

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
February 13, 2023 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Charlie Johnson, Karen McGregor, Kevin Kuehn, Mikal Lewis, Kevin Burton, and Ron Rossknecht.

STAFF PRESENT: Brittney Molitor, Cody Sack, Megan Talmage, Christine Phillip, TJ Doreff, Jason Theunissen, Jeri Ervin, and Megan Krueger (State's Attorney's Office).

ROLL CALL

1. APPROVAL OF THE JANUARY 23, 2023, MINUTES
Moved by Rossknecht and seconded by Kuehn to approve the Minutes of the January 23, 2023, Planning Commission meeting. Vote: unanimous 6 to 0.

2. APPROVAL OF THE AGENDA
Moved by Burton and seconded by Lewis to approve the Agenda of the February 13, 2023, Planning Commission meeting. Vote: unanimous 6 to 0.

Moved by Coleman and seconded by Burton to approve the Consent Agenda of the February 13, 2023, Planning Commission meeting, with the removal of Items #10 and #11. Vote: unanimous 6 to 0.

CONSENT AGENDA

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

3. **CONDITIONAL USE PERMIT REVIEW / CU 11-02:** Jeff DeVeney. To review an internally illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District in accordance with Sections 212, 312, and 510 of the Pennington County Zoning Ordinance.

Lot 3 of Lot D, Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 11-02 with the following eight (8) conditions:

1. **That this Conditional Use Permit only allows for one internally, illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District;**

2. That access to the site continue to be taken from Highway 385 and not from Penalua Gulch Road;
3. That all lighting be continually 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;
4. That the sign maintain a minimum of a five (5) foot setback from the front property line and ten (10) foot setbacks from all side property lines. Also, that no part of the sign or infrastructure used for lighting be placed in a Right-of-Way;
5. That a Sign Permit be obtained for any on-premise signs, which requires a site plan to be reviewed and approved by the Planning Director;
6. That the sign continually conforms to all regulations in Section 312 of the Pennington County Zoning Ordinance;
7. That the sign continue to be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated; and,
8. That this Conditional Use Permit be reviewed on a complaint basis, or as directed by the Pennington County Board of Commissioners or Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CU 16-18:** Richard and Susan Raposa. To review a Vacation Home Rental in a Rural Residential District in accordance with Sections 207, 319, and 510 of the Pennington County Zoning Ordinance.

Lot A Revised of Lot 15, Stratmeyer Addition, Section 14, T1S, R6E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 16-18 with the following sixteen (16) conditions:

1. That the maximum overnight occupancy, based on SD DANR approval, continue to be limited to ten people and the maximum daytime occupancy be limited to fifteen people;
2. That the address for the residence (23773 Pine Haven Drive) continue to be posted at all times on the residence and at the driveway so that it is visible from both directions of travel on Pine Haven Drive in accordance with Pennington County's Ordinance #20;

3. That the minimum setback requirements of a Low Density Residential District continue to be maintained on the property;
4. That the subject property remains free of debris and junk vehicles;
5. 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;
6. That the applicant continue to provide a landline in case of an emergency;
7. That the Landowners continue to maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
8. That the applicant continues to maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
9. That a minimum of five off-street parking spaces continue to be provided on-site, each measuring a minimum of nine feet by eighteen feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
10. That an interior informational sign continue to be posted in accordance with the requirements of Zoning Ordinance § 319-G, with 399-3721 and 394-4139 listed as contacts for the Fire Department and Sheriff's Department, during operating of the residence as a VHR;
11. That the applicant ensure the VHR continues to operate in accordance with the requirements of Zoning Ordinance § 319-F (Performance Standards) at all times;
12. That if the person designated as the Local Contact is ever changed from Richard and Susan Raposa, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail;
13. 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;
14. That prior to the placement of any on-premise signs, the applicant obtain approval of a Sign Permit and such signs must meet all requirements of Zoning Ordinance § 312;
15. That each review of Conditional Use Permit / CU 16-18, be subject to Zoning Ordinance § 511(P), which imposes a \$100 fee per review; and,

16. That this Conditional Use Permit be reviewed in one year, on a complaint basis, or as directed by the Pennington County Board of Commissioners or the Pennington County Planning Commission to verify that all conditions are being met.

