

**PENNINGTON COUNTY BOARD OF COMMISSIONERS
PROPOSED WORK SESSION AGENDA
SEPTEMBER 22, 2020
9:00 A.M.
COMMISSION CONFERENCE ROOM
COUNTY ADMINISTRATION BUILDING**



*Deb Hadcock, Chair District 3
Gary Drewes, Vice Chair District 5*

*Ron Rossknecht, Commissioner District 1
Lloyd LaCroix, Commissioner District 2
Mark DiSanto, Commissioner District 4*

Agenda disclaimer: The preferred practice of the Board is to proceed thru the agenda in the order it is published. From time to time, agenda items may be disposed of quickly leaving a gap in the meeting agenda prior to the next advertised agenda item start time. To utilize time effectively in those circumstances, the Board may move items up on the agenda to fill those gaps.

1. Call to Order
2. Review and Approve Agenda
3. Commission Work Session
Discussion topics to include:
 - o PCZO § 200 – Zoning Districts
 - a. Use -by-Right versus Conditional Uses
 - b. Section 204(G) – Special Animal Keeping Regulations
 - c. Section 204(J) – Onsite Wastewater Systems
 - d. Reordering and Formatting
 - o Subdivision Regulations
 - a. The Current Platting Process:
 - i. Minor Plan versus Preliminary Plan
 - ii. Considerations and Requirements
 - b. Simplifying the Platting Process
 - o Joint Jurisdiction with Rapid City
 - o Future Projects
 - a. Priorities
 - b. Update all Zoning Ordinances
 - o Zoning and Rezoning
 - a. Purpose
 - b. Future Land Use Designations
 - c. Appellate Scheme
 - d. How Zoning Affects Platting
 - o Conditional Use Permits
 - a. Criteria for Approval
 - b. Appellate scheme
 - o Board of Adjustment
 - a. Overview
 - b. Variances
 - i. Criteria for Approval
 - c. Appellate Scheme
 - o Building Codes and Contractor Licensing (Building and Septic Installers)
 - a. Criteria
 - b. Revocation Process and Accountability
4. Adjourn

Pennington County fully subscribes to the Americans with Disabilities Act. If you desire to attend this public meeting and need accommodations, please notify the Commissioners' Office at (605) 394-2171 at least 24 hours prior to the meeting so that appropriate services and auxiliary aids are available.



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Pennington County Planning Department

Pennington County Administration Bldg • 130 Kansas City St. Ste. 200
Rapid City, SD 57701 • Phone: 605.394.2186

MEMORANDUM

To: Pennington County Board of Commissioners
From: Brittney Molitor, Planning Director
Date: September 16, 2020
RE: Work Session Topics

For Tuesday's work session, we're going to discuss the topics listed below.

1. PCZO § 200 - Zoning Districts
 - a. Use -by-Right versus Conditional Uses
 - b. Section 204(G) - Special Animal Keeping Regulations
 - c. Section 204(J) - Onsite Wastewater Systems
 - d. Reordering and Formatting
2. Subdivision Regulations
 - a. The Current Platting Process:
 - i. Minor Plan versus Preliminary Plan
 - ii. Considerations and Requirements
 - b. Simplifying the Platting Process
3. Joint Jurisdiction with Rapid City
4. Future Projects
 - a. Priorities
 - b. Update all Zoning Ordinances
5. Zoning and Rezoning
 - a. Purpose
 - b. Future Land Use Designations
 - c. Appellate Scheme
 - d. How Zoning Affects Platting
6. Conditional Use Permits
 - a. Criteria for Approval
 - b. Appellate scheme
7. Board of Adjustment
 - a. Overview
 - b. Variances
 - i. Criteria for Approval
 - c. Appellate Scheme
8. Building Codes and Contractor Licensing (Building and Septic Installers)
 - a. Criteria
 - b. Revocation Process and Accountability

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NOTE:

1. All provisions of these Zoning Ordinances, relating to lot size, building density, building setback, parking and loading requirements, building height, etc., may be relaxed by the Board of Adjustment under provisions contained in Section 509 - Variances.

2. These Zoning Ordinances shall be on file for inspection at the Offices of the Register of Deeds, County Auditor, and at the County Planning Department. Copies are available at the Planning Department at the cost of printing.

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Central Pennington Focus Area

Location

The Central Pennington Focus Area consists of the Rapid City / Box Elder metropolitan area, as defined by the boundary of the Rapid City Area MPO boundary and including Ellsworth Air Force Base (AFB).

Issues and Opportunities

The central portion of the county is more urban by nature and heavily influenced by the two incorporated cities in this Focus Area: Rapid City and Box Elder. Both cities have been growing steadily in recent history and are expected to continue to grow into the future. This growth is primarily through the annexation of unincorporated county areas into the city limits, although some infill development is occurring. This continued growth makes planning for the unincorporated fringe areas challenging.

Opportunities in the unincorporated county areas are largely driven by proximity to the two cities as new residential development seeks to capture a rural lifestyle within close commuting distance to the jobs within the cities. In unincorporated areas, challenges are often faced with provision and maintenance of infrastructure (roads, water, and wastewater) and other community support services (like fire and Sherriff services).

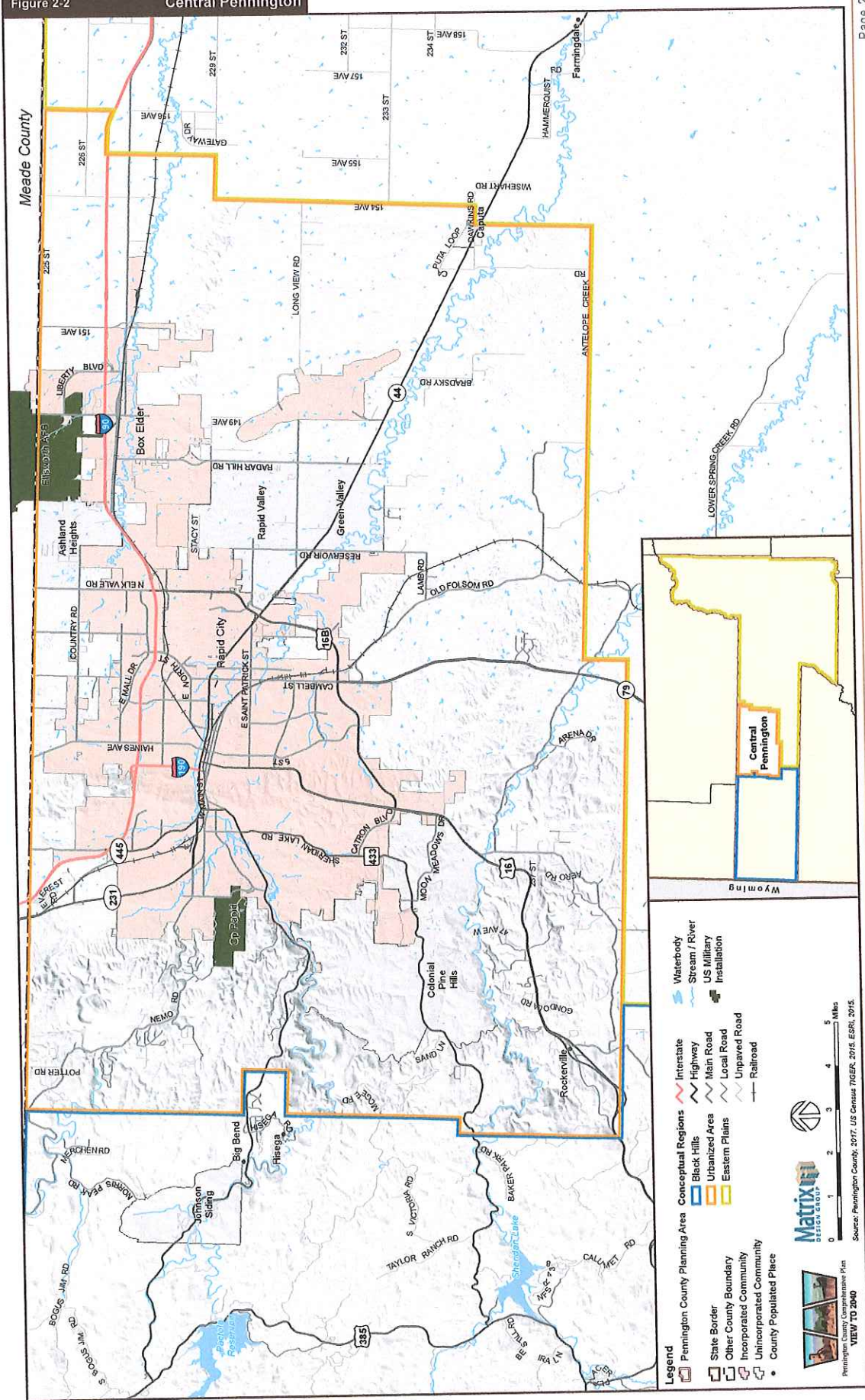
Ellsworth AFB is a significant economic driver in Pennington County, as is the Rapid City Regional Airport. While both facilities are positive influences on the county, they also require protections to ensure long-term compatibility between new development and air operations. Additionally, the South Dakota National Guard has a location outside of Rapid City and includes the South Dakota National Guard’s Training Center Command. Like Ellsworth AFB and the Rapid City Regional Airport, Camp Rapid, as well as other associated training areas, such as West Camp, requires surrounding land uses to be compatible with its mission and operations.

Future Land Uses

Due to the large employment base and population in this Focus Area, residential growth in the unincorporated areas surrounding Rapid City and Box Elder will continue. This growth will require joint planning between with cities and the County in order to provide growth that fits the needs of all county residents, current and future. The area will need to focus on providing an appropriate mix of housing, with the cities providing higher density residential opportunities while the unincorporated areas focus on more rural transitional housing and continued support for industrial, agricultural, and resource management. Additionally, there are some parts of the unincorporated areas on the outside of the urban core that are compatible for industrial uses, including mining operations.

Figure 2-2

Central Pennington





Land Use & Housing Element

3

The Land Use and Housing Element represents a general blueprint for the future development of Pennington County. This element sets forth a pattern for the orderly development of land within the county. This element provides a balance of residential, commercial, industrial, and agricultural and open space lands designed to meet the future needs of the county.

3.1 Land Use Designations and Standards

Future Land Use Map

The most recognizable feature of the Comprehensive Plan is the Future Land Use Map (FLUM). The FLUM is the figure that designates the location of the various land use designations in the county. The Pennington County FLUM is shown on Figure 3-1 included at the end of this chapter.



It is typical for the Future Land Use and Transportation Maps to be updated over time. Please check with the Pennington County Planning Department to ensure you have the current version.

A copy of the Future Land Use Map and Transportation Maps are available from Pennington County by download from the County's website.



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Land Use Designations within Pennington County

The Comprehensive Plan FLUM includes residential, commercial, industrial, and other land use designations that depict the types of land uses that will be allowed within the unincorporated portions of Pennington County. Table 3-1 describes each land use designation along with their corresponding development standards, as follows:

- ▶ **Designation.** This column provides the name of each designation.
- ▶ **Code/Color.** To the right of each name is the color that is assigned to this designation on the County's FLUM and the acronym used when referring to this designation.
- ▶ **Description.** In this column is a description of the purpose and application of each designation, followed by a general list of types of uses that could be allowed in that designation. The County's Zoning Regulations provide further refinement and expansion of the list of uses allowed on any given property. For any given site, not all uses listed may be appropriate for a given property due to location, adjacent uses, other applicable Comprehensive Plan policies, or site-specific issues.
- ▶ **Maximum Density.** For residential designations, a maximum density is provided, expressed as dwelling units per acre (du/ac).
- ▶ **Minimum Lot Size.** For all uses, a minimum lot size is provided.

For land within the incorporated city limits of a community, please consult with that jurisdiction's comprehensive plan and zoning ordinance regarding allowed land uses and development requirements.

Future Land Use Map Amendments

The Comprehensive Plan is a fluid document which outlines the general planning intent for the County. Other documents such as the Zoning Ordinance, Subdivision Regulations, and Flood Damage Prevention Ordinance are intended to implement this plan.

This Plan may be amended to respond to changing conditions. Amendments to the Future Land Use Map may be required if staff determines that a proposed application would represent a "substantial alteration" in the land use mixture or balance established in this Comprehensive Plan. Amendments may be initiated by the County or requested by private individuals or agencies. Amendments may be submitted and considered concurrently with rezoning requests.

Zoning Ordinance Consistency

Each future land use category is directly related to one or more of the zoning districts provided in the Pennington County Zoning Ordinance. The compatible zoning districts for each future land use designation are included in Table 3-1.

Table 3-1 Land Use Designations

Designation	Code/ Color	Land Use Description	Maximum Density	Minimum Lot Size
Agricultural Designations				
Agriculture Compatible Zoning: A-1, A-2	AG	Purpose and Application The Agriculture designation denotes areas that have large tracts of land dedicated to agricultural uses or resource utilization uses. Allowed Uses <ul style="list-style-type: none"> ▶ All agricultural uses, including grazing, field crops, haying, animal production, or similar, and associated support facilities ▶ Mining and forestry production and processing ▶ Single family, large lot residential ▶ Single family attached dwellings ▶ Accessory secondary dwelling units ▶ Ranch hand residence 	1 du / 10 ac (.1 du/ac)	10 ac
Residential Designations				
Ranchette Residential Compatible Zoning: A-2	RCH	Purpose and Application The Ranchette category is intended to be a “bridge” between Rural Residential and Agriculture designations. Allowed Uses <ul style="list-style-type: none"> ▶ Single family, large lot residential ▶ Accessory secondary dwelling units ▶ Public and quasi-public uses (e.g., parks, schools, churches) ▶ Agricultural uses ▶ Storage 	1 du / 5 ac (.2 du/ac)	5 ac
Rural Residential Compatible Zoning: LDR	RR	Purpose and Application The Rural Residential designation denotes areas that have large-lot residential development in natural areas, agricultural areas, or surrounding open space areas. Generally, these lots have private on-site wastewater systems. The method of obtaining drinking water varies between public water systems, private wells, and collecting water in cisterns. Allowed Uses <ul style="list-style-type: none"> ▶ Single family, large lot residential ▶ Accessory secondary dwelling units ▶ Public and quasi-public uses (e.g., parks, schools, churches) ▶ Agricultural uses ▶ Storage 	1 du / 3 ac	3 ac



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Designation	Code/ Color	Land Use Description	Maximum Density	Minimum Lot Size
Low Density Residential Compatible Zoning: SRD	LDR	Purpose and Application The Low Density Residential designation denotes areas of semi-rural residential uses. These are areas where higher density development may not be suitable due to topography, geology, or drainage. Allowed Uses <ul style="list-style-type: none"> ▶ Single-family detached dwellings ▶ Accessory secondary dwelling units ▶ Public and quasi-public uses (e.g., parks, schools, churches) ▶ Agricultural uses 	2 du / ac	1/2 ac
Suburban Residential Compatible Zoning: SRD, GC	SR	Purpose and Application The Suburban Residential designation provides for a suburban lifestyle with single-family residential communities. This land use designation may also include other land uses that support neighborhood functions and contribute to the livability of neighborhoods, such as neighborhood scaled shops, parks, religious institutions, and small offices. Allowed Uses <ul style="list-style-type: none"> ▶ Single family detached dwellings ▶ Single family attached dwellings ▶ Accessory secondary dwelling units ▶ Public and quasi-public uses (e.g., parks, schools, churches) ▶ Assisted living facility ▶ Neighborhood scaled shops and small offices 	6 du / ac	6,500 sf
Urban Residential Compatible Zoning: SRD, GC	UR	Purpose and Application The Urban Residential designation provides for higher density residential development. These are generally areas surrounding the more urban development of Rapid City. This designation provides for both single-family and multi-family dwellings that may include multi-story structures. Allowed Uses <ul style="list-style-type: none"> ▶ Single family detached dwellings ▶ Single family attached dwellings ▶ Multi-family dwellings ▶ Accessory secondary dwelling units ▶ Public and quasi-public uses (e.g., parks, schools, churches) ▶ Assisted living facility 	16 du / ac	6,500 sf

Designation	Code/ Color	Land Use Description	Maximum Density	Minimum Lot Size
Planned Unit Development Compatible Zoning: PUD	PUD	<p>Purpose and Application</p> <p>As of the adoption of this Comprehensive Plan on May 5, 2020, no new Planned Unit Development (PUD) land use designations are permitted. All PUD designations legally permitted as of May 5, 2020 may be permitted to apply for a new land use designation, or continue as a grandfathered PUD land use designation, subject to allowable uses for PUDs as described in the Pennington County Zoning Ordinance, Section 213.</p> <p>Allowed Uses</p> <ul style="list-style-type: none"> ▶ Single family detached dwellings, duplexes, triplexes, fourplexes, apartments, townhomes ▶ Public and quasi-public uses (e.g., parks, schools, churches) ▶ Resort development features ▶ Neighborhood scaled shops and small offices ▶ Agricultural uses and open space 	n/a	n/a



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Designation	Code/ Color	Land Use Description	Maximum Density	Minimum Lot Size
Commercial Designations				
Commercial Compatible Zoning: GC	C	Purpose and Application The Neighborhood Commercial designation denotes areas of development aimed to fulfill the day-to-day needs of the year-round population. Development should be scaled to be complimentary to surrounding neighborhoods. Allowed Uses <ul style="list-style-type: none"> ▶ Retail uses ▶ Restaurants ▶ Banks and other services ▶ Public and quasi-public uses ▶ Community services ▶ Professional offices and services 	n/a	20,000 sf
Highway Services Compatible Zoning: HS	HS	Purpose and Application The Commercial designation denotes areas of commercial development oriented towards tourist-related activities. Allowed Uses <ul style="list-style-type: none"> ▶ Retail uses (small through large-format) ▶ Hotels and motels ▶ Service stations and repair facilities ▶ Restaurants ▶ Banks and other services ▶ Retail services serving needs of travelers ▶ Recreational / tourism uses ▶ Public and quasi-public uses ▶ Community services ▶ Professional offices 	n/a	20,000 sf

Designation	Code/ Color	Land Use Description	Maximum Density	Minimum Lot Size
Industrial Designations				
Light Industrial Compatible Zoning: LI	LI	Purpose and Application The Light Industrial designation denotes areas of industrial development that do not create compatibility issues with neighboring land uses. These areas should have adequate transportation and services infrastructure to support development. Allowed Uses <ul style="list-style-type: none"> ▶ Industrial uses ▶ Retail uses ▶ Personal services and offices ▶ Public and quasi-public uses ▶ Research and development ▶ Wholesaling, warehousing, distribution ▶ Light motor vehicle repair and sales ▶ Indoor storage and warehousing ▶ Utilities 	n/a	20,000 sf
Heavy Industrial Compatible Zoning: HI	HI	Purpose and Application The Heavy Industrial designation denotes areas of industrial development that require isolation from other types of land uses. The uses in this district are generally of a higher intensity than those in the Light Industrial designation. Allowed Uses <ul style="list-style-type: none"> ▶ Industrial uses (requiring yard storage and fabrication) ▶ Wholesaling (requiring yard storage and assembly) ▶ Warehousing (requiring yard storage), bulk storage ▶ Mining activities and processing ▶ Public and quasi-public uses ▶ Research and development ▶ Wholesaling, warehousing, distribution ▶ Heavy motor vehicle repair ▶ Utilities 	n/a	20,000 sf



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Designation	Code/ Color	Land Use Description	Maximum Density	Minimum Lot Size
Other Designations				
Open Space Compatible Zoning: A-1, A-2	OS	Purpose and Application The Open Space designation provides for low-intensity uses that maintain open vistas, protect natural resources, and provide access to public lands. Allowed Uses <ul style="list-style-type: none"> ▶ All agricultural uses, including grazing, field crops, haying, animal production, or similar and appropriate support facilities ▶ Mining and forestry production and processing ▶ Golf courses, recreational, and equestrian uses ▶ Habitat protection, watershed management ▶ Public and quasi-public uses ▶ Single family, large lot residential (minimum 5-acre lot) ▶ Areas typically unsuitable for human occupation due to public health and safety hazards, such as floodways, unstable soils, and other environmentally-sensitive features 	n/a	No minimum for agriculture and natural areas 5 acre minimum for developed sites
Native American Lands Compatible Zoning: n/a	NAL	Purpose and Application The Native American Lands designation applies to lands held in trust by the Bureau of Indian Affairs over which the County has no land use jurisdiction. The County encourages planned uses on these lands that are compatible with surrounding areas. Allowed Uses <ul style="list-style-type: none"> ▶ n/a 	n/a	n/a

Notes:

du = dwelling unit(s)

ac = acre

sf = square foot

3.2 Land Use Overview

Animal Keeping

While a normal aspect of lands designated for agriculture, animal keeping (non-domestic, farm animals) in residential areas can raise concerns, depending on lot sizes and proximity to other uses. There is a need to modify guidelines for animal keeping in residential areas to include standards that are clearer and define the types and quantities of animals being kept on residentially-designated properties.

Housing

The quality, diversity, and affordability of housing are factors that support growth and enhance the quality of life in the county. In some areas of the county, there is a general lack of housing diversity, meaning that the housing price and type options are limited within unincorporated areas of the county.

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To amend Section 510 "Conditional Use Permits" [to amend and supersede the existing Section 510 "Conditional Use Permits"] of the Pennington County Zoning Ordinance. MOVED by Drewes and seconded by LaCroix to approve the second reading and final adoption of Ordinance Amendment / OA 20-05. Vote: Unanimous.

ORDINANCE #34-45

AN ORDINANCE AMENDMENT TO THE PENNINGTON COUNTY ZONING ORDINANCE.

BE IT HEREBY ORDAINED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS THAT THE PENNINGTON COUNTY ORDINANCE #34 BE AMENDED AS FOLLOWS:

SECTION 510: Section 510 Conditional Use Permit shall be amended to read as follows:

SECTION 510 - CONDITIONAL USE PERMIT

Within each zoning district there are uses that are allowed by right. However, due to special characteristics attendant to their operation, other uses may be permitted in a zoning district subject to evaluation and approval by the approving authority. A Permit is required for any use identified in the Zoning Ordinance as a Conditional Use.

A. Applicability

Due to public health, safety, and welfare concerns, some Conditional Uses may be regulated by specific ordinance. For example, aggregate mining is permitted subject to approval by the Board of Commissioners under the procedures prescribed in PCZO Section 320. Conditional Uses not regulated by specific ordinance are considered and decided under PCZO Section 510.

B. Permit Process and Notice Requirements

1. Application.

Conditional Use Permit applications may be obtained from the Planning Department. Applications must be complete prior to consideration by the Planning Commission and include all of the following:

- a. Application fee.
- b. Name, mailing address, e-mail address, and telephone number of the applicant and property owner, and any authorized agent (if applicable).

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- c. Legal description, street address, or other description of real property that clearly identifies the real property which is the subject of the application.
- d. Current zoning district and surrounding zoning.
- e. Size and physical description of the subject property.
- f. Site plan showing location and yard setback distance for proposed and all existing buildings or structures. The site plan must also include location of wells, drain fields, septic tanks, recorded easements, driveways, and Special Flood Hazard areas.
- g. Utilities, size of any on-site wastewater treatment system, and water source.
- h. Current use and requested conditional use.
- i. Information relevant to specified criteria set forth in subsection D "Criteria for Evaluating Conditional Use Application." *See* Application guidelines.
- j. Signature of applicant or authorized agent (if applicable) and property owner.
- k. Other information and documentation as required by the Planning Department.

FURTHER INFORMATION MAY BE REQUESTED AND REQUIRED BY THE PLANNING COMMISSION.

2. Notice.

Upon receipt of a complete application and payment of application fee, the Planning Department must provide the applicant a sign to be posted on the property that is the subject of the application. The purpose of the sign is to inform the public of the Conditional Use Permit application and must be posted in a location with the greatest visibility to the public. The sign must be posted no less than ten days prior to the public hearing on the application.

The applicant must also notify all property owners (including recorded Contract for Deed buyers) of land located within 500 feet, inclusive of any right-of-way, of the outer boundaries of the subject property of the pending CUP application. Based upon Department of Equalization records, the Planning Department will determine and provide a list of property owners within 500 feet. Notice must be by registered

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or certified mail at least 10 days prior to the public hearing on the application. The applicant must use "Notice of Hearing" letters provided by the Planning Department.

3. Public Hearing

Upon receipt of a complete application (including application fee) and proper notice to adjoining landowners, The Planning Commission must hold a public hearing on the application. Notice of time and place of hearing must be given at least 10 days in advance by publication in the legal newspapers of the County.

C. Approving Authority

The Planning Commission is the approving authority of a Conditional Use regulated under PCZO Section 510. The Planning Commission may approve, approve with conditions, or deny the Conditional Use application. Approval of a Conditional Use requires the affirmative majority vote of the Commission.

D. Criteria for Evaluating Conditional Use Application

Conditional Uses decided under PCZO Section 510 must meet the following criteria:

Criteria 1: The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.

Application guideline: Explain how the proposed land use will fit into the neighborhood. If there is going to be lighting, noise, outdoor storage, traffic, or other outside activities, explain how the activities will be limited to a reasonable level.

Criteria 2: The uses, values and enjoyment of other property in the neighborhood for purposes already permitted may not be in any foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.

Application guideline: Explain how the proposed land use will fit into the neighborhood and what will be done to avoid potential nuisances, such as limiting the hours of operation, noise control measures, adequate parking, paving the parking area, or the screening of outdoor storage.

Criteria 3: That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

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Application guideline: Explain how the proposed land use will not interfere with the development of the surrounding property.

Criteria 4: That adequate utilities, access roads, drainage and other necessary site improvements will be provided.

Application guideline: Explain what impact the proposed use has on such things as water, septic, storm water, electricity, and traffic. Provide information on improvements that may be needed or if additional buildings are needed.

Criteria 5: Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

Application guideline: Provide information on vehicle traffic that the proposed use will generate include frequency and types of vehicles.

Criteria 6: That the Conditional Use will conform to all applicable regulations of the district in which it is located.

Application guideline: Review the current zoning districts to ensure your project is compliant and in harmony with current land use guidelines.

Criteria 7: That the Conditional Use is consistent with the adopted County Comprehensive Plan.

Application guideline: Review the current Pennington County Comprehensive Plan to ensure your project is compliant and in harmony with future land use guidelines.

E. Appeal

An appeal of a decision granting or denying a Conditional Use Permit must be brought under a petition, duly verified, for a writ of certiorari directed to the Planning Commission and as prescribed in SDCL Chapter 11-2.

F. Review of Conditional Use

Conditional Uses are subject to review by the Planning Commission for compliance with conditions of approval. A review may occur as a condition of approval, at the request of the Planning Commission, or upon a substantiated complaint. At the conclusion of the review, the Planning Commission may (1) approve the Conditional Use under the conditions already imposed; (2) approve the Conditional Use with additional conditions, subject to another review; (3) schedule another review; or (4) schedule a revocation hearing in accordance with subsection (I) of this Ordinance.

