

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**October 16, 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 Gary Drewes.

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

ROLL CALL

1. APPROVAL OF THE SEPTEMBER 23, 2024, MINUTES  
**Moved by Johnson and seconded by Lewis to approve the Minutes of the September 23, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.**
2. APPROVAL OF THE AGENDA  
**Moved by Lewis and seconded by Kuehn to approve the Agenda of the October 16, 2024, Planning Commission meeting. Vote: unanimous 7 to 0.**
3. APPROVAL OF THE CONSENT AGENDA  
**Moved by Kuehn and seconded by Lewis to approve the Consent Agenda of the October 16, 2024, Planning Commission meeting, with the removal of Item #6. 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 10-23:** Reynolds and Livingston, LLC; Chris Livingston. To review a Recreational Vehicle Park with four (4) RV sites in a Highway Service District in accordance with the Pennington County Zoning Ordinance.

That PT of Lot 1 located in Pennington County, Boyle Subdivision, Section 7, T2N, R5E, BHM, Pennington County, South Dakota.

**To end Conditional Use Permit Review / CUR 10-23, as the use has been inactive for more than two years.**

**Vote: unanimous 7 to 0.**

5. **CONDITIONAL USE PERMIT REVIEW / CUR 20-18:** Wild Springs Solar, LLC. To review a utility-scale solar energy system in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

That PT of NE1/4 S of Chicago Northwestern RR; SE1/4 of Section 36, T2N, R10E; GL3-4; E1/2SW1/4, Less ROW of Section 31, T2N, R11E; GL 1-4; S1/2NE1/4; S1/2NW1/4, Less ROW of Section 1, T1N, R10E; GL 6-7; E1/2SW1/4, W1/2SE1/4; E1/2SE1/4 of Section 6, T1N, R11E; E1/2NE1/4; W1/2NE1/4, E1/2NW1/4; GL 1-4; NE1/4SW1/4, N1/2SE1/4, SE1/4SE1/4, Less ROW of Section 7, T1N, R11E; W1/2SW1/4; E1/2SW1/4 of Section 5, T1N, R11E; N1/2NE1/4, SE1/4NE1/4, S1/2SW1/4, E1/2SE1/4, SW1/4SE1/4, NW1/4, Less ROW of Section 9, T1N, R11E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit Review / CUR 20-18 with the following nineteen (19) conditions:**

1. **That Building Permits are obtained for any additional solar modules prior to construction;**
2. **That a security fence, measuring at least seven (7) feet in height, be maintained around the Project area;**
3. **That the address of all operational structures (i.e. O&M building) continue to be posted in accordance with Ordinance #20;**
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 Floodplain Development Permit is obtained prior to any disturbance or placement of structures in the designated Special Flood Hazard Area;**
6. **That the Noxious Weed Plan be followed at all times;**
7. **That the solar energy system conform to applicable local, state and national solar codes and standards at all times;**
8. **That no junk material, vehicles, or debris is stored on the site at any given time;**
9. **That any natural drainage ways and paths be continually maintained;**
10. **That all exterior lights must use hoods and lens that cast light downward;**
11. **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;**

12. That the structure(s) maintain the 35-foot height requirement, with the exception of utility poles as exempted in PCZO § 204(E), or an approved Variance(s) be obtained;
13. That the solar panels be non-reflective and unobtrusive at all times;
14. That the system 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 at all times;
15. That no advertising signage shall be placed on any portion of the solar facility;
16. That any on-site wastewater treatment system(s) are subject to the requirements of PCZO § 331;
17. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line;
18. That Wild Springs Solar, LLC provide an updated decommissioning cost estimate to Pennington County at the completion of year ten of operation and every five years thereafter, and Wild Springs Solar, LLC must adjust the financial security provided to align with the updated cost estimate; and,
19. That this Conditional Use Permit be reviewed in five (5) years, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners.

**Vote: unanimous 7 to 0.**

**END OF CONSENT AGENDA**

6. SPECIAL CONSIDERATION TO TRAILWOOD VILLAGE PLANNED UNIT DEVELOPMENT REVIEW / PUR 23-10: Forrest Foster. To review a special consideration to PUD 79-02 to allow a Home Occupation for a gunsmithing and machining business in the Trailwood Village Planned Unit Development in accordance with the Pennington County Zoning Ordinance.

Lot 8, Block 24, Trailwood Village, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

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

Staff recommended approval of Special Consideration to Trailwood Village Planned Unit Development Review / PUR 23-10 with twelve (12) conditions.

Discussion followed.

**Moved by Santana and seconded by Kuehn to approve of Special Consideration to Trailwood Village Planned Unit Development Review / PUR 23-10 with the following twelve (12) 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 gunsmithing and machining business shall be operated completely within the attached garage located on the property;**
- 3. That no business sign be posted on the property;**
- 4. That no on-premise retail sales be allowed;**
- 5. That the home occupation, including all associated storage, be conducted entirely indoors;**
- 6. That the applicant complies with all applicable local, state, and federal laws;**
- 7. That the address on the structure be properly posted so it is visible in both directions from Leola Lane in accordance with Pennington County's Ordinance #20;**
- 8. That the applicant maintains an Excise Sales Tax License as required by the South Dakota Department of Revenue prior to operation;**
- 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 Special Consideration shall be revoked upon sale or transfer of the subject property;**
- 11. That the home occupation shall only be operated by Forrest Foster who resides on the premises; and,**
- 12. That this Special Consideration be reviewed in 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.**

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

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.