Vote: unanimous 6 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 16-39:** Troxel Properties, LLC; Pam Troxel. To review a Vacation Home Rental in a Rural Residential District in accordance with Sections 207, 319, and 510 of the Pennington County Zoning Ordinance.

Lot B of NW1/4NE1/4 and 1/2 Vac Rd Adj to said Lot, Section 16, T1N, R6E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 16-39 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on SD DANR approval, continue to be limited to 4 people and the maximum daytime occupancy be limited to 8 people;
2. That the applicant continue to provide a landline in case of an emergency, which will be verified by the Planning Department;
3. That if any additions to the structure and/or if 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 DANR;
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 an On-site Wastewater Construction Permit be obtained for any upgrades or changes to the existing on-site wastewater treatment system;
6. That the applicant maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
7. That the minimum of two off-street parking spaces continue to be provided on-site, each measure a minimum of nine feet by eighteen feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner in accordance with § 310 of the Pennington County Zoning Ordinance;
8. That an interior information sign continue to be posted in accordance with the requirements of Pennington County Zoning Ordinance § 319-G, with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff's Department respectively, during operation of the VHR. The interior informational sign must also contain a color map illustrating the Special Flood Hazard Area, as determined by FEMA;

9. That the existing driveway remains gravel so as the inlet, outlet, and pumping access ports for the septic tank are accessible;
10. That the lot address continue to be posted at all times so it is clearly visible from Hisega Drive, in accordance with Pennington County's Ordinance #20;
11. That the applicant ensure the VHR is continually operating in accordance with the requirements of Pennington County Zoning Ordinance §319-F (Performance Standards) at all times;
12. That prior to any disturbance within the boundaries of the Special Flood Hazard Area, an approved Floodplain Development Permit be obtained;
13. That if the person designated as the Local Contact is ever changed from Pam Troxel, the interior information sign be updated and the applicant notify the Planning Department and surrounding landowners within 500 feet via letters sent First Class mail;
14. 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; and,
15. That this Conditional Use Permit be reviewed in three years, on a complaint basis, or as directed by the Pennington County Board of Commissioners or Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

6. **CONDITIONAL USE PERMIT REVIEW / CU 17-48:** Fred and Michelle Prien. To review a Vacation Home Rental in an Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 12 less E100 feet and all of 13; Clear Creek Placer MS 1184, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 17-48 with the following sixteen (16) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, continue to 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 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 applicant obtains proper permits prior to utilizing a fire pit on the subject property and all fire restrictions be followed at all times. A copy of said permit shall be filed with the CUP documents at the Pennington County Planning Department;
4. That the applicant provides the phone number and/or internet site address to clients, so they may be made aware of the current day's fire conditions and restriction, as pertaining to the use of a fire pit;
5. 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;
6. That the applicants continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department, upon request;
7. That each review of Conditional Use Permit / CU 19-18, be subject to PCZO § 511(F)(4), which includes a \$100 fee per review;
8. That a minimum of three (3) off-street parking spaces continue to 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;
9. That an interior informational sign or signs continue to be posted in accordance with the requirements of PCZO § 319(G), with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental.
10. That the lot address (12735 N Prairie Creek Rd.) continue to be posted on the residence at all times, in accordance with Pennington County's Ordinance #20;
11. That the applicants ensure the Vacation Home Rental is continually operated in accordance with the requirements of PCZO § 319(F) (Performance Standards) at all times;
12. That if the person designated as the Local Contact is ever changed from Kathleen Lewis, 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;
13. 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;
14. That an approved Sign Permit be obtained prior to the placement of any on-premise sign(s);

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

Vote: unanimous 6 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CU 18-09:** Scott and Christine Grierson. To review a Recreational Vehicle to be used as temporary living quarters on the subject property (Lot 6) while building a single-family residence on Lot 5 in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 6, Block 3, Pactola Estates, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 18-09 with the following eight (8) conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property (Lot 6, Block 3) during construction of the single-family residence (Lot 5, Block 3);
2. That the address assigned for the property continue to be clearly posted on the Recreational Vehicle (RV) while it is being utilized as living quarters, in accordance with Pennington County's Ordinance #20;
3. That the minimum setback requirements of an Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;
4. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;
5. 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;
6. That upon completion of the single-family residence on Lot 5, Block 3, the RV on Lot 6, Block 3 will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property;
7. That the applicant notify the Planning Department when the new residence is habitable, so that this Conditional Use Permit may be ended; and,
8. That this Conditional Use Permit be reviewed at the September 11, 2023 Planning Commission Hearing, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

8. **CONDITIONAL USE PERMIT REVIEW / CU 18-18:** Reel Simple, LLC / Randy Dowdy. To review a rental home park on the subject property to include seven (7) existing mobile home rental units and to allow an additional seven (7) rental units, which would include mobile homes and/or governor's homes, and to also allow a caretaker/manager's residence and shop building on the subject property in a Suburban Residential District in accordance with Sections 209, 305, and 510 of the Pennington County Zoning Ordinance.

W1/2W1/2SE1/4SW1/4, Section 17, T2N, R8E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 18-18 with the following sixteen (16) conditions:

1. **That the uses of the Conditional Use Permit be limited to a maximum of fourteen (14) rental homes, either mobile homes or governor's homes, and one (1) residence to be used as the caretaker/manager's residence;**
2. **That the rental home park continually has a caretaker or manager's residence on-site and it be appropriately identified as such;**
3. **That decks and accessory structures (i.e. garages and sheds) be allowed with the issuance of an approved Building Permit;**
4. **That a minimum 20-foot separation between units (mobile home living space, including attached decks) and a minimum 10-foot separation between accessory structures (e.g. garages, sheds) and adjacent residences be maintained;**
5. **That the minimum setback requirements of a Suburban Residential District be maintained. In addition, a minimum setback of ten (10) feet shall be maintained from all access roads within the rental home park;**
6. **That the cul-de-sac radius of the interior roadway be increased to 48-feet and the interior roadway be constructed and maintained to a twenty-five (25) foot driving surface with a minimum four (4) inches of gravel and be continually maintained in a dust free manner;**
7. **That the entire water system must be fully operational by the time the 10th Building Permit for a mobile home is submitted prior to the issuance of a Building Permit.;**
8. **That all addresses assigned must be posted in accordance with Pennington County's Ordinance #20;**
9. **That approved On-Site Wastewater Permits be obtained from the City of Rapid City prior to any on-site wastewater treatment system(s) being installed on the subject property, which will also require review and approval by the South Dakota Department of Environment and Natural Resources;**

10. That a minimum of two (2) off-street parking spaces be provided for each residence on the subject property. Each parking space must measure a minimum of nine (9) feet by eighteen (18) feet and be surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use;
11. That a Sign Permit be obtained prior to the installation of any signs on the subject property; all signs must meet the requirements of § 312 of the Pennington County Zoning Ordinance (PCZO);
12. That the property remains free of debris and junk vehicles and all structures be well-maintained;
13. That all existing drainage ways be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water per PCZO § 507(A). This includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures;
14. That an approved Building Permit be obtained for each new residence prior to construction and for any structure(s) exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
15. That an approved Floodplain Development Permit be obtained *prior* to any disturbance within the Special Flood Hazard Area on the subject property; 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.

Vote: unanimous 6 to 0.

9. **CONDITIONAL USE PERMIT REVIEW / CU 19-29**: Chad and Nancy Reber. To review a contractor's equipment storage yard in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of W1/2SW1/4 Less Tract A of Lot 1, Less Blaseg Subdivision and Less Right-of-Way, Section 15, T2N, R8E, BHM, Pennington County, South Dakota.

(Continued from the January 23, 2023, Planning Commission meeting.)

To end Conditional Use Permit / CU 19-29, as the use has ceased for more than one year.

Vote: unanimous 6 to 0.

END OF CONSENT AGENDA

10. CONDITIONAL USE PERMIT REVIEW / CU 21-46: Jeff DeVeny. To review an off-premise sign to be located on the subject property in a Highway Service District in accordance with Sections 212, 312, and 510 of the Pennington County Zoning Ordinance.

Lot 3 of Lot D, Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

Chairman Johnson requested to have this item removed from the Consent Agenda for discussion.

Staff recommended approval of the extension of Conditional Use Permit / CU 21-46 with conditions.

Discussion followed.

