

**MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
October 28, 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, and Gary Drewes.

STAFF PRESENT: Brittney Molitor, Jason Theunissen, Christine Phillip, Jeri Ervin, and Tyler Sobczak (SAO).

ROLL CALL

1. APPROVAL OF THE OCTOBER 16, 2024, MINUTES
Moved by Johnson and seconded by Lewis to approve the Minutes of the October 16, 2024, Planning Commission meeting. Roll Call Vote: Johnson – aye, Drewes – aye, Litzen – aye, Lewis – aye, Kuehn – aye, and McGregor – aye. Roll Call Vote: unanimous 6 to 0.
2. APPROVAL OF THE AGENDA
Moved by Litzen and seconded by Lewis to approve the Agenda of the October 28, 2024, Planning Commission meeting, with a correction to the Agenda on Item #6 to recommend approval. Roll Call Vote: Johnson – aye, Drewes – aye, Litzen – aye, Lewis – aye, Kuehn – aye, and McGregor – aye. Roll Call Vote: unanimous 6 to 0.
3. APPROVAL OF THE CONSENT AGENDA
Moved by Kuehn and seconded by Drewes to approve the Consent Agenda of the October 28, 2024, Planning Commission meeting. Roll Call Vote: Johnson – aye, Drewes – aye, Litzen – aye, Lewis – aye, Kuehn – aye, and McGregor – aye. Roll Call 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.

4. CONDITIONAL USE PERMIT REVIEW / CUR 12-26: Mark and Mary Hansen. To review a Vacation Home Rental in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 28, Block E, Edelweiss Mountain Development, Section 20, T1N, R5E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Review / CUR 12-26 with the following twelve (12) conditions:

1. That no RVs, trailers, or campers be occupied or used as living quarters on the subject property;
2. That the maximum overnight occupancy continues to be twelve (12) people and the maximum daytime occupancy be eighteen (18) people;
3. That the applicants continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department, prior to operation of the Vacation Home Rental;
4. That a minimum of four (4) off-street parking spaces continue to be provided on-site, each measuring a minimum of nine (9) by eighteen (18) feet and maintained in a dust-free manner;
5. That an interior informational sign continue to be posted in accordance with the requirements of PCZO § 319(G), with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff's Department, during operation of the Vacation Home Rental;
6. That no outside fires or fire pits be allowed on the property;
7. That the lot address (120 Heidelberg Lane) continue to be posted on the residence at all times and at the driveway so that it is clearly visible from both directions of travel on Heidelberg Lane, in accordance with Pennington County's Ordinance #20;
8. That if the person designated as the Local Contact is ever changed from Julie Mechaley, the interior informational sign be updated and the applicant re-notify the Planning Department and the surrounding landowners within 500 feet via First Class Mail;
9. That a sign be continually posted at the end of the driveway, providing contact information for the Local Contact (Executive Lodging);
10. That the applicant ensure the Vacation Home Rental is operated in accordance with the requirements of Section 319-F (Performance Standards) at all times;
11. That each review of Conditional Use Permit / CU 12-26, be subject to PCZO §511(F)(4), which imposes a \$100 fee per review; and,
12. 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 6 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CUR 21-40**: Rob Livingston/No Bad Days Campground. To review the rental of kayaks, paddle boards, and UTVs on the subject property in a Highway Service District in accordance with the Pennington County Zoning Ordinance.

Lot 1, No Bad Days Subdivision, Section 27, T2N, R5E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Review / CUR 21-40 with the following seventeen (17) conditions:

1. **That the permitted use includes the rental of paddleboards and kayaks, 8 Utility Vehicles (UTVs);**
2. **That all assigned addresses be posted so they are clearly visible, in accordance with Pennington County Ordinance #20;**
3. **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 44 West be approved by SDDOT;**
4. **That at least 4 off-street parking spaces be provided for customers and 1 additional parking space be provided for employees, per Pennington County Zoning Ordinance (PCZO) § 310;**
5. **That any On-site Wastewater Treatment System comply with PCZO and SD Department of Agriculture and Natural Resources requirements (SD DANR);**
6. **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 9 a.m. and 5 p.m. only;**
7. **That prior to the placement of any on-premise signs, the applicant must adhere to PCZO § 312;**
8. **That the UTVs be thoroughly cleaned after use, to prevent the spread of invasive weeds;**
9. **That a designated equipment wash area be designated and utilized to ensure no runoff is allowed to enter any waters of the state;**
10. **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;**
11. **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;**

12. 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;
13. 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;
14. That no disturbance within the boundaries of the FEMA designated Special Flood Hazard Area occur without an approved Floodplain Development Permit;
15. 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;
16. That significant changes in the use or impacts on adjacent lands shall require an amendment to this permit; and,
17. That this Conditional Use Permit be reviewed on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to ensure compliance with the PCZO, Conditions of Approval, and state law.

Vote: unanimous 6 to 0.

