DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
February 24, 2020 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building


STAFF PRESENT: Brittney Molitor, Stephanie Jansen, Cody Sack, Michaela Hofmann (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE FEBRUARY 10, 2020, MINUTES
Moved by Rossknecht and seconded by Runde to approve the Minutes of the February 10, 2020, Planning Commission meeting. Vote: unanimous 5 to 0.

2. APPROVAL OF THE AGENDA
Moved by Runde and seconded by Johnson to approve the Agenda of the February 24, 2020, Planning Commission meeting. Vote: unanimous 5 to 0.

Commissioner Rivers appeared at the meeting at 9:04 a.m.

Moved by Runde and seconded by Rivers to approve the Consent Agenda of the February 24, 2020, Planning Commission meeting, with the removal of Items #4, #6, and #7. 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 are recommendations to the Pennington County Board of Commissioners who will make the final decision.

To review the transfer of a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

PT Sherman Placer #821 Lot A, Sherman Placer MS 821, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of the transfer of Conditional Use Permit / CU 13-24 with the following thirteen (13) conditions:

1. That the maximum overnight occupancy continue to be limited to four (4) people and the maximum daytime occupancy be limited to six (6) people,
based on approval from the South Dakota Department of Environmental and Natural Resources (SD DENR);

2. That each review of Conditional Use Permit / CU 13-24 be subject to PCZO Section 511(F)(4), which imposes a $100 fee per review;

3. That this Conditional Use Permit be reviewed if there are any additions to the single-family residence and/or if the on-site wastewater treatment system is upgraded in the future, so that the maximum occupancy may be adjusted and approved by SD DENR;

4. That the applicant continue to maintain current 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;

5. That a minimum of two (2) off-street parking spaces continue to be provided on-site, each measuring a minimum of nine (9) by eighteen feet and maintained in a dust-free manner;

6. That an interior informational sign continue to be posted in accordance with the requirements of Section 319-G during operation of the residence as a Vacation Home Rental;

7. That the lot address (12490 Old Hill City Road) continue to be posted at all times so it is clearly visible from Old Hill City Road, in accordance with Ordinance #20;

8. That the applicant continue to ensure the Vacation Home Rental is operated in accordance with the requirements of Section 319-F (Performance Standards) at all times;

9. That an approved Floodplain Development Permit be obtained prior to any construction or disturbance within the designated Special Flood Hazard Area on the subject property;

10. That the applicant continue to maintain a current Burn Permit from the South Dakota Division of Wildland Fire for the outside fire pit and a copy of this permit be provided to the Planning Department upon request;

11. That if the person designated as the Local Contact is ever changed from Jim Peterson, the interior informational sign be updated and the applicant re-notify the surrounding landowners within 500 feet via notices sent by first class mail;

12. That this Conditional Use Permit be automatically revoked upon sale or transfer of ownership of the subject property, unless a transfer of this
Conditional Use Permit is accomplished per Pennington County Zoning Ordinance Section 319; and,

13. 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.

Vote: unanimous 6 to 0.

5. **CONDITIONAL USE PERMIT AMENDMENT REVIEW / CU 15-01:** Sheri Tonner. To review an existing single-wide mobile home to be used as a permanent single-family residence on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

E1/2SW1/4NE1/4; E1/2W1/2SW1/4NE1/4; W1/2W1/2SE1/4 NE1/4; S1/2SE1/4 NW1/4NE1/4; SE1/4SW1/4NW1/4NE1/4; SW1/4SW1/4NE1/4 NE1/4, Section 16, T1S, R7E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit Amendment / CU 15-01 with the following nine (9) conditions:

1. That the property is kept free of junk and debris;

2. 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;

3. That the lot address (13866 Windmill Road) continue to be clearly posted on the residence and road, so as to be visible from both directions on Windmill Road, in accordance with Pennington County’s Ordinance #20;

4. That the mobile home installed on the property continue to 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 General Agriculture District be continually maintained on the property;

6. That the existing single-family residence not be used for any purpose other than cold storage, with no utilities connected;

7. That a Removal Permit be obtained for the existing single-family residence prior to demolition;

8. That if the applicant chooses to build a new single-family residence on the subject property, the applicant obtains an approved new Conditional Use
Permit to live in the single-wide mobile home while constructing a single-family residence;

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

Vote: unanimous 6 to 0.

8. **MINING PERMIT / MP 20-02:** Pennington County Highway Department. To excavate clay to be hauled off site.

Lot 2-4; SE1/4NW1/4, SW1/4NE1/4, W1/2SE1/4, E1/2SW1/4, Section 18, T1S, R7E, BHM, Pennington County, South Dakota.

To approve of Mining Permit / MP 20-02 with the following six (6) conditions:

1. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mine License # 83-45 be continually met;

2. That the applicant follows the Forest Service’s Operating Plan for the Taylor Quarry;

3. That if there is a proposed change in operation from this Mining Permit, including but not limited to, increase in size, amount of material being extracted or type of operation, that the change be submitted to the Planning Director within thirty (30) days and the Mining Permit be reviewed and approved by the Planning Commission;

4. That the applicant obtains and posts a 9-1-1 address for the mine location in accordance with Pennington County Ordinance #20 along with a sign that identifies the name of the mine;

5. 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,

6. That this Mining Permit be reviewed in one (1) year 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.

Vote: unanimous 6 to 0.
9. **MINING PERMIT / MP 20-03:** Pennington County Highway Department. To excavate and crush gravel to be hauled off site.

All Less PT HES #508, Section 21, T2N, R2E, and All Less PT HES #604, Section 28, T2N, R2E, BHM, Pennington County, South Dakota.

To approve of Mining Permit / MP 20-03 with the following six (6) conditions:

1. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mine License # 83-45 be continually met;

2. That the applicant follows the Forest Service’s Operating Plan for the Mud Lake Pit;

3. That if there is a proposed change in operation from this Mining Permit, including but not limited to, increase in size, amount of material being extracted or type of operation, that the change be submitted to the Planning Director within thirty (30) days and the Mining Permit be reviewed and approved by the Planning Commission;

4. That the applicant obtains and posts a 9-1-1 address for the mine location in accordance with Pennington County Ordinance #20 along with a sign that identifies the name of the mine;

5. 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,

6. That this Mining Permit be reviewed in one (1) year 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.

Vote: unanimous 6 to 0.

END OF CONSENT AGENDA

4. **CONDITIONAL USE PERMIT REVIEW / CU 14-28:** Matt Cavenee. To review the transfer of 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, Custer Trails Subdivision #1, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.
Dan and Nancy Evangelisto asked to have this Item removed from the Consent Agenda for discussion.

Staff recommended approval of the transfer of Conditional Use Permit / CU 14-28 with eleven (11) conditions.

Discussion followed.

Moved by Coleman and seconded by Johnson to approve of the transfer of Conditional Use Permit / CU 14-28.

Discussion further followed.

SUBSTITUTE MOTION: Moved by Coleman and seconded by Johnson to approve of the transfer of Conditional Use Permit / CU 14-28 with the following twelve (12) conditions:

1. That the Vacation Home Rental be allowed to have a maximum overnight occupancy of six (6) people;

2. That the 12’ x 16’ shed shall not be utilized as sleeping quarters at any time;

3. That each review of Conditional Use Permit / CU 14-28, be subject to PCZO Section 511(F)(4), which imposes a $100 fee per review;

4. That a minimum of two (2) off-street parking spaces continue to be provided on-site, each measuring a minimum of nine (9) by eighteen feet and maintained in a dust-free manner;

5. That the address continue to be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County’s Ordinance #20;

6. That the applicant continually complies with Administrative Rules of South Dakota (ARSD) 44:02:08, which regulates Vacation Homes;

7. That the applicant obtain and keep up-to-date all the necessary permits from the State pertaining to the use of the Vacation Home Rental;

8. That the applicant continually comply with the Performance Standards outlined in PCZO Section 319(F), which regulates Vacation Home Rentals;

9. That the applicant adheres to the requirements set out by the US Forest Service by not having trails for motorized and non-motorized vehicles such as ATVs and horses;
10. That an interior informational sign continue to be posted in accordance with the requirements of PCZO Section 319(G) during operation of the residence as a VHR;

11. That if the person designated as the Local Contact is ever changed from Edelweiss Mountain Lodging or if their contact information is changed, that the interior information sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail as stated by PCZO Section 319(F)(5); and,

12. That this Conditional Use Permit be reviewed in one (1) year, per PCZO Section 319(C)(5)(d), 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.

All voting aye, the Motion carried 6 to 0.

6. CONDITIONAL USE PERMIT / CU 20-02: Sonquist, LLC; Rob Hammerquist. To allow an existing residence to be used as a Vacation Home Rental in a Low Density Residential District in accordance with Sections 207, 319, and 510 of the Pennington County Zoning Ordinance.

Lot H, Sonquist Acres Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

Staff asked to have this Item removed from the Consent Agenda, per the request of the applicant, as the applicant would like their Item continued.

Staff recommended approval of Conditional Use Permit / CU 20-02 with seventeen (17) conditions.

Discussion followed.

Moved by Rossknecht and seconded by Coleman to continue Conditional Use Permit / CU 20-02 to the March 9, 2019, Planning Commission meeting, per the request of the applicant.

All voting aye, the Motion carried 6 to 0.

7. CONDITIONAL USE PERMIT / CU 20-03: Scott and Janice Harris. To allow a multi-family dwelling in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lots 2-3 of Lot 5, Block 9, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

Members of the public asked to have this Item removed from the Consent Agenda for discussion.
Staff recommended approval of Conditional Use Permit / CU 20-03 with seven (7) conditions.

Discussion followed.

Moved by Coleman and seconded by Runde to approve of Conditional Use Permit / CU 20-03 with the following seven (7) conditions:

1. That an approved Building Permit be obtained for the proposed multi-family dwelling unit addition prior to any work being done;

2. That the proposed multi-family dwelling, garage, and single-family residence are connected and is shown on the Building Permit site plan;

3. That the address be posted and each unit number be clearly posted, so as to be visible from Uranus Drive, in accordance with Pennington County’s Ordinance #20;

4. That the minimum of four (4) off-street parking spaces be provided on-site, each measure a minimum of nine (9) feet by eighteen (18) feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;

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

6. That the subject property remains free of debris and junk vehicles;

7. 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; and,

8. That this Conditional Use Permit be reviewed in six (6) months, 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, the Motion carried 5 to 1. Commissioner Rossknecht voted no.

10. CONDITIONAL USE PERMIT / CU 20-04: School House, LLC; Jessica Ginger – Agent. To allow an existing residence to be used as a Vacation Home Rental in a Low Density Residential District in accordance with Sections 207, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 2A (also in Section 6), Block 1, Spring Canyon Estates, Section 5, T1S, R7E, BHM, Pennington County, South Dakota.
Jansen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a residence to be used as a Vacation Home Rental.

Staff recommended approval of Conditional Use Permit / CU 20-04 with sixteen (16) conditions.

Discussion followed.

Commissioner Rossknecht left the meeting at 10:28 a.m.
Commissioner Rossknecht returned to the meeting at 10:30 a.m.

Moved by Coleman and seconded by Rossknecht to approve of Conditional Use Permit / CU 20-04 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) Section 319(F)(13);

2. 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;

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

4. That each review of Conditional Use Permit / CU 20-04, be subject to PCZO Section 511(F)(4), which imposes a $100 fee per review;

5. That the applicant obtain the Department of Revenue (Sales Tax License) prior to operation;

6. That the applicant 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 the applicant 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;

8. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO Section 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 be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff’s Office respectively, during operation of the Vacation Home Rental;

10. That the lot address (9603 Clarkson Rd.) be posted on the residence at all times and so it is clearly visible from Clarkson Road, in accordance with Pennington County’s Ordinance #20;

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

12. That if the person designated as the Local Contact is ever changed from Jessica Ginger, 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 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 three (3) months when construction is complete to ensure all conditions are being met.

All voting aye, the Motion carried 6 to 0.

11. **LAYOUT PLAN / LPL 20-02**: 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:** E1/2NE1/4; NE1/4SE1/4; NW1/4SE1/4, 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.

Molitor reviewed the Staff Report indicating the applicant has applied for a Layout Plan to create Lots 1, 2, and 3 of Hideaway Hills Subdivision.
Staff recommended approval of Layout Plan / PL 20-02 with conditions.

Discussion followed.

Moved Rossknecht and seconded by Johnson to approve of Layout Plan / PL 20-02 with the following six (6) conditions:

1. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to 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 the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;

3. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;

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

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

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

All voting aye, the Motion carried 6 to 0.

12. **REZONE / RZ 20-01**: Gorden and Jennifer Sabo. To rezone 10.05 acres from General Agriculture District to Limited Agriculture District in accordance with Sections 205, 206, and 508 of the Pennington County Zoning Ordinance.

Commencing at the East 1/4 corner of Section 8, T2S, R7E, BHM, Pennington County, South Dakota; THENCE (1) With the east line of said Section 8, South 01°57′40″ West, 766.30 feet to the point of beginning; THENCE (2) Continuing with said east line, South 01°57′40″ West, 564.87 feet; THENCE (3) Leaving said east line, North 87°46′28″ West, 774.65 feet; THENCE (4) North 01°56′55″ East, 564.94 feet; THENCE (4) South 87°46′28″ East, 774.77 feet to the point of beginning. Said parcel contains 10.05 acres more or less. Section 8, T2S, R7E, BHM, Pennington County, South Dakota.

Moitor reviewed the Staff Report indicating the applicants have applied for a Rezone to rezone 10.05 acres from General Agriculture District to Limited Agriculture District.
Staff recommended approval of Rezone / RZ 20-01.

Moved by Rossknecht and seconded by Runde to approve of Rezone / RZ 20-01.

All voting aye, the Motion carried 6 to 0.

13. PUBLIC HEARING ON AMENDMENT OF PENNINGTON COUNTY COMPREHENSIVE PLAN - ORDINANCE AMENDMENT / OA 19-01: Pennington County. Comprehensive Plan “View to 2040” to amend and supersede Pennington County’s existing Comprehensive Plan.

Molitor reviewed the proposed changes from the Board of Commissioners regarding the Comprehensive Plan “View to 2040.”

Moved by Johnson and seconded by Runde schedule a public hearing on the amendment of Pennington County’s Comprehensive Plan – Ordinance Amendment / OA 19-01 for the March 23, 2020, Planning Commission meeting of the Comprehensive Plan “View to 2040” to amend and supersede Pennington County’s existing Comprehensive Plan.

All voting aye, the Motion carried 6 to 0.

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.

14. CONSTRUCTION PERMIT / CP 20-03: Pennington County Highway Department. To excavate, grade, stockpile, and reclamation work associated with mining activities.

Lot 2-4; SE1/4NW1/4, SW1/4NE1/4, W1/2SE1/4, E1/2SW1/4, Section 18, T1S, R7E, BHM, Pennington County, South Dakota.

Sack stated Staff recommended the Interim Planning Director approve Construction Permit / CP 20-03 with the following eight (8) conditions:

1. That the Conditions of Approval of Mining Permit / MP 20-02 are continually met;
2. That any natural drainage ways and paths be continually maintained;
3. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
4. That the site shall be re-vegetated as required under § 507(A)(5)(c);
5. That inspection reports are available upon request of the Planning Director;
6. That the applicant follows the Forest Service’s Operating Plan for the Taylor Quarry;
7. That the applicant signs a Statement of Understanding within ten (10) business days of approval; and,
8. That this Construction Permit be reviewed in six (6) months from approval date.

15. **CONSTRUCTION PERMIT / CP 20-04**: Pennington County Highway Department. To excavate, grade, stockpile, and reclamation work associated with mining activities.

All Less PT HES #508, Section 21, T2N, R2E, and All Less PT HES #604, Section 28, T2N, R2E, BHM, Pennington County, South Dakota.

Sack stated Staff recommended the Interim Planning Director approve Construction Permit / CP 20-04 with the following eight (8) conditions:

1. That the Conditions of Approval of Mining Permit / MP 20-03 are continually met;
2. That any natural drainage ways and paths be continually maintained;
3. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
4. That the site shall be re-vegetated as required under § 507(A)(5)(c);
5. That inspection reports are available upon request of the Planning Director;
6. That the applicant follows the Forest Service’s Operating Plan for the Taylor Quarry;
7. That the applicant signs a Statement of Understanding within ten (10) business days of approval; and,
8. That this Construction Permit be reviewed in six (6) months from approval date.

16. **COUNTY BOARD REPORT**

The Board of Commissioners concurred with the Planning Commission’s recommendations from the February 10, 2020, Planning Commission meeting.

17. **ITEMS FROM THE PUBLIC**

There were no motions or actions taken.

18. **ITEMS FROM THE STAFF**

A. Vacation Home Rentals. Ms. Michaele Hoffman, Deputy State’s Attorney, spoke of vacation home rentals and covenants.

19. **ITEMS FROM THE MEMBERSHIP**

Commissioner Coleman will not be at the March 9th Planning Commission meeting. Commissioner Runde will not be at the April 13th Planning Commission meeting.
20. **ADJOURNMENT**

Moved by Runde and seconded by Rivers to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at 10:54 a.m.

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Rich Marsh, Chairperson