AGENDA
PENNINGTON COUNTY PLANNING COMMISSION
June 22, 2020 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building

Recommendations of the Planning Commission on certain items from this agenda will be considered by the Board of Commissioners at their regular meeting on July 7, 2020, at 10:30 a.m. The Planning Commission utilizes Speaker Request Forms, which are available in the Commission Chambers during the meeting.

**If unable to attend the meeting, please submit your comments via e-mail to plz@pennco.org or by mail to the attention of the Pennington County Planning Department, 130 Kansas City St., Ste. 200, Rapid City, SD 57701, or, if appearing by teleconference, contact the Planning Department at 605-394-2186 prior to the scheduled meeting.

ROLL CALL

1. APPROVAL OF THE JUNE 8, 2020, MINUTES

2. APPROVAL OF THE AGENDA

CONSENT AGENDA

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

3. **CONDITIONAL USE PERMIT REVIEW / CU 17-29:** Arch Duran. To review a Recreational Vehicle to be used as temporary living quarters on the subject property, for seasonal use from May 1st to October 1st, in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Lot D of Lot 1 of S1/2SE1/4, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 17-29 with conditions.

4. **CONDITIONAL USE PERMIT REVIEW / CU 18-08:** Stromer Properties, LLC; Brook Stromer. To review an illuminated, on-premise sign within 1,500 feet of a residential zoning district / dwelling unit in a General Commercial in accordance with Sections 209, 312, and 510 of the Pennington County Zoning Ordinance.

Lot A2; Bar P-S Subdivision, Section 20, T1N, R9E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 18-08 with conditions.
5. **CONDITIONAL USE PERMIT REVIEW / CU 19-20:** Cody Rust Butler; Jeannie Marr – Agent. To review an existing residence to be used as a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Tract A of Lot 2 of SW1/4NW1/4, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 19-20 to the July 13, 2020, Planning Commission meeting with one (1) condition.

6. **CONDITIONAL USE PERMIT REVIEW / CU 19-30:** Harry and Gail McKane. To review allowing the existing residence (Morton building) to remain as a Guest House once the new single-family residence is complete in a Limited Agriculture District in accordance with Sections 206, 318, and 510 of the Pennington County Zoning Ordinance.

Lot 1 (also in Section 36, T1N, R3E), Deerfield Park Parcel #2, Section 1, T1S, R3E, BHM, Pennington County, South Dakota.

(Continued from the June 8, 2020, Planning Commission meeting.)

To recommend approval of the extension of Conditional Use Permit / CU 19-30 with conditions.

7. **MINOR PLAT / MPL 20-10:** Robert Schryvers. To reconfigure lot lines to create Lot D1 and Lot 1A of the Log Porch Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 21 of Morse Subdivision #4; Lot 1 of D-R-J Subdivision and Tract in NE1/4NE1/4; Lot D of NE1/4NE1/4, all located in Section 8, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot D1 and Lot 1A of the Log Porch Subdivision, Section 8, T1N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Minor Plat / MPL 20-10 with conditions.

8. **MINOR PLAT / MPL 20-11:** Rustlers Ranch, LLC; Davis Engineering – Agent. To create Tract A of Rustlers Ranch Addition in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: SW1/4SE1/4; SE1/4SE1/4 Less Tract 1754 and Less Right-of-Way, Section 8, T1N, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract A of Rustlers Ranch Addition, Section 8, T1N, R4E, BHM, Pennington County, South Dakota.

To recommend approval of Minor Plat / MPL 20-11 with conditions.

END OF CONSENT AGENDA
9. **VACATION OF EASEMENT / VE 20-01**: Tom and Pam Troxel. To vacate a portion of the Minor Drainage and Utility Easement to construction a shop building on the subject property.

Lot 6R, Block 1, Mission Hills #2 Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

10. **CONDITIONAL USE PERMIT / CU 20-10**: Properties by Jenn, LLC; Jennifer Boerger – Agent. To allow an existing residence to be used as a Vacation Home Rental in a Limited Agriculture District in accordance with Sections 206, 319, and 510 of the Pennington County Zoning Ordinance.

Lot B of Lot 1 of Lot G of Lot 2, Reno Placer MS 823, Section 2, T2S, R4E, BHM, Pennington County, South Dakota.

11. **CONDITIONAL USE PERