

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**February 27, 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 Gary Drewes.

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 FEBRUARY 13, 2023, MINUTES  
**Moved by Lewis and seconded by Burton to approve the Minutes of the February 13, 2023, Planning Commission meeting. Vote: unanimous 7 to 0.**
2. APPROVAL OF THE FEBRUARY 15, 2023, MINUTES  
**Moved by Burton and seconded by McGregor to approve the Minutes of the February 15, 2023, Planning Commission meeting. Vote: unanimous 7 to 0.**
3. APPROVAL OF THE AGENDA  
**Moved by Burton and seconded by Lewis to approve the Agenda of the February 27, 2023, Planning Commission meeting.**

**Moved by McGregor and seconded by Lewis to approve the Consent Agenda of the February 27, 2023, Planning Commission meeting, with the removal of Item #7. 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, on certain items from this agenda, are recommendations to the Pennington County Board of Commissioners who will make the final decision.

4. **CONDITIONAL USE PERMIT REVIEW / CU 12-01**: Eric and Amy Wagner. To review a gunsmithing business as a home occupation in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 4, Block 5, Pine Cliff Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 12-01 with the following eight (8) conditions:**

1. That the business continue to be operated by members of the family residing on the premises and that the addition of another employee would require a review of this Conditional Use Permit and the specifications of the on-site wastewater treatment system to be reviewed and approved by SD DANR;
2. That the home occupation, including all associated storage, continue to be conducted entirely indoors;
3. That the home occupation continues to appear secondary to the primary, residential use of the property, and the residential character of the property be maintained;
4. That no on-premise retail sales be allowed;
5. That the applicant continually comply with all applicable local, state, and federal laws and a current copy of the applicant's Federal Firearms License from the U.S. Bureau of ATF be kept on file with the Planning Department;
6. That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property;
7. That any modification or expansion of the home occupation shall require the Conditional Use Permit to be amended; and,
8. That this Conditional Use Permit be reviewed in five (5) years, on a complaint basis, or as directed by Pennington County Planning Commission or Board of Commissioners to verify that all conditions of approval are being met.

**Vote: unanimous 7 to 0.**

5. **CONDITIONAL USE PERMIT REVIEW / CU 14-35:** Brad Nible. To review a multiple-family dwelling in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 19 W151.28 feet, Block 1, Harney Peak View Addition, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 14-35 with the following six (6) conditions:**

1. That a minimum of six (6) off-street parking spaces continue to be provided on-site, each measuring a minimum of nine (9) feet x eighteen (18) feet with gravel, concrete or asphalt, and maintained in a dust-free manner;
2. That the property continues to be kept free of debris and junk vehicles;
3. That the addresses of each unit continue to be posted so they are visible from School Drive in accordance with Pennington County Ordinance #20;

4. That smoke alarms continue to be installed and/or properly maintained in working order in each unit prior to occupancy;
5. That a Building Permit be obtained for any structures over 144 square feet or permanently anchored to the ground on the property, which requires a site plan to be reviewed and approved by the Planning Director; and,
6. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis or as deemed necessary by either the Pennington County Board of Commissioners and/or Planning Commission to verify that all conditions are being met.

**Vote: unanimous 7 to 0.**

6. **CONDITIONAL USE PERMIT REVIEW / CU 17-22:** Pamela Phillips. To review a single-wide mobile home to be used as a permanent, single-family residence on the subject property in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 49A of Lot D, Sweetbriar Heights Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

**To continue the review of Conditional Use Permit / CU 17-22 to the May 22, 2023, Planning Commission meeting.**

**Vote: unanimous 7 to 0.**

8. **CONDITIONAL USE PERMIT REVIEW / CU 21-63:** Curtis and Denise Neukircher. To review an accessory structure as a primary structure on the subject property in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Tract 7, Slate Creek Subdivision, Section 36, T1N, R3E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 21-63 with seven (7) conditions.**

1. That the address (11753 Prospect Road) be properly posted on the structure and at the end of the driveway where it intersects with Prospect Road, in accordance with Penning County Ordinance #20;
2. That the existing shed be used for personal use only, no commercial-type use is allowed;
3. That the minimum setback requirements for a Rural Residential District be maintained on the property;
4. That an approved On-Site Wastewater Treatment System Construction Permit be obtained prior to the installation of any On-Site Wastewater Treatment System on the property;

5. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
6. That the applicant adheres to Pennington County Zoning Ordinance § 510; and,
7. That this Conditional Use Permit be reviewed on a complaint basis only, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all conditions of approval are being met.