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G. Expiration

A Conditional Use Permit expires if:

1. The Conditional Use for which the Permit was granted ceased for a period of one year; or,
2. The Conditional Use for which the Permit was granted was not established, according to the terms and conditions of the Permit, within two years from date of approval.

H. Building Permit

If a Building Permit application is submitted for purpose of a Conditional Use, the Building Permit may be issued only upon approval of the Conditional Use application. A decision approving a Conditional Use is subject to appeal by filing a petition for writ of certiorari. Applicants are advised any and all construction must cease upon the filing of a petition.

I. Revocation of Conditional Use Permit

Any Conditional Use approved under the provisions of PCZO Section 510 must be established and conducted in conformity with the conditions of approval of the Permit. Failure to comply with conditions of approval is cause for revocation of the Permit.

The Planning Director may schedule a revocation hearing before the Planning Commission if:

- the owner or applicant has failed repeatedly to comply with the conditions of the approved Permit; or,
- the continued Conditional Use is a threat to public health, safety, or general welfare.

Notice of time and place of hearing shall be given, in writing, to the permit holder at least 10 days in advance of hearing. Surrounding property owners must also be given written notice of the hearing as provided under Section 510.B.2. In addition, notice of time and place of the hearing shall be published at least 10 days in advance of hearing in the legal newspapers of the County.

J. Enforcement:

PENNINGTON COUNTY BOARD OF COMMISSIONERS
Meeting of September 1, 2020

Failure to comply with conditions of approval of a Conditional Use Permit is a violation of Pennington County Zoning Ordinance and subject to the enforcement provisions of PCZO Section 514.

K. Amendments:

Amendments to a Conditional Use Permit will be considered and approved in the same manner as required for a separate Conditional Use application.

L. Ratification of Conditional Uses:

The South Dakota Supreme Court decision of *Pennington County v. Moore*, 525 N.W.2d 257 (SD 1994) invalidated the then in effect Pennington County Zoning Laws. All Conditional Uses established at the time of the *Moore* decision are ratified and approved pursuant to the conditions of the Permit.

C. PLANNED UNIT DEVELOPMENT REVIEW / PU 08-01: Leslie McGourty. To review a Planned Unit Development in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 1 of Voshall Addition, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by Drewes to end Planned Unit Development / PU 08-01 as it is no longer needed. Vote: Unanimous.

D. ROAD NAMING: Richard and Lorayna Papousek. To name a 20-foot-wide Section Line road providing access to properties located in Sections 25 and 36, T1N, R16E, BHM, South Dakota, to Papousek Road. MOVED by DiSanto and seconded by LaCroix to approve the Road Naming of Papousek Road. Vote: Unanimous.

E. PRELIMINARY PLAT / PPL 20-21: David Grover. To create Lots A, B, C, and D of Buzmar Subdivision in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 1 of Buzmar Subdivision, Section 32, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A, B, C, and D of Buzmar Subdivision, Section 32, T1S, R5E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by LaCroix to approve Preliminary Plat / PPL 20-21 with the following five (5) conditions. Vote: Unanimous.

11-2-17.3. Conditional use of real property--Ordinance--Content--Approval or disapproval.

A county zoning ordinance adopted under this chapter that authorizes a conditional use of real property shall specify the approving authority, each category of conditional use requiring approval, the zoning districts in which a conditional use is available, the criteria for evaluating each conditional use, and any procedures for certifying approval of certain conditional uses. The approving authority shall consider the stated criteria, the objectives of the comprehensive plan, and the purpose of the zoning ordinance and the relevant zoning districts when making a decision to approve or disapprove a conditional use request. Approval of a conditional use request requires the affirmative majority vote of the members of the approving authority.

Source: SL 2004, ch 103, § 3; SL 2015, ch 72, § 2; SL 2020, ch 41, § 2.

15.04.140 Contractor licenses.

A. It shall be unlawful for any person to engage in any of the trades, businesses or occupations enumerated below in the city, or in any construction work pursuant to such trades, businesses or occupations in the city, without having first obtained a license from the city for the work authorized by such license.

B. General building contractor licenses are available for the following classes:

1. Class A, for construction of any and all types of structures;
2. Class B, for construction of detached single-family houses, attached single-family houses, and 2-family dwellings, as defined by the U.S. Census Bureau; or

3. Class C, as follows.

C. Class C trade licenses are available for the following classes:

1. Class PC – Plumbing contractor as provided in Chapter 15.24;
2. Class MC – Mechanical contractor as provided in Chapter 15.26;
3. Class MI – Mechanical installer as provided in Chapter 15.26;
4. Class MA – Mechanical apprentice as provided in Chapter 15.26;
5. Class MAS – Appliance specialist as provided in Chapter 15.26;
6. Class EC – Electrical contractor as provided in Chapter 15.16;
7. Class EB – Class B electrician as provided in Chapter 15.16;
8. Class GC – Gas fitting contractor as provided in Chapter 15.20;
9. Class GF – Gas fitter as provided in Chapter 15.20;
10. Class GA – Gas fitting apprentice as provided in Chapter 15.20;
11. Class R – Roofing contractor;
12. Class SD – Siding contractor, defined as a proprietorship, partnership, firm or corporation who, for compensation, undertakes or offers to undertake the installation, alteration, repair, improvement, conversion or new construction for exterior wall coverings when a building permit is required either materials or assembly of materials applied on the exterior side of exterior walls for the purpose of providing a weather-resistive barrier, insulation, or for aesthetics, including but not limited to veneers, siding and exterior insulation and finish systems as defined, architectural trim and embellishments such as cornices, soffits and fascias; and
13. Class S – Sign contractor, defined as a proprietorship, partnership, firm or corporation who, for compensation, undertakes or offers to undertake the enlargement, alteration, repair, improvement, conversion or new construction of a sign for which a sign permit required.