Moved by Rossknecht and seconded by Lewis to continue the review of Conditional Use Permit / CU 21-46 to the February 27, 2023, Planning Commission meeting to address concerns of the Planning Commission.

All voting aye, the Motion carried 6 to 0.

11. PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PU 22-06: Katie Smirnova and Brett Walfish. To review a Planned Unit Development Overlay for a single-family residence to be used as a music school and a Bed and Breakfast, to include accessory structures in accordance with Section 216 of the Pennington County Zoning Ordinance.

Lot C2, Brassfield Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

A member of the public requested this item be removed from the Consent Agenda for discussion.

Staff recommended approval of the extension of Planned Unit Development Overlay / PU 22-06 with conditions.

Discussion followed.

Moved by Rossknecht and seconded by Lewis to approve the extension of Planned Unit Development Overlay / PU 22-06 with the following twenty-nine (29) conditions:

1. **That the approved uses include: practice cabins to be used for daily practices, music rehearsals and music coaching, an educational music school/camp, a single-family residence to also be used as a Bed and Breakfast or lodging facility for music camp attendees and performance/showcase events for the Rushmore Music Festival Board of Directors;**
2. **That there be no more than 4 practice cabins;**

3. That there be no more than one music camp per calendar year not to exceed 30 people including the residents;
4. That there be no more than one performance/showcase event per year with attendance limited to 50 individuals for the Rushmore Music Festival Board of Directors;
5. That the number of guests staying in the Bed and Breakfast is not to exceed 6 guests from a single family;
6. That at the time of sale or transfer of the property, the PUD would only transfer to the current applicant, their heirs, or the Rushmore Music Festival, with Rushmore Music Festival being the only organization allowed to use the property through the PUD. Otherwise, the PUD will automatically end;
7. That if the Rushmore Music Festival ceases the property's use and the PUD is ended, all temporary sheds (used for lessons & practicing) will be removed from the property prior to closing;
8. That the unit numbers be assigned to each individual rehearsal cabin, be posted on the cabin and inside the cabin;
9. That the address for the main house continue to be posted on the residence, so that it is visible from both directions of travel on Klondike Road, in accordance with Pennington County's Ordinance #20;
10. That the Bed and Breakfast meet § 323 (PCZO);
11. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance (PCZO) §310 and that a parking plan is submitted to the Planning Department prior to operation of the music camp or Bed and Breakfast;
12. That the applicant maintains all necessary permits from other governing bodies for the operation of the Bed and Breakfast, including, but not limited to, approval from the South Dakota Department of Health and a Sales Tax License from the South Dakota Department of Revenue;
13. 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 and that a copy of said plan be provided to the Planning Department;
14. That the property remains free of debris and junk vehicles and all structures be well-maintained;
15. That all existing drainage ways be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of

existing drainage ways or bodies of water per PCZO § 507(A). This includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures and that the existing turn outs and work be stabilized and replanted to prevent continued erosion, soil movement and damage to the surrounding property and the road;

16. 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;
17. That any increase in the number of people staying at the Bed and Breakfast or any increase in the number of music camps per year, will require Klondike Road to be improved to a minimum of 18-foot wide south/southeast of the bridge to the driveway of the single-family residence, and if the bed and breakfast is not to be operated, the applicants permanently stabilize the cut-outs along Klondike Road;
18. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That a smoke detector be placed in each sleeping room, with a minimum of at least one (1) smoke detector per floor;
20. That portable fire extinguishers be placed on each floor level so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
21. That quiet hours be between 10 p.m. and 8 a.m.;
22. That daily operations be conducted by the owners, on-site manager, and staff of the Rushmore Music Festival or their heirs or subsidiaries;
23. That the applicants comply with South Dakota Codified Law 34-18;
24. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must comply with Pennington County Zoning Ordinance (PCZO) § 204-J and South Dakota Administrative Rules 74:53:01;
25. That setbacks for all structures shall be a minimum of 25 feet from exterior lot lines;
26. That there is legal access to the property for the requested uses;
27. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Any “significant change”, including but not limited to, the use or

impacts on adjacent land or access road, the increase in the number of guests permitted to stay at the bed and breakfast, an increase in the number of attendees or the frequency of music camps or performances/showcases, the increase in the number of structures, and/or as required by PCZO §216, shall require an amendment to this Planned Unit Development Overlay;

- 28. That the Board of Commissioners are able to restrict the uses in this Planned Unit Development Overlay and that this Planned Unit Development Overlay is reviewed annually; and,**
- 29. That this Planned Unit Development be reviewed in one year, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.**

All voting aye, the Motion carried 6 to 0.