(Continued from the September 9, 2024, Planning Commission meeting.)

Sack stated is recommending to continue Conditional Use Permit / COCU 24-0027 to the November 25, 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 Johnson and seconded by Drewes to continue Conditional Use Permit / COCU 24-0027 to the November 25, 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. PRELIMINARY PLAN / COPPL 24-0003: Par Properties, LLC / Paul Zweifel; All Aspects, Inc. – Agent. To subdivide and create Lots 1, 2, and 3 of Par Properties Subdivision in accordance with the Pennington County Subdivision Regulations.

EXISTING LEGAL: SE1/4SW1/4NE1/4, Section 27, T2N, R3E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, and 3 of Par Properties Subdivision, Section 27, T2N, R3E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Preliminary Plan to subdivide and create Lots 1, 2, and 3 of Par Properties Subdivision.

Staff recommended approval of Preliminary Plan / COPPL 24-0003 with the following ten (10) conditions:

1. That prior to the Final Plat submittal, access to proposed Lot 3 is provided by an access easement or a lot line reconfiguration so that Divide Road provides access;
2. That prior to Final Plat submittal, additional Right-of-Way is dedicated along Divide Road to meet the 66-foot-wide requirement for access to three lots;
3. That prior to Final Plat submittal the applicant improves Divide Road to 18-foot-wide or post surety for the improvements;

4. That at the time of submittal of the Final Plat, the Final Plat meet requirements of § 602 of the Subdivision Regulations;
5. That at the time of submittal of the Final Plat, 8-foot utility and minor drainage easements be provided on the interior side of all lot lines;
6. That at the time of submittal of the Final Plat, the Certifications on the Final Plat be in accordance with §1702 of the Pennington County Subdivision Regulations;
7. That a Special Permitted Use is obtained for the accessory structure located on proposed Lot 3;
8. That prior to Final Plat submittal, the sheds within the proposed access easement be removed;
9. That an Operating Permit (License) is obtained for the onsite wastewater treatment system serving the single-family residence (on Proposed Lot 2) prior to submittal of the Final Plat application; and,
10. That approval of this Preliminary Plan does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

**Moved by Lewis and seconded by Litzen to approve of Preliminary Plan / COPPL 24-0003 with the following ten (10) conditions:**

- 1. That prior to the Final Plat submittal, access to proposed Lot 3 is provided by an access easement or a lot line reconfiguration so that Divide Road provides access;**
- 2. That prior to Final Plat submittal, additional Right-of-Way is dedicated along Divide Road to meet the 66-foot-wide requirement for access to three lots;**
- 3. That prior to Final Plat submittal the applicant improves Divide Road to 18-foot-wide or post surety for the improvements;**
- 4. That at the time of submittal of the Final Plat, the Final Plat meet requirements of § 602 of the Subdivision Regulations;**
- 5. That at the time of submittal of the Final Plat, 8-foot utility and minor drainage easements be provided on the interior side of all lot lines;**
- 6. That at the time of submittal of the Final Plat, the Certifications on the Final Plat be in accordance with §1702 of the Pennington County Subdivision Regulations;**

7. **That a Special Permitted Use is obtained for the accessory structure located on proposed Lot 3;**
8. **That prior to Final Plat submittal, the sheds within the proposed access easement be removed;**
9. **That an Operating Permit (License) is obtained for the onsite wastewater treatment system serving the single-family residence (on Proposed Lot 2) prior to submittal of the Final Plat application; and,**
10. **That approval of this Preliminary Plan does not constitute approval of any further applications to be submitted for the above-described property.**

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

9. LOT LINE ADJUSTMENT PLAT / COLLAPL 24-0005: David and Kellie Pummel. To combine two lots and create Lot 4R of Tract 11 of National Placer Mining Claim 688 in accordance with the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 4 and Lot 5 of Tract 11 of National Placer MS 688, Section 34, T2N, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 4R of Tract 11 of National Placer MS 688, Section 34, T2N, R4E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Lot Line Adjustment Plat to combine two lots and create Lot 4R of Tract 11 of National Placer Mining Claim 688.

Staff recommended approval of Lot Line Adjustment Plat / COLLA 24-0005 with the following two (2) conditions:

1. That prior to filing the mylar with Register of Deeds, the plat continues to meet the requirements of § 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met.
2. That prior to filing the mylar with Register of Deeds, the certificates continue to be in accordance with §§ 1701 and 1703 of the Pennington County Subdivision Regulations.

Discussion followed.