D. Each applicant for every license and registration required by this title shall provide to the Community Development office the following information:

1. A completed application for the particular license desired available at the Community Development office;
2. A copy of the applicant's South Dakota excise tax license, as applicable;

3. The applicant's address and phone number;
4. If available, the name, address, phone number, and email of an agent residing in South Dakota;
5. For firms required to file organizing or incorporating documents with the Secretary of State, proof that it is a validly existing legal entity authorized to transact business in South Dakota;
6. Payment of the application fee as set by resolution of the Common Council; and
7. If applicable, a copy of any equivalent state license.

E. Each applicant for a general building contractor license, that is a firm and not a natural person, shall designate on the application at least 1 license holder who shall sit for the required examination, if applicable.

1. If the applicant is a firm, it may designate an officer or employee of the firm as license holder. A **FIRM** under this section is defined as a partnership, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company, corporation or other legal entity.

2. An applicant may designate multiple license holders, all of whom, upon successful completion of the examination, shall be listed on the license issued to the contractor.

F. The Building Official shall have the right to require of an applicant proof of ability to perform satisfactorily in the business, trade or occupation for which the license or registration is applied for. Such proof of ability may be required to be evidenced in a fair and impartial manner by approved tests or by certification.

1. Before a general building contractor license may be issued, at least 1 designated license holder shall be required to pass an examination as to his or her qualifications to perform building contracting. Applicants shall pay the examination fee for each exam.

2. Before a trade license may be issued to a firm, at least 1 designated license holder shall be required to pass an examination as to his or her qualifications to supervise the particular trade. The examination shall be given under the direction of the Building Official.

3. In lieu of the examination, the Building Official may accept proof that the applicant possesses a valid current license in the relevant Class A and Class B license issued by any other governmental agency giving an examination, the scope and character of which, in the discretion of the Building Official, is at least equal to those tests given by the city.

G. Every applicant for every license shall present to the Building Official for review a valid certificate of insurance at the time of application. It shall be the duty of every licensee to continually maintain valid liability insurance. The minimum required general aggregate liability shall be \$1,000,000 with \$300,000 fire damage and \$1,000,000 each occurrence.

H. The following exceptions do not require a license:

1. Employees of a general building contractor license if they are under the supervision of a license holder.

2. A landlord personally performing work on residential property the landlord owns or manages when the landlord is acting as his or her own contractor, except work which would require a license under Chapters 15.16, 15.20, 15.24, and 15.26. A landlord may not build more than 1 single-family dwelling in a 3-year period without obtaining a contractor's license.

3. A homeowner who builds, constructs, alters, adds to or demolishes any building or structure or any portion thereof that constitutes the owner's residence or a building or structure accessory thereto that is intended for the owner's personal use. An owner may not build more than 1 single-family dwelling in a 3-year period without obtaining a contractor's license, provided he or she occupies the dwelling a minimum of 1 year after the final inspection is approved.

I. In accordance with South Dakota state law, proof of worker's compensation insurance shall be verified prior to the issuance of a license.

J. No licensee or landlord shall allow his or her name to be used by any other person directly or indirectly, either to obtain a building permit or to perform work under this code outside his or her supervision.

K. It shall be the duty of each general building contractor or trade license that is a firm to immediately notify the Building Official in writing upon the designation of a license holder or the termination or separation of a license holder listed on the contractor's license.

1. Upon the termination or separation of a designated license holder, the general building contractor license shall expire 10 business days following such separation or termination unless:

- a. There is another license holder listed on its license;
- b. The contractor immediately designates another license holder who has passed the examination; or
- c. The license is extended as provided herein.

2. The contractor may, within 10 business days of any such termination or separation, request in writing from the Building Official an extension of its general building contractor license, and the Building Official shall grant an extension for a period not to exceed 30 days from the date of termination or separation.

3. No contractor may be issued a new permit during the period where no license holder is listed on its general contractor's license.

L. Except as provided below, all Class A, Class B and Class C licenses issued under the provisions of this chapter are valid for 3 years except where state law defines time frame.

1. Licensees failing to renew their applications prior to expiration have a 30-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 30-day grace period shall be required to reapply for a new license, meeting all requirements of this code and paying all required fees. If the license has lapsed for more than 1 year after expiration, then the licensee must pass any examination required pursuant to this section; however, if an applicant who was previously licensed by the city obtains a license within a year of expiration of the previous license, then no re-examination is required. No renewal license may be issued until the licensee has completed the requirements for continuing education.

2. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office is hereby prohibited from receiving any sum less than the amount required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

M. All plumbing contractor licenses are valid for 1 year. Renewal applications may be filed 60 days prior to expiration of the license. Licensees failing to renew their applications prior to expiration have a 60-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 60-day grace period shall be

required to reapply for a new license, meeting all requirements of this code and paying all required fees. No renewal license may be issued until the licensee has completed the requirements for continuing education. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office is hereby prohibited from receiving any sum less than the amount required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

N. All electrical contractor licenses and Class B electrician licenses are valid for 2 years. Licenses will expire on December 31 of even years. Renewal applications may be filed 60 days prior to expiration of the license. Licensees failing to renew their applications prior to expiration have a 60-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 60-day grace period shall be required to reapply for a new license, meeting all requirements of this code and paying all required fees. No renewal license may be issued until the licensee has completed the requirements for continuing education. If the license has lapsed for more than 1 year after expiration, then the licensee must pass any examination required pursuant to this section; however, if an applicant who was previously licensed by the city obtains a license within a year of expiration of the previous license, then no re-examination is required. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office is hereby prohibited from receiving any sum less than the amount required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

O. Upon adoption of this chapter, the Building Official will honor existing licenses until they expire, at which time the licensee must comply with all requirements of this chapter prior to obtaining a license.