12. CONDITIONAL USE PERMIT / CU 23-02: Joseph Meixell; Jerry Peterson - Agent. To live in the existing modular mobile home while building a single-family residence on the subject property in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

E528 feet of SW1/4SW1/4, Section 29, T1S, R7E, BHM, Pennington County, South Dakota.

Talmage reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to live in the existing modular mobile home while building a single-family residence on the subject property.

Staff recommended approval of Conditional Use Permit / CU 23-02 with the following eight (8) 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 shop with living quarters and future single-family residence and at the driveway in accordance with Pennington County's Ordinance #20;
3. That the subject property not contain more than 1 residential structure (i.e. single-family residence or living quarters);
4. That the Building Permit for the proposed single-family residence be applied for within six months of approval of Conditional Use Permit / CU 23-02;
5. That the minimum setback requirements of an Agriculture District be continually maintained on the property or the appropriate Setback Variance(s) be obtained;

6. That the applicant obtain a Removal Permit for the double-wide mobile home and the double-wide mobile home be removed from the property once the single-family residence is habitable or the expiration of the Building Permit for the single-family residence, whichever comes first;
7. That the subject property remains free of debris and junk vehicles; and,
8. That this Conditional Use Permit be reviewed in 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.

Discussion followed.

Moved by Rossknecht and seconded by Kuehn to approve of Conditional Use Permit / CU 23-02, with amended language in Condition #2, with the following eight (8) 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 future single-family residence and at the driveway in accordance with Pennington County's Ordinance #20;**
- 3. That the subject property not contain more than 1 residential structure (i.e. single-family residence or living quarters);**
- 4. That the Building Permit for the proposed single-family residence be applied for within six months of approval of Conditional Use Permit / CU 23-02;**
- 5. That the minimum setback requirements of an Agriculture District be continually maintained on the property or the appropriate Setback Variance(s) be obtained;**
- 6. That the applicant obtain a Removal Permit for the double-wide mobile home and the double-wide mobile home be removed from the property once the single-family residence is habitable or the expiration of the Building Permit for the single-family residence, whichever comes first;**
- 7. That the subject property remains free of debris and junk vehicles; and,**
- 8. That this Conditional Use Permit be reviewed in 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.**

All voting aye, the Motion carried 6 to 0.

13. PLANNED UNIT DEVELOPMENT OVERLAY / PU 23-01: John and Emily Rowe. To allow a Planned Unit Development Overlay for a Specialty Resort in accordance with Section 216 of the Pennington County Zoning Ordinance.

PT Ray Smith Placer MS 995 S of Highway of Ray Smith Placer MS 995, Section 15, T1S, R4E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicants have applied for a Planned Unit Development Overlay for a Specialty Resort.

Staff recommended approval of Planned Unit Development Overlay / PU 23-01 with the following twenty-seven (27) conditions:

1. That the approved uses of the Specialty Resort include: 5 cabin rentals, 4 camp sites, 3 primitive camp sites, caretaker's residence, horse boarding and a family reunion/wedding venue;
2. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
3. That daily and event operations be conducted by owners, on-site manager, and local contact as necessary;
4. That all-natural drainage paths be continually maintained;
5. That the applicant obtains an approved Sign Permit prior to the placement of any on- or off-premise sign;
6. That all assigned addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;
7. That prior to operation, the access road be named and all addresses changed to reflect the new road name be posted on each structure so they are visible from the newly named road;
8. That each rental cabin and camp site must be equipped with a numbered and color-coded sign indicator which is attached to a post on or near the campsite.
9. That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;
10. That all parking follows Pennington County Zoning Ordinance (PCZO) § 310;
11. That quiet hours in the Specialty Resort be from 11:00 p.m. to 7:00 a.m.;
12. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;

