly boundary of Colvins Subdivision; THENCE (24) with said easterly boundary, North 1°47'44" East, 161.22 feet; THENCE (25) with said easterly boundary, North 1°53'35" East, 234.91 feet; THENCE (26) with said easterly boundary, North 1°58'44" East, 114.92 feet; THENCE (27) with said easterly boundary, North 1°54'11" East, 115.99 feet; THENCE (28) with said easterly boundary, North 1°49'45" East, 115.95 feet; THENCE (29) with said easterly boundary, North 1°42'12" East, 116.43 feet; THENCE (30) with said easterly boundary, North 2°04'19" East, 212.15 feet to the point of beginning; Said parcel contains 6.68 acres more or less; Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for Rezone to rezone 6.68 acres from Suburban Residential District to Urban Residential District.

Staff recommended approval of Rezone / RZ 21-26.

Discussion followed.

**Moved by Runde and seconded by McGregor to deny Rezone / RZ 21-26.**

**All voting, the Motion carried 4 to 2. Commissioners Coleman and Rossknecht voted no.**

15. ORDINANCE AMENDMENT / OA 21-17: Pennington County. To amend Section 324-B-5-a "Accessory Dwellings" [to amend and supersede the existing Section 324-B-5-a "Accessory Dwellings"] of the Pennington County Zoning Ordinance.

Molitor reviewed the Staff Report indicating this is an Ordinance Amendment to amend Section 324-B-5-a "Accessory Dwellings" of the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 21-17.

**Moved by McGregor and seconded by Johnson to approve of Ordinance Amendment / OA 21-17.**

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

16. ORDINANCE AMENDMENT / OA 21-13: Pennington County. To add Section 325 - Marijuana Ordinance Definition of Terms to the Pennington County Zoning Ordinance.

(Continued from the September 13, 2021, Planning Commission meeting.)

Molitor reviewed the Staff Report indicating this is an Ordinance Amendment to add Section 325 “Marijuana Ordinance Definition of Terms” to the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 21-13.

Discussion followed.

**Moved by Johnson and seconded by Coleman to approve of Ordinance Amendment / OA 21-14.**

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

17. ORDINANCE AMENDMENT / OA 21-14: Pennington County. To add Section 326 - Marijuana Businesses to the Pennington County Zoning Ordinance.

(Continued from the September 13, 2021, Planning Commission meeting.)

Molitor reviewed the Staff Report indicating this is an Ordinance Amendment to add Section 326 “Marijuana Businesses” to the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 21-14.

Discussion followed.

Commissioner Rossknecht left the meeting at 12:45 p.m.

Commissioner Rossknecht returned to the meeting at 12:46 p.m.

**Moved by Johnson and seconded by Coleman to approve of Ordinance Amendment / OA 21-14.**

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

18. ORDINANCE AMENDMENT / OA 21-15: Pennington County. To add Section 327 - Marijuana Business Development Plan Standards to the Pennington County Zoning Ordinance.

(Continued from the September 13, 2021, Planning Commission meeting.)

Molitor reviewed the Staff Report indicating this is an Ordinance Amendment to add Section 327 “Marijuana Business Development Plan Standards” to the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 21-15.

Discussion followed.

**Moved by Coleman and seconded by Rossknecht to approve of Ordinance Amendment / OA 21-15.**

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

19. ORDINANCE AMENDMENT / OA 21-16: Pennington County. To add Section 328 - Marijuana Business License to the Pennington County Zoning Ordinance.

(Continued from the September 13, 2021, Planning Commission meeting.)

Molitor reviewed the Staff Report indicating this is an Ordinance Amendment to add Section 328 “Marijuana Business License” to the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 21-16.

Discussion followed.

Commissioner Runde left the meeting at 1:28 p.m.

Commissioner Runde returned to the meeting at 1:30 p.m.

**Moved by Johnson and seconded by Coleman to approve of Ordinance Amendment / OA 21-16.**

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

20. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission’s recommendations from their September 13th meeting.

21. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

22. ITEMS FROM THE STAFF

A. Planning Department Pre-meetings. Molitor spoke of staff scheduling pre-meetings on application submittals.

23. ITEMS FROM THE MEMBERSHIP

Chairman Marsh spoke of applicants asking for forgiveness later and questioned how other counties and municipalities handle these violations.

24. ADJOURNMENT

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

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

**The meeting adjourned at 1:42 p.m.**

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Rich Marsh, Chairperson