AGENDA
PENNINGTON COUNTY PLANNING COMMISSION
January 27, 2020 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building

Recommendations of the Planning Commission on certain items from this agenda will be considered by the Board of Commissioners at their regular meeting on February 4, 2020, at 10:30 a.m. The Planning Commission utilizes Speaker Request Forms, which are available in the Commission Chambers during the meeting.

ROLL CALL

1. APPROVAL OF THE JANUARY 13, 2020, MINUTES

2. APPROVAL OF THE AGENDA

CONSENT AGENDA

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

3. CONDITIONAL USE PERMIT REVIEW / CU 14-01: PLM Investments LLC; Mary L. Riss. To review a single-wide mobile home, as single-family residence, to be located on each of the subject properties in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Lot A of Lot 12; Lot 2 of Lot A of Lot 12; and Lot 3 of Lot A of Lot 12, Plateau Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 14-01 with conditions.

4. CONDITIONAL USE PERMIT REVIEW / CU 17-27: Beverly Sears. To review an existing 12’ x 12’ structure to be used as a single-family residence in a Suburban Residential District in accordance with Sections 204, 208, and 510 of the Pennington County Zoning Ordinance.

Lots 22-23, Block, 8, Silver City Subdivision, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 17-27 with conditions.
5. **CONDITIONAL USE PERMIT REVIEW / CU 18-45**: Caputa Community Cemetery. To review a community cemetery in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All, Caputa Community Cemetery, Section 36, T1N, R9E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 18-45 with one (1) condition.

6. **CONDITIONAL USE PERMIT REVIEW / CU 18-46**: Brady and Liana Wolfe. To review a Guest House on the subject property in a Low Density Residential District in accordance with Sections 207, 318, and 510 of the Pennington County Zoning Ordinance.

Lot A Revised, Woodland Valley Subdivision, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 18-46 with conditions.

7. **CONDITIONAL USE PERMIT REVIEW / CU 18-47**: Kevin and Crystal McKinstry. To review an accessory structure, shed, prior to a principle structure in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 20, Block 1, Mesa View Estates Subdivision #1, Section 12, T1N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 18-47 with conditions.

8. **MINOR PLAT / MPL 19-45**: Duane and Margaret Gaulke. To combine lots to create Lot 18R of Gold Mountain Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 17 and Lot 18 of Gold Mountain, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 18R of Gold Mountain, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

To recommend approval of Minor Plat / MPL 19-45 with conditions.

9. **CONDITIONAL USE PERMIT / CU 19-35**: Shirley Brownell / Robert Brownell. To allow three seasonal rental cabins and to allow the existing single-family residence to be used as a caretaker/manager’s residence in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

N1/2SE1/4NE1/4, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend denial without prejudice of Conditional Use Permit / CU 19-35 with the applicant’s concurrence.
10. **REZONE / RZ 19-18**: Gorden and Jennifer Sabo. To rezone 40.00 acres from General Agriculture District to Limited Agriculture District in accordance with Sections 205, 206, and 508 of the Pennington County Zoning Ordinance.

NE1/4SE1/4, Section 8, T2S, R7E, BHM, Pennington County, South Dakota.

To recommend denial without prejudice of Rezone / RZ 19-18 with the applicant’s concurrence.

**END OF CONSENT AGENDA**

11. **MINING PERMIT / MP 20-01**: H & H Land Company #2, LLC / Pat Hall. To allow the extraction sand, gravel, and other rock material to be crushed and hauled off-site, to include stock piling of top soil.

NE1/4NE1/4, S1/2NE1/2, S1/2, Section 13, T1S, R9E; W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, T1S, R10E; All of Section 25, T1S, R9E, All of Section 24, T1S, R9E; NE1/4NW1/4, E1/2SW1/4, SE1/4, Lots 1, 3, and 4, Section 19, T1S, R10E; SE1/4NW1/4; GL 2, Section 19, T1S, R10E; PT GL 2; GL 3-4; SE1/4SW1/4, Section 18, T1S, R10E; E1/2NE1/4, Section 26, T1S, R9E, BHM, Pennington County, South Dakota.

12. **MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 19-09**: Donna Hartshorn. To amend an existing Planned Unit Development Overlay to allow for seasonal commercial recreation and amusement structures to include racetracks, miniature golf, paintball, arcade games, and to allow five (5) lighted, on-premise signs to be located within 1,500 feet of a residential district and/or dwelling unit in accordance with §213 of the Pennington County Zoning Ordinance.

Lot 4 of Tract E of Government Lot 2 of NW1/4SE1/4, NE1/4SW1/4 and SW1/4SE1/4; and NE1/4SE1/4 less Lot 1, Tract D of NW1/4SE1/4 less Lot 1, all located in Section 3, T1S, R7E, BHM, Pennington County, South Dakota.

**CONSTRUCTION PERMIT AGENDA**

The following items have been placed on the Construction Permit Agenda to be heard for public comment and will not be voted on by the Planning Commission. Any Planning Commissioner, staff member, or audience member may comment on any of the items. Comments received will be considered by the Planning Director who will make the final decision on the Construction Permit.

13. **CONSTRUCTION PERMIT / CP 20-01**: H & H Land Company #2, LLC / Pat Hall. To allow construction activities associated with a sand, gravel, and rock mining operation.

NE1/4NE1/4, S1/2N1/2, S1/2, Section 13, T1S, R9E; W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, T1S, R10E; All of Section 25, T1S, R9E, All of Section 24, T1S, R9E; NE1/4NW1/4, E1/2SW1/4, SE1/4, Lots 1, 3, and 4, Section 19, T1S, R10E; SE1/4NW1/4; GL 2, Section 19, T1S, R10E; PT GL 2; GL 3-4; SE1/4SW1/4, Section 18, T1S, R10E; E1/2NE1/4, Section 26, T1S, R9E, BHM, Pennington County, South Dakota.
14. COUNTY BOARD REPORT
The Board of Commissioners concurred with the Planning Commission’s recommendations from the January 13, 2020, Planning Commission meeting.

15. ITEMS FROM THE PUBLIC

16. ITEMS FROM THE STAFF
   A. Comprehensive Plan “View to 2040” – Board of Commissioner’s meeting.

17. ITEMS FROM THE MEMBERSHIP

18. ADJOURNMENT

ADA Compliance: Pennington County fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Planning Department so that appropriate auxiliary aids and services are available.
DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
January 13, 2020 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building


STAFF PRESENT: Brittney Molitor, Kristina Projetti, Stephanie Jansen, Cody Sack, Jason Theunissen, Michaele Hofmann (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE DECEMBER 16, 2019, MINUTES
Moved by Lasser and seconded by DiSanto to approve the Minutes of the December 16, 2019, Planning Commission meeting. Vote: unanimous 7 to 0.

2. APPROVAL OF THE AGENDA
Moved by Coleman and seconded by Lasser to approve the Agenda of the January 13, 2020, Planning Commission meeting. Vote: unanimous 7 to 0.

Moved by Coleman and seconded by Lasser to approve the Consent Agenda of the January 13, 2020, 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 are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. CONDITIONAL USE PERMIT REVIEW / CU 18-43: Border States Paving. To review a temporary asphalt batch plant and contractor’s storage area on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

NE1/4NE1/4 Less Lot H-1; N1/2NW1/4 Less Lot H-1, Section 12, T4S, R17E, BHM, Pennington County, South Dakota.

(Continued from the December 2, 2019, Planning Commission meeting.)

To end Conditional Use Permit / CU 18-43 with the applicant and landowner's concurrence.

Vote: unanimous 7 to 0.
4. **CONDITIONAL USE PERMIT / CU 19-36**: Black Hill Power; Kyle Young - Agent. To allow for an electrical utility substation on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All Except That Tract of Land Located in the SE Corner Being 33.01 ft x 233 ft, Section 19, T1N, R7E, BHM, Pennington County, South Dakota

To approve of Conditional Use Permit / CU 19-36 with the following seven (7) conditions:

1. That Building Permits be obtained for any structure exceeding 144 square feet and permanently anchored to the ground, which includes necessary site plans to be reviewed and approved by the Planning Director;

2. That the landowner apply for Building Permits for the doublewide mobile home, 30’ x 64’ farm utility building, and 12’ x 15’ tool shed and pay any associated penalty fees within 30 days of CU 19-34 being approved;

3. That an address be assigned to the facility and be posted in accordance with Pennington County Ordinance #20;

4. That reasonable steps be taken to reduce light and sound emissions from the facility;

5. That the installation of any additional electrical substations or associated equipment will require this permit to be reviewed;

6. That the applicant receives an approved County Construction Permit prior to excavating, clearing, or disturbing more than or equal to 10,000 square feet of land; and,

7. 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 to verify compliance with the above-mentioned Conditions of Approval.

Vote: unanimous 7 to 0.

5. **MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 19-07**: Lloyd and Catherine Marti. To allow a garage (accessory structure) prior to a principal structure on the subject property in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 2, Block 1, Holy Cow Ranch Subdivision #2, Section 25, T1N, R8E, BHM, Pennington County, South Dakota
To approve of Minor Planned Unit Development Amendment / PU 19-07 with the following (10) conditions.

1. That the Conditions of Approval of Planned Unit Development / PU 06-06 be continually adhered to;

2. That an approved Building Permit be obtained for the proposed garage prior to any construction, which requires a site plan to be reviewed and approved by the Planning Director;

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 an approved On-Site Wastewater Construction Permit be obtained prior to the installation of an On-Site Wastewater Treatment System on the property;

5. That if any plumbing is to be installed in the accessory structure, the garage, it be hooked into an approved means of wastewater disposal;

6. That the proposed garage be used for personal use only and no commercial-type uses;

7. That all the natural drainage paths be maintained;

8. That the address, once assigned, be posted during the construction of the garage, so it is visible from both directions of travel on Redemption Road in accordance with Pennington County’s Ordinance #20;

9. That the required minimum setbacks for all structures be a minimum of 25 feet from all property lines; and,

10. That this Planned Unit Development be reviewed in two (2), years on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA
MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 19-08: Joel and Elizabeth Morris. To live in a Recreational Vehicle as temporary living quarters, while building a single-family residence on the subject property in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 10, Block 4, Sunset Ranch Subdivision, Section 32, T2N, R10E, BHM, Pennington County, South Dakota

Commissioner Marsh asked to have this Item removed from the Consent Agenda for discussion.

Staff recommended approval of Minor Planned Unit Development Amendment / PU 19-08 with twenty-five (25) conditions.

Discussion followed.

Moved by DiSanto and seconded by Lasseter to approve of Minor Planned Unit Development Amendment / PU 19-08 with the following twenty-five (25) conditions:

1. The density of the Planned Unit Development shall not exceed 148 residential lots;

2. That the common areas include a golf driving range, mini golf course, hiking-biking trails, frisbee course, picnic area, picnic shelter, recreation pond/lake, archery area, exercise/community building, pool/water park, kid play equipment, softball field, football field, basketball court, tennis court, volleyball court, skate park, garden plots, hobby plane/paraplane flying area, horseshoe pits and paintball area;

3. That a horse boarding/arena/barn be allowed on Common Lot 1, Block 1 and that the horse area be for the residents of the Sunset Ranch and their guests;

4. That a BMX racetrack, motor cross and ATV track be allowed on Common Lot 16, Block 6 and that the racetracks be for the residents of the Sunset Ranch and their guests only;

5. That the Special Animal Keeping Regulations, as outlined in Section 204 of the Pennington County Zoning Ordinance and no more than one (1) large animal be housed on three (3) acres, be continually followed;

6. The minimum lot size for the development shall five (5) acres;

7. That a minimum of eighty (80) acres is maintained as Common area;

8. The approved uses of the Planned Unit Development shall be for up to 148 stick-built, single-family residences and accessory structures;
9. All residences must meet the standards for stick-built and manufactured homes as outlined in Section 204;

10. The applicant submits an engineered individual wastewater disposal system to be approved by the Pennington County Environmental Planner;

11. That the entire portion of 156th Avenue to 229th Street be paved and improved in accordance with the approved Construction Plans prior to issuance of the fifty-first (51st) Building Permit or Surety be posted that will expire within six (6) months after the issuance of the fifty-first (51st) Building Permit;

12. That the applicant obtains an approved Floodplain Development Permit for any construction work within the 100-year floodplain;

13. That prior to platting, the applicant provides documentation from Dakota, Minnesota & Eastern Railroad allowing the two (2) primary routes through the railroad right-of-way;

14. That prior to any plat approval, the applicant provide lighted warning devices at the two (2) primary route crossings through DM&E railroad right-of-way;

15. That 229th Street is maintained according to Ordinance 14 Standards;

16. That prior to County Board approval of the Planned Unit Development, the applicant shall submit a Fire Protection Plan for review and approval by the Pennington County Fire Coordinator. The Pennington County Fire Coordinator will determine the number of fire hydrants and exact locations;

17. The minimum setbacks for the Planned Unit Development shall be twenty-five (25) feet from all property lines and fifty-eight (58) feet from all Section Lines;

18. That a Homeowner’s Association be created for the maintenance of the road, community water system, and all use within the common areas;

19. That one wind generator be allowed on each lot and the wind generator not exceed a height of 55 feet;

20. That the applicant signs a Noxious Weed Plan to control noxious weeds located on the property;

21. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property during construction of the barn and/or single-family residence;
22. That the address assigned for the property be clearly posted on the RV while it is being utilized as living quarters, in accordance with Pennington County’s Ordinance #20;

23. That the RV being used as a temporary residence be hooked into an approved On-Site Wastewater Treatment System until the single-family residence is habitable;

24. That this Planned Unit Development Amendment is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,

25. That this Planned Unit Development Amendment be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met; and,

All voting aye, the Motion carried 7 to 0.

7. PLANNED UNIT DEVELOPMENT REVIEW / PU 06-07: Rapid City MHP, LLC. (Cimarron Mobile Home Park). To review a Planned Unit Development to allow a mobile home park in accordance with Section 213 of the Pennington County Zoning Ordinance.

Tract C of Lot B of NE1/4 NW1/4 less Pengra Subdivision, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

(Continued from the December 16, 2019, Planning Commission meeting.)

Proietti reviewed the Staff Report and stated Staff recommended Planned Unit Development / PU 06-07 is turned over to the State’s Attorney’s Office for further action to bring the mobile home park into compliance, based upon non-compliance of the property owner. Staff is now recommending approval of the extension of Planned Unit Development / PU 06-07 with twenty-one (21) conditions.

Discussion followed.

Moved by Lasseter and seconded by Coleman to approve of the extension of Planned Unit Development / PU 06-07 with the following twenty-one (21) conditions:

1. That the PUD has a maximum of 51 mobile home spaces, one duplex, two stick-built structures and a total of 75 storage units;

2. That each mobile home space be allowed one mobile home, manufactured home or modular home (single-wide or double-wide);

3. That the mobile homes shall have a minimum 20-foot separation between units;
4. That decks and/or porches be allowed as accessory structures to each mobile home;

5. That the mobile homes shall have a minimum front yard setback of ten (10) feet from all access roads within the mobile home park and a setback of twenty-five (25) feet from exterior property lines;

6. That the mobile homes maintain a minimum ten (10) foot rear yard and side yard setback from interior lot lines;

7. That each mobile home space has a minimum of two (2) off-street parking spaces, and that each parking space shall not be less than nine (9) feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use;

8. That 13 visitor parking spaces are provided. Each space must measure a minimum of 9 feet x 18 feet, be surfaced in gravel, concrete or asphalt and maintained in a dust free manner;

9. That a Building Permit shall be obtained for the removal or placement of mobile homes or manufactured homes on the property;

10. That a Building Permit be obtained for structures exceeding 144 square feet or located on a permanent foundation which will require a site plan to be reviewed and approved by the Planning Director;

11. That the mobile home park be provided with an on-site management office;

12. That all the interior streets shall be a minimum of 25 feet in width and surfaced with gravel, concrete or asphalt and maintained in a dust free manner as required by Section 305;

13. That prior to the placement of mobile homes or any other structures within the 100-year floodplain, a Floodplain Development Permit shall be submitted for review and approval;

14. That prior to any repair or replacement of the wastewater disposal system, the S.D. Department of Environment and Natural Resources and the Pennington County Environmental Technician shall review and approve the work and a Floodplain Development Permit shall be obtained for any work within the 100-year floodplain;

15. That the storage units be used exclusively for storage and not retail business activities;

16. That each unit has an individual address that must be posted in accordance with Pennington County Ordinance Amendment #20;
17. That the Planning Director may allow additional development or construction which is consistent with the existing development on this property; significant changes in the use or impacts on adjacent land uses as determined by the Planning Director shall require an amendment to this Planned Unit Development;

18. That a map be submitted to Rapid City’s GIS Department showing the addresses for each lot within the mobile home park; and,

19. That the first 100 feet off of Sturgis Road be hard surfaced.

20. That the applicant signs the Statement of Understanding within fourteen (14) business days of approval of Planned Unit Development / PU 06-07; and,

21. That this Planned Unit Development be reviewed in six (6) months, 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.

All voting aye, the Motion carried 7 to 0.

8. LAYOUT PLAT / LPL 19-44: Gorden and Jennifer Sabo. To subdivide and create Lots 1, 2, and 3 of Hideaway Hills Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations

EXISTING LEGAL: NE1/4SE1/4, Section 8, T2S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, and 3 of Hideaway Hills Subdivision, Section 8, T2S, R7E, BHM, Pennington County, South Dakota.

Proietti reviewed that the surveyor and applicant will be resubmitting a new Layout Plat request for the creation of the three lots, as the lot lines and lot sizes will be changing. Proietti further asked that Layout Plat / LPL 19-44 be denied without prejudice.

Moved by Coleman and seconded by Lasseter to deny without prejudice Layout Plat / LPL 19-44.

All voting aye, the Motion carried 7 to 0.

9. CONDITIONAL USE PERMIT / CU 19-34: Lloyd and Pamala LaCroix. To allow an existing residence to be used as a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 1-B, Elkhorn Mountain View Estates, Section 32, T1S, R5E, BHM, Pennington County, South Dakota.
Theunissen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow the existing residence to be used as a Vacation Home Rental.

Staff recommended approval of Conditional Use Permit / CU 19-34 with the following sixteen (16) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) §319(F)(13);

2. That if an addition is constructed on the single-family residence and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

3. That the proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;

4. That each review of Conditional Use Permit / CU 19-34, be subject to PCZO §511(F)(4), which includes a $100 fee per review;

5. That the applicant continually maintains 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;

6. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency;

7. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO §310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

8. That an interior informational sign be posted in accordance with the requirements of PCZO §319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff’s Office, during operation of the Vacation Home Rental;

9. That the lot address (12558 Ford Mountain Court) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Ford Mountain Court, in accordance with Pennington County Ordinance #20;
10. That the applicant ensures the Vacation Home Rental is continually operated in accordance with the requirements of PCZO §319(F) (Performance Standards) at all times;

11. That if the person designated as the Local Contact is ever changed from Lloyd LaCroix, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

12. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;

13. That an approved Sign Permit be obtained prior to the placement of any sign(s);

14. That the applicant apply for a Building Permit for the 10’ x 24’ shed and pay any associated penalty fees within 30 days of CU 19-34 being approved;

15. That an approved Building Permit be obtained for any future structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,

16. That this Conditional Use Permit be reviewed in one (1) year, 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.

Discussion followed.

Moved by DiSanto and seconded by Lasseter to approve of Conditional Use Permit 19-34 and to remove Condition #14 from the original Conditions of Approval and to add a condition to state: “That if the property is sold or transferred, the Conditional Use Permit for a Vacation Home Rental shall end.”

Discussion further followed.

SUBSTITUTE MOTION: Moved by DiSanto and seconded by Coleman to approve of Conditional Use Permit / CU 19-34 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) §319(F)(13);

2. That if an addition is constructed on the single-family residence and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;
3. That the proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;

4. That each review of Conditional Use Permit / CU 19-34, be subject to PCZO §511(F)(4), which includes a $100 fee per review;

5. That the applicant continually maintains 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;

6. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency;

7. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO §310(A)(9)(g), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

8. That an interior informational sign be posted in accordance with the requirements of PCZO §319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff's Office, during operation of the Vacation Home Rental;

9. That the lot address (12558 Ford Mountain Court) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Ford Mountain Court, in accordance with Pennington County Ordinance #20;

10. That the applicant ensures the Vacation Home Rental is continually operated in accordance with the requirements of PCZO §319(F) (Performance Standards) at all times;

11. That if the person designated as the Local Contact is ever changed from Lloyd LaCroix, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

12. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;

13. That an approved Sign Permit be obtained prior to the placement of any sign(s);

14. That an approved Building Permit be obtained for any future structure(s) exceeding 144 square feet or permanently anchored to the ground, which
requires a site plan to be reviewed and approved by the Planning Director; and,

15. That this Conditional Use Permit be reviewed in one (1) year, 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.

All voting aye, the Motion carried 7 to 0.

10. REZONE / RZ 19-17 AND COMPREHENSIVE PLAN AMENDMENT / CA 19-17: David and Mary Grover. To rezone 12.83 acres from General Agriculture District to Low Density Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Low Density Residential District in accordance with Sections 205, 207, 213, and 508 of the Pennington County Zoning Ordinance.

Lot 1, Buzmar Subdivision, Section 32, T1S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied to rezone 12.83 acres from General Agriculture District to Low Density Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Low Density Residential District.

Staff recommended approval of Rezone / RZ 19-17 and Comprehensive Plan Amendment / CA 19-17.

Discussion followed.

Moved by Runde and seconded by Coleman to approve of Rezone / RZ 19-17 and Comprehensive Plan Amendment / CA 19-17.

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

11. CONDITIONAL USE PERMIT / CU 18-38: Daniel Johnson, Highmark Properties, LLC. To allow a Specialty Resort in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot A of Lot 1 less of Highway 385, Walker Placer MS 551, Section 12, T2S, R4E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a Specialty Resort.

Staff recommended approval of Conditional Use Permit / CU 18-38 with the following sixteen (16) conditions:
1. That the maximum overnight occupancy for the Specialty Resort be limited to ten (10) people (total includes both units);

2. That an approved FLPMA Private Road Easement be maintained at all times with the United States Forest Service;

3. That the applicant provide a cell phone booster for the Specialty Resort to ensure that adequate cell phone service is available, in case of an emergency;

4. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

5. That all necessary permits are obtained prior to any additions to the structure or upgrades/alterations to the on-site wastewater treatment system;

6. That the applicant continually 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;

7. That the applicant continually maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;

8. That a minimum of four (4) off-street parking spaces continue to be provided on-site each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

9. That an interior informational sign be posted on each level of the structure with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff’s Department, during operation of the Specialty Resort. The interior informational sign must also contain a color map illustrating the Special Flood Hazard Area, as determined by FEMA;

10. That the lot address be posted for each unit on the Specialty Resort at all times, at the split in the driveway, and so that it is clearly visible from Highway 385, in accordance with Pennington County’s Ordinance #20;

11. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:05, which regulates Specialty Resorts;

12. That an approved Sign Permit be obtained prior to the placement of any on premise sign(s);
13. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of either the Floodway or Special Flood Hazard Area located on the subject property;

14. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

15. That Conditional Use Permit / CU 17-30 and Conditional Use Permit / CU 17-38 end as they are no longer needed with the approval of Conditional Use Permit / CU 18-38; and,

16. That this Conditional Use Permit be reviewed in one (1) year, 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.

Discussion followed.

Moved by Runde and seconded Johnson to approve of Conditional Use Permit / CU 18-38 with the following sixteen (16) conditions:

1. That the maximum overnight occupancy for the Specialty Resort be limited to ten (10) people (total includes both units);

2. That an approved FLPMA Private Road Easement be maintained at all times with the United States Forest Service;

3. That the applicant provide a cell phone booster for the Specialty Resort to ensure that adequate cell phone service is available, in case of an emergency;

4. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

5. That all necessary permits are obtained prior to any additions to the structure or upgrades/alterations to the on-site wastewater treatment system;

6. That the applicant continually 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;

7. That the applicant continually maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
8. That a minimum of four (4) off-street parking spaces continue to be provided on-site each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

9. That an interior informational sign be posted on each level of the structure with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff’s Department, during operation of the Specialty Resort. The interior informational sign must also contain a color map illustrating the Special Flood Hazard Area, as determined by FEMA;

10. That the lot address be posted for each unit on the Specialty Resort at all times, at the split in the driveway, and so that it is clearly visible from Highway 385, in accordance with Pennington County’s Ordinance #20;

11. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:05, which regulates Specialty Resorts;

12. That an approved Sign Permit be obtained prior to the placement of any on premise sign(s);

13. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of either the Floodway or Special Flood Hazard Area located on the subject property;

14. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

15. That Conditional Use Permit / CU 17-30 and Conditional Use Permit / CU 17-38 end as they are no longer needed with the approval of Conditional Use Permit / CU 18-38; and,

16. That this Conditional Use Permit be reviewed in one (1) year, 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.

All voting aye, the Motion carried 7 to 0.

12. MOTION TO SCHEDULE A HEARING OF THE PENNINGTON COUNTY COMPREHENSIVE PLAN “VIEW TO 2040" TO AMEND AND SUPERSEDE PENNINGTON COUNTY’S EXISTING COMPREHENSIVE PLAN.

Moved by DiSanto and seconded by Lasseter to schedule a hearing on February 24, 2020, at 9 a.m. to review the draft Comprehensive Plan “View to 2040” to amend and supersede Pennington County’s existing Comprehensive Plan.
CONSTRUCTION PERMIT AGENDA

The following items have been placed on the Construction Permit Agenda to be heard for public comment and will not be voted on by the Planning Commission. Any Planning Commissioner, staff member, or audience member may comment on any of the items. Comments received will be considered by the Planning Director who will make the final decision on the Construction Permit.

13. CONSTRUCTION PERMIT / CP 19-20: Black Hills Power. To construct an access road and to grade a site for a proposed electric utility substation.

All Except That Tract of Land Located in the SE Corner Being 33.01 ft x 233 ft, Section 19, T1N, R7E, BHM, Pennington County, South Dakota.

Sack stated Staff recommended the Interim Planning Director approve Construction Permit / CP 19-20 with the following thirteen (13) conditions:

1. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction and that the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;

2. That the applicant submits a Notice of Intent for the SDDENR General Stormwater Permit within thirty (30) days off approval;

3. That the applicants provide the pre and post construction water quality capture volume data to the Planning Department within thirty (30) days of approval;

4. That erosion control measures, such as seeding and mulching the disturbed area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the Construction Activity has stopped. All erosion control methods (mulch and seed) need to be certified noxious weed-free;

5. That erosion control measures are implemented immediately and maintained until the site has been revegetated in accordance with § 507(A)(5)(c);

6. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c);

7. That the requirements, guidelines, and criteria for stormwater and erosion and sediment control in the Pennington County Stormwater Manual shall be followed;

8. That weed free seed or mulch be used when re-seeding and any equipment coming onto the site is clean of earthen material and noxious weeds;

9. That all natural drainage ways and paths be continually maintained;

16
10. That the owner or designee must inspect the site at least once every 7 calendar days or every 14 calendar days and within 24 hours of the end of a storm event that exceeds 0.25 inches or snowmelt that generates runoff. A properly maintained rain gauge must be kept on the site. Inspection reports must be submitted to the Planning Director every month during construction;

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 applicant signs a Statement of Understanding within ten (10) days of Permit approval which is available in the Planning Office; and,

13. That this Construction Permit is reviewed in six (6) months, on a complaint basis, or as directed by the Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

14. CONSTRUCTION PERMIT / CP 19-21: Dakota Stone Mining & Stone Supply / James Dean. To allow construction activities associated with the expansion of the Upper Spring Creek Mine.

All of Section 3, T2S, R3E, BHM, Pennington County, South Dakota.

Sack stated Staff recommended the Interim Planning Director approve Construction Permit / CP 19-21 with the following ten (10) conditions:

1. That the Conditions of the Approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;

2. That the applicant follows the Forest Service’s Operating Plan for the Upper Spring Creek Quarry;

3. That a copy of any inspection performed by the State of South Dakota or the U.S Forest Service be submitted to the Planning Department;

4. That the Conditions of Approval of Mining Permit / MP 19-01 are continually met;

5. That any natural drainage ways and paths be continually maintained;

6. The requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;

7. That the site shall be re-vegetated as required under § 507(A)(5)(c);

8. That if there is a change in the floodplain or the work within the floodplain, the applicant updates their Floodplain Development Permit;

9. That the applicant signs a Statement of Understanding within ten (10) business days of Mining Permit approval, which is available at the Planning Office; and,

10. That this Construction Permit be reviewed in six (6) months from approval date, and may be reviewed on a complaint basis, or as directed by the Planning
Commission and/or the Board of Commissioners to verify that all Conditions of Approval are being met.

15. COUNTY BOARD REPORT
The Board of Commissioners concurred with the Planning Commission’s recommendations from the December 2, 2019, and December 16, 2019, Planning Commission meetings.

16. ITEMS FROM THE PUBLIC
Mr. Jerry Watson spoke of dirt disturbance on the property located at 3800 Marvin Road.

17. ITEMS FROM THE STAFF
B. Cody Schad – Construction Permit / Mining Permit. The Planning Department reviewed Mr. Schad’s Construction and Mining Permits with the Planning Commission and members of the public.

Commissioner Runde left the meeting at 11:16 a.m.
Commissioner Runde returned to the meeting at 11:18 a.m.

C. New Planning Department Employee. Molitor introduced Stephanie Jansen, the new Planner I for the Planning Department.
D. Part-Time Planning Department Employee. Molitor stated that Kelsey Rausch will working part-time for the Planning Department starting at the end of January.

18. ITEMS FROM THE MEMBERSHIP
Commissioner Marsh spoke of the Planning Director position.

19. ADJOURNMENT
Moved by Coleman and seconded by Lasseter to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at 11:29 a.m.

Rich Marsh, Chairperson
GENERAL INFORMATION:

REQUEST:  
CONDITIONAL USE PERMIT REVIEW/ CU 14-01: To review three (3) single-wide mobile homes, as single-family residences, to be located on each of the subject properties in a Suburban Residential District in accordance with Sections 208, 304, and 510 of the Pennington County Zoning Ordinance.

APPLICANT:  
PLM Investments LLC

APPLICANT ADDRESS:  
1402 W Rapid St., Rapid City, SD 57701

LANDOWNER:  
Mary L. Riss

LANDOWNER ADDRESS:  
1402 W Rapid, Rapid City, SD 57701

LEGAL DESCRIPTION:  
Lot 1 of Lot A of Lot 12; Lot 2 of Lot A of Lot 12; and Lot 3 of Lot A of Lot 12, Plateau Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

SITE LOCATION:  
4695 Carol Street; 4711 Carol Street; and 4727 Carol Street; approximately one-tenth (.1) of a mile west of the intersection of Plateau Lane and Carol Street in Rapid Valley

SIZE:  
0.38 acre, 0.47 acre, 0.37 acre

TAX ID:  
49103, 49104, 49105

EXISTING LAND USE:  
Residential

ZONING REFERENCE:  
§ 208, 304, and 510

CURRENT ZONING:  
Suburban Residential District

SURROUNDING ZONING:  
North  Suburban Residential District
South  Suburban Residential District
East  Suburban Residential District
West  Suburban Residential District
I. PROPOSED RECOMMENDATION
   A. Staff recommends approval of the extension of Conditional Use Permit / CU 14-01 with nine (9) conditions.

II. GENERAL DESCRIPTION
   A. February 10, 2014, Conditional Use Permit / CU 14-01 was approved by the Planning Commission with the following ten (10) conditions:
      1. That each lot address (4695, 4711, and 4727) be clearly posted, on their respective lots, so as to be visible from both directions on Carol Street in accordance with Pennington County’s Ordinance #20;
      2. That Removal/Demolition Permits be obtained for each of the single wide mobile homes prior to approval of a Building Permit for each of the new single-wide mobile homes;
      3. That each lot remain debris free, to a condition satisfactory to the Ordinance Enforcement Officer, prior to the issuance of Building Permits to place the new SWMHs on the subject properties;
      4. That all subject properties remain free of debris and junk vehicles;
      5. That each mobile home installed on the property, as replacements for the existing SWMHs, have peaked non-reflective type roofs and wood or simulated wood-type siding that are continually maintained;
      6. That the minimum setback requirements of a Suburban Residential District be continually maintained on each property;
      7. That two (2) off-street parking spaces be continually provided, on each of the subject properties, in accordance with Section 310 of the Pennington County Zoning Ordinance;
      8. That if any land disturbance occurs, erosion, stabilization and sediment control measures (i.e. silt fence, wattles, erosion mats/blankets) be implemented;
      9. That the removal/demolition of the three mobile homes needs to be completed within ninety (90) days of receiving the Removal/Demolition Permit; and,
      10. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission to verify that all conditions of approval are being met.
   B. January 26, 2015, CU 14-01 was reviewed and extended by the Planning Commission with the following ten (10) conditions:
1. That address 4711 be clearly marked no later than February 13, 2015 and visible from both directions on Carol Street in accordance with Pennington County’s Ordinance #20;

2. That each lot address (4695, 4711 and 4727) be clearly posted, on their respective lots, so as to be visible from both directions on Carol Street in accordance with Pennington County’s Ordinance #20;

3. That Removal/Demolition Permits be obtained for each of the single-wide mobile homes prior to approval of a Building Permit for each of the new single-wide mobile homes;

4. That all subject properties remain free of debris and junk vehicles;

5. That each home installed on the property, as replacements for the existing SWMHs, have peaked non-reflective type roofs and wood or simulated wood-type siding that are continually maintained;

6. That the minimum setback requirements of a Suburban Residential District be continually maintained on each property;

7. That two (2) off-street parking spaces be continually provided, on each of the subject properties, in accordance with Section 310 of the Pennington County Zoning Ordinance;

8. That if any land disturbance occurs, erosion, stabilization and sediment control measures (i.e. silt fence, wattles, erosion mats/blankets) be implemented;

9. That the removal/demolition of the two remaining mobile homes needs to be completed within ninety (90) days of receiving the Removal/Demolition Permit; and,

10. That this Conditional Use Permit be reviewed in December 2016, on a complaint basis, or as directed by the Pennington County Board of Commissioners and/or Planning Commission to verify that all conditions of approval are being met.

C. December 5, 2016, Conditional Use Permit 14-01 was reviewed and extended by the Planning Commission with the following ten (10) conditions:

1. That each lot address (4695, 4711 and 4727) continue to be clearly posted, on their respective lots, so as to be visible from both directions on Carol Street in accordance with Pennington County’s Ordinance #20;

2. That Removal/Demolition Permits be obtained for each of the single-wide mobile homes prior to approval of a Building Permit for each of the new single-wide mobile homes;

3. That all subject properties continue to remain free of debris and junk vehicles;

4. That each home installed on the property, as replacements for the existing SWMHs, have peaked non-reflective type roofs and wood or simulated wood-type siding that are continually maintained;

5. That the minimum setback requirements of a Suburban Residential District to be continually maintained on each property;
6. That two (2) off-street parking spaces be continually provided, on each of the subject properties, in accordance with Section 310 of the Pennington County Zoning Ordinance;

7. That if any land disturbance occurs, erosion, stabilization and sediment control measures (i.e. silt fence, wattles, erosion mats/blankets) be implemented;

8. That the removal/demolition of the two remaining mobile homes (4695 and 4727 Carol Street) need to be completed within ninety (90) days of receiving the Removal/Demolition Permit; and,

9. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as directed by the Pennington County Board of Commissioners and/or Planning Commission to verify that all conditions of approval are being met.

III. EXISTING CONDITIONS
   A. The plat of Lots 1, 2, and 3 of Lot A of Lot 12 of Plateau Subdivision was filed at the Register of Deeds on December 21, 1995 (Book 27, Page 67).
   B. 4695 Carol Street
      1. 12’ x 56’ single-wide mobile home was placed in 1970, according to the Department of Equalization (DOE) records. There is no Building Permit on file because it was installed prior to 1994.
   C. 4711 Carol Street
      1. Previous single-wide mobile home (SWMH) removed (COBP14-0004).
      2. 14’ x 72’ SWMH and 6’ x 10’ deck (COBP14-0056).
   D. 4727 Carol Street
      1. 12’ x 52’ single-wide mobile home was placed in 1970, according to DOE records. There is no Building Permit on file because it was installed prior to 1994.
      2. 15’ x 16’ tool shed built in 1985, no Building Permit on file because it was built prior to 1994.

IV. ANALYSIS
   A. January 7, 2020 – Staff performed a site visit to the subject property.
      1. Staff verified that all three (3) addresses are posted on each residence, which meets the requirements in Condition #1.
      2. All three (3) properties appear to be free of debris and junk vehicles, which meets the requirement of Condition #3.
      3. The new single-wide mobile home (4711 Carol Street) has a peaked, non-reflective type roof and wood or simulated wood-type siding which meets the requirements in Condition #4.
      4. All three (3) properties appear to be meeting the minimum setback requirements of a Suburban Residential District, which meets the requirements of Condition #5.
5. There appears to be two (2) off-street parking spaces for each property, which meets the requirements of Condition #6.

6. There does not appear to be any land disturbance, therefore, no erosion control measures are necessary, which meets the requirements of Condition #7.

7. The two (2) remaining original mobile homes have not been replaced and do not yet have Removal/Demolition Permits, therefore, Condition #2 will remain.

Picture 1: 4695 Carol Street

Picture 2: 4711 Carol Street
RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 14-01 with the following nine (9) conditions:

1. That each lot address (4695, 4711 and 4727) continues to be clearly posted, on their respective lots, so as to be visible from both directions of travel on Carol Street in accordance with Pennington County Ordinance #20;

2. That Removal/Demolition Permits be obtained for each of the single-wide mobile homes prior to approval of a Building Permit for any new single-wide mobile homes;

3. That all subject properties continue to remain free of debris and junk vehicles;

4. That each home installed on the property, as replacements for the existing SWMHs, have peaked non-reflective type roofs and wood or simulated wood-type siding that are continually maintained;

5. That the minimum setback requirements of a Suburban Residential District continue to be maintained;

6. That two (2) off-street parking spaces continue to be provided on each of the subject properties, in accordance with Section 310 of the Pennington County Zoning Ordinance;

7. That if any land disturbance occurs, erosion, stabilization and sediment control measures (i.e. silt fence, wattles, erosion mats/blankets) be implemented;
8. That the removal/demolition of the two remaining mobile homes (4695 and 4727 Carol Street) need to be completed within ninety (90) days of receiving the Removal/Demolition Permit; and,

9. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as directed by the Pennington County Board of Commissioners and/or Planning Commission to verify that all conditions of approval are being met.
GENERAL INFORMATION:

REQUEST:  

CONDITIONAL USE PERMIT REVIEW / CU 17-27: To review a 12' x 12' structure used as a single-family residence in a Suburban Residential District in accordance with Sections 204, 208, and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Beverly Sears

APPLICANT ADDRESS: 310 Cleveland Street, Rapid City, SD  57701

AGENT: Mike Sears

AGENT ADDRESS: 4449 Hamilton #3, San Diego, CA  92116

LEGAL DESCRIPTION: Lots 22-23, Block, 8, Silver City Subdivision, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

SITE LOCATION: 9106 Main Street (Silver City)

SIZE: 0.11 acre

TAX ID: 8869

EXISTING LAND USE: Residential

ZONING REFERENCE: §§ 204, 208, and 510

CURRENT ZONING: Suburban Residential District

SURROUNDING ZONING:

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<th>North</th>
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<th>East</th>
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PHYSICAL CHARACTERISTICS: Flat / Trees

UTILITIES: Private
Agenda Item #4  
Beverly Sears  
January 27, 2020

REPORT BY:  

Jason Theunissen

I. PROPOSED RECOMMENDATION  
A. Staff is recommending approval of the extension of Conditional Use Permit / CU 17-27 with conditions.

II. GENERAL DESCRIPTION  
A. The applicant, Beverly Sears, requested to utilize an existing 12' x 12' structure as a single-family residence (i.e. cabin) in a Suburban Residential District.  
B. The property is located in Silver City.

III. EXISTING CONDITIONS  
A. 0.11 acre.  
B. Zoned Suburban Residential.  
C. No Special Flood Hazard Area.  
D. Access is off of Main Street (Silver City).  
E. Lot contains:  
   1. A 12' by 12' structure with an attached deck.  
      a. County Building Permit COBP18-0689.  
   2. An outhouse structure (converted to a storage shed).
Agenda Item #4
Beverly Sears
January 27, 2020

Site visit, 12.30.19

Site visit, 12.30.19
IV. PROPERTY HISTORY

A. May 17, 2013 – Staff performed a site visit to the subject property. The property had a structure (playhouse) located on it. The applicant indicated that it was a playhouse for her granddaughters.

1. Staff had received complaints that it had been used as sleeping quarters. If the structure was used as sleeping quarters, some type of wastewater treatment system to accommodate the use as sleeping quarters had to be installed. Staff recommended that the structure not be utilized as sleeping quarters.

B. May 28, 2013 – the Planning Commission approved Conditional Use Permit / CU 13-09 to allow an accessory structure with the following six (6) conditions:

1. That the structure not be used as living quarters or sleeping quarters;

2. That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Main Street in accordance with Pennington County Ordinance #20;

3. That prior to approval of the CUP, the outhouse must be removed or filled in and verified by the environmental planner;

4. That if any plumbing is to be installed in the accessory structures, it be hooked into an approved means of wastewater disposal. If an on-site wastewater treatment system is to be installed, an approved On-Site Wastewater Construction Permit must be obtained;
5. That the applicant obtain any necessary Building Permits for the accessory structures prior to construction; and,

6. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

C. June 23, 2014 – the Planning Commission approved the extension of Conditional Use Permit / CU 13-09 with the following five (5) conditions:

1. That the structure not be used as living quarters or sleeping quarters;

2. That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Main Street in accordance with Pennington County Ordinance #20;

3. That if any plumbing is to be installed in the accessory structures, it be hooked into an approved means of wastewater disposal. If an on-site wastewater treatment system is to be installed, an approved On-Site Wastewater Construction Permit must be obtained;

4. That the applicant obtain any necessary Building Permits for the accessory structures or any structure larger that 144 square feet or permanently affixed to the ground, prior to construction; and,

5. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as requested by the Pennington County Planning Commission to verify that all conditions of approval are being met.

D. April 21, 2017 – Staff performed a site visit and determined all conditions of Conditional Use Permit / CU 13-09 were being met.

1. Staff received a complaint about the nature of the use of the playhouse.

E. May 8, 2017 – the Planning Commission recommended to continue the review of CU 13-09 to the May 22, 2017, Planning Commission meeting in order for Staff to contact the applicant and address the complaint received.

F. May 11, 2017 – Staff attempted to contact the applicant and was unsuccessful.


H. June 9, 2017 – Staff met with applicant. The applicant stated they would like to end Conditional Use Permit / CU 13-09 and apply for a new Conditional Use Permit for the existing structure that better fits the use of the property.

I. June 20, 2017 – Staff received an application for a new Conditional Use Permit.

J. June 26, 2017 – Conditional Use Permit / CU 13-09 was ended with the applicant’s concurrence.

K. Staff determined that, due to the size of the existing platted lot, a Conditional Use Permit request for a single-family residence/cabin is reasonable because a smaller size structure could meet the required setbacks for a Suburban Residential District. Additionally, the use (single-family residence/cabin) is in harmony with other property use in the area.
L. July 27, 2017 – the Planning Commission approved Conditional Use Permit / CU 17-27 with the following six (6) conditions:

1. That an approved onsite wastewater treatment system be installed within 60 days of approval of this Conditional Use Permit;
2. That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Main Street in accordance with Pennington County Ordinance #20;
3. That if any plumbing is to be installed in the structures, it be hooked into an approved means of wastewater disposal (i.e. holding tank);
4. That the applicant obtains Building Permits for the structure and the attached deck and any applicable penalty fees;
5. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Conditional Use Permit / CU 17-27, which is available at the Planning Office; and,
6. That this Conditional Use Permit be reviewed on September 25, 2017, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

N. July 23, 2018 – the applicant signed a Statement of Understanding for the conditions approved at the July 27, 2017 Planning Commission meeting.

O. September 24, 2018 – the Planning Commission continued the review of CU 17-27 to the October 22, 2018 Planning Commission meeting.

P. October 22, 2018 – the Planning Commission continued the review of CU 17-27 to the November 16, 2018 Planning Commission meeting, with the following two (2) conditions:

1. That the applicant and/or landowner provide Staff with the necessary information regarding the above in § V(A) of this Staff Report prior November 16, 2018, or Notices of Violation will be sent to the owner; and,
2. If additional continuations of CU 17-27 are necessitated by the landowner, each continuation will be subject to § 511(X).

Q. October 24, 2018 – Staff contacted the applicant’s agent and sent a copy of the Building Permit application and required fees via email.

R. November 15, 2018 – the applicant’s agent sent a copy of the Building Permit Application via email and stated that the property owner would be in November 19, 2018 to pay for the Building Permit.

S. November 26, 2018 – the Planning Commission approved the review of CU 17-27 with the following five (5) conditions:

1. That Staff verify the installation of the incinerator toilet within 60 days of approval of the extension of this Conditional Use Permit;
2. That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Main Street in accordance with Pennington County Ordinance #20;
3. That if any plumbing is to be installed in the structure, it be hooked into an approved means of wastewater disposal (i.e. holding tank);
4. That an approved Building Permit be obtained for any structures exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,

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

T. December 4, 2018 – County Building Permit COBP18-0689 was issued.

V. ANALYSIS

A. On December 30, 2019, Staff performed a site visit and verified the following:
   1. Staff met with the applicant’s agent, Mike Sears, and validated/discussed the following:
      a. That the use of the 12-foot x 12-foot structure is as a playhouse for the applicant’s family and of limited seasonal use.
      b. That the applicant owns the adjacent property (9106 Main Street) and any occupants of the 12’ x 12’ structure will be incidental guests of that property.
      c. That no plumbing was connected to the structure (Condition #3).
      d. That an incinerator toilet was not installed (Condition #1).

B. Any occupants of this structure will utilize the On-site Wastewater Treatment System located at the applicant’s property (9106 Main Street). Therefore, Staff removed Condition #1.

C. Staff has added a condition stating that this permit be reviewed upon sale or transfer of the property in order to address the requirements of an On-site Wastewater Treatment System.

RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 17-27 with the following conditions:

1. That the assigned address (9105 Main Street) be posted it so it is clearly visible from both directions of travel along Main Street in accordance with Pennington County Ordinance #20;

2. That if any plumbing is to be installed in the structure, it be hooked into an approved means of wastewater disposal (i.e. holding tank);

3. That an approved Building Permit be obtained for any structures 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 upon sale or transfer of the property, the new owner contact the Planning Department in order to address the requirements of an On-site Wastewater Treatment System; and,

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

GENERAL INFORMATION:

REQUEST:  CONDITIONAL USE PERMIT REVIEW / CU 18-45: To review a community cemetery in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

LANDOWNER: Caputa Community Center

LANDOWNER ADDRESS: P.O. Box 42, Caputa, SD 57725-0042

LEGAL DESCRIPTION: All, Caputa Community Cemetery, Section 36, T1N, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: 23885 154th Ave. Approximately ½ mile north of the intersection of Dawkins Road and 154th Avenue.

SIZE: 2 acres

TAX ID: 69613

EXISTING LAND USE: Agriculture

ZONING REFERENCE: § 205 and 510

CURRENT ZONING: Community Cemetery

SURROUNDING ZONING:
   North  General Agriculture District
   South  General Agriculture District
   East  General Agriculture District
   West  General Agriculture District

PHYSICAL CHARACTERISTICS: Flat / Prairie

UTILITIES: None
Agenda Item #5
Caputa Community Center
January 27, 2020

REPORT BY: Stephanie Jansen

I. PROPOSED RECOMMENDATION
   A. Staff will be continuing the review of Conditional Use Permit / CU 18-45 with one (1) condition.

II. GENERAL DESCRIPTION
   A. The original applicant, Lynn Schell, requested a Conditional Use Permit to allow a community cemetery for the town of Caputa on the subject property.

III. EXISTING CONDITIONS
   A. Zoned General Agriculture District.
   B. 2 acres.
   C. Access to the cemetery off of 154th Avenue.
   D. Currently vacant.
   E. No Special Flood Hazard Area on the subject property.

IV. PENNINGTON COUNTY ZONING ORDINANCE § 307(A)
   A. Cemetery:
      1. The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare.
      2. All other structures, including, but not limited to, mausoleums, permanent monuments, or maintenance buildings shall be set back not less than twenty-five (25) feet from any property line or street right-of-way line.
      3. All graves or burial lots shall be set back not less than twenty-five (25) feet from any property line or street right-of-way.

V. HISTORY
   A. September 18, 2018 – The Board of Commissioners approved Layout Plat / PL 18-25 to create Cemetery Tract of Jones Ranch Subdivision with the following twelve (12) conditions:
      1. That prior to filing the Plat with the Register of Deeds, the proposed lot obtain an approved Lot Size Variance or be Rezoned appropriately;
      2. That an approved Approach Permit be obtained from the County Highway Department for access into the proposed cemetery;
      3. That at the time of new Plat submittal, the cemetery be called: Jones Ranch Cemetery or Jones Family Cemetery, not a cemetery tract located in a subdivision, per Register of Deeds comments;
4. That the proposed cemetery conforms with all regulations of Pennington County Zoning Ordinance and South Dakota Codified Law 34-27, which regulates cemeteries and burial records;

5. That at the time of new Plat submittal, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;

6. That at the time of new Plat submittal, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;

7. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;

8. That the applicant ensures that all natural drainage ways are maintained and are not blocked;

9. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;

10. That prior to filing the Plat with the Register of Deeds, the applicant applies for a Conditional Use Permit for the cemetery;

11. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 18-25, which is available at the Planning Office; and,

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

B. It is Staff’s understanding that the applicant proposed to create the Cemetery Tract approved via PL 18-25, in order to donate the 2-acre tract to the town of Caputa.

C. October 25, 2018 – The applicant filed a map of the Caputa Community Cemetery with the Register of Deeds (Document #A201814463) in accordance with SDCL § 34-27-8.


1. The applicant chose to file the location map with the Register of Deeds and apply for a Conditional Use Permit, rather than continuing with the platting process for the Cemetery Tract.

E. December 17, 2018 – the Planning Commission approved CU 18-45 with the following five (5) conditions:

1. That the cemetery continually conforms to all regulations outlined in § 307 of the Pennington County Zoning Ordinance;

2. That the cemetery and the applicant continually complies with South Dakota Codified Law (SDCL) § 34-27, which regulates Cemeteries and Burial Records;
Agenda Item #5  
Caputa Community Center  
January 27, 2020

3. That the applicant obtain an approved Approach Permit from the County Highway Department for access to the cemetery;
4. That if an address is assigned for the cemetery, it be posted in accordance with Pennington County Ordinance #20; and,
5. That this Conditional Use Permit be reviewed in one (1) year, 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.

F. November 21, 2019 – The applicant, Shawn Freeland, filed a revised map of the Caputa Community Cemetery with the Register of Deeds (Document #A201915737) in accordance with SDCL § 34-27-8 (Caputa Community Cemetery Revised).

F. Cemetery location:
   1. Located in the northeast corner of the subject property.
   2. Approximately 27'-32' feet from all property lines.
   3. Flat area.
   4. No known wells on the subject property.
   5. 2-acre area (shown on location map filed with the Register of Deeds).
   6. 736 burial sites shown on location map filed with the Register of Deeds.

VI. ANALYSIS

F. January 7, 2020:
   1. Staff performed a site visit and found:
      a. An address has not been posted (Condition #4).
   2. Staff contacted Shawn Freeland, who oversees the Caputa Community Cemetery:
      a. He said he would have an address posted by January 16, 2020.

G. January 17, 2020 – Staff performed a site visit and found:
   1. It appears that Condition #4 has not been met.
      a. **Staff note: Since Condition #4 has not been met, staff will be continuing CU 18-45 at the February 10, 2020 Planning Commission meeting to verify that an address has been posted.**

VII. RECOMMENDATION: Staff recommends to continue the review of Conditional Use Permit / CU 18-45 to the February 10, 2020 Planning Commission meeting in order for the address to be posted with the following one (1) condition:

1. That any continuation after the February 10, 2020 Planning Commission meeting, will be subject to a $100.00 continuation fee in accordance with Section 511(X) of the Pennington County Zoning Ordinance.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: **CONDITIONAL USE PERMIT REVIEW / CU 18-46:** To review a Guest House on the subject property in a Low Density Residential District in accordance with Sections 207, 318, and 510 of the Pennington County Zoning Ordinance.

APPLICANT / OWNER: Brady and Liana Wolfe

APPLICANT ADDRESS: 22531 Potter Road, Rapid City, SD 57702

LEGAL DESCRIPTION: Lot A Revised, Woodland Valley Subdivision, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

SITE LOCATION: 22531 Potter Road; south of the intersection of Nemo Road and Potter Road.

SIZE: 3.82 acres

TAX ID: 49468

EXISTING LAND USE: Residential

ZONING REFERENCE: § 207, 318, and 510

CURRENT ZONING: Low Density Residential District

SURROUNDING ZONING:
- North: Low Density Residential District
- South: Low Density Residential District
- East: General Agriculture District
- Limited Agriculture District
- West: Low Density Residential District

PHYSICAL CHARACTERISTICS: Hilly

UTILITIES: Private

REPORT BY: Brittney Molitor
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 18-46 with conditions.

II. GENERAL DESCRIPTION
   A. The applicants, Brady and Liana Wolfe, requested a Conditional Use Permit to allow an existing structure to be used as a Guest House in a Low Density Residential District.

III. EXISTING CONDITIONS
   A. Zoned Low Density Residential District.
   B. 3.82 acres.
   C. Access off Potter Rd.
   D. No Special Flood Hazard Area on the property.
   E. Single-family residence – built in 1910 per Department of Equalization (DOE) records.
   F. 54’ x 36’ equipment (Shop) building – COBP17-0050.
   G. 40’ x 44’ detached garage built in 1962 per DOE records.
   H. 16’ x 40’ garage addition – COBP17-0051.
   I. On-site Wastewater Treatment System (OSWTS) - COOP17-0286.
      1. 1,000-gallon tank with an unknown drainfield size.
      2. This system serves the single-family residence.

IV. ANALYSIS
   A. December 3, 2018 – The applicants filed for a Conditional Use Permit to allow a Guest House on the subject property.
      1. The applicant’s plan was to convert part of the existing garage into a Guest House.
      2. Guest House dimensions are 25’ x 40’ or 1,000 square feet.
      3. The proposed Guest House includes:

   ![Layout of Guest House (provided by Applicant)](image_url)
B. January 14, 2019 – The Planning Commission approved Conditional Use Permit / CU 18-46 with the following eleven (11) conditions:

1. That prior to issuance of the Building Permit for the Guest House, the applicant record a deed restriction with the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Pennington County Zoning Ordinance (PCZO) § 318(B)(13);

2. The addition, removal, or relocation of the Guest House requires additional permits issued by the Planning Department;

3. That the rental or lease of the Guest House or the use of the Guest House as a permanent residence for a second family on the premises shall be prohibited;

4. That the Guest House shall not be used for more than 180 days per calendar year;
5. That the primary dwelling be continually classified as owner-occupied and proof of status be provided to the Planning Department upon request, in accordance with PCZO § 318(B)(10);
6. That all necessary utilities for the Guest House shall be extended from the primary dwelling unit's services. No separate meters for the Guest House shall be allowed, unless required by the utility service provider;
7. That prior to any Building Permit for the Guest House being applied for, any On-site Wastewater Treatment System must be in compliance with PCZO §318 and §204 (J), and be approved by the Pennington County Environmental Planner;
8. That both the addresses assigned for the primary residence and the Guest House be posted so they are clearly visible from Potter Road, in accordance with Pennington County Ordinance #20;
9. That the Guest House be continually utilized and maintained in accordance with all requirements of the PCZO, with emphasis on § 318, or a Variance(s) be obtained and approved to waive any requirements;
10. 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,
11. That this Conditional Use Permit be reviewed in one (1) year, 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.

C. April 19, 2019 – A Declaration of Covenants and Restrictions was filed to with the Register of Deeds for the Guest House as required in Condition of Approval #1.

D. April 24, 2019 – The applicants submitted a Building Permit for the conversion of the garage to the Guest House (COBP19-0212).
   1. Approved by the Planning Director on May 7, 2019.

E. October 25, 2019 – The Pennington County Onsite Wastewater Specialist approved the installation of a new onsite wastewater treatment system serving the Guest House (COSD19-0020).
   1. The system consists of a 1,500-gallon septic tank and 675 square feet (equivalent) of drainfield (COOP19-1210).
   2. This meets Condition of Approval #7.

F. January 14, 2020 – Staff performed a site visit to the subject property. It appears that the garage is in the process of being converted to a Guest House.
Guest House

G. January 20, 2020 – Staff confirmed that the property is owner occupied as required in Condition #5.

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| Owner(s) | WOLFE, BRADY K  
WOLFE, LIANA M |
| Property Address | 22531 POTTER RD |
| Subdivision Name | WOODLAND VALLEY SUBD |
| Legal Description | WOODLAND VALLEY SUBD; LOT A REVIS |
| Township  | 2 North, Range 6 East, Section 15 |
| Number of Acres | 3.820 |

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H. Condition #7 was removed as it has been met.
I. It appears that all Conditions of Approval are being met.
J. Staff has not received complaints for the subject property.

RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 18-46 with the following conditions:

1. That a deed restriction recorded with the Register of Deeds is maintained for the Guest House;

2. The addition, removal, or relocation of the Guest House requires additional permits issued by the Planning Department;

3. That the rental or lease of the Guest House or the use of the Guest House as a permanent residence for a second family on the premises shall be prohibited;

4. That the Guest House shall not be used for more than 180 days per calendar year;

5. That the primary dwelling be continually classified as owner-occupied and proof of status be provided to the Planning Department upon request, in accordance with PCZO § 318(B)(10);

6. That all necessary utilities for the Guest House shall be extended from the primary dwelling unit's services. No separate meters for the Guest House shall be allowed, unless required by the utility service provider;

7. That both the addresses assigned for the primary residence and the Guest House be continually posted so they are clearly visible from Potter Road, in accordance with Pennington County Ordinance #20;

8. That the Guest House be continually utilized and maintained in accordance with all requirements of the PCZO, with emphasis on § 318, or a Variance(s) be obtained and approved to waive any requirements;

9. 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,

10. That this Conditional Use Permit be reviewed in one (1) year, 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.
STAFF REPORT

GENERAL INFORMATION:

REQUEST:  
**CONDITIONAL USE PERMIT REVIEW / CU 18-47:** To review an accessory structure (shed) prior to a principle structure in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

APPLICANT / OWNER:  
Kevin and Crystal McKinstry

APPLICANT ADDRESS:  
8226 Cobblestone Court, Rapid City, SD 57703

LEGAL DESCRIPTION:  
Lot 20, Block 1, Mesa View Estates Subdivision #1, Section 12, T1N, R8E, BHM, Pennington County, South Dakota.

SITE LOCATION:  
8226 Cobblestone Court; near the corner of Raveen Drive and Cobblestone Court.

SIZE:  
0.68 acre

TAX ID:  
40670

EXISTING LAND USE:  
Residential

ZONING REFERENCE:  
§§ 208 and 510

CURRENT ZONING:  
Suburban Residential District

SURROUNDING ZONING:

- North  
  Suburban Residential District
- South  
  Suburban Residential District
- East  
  Suburban Residential District
- West  
  Suburban Residential District

PHYSICAL CHARACTERISTICS:  
Flat

UTILITIES:  
City Water / Private Septic

REPORT BY:  
Jason Theunissen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 18-47 with conditions.

II. GENERAL DESCRIPTION
   A. The applicants, Kevin and Crystal McKinstry, requested a Conditional Use Permit to allow for a secondary structure (12’ x 40’ shed) to be used as living quarters prior to construction/placing of a primary residence.
   B. January 14, 2019 – The Planning Commission approved Conditional Use Permit / CU 18-47 with the following conditions:
      1. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
      2. That the address is clearly posted on the temporary residence and transferred to the new residence, once habitable, so that it is visible from both directions of Cobblestone Court, in accordance with Pennington County’s Ordinance #20;
      3. That the subject property not contain more than one (1) residential structure (i.e. single-family residence or living quarters);
      4. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property or the appropriate Setback Variance(s) be obtained;
      5. That an onsite wastewater treatment system is installed and connected to the temporary living quarters, prior to occupancy, and, once the single-family residence is constructed and habitable, the onsite wastewater treatment system is connected to the residence and disconnected from the temporary living quarters;
      6. That the temporary living quarters be removed from the secondary structure once the single-family residence is habitable;
      7. That the subject property remains free of debris and junk vehicles;
      8. That prior to the approval of a Building Permit for living quarters in the accessory structure, the existing single-wide mobile home and all additions must be demolished and/or removed; and,
      9. 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 to verify that all Conditions of Approval are being met.

III. EXISTING CONDITIONS
   A. Zoned Suburban Residential District.
   B. 0.68 acre.
   C. Located in the Mesa View Estates Road District.
D. Lot contains:
   1. County Building Permit – COBP18-0719 – 12’ x 40’ Shed.
   2. COBP19-0018 – to remove a 24’ x 65’ mobile home.
E. Conditional Use Permit / CU 87-16 – Mesa View Mobile Home Park
   1. To allow a mobile home subdivision on Lots 1-29 of Block 1 and Lots 1 and 3 through 12 of Block 2, all in Mesa View Subdivision #1.

IV. ANALYSIS
A. January 21, 2020 – Staff spoke with the applicant, Kevin McKinstry, and performed a site visit to determine the following:
   1. A 12’ x 40’ shed has been placed on the subject property but is not being utilized as a residence.
   2. The 24’ x 65’ mobile home was removed from the subject property.
   3. The applicants have not established the use originally approved in Conditional Use Permit / CU 18-47 on January 14, 2019.
   4. The applicants do not intend to utilize a secondary structure as living quarters prior to a primary residence.
   5. The applicants will still require a Conditional Use Permit to allow the accessory structure (12’ x 40’ shed) prior to a principle structure in a Suburban Residential District.
   a. Amending Conditional Use Permit / CU 18-47 will fulfill this requirement and maintain compliance with the Pennington County Zoning Ordinance.

Site Visit, January 21, 2020
RECOMMENDATION: Staff recommends approval of the amendment of Conditional Use Permit / CU 18-47 with the following conditions:

1. That the accessory structure (12’ x 40’ shed) continually be used for personal use only and no commercial-type uses;

2. That the property continues to remain free of debris at all times;

3. That the address (8226 Cobblestone Court) be posted so it is clearly visible from both directions of travel on Cobblestone Court, in accordance with Pennington County’s Ordinance #20;

4. 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;

5. That all natural drainage paths continually be maintained; and,

6. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.
GENERAL INFORMATION:

REQUEST: MINOR PLAT / MPL 19-45: To combine lots to create Lot 18R of Gold Mountain Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

APPLICANT: Duane and Margaret Gaulke

APPLICANT ADDRESS: P.O. Box 1141, Hill City, SD 57745

SURVEYOR / ENGINEER: Baseline Surveying

ADDRESS: 2305 Junction Avenue, Sturgis, SD 57785

LEGAL DESCRIPTION: EXISTING LEGAL: Lot 17 and Lot 18 of Gold Mountain, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 18R of Gold Mountain, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

SITE LOCATION: 12269 Gilt Crest Place; located near the intersection of Gold Mountain Loop and Gilt Crest Place.

SIZE: 9.01 acres

TAX ID: 67498 / 67499

EXISTING LAND USE: Residential

SUBDIVISION REGULATIONS REFERENCE: § 400.3

CURRENT ZONING: Low Density Residential District

SURROUNDING ZONING:

North Low Density Residential District
South Low Density Residential District
East Low Density Residential District
West Low Density Residential District
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Minor Plat / MPL 19-45 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Mr. Gaulke, is requesting to combine Lot 17 and Lot 18 to create Lot 18R of Gold Mountain Subdivision.
   B. The applicant would like to combine the two lots in order to create a larger building envelope for building purposes.
   C. August 20, 2019, Layout Plat / LPL 19-22 was approved by the Board of Commissioners with the following nine (9) conditions:
      1. That at the time of Minor Plat submittal, a minimum of an eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
      2. That at the time of Minor Plat submittal, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
      3. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations and as deemed appropriate by the Register of Deeds;
      4. That at the time of a Minor Plat submittal, the plat meets all necessary requirements of Section 500 of the Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements;
      5. That the existing address continue to be properly posted in accordance with Pennington County's Ordinance #20;
      6. That the applicant ensures that all natural drainage ways are maintained and are not blocked and that all necessary drainage ways are properly noted on plats;
      7. That the existing onsite wastewater treatment system is pumped and observed and an Observation Form for the system be reviewed and approved by the Planning Department prior to Minor Plat submittal and an approved Operating Permit is obtained prior to the mylar being filed with the Register of Deeds;
8. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,

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

III. EXISTING CONDITIONS

A. Lot 17 of Gold Mountain Subdivision.
   1. Zoned Low Density Residential District, requires a three (3) acre minimum.
   2. 1.96 acres.
      a. Legal non-conforming Lot.
   3. Vacant of any structures.
   4. No Special Flood Hazard Area.

B. Lot 18 of Gold Mountain Subdivision.
   1. Zoned Low Density Residential District, requires a three (3) acre minimum.
   2. 7.05 acres.
   3. Lot contains:
      b. Onsite wastewater treatment system (OSWTS) / 1997COSD0201.
      c. OSWTS Operating Permit / COOP19-0320.
IV. PROPOSED LOT
   A. Lot 18R of Gold Mountain Subdivision
      1. Zoned Low Density Residential District, requires a three (3) acre minimum.
      2. 9.01 acres.
      3. Lot will contain:
         c. OSWTS Operating Permit / COOP19-0320.
      4. The proposed Layout Plat will remove the interior lot line to create one (1) lot.
V. REQUEST FOR COMMENT
   A. County Highway
      1. Highway Department has no comments.
   B. County 9-1-1
      1. Good here.
   C. Department of Equalization
      1. Looks good.
   D. County Addressing Coordinator
      1. No addressing concerns at this time. Future addresses will be
         assigned during the Building Permit application process. Once
         assigned, addresses must be posted in accordance with Pennington
         County Ordinance #20.
   E. Register of Deeds
      1. Plat heading is ok.
      2. Certificates appear to be required certificates per state statute.
   F. County Ordinance Enforcement
      1. No violations.
   G. County Natural Resource Director
      1. No objections.
   H. County Professional Environmental Planner
      1. There is no Special Flood Hazard Area on the subject property.
   I. County Onsite Wastewater Specialist
      1. The applicant has a septic permit for the house currently located on
         Lot 18 (97COSD0201). According to the USDA Web Soil Survey
         the soils on these lots are classified as “Very Limited” due to the
         slope and slow water movement. If the applicant decides to install
         any new septic system on the property, all rules of Pennington
         County Zoning Ordinance Section 204-J must be followed.
   J. Black Hills Electric Coop
      1. Black Hills Electric Cooperative has no concerns with this minor
         plat.

VI. ANALYSIS
   A. December 23, 2019 – The applicant, Duane Gaulke, submitted an
      application for Minor Plat / MPL 19-45 to create Lot 18R of Gold Mountain
      Subdivision.
   B. The applicant’s request will decrease density by one (1) lot.
   C. For the purposes of a Minor Plat, staff finds no significant issues with the
      applicant’s request.
      1. The applicant, Mr. Gaulke, has met all of the conditions of LPL 19-22.
RECOMMENDATION: Staff recommends approval of Minor Plat / MPL 19-45 with the following conditions:

1. That at the time of Minor Plat submittal, a minimum of an eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;

2. That at the time of Minor Plat submittal, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;

3. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations and as deemed appropriate by the Register of Deeds;

4. That at the time of a Minor Plat submittal, the plat meets all necessary requirements of Section 500 of the Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements;

5. That all existing and future addresses must be posted in accordance with Pennington County Ordinance #20;

6. That the applicant ensures that all natural drainage ways are maintained and are not blocked and that all necessary drainage ways are properly noted on plats; and,

7. 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.
CERTIFICATE OF COUNTY TREASURER

I, the Treasurer of Pennington County, South Dakota, do hereby certify that all taxes, which are due upon the within described lands, are fully paid according to the records of my office.

DATED the ______ day of ________, ______.

Treasureer of Pennington County

CERTIFICATE OF COUNTY AUDITOR

Resolution By Governing Body
State of South Dakota
County of Pennington

I, the Auditor of Pennington County, do hereby certify that at an official meeting held on the ______ day of ________, ______, the County Commissioners by resolution did approve the plat as shown and described.

Pennington County Auditor/Deputy

CERTIFICATE OF DIRECTOR OF EQUALIZATION

I, the Director of Equalization of Pennington County, South Dakota, do hereby certify that I have on record in my office, a certified copy of the within described plat.

DATED the ______ day of ________, ______.

Director of Equalization of Pennington County

CERTIFICATE OF HIGHWAY OR STREET AUTHORITy

The location of the proposed property line affecting the County or State Highway or the County Road, is shown herein. It is hereby approved. Any changes to approved or created shall require additional approval.

DATED the ______ day of ________, ______.

Gold Mountain Long Road District
Randy Larson, Architect/Engineer

CERTIFICATE OF REGISTER OF DEEDS

STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON

Filed this ______ day of ________, ______.

of ________ document # ________

Register of Deeds of Pennington County

By ________, Fee $ ________

CERTIFICATE OF SURVEYOR

I, Shane C. Underwood, Registered Land Surveyor No. 7719, in the State of South Dakota, do hereby certify that at the request of the Owners listed herein, I have surveyed the tract of land shown in the plat of subdivision known as the within plat is a representation of said survey, easements or restrictions of all easements or private agreements that are not known to me are not shown herein.

IN WITNESS WHEREOF I have herein set my hand and seal.

DATED the ______ day of ________, ______.

Shane C. Underwood
Registered Land Surveyor No. 7719

CERTIFICATE OF OWNERSHIP

STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON

We, Shane C. Underwood and Margaret L. Underwood, hereby certify that on the date of this writing, the land shown herein is owned by the Owners listed below.

DATED the ______ day of ________, ______.

Shane C. Underwood, Owner
Margaret L. Underwood, Owner

ACKNOWLEDGEMENT OF OWNERS

STATE OF SOUTH DAKOTA
COUNTY OF ________

On this ______ day of ________, ______, before me, the undersigned officer, personally appeared Shane C. Underwood and Margaret L. Underwood, to be the persons who executed the foregoing certificate of survey and acknowledged to me that they executed the same for purposes therein mentioned.

IN WITNESS WHEREOF, I hereby set my hand and official seal.

Officer Public

WATER PROTECTION STATEMENT

Pursuant to SDCL § 3-3-41 and § 3-3-42, the Developer of the property described within this plat shall be responsible for protecting any waters of the State, including groundwater located adjacent to or within such platted area, from pollution. From among other things, the Developer shall be responsible for the elimination of any cause as identified by the South Dakota Department of Environment and Natural Resources relating to the area.

FLOODPLAIN STATEMENT

Floodplain information designates areas of minimal flood hazard, Zone X, per FEMA Mapping, FEMA Portal, Pennington County, 48135C 11/18 effective Site 09/03/2018. The Resolution information provides notice that certain flood hazards exist on portions of the subject property.
STAFF REPORT

GENERAL INFORMATION:

REQUEST:  

CONDITIONAL USE PERMIT / CU 19-35: To allow three seasonal rental cabins and the existing single-family residence to be used as a caretaker/manager’s residence in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

APPLICANT:  
Shirley Brownell and Robert Brownell

APPLICANT ADDRESS:  
13396 Silver Mountain Road
Rapid City, SD 57702

AGENT:  
Jude Wildeman

AGENT ADDRESS:  
13310 Silver Mountain Road
Rapid City, SD 57702

LEGAL DESCRIPTION:  
N1/2SE1/4NE1/4, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

SITE LOCATION:  
13396 Silver Mountain Road; northeast of the intersection of S. Highway 16 and Silver Mountain Road.

TAX ID:  
60755

SIZE:  
20.00 acres

EXISTING LAND USE:  
Residential

ZONING REFERENCE:  
§ 206 and 510

CURRENT ZONING:  
Limited Agriculture District

SURROUNDING ZONING:  
- North: General Agriculture District
- South: Limited Agriculture District
- East: General Agriculture District
- West: Limited Agriculture District
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending that Conditional Use Permit / CU 19-35 be
denied without prejudice with the applicant’s concurrence.

II. GENERAL DESCRIPTION
   A. The applicants, Shirley and Robert Brownell, have applied for a Conditional
Use Permit to allow three (3) seasonal rental cabins on the subject property
and to allow an existing single-family residence to be used as
caretakers/managers residence.

III. EXISTING CONDITIONS
   A. Zoned Limited Agricultural District.
   B. 20 Acres.
   C. Access off of Silver Mountain Rd.
      1. Staff Note: At this point in time, there is no legal access to the
property. There is a gentlemen’s agreement to access the property
for the single-family residence located on the subject property.
   D. No Special Flood Hazard Area on the property.
   E. Single-family residence (COBP06-0177).
      1. Onsite Wastewater Treatment System (COSD06-0036).

IV. REQUEST FOR COMMENT
   A. County Highway Department
      1. It is an opportune time to require an easement be obtained for access
to the parcel, unless one already exists, to prevent this parcel from
being an isolated tract.
   B. Onsite Wastewater Specialist
      1. The applicant currently has a valid Septic Permit (2006COSD0036)
and a current Operating Permit (COOP18-1055).
   C. County Ordinance Enforcement
      1. No Violations.
   D. County Natural Resources Director
      1. No objections.
   E. Black Hills Electric Coop
      1. Black Hills Electric Cooperative has no concerns.
   F. U.S Forest Service
      1. Access to the private property owned by Robert and Shirley
Brownell is off of the Silver Mountain Road through the private
property owned by MSC Grover Living Trust and described as
S1/2SE1/4NE1/4 of Section 22, Township 1 South, Range 6 East,
BHM; the driveway located on the Brownell private property appears to be less than the Section Line Setback requirements (58 feet setback) adjacent to the Section Line between the private property and National Forest System lands; a section line setback waiver may need to applied for by the landowner or record.

2. The private driveway (yellow highlighted on the attached illustration) provides access to the private property owned by Brownell.

3. The Forest Service will not approve a secondary access across National Forest System lands to the private property owned by Brownell.

4. The private driveway (red highlighted on the attached illustration) to the private property owned by MSC Grover Living Trust appears to be located on National Forest System lands; no authorization has been approved by the Forest Service; land owner of record will need to remove the private driveway encroachment from National Forest System lands.

5. Protect all posted boundary line corners, signs and bearing trees; National Forest System lands (USA Public domain status) on the North and East sides of private property.

6. Adhere to the setback requirements along the posted boundary between National Forest System lands and private property.

7. Protect all known stream courses, ponds and riparian areas located on National Forest System lands.

8. No resource damage to occur on National Forest System lands.

9. All proposed drain fields, leach lines or septic systems will need to be located on private property and not located on or drain or leach onto National Forest System lands; percolation test results will need to be provided to the Forest Service for the proposed septic fields to be located in the SE1/4 of Brownell private property and adjacent to National Forest System lands.

10. All construction materials, supplies, trash or garbage will not be located or dumped on National Forest System lands; landowner of record will need to take all waste construction materials, supplies, trash or garbage to an approved sanitary landfill.

11. All straw bales, erosion mats, slash mats, etc. located on private property will need to be certified weed-free; provide a copy of the weed-free certification to the Forest Service; landowner of record may need to treat all ground disturbed areas for noxious weeds post construction for a period of 3 to 5 years.

12. Black Hills Electric Cooperative, Inc. out of Custer, SD provides electrical service to the Brownell private property; all proposed electrical service to the three proposed cabins will need to be underground if located on National Forest System lands.
13. Public roads in this area of the Black Hills National Forest are classified as "Roads Open to Highway Legal Vehicles Only" and "Highways, US, State" per the latest version of the Motor Vehicle Use Map.

14. No motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.

15. No motorized trails for ATV, motorcycles or ORV will be authorized from private property unto National Forest System lands (USFS does not want unauthorized trails constructed on National Forest System lands).

G. Emergency Services (9-1-1)

1. It does not appear that the physical house number, 13396, is posted properly where the driveway (what I assume is the applicants driveway is highlighted in yellow on the pic below) intersects the named road.

2. As a condition of approval, the applicant should be required to post the number in accordance with Penn Co Ord #20. The applicant should also have the assigned number properly posted on the residence in accordance with Penn Co Ord #20.

3. The driveway highlighted in red on the picture has three physical house numbers posted where it intersects Silver Mountain Rd – 13382, 13384 and 13386. 13384 is the only address point noted on this property in our GIS data (owned by MSC GROVER LIVING TRUST). This driveway could easily be confused as the proper driveway to use to reach the applicants property and in fact, it appears one could get there by using this driveway. As part of this approval, the owner of this property should be required to remove the physical numbers that are no longer in use from the sign at the end of the driveway and we should insure the assigned number 13384, is properly posted on the house in accordance with Penn Co Ord #20.
V. ANALYSIS

A. December 10, 2019 - the applicants applied for a Planned Unit Development (PUD) and a Comprehensive Plan Amendment.
   1. Upon research by Staff and the States Attorney’s Office, it was decided that the use being requested would only require a Conditional Use Permit, and not to rezone the property to a PUD.

B. December 18, 2019 - the applicants applied for a Conditional Use Permit.
   1. December 27, 2019 – A complaint was emailed to Staff from a neighbor stating that the Brownell’s didn’t have legal access through his property. The complainant said he did have a gentlemen’s agreement for the Brownell’s to access their property to their single-family residence (in yellow) but would not be in favor of allowing increased traffic from seasonal cabins.

   C. Staff contacted the applicants who provided a Warranty Deed that granted access through an existing easement (in red).
      1. This easement is accessed through U.S. Forest Service land.
      2. Upon conversations with the Forest Service was never approved.

D. The applicants worked with the Forest Service on gaining approval of that access, but it does not appear that the Forest Service will grant access through that easement.

E. Since the Forest Service will not approve access through their land, Staff informed the applicants that, Conditional Use Permit / CU 19-35 would be denied without prejudice, to give the applicants one year to secure legal access to their property.

RECOMMENDATION: Staff recommends that Conditional Use Permit / CU 19-35 be denied without prejudice with the applicant’s concurrence.
Robert and Shirley Brownell  
13396 Silver Mountain Road  
Rapid City, SD 57702  

Dear Mr. and Mrs. Brownell:  

Thank you for your proposal of a right of way easement on National Forest System land to access your private property located in Pennington County, SD, N1/2 SE ¼ NE1/4, Section 22, T1S, R6E, BHM.  

Forest Service regulations (36 CFR 251.54(e)) require proposals to be screened to ensure the proposed use meets minimum requirements, and that the proposal is consistent with Forest Service Policy. Forest Service Policy is to deny uses that can be reasonably accommodated on non-National Forest System land (Forest Service Manual 2703.2).  

The Code of Federal Regulations (CFRs) and Forest Service Manual (FSM) direction governs in this situation. In Title 36: Parks, Forests, and Public Property, PART 251—LAND USES, Subpart D—Access to Non-Federal Lands it states:  

(g) Where there is existing access or a right of access to a property over non-National Forest land or over public roads that is adequate or that can be made adequate, there is no obligation to grant additional access through National Forest System lands.  

In the Forest Service Handbook FSH 2709.11, Chapter 12 deals with special use proposals and the screening process to determine whether the proposal should be accepted as an application. Section 12.32a of this chapter addresses the appropriate use of National Forest system lands and states:  

Deny proposals for use of National Forest System lands when the request is based solely on affording the proponent with a lower cost or less restrictive location than can be obtained on non-Federal lands.  

Also in the 1997 Forest Plan, Phase II Amendment for the Black Hills National Forest it states on page II-70:  

a. Do not approve easement applications across National Forest System land that can be met on private or other ownerships.  

In this case, existing access over non-National forest System lands can be made adequate via the existing road from Silver Mountain Road, crossing neighboring private property, to your property, for this reason your proposal of a right of way easement on National Forest System land is denied. This finding is not subject to appeal (Forest Service Handbook 2709.11 12.22).
Please see the enclosed Map: ‘Brownell Property Access off of Silver Mountain Road’ for reference of existing road access to your property.

My staff has conducted a thorough review of your proposal. If there was a way to accept your application request I would do so, however multiple existing Federal laws and regulations do not provide for it. However, as a land owner in the State of South Dakota you have additional options and rights to access your property under State Codified Law found in CHAPTER 31-22; Condemnation of Easements for Isolated Tracts. An attorney will be able to assist you regarding obtaining access to your private property. If you have any further questions regarding your proposal, please contact Matthew Jurak Recreation and Lands Staff on the Mystic Ranger District, at (605) 343-1567.

Sincerely,

JAMES GUBBELS
District Ranger, Mystic Ranger District

Enclosed: Map - Brownell Property Access off of Silver Mountain Road
Robert and Shirley Brownell
Rezone from Limited Agriculture District to Planned Unit Development
N1/2SE1/4NE1/4, Section 22, T1S, R6E, BHM
Pennington County, South Dakota
Access off of the Silver Mountain Road

The private driveway highlighted in red on the picture above is off of the Silver Mountain Road. This red driveway appears to be located on National Forest System land (east side of private property) and no authorization has be approved by the Forest Service.

The private driveway highlighted in yellow on the picture above is off of the Silver Mountain Road and provides access to the private property owned by Brownell.
STAFF REPORT

GENERAL INFORMATION:

REQUEST:

REZONE / RZ 19-18: To rezone 40.00 acres from General Agriculture District to Limited Agriculture District in accordance with Sections 205, 206, and 508 of the Pennington County Zoning Ordinance.

APPLICANT:

Gorden and Jennifer Sabo

APPLICANT ADDRESS:

8420 Albertta Drive, Rapid City, SD  57702

SURVEYOR / ENGINEER:

KTM Design / Dave Vliem

ADDRESS:

628 1/2 Sixth Street, Rapid City, SD  57702

LEGAL DESCRIPTION:

NE1/4SE1/4, Section 8, T2S, R7E, BHM, Pennington County, South Dakota.

SITE LOCATION:

Northeast of the intersection of Rushmore Ranch Road and Martin Ranch Trail, along Martin Ranch Trail.

SIZE:

40.00

TAX ID:

42816

EXISTING LAND USE:

Vacant

ZONING REFERENCE:

§§ 205, 206, and 508

CURRENT ZONING:

General Agriculture District

SURROUNDING ZONING:

North  General Agriculture District
South  General Agriculture District
East  General Agriculture District
West  General Agriculture District

PHYSICAL CHARACTERISTICS:  Forested / Meadow

UTILITIES:

None

REPORT BY:

Kristina Proietti

Page 1 of 2

RZ 19-18
I. PROPOSED RECOMMENDATION
   A. Staff is recommending to deny without prejudice Rezone / RZ 19-18, with 
      the applicant’s concurrence.

II. GENERAL DESCRIPTION
   A. December 26, 2019, the applicant had Requested to change zoning from 
      General Agriculture District to Limited Agriculture District involving 40 acres 
      which is currently going through the plating process (Layout Plan / LPL 19-
      44), to subdivide the subject property into 3 separate lots. Proposed Lot 1 will 
      be 15.02 ± acres, proposed Lot 2 will be 15.72 ± acres, and proposed Lot 3 will 
      be 10.05 ± acres.
   B. January 9, 2020, Mike Towey from KTM Design Solutions came to discuss 
      that there had been miss-communication between the real estate agent and 
      the buyers about how the land was being reconfigured and they will be 
      resubmitting a new Layout Plat request, along with a new Rezone request.

III. EXISTING CONDITIONS
   A. Zoned General Agriculture District.
   B. 40 acres.
   C. Access taken off of Martin Ranch Trail.
   D. No Special Flood Hazard Area on the subject property.
   E. Parcel History:
      1. No structures on subject property.

IV. ANALYSIS
   A. January 9, 2020, Mike Towey from KTM Design Solutions was at the 
      Planning & Zoning Office to discuss that there had been some miss-
      communication between the real estate agent and the buyers about how the 
      land was being reconfigured and they will be resubmitting a different 
      Layout Plat, along with a new Rezone request.

RECOMMENDATION: Staff is recommending to deny without prejudice Rezone / RZ 
19-18, with the applicant’s concurrence.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: MINING PERMIT / MP 20-01: To allow the extraction of sand, gravel, and other rock material to be crushed and hauled off-site, to include stock piling of top soil.

APPLICANT: H & H Land Company #2, LLC / Pat Hall

APPLICANT ADDRESS: 1424 Pevans Parkway, Rapid City, SD 57701

CONTRACTOR: Brian Hammerbeck

CONTRACTOR ADDRESS: 528 Kansas City St., Ste. 5, Rapid City, SD 57701

LEGAL DESCRIPTION: NE1/4NE1/4, S1/2N1/2, S1/2, Section 13, T1S, R9E; W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, T1S, R10E; All of Section 25, T1S, R9E, All of Section 24, T1S, R9E; NE1/4NW1/4, E1/2SW1/4, SE1/4, Lots 1, 3, and 4, Section 19, T1S, R10E; SE1/4NW1/4; GL 2, Section 19, T1S, R10E; PT GL 2; GL 3-4; SE1/4SW1/4, Section 18, T1S, R10E; E1/2NE1/4, Section 26, T1S, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: South of Caputa between Antelope Creek Road and Wisehart Road.

TAX ID: 13418, 11914, 13436, 13435, 11976, 11975, 11972 and 13437

SIZE: 3,083.54 acres

EXISTING LAND USE: Vacant / Agriculture

ZONING REFERENCE: Sections 205, 507-A, and 507-B

CURRENT ZONING: General Agriculture District
SURROUNDING ZONING:

North  General Agriculture District
South  General Agriculture District
East  General Agriculture District
West  General Agriculture District

PHYSICAL CHARACTERISTICS:  Open prairie / rolling hills

UTILITIES:  None

REPORT BY:  Cody Sack

I.  PROPOSED RECOMMENDATION

A.  Staff will be recommending approval of Mining Permit / MP 20-01 with conditions.

II.  GENERAL DESCRIPTION

A.  The applicant, H & H Land Company #2, LLC, have requested a Mining Permit to extract sand, gravel, and other rock material to be crushed and hauled off-site and to include stock piling of top soil.
   1.  See attached site plans.

III.  EXISTING CONDITIONS

A.  All parcels are zoned General Agriculture District.
B.  The parcels cover 3,083.54 acres.
C.  All parcels are vacant of structures.
D.  The parcel with the legal description W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, does have Special Flood Hazard Area on the Property.
   1.  100-year flood.

IV.  REQUEST FOR COMMENT

A.  County Highway Department
   1.  All access approaches be approved and constructed to Pennington County Highway Specifications. All opening of, and constructions within a section line must be approved and permitted through the Pennington County Planning Department.
B. County Professional Environmental Planner  
   1. There is Special Flood Hazard Area located on one of the subject properties.  
   3. Site Must be revegetated in accordance with Section 507 of the PCZO.  

C. County Environmental Planner  
   1. The disturbed area will need to be revegetated.  
   2. Inspection reports will need to be submitted weekly.  
   3. Erosion and Sediment controls need to be installed prior to any disturbance.  

D. County Ordinance Enforcement Officer  
   1. No violations.  

E. County Natural Resources Director  
   1. No objections.  

F. Emergency Services (9-1-1)  
   1. For emergency response to these mine sites, I usually recommend assignment of a physical address, regardless if there is a building or not. In this case, since there are multiple sites and entry points that may be more difficult.  

G. South Dakota Department of Transportation (SDDOT)  
   1. Truck turning movements to verify no lane encroachments at State Highway (SD44) access locations.  
   2. Truck turning movements to verify proper turning radius on State Highway (SD44) access locations.  
   3. Stopping sight distance verification at State Highway (SD44) access locations.  
   4. State Highway (SD44) mitigation if the following thresholds are met.  
      a. The land use served by the access changes.  
      b. The traffic volume using the access increases by at least 25%.  
      c. The truck percentage of total vehicular volume using the access increases by at least 10%.  

H. West River Electric  
   1. West River Electric has no comments regarding the attached Mining and Construction Permits  

I. County Fire Administrator  
   1. No comments received.
V. ANALYSIS

A. The applicant requested a Mining Permit for eight (8) parcels.
   1. One parcel with the legal description of W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, is where the main mine is to be located.
   2. The other seven (7) parcels were included within the Permit scope due to the fact that they may be mined in the future depending on the results of some exploratory digging.

B. The mine located on the parcel W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, will be accessed off of Wischart Road.
   1. An address for the mine will be issued by the Pennington County Addressing Coordinator off of Wischart Road.
   2. If the exploratory digging on the other seven (7) parcels leads to a mining operation, an address will be assigned to those locations as well.

C. The disturbance of this Mining Permit will be approximately 1,280 acres.
   1. This includes if the parcels to the south are mined in the future.
   2. The active mine has a disturbance area of approximately 100 acres or more.

D. Materials to be extracted and crushed include sand, gravel, and other rock material.
   1. Estimated tonnage to be extracted annually is 50,000 tons or more.

E. Estimated commencement date is sometime in 2020.

F. Wisehart Road and U.S Highway 44 will be the main haul roads.
   1. Wisehart road:
      a. Graveled 18-20 ft wide road.
   2. U.S. Highway 44:
      a. Paved road.
      b. Four lanes.
   3. If the locations on the southern parcels are mined, access to those would be off of Antelope Creek Road and an unimproved Section Line.
   4. Operation will include the use of dump trucks and semi-trucks pulling double-trailers.

G. If in the future, the mine expands to the southern parcels, Section Lines will need to be opened by the Pennington County Board of Commissioners.

H. There is SFHA located on the parcel where the current mining operation will take place.
   1. The applicant has stated there are no plans to extract or disturb any material within the floodplain.

I. The applicant is working with SDDOT about the comments the sent staff during the routing process.

J. Staff has not received any complaints or concerns from the public regarding Mining Permit / MP 20-01.
K. January 15, 2020 - Staff performed a site visit and found:
   1. Vacant pasture land.

RECOMMENDATION: Staff recommends approval of Mining Permit / MP 20-01 with the following conditions:

1. That the applicant submits a Notice of Intent to the South Dakota Department of Environment and Natural Resources for a General Permit for Storm Water Discharges and the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;

2. That the applicant obtains a South Dakota Department of Environment and Natural resources Mine License,
3. That the applicant submits a copy of the Mine License, issued by the South Dakota Department of Environment and Natural Resources, to the Planning Department and copies of any annual Mine License Reports by December 1st of each year;

4. That if there is a proposed change in operation from this Mining Permit, that the change be submitted to the Planning Director within thirty (30) days and the Mining Permit reviewed and approved by the Planning Commission;

5. That prior to any work in the floodplain the applicant obtains an approved Floodplain Development Permit.

6. That the applicant follows the Operation Plan that was submitted with the Mining Permit application;

7. That if at any point there is access through or across an unimproved Section Line or a section line that has not been opened by the Pennington County Board of Commissioners the applicant obtains approval for Road Construction within a Section Line Right-of-Way;

8. That no work is done within a section line unless first obtaining approval from the Pennington County Board of Commissioners;

9. That the Conditions of Approval of Construction Permit / CP 20-01 are continually met;

10. That the applicant signs a Statement of Understanding within ten (10) business days of Mining Permit approval, which is available at the Planning Office; and,

11. That this Mining Permit be reviewed in six (6) months from approval date, and may be reviewed on a complaint basis, or as directed by the Planning Commission and/or the Board of Commissioners to verify that all Conditions of Approval are being met.
Exhibit A

The landowner is requesting approval for a mining permit from Pennington County to extract sand, gravel and/or rock to be crushed and used in construction as outlined in Section 320.

The proposed planned sequence of work will be as follows:

1. Stockpile top soil.
2. Excavate sand, gravel and/or rock material.
3. Process materials for different types, pile.
4. Reclamation will include top soil, reseeding and any other procedures as applicable.

Brian Hammerbeck has been in contact with Thomas Cline with the South Dakota Department of Environment and Natural Resources. The landowner has the application and is aware of the state mining requirements and will file the application and following all requirements after the Pennington County mining permit has been issued and before any mining begins.

Section 320 - Mining Operation

c. Site Plan. A site plan, drawn at a scale that is clearly legible and includes the following:
   
i. North point, scale and date.
      Exhibits D1, D2 and D3.

   ii. Property boundaries of land that is the subject of the application.
      Exhibits B1, B2 and B3.

   iii. Location and boundaries of the permit limit, including the extent of the area to be excavated, related storage, stockpiling and processing areas, paving, and areas where mining by-products will be deposited.
      Exhibits C1, C2 and C3.

   iv. Location of all access points, roads, rights-of-way, and utility easements on or abutting the property.
      Exhibits B1, B2 and B3.

   v. Location of all structures within 300 feet of the permit limit.
      Exhibits B1, B2 and B3.

   vi. Location and direction of flow of surface water on or with 300 feet of the permit limit.
      Exhibits G1, G2 and G3.

   vii. Location of registered wells onsite and within 1,500 feet outside the boundary, both existing and proposed by the applicant, within the first 5 years of operation.
      Exhibit B1, B2 and B3.
viii. Benchmarks, if needed, for the contour maps.  
    **This will be completed if it is needed.**

ix. A topographic map, with a contour interval of not more than 10 feet, of the 
    proposed permit limit and the area within 300 feet of the permit limit. The site 
    plan shall specify the reference elevation, such as mean sea level, an on-site 
    benchmark or other commonly accepted references.  
    **Exhibits H1, H2 and H3.**

x. Areas to be used for drainage and erosion control management or 
    sedimentation ponds, if any.  
    **Exhibit C1, C2 and C3.**

xi. Location of proposed parking areas, signs, fencing and a description of 
    proposed fencing.  
    **Exhibit C1, C2 and C3.**

xii. Proposed berm locations.  
    **These will be completed when necessary.**

xiii. Special Flood Hazard Area.  
    **Exhibits E1, E2 and E3.**

d. **Operation Plan.** An operation plan will include a description of the proposed mining 
    operation and methods and procedures to be used in the mining of the site. The 
    operation plan shall also include the following:

i. The approximate date of the commencement of the operation.  
    **Estimated to be the first quarter of 2020.** The Pennington County Highway 
    Department has indicated they plan to put out a bid request for crushed gravel 
    estimated in the first quarter of 2020 and we anticipate submitting a bid on 
    their project.

ii. Type of mining, processing, and transportation equipment to be used.  
    **The type of mining materials will be sand, gravel and/or rock.** There will be 
    a standard rock crushing setup with dust control. We plan to utilize dump 
    trucks and possibility semi-trucks pulling double trailers.

iii. Estimated type and amount of materials to be extracted.  
    **The materials that will be extracted are sand, gravel and/or rock materials.** 
    The estimated amount of materials is 50,000 + tons annually. We anticipate 
    that the Pennington County Highway Department will request a bid for 
    70,000 tons in the first quarter of 2020.
iv. Estimated number of truckloads per day and estimated weigh of material per truckloads. There is an estimate of ten truckloads average per day based on 25-50 tons per load, but will be more or less depending on the market conditions and the time of year. We anticipate and estimate that the number of truckloads per day will very from zero to twenty.

v. Operational measures to comply with noise, dust, air containments and vibration laws, ordinances. We will use good equipment and good operational measures to keep these at reasonable levels.

vi. Operational measures to prevent groundwater and surface water degradation (must meet all applicable Federal and State regulations). We will not allow the ground water to be negatively impacted. We will do mainly shallow excavations that will not impact the ground water. We will not dump or deposit any contaminants that would degrade any water.

vii. Measured or estimated depth to groundwater. If excavations below the water table are to occur, operational measures to prevent entry of contaminants into the groundwater. The ground water levels fluctuate by seasons. The estimated average depth to groundwater is 12’ below the surface of the ground. We anticipate working when there is minimal impact to the ground water level. We will not be doing any processing of materials at the ground water level. The only thing that will be at the ground water levels will be excavating the material to take to our processing equipment and areas. We will not allow contaminants into the ground water. We plan on dewatering the areas prior to excavation, as needed.

viii. Operational measures to stabilize topsoil and other material stockpiles. We will remove and conserve topsoil and make the piles “topsoil” and save them to put pack in the reclamation process. We will not contaminate the topsoil and we will maintain the topsoil as part of the reclamation process.

ix. Operational measures to endure no wetland is disturbed or written approval from the U.S. Army Corps of Engineers or the South Dakota Department of Environment and Natural Resources (SD DENR) for disturbance of wetland. We will not be excavating or processing in any designated wetlands.
x. Reclamation Plan. The reclamation plan shall demonstrate that the site will be reclaimed to restore natural features or for use as an agriculture site that has soils that are comparable to pre-mining soils and/or neighboring fields and adequate drainage to support plant and animal life. The mining operation shall comply with all applicable local, state and federal law, rule or regulation regulating mine reclamation activities. We not only own the land where the excavation and processing will be taking place, but the land surrounding the mining area. We care about our land and will continue to do so before, during and after the mining is completed. We want to be able to utilize the sand/gravel/rock resources that are there. We will not negatively impact the birds or wild animals. We have not grazed the land in Exhibit B1, which has allowed the grasses to come back. We have more responsibly grazed the land on Parcels B2 and B3 and the grasses on B2 and B3 are in significantly better condition than when we purchased the property. Our mining operation will have virtually zero impact on the birds and animals. Once completed, we will reclaim the area to restore the natural features as much as possible. We will spread the stockpiled topsoil and replant the land around the mining area. We want the area to look similar to the surrounding area when the reclamation is complete.

The site plan was prepared by:  
Brian Hammerbeck, Member  
H&H Land Company #2 LLC  
1434 Pevans Parkway  
Rapid City, SD 57701  
605-431-9291
x. Reclamation Plan. The reclamation plan shall demonstrate that the site will be reclaimed to restore natural features or for use as an agriculture site that has soils that are comparable to pre-mining soils and/or neighboring fields and adequate drainage to support plant and animal life. The mining operation shall comply with all applicable local, state and federal law, rule or regulation regulating mine reclamation activities.

We not only own the land where the excavation and processing will be taking place, but the land surrounding the mining area. We care about our land and will continue to do so before, during and after the mining is completed. We want to be able to utilize the sand/gravel/rock resources that is there. We will not negatively impact the birds or wild animals. We have not grazed the mining land or the land surrounding the mining land, which has allowed the habitat (mainly grasses) to come back. Our mining operation will have virtually zero impact on the birds and animals. Once completed, we will reclaim the area to restore the natural features as much as possible. We will spread the stockpiled topsoil and replant the land around the mining area. We want the area to look similar to the surrounding area when the reclamation is complete.

The site plan was prepared by: Brian Hammerbeck, Member
H&H Land Company #2 LLC
1434 Pevans Parkway
Rapid City, SD 57701
605-431-9291

We have not grazed the land in Exhibit B1, which has allowed the grasses to come back. We have more responsibly grazed the land on Parcels B2 & B3, and the grasses in B2 & B3 are in significantly better shape than when we purchased the property.
Exhibit B1 - Parcel 1

Legal Description (outlined in yellow): W1/2NE1/4; SE1/4NE1/4; W1/2; SE1/4; Lots 1, 2, 3 and 4 all located in Section 7 T1S R10E BHM Pennington County.

This is bare land, no address has been assigned.
Exhibit B2 - Parcel 2

The proposed area to be mined is outlined in black. The area outlined in yellow is the following full legal description: NE1/4NE1/4, S1/2N1/2, S1/2 located in Section 13 T1S R9E BHM; PT GL 2; GL 3-4; SE1/4SW1/4 located in Section 18 T1S R10E BHM; all of Section 24 T1S R9E BHM; NE1/4NW1/4, E1/2SW1/4, SE1/4, LOTS 1,3 AND 4; SE1/4NW1/4; GL 2 located in Section 19 T1S R10E BHM all located in Pennington County.

This is bare land, no address has been assigned. There are no structures located on this property. There are no wells. There are no utilities. The Mud Tracking will be determined.
Exhibit B3 - Parcel 3

The proposed area to be mined is outlined in black. The area outlined in yellow is the following full legal description: E1/2NE1/4 located in Section 26 T1S R9E BHM and all of Section 25 T1S R9E BHM all located in Pennington County. (The owner also owns adjoining property.)

This is bare land, no address has been assigned.

The entry will be off Antelope Creek Road. The Mud Tracking will be determined.

There are no utilities on the property.

There are no wells on the property.
Exhibit C1 - Parcel 1

Initial Proposed Areas
There will be no mining in the Section Line.

- Initial Proposed Excavation areas
- Stockpiling
- Parking

Property owner will berm when needed
Exhibit C2 - Parcel 2

Initial proposed areas

The proposed excavation area is outlined in black. The excavation areas, stock piles, drainage erosion control and parking areas will be determined once the location of the rock has been determined.

The property owner will berm when necessary.

The owner does not intend to mine in the Section Line, but if he does, he will obtain the appropriate permits and approval from Pennington County.
Exhibit C3 - Parcel 3

Initial proposed areas

The proposed excavation area is outlined in black. The excavation areas, stock piles, drainage erosion control and parking areas will be determined once the location of the rock has been determined.

The property owner will berm when necessary.

The owner does not intend to mine in the Section Line, but if he does, he will obtain the appropriate permits and approval from Pennington County.
Exhibit D1 - Parcel 1
Area to scale

Taken from Rapidmap.org.

December 4, 2019
Exhibit D2 - Parcel 2
Area to scale

Taken from Rapidmap.org.

December 4, 2019
Exhibit D3 - Parcel 3

Area to scale

Taken from Rapidmap.org.

December 4, 2019
Exhibit E1 - Parcel 1
Flood Hazard Area Designation
(in blue)
Exhibit E2 - Parcel 2
Flood Hazard Area Designation
(in blue)
Exhibit E3 - Parcel 3
Flood Hazard Area Designation

There is no Flood Hazard Area for this Parcel.
Exhibit F
Stabilization Practices

* Stabilization practices will include: silt fences, wattles, silt ditches and swales.
* The individual responsible for implementing the controls will be Brian Hammerbeck.
* The stabilization inspection will be completed by the landowner.
* The measures that will be taken to minimize offsite tracking of sediment to paved surfaces will include the following: a vehicle tracking, gravel surfacing for distance to any roadway and watering for dust control.
* There will be routine inspections scheduled and procedures to ensure that control measures are operating effectively and efficiently. These inspections will be completed weekly and after any significant weather. Record keeping will begin when the project begins.
* A weekly storm water report will be kept. If erosion control is needed, it will be done at that time.
Exhibit G1 - Parcel 1
Location and direction of flow of surface water
Exhibit G2 - Parcel 2
Location and direction of flow of surface water
Exhibit G3 - Parcel 3
Location and direction of flow of surface water
Exhibit H1 - Parcel 1
Topographical Map
STAFF REPORT

GENERAL INFORMATION:

REQUEST:  
MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 19-09: To amend an existing Planned Unit Development Overlay to allow for seasonal commercial recreation and amusement structures to include racetracks, miniature golf, paintball, arcade games, and to allow five (5) lighted, on-premise signs to be located within 1,500 feet of a residential district and/or dwelling unit in accordance with §213 of the Pennington County Zoning Ordinance.

APPLICANT:  
Donna Hartshorn

APPLICANT ADDRESS:  
8686 S. Highway 16, Rapid City, SD  57702

LEGAL DESCRIPTION:  
Lot 4 of Tract E of Government Lot 2 of NW1/4SE1/4, NE1/4SW1/4 and SW1/4SE1/4; and NE1/4SE1/4 less Lot 1, Tract D of NW1/4SE1/4 less Lot 1, all located in Section 3, T1S, R7E, BHM, Pennington County, South Dakota.

SITE LOCATION:  
8800 / 8700 and 8686 S. Highway 16; across the highway from Reptile Gardens and adjacent to Happy Holiday Campground.

TAX ID:  
13091 / 66917 / 66916

SIZE:  
59.64 acres

EXISTING LAND USE:  
Residential / Pole Barn

ZONING REFERENCE:  
§213

CURRENT ZONING:  
Highway Service District (Planned Unit Development District Overlay)  
Limited Agriculture District (Planned Unit Development District Overlay)  
General Agriculture District (Planned Unit Development District Overlay)
SURROUNDING ZONING:

North
- Highway Service District
- General Agriculture District

South
- Planned Unit Development District
- General Agriculture District

East
- General Agriculture District

West
- Highway Service District
- Planned Unit Development District

PHYSICAL CHARACTERISTICS: Rolling Hills / Open Meadow

REPORT BY: Jason Theunissen

I. PROPOSED RECOMMENDATION
A. Staff will be recommending approval of Major Planned Unit Development Amendment / PU 19-09 with Conditions.

II. GENERAL DESCRIPTION
A. The applicant, Donna Hartshorn, has applied for a Major Planned Unit Development Amendment to amend an existing Planned Unit Development Overlay to allow for seasonal commercial recreation and amusement structures, to include a hovercraft track and paintball range and to allow five (5) lighted, on-premise signs to be located within 1,500 feet of a residential district and/or dwelling unit.

B. June 10, 2016 – The Board of Commissioners approved Planned Unit Development / PU 16-01 with the following twenty-nine (29) conditions:
   1. That the purpose of this Planned Unit Development be to allow a Resort Development and events, such as: weddings; wedding receptions; Chapel use for occasional weddings, funerals and services; birthday parties; reunions; picnics; small gatherings; school tours; wagon rides; pony rides; horse stabling; pasturing of cattle, bulls, calves and other livestock; on-premise signage; beer and wine sales; single-family residence with outbuildings, single-wide mobile home as ranch-hand's residence; farmer's market; pumpkin patch; corn maze; sunflower farm and/or maze; outdoor/indoor riding arena; rodeos; and, other types of small gatherings similar in nature;
   2. That the number of guests be limited up to a maximum of 300 at any one-time;
3. That this Planned Unit Development be considered an overlay zoning district whereby the provisions of the underlying General Agriculture District and Limited Agriculture District still apply and, if the property is no longer utilized in accordance with Planned Unit Development / PUD 16-01, the zoning reverts back to General Agriculture District and Limited Agriculture District assuming the same lot configuration;

4. That the applicant notify the Planning Director prior to transferring ownership of the property so that the Planned Unit Development I PUD 16-01, may be brought forth for review;

5. That prior to operation, the applicant meet with the Pennington County Fire Coordinator to discuss and create an Emergency Plan to evacuate guests from the property in the event of an emergency and that a copy of said plan be submitted to the Planning Director to be kept on file;

6. That prior to starting any outdoor fires, the applicant must obtain a Fire Permit from the SD Wildland Fire Division. Further, the owners are responsible for knowing when the County's Burn Ordinance is in effect;

7. Grass/weeds and other vegetation must be cut short so as to reduce the possibility of a fire;

8. That the west parking area be large enough for a minimum of ninety-one (91) parking spaces and the arena parking area be large enough for a minimum of sixty-seven (67) parking spaces and each parking space shall measure a minimum of 9 feet by 18 feet, with travel lanes measuring at least eighteen (18) feet wide between rows of parking spaces and each parking lot shall be maintained in a dust-free manner, in accordance with Section 310 of the Pennington County Zoning Ordinance;

9. That prior to operation, the applicant submit a Parking Plan to the Planning Director for review to ensure its compliance with Section 310 of the Pennington County Zoning Ordinance;

10. That prior to operation, the internal driveway be widened to eighteen (18) feet in width consisting of a four (4) inch gravel surface to accommodate one and two-way traffic;

11. That the days of operation for the Farmer's Market; Pumpkin Patch; Corn Maze; and, Sunflower Farm and/or Maze, be allowed seven (7) days each week, and the hours of operation, for the above-mentioned, shall be between 10 a.m. and 10 p.m. only;

12. That any music being provided for any activities be shut down by 10p.m.;

13. That the applicant install directional signs along the interior driveway to direct visitors;

14. That temporary structures, such as tents and port-o-potties, only be erected when needed and not on a permanent basis;
15. That all lighting be installed and maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;

16. That the applicant obtain all necessary permits from other governing bodies for the operation, including, but not limited to, South Dakota Department of Health and a sales tax license from the South Dakota Department of Revenue;

17. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed in each structure so it is accessible at all times and the fire extinguisher shall be inspected and tagged annually;

18. That the physical address for both existing residences and any future addresses that are assigned, be posted in accordance with Pennington County Ordinance #20;

19. That prior to the installation of any on-site wastewater system or alteration to the existing on-site wastewater system the landowner shall meet with the appropriate County and/or City staff;

20. If another well is to be dug on the property, that it be continually tested and monitored per South Dakota regulations;

21. That port-o-potties may be utilized by the guests of the events for wastewater disposal, but any other means of wastewater disposal will require proper permitting and review of the system by the City of Rapid City and the Pennington County Planning Department;

22. That prior to the placement of any on-premise signs, the applicant must adhere to Section 312 of the Pennington County Zoning Ordinance;

23. That the applicant ensure the residential and agricultural character of the property is maintained;

24. That prior to operation, the application obtain a Building Permit (with applicable fees) for the unpermitted existing 11' x 19' structure;

25. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

26. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Planned Unit Development;

27. That the operation be conducted by members of the family residing on the premises and event staff, as necessary;
28. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Planned Unit Development / PUD 16-01, which is available at the Planning Office; and,

29. That Planned Unit Development/ PUD 16-01, be reviewed in one year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

C. August 15, 2017 – The Board of Commissioners approved Major Planned Unit Development Amendment / PU 17-07 with the following twenty-eight (28) conditions:

1. That the purpose of this Planned Unit Development be to allow a Resort Development and events, such as: weddings; wedding receptions; Chapel use for occasional weddings, funerals and services; birthday parties; reunions; picnics; small gatherings; school tours; wagon rides; pony rides; horse stabling; pasturing of cattle, bulls, calves and other livestock; on-premise signage; beer and wine sales; single-family residence with outbuildings, single-wide mobile home as ranch-hand’s residence; farmer’s market; pumpkin patch; corn maze; sunflower farm and/or maze; outdoor/indoor riding arena; rodeos; and, other types of small gatherings similar in nature;

2. That the number of guests be limited up to a maximum of 300 at any one-time;

3. That this Planned Unit Development be considered an overlay zoning district; whereby, the provisions of the underlying General Agriculture District, Limited Agriculture District, and Highway Service District still apply and, if the property is no longer utilized in accordance with Planned Unit Development / PU 17-07, the zoning reverts back to General Agriculture District, Limited Agriculture District, and Highway Service District in their respective locations;

4. That the applicant notify the Planning Director prior to transferring ownership of the property so that the Planned Unit Development / PUD 17-07, may be brought forth for review;

5. That prior to operation, the applicant meet with the Pennington County Fire Coordinator to discuss and create an Emergency Plan to evacuate guests from the property in the event of an emergency and that a copy of said plan be submitted to the Planning Director to be kept on file;

6. That prior to starting any outdoor fires, the applicant must obtain a Fire Permit from the SD Wildland Fire Division. Further, the owners are responsible for knowing when the County’s Burn Ordinance is in effect;

7. That the grass/weeds and other vegetation must be cut short so as to reduce the possibility of a fire;
8. That the parking areas be large enough for a minimum of one-
hundred and twenty-two (122) parking spaces and the arena parking
area be large enough for a minimum of seventy (70) parking spaces
and each parking space shall measure a minimum of 9 feet by 18
feet, with travel lanes measuring at least eighteen (18) feet wide
between rows of parking spaces and each parking lot shall be
maintained in a dust-free manner, in accordance with Section 310 of
the Pennington County Zoning Ordinance;
9. That prior to operation, the applicant submit a Parking Plan to the
Planning Director for review to ensure its compliance with Section
310 of the Pennington County Zoning Ordinance;
10. That prior to operation, the internal driveway be widened to eighteen
(18) feet in width consisting of a four (4) inch gravel surface to
accommodate one and two-way traffic;
11. That the days of operation for the Farmer’s Market; Pumpkin Patch;
Corn Maze; and, Sunflower Farm and/or Maze, be allowed seven (7)
days each week, and the hours of operation, for the above-
mentioned, shall be between 10 a.m. and 10 p.m. only;
12. That any music being provided for any activities be shut down by 10
p.m.;
13. That the applicant install directional signs along the interior
driveway to direct visitors;
14. That temporary structures, such as tents and port-o-potties, only be
erected when needed and not on a permanent basis;
15. That all lighting be installed and maintained so as to minimize
spillage of light outside of the sign face so as not to create a
nuisance and the sign must be effectively shielded to prevent beams
or rays from being directed toward any portion of the traveled ways,
and must not be of such intensity or brilliance to cause glare or
impair the vision of the driver of any motor vehicle or otherwise
interfere with any driver’s operation of a motor vehicle;
16. That the applicant obtain all necessary permits from other governing
bodies for the operation, including, but not limited to, South Dakota
Department of Health and a sales tax license from the South Dakota
Department of Revenue;
17. That a portable fire extinguisher with a minimum 2 A-BC rating
shall be placed in each structure so it is accessible at all times and
the fire extinguisher shall be inspected and tagged annually;
18. That the physical address for both existing residences and any future
addresses that are assigned, be posted in accordance with
Pennington County Ordinance #20;
19. That prior to the installation of any on-site wastewater system or
alteration to the existing on-site wastewater system the landowner
shall meet with the appropriate County and/or City staff;
20. That if another well is to be dug on the property, that it be continually tested and monitored per South Dakota regulations;

21. That port-o-potties may be utilized by the guests of the events for wastewater disposal, but any other means of wastewater disposal will require proper permitting and review of the system by the City of Rapid City and the Pennington County Planning Department;

22. That prior to the placement of any on-premise signs, the applicant must adhere to Section 312 of the Pennington County Zoning Ordinance;

23. That the applicant ensure the residential and agricultural character of the property is maintained;

24. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

25. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Planned Unit Development;

26. That the operation be conducted by members of the family residing on the premises and event staff, as necessary;

27. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Planned Unit Development / PUD 17-07, which is available at the Planning Office; and,

28. That Planned Unit Development / PUD 17-07, be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

D. October 2, 2018 – The Board of Commissioners approved the extension of Major Planned Unit Development Amendment / PU 17-07 with the following twenty-eight (28) conditions:

1. That the purpose of this Planned Unit Development be to allow a Resort Development and events, such as: weddings; wedding receptions; Chapel use for occasional weddings, funerals and services; birthday parties; reunions; picnics; small gatherings; school tours; wagon rides; pony rides; horse stabling; pasturing of cattle, bulls, calves and other livestock; on-premise signage; beer and wine sales; single-family residence with outbuildings; single-wide mobile home as ranch-hand’s residence; farmer’s market; pumpkin patch; corn maze; sunflower farm and/or maze; outdoor/indoor riding arena; rodeos; and, other types of small gatherings similar in nature;

2. That the number of guests be limited up to a maximum of 300 at any one-time;
3. That the Planned Unit Development be considered an overlay zoning district whereby the provisions of the underlying General Agriculture District and Limited Agriculture District still apply and, if the property is no longer utilized in accordance with Planned Unit Development/ PUD 17-07, the zoning reverts back to General Agriculture District and Limited Agriculture District assuming the same lot configuration;

4. That the applicant notify the Planning Director prior to transferring ownership of the property so that the Planned Unit Development/ PUD 17-07, may be brought forth for review;

5. That any changes to an the emergency plan be discussed with the Pennington County Fire Coordinator and submitted to Planning Director;

6. That prior to starting any outdoor fires, the applicant must obtain a Fire Permit from the SD Wildland Fire Division. Further, the owners are responsible for knowing when the County's Burn Ordinance is in effect;

7. Grass/weeds and other vegetation must be cut short so as to reduce the possibility of a fire;

8. That the west parking area be large enough for a minimum of ninety-one (91) parking spaces and the arena parking area be large enough for a minimum of sixty-seven (67) parking spaces and each parking space shall measure a minimum of 9 feet by 18 feet, with travel lanes measuring at a minimum eighteen (18) feet wide between rows of parking spaces and each parking lot shall be maintained in a dust-free manner, and in accordance with Section 310 of the Pennington County Zoning Ordinance;

9. That the internal driveway continue to be eighteen (18) feet wide;

10. That the days of operation for the Farmer's Market; Pumpkin Patch; Corn Maze; and, Sunflower Farm and/or Maze, be allowed seven (7) days each week, and the hours of operation, for the above-mentioned, shall be between 10 a.m. and 10 p.m. only; and that any music being provided for any activities be shut down by 10 p.m.;

11. That the applicant maintain directional signs along the interior driveway to direct visitors;

12. That temporary structures, such as tents and port-o-potties, only be erected when needed and not on a permanent basis;

13. That all lighting be installed and maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;
14. That the applicant maintain all necessary permits from other governing bodies for the operation, including, but not limited to, South Dakota Department of Health and a sales tax license from the South Dakota Department of Revenue;

15. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed in each structure so it is accessible at all times and the fire extinguisher shall be inspected and tagged annually;

16. That the physical address for both existing residences and any future addresses that are assigned, be posted in accordance with Pennington County Ordinance #20;

17. That prior to the installation of any on-site wastewater system or alteration to the existing on-site wastewater system the landowner shall meet with the appropriate County and/or City staff;

18. If another well is to be dug on the property, that it be continually tested and monitored per South Dakota regulations;

19. That port-a-potties may be utilized by the guests of the events for wastewater disposal, but any other means of wastewater disposal will require proper permitting and review of the system by the City of Rapid City and the Pennington County Planning Department;

20. That prior to the placement of any on-premise signs, the applicant must adhere to Section 312 of the Pennington County Zoning Ordinance;

21. That the applicant ensure the residential and agricultural character of the property is maintained;

22. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

23. That the applicant obtain a Building Permit for an existing shed structure by October 31, 2018;

24. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Planned Unit Development;

25. That the operation be conducted by members of the family residing on the premises and event staff, as necessary;

26. That the applicant signs the Statement of Understanding within ten (10) business days of approval of the extension of Major Planned Unit Development Amendment/ PU 1 7/07, which is available at the Planning Office; and,

27. That Planned Unit Development/ PUD 17-07 be reviewed in two (2) years, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.
III. EXISTING CONDITIONS

Note: For ease of description, the subject properties are labeled A, B, and C.

A. Lot A (Tax ID 13091):
   1. 4.38 acres.
   2. Zoned Highway Service District (Planned Unit Development Overlay).
   3. 40’ x 120’ pole barn – COBP17-0166.

B. Lot B (Tax ID 66917):
   1. 15.39 acres.
   2. Limited Agriculture District (Planned Unit Development District Overlay)
   3. 16’ x 40’ shed – County Building Permit (COBP) COBP18-0661.
   4. 40’ x 60’ barn – COBP18-0205.

C. Lot C (Tax ID 66916):
   1. 39.87 acres.
   2. General Agriculture District (Planned Unit Development Overlay).
   5. 26’ x 71’ barn – built in 1971, per DOE records.
   6. 10’ x 16’ tool shed – COBP16-0471
   7. 16’ x 21’ shed – built in 1971, per DOE records.
   8. 12’ x 26’ loafing shed – built in 1971, per DOE records.
   9. 29’ x 44’ loafing shed – built in 1971, per DOE records.

D. All located within the City of Rapid City’s 3-mile platting jurisdiction.

E. No Special Flood Hazard Area on the subject properties.

F. Access to the properties is via 66-foot wide access easement.

Subject Properties, Labeled A, B, and C.
IV. REQUEST FOR COMMENT
A. County Highway Department, County Fire Administrator, County Onsite Wastewater Specialist, County Environmental Planner, West River Electric, County Natural Resources, Rapid City Public Works
   1. No comments received.
B. County Environmental Planning Supervisor
   1. There is no Special Flood Hazard Area on the subject properties.
   2. Subject properties are within the City of Rapid City’s 1-mile septic jurisdiction.
C. County Ordinance Enforcement
   1. No violations.
D. County Addressing Coordinator
   1. Addresses will be assigned upon Building Permit submittal and must be posted in accordance with Pennington County’s Ordinance #20.
E. Emergency Services (9-1-1)
   1. Due to the number of existing address points and with this new use in mind, I would suggest it is time to name both of the access roads highlighted below and give them each a new name and re-address all address points taking access off both. Pain in the rear I know, but these locations are already tough for responders to find and its only getting worse. Now is the time and our justification can be that it is being driven by the development and need for more locatable physical addresses in this area during an emergency. Also, if or when we do a new road, if there are four or more structures needing an address we normally make them name the road anyway as you can only issue five addresses per driveway using the rural addressing system.
      a. Staff Comment: This will be addressed as a Condition of approval.
F. Rapid City Community Planning & Development
   1. U.S. Highway 16 is identified as a principal arterial street on the City’s Major Street Plan. U.S. Highway 16 and the service road are State street(s). Any expansion of use on the subject property must be reviewed and approved by the South Dakota Department of Transportation.
   2. The City’s Future Land Use Plan identifies Lot 4 of Tract E as appropriate for Mixed Use Commercial. The remaining two parcels are identified as Forest Conservation. Both designations identify recreational uses as a primary use.
Agenda Item #12
Donna and Lyle Hartshorn
January 27, 2020

3. A site plan, drawn to scale, that includes all three parcels in their entirety should be submitted for review and approval showing the specific area and area size for each of the proposed uses. It appears from the attached partial site plan that the racetrack will be located adjacent to the service road, directly north of the existing campground on the adjacent property. This use, along with other proposed uses that will generate noise, odor, lighting, etc. may have a negative impact on the existing campground. The hours of operation for these types of uses should be limited to ensure that they do not negatively impact the campground or other existing and future uses on surrounding properties.

4. The applicant must identify whether water and/or wastewater facilities will be provided and the type/design of these facilities.

G. South Dakota Department of Transportation
   1. SDDOT has no comments.

V. ANALYSIS
   A. April 9, 2019 – The applicant submitted Major Planned Unit Development Amendment / PUD 19-09 to amend an existing Planned Unit Development Overlay to allow for seasonal commercial recreation and amusement structures to include a hovercraft track, a paintball range and also to allow five (5) lighted on-premise signs to be located within 1,500 feet of a residential district and/or dwelling unit.
   B. The majority of properties in the surrounding area, to include the Underlying Zoning for Tax ID 13091, are zoned Highway Service District, which supports the requested uses.
   C. Sign Permits will need to be applied for prior to placing any lighted on-premise signs on the subject properties.
   D. Due to the amount of development and the need for more locatable physical addresses in this area during an emergency, the access roads currently in use will need to be named and new addresses assigned to the residences and structures used in support of the Resort Development on the subject properties.
   E. Staff made multiple clarifications to previously approved Conditions and removed Conditions #21 and #23, as they were no longer applicable.
RECOMMENDATION: Staff recommends approval of Major Planned Unit Development Amendment / PU 19-09 with the following conditions:

1. That the purpose of this Planned Unit Development be to allow a Resort Development for a single-family residence with outbuildings, a single-wide mobile home as ranch-hand's residence, and seasonal commercial recreation and amusement structures supporting events such as: weddings, wedding receptions, chapel use (weddings, funerals and services), small gatherings, school tours, wagon rides, pony rides, farmer's market, pumpkin patch, corn maze, sunflower farm/maze, rodeo/riding arena, horse stabling, livestock pasturing, on-premise signage, beer and wine sales, hovercraft track, paintball range, and to allow up to five (5) illuminated on-premise signs to be located within 1,500 feet of a residential district and/or dwelling unit;

2. That the number of guests be limited up to a maximum of 300 at any one-time;

3. That the Planned Unit Development be considered an overlay zoning district whereby the provisions of the underlying General Agriculture District, Limited Agriculture District, and Highway Service District still apply and, if the property is no longer utilized in accordance with Major Planned Unit Development Amendment / PUD 19-09, the zoning reverts back to General Agriculture District, Limited Agriculture District, and Highway Service District, assuming the same lot configuration;

4. That the applicant notify the Planning Director prior to transferring ownership of the property so that Major Planned Unit Development Amendment / PUD 19-09 may be brought forth for review;

5. That any changes to an emergency plan be discussed with the Pennington County Fire Coordinator and submitted to the Planning Director;

6. That prior to starting any outdoor fires, the applicant must obtain a Fire Permit from the South Dakota Wildland Fire Division. Further, the owners are responsible for adhering to Pennington County Ordinance #632;

7. That grass, weeds and other vegetation must be cut short so as to reduce the possibility of a fire;

8. That the west parking area be large enough for a minimum of ninety-one (91) parking spaces and the arena parking area be large enough for a minimum of sixty-seven (67) parking spaces. Each parking space shall measure a minimum of 9 feet by 18 feet, with travel lanes measuring a minimum of eighteen (18) feet wide between rows of parking spaces. Each parking lot shall be maintained in a dust-free manner and in accordance with §310 of the Pennington County Zoning Ordinance;
9. That the internal driveway continue to be eighteen (18) feet wide;

10. That the applicant complete a road naming request for the in-use access roads and, upon approval, new addresses be assigned to the residences and structures used in support of the Resort Development on the subject properties;

11. That the physical addresses for both existing residences, and any future addresses that are assigned, be posted in accordance with Pennington County Ordinance #20;

12. That the days of operation for the farmer's market, pumpkin patch, corn maze, sunflower farm/maze, hovercraft track, and paintball range be allowed seven (7) days per week. Hours of operation, for the above-mentioned, shall be between 10 a.m. and 10 p.m. and music being provided for any activities shall end by 10 p.m.;

13. That the applicant maintain directional signs along the in-use access roads to direct visitors;

14. That temporary structures, such as tents and port-o-potties, only be erected when needed and not on a permanent basis;

15. That all lighting be installed and 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;

16. That the applicant maintain all necessary permits from other governing bodies for the operation, including, but not limited to, South Dakota Department of Health and South Dakota Department of Revenue;

17. That a portable fire extinguisher with a minimum 2A:10B:C rating shall be placed in each structure supporting the Resort Development so it is accessible at all times. The fire extinguisher shall be inspected and tagged annually;

18. That prior to the installation of any On-site Wastewater System, or alteration to the existing On-site Wastewater System, the landowner shall meet with the appropriate County and/or City Staff;

19. That if another well is to be dug on the property, it be continually tested and monitored per South Dakota Department of Environment and Natural Resources regulations;
20. That port-o-potties may be utilized by the guests of the events for wastewater disposal, but any other means of wastewater disposal will require proper permitting and review by the City of Rapid City and the Pennington County Planning Department;

21. That prior to the placement of any on-premise signs, the applicant must adhere to §312 of the Pennington County Zoning Ordinance;

22. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

23. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land uses, as determined by the Planning Director, shall require an amendment to this Planned Unit Development;

24. That the operation be conducted by members of the family residing on the premises and event staff, as necessary;

25. That the applicant sign a Statement of Understanding within ten (10) business days of approval of Major Planned Unit Development Amendment / PUD 19-09, which is available at the Planning Office; and,

26. That Major Planned Unit Development Amendment / PUD 19-09 be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.
GENERAL INFORMATION:

REQUEST: CONSTRUCTION PERMIT / CP 20-01: To allow construction activities associated with a sand, gravel, and rock mining operation.

APPLICANT: H & H Land Company #2, LLC / Pat Hall

APPLICANT ADDRESS: 1424 Pevans Parkway, Rapid City, SD 57701

CONTRACTOR: Brian Hammerbeck

CONTRACTOR ADDRESS: 528 Kansas City St., Ste. 5, Rapid City, SD 57701

LEGAL DESCRIPTION: NE1/4NE1/4, S1/2N1/2, S1/2, Section 13, T1S, R9E; W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, T1S, R10E; All of Section 25, T1S, R9E, All of Section 24, T1S, R9E; NE1/4NW1/4, E1/2SW1/4, SE1/4, Lots 1, 3, and 4, Section 19, T1S, R10E; SE1/4NW1/4; GL 2, Section 19, T1S, R10E; PT GL 2; GL 3-4; SE1/4SW1/4, Section 18, T1S, R10E; E1/2NE1/4, Section 26, T1S, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: South of Caputa between Antelope Creek Road and Wisehart Road.

TAX ID: 13418, 11914, 13436, 13435, 11976, 11975, 11972 and 13437

SIZE: 3,083.54 acres

EXISTING LAND USE: Vacant / Agriculture

ZONING REFERENCE: Sections 205, 507-A, and 507-B

CURRENT ZONING: General Agriculture District
SURROUNDING ZONING:

- North: General Agriculture District
- South: General Agriculture District
- East: General Agriculture District
- West: General Agriculture District

PHYSICAL CHARACTERISTICS: Open prairie / rolling hills

UTILITIES: None

REPORT BY: Cody Sack

**Staff is requesting public input on this request. The Planning Director will consider public input from private citizens, the applicant and the Planning Commission, in addition to information provided within this Staff Report, when rendering a decision on Construction Permit / CP 20-01.**

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending that the Interim Planning Director approve Construction Permit / CP 20-01 with conditions.
      1. See attached site plans.

II. GENERAL DESCRIPTION
   A. The applicant, H & H Land Company #2, LLC, has submitted a Construction Permit for construction activities associated with a sand, gravel, and rock mining operation to include stockpiling topsoil.

III. EXISTING CONDITIONS
   A. All parcels are zoned General Agriculture District.
   B. The parcels cover 3,083.54 acres.
   C. All parcels are vacant of structures.
   D. The parcel with the legal description W1/2NE1/4, SE1/4NE1/4, E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7, does have Special Flood Hazard Area on the property.
      1. 100-year flood.

IV. REQUEST FOR COMMENT
   A. County Highway Department
      1. All access approaches be approved and constructed to Pennington County Highway Specifications. All opening of, and constructions within a section line must be approved and permitted through the Pennington County Planning Department.
B. County Professional Environmental Planner
   1. There is Special Flood Hazard Area located on one of the subject properties.
   3. Site must be revegetated in accordance with Section 507 of the PCZO.

C. County Environmental Planner
   1. The disturbed area will need to be revegetated.
   2. Inspection reports will need to be submitted weekly.
   3. Erosion and Sediment controls need to be installed prior to any disturbance.

D. County Ordinance Enforcement Officer
   1. No violations.

E. County Natural Resources Director
   1. No objections.

F. Emergency Services (9-1-1)
   1. For emergency response to these mine sites, I usually recommend assignment of a physical address, regardless if there is a building or not. In this case, since there are multiple sites and entry points that may be more difficult.

G. South Dakota Department of Transportation (SDDOT)
   1. Truck turning movements to verify no lane encroachments at State Highway (SD44) access locations.
   2. Truck turning movements to verify proper turning radius on State Highway (SD44) access locations.
   3. Stopping sight distance verification at State Highway (SD44) access locations.
   4. State Highway (SD44) mitigation if the following thresholds are met.
      a. The land use served by the access changes.
      b. The traffic volume using the access increases by at least 25%.
      c. The truck percentage of total vehicular volume using the access increases by at least 10%.

H. West River Electric
   1. West River Electric has no comments regarding the attached Mining and Construction Permits

I. County Fire Administrator
   1. No comments received.

V. ANALYSIS
   A. This Construction Permit is for activities associated with mining such as stockpiling, grading, and the reclamation of the site.
B. The applicant has requested a Mining Permit for eight (8) parcels.
   1. One parcel with the legal description of W1/2NE1/4, SE1/4NE1/4,
      E1/2W1/2, SE1/4, Lots 1, 2, 3, and 4, Section 7 will be where the
      main mine is located.
   2. The other seven (7) parcels were included within the Permit scope
      due to the fact that they may be mined in the future depending on the
      results of some explanatory digging.

C. The total disturbance of this Construction Permit will be approximately
   1,280 acres.
   1. This includes if the parcels to the south are mined in the future.
   2. The active mine has a disturbance area of approximately 100 acres
      or more.

D. If in the future the mine expands the southern parcels, Section Lines will
   need to be opened by the Pennington County Board of Commissioners.

E. There is Special Flood Hazard Area (SFHA) located on the parcel where the
   current mining operation will take place.
   1. The applicant has stated that there are no plans to extract or disturb
      any material within the SFHA.

F. The applicant is working with SDDOT about the comments the sent staff
   during the routing process.

G. Staff has not received any complaints or concerns from the public regarding
   Construction Permit/ CP 20-01
RECOMMENDATION: Staff is recommending that the interim Planning Director approve Construction Permit / CP 20-01 with the following conditions:

1. That the applicant submits a Notice of Intent to the South Dakota Department of Environment and Natural Resources for a General Permit for Storm Water Discharges and the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;

2. That the applicant follows the Operation Plan that was submitted with the Mining Permit application;

3. That if at any point there is access through or across an unimproved section line or a section line that has not been opened by the Pennington County Board of Commissioners the applicant obtains approval for Road Construction in a Section Line Right-of-Way;

4. That any natural drainage ways and paths be continually maintained;

5. The requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;

6. That the site shall be re-vegetated as required under § 507(A)(5)(c);

7. That inspection reports are available upon request of the Planning Director;

8. That the applicant follows the Operation Plan that was submitted with the Mining Permit application;

9. That no work may be done within a section line unless first obtaining approval from the Pennington County Board of Commissioners;

10. That the Conditions of Approval of Mining Permit / MP 20-01 are continually met;

11. That the applicant signs a Statement of Understanding within ten (10) business days of Construction Permit approval, which is available at the Planning Office; and,

12. That this Construction Permit be reviewed in six (6) months from approval date, and may be reviewed on a complaint basis, or as directed by the Planning Commission and/or the Board of Commissioners to verify that all Conditions of Approval are being met.
Exhibit A

The landowner is requesting approval for a mining permit from Pennington County to extract sand, gravel and/or rock to be crushed and used in construction as outlined in Section 320.

The proposed planned sequence of work will be as follows:

1. Stockpile top soil.
2. Excavate sand, gravel and/or rock material.
3. Process materials for different types, pile.
4. Reclamation will include top soil, reseeding and any other procedures as applicable.

Brian Hammerbeck has been in contact with Thomas Cline with the South Dakota Department of Environment and Natural Resources. The landowner has the application and is aware of the state mining requirements and will file the application and following all requirements after the Pennington County mining permit has been issued and before any mining begins.

Section 320 - Mining Operation

c. Site Plan. A site plan, drawn at a scale that is clearly legible and includes the following:

i. North point, scale and date.  
   Exhibits D1, D2 and D3.

ii. Property boundaries of land that is the subject of the application.  
    Exhibits B1, B2 and B3.

iii. Location and boundaries of the permit limit, including the extent of the area to be excavated, related storage, stockpiling and processing areas, paving, and areas where mining by-products will be deposited.  
    Exhibits C1, C2 and C3.

iv. Location of all access points, roads, rights-of-way, and utility easements on or abutting the property.  
    Exhibits B1, B2 and B3.

v. Location of all structures within 300 feet of the permit limit.  
    Exhibits B1, B2 and B3.

vi. Location and direction of flow of surface water on or with 300 feet of the permit limit.  
    Exhibits G1, G2 and G3.

vii. Location of registered wells onsite and within 1,500 feet outside the boundary, both existing and proposed by the applicant, within the first 5 years of operation.  
    Exhibit B1, B2 and B3.
Exhibit A (Continued)

viii. Benchmarks, if needed, for the contour maps.  
This will be completed if it is needed.

ix. A topographic map, with a contour interval of not more than 10 feet, of the proposed permit limit and the area within 300 feet of the permit limit. The site plan shall specify the reference elevation, such as mean sea level, an on-site benchmark or other commonly accepted references.  
Exhibits H1, H2 and H3.

x. Areas to be used for drainage and erosion control management or sedimentation ponds, if any.  
Exhibit C1, C2 and C3.

xi. Location of proposed parking areas, signs, fencing and a description of proposed fencing.  
Exhibit C1, C2 and C3.

xii. Proposed berm locations.  
These will be completed when necessary.

xiii. Special Flood Hazard Area.  
Exhibits E1, E2 and E3.

d. Operation Plan. An operation plan will include a description of the proposed mining operation and methods and procedures to be used in the mining of the site. The operation plan shall also include the following:

i. The approximate date of the commencement of the operation.  
Estimated to be the first quarter of 2020. The Pennington County Highway Department has indicated they plan to put out a bid request for crushed gravel estimated in the first quarter of 2020 and we anticipate submitting a bid on their project.

ii. Type of mining, processing, and transportation equipment to be used.  
The type of mining materials will be sand, gravel and/or rock. There will be a standard rock crushing setup with dust control. We plan to utilize dump trucks and possibility semi-trucks pulling double trailers.

iii. Estimated type and amount of materials to be extracted.  
The materials that will be extracted are sand, gravel and/or rock materials. The estimated amount of materials is 50,000 + tons annually. We anticipate that the Pennington County Highway Department will request a bid for 70,000 tons in the first quarter of 2020.
iv. Estimated number of truckloads per day and estimated weigh of material per truckloads. 
There is an estimate of ten truckloads average per day based on 25-50 tons per load, but will be more or less depending on the market conditions and the time of year. We anticipate and estimate that the number of truckloads per day will vary from zero to twenty.

v. Operational measures to comply with noise, dust, air containments and vibration laws, ordinances. 
We will use good equipment and good operational measures to keep these at reasonable levels.

vi. Operational measures to prevent groundwater and surface water degradation (must meet all applicable Federal and State regulations). 
We will not allow the ground water to be negatively impacted. We will do mainly shallow excavations that will not impact the ground water. We will not dump or deposit any contaminants that would degrade any water.

vii. Measured or estimated depth to groundwater. If excavations below the water table are to occur, operational measures to prevent entry of contaminants into the groundwater. 
The groundwater levels fluctuate by seasons. The estimated average depth to groundwater is 12' below the surface of the ground. We anticipate working when there is minimal impact to the ground water level. We will not be doing any processing of materials at the ground water level. The only thing that will be at the ground water levels will be excavating the material to take to our processing equipment and areas. We will not allow contaminants into the ground water. We plan on dewatering the areas prior to excavation, as needed.

viii. Operational measures to stabilize topsoil and other material stockpiles. 
We will remove and conserve topsoil and make the piles “topsoil” and save them to put back in the reclamation process. We will not contaminate the topsoil and we will maintain the topsoil as part of the reclamation process.

ix. Operational measures to endure no wetland is disturbed or written approval from the U.S. Army Corps of Engineers or the South Dakota Department of Environment and Natural Resources (SD DENR) for disturbance of wetland. We will not be excavating or processing in any designated wetlands.
Reclamation Plan. The reclamation plan shall demonstrate that the site will be reclaimed to restore natural features or for use as an agriculture site that has soils that are comparable to pre-mining soils and/or neighboring fields and adequate drainage to support plant and animal life. The mining operation shall comply with all applicable local, state and federal law, rule or regulation regulating mine reclamation activities.

We not only own the land where the excavation and processing will be taking place, but the land surrounding the mining area. We care about our land and will continue to do so before, during and after the mining is completed. We want to be able to utilize the sand/gravel/rock resources that are there. We will not negatively impact the birds or wild animals. We have not grazed the land in Exhibit B1, which has allowed the grasses to come back. We have more responsibly grazed the land on Parcels B2 and B3 and the grasses on B2 and B3 are in significantly better condition than when we purchased the property. Our mining operation will have virtually zero impact on the birds and animals. Once completed, we will reclaim the area to restore the natural features as much as possible. We will spread the stockpiled topsoil and replant the land around the mining area. We want the area to look similar to the surrounding area when the reclamation is complete.

The site plan was prepared by:  
Brian Hammerbeck, Member  
H&H Land Company #2 LLC  
1434 Pevans Parkway  
Rapid City, SD 57701  
605-431-9291
x. Reclamation Plan. The reclamation plan shall demonstrate that the site will be reclaimed to restore natural features or for use as an agriculture site that has soils that are comparable to pre-mining soils and/or neighboring fields and adequate drainage to support plant and animal life. The mining operation shall comply with all applicable local, state and federal law, rule or regulation regulating mine reclamation activities.

We not only own the land where the excavation and processing will be taking place, but the land surrounding the mining area. We care about our land and will continue to do so before, during and after the mining is completed. We want to be able to utilize the sand/gravel/rock resources that is there. We will not negatively impact the birds or wild animals. We have not grazed the mining land or the land surrounding the mining land, which has allowed the habitat (mainly grasses) to come back. Our mining operation will have virtually zero impact on the birds and animals. Once completed, we will reclaim the area to restore the natural features as much as possible. We will spread the stockpiled topsoil and replant the land around the mining area. We want the area to look similar to the surrounding area when the reclamation is complete.

The site plan was prepared by:

Brian Hammerbeck, Member
H&H Land Company #2 LLC
1434 Pevans Parkway
Rapid City, SD 57701
605-431-9291

We have not grazed the land in Exhibit B1, which has allowed the grasses to come back. We have more responsibly grazed the land on Parcels B2 and B3, and the grasses in B2 and B3 are in significantly better shape than when we purchased the property.
Exhibit B1 - Parcel 1

Legal Description (outlined in yellow): W1/2NE1/4; SE1/4NE1/4; W1/2; SE1/4; Lots 1, 2, 3 and 4 all located in Section 7 T1S R10E BHM Pennington County.

This is bare land, no address has been assigned.
Exhibit B2 - Parcel 2

The proposed area to be mined is outlined in black. The area outlined in yellow is the following full legal description: NE1/4NE1/4, S1/2N1/2, S1/2 located in Section 13 T1S R9E BHM; PT GL 2; GL 3-4; SE1/4SW1/4 located in Section 18 T1S R10E BHM; all of Section 24 T1S R9E BHM; NE1/4NW1/4, E1/2SW1/4, SE1/4, LOTS 1,3 AND 4; SE1/4NW1/4; GL 2 located in Section 19 T1S R10E BHM all located in Pennington County.

This is bare land, no address has been assigned.
There are no structures located on this property. There are no wells. There are no utilities. The Mud Tracking will be determined.
Exhibit B3 - Parcel 3

The proposed area to be mined is outlined in black. The area outlined in yellow is the following full legal description: E1/2NE1/4 located in Section 26 T1S R9E BHM and all of Section 25 T1S R9E BHM all located in Pennington County. (The owner also owns adjoining property.)

This is bare land, no address has been assigned.

The entry will be off Antelope Creek Road. The Mud Tracking will be determined.

There are no utilities on the property.

There are no wells on the property.
Exhibit C1 - Parcel 1

Initial Proposed Areas
There will be no mining in the Section Line.

- Initial Proposed Excavation areas
- Parking
- Stockpiling

Property owner will berm when needed
Exhibit C2 - Parcel 2

Initial proposed areas

The proposed excavation area is outlined in black. The excavation areas, stock piles, drainage erosion control and parking areas will be determined once the location of the rock has been determined.

The property owner will berm when necessary.

The owner does not intend to mine in the Section Line, but if he does, he will obtain the appropriate permits and approval from Pennington County.
Exhibit C3 - Parcel 3

Initial proposed areas

The proposed excavation area is outlined in black. The excavation areas, stock piles, drainage erosion control and parking areas will be determined once the location of the rock has been determined.

The property owner will berm when necessary.

The owner does not intend to mine in the Section Line, but if he does, he will obtain the appropriate permits and approval from Pennington County.
Exhibit D1 - Parcel 1

Area to scale

Taken from Rapidmap.org.

December 4, 2019
Exhibit D2 - Parcel 2
Area to scale

Taken from Rapidmap.org.
Exhibit D3 - Parcel 3

Area to scale

Taken from Rapidmap.org.

December 4, 2019
Exhibit E1 - Parcel 1
Flood Hazard Area Designation
(in blue)
Exhibit E2 - Parcel 2
Flood Hazard Area Designation
(in blue)
Exhibit E3 - Parcel 3
Flood Hazard Area Designation

There is no Flood Hazard Area for this Parcel.
Exhibit F
Stabilization Practices

* Stabilization practices will include: silt fences, wattles, silt ditches and swales.

* The individual responsible for implementing the controls will be Brian Hammerbeck.

* The stabilization inspection will be completed by the landowner.

* The measures that will be taken to minimize offsite tracking of sediment to paved surfaces will include the following: a vehicle tracking, gravel surfacing for distance to any roadway and watering for dust control.

* There will be routine inspections scheduled and procedures to ensure that control measures are operating effectively and efficiently. These inspections will be completed weekly and after any significant weather. Record keeping will begin when the project begins.

* A weekly storm water report will be kept. If erosion control is needed, it will be done at that time.
Exhibit G1 - Parcel 1
Location and direction of flow of surface water
Exhibit G2 - Parcel 2
Location and direction of flow of surface water
Exhibit G3 - Parcel 3
Location and direction of flow of surface water
Exhibit H1 - Parcel 1
Topographical Map