**Moved by Johnson and seconded by Lewis to approve of Lot Line Adjustment Plat / COLLA 24-0005 with the following two (2) conditions:**

1. **That prior to filing the mylar with Register of Deeds, the plat continues to meet the requirements of § 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met.**

2. **That prior to filing the mylar with Register of Deeds, the certificates continue to be in accordance with §§ 1701 and 1703 of the Pennington County Subdivision Regulations.**

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

10. CONDITIONAL USE PERMIT / COCU 24-0026: Reynolds & Livingston, LLC; Chris Livingston. To allow an Accessory Dwelling Unit on the subject property in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

That Pt of Lot 1 located in Pennington County of Boyle Subdivision, Section 7, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the September 23, 2024, Planning Commission meeting.)

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow an Accessory Dwelling Unit on the subject property.

Staff recommended approval of Conditional Use Permit / COCU 24-0026 with the following fourteen (14) condition:

1. That only one Accessory Dwelling Unit (ADU) is allowed;
2. That the ADU *not* exceed two stories, two bedrooms, or 700 square feet;
3. That the ADU maintains a residential appearance;
4. That a separate address be assigned to the ADU and that it be posted on the residence and at the end of the driveway where it intersects with Highway 385, so they are clearly visible, in accordance with Pennington County Ordinance #20;
5. That the On-site Wastewater Treatment System (OSWTS) complies with § 331 of the Pennington County Zoning Ordinance (PCZO);
6. That all necessary permits are obtained prior to any additions and/or alterations to the ADU or upgrades/alterations to the OSWTS;
7. That a Variance is obtained for the setback to the Section Line Right-of-Way for the ADU;
8. That all utilities for the ADU be extended from the primary residence and be on one (1) meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;
9. That home occupations in the ADU are prohibited;
10. That the ADU meets the rental requirements of PCZO §324(B);

11. That at least 1 off-street parking space be provided for the ADU;
12. That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;
13. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,
14. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Director, Pennington County Planning Commission, or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

**Moved by Drewes and seconded by Santana to approve of Conditional Use Permit / COCU 24-0026 with the following fourteen (14) condition:**

- 1. That only one Accessory Dwelling Unit (ADU) is allowed;**
- 2. That the ADU *not* exceed two stories, two bedrooms, or 700 square feet;**
- 3. That the ADU maintains a residential appearance;**
- 4. That a separate address be assigned to the ADU and that it be posted on the residence and at the end of the driveway where it intersects with Highway 385, so they are clearly visible, in accordance with Pennington County Ordinance #20;**
- 5. That the On-site Wastewater Treatment System (OSWTS) complies with § 331 of the Pennington County Zoning Ordinance (PCZO);**
- 6. That all necessary permits are obtained prior to any additions and/or alterations to the ADU or upgrades/alterations to the OSWTS;**
- 7. That a Variance is obtained for the setback to the Section Line Right-of-Way for the ADU;**
- 8. That all utilities for the ADU be extended from the primary residence and be on one (1) meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;**
- 9. That home occupations in the ADU are prohibited;**
- 10. That the ADU meets the rental requirements of PCZO §324(B);**
- 11. That at least 1 off-street parking space be provided for the ADU;**

12. **That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;**
13. **That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,**
14. **That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Director, Pennington County Planning Commission, or Board of Commissioners to verify that all Conditions of Approval are being met.**

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

11. ORDINANCE AMENDMENT / OA 24-11: Pennington County. To amend Section 204-F “Dead-End Road System” [to amend and supersede the existing Section 204-F “Dead-End Road System”] of the Pennington County Zoning Ordinance.

Molitor stated this is a proposed Ordinance Amendment to amend Section 204-F Dead-End Road System of the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 24-11.

Discussion followed.

**Moved by Kuehn and seconded by Lewis to approve of Ordinance Amendment / OA 24-11.**

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

12. CONDITIONAL USE PERMIT / COCU 24-0022: Yarotek, LLC; Mark Tippett – 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 September 9, 2024, Planning Commission meeting.)

Molitor stated the applicants have requested a continuance to the October 28, 2024, Planning Commission meeting.

Discussion followed.

**Moved by Drewes and seconded by Litzen to continue Conditional Use Permit / COCU 24-0022 to the October 28, 2024, Planning Commission meeting.**

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

13. CONDITIONAL USE PERMIT / COCU 24-0023: Yarotek, LLC; Mark Tippett – 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 September 9, 2024, Planning Commission meeting.)

Molitor stated the applicants have requested a continuance to the October 28, 2024, Planning Commission meeting.

Discussion followed.

**Moved by Litzen and seconded by Kuehn to continue Conditional Use Permit / COCU 24-0023 to the October 28, 2024, Planning Commission meeting.**

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

14. EXECUTIVE SESSION

Executive Session was not needed.

15. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the September 23, 2024, Planning Commission meeting.

16. ITEMS FROM THE PUBLIC

No motions or actions were taken.

17. ITEMS FROM THE STAFF

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

18. ITEMS FROM THE MEMBERSHIP

Commissioner Litzen stated she will be out-of-town and will be appearing remotely for upcoming meetings.

19. ADJOURNMENT

**Moved by Santana and seconded by Lewis to adjourn.**

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

**The meeting adjourned at 9:58 a.m.**

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Karen McGregor, Chairperson