**Vote: unanimous 7 to 0.**

9. **CONDITIONAL USE PERMIT REVIEW / CU 21-69**: Lynn Beasley. To review an accessory dwelling unit to be located in a detached garage on the subject property in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot 1, Larson Subdivision, Section 30, T1N, R7E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 21-69 with the following fifteen (15) conditions:**

1. That only one (1) Accessory Dwelling Unit (ADU) be allowed;
2. That the applicants obtain an approved Building Permit for the ADU;
3. That the ADU *not* exceed 2 stories, 2 bedrooms, or 700 square feet;
4. That the ADU has a residential appearance and not be a Recreational Vehicle;
5. That the addresses assigned to the ADU and the primary residence be posted on each residence and at the end of the driveway where it intersects Norsemen Lane so they are clearly visible, in accordance with Pennington County Ordinance #20;
6. That the On-site Wastewater Treatment System (OSWTS) is permitted and complies with City of Rapid City requirements;
7. That all necessary OSWTS permits are obtained from the City of Rapid City;
8. That all utilities for the ADU be extended from the primary residence and be on one (1) meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;
9. That home occupations, Vacation Home Rentals, and nightly rentals of the ADU are prohibited;

10. That if the ADU is rented or leased, it must be done so for a period of 28 consecutive days or more;
11. That the principal dwelling on the property be owner occupied or utilized as a long-term rental;
12. That at least 1 off-street parking space be provided for the ADU;
13. That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;
14. 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,
15. 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.

**Vote: unanimous 7 to 0.**

10. **CONDITIONAL USE PERMIT REVIEW / CU 21-70:** Theodore and Lucie Huettl. To review an accessory structure, a carport, as a primary structure on the subject property in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot 33, Cleghorn Canyon Subdivision, Section 7, T1N, R7E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 21-70 with the following six (6) conditions:**

1. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of the Special Flood Hazard Area located on the subject property;
2. That an address be assigned for the carport and properly posted in accordance with Pennington County Ordinance #20, so that it is visible from Cleghorn Canyon Road;
3. That the minimum setback requirements for an Agriculture District be maintained on the property or the appropriate Variance(s) be obtained;
4. That the property remains free of junk and debris;
5. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;

6. That the applicant adheres to Pennington County Zoning Ordinance § 510; and,
7. 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 7 to 0.**

11. **CONDITIONAL USE PERMIT REVIEW / CU 20-29:** Jeff Jamison. To review a Guest House on the subject property in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot 15R, Oak Meadows Estates, Section 23, T2S, R6E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 20-29 with the following eight (8) conditions:**

1. The rental or lease of a Guest House or the use of a Guest House as a permanent residence for a second family on the premises shall be prohibited.
2. That the Guest House shall not be used for more than 180 days per calendar year;
3. That the primary residence 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);
4. That the On-site Wastewater Treatment System continue to remain in compliance with PCZO § 204(J);
5. That both of the addresses assigned for the primary residence and the Guest House continue to be posted so they are clearly visible from Oak Meadows Court, in accordance with Pennington County Ordinance #20;
6. That the Guest House be continually utilized and maintained in accordance with all requirements of the PCZO § 318;
7. 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;
8. That this Conditional Use Permit be reviewed in five (5) 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 7 to 0.**

12. **PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PU 21-21:** American Buffalo Resort, LLC. To review a Planned Unit Development Overlay for a Recreational Resort in accordance with the Pennington County Zoning Ordinance.

