

**DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
October 12, 2020 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Jim Coleman, Travis Lasseter, Kathy Johnson, Charlie Johnson, Sandra Runde, Lloyd LaCroix.

STAFF PRESENT: Brittney Molitor, Stephanie Jansen, Cody Sack, Jason Theunissen, Cullen McNeece (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE SEPTEMBER 28, 2020, MINUTES
Moved by C. Johnson and seconded by Lasseter to approve the Minutes of the September 28, 2020, Planning Commission meeting. Vote: unanimous 6 to 0.

2. APPROVAL OF THE AGENDA
Moved by Lasseter and seconded by K. Johnson to approve the Agenda of the October 12, 2020, Planning Commission meeting. Vote: unanimous 6 to 0.

Moved by Runde and seconded by Lasseter to approve the Consent Agenda of the October 12, 2020, Planning Commission meeting, with the removal of Items #5 and #8. 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 are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. **CONDITIONAL USE PERMIT REVIEW / CU 93-36:** Galt Investments. To review a single-wide mobile home as a single-family residence in a Highway Service District / General Agriculture District in accordance with Sections 205, 210, and 510 of the Pennington County Zoning Ordinance.

Lot B, Weber Subdivision, Section 3, T1S, R7E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 93-36 as it is no longer needed.

Vote: unanimous 6 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CU 16-33:** Clinton Nulle. To review a single-wide mobile home to be used as a permanent single-family residence on the subject property in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 5C of Lot DR of Lot 6 of Lot L, Nelson Acres Subdivision, Section 23, T2N, R8E, BHM, Pennington County, South Dakota.

(Continued from the September 28, 2020, Planning Commission meeting.)

To continue the review of Conditional Use Permit / CU 16-33 to the October 26, 2020, Planning Commission meeting.

Vote: unanimous 6 to 0.

6. **CONDITIONAL USE PERMIT REVIEW / CU 18-34:** Doug and Vicky Dahl. To review a second ranch hand's residence on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

SE1/4, Section 30, T3N, R16E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 18-34 with the following seven (7) conditions:

1. **That the addresses for both the existing single-family residence and ranch hand's residence continually be posted, in accordance with Pennington County's Ordinance #20;**
2. **That an approved Building Permit be obtained for the new ranch hand's residence and 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;**
3. **That the applicants provide the Planning Department proof that the address for the second ranch hands residence be posted on the residence and at the entrance to the property within 30 days of the extension of the CU 18-34;**
4. **That the minimum setback requirements of a General Agriculture District be continually maintained on the property;**
5. **That the subject property remains free of debris and junk vehicles;**
6. **That the residence be occupied by a ranch hand or used as housing for daily help at all times, and not be used as a rental by someone not engaged in the operating of the farm or ranch located on the subject property; and,**

7. 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 6 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CU 18-36:** Shadrach and Holly Howie. To review a Guest House on the subject property in a Low Density Residential District in accordance with Sections 207, 318, and 510 of the Pennington County Zoning Ordinance.

Lot 1, Bromegrass Subdivision, Section 2, T1S, R9E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 18-36 as the use has not been established.

Vote: unanimous 6 to 0.

9. **CONDITIONAL USE PERMIT REVIEW / CU 20-04:** School House, LLC; Jessica Ginger – Agent. To allow an existing residence to be used as a Vacation Home Rental in a Low Density Residential District in accordance with Sections 207, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 2A (also in Section 6), Block 1, Spring Canyon Estates, Section 5, T1S, R7E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 20-04 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);
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 DENR;
3. That all necessary permits are obtained prior to any additions and/or alterations to the structure or upgrades/alterations to the on-site wastewater treatment system;
4. That each review of Conditional Use Permit / CU 20-04, be subject to PCZO Section 511(F)(4), which imposes a \$100 fee per review;
5. That the applicant 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 maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
7. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO Section 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
8. That an interior informational sign be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental;
9. That the lot address (9603 Clarkson Rd.) be posted on the residence at all times and so it is clearly visible from Clarkson 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 Section 319(F) (Performance Standards) at all times;
11. That if the person designated as the Local Contact is ever changed from Jessica Ginger, 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 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,
15. That this Conditional Use Permit be reviewed in two (2) 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 6 to 0.