13. That any Cabin Rental within the Specialty Resort obtain all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue;
14. That a smoke detector be placed in each sleeping room utilized for a Cabin Rental, with a minimum of at least 1 smoke detector per floor;
15. That the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times;
16. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of a Cabin Rental so it is accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
17. That the maximum number of people staying at any Cabin Rental adhere to the South Dakota Lodging Establishment's Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
18. That the applicants comply with South Dakota Codified Law 34-18;
19. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must adhere to PCZO § 204-J and South Dakota Administrative Rules 74:53:01;
20. That setbacks for all structures shall comply with those required in an Agriculture District;
21. That building plans for the wedding venue be submitted for review and comment to the South Dakota Department of Health and the State Fire Marshal prior to Building Permit application;
22. That significant changes in the use or impacts on the subject property, as determined by the Planning Director, shall require an amendment to this Planned Unit Development Overlay;
23. That each non-primitive site be equipped with electrical hookups and water and sewer hookups;
24. That all OSWTS obtain approval from Pennington County and the SD DANR and that all wastewater systems adhere to the PCZO §204J;
25. That the applicants obtain an approved Approach Permit from the County Highway Department;
26. That the applicants follow PCZO §322 for special animal keeping; and,

27. That this Planned Unit Development Overlay be reviewed in 1 year, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

Discussion followed.

Moved by Rossknecht and seconded by Kuehn to approve of Planned Unit Development Overlay / PU 23-01 with the following twenty-nine (29) conditions:

1. That the approved uses of the Specialty Resort include: 5 cabin rentals, 4 camp sites, 3 primitive camp sites, caretaker's residence, horse boarding and a family reunion/wedding venue;
2. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
3. That daily and event operations be conducted by owners, on-site manager, and local contact as necessary;
4. That all-natural drainage paths be continually maintained;
5. That the applicant obtains an approved Sign Permit prior to the placement of any on- or off-premise sign;
6. That all assigned addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;
7. That prior to operation, the access road be named and all addresses changed to reflect the new road name be posted on each structure so they are visible from the newly named road;
8. That each rental cabin and camp site must be equipped with a numbered and color-coded sign indicator which is attached to a post on or near the campsite.
9. That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;
10. That all parking follows Pennington County Zoning Ordinance (PCZO) § 310;
11. That quiet hours in the Specialty Resort be from 11:00 p.m. to 7:00 a.m.;
12. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;

13. That any Cabin Rental within the Specialty Resort obtain all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue;
14. That a smoke detector be placed in each sleeping room utilized for a Cabin Rental, with a minimum of at least 1 smoke detector per floor;
15. That the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times;
16. That the applicants provide the guests with the daily local fire conditions;
17. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of a Cabin Rental so it is accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
18. That the maximum number of people staying at any Cabin Rental adhere to the South Dakota Lodging Establishment's Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
19. That the applicants comply with South Dakota Codified Law 34-18;
20. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must adhere to PCZO § 204-J and South Dakota Administrative Rules 74:53:01;
21. That setbacks for all structures shall comply with those required in an Agriculture District;
22. That building plans for the wedding venue be submitted for review and comment to the South Dakota Department of Health and the State Fire Marshal prior to Building Permit application;
23. That significant changes in the use or impacts on the subject property, as determined by the Planning Director, shall require an amendment to this Planned Unit Development Overlay;
24. That each non-primitive site be equipped with electrical hookups and water and sewer hookups;
25. That all OSWTS obtain approval from Pennington County and the SD DANR and that all wastewater systems adhere to the PCZO §204J;

26. **That the applicants obtain an approved Approach Permit from the County Highway Department;**
27. **That the applicants follow PCZO §322 for special animal keeping;**
28. **That the applicants work with the Pennington County Highway Department to place a stop sign at the entrance into the property and for any other signage that may be required; and,**
29. **That this Planned Unit Development Overlay be reviewed in 1 year, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.**

All voting aye, the Motion carried 6 to 0.

14. CONDITIONAL USE PERMIT / CU 23-01: Cal SD, LLC / Tina Roberts. To allow a multiple-family dwelling in an Agriculture District in accordance with Sections 205, 303, and 510 of the Pennington County Zoning Ordinance.

Lot B, Block 4, Spring Canyon Estates, Section 5, T1S, R7E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a multiple-family dwelling on the subject property.

Staff recommended approval of Conditional Use Permit / CU 23-01 with the following eight (8) conditions:

1. That within 90 days the applicant submits Building Permit applications for any unpermitted space within the existing multi-family dwelling and pays any associated penalty fees;
2. That a minimum of 4 off-street parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet, surfaced with gravel, concrete or asphalt, and maintained in a dust-free manner, in accordance with Pennington County Zoning Ordinance (PZCO) § 310(A)(9)(l);
3. That the applicant adheres to the requirements of PCZO § 303;
4. That the minimum setback requirements of an Agriculture District be continually maintained on the property;
5. That separate addresses be assigned to each dwelling unit;
6. That the assigned addresses be posted on each dwelling unit and at the end of the driveway where it intersects Clarkson Road, in accordance with Pennington County Ordinance #20;

7. That an approved Building Permit be obtained for any future 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;
8. That this Conditional Use Permit be reviewed in 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.

Discussion followed.

Commissioner Rossknecht left the meeting at 10:19 a.m.
Commissioner Rossknecht returned to the meeting at 10:21 a.m.

Discussion continued.

Moved by Rossknecht and seconded by Lewis to continue Conditional Use Permit / CU 23-01 to the February 27, 2023, Planning Commission meeting.

Substitute Motion: Moved Rossknecht and seconded by Lewis to continue Conditional Use Permit / CU 23-01 to the March 13, 2023, Planning Commission meeting.

All voting, the Substitute Motion to continue Conditional Use Permit / CU 23-01 to the March 13, 2023, Planning Commission meeting failed 3 to 3. Commissioners Johnson, Lewis, and Rossknecht voted yes. Commissioners Kuehn, Burton, and McGregor voted no.

Moved by Kuehn and seconded by McGregor to approve of Conditional Use Permit / CU 23-01 and to add a condition that the property cannot be rented for profit.

Substitute Motion by Rossknecht and seconded by Lewis to reconsider the Motion to continue Conditional Use Permit / CU 23-01 to the March 13, 2023, Planning Commission meeting.

Substitute Motion by Rossknecht and seconded by Lewis to reconsider the Motion to continue Conditional Use Permit / CU 23-01 to the March 13, 2023, Planning Commission meeting withdrawn.

Substitute Motion: Moved by Kuehn and seconded by McGregor to approve of Conditional Use Permit / CU 23-01 and to add conditions that the property cannot be rented for profit and the applicant remove the non-conforming bedrooms.

Second Substitute Motion: Moved by McGregor and seconded by Rossknecht to continue Conditional Use Permit / CU 23-01 to the March 13, 2023, Planning Commission meeting.

Third Substitute Motion: Moved by McGregor and seconded by Rossknecht to continue Conditional Use Permit / CU 23-01 to the February 27, 2023, Planning Commission meeting. All voting aye, the Motion carried 6 to 0.

The Planning Commission took a ten minute recess.

15. MAJOR PLANNED UNIT DEVELOPMENT OVERLAY AMENDMENT / PU 23-02: Katie Smirnova and Brett Walfish. To amend an existing Planned Unit Development Overlay to allow a single-family residence to be used as a music school and a Bed and Breakfast, to include accessory structures in accordance with Section 216 of the Pennington County Zoning Ordinance.

Lot C2, Brassfield Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicants have applied for a Major Planned Unit Development Overlay Amendment to amend an existing Planned Unit Development Overlay to allow a single-family residence to be used as a music school and a Bed and Breakfast, to include accessory structures.

Staff recommended approval of Major Planned Unit Development Overlay Amendment / PU 23-02 with the following twenty-nine (29) conditions:

1. That the approved uses include: practice cabins to be used for daily practices, music rehearsals and music coaching, an educational music school/camp, a single-family residence to also be used as a Bed and Breakfast or lodging facility for music camp attendees and performance/showcase events for the Rushmore Music Festival Board of Directors;
2. That there be no more than 10 practice cabins;
3. That there be no more than two music camps per calendar year not to exceed 30 people including the residents;
4. That there be no more than 10 events per calendar year and that:
 - a. no more than one event occurs per month;
 - b. no more than two fundraiser performances/showcase events occur per year with attendance limited to 100 individuals; and,
 - c. no more than eight performance/showcase events per year with attendance limited to 50 individuals.
5. That the number of guests staying in the Bed and Breakfast is not to exceed 20 guests from no more than three separate groups;
6. That at the time of sale or transfer of the property, the PUD would only transfer to the current applicant, their heirs, or the Rushmore Music Festival, with Rushmore Music Festival being the only organization allowed to use the property through the PUD. Otherwise, the PUD will automatically end;
7. That if the Rushmore Music Festival ceases the property's use and the PUD is ended, all accessory structures (practice cabins) will be removed from the property prior to closing;