NW1/4SE1/4 Less Wooded Acres Subdivision and ROW, Section 8, T1S, R7E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Planned Unit Development Overlay / PU 21-21 with the following twenty-four (24) conditions:**

1. **That the approved uses of the Recreational Resort include: cabin rentals (vacation home rentals), bath houses, laundry facilities, caretaker residence, staff offices, maintenance shop, concession stands, stage/amphitheater, recreational vehicle sites, tent sites, mini golf course, hot tub, and swimming pool;**
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, addresses be assigned to the caretaker residence and maintenance shop and that both be properly and continually posted in accordance with Pennington County's Ordinance #20;**
8. **That prior to operation, the applicant obtains County Fire approval of the numbering plan for the Recreational Resort and a final copy be kept on file with the Planning Department;**
9. **That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;**
10. **That a minimum of 145 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with the Pennington County Zoning Ordinance (PCZO) § 310;**
11. **That quiet hours in the Recreational 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 Vacation Home Rental within the Recreational 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 Vacation Home 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:10-B:C rating be placed on each floor level of a Vacation Home Rental so it 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 Vacation Home 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 any Vacation Home Rentals must comply with PCZO §319;
21. That any Recreation Vehicle Park / Site must comply with PCZO §306;
22. That setbacks for all structures shall comply with those required in a Highway Service District;
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; and,
24. That this Planned Unit Development Overlay be reviewed on a complaint basis, or as deemed necessary by the Planning Director, the Planning Commission, or Board of Commissioners to verify all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

**END OF CONSENT AGENDA**



7. 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 the Pennington County Zoning Ordinance.

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

(Continued from the February 13, 2023, Planning Commission meeting.)

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

Staff recommend approval of the extension of Conditional Use Permit / CU 21-46 with eight (8) conditions:

Discussion followed.

**Moved by Drewes and seconded by Lewis to approve the extension of Conditional Use Permit / CU 21-46 with the following eight (8) conditions:**

- 1. That this Conditional Use Permit (CUP) only allows for a single sign structure with up to 2 off-premise non-illuminated signs;**
- 2. That the sign structure maintains a minimum 5-foot setback from the front property line and that no part of the sign, or infrastructure of the sign, be placed within any right-of-way;**
- 3. That the off-premise signs shall not exceed a height of 30 feet and the maximum display area shall not exceed 250 square feet on each face;**
- 4. That the off-premise sign structure be painted and maintained in muted colors as to blend into the natural surroundings;**
- 5. That no debris, including, but not necessarily limited to, wood material, posts, metal, paper, plastic, cardboard or other materials from the construction or maintenance of the sign shall be left at the location or vicinity of the sign;**
- 6. That the signs continually conform to all regulations in § 312 of the Pennington County Zoning Ordinance;**
- 7. That the signs 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 in on 1 year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditionals of Approval are being met.**

All voting aye, the Motion carried 7 to 0.

13. CONDITIONAL USE PERMIT / CU 23-05: Joseph and Madison Hammel. To allow a Vacation Home Rental in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 4, Block 1, Alpine Acres Meadow, Section 13, T2N, R4E, BHM, Pennington County, South Dakota.

Talmage reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a Vacation Home Rental.

Staff recommended approval of Conditional Use Permit / CU 23-05 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on the Department of Agriculture and Natural Resources (DANR), be limited to six people and the maximum daytime occupancy be limited to twelve 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 DANR;
3. That the use of open fires, fireworks, charcoal burning grills, gas fired grills, or other devices shall not be allowed without permission from the Property Manager or Owner;
4. That the applicant provide the phone number and/or internet site address to clients, so they may be made aware of the current day's fire conditions and restrictions, as pertaining to the use of a fire pit or any other burning.
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 one off-street parking space per bedroom 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 (12315 Whitetail Road) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Whitetail Road, 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 Jordan Hirschfeld, 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;
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 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 Kuehn and seconded by Lewis to approve of Conditional Use Permit / CU 23-05 with the following fifteen (15) conditions:**