P. Upon receipt of a license approved by the Building Official, the Finance Officer shall issue a license to the applicant.

Q. Proof of continuing education hours must be submitted by the applicant at the time of any license renewal application under this chapter. The continuing education requirement for license renewal of general building contractor licenses and trade licenses is as follows:

1. Six hours per license period for general building contractor licenses, sign contractors, roofing contractors, and licenses issued under the Mechanical Code found in Chapter 15.26.
2. For licenses pursuant to the electrical code and the plumbing code, per the requirements of the State of South Dakota.

R. The class topics for continuing education shall include, but are not limited to:

1. Requirements of the building codes;
2. Local amendments to the Rapid City Code;
3. State of South Dakota amendments; or
4. Requirements for codes for any of the trades such as electrical, plumbing, mechanical, fire alarm, fire sprinkler, fencing, concrete, signs, lawn sprinkler, right-of-way, asbestos, drywall, roofing, siding and excavation.

S. It shall be the duty of every person receiving a license or registration pursuant to this chapter to exhibit any such license or registration upon request of a law enforcement officer or a duly appointed representative of the city.

T. All trades listed in § 15.04.140.C. must be licensed under this section, unless an exception applies. If a subcontractor is not licensed in violation of this section, the subcontractor and any general contractor are subject to sanctions as provided in this code.

U. It shall be within the discretion of the Building Official to suspend, revoke or refuse to issue or renew the license of any person who has been doing work without a permit as required by § 15.04.150.

V. It shall be within the discretion of the Building Official to suspend, revoke, or refuse to issue or approve any general building contractor or trade license if the Building Official finds the following:

1. Suspension, revocation or refusal to renew is in the public interest; and
2. Based upon evidence presented, the applicant or licensee:
 - a. Has filed an application for a license which is incomplete in any material respect or contains 1 or more statements which are false or misleading;
 - b. Has engaged in any fraudulent, deceptive, or dishonest act or practice in the performance of building contracting and/or the trade;
 - c. Has violated any applicable provision of this section, the Adopted Construction Codes, Rapid City Municipal Code, or state regulation or law;
 - d. Fails to maintain the requirements of licensure, including insurance, excise tax license or current phone and address as required by this chapter;
 - e. Fails to provide copies of records in his or her possession related to a matter under review;
 - f. Fails to pay fees in a timely manner;
 - g. Fails to respond to a lawful order or directive of the Building Official or the Building Board of Appeals; or
 - h. Fails to possess a valid state license for the particular trade, if such a license is required by state law.

W. A licensee who is the subject of a review by the Building Official shall cooperate fully with the Building Official. Cooperation includes, but is not limited to:

1. Responding fully and promptly to questions raised by the Building Official;
2. Providing copies of records in the person's possession relative to the matter under review, as requested by the Building Official; and
3. Appearing at conferences or hearings scheduled by the Building Official.

(Ord. 6277 (part), 2019; Ord. 6106, 2016; Ord. 5959 (part), 2013; Ord. 5928, 2013; Ord. 5889 (part), 2013)

15.04.110 Building Board of Appeals–Creation.

A. A board is hereby created by the city to be known as the Building Board of Appeals.

B. The Building Board of Appeals shall have oversight over the following codes:

1. International Building Code;
2. International Residential Code;
3. International Property Maintenance Code;
4. International Existing Building Code;
5. National Electrical Code as adopted by the State of South Dakota;
6. Rapid City Gas Code;
7. International Fuel Gas Code;
8. Uniform Plumbing Code as adopted by the State of South Dakota; and
9. International Mechanical Code.

C. Members of the Board shall be appointed by the Mayor and approved by the Common Council for terms of 3 years. The Board of Building Appeals shall be composed of 5 members who shall be qualified by experience and training to pass upon technical matters pertaining to building construction and who shall be appointed to the Board from the following groups:

1. One member and 1 alternate shall be a building contractor;
2. One member and 1 alternate shall be an electrical contractor or license holder with a minimum of 6 years of experience;
3. One member and 1 alternate shall be a plumbing contractor or license holder with a minimum of 6 years of experience;
4. One member and 1 alternate shall be a mechanical contractor or license holder with a minimum of 6 years of experience; and
5. One member and 1 alternate shall be a registered engineer.

D. No employee of any governmental entity, including the city, may serve as a voting or nonvoting, ex officio member of the Board. Members shall serve until their successors are qualified and appointed.

E. The Mayor with the confirmation of the Common Council shall after public hearing have authority to remove any member of the Commission for cause which cause shall be stated in writing and made a part of the record of the hearing.

F. The term of each Board member appointed and currently serving shall be continued until expiration of the original term, or until the members shall have resigned or been removed for cause. Each member appointed to the Board, including alternate members, shall be appointed for a term of 3 years to expire March 1 of the third year. The initial terms shall be staggered in accordance with the following schedule:

1. March 1, 2014 – Initial terms for registered engineer and alternate expire.

2. March 1, 2015 – Initial terms for mechanical contractor and alternate, and building contractor and alternate expire.

3. March 1, 2016 - Initial terms for plumbing contractor and alternate, and electrical contractor and alternate expire.

G. Three members of the Board shall constitute a quorum for the transaction of business.
(Ord. 5959 (part), 2013: Ord. 5889 (part), 2013)

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