6. **CONDITIONAL USE PERMIT AMENDMENT REVIEW / CUR 21-52:** Campfire Cabins, LLC, Al Sutton. To review an existing Conditional Use Permit to allow the existing caretaker/manager's residence to be used as a Vacation Home Rental in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Tract B, Circle B Ranch Subdivision, Section 28, T2N, R5E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Amendment Review / CUR 21-52 with the following twenty-two (22) conditions:

1. That the Vacation Home Rental and the cabins must not be rented until the renewal lodging license is issued from the South Dakota Department of Health and a copy of the license be provided to the Planning Department;
2. That the uses of this Conditional Use Permit be limited to 6 seasonal rental cabins and the existing single-family residence to be used as a Vacation Home Rental (VHR);
3. That the maximum overnight occupancy of the VHR based on South Dakota Department of Agriculture and Natural Resources (DANR) approval, is limited to 10 people and the maximum daytime occupancy is limited to 20 people, per Pennington County Zoning Ordinance (PCZO) §§ 331;

4. That the maximum overnight occupancy of the cabins based on South Dakota Department of Agriculture and Natural Resources (DANR) approval, is limited to 24 people;
5. That an approved On-Site Wastewater Construction Permit be obtained prior to any On-site Wastewater Treatment System being installed on the subject property, which will also require review and approval by the South Dakota Department of Agriculture and Natural Resources (SD DANR);
6. That all necessary permits are obtained prior to any additions and/or alterations to the VHR and cabins or upgrades/alterations to the On-Site Wastewater Treatment System (OSWTS);
7. That quiet hours for the cabins be from 10 p.m. to 8 a.m.;
8. That the minimum number of required parking spaces be continually provided in accordance with Pennington County Zoning Ordinance Section 310, which requires 1 parking space per guest bedroom for each cabin;
9. That the interior access roads leading to the cabins consist of a 16-foot-wide graveled driving surface, at a minimum, to accommodate two-way traffic, and must be maintained in a dust-free manner;
10. That the address, 12644 Campfire Drive, continue to be posted on the residence, be posted at the end of the driveway and so that it is visible from interior roadway, and at the approach off of Campfire Drive, in accordance with Pennington County's Ordinance #20;
11. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
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 applicant 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 a smoke detector be placed in each sleeping room, with a minimum of at least 1 smoke detector per floor;
15. That portable fire extinguishers be placed on each floor level of each cabin so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
16. That the applicant maintains current licenses with the South Dakota Department of Health (Specialty Resort License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;

17. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule, which regulates Specialty Resorts;
18. 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;
19. That any natural drainage ways and paths be continually maintained;
20. That any sign complies with §312 of the Pennington County Zoning Ordinance;
21. 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 impact on adjacent land uses as determined by the Planning Director shall require a review or amendment of this Conditional Use Permit; and,
22. That this Conditional Use Permit be reviewed in February of 2026, 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.

7. **CONDITIONAL USE PERMIT REVIEW / CUR 21-68:** Delbert and Yvette Haskell. To review an existing single-family residence to be used as a Bed and Breakfast in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Tract 5, Clear Creek Tracts Subdivision, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CUR 21-68 with the applicant's concurrence.

Vote: unanimous 6 to 0.

8. **MINOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PUR 18-05:** Grant and Sandra Parsons (Plum Creek Homes). To review a Bed and Breakfast on the subject property in a Planned Unit Development District in accordance with the Pennington County Zoning Ordinance.

Tract 43, Rushmore Ranch Estates Subdivision, Section 20, T2S, R7E, BHM, Pennington County, South Dakota.

To approve Minor Planned Unit Development Amendment Review / PUR 18-05 with the following nine (9) conditions:

1. That the Conditions of Approval of Planned Unit Development / PU 17-08 be continually adhered to;

2. That the uses on Tract 43 of Rushmore Ranch Estates be limited to a single-family residence in accordance with PU 17-08 or a Bed and Breakfast;
3. 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;
4. That the applicants obtain all necessary permits from other governing bodies for operation of the Specialty Resort (Bed and Breakfast) including, but not limited to, approval from the South Dakota Department of Health for the Bed & Breakfast and Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue and that copies of the valid permits be provided to the Planning Director upon receipt;
5. That a smoke detector be placed in each sleeping room utilized for the Bed and Breakfast with a minimum of at least one (1) smoke detector per floor;
6. That a portable fire extinguisher with a minimum 2 A-BC rating is on each floor level of the Bed and Breakfast so it accessible to all guests at all times, and hung on the walls at the appropriate height (5'3" to the gauge) and be inspected and tagged annually;
7. That the maximum number of people staying at the Bed and Breakfast establishment, at one time, be in compliance with the South Dakota Lodging Establishments Health and Safety Manual;
8. That at all times, the applicants comply with South Dakota Codified Law 34-18; and,
9. That this Minor Planned Unit Development be reviewed in three years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

9. **PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PUR 22-08:** Black Hills Tiny Resort, LLC; Joleen Zoller. To review a Recreational Resort to include a Recreational Vehicle Park, Vacation Home Rentals, and a caretaker/manager's residence on the subject property in accordance with the Pennington County Zoning Ordinance.