8. That the unit numbers be assigned to each individual practice cabin and be posted on the cabin and inside the cabin;
9. That the address for the main house continue to be posted on the residence, so that it is visible from both directions of travel on Klondike Road, in accordance with Pennington County's Ordinance #20;
10. That the Bed and Breakfast meet § 323 (PCZO);
11. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance (PCZO) §310 and that a parking plan is submitted to the Planning Department prior to operation of the music camp or Bed and Breakfast;
12. That the applicant maintains all necessary permits from other governing bodies for the operation of the Bed and Breakfast, including, but not limited to, approval from the South Dakota Department of Health and a Sales Tax License from the South Dakota Department of Revenue;
13. 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 and that a copy of said plan be provided to the Planning Department;
14. That the property remains free of debris and junk vehicles and all structures be well-maintained;
15. That all existing drainage ways be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water per PCZO § 507(A). This includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures and that the existing turn outs and work be stabilized and replanted to prevent continued erosion, soil movement and damage to the surrounding property and the road;
16. 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;
17. That prior to a second music camp, performances, or the operation of the Bed and Breakfast, the road improvements to widen Klondike Road to 18-feet wide be completed and verified by the applicant's engineer that it was constructed in accordance to the engineered design;
18. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That smoke detectors be placed in each sleeping room, with a minimum of at least one (1) smoke detector per floor;

20. That portable fire extinguishers be placed on each floor level so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
21. That quiet hours be between 10 p.m. and 8 a.m.;
22. That daily operations be conducted by the owners, on-site manager, and staff of the Rushmore Music Festival or their heirs or subsidiaries;
23. That the applicants comply with South Dakota Codified Law 34-18;
24. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must comply with Pennington County Zoning Ordinance (PCZO) § 204-J and South Dakota Administrative Rules 74:53:01;
25. That setbacks for all structures shall be a minimum of 25 feet from exterior lot lines;
26. That there is legal access to the property for the requested uses;
27. That any “significant change”, including but not limited to, the use or impacts on adjacent land or access road, the increase in the number of guests permitted to stay at the bed and breakfast, an increase in the number of attendees or the frequency of music camps or performances/showcases, the increase in the number of structures, and/or as required by PCZO §216, shall require an amendment to this Planned Unit Development Overlay;
28. That this Planned Unit Development Overlay is reviewed annually; and,
29. That this Planned Unit Development be reviewed at the May 8, 2023, Planning Commission meeting, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

Discussion followed.

Commissioner Burton left the meeting at 12:29 p.m. and did not return.

Commissioner Rossknecht left the meeting at 12:38 p.m.
Commissioner Rossknecht returned to the meeting at 12:39 p.m.

Commissioner Kuehn left the meeting at 12:40 p.m.
Commissioner Kuehn returned to the meeting at 12:41 p.m.

Moved by McGregor to continue Major Planned Unit Development Overlay Amendment / PU 23-02. Motion to continue died for lack of a second.

Moved by Rossknecht and seconded by Lewis to deny without prejudice Major Planned Unit Development Overlay Amendment / PU 23-02.

Commissioner Kuehn left the meeting at 1:05 p.m.

Commissioner Kuehn returned to the meeting at 1:09 p.m.

All voting aye, the Motion carried 5 to 0.

16. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the January 23, 2023, meeting.

17. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

18. ITEMS FROM THE STAFF

- A. Special PC Meeting – February 15, 2023, at 4 p.m. Chairman Johnson discussed the meeting procedure for the upcoming Special Planning Commission meeting.
- B. Building Permit Report. Molitor reviewed the January 2023 Building Permit Report.

19. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

20. ADJOURNMENT

Moved by McGregor and seconded by Rossknecht to adjourn.

All voting aye, the Motion carried 5 to 0.

The meeting adjourned at 1:16 p.m.

Charlie Johnson, Chairperson