- 10. PLANNED UNIT DEVELOPMENT REVIEW / PU 19-01: Brink Constructors, Inc.; BCI Properties, LLC; Zane Brink – Agent. To review an apprenticeship training facility for linemen of Brink Construction in accordance with Sections 205 and 213 of the Pennington County Zoning Ordinance.**

SW1/4SE1/4 less ROW, Section 24, T2N, R9E, BHM, Pennington County, South Dakota.

To approve the extension of Planned Unit Development / PU 19-01 with the following eighteen (18) conditions:

- 1. That the purpose of this Planned Unit Development be: to allow for uses and regulations as outlined in Pennington County Zoning Ordinance (PCZO) Section 205, with the addition of an Apprentice Lineman Training Facility to include: conference center, buildings for storage and classrooms, training apparatus, and equipment storage;**
- 2. The maximum allowable height for any training apparatus shall be sixty-five (65) feet and shall be thirty-five (35) feet for all other structures;**
- 3. That this Planned Unit Development be considered an overlay whereby the provisions of the underlying General Agriculture District apply and, if the property is no longer utilized in accordance with this Planned Unit Development, the zoning reverts back to General Agriculture District;**
- 4. That all parking spaces be a minimum of 9 feet by 18 feet and the parking lot shall be maintained in a dust-free manner, in accordance with Section 310 of the Pennington County Zoning Ordinance;**
- 5. That the hours of operation be Monday – Friday from 7 a.m. – 5 p.m. and occasional weekends as needed;**
- 6. That if lighting is to be installed, all lighting be installed and maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;**
- 7. That the applicant obtain all necessary permits from other governing bodies for the operation, including, but not limited to business licenses, operational permits and inspections;**
- 8. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed in each structure so it is accessible at all times and the fire extinguisher shall be inspected and tagged annually;**

9. That the physical address for any residences and any future addresses that are assigned, be posted in accordance with Pennington County Ordinance #20
10. That prior to the installation of any on-site wastewater system or alteration to the existing on-site wastewater system the landowner shall meet with the appropriate County Staff and meet all local and state requirements;
11. That prior to the placement of any signs, the applicant must adhere to Section 312 of the Pennington County Zoning Ordinance;
12. That the applicant ensure the residential and agricultural character of the property is maintained;
13. That prior to operation, the application obtain any additional permits from the County (if applicable), including, but not limited to Construction Permit(s) and Building Permit(s);
14. 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;
15. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Planned Unit Development;
16. That the operation be conducted by employees or designees of Brink Construction Inc.;
17. That if the Planned Unit Development is ever ended, that a principle use must be established on the property or a Conditional Use Permit be obtained;
18. That Planned Unit Development / PUD 19-01, be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

END OF CONSENT AGENDA

5. CONDITIONAL USE PERMIT REVIEW / CU 17-47: Harriet Kelley. To review a Recreational Vehicle to be used as temporary living quarters on the subject property, during the summer months, in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Lot A of Government Lot 2 of the NW1/4NE1/4, Section 2, T2S, R5E, BHM, Pennington County, South Dakota.

Commissioner Runde asked to have this Item removed from the Consent Agenda to discuss minor corrections to the Staff Report.

Staff recommended approval of the extension of Conditional Use Permit / CU 17-47 with ten (10) conditions.

Discussion followed.

Moved by K. Johnson and seconded by C. Johnson to approve the extension of Conditional Use Permit / CU 17-47 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, and the second existing RV is only allowed to be used for storage;**
- 2. That the one (1) Recreational Vehicle (RV) shall only be used seasonally between May 1st and October 1st of each year;**
- 3. That an address (24124 Leaky Valley Road) is clearly posted on the Recreational Vehicle (RV) while it is being utilized as living quarters during the seasonal restrictions, in accordance with Pennington County's Ordinance #20;**
- 4. That the Recreational Vehicle (RV) being used as a temporary residence continue to be hooked into the approved On-Site Wastewater Treatment System;**
- 5. That the minimum setback requirements of a Low Density Residential District be continually maintained on the subject property, or an approved Setback Variance be obtained;**
- 6. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;**
- 7. 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;**

8. That the Recreational Vehicle (RV) shall be disconnected from all utilities and may no longer be utilized as living quarters on the subject property upon end of the seasonal use;
9. That the Recreational Vehicle (RV) continue to be for personal use only and shall not be rented commercially at any time; and,
10. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

All voting aye, the Motion carried 6 to 0.

8. CONDITIONAL USE PERMIT REVIEW / CU 19-07: Black Hills Kart Racing, LLC. To review a dirt track to be used for dirt track kart racing on the subject property in a General Commercial District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

The Unplatted Portion of S1/2SW1/4NW1/4; PT of NW1/4SW1/4 N and E of Highway ROW less that PT within Rapid City Boundary, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

Commissioner Johnson asked to have this Item removed from the Consent Agenda to discuss the language in Condition #5 of the Conditions of Approval.

Staff recommended approval of the extension of Conditional Use Permit / CU 19-07 with fifteen (15) conditions.

Sack stated that Condition #5 should read: "That the applicant maintains and implements some type of dust control measures during the races and ensures that no sediment is leaving the site."

Discussion followed.

Moved by K. Johnson and seconded by Lasster to approve the extension of Conditional Use Permit / CU 19-07, with a correction to Condition #5, to allow for a Kart Track with the following fifteen (15) conditions:

1. That Conditional Use Permit 19-07 be for the following use: Dirt Kart Track; operated only during the following months of May, June, July, August, and September; operation and use of the Dirt Kart Track is to only occur on Saturdays, and only operated between the hours of 11:00 a.m. and 8:00 p.m. and within the operational guidelines of the Work Kart Associations rules and guidelines. Where there exists a conflict between any of the Conditions of Approval within CU 19-07 and any other regulations applicable to the same area and use, the more stringent limitation or requirement shall govern and prevail;

2. **That Building Permits 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 the two addresses for the subject property be posted prior to the next review of CU 19-07 and in accordance with County Ordinance # 20;**
4. **That the applicant provide trash receptacles and keep the property cleaned of rubbish, trash, and debris;**
5. **That the applicant maintains and implements some type of dust control measures during the races and ensures that no sediment is leaving the site;**
6. **That the applicant acquire sign permits if the applicant were to locate any signs on the property;**
7. **That the applicant obtain any applicable federal, state, and local permits for the operation of the racetrack;**
8. **That the applicant have a first aid kit with a fire extinguisher or have First Responders on hand during the operation of the races;**
9. **The Dirt Kart Track is located in a Public Drainage Basin and if approved, used only used seasonally (May, June, July, August, September), during the months the Dirt Kart Track is not in use (October, November, December, January, February, March, and April) all the hay bales, tires, flags, etc. used to define the area around, in, and on the Dirt Kart Track shall be removed;**
10. **That the applicant continually maintains and adheres to the County's Storm Water Pollution Prevention Plan during any period of construction;**
11. **That erosion control measures, such as seeding and mulching the disturbed area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the construction activity has stopped. All erosion control methods (mulch and seed) need to be certified noxious weed-free;**
12. **That any alterations or improvements to the Public Drainage Easement be engineered and stamped plans be submitted to and approved by the Board of Commissioners;**
13. **That the requirements, guidelines, and criteria for stormwater and erosion control in the Pennington County Stormwater Manual shall be followed during and construction;**
14. **That prior to CU 19-07 ending, the Landowner provide a written plan for the removal and remediation of the area used for the Kart Track;**

15. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis, or as directed by the Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

All voting aye, the Motion carried 6 to 0.

11. REZONE / RZ 20-05: CMR, LLC; Dale Froehlich – Agent. To rezone 240 acres from Planned Unit Development District to General Agriculture District in accordance with Sections 205, 213, and 508 of the Pennington County Zoning Ordinance.

SE1/4SW1/4; SW1/4SE1/4; SE1/4SE1/4 of Section 26, T1S, R3E; and SW1/4SW1/4 of Section 25, T1S, R3E; and N1/2NW1/4 Less ROW of Section 36, T1S, R3E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone the subject properties from a Planned Unit Development District to General Agriculture District.

Staff recommended approval of Rezone / RZ 20-05.

Discussion followed.

Moved by C. Johnson and seconded by Lasseter to approve of Rezone / RZ 20-05.

All voting aye, the Motion carried 6 to 0.

12. VACATION OF EASEMENT / VE 20-02: David Grover. To relocate an existing 66-foot-wide private access easement in order to provide access for future development and subdivision of Mills Ranch Subdivision.

Tract B of HES #303 Less Tract Drew; Tract A of HES #303 Less Buzmar Subdivision, Less Tract Dean, Less Tract Drew, and Less ROW; and GL Less Buzmar Subdivision, Less Tract Dean, Less Tract Drew and Less ROW, all located in Section 32, T1S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied to relocate an existing 66-foot-wide private access easement in order to provide access for future development and subdivision of Mills Ranch Subdivision.

Staff recommended approval of Vacation of Easement / VE 20-02 with the following condition:

1. That all necessary resolutions and exhibits vacating and relocating the private access easement be recorded by the applicant at the Register of Deeds Office.

Discussion followed.

Moved by Runde and seconded by K. Johnson to approve of Vacation of Easement / VE 20-02 with the following condition:

- 1. That all necessary resolutions and exhibits vacating and relocating the private access easement be recorded by the applicant at the Register of Deeds Office.**

All voting aye, the Motion carried 6 to 0.

13. MINOR PLAT / MPL 20-29: James and Marilyn Dean. To reconfigure lots lines to create Lot A, B, and C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All of Eddy #1 Lode MS 523; Tract 4 and Tract 5 of Storm Hill Subdivision, all located in Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A, B, and C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision, Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant have applied for a Minor Plat to reconfigure lots lines to create Lot A, B, and C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision.

Staff recommended approval of Minor Plat / MPL 20-29 with the following five (5) conditions:

1. That prior to filing the Plat with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Variance(s) to Subdivision Regulations be obtained waiving any of these requirements that are not met. Subdivision Regulations Variances shall be submitted per Section 700 of Pennington County Subdivision Regulations;
2. That all natural drainage ways are maintained and are not blocked;
3. 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;
4. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,
5. That prior to the Plat being filed with the Register of Deeds, comments from the Register of Deeds included in this report be addressed.

Discussion followed.

Moved by Runde and seconded by K. Johnson to approve of Minor Plat / MPL 20-29 with the following five (5) conditions:

- 1. That prior to filing the Plat with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Variance(s) to Subdivision Regulations be obtained waiving any of these requirements that are not met. Subdivision Regulations Variances shall be submitted per Section 700 of Pennington County Subdivision Regulations;**
- 2. That all natural drainage ways are maintained and are not blocked;**
- 3. 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;**
- 4. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,**
- 5. That prior to the Plat being filed with the Register of Deeds, comments from the Register of Deeds included in this report be addressed.**

All voting aye, the Motion carried 6 to 0.

14. COUNTY BOARD REPORT

The Board of Commissioners approved the Planning Commission's recommendations from their September 14th and September 28th Planning Commission meetings.

15. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

16. ITEMS FROM THE STAFF

A. Building Permit Report. Theunissen reviewed the Building Permit Report for September 2020.

17. ITEMS FROM THE MEMBERSHIP

Commissioner C. Johnson discussed Old Hill City Road and expressed concern with the width of the road, speed limits, and development in the area.

18. ADJOURNMENT

Moved by Runde and seconded by K. Johnson.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at 10:37 a.m.

Jim Coleman, Chairperson