Lot 1, BHTR Subdivision, Section 3, T1S, R7E, BHM, Pennington County, South Dakota.

To approve Planned Unit Development Overlay Review / PUR 22-08 with the following twenty-three (23) conditions:

1. That the approved uses are limited to 48 full service tiny home sites and 15 full service RV sites; 2 short-term rentals; 5 employee cabins or tiny homes; 10 canvas rental tents; a dog park; playground; storage building(s); and a caretaker/manager residence to include an office;

2. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
3. That daily operations be conducted by the owners, on-site manager, and staff as necessary;
4. That all natural drainage paths be continually maintained;
5. That the applicant obtains an approved Sign Permit prior to the placement of any on- or off-premise sign;
6. That all the assigned addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;
7. That each of the tiny home rentals be clearly marked with a unique number and that the assigned address of the property be posted in each tiny home;
8. That each RV parking spot be marked with a unique unit number clearly visible from the driveway;
9. That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;
10. That a minimum of 87 parking spaces be provided on-site (one for each tiny home, tent and RV site; two for each short-term rental; one for each employee tiny home site; and four for the caretaker/manager residence) each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with the Pennington County Zoning Ordinance;
11. That a detailed site plan be submitted with each Building Permit, to include a detailed parking plan depicting adequate parking as specified in § 310 of the Pennington County Zoning Ordinance;
12. That quiet hours in the Planned Unit Development be from 11:00 p.m. to 7:00 a.m.;
13. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors or obstruct the vision of motor vehicle operators on Highway 16;
14. That prior to operation, any rental or RV site within the Planned Unit Development have all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue and that these permits be provided to the Planning Department;
15. That a smoke detector be placed in each sleeping room/area;

16. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of any rental so it is accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
17. That the maximum number of people staying at any rental comply with the South Dakota Lodging Establishments Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
18. That the applicants comply with South Dakota Codified Law 34-18;
19. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the City of Rapid City and South Dakota Department of Agriculture and Natural Resources and must comply with Rapid City municipal code and South Dakota Administrative Rules 74:53:01;
20. That the Recreation Vehicle Park must comply with PCZO §306;
21. That setbacks for all structures shall be in accordance with PCZO § 212;
22. 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, as determined by the Planning Director, shall require an amendment to this Planned Unit Development; and,
23. That this Planned Unit Development be reviewed in 6 months, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

END OF CONSENT AGENDA

Moved by Lewis and seconded by Johnson to wave rules to discuss similar Agenda Items #10 and #11 at the same time and to vote on each item separately. Roll Call Vote: Johnson – aye, Drewes – aye, Litzen – aye, Lewis – aye, Kuehn – aye, and McGregor – aye. Roll Call Vote: unanimous 6 to 0.

10. 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 October 16, 2024, Planning Commission meeting.)

Molitor stated this is a request for a Conditional Use Permit to allow a utility-scale solar energy system on the subject property.

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.

Moved by Litzen and seconded by Johnson to approve Conditional Use Permit / COCU 24-0022 for discussion.

Discussion followed.

Moved by Litzen and seconded by Johnson to approve 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.

Roll Call Vote: Johnson – naye, Drewes – naye, Litzen – aye, Lewis – aye, Kuehn – aye, and McGregor – aye. Roll Call Vote: Motion carried 4 to 2.

11. 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 October 16, 2024, Planning Commission meeting.)

Molitor stated this is a request for a Conditional Use Permit to allow a utility-scale wind energy system on the subject property.

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.

Moved by Litzen and seconded by Lewis to approve Conditional Use Permit / COCU 24-0023 for discussion.

Discussion followed.

Moved by Litzen and seconded by Lewis to approve 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.

Roll Call Vote: Johnson – naye, Drewes – naye, Litzen – aye, Lewis – aye, Kuehn – aye, and McGregor – aye. Roll Call Vote: Motion carried 4 to 2.

Commissioner Lewis left the meeting at 11:38 a.m.

Commissioner Lewis returned to the meeting at 11:39 a.m.

12. EXECUTIVE SESSION

Executive Session was not needed.

13. COUNTY BOARD REPORT

The Board of Commissioners will hear Planning Commission's recommendations from their October 16th meeting at the Board meeting on Wednesday, November 6th.

14. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

15. ITEMS FROM THE STAFF

A. SD Planner's Conference. Molitor provided the Planning Commission with an update on the SD Planner's Conference.

16. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

17. ADJOURNMENT

Moved by Drewes and seconded by Lewis to adjourn.

Roll Call Vote: Johnson – aye, Drewes – aye, Lewis – aye, Kuehn – aye, and McGregor – aye. Roll Call Vote: unanimous 5 to 0.

The meeting adjourned at 11:44 a.m.

Karen McGregor, Chairperson