- 1. That the maximum overnight occupancy, based on the Department of Agriculture and Natural Resources (DANR), be limited to six people and the maximum daytime occupancy be limited to twelve 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 DANR;**
- 3. That the use of open fires, fireworks, charcoal burning grills, gas fired grills, or other devices shall not be allowed without permission from the Property Manager or Owner;**
- 4. That the applicant provide the phone number and/or internet site address to clients, so they may be made aware of the current day's fire conditions and restrictions, as pertaining to the use of a fire pit or any other burning.**

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 one off-street parking space per bedroom 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 (12315 Whitetail Road) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Whitetail Road, 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 Jordan Hirschfeld, 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;
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 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, the Motion carried 6 to 1. Commissioners Kuehn, Drewes, Lewis, Burton, and Johnson voted yes. Commissioner McGregor voted no.

14. CONDITIONAL USE PERMIT / CU 23-03: Gerald and Julie Burdick. To allow a Vacation Home Rental in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 5, Block 2, Whispering Pines Subdivision, Section 32, T1N, R7E, BHM, Pennington County, South Dakota.

Rausch reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to allow a Vacation Home Rental.

Staff recommended approval of Conditional Use Permit / CU 23-03 with the following sixteen (16) conditions:

1. That the maximum overnight occupancy, based on the SD Department of Agriculture and Natural Resources (SD DANR), be limited to eight people and the maximum daytime occupancy be limited to sixteen 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 DANR;
3. That the use of open fires, fireworks, charcoal burning grills, gas fired grills, or other devices shall not be allowed without permission from the Property Manager or Owner;
4. That the applicant provide the phone number and/or internet site address to clients, so they may be made aware of the current day's fire conditions and restrictions, as pertaining to the use of a fire pit or any other burning.
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 one off-street parking space per bedroom 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 (8003 Croyle Avenue) continue to be posted on the residence at all times and so that it can be seen from both directions of travel on Croyle Avenue, 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 Jordan Hirschfeld, 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;
12. That the applicant works with the Pennington County Highway Department to obtain an approved Approach Permit for the property prior to rental;
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 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 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.

Commissioner Lewis left the meeting at 10:11 a.m.

Commissioner Lewis returned to the meeting at 10:13 a.m.

Discussion followed.

**Moved by Lewis and seconded by McGregor to approve of Conditional Use Permit / CU 23-03 with the following sixteen (16) conditions:**

- 1. That the maximum overnight occupancy, based on the SD Department of Agriculture and Natural Resources (SD DANR), be limited to eight people and the maximum daytime occupancy be limited to sixteen 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 DANR;**

3. That the use of open fires, fireworks, charcoal burning grills, gas fired grills, or other devices shall not be allowed without permission from the Property Manager or Owner;
4. That the applicant provide the phone number and/or internet site address to clients, so they may be made aware of the current day's fire conditions and restrictions, as pertaining to the use of a fire pit or any other burning.
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 one off-street parking space per bedroom 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 (8003 Croyle Avenue) continue to be posted on the residence at all times and so that it can be seen from both directions of travel on Croyle Avenue, 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 Jordan Hirschfeld, 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;
12. That the applicant works with the Pennington County Highway Department to obtain an approved Approach Permit for the property prior to rental;
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 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 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.

Commissioner Burton left the meeting at 10:26 a.m.

Commissioner Burton returned to the meeting at 10:28 a.m.

15. CONDITIONAL USE PERMIT / CU 23-04: Robert Rees and Colby Rees. To live in a Recreational Vehicle while building a single-family residence on the subject property in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

NW1/4NW1/4, Section 24, T1S, R9E, BHM, Pennington County, South Dakota.

Rausch reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to live in a Recreational Vehicle while building a single-family residence on the subject property.

Staff recommended approval of Conditional Use Permit / CU 23-04 with the following fourteen (14) conditions:

1. That there be no more than 1 Recreational Vehicle (RV) allowed to be utilized as temporary living quarters on the subject property;
2. That the RV not be utilized as a nightly or weekly vacation rental and only be used by the applicant for personal use;
3. That an approved On-site Wastewater Treatment System (OSWTS) Construction Permit be obtained prior to the installation of any OSWTS on the property;
4. That within 3 months of approval of this Conditional Use Permit, the applicant shall install a new OSWTS and have it inspected and approved by the Pennington County Planning Department;
5. That until an OSWTS is approved and installed, the RV be pumped and wastewater disposal records be maintained and available for inspection by Planning Staff upon request;
6. That an address assigned for the property be clearly posted on the RV while it is being utilized as living quarters and at the end of the driveway where it intersects Dancing Wolf Road, in accordance with Pennington County's Ordinance #20;



7. That the minimum setback requirements of an Agriculture District be maintained on the subject property, or approved Setback Variance(s) be obtained;
8. That the minimum 58-foot Section Line be maintained on the property;
9. That the RV no longer be used as a temporary residence once the single-family residence is finished and habitable, following which the RV only be allowed to be stored on the property and disconnected from utilities;
10. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
11. That the property remains free of debris and junk vehicles;
12. That if the access for the parcel is taken from the Section Line, an Approach Permit must be filed and approved by the Pennington County Highway Department;
13. That the applicant adheres to Pennington County Zoning Ordinance Section 510; and,
14. 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.

Discussed followed.

**Moved by Drewes and seconded by Burton to continue Conditional Use Permit / CU 23-04 to the March 13, 2023, Planning Commission meeting.**

**All voting aye, the Motion carried 7 to 0.**

16. REZONE / RZ 23-01: Jamie Gerlach. To rezone from Agriculture District to Low Density Residential District in accordance with the Pennington County Zoning Ordinance.

Tract C Less Lot H1, Boland Placer Subdivision, Section 2, T1S, R6E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 11.69 acres from Agriculture District to Low Density Residential District.

Staff recommended to continue Rezone / RZ 23-01 to the March 13, 2023, Planning Commission meeting.

**Moved by Burton and seconded by Kuehn to continue Rezone / RZ 23-01 to the March 13, 2023, Planning Commission meeting.**

**All voting aye, the Motion carried 7 to 0.**

17. MINING PERMIT / MP 23-01: Western Construction. To allow an aggregate mining operation in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

S1/2, Section 25, T3N, R14E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Mining Permit to allow an aggregate mining operation on the subject property.

Staff recommended approval of Mining Permit / MP 23-01 with the following eleven (11) conditions:

1. That the conditions of approval of the South Dakota Department of Agriculture and Natural Resources Mine License be continually met;
2. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;
3. That the site meets § 320(H) of the Pennington County Zoning Ordinance;
4. That the applicants follow the reclamation plan that was submitted to the SD DANR to reclaim the site when work is completed;
5. That the applicant submits a copy of the Mine License, issued by the South Dakota Department of Agriculture and Natural Resources, to the Planning Department and copies of any annual Mine License Reports by December 1st of each year;
6. 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;
7. That an address be posted in accordance with Ordinance #20;
8. That prior to operation, the applicant obtains an approved Approach Permit from the Pennington County Highway Department;
9. That prior to operation the applicants enter into a Haul Road Agreement with the Pennington County Highway Department and a dust control solution is approved by the Highway Superintendent must be applied in front of any residence between the mine site and Cedar Butte Road;
10. The applicant must provide self-contained toilets on-site: one (1) unit per 50 employees. The self-contained toilets must meet all State and County regulations, including setbacks. The method and schedule of disposal of the solid waste, in compliance with State and local rules and regulations, must be provided by the applicant in writing; and,

11. That this Mining Permit be reviewed in one (1) year from approval date, 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.

Discussion followed.

**Moved by Drewes and seconded by Kuehn to approve of Mining Permit / MP 23-01 with the following eleven (11) conditions:**

1. That the conditions of approval of the South Dakota Department of Agriculture and Natural Resources Mine License be continually met;
2. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;
3. That the site meets § 320(H) of the Pennington County Zoning Ordinance;
4. That the applicants follow the reclamation plan that was submitted to the SD DANR to reclaim the site when work is completed;
5. That the applicant submits a copy of the Mine License, issued by the South Dakota Department of Agriculture and Natural Resources, to the Planning Department and copies of any annual Mine License Reports by December 1st of each year;
6. 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;
7. That an address be posted in accordance with Ordinance #20;
8. That prior to operation, the applicant obtains an approved Approach Permit from the Pennington County Highway Department;
9. That prior to operation the applicants enter into a Haul Road Agreement with the Pennington County Highway Department and a dust control solution is approved by the Highway Superintendent must be applied in front of any residence between the mine site and Cedar Butte Road;
10. The applicant must provide self-contained toilets on-site: one (1) unit per 50 employees. The self-contained toilets must meet all State and County regulations, including setbacks. The method and schedule of disposal of the solid waste, in compliance with State and local rules and regulations, must be provided by the applicant in writing; and,
11. That this Mining Permit be reviewed in one (1) year from approval date, 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.

All voting aye, the Motion carried 7 to 0.

Commissioner McGregor left the meeting at 10:44 a.m.  
Commissioner McGregor returned to the meeting at 10:45 a.m.

18. LOT LINE ADJUSTMENT PLAN / LAPL 23-02: Maurice and Connie Reiner. To reconfigure lots lines to create Lot AR and Lot 5R2 of Block E of Edelweiss Mountain Development in accordance with the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot A and Lot 5R of Block E of Edelweiss Mountain Development, Section 20, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot AR and Lot 5R2 of Block E of Edelweiss Mountain Development, Section 20, T1N, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Lot Line Adjustment Plan to reconfigure lots lines to create Lot AR and Lot 5R2 of Block E of Edelweiss Mountain Development.

Staff recommended approval of Lot Line Adjustment Plat / LAPL 23-02 with the following six (6) conditions:

1. That prior to filing the mylar with the Register of Deeds, 8-foot utility and minor drainage easements be provided on the interior side of all lot lines;
2. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with §§ 1701 and 1703 of the Pennington County Subdivision Regulations;
3. That prior to filing the mylar with the Register of Deeds, the applicants obtain an approved Operating License for the Onsite Waste Water Treatment System;
4. That prior to filing the mylar with the Register of Deeds, the 30-foot-wide and 40-foot-wide private access and utility easements on proposed Lot AR and 5R2 be extended to a minimum of 33 feet on each lot;
5. That prior to filing the mylar with the Register of Deeds, the subdivision name includes either “Subdivision” or “Addition”; and,
6. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of § 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met.

Discussed followed.

**Moved by Lewis and seconded by Kuehn to approve of Lot Line Adjustment Plat / LAPL 23-02 with the following six (6) conditions:**

- 1. That prior to filing the mylar with the Register of Deeds, 8-foot utility and minor drainage easements be provided on the interior side of all lot lines;**

2. **That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with §§ 1701 and 1703 of the Pennington County Subdivision Regulations;**
3. **That prior to filing the mylar with the Register of Deeds, the applicants obtain an approved Operating License for the Onsite Waste Water Treatment System;**
4. **That prior to filing the mylar with the Register of Deeds, the 30-foot-wide and 40-foot-wide private access and utility easements on proposed Lot AR and 5R2 be extended to a minimum of 33 feet on each lot;**
5. **That prior to filing the mylar with the Register of Deeds, the subdivision name includes either “Subdivision” or “Addition”; and,**
6. **That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of § 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met.**

**All voting aye, the Motion carried 7 to 0.**

19. CONDITIONAL USE PERMIT AMENDMENT / CU 15-09: Reno Gulch, LLC; Darren Raines and Zeb Raines. To amend an existing Conditional Use Permit to add two commercial storage units to the subject property in a Highway Service District in accordance with the Pennington County Zoning Ordinance.

Lot 2 of Lot B of Lot 4 (also in Section 36, T1S, R4E), Iowa Placer MS 636, Section 1, T2S, R4E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied to amend an existing Conditional Use Permit to add two commercial storage units to the subject property.

Staff recommended approval of Conditional Use Permit / CU 15-09 with the following conditions:

1. That upon issuance of approved Building Permits, 2 additional storage units be allowed on the property;
2. That up to 12 commercial storage units be allowed on the property;
3. That the addition of accessory structures shall be allowed through the issuance of approved Building Permits;
4. That a caretaker’s dwelling unit be allowed;
5. That three billboard signs and one business sign currently located on the property be allowed;

6. That loading and unloading zones be provided for all storage units that runs along the units and must have 4 inches of gravel, concrete, or asphalt and maintained in a dust free manner;
7. That any work encompassing over 1 acre will require the applicant to obtain an approved Storm Water Permit from the South Dakota Department of Agriculture and Natural Resources and the Pennington County Planning Department;
8. That any work encompassing over 10,000 square feet, the applicant obtains an approved Storm Water Permit from the Pennington County Planning Department;
9. That a drainage plan be submitted at the time of Building Permit application to verify no additional stormwater runoff will exit the property;
10. That the entrance road be a minimum of 20 feet in width with four inches of gravel and maintained in such a manner that no dust will result from continuous use;
11. That the storage units be used exclusively for storage and not retail business activities; and,
12. That this Conditional Use Permit be reviewed on a complaint basis only.

Discussion followed.

Moved by Lewis and seconded by Drewes to continue Conditional Use Permit Amendment / 15-09 to the March 27, 2023, Planning Commission meeting.

**SUBSTITUTE Motion: Moved by Burton and seconded by McGregor to continue Conditional Use Permit Amendment / 15-09 to the March 13, 2023, Planning Commission meeting.**

**All voting, the Motion carried 4 to 3. Commissioners Drewes, Burton, McGregor, and Coleman voted yes. Commissioners Kuehn, Lewis and Johnson voted no.**

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

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

(Continued from the February 13, 2023, Planning Commission meeting.)

Theunissen stated staff recommended to continue Conditional Use Permit / CU 23-01 to the March 13, 2023, Planning Commission meeting.

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

**All voting aye, the Motion carried 7 to 0.**

21. ORDINANCE AMENDMENT / OA 23-02: Pennington County. To add Section 331 – On-site Wastewater Treatment (Septic) Systems to the Pennington County Zoning Ordinance.

Molitor reviewed that this is a proposed Ordinance Amendment to add Section 331 - On-site Wastewater Treatment (Septic) Systems.

Staff recommended approval of Ordinance Amendment / OA 23-02.

Discussion followed.

**Moved by McGregor and seconded by Burton to approve of Ordinance Amendment / OA 23-03.**

**All voting aye, the Motion carried 7 to 0.**

22. ORDINANCE AMENDMENT / OA 23-03: Pennington County. To amend Section 204-J - On-Site Wastewater Treatment Systems [to amend and supersede the existing Section 204-J On-Site Wastewater Treatment Systems] of the Pennington County Zoning Ordinance.

Molitor reviewed that this is a proposed Ordinance Amendment to amend Section 204-J - On-Site Wastewater Treatment Systems.

Staff recommended approval of Ordinance Amendment / OA 23-03.

Discussion followed.

**Moved Burton and seconded by Lewis to approve of Ordinance Amendment / OA 23-03.**

**All voting aye, the Motion carried 7 to 0.**

23. ORDINANCE AMENDMENT / OA 23-04: Pennington County. To amend Section 511 - Fees [to amend and supersede the existing Section 511 Fees] of the Pennington County Zoning Ordinance.

Molitor reviewed that this is a proposed Ordinance Amendment to amend Section 511 – Fees.

Staff recommended approval of Ordinance Amendment / OA 23-04.

Discussion followed.

**Moved by Burton and seconded by McGregor to approve of Ordinance Amendment / OA 23-04.**

**All voting aye, the Motion carried 7 to 0.**

24. ORDINANCE AMENDMENT / OA 23-05: Pennington County. To amend Section 204-F – General District Provisions (Dead End Road System) [to amend and supersede the existing Section 204-F – General District Provisions (Dead End Road System)] of the Pennington County Zoning Ordinance.

Molitor reviewed that this is a proposed Ordinance Amendment to amend Section 204-F – General District Provisions (Dead End Road System).

Staff recommended approval of Ordinance Amendment / OA 23-05.

Discussion followed.

**Moved by McGregor and seconded by Burton to approve of Ordinance Amendment / OA 23-05.**

**All voting aye, the Motion carried 7 to 0.**

25. ORDINANCE AMENDMENT / OA 23-06: Pennington County. To amend Section 103 – Definitions [to amend and supersede the existing Section 103 – Definitions] of the Pennington County Zoning Ordinance.

Molitor reviewed that this is a proposed Ordinance Amendment to amend Section 103 – Definitions.

Staff recommended approval of Ordinance Amendment / OA 23-06.

Discussion followed.

**Moved by McGregor and seconded by Lewis to approve of Ordinance Amendment / OA 23-06.**

**All voting aye, the Motion carried 7 to 0.**

26. ORDINANCE AMENDMENT / OA 23-07: Pennington County. To amend Section 904 – Dead End Roads [to amend and supersede the existing Section 904 – Dead End Roads] of the Pennington County Subdivision Regulations.

Molitor reviewed that this is a proposed Ordinance Amendment to amend Section 904 – Dead End Roads of the Pennington County Subdivision Regulations.

Staff recommended approval of Ordinance Amendment / OA 23-07.

Discussion followed.

**Moved by Burton and seconded by McGregor to approve of Ordinance Amendment / OA 23-07.**

**All voting aye, the Motion carried 7 to 0.**



27. ORDINANCE AMENDMENT / OA 23-08: Pennington County. To amend Section 200 – Definitions [to amend and supersede the existing Section 200 – Definitions] of the Pennington County Subdivision Regulations.

Molitor reviewed that this is a proposed Ordinance Amendment to amend Section 200 – Definitions of the Pennington County Subdivision Regulations.

Staff recommended approval of Ordinance Amendment / OA 23-08.

Discussion followed.

**Moved by Burton and seconded by Lewis to approve of Ordinance Amendment / OA 23-08.**

**All voting aye, the Motion carried 7 to 0.**

28. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the February 13, 2023, meeting, with the exception of Major PUD Overlay Amendment 23-02 - Katie Smirnova and Brett Walfish. This item was continued to the April 18<sup>th</sup> Board meeting.

29. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

30. ITEMS FROM THE STAFF

A. Special PC Meeting – March 8, 2023, at 4 p.m. Molitor stated there will be a Special Planning Commission meeting on Wednesday, March 8th at 4 p.m. to hear a proposed Ordinance Amendment for Section 319 Vacation Home Rental.

**Moved by Burton and seconded by Kuehn to direct the Planning Department to create a schedule to address topics of discussion for the March 8th meeting and add a discussion for background/history to the Agenda.**

Commissioner Burton left the meeting at 12:32 p.m.

**All voting aye, the Motion carried 6 to 0.**

31. ITEMS FROM THE MEMBERSHIP

Commissioner Drewes stated Commissioner Rossknecht will be in attendance at the March 8th Planning Commission meeting. Commissioner Drewes will be in attendance for the March 13th Planning Commission meeting.

32. ADJOURNMENT

**Moved by McGregor and seconded by Kuehn to adjourn. All voting aye, the Motion carried 6 to 0.**

**The meeting adjourned at 12:34 p.m.**

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Charlie Johnson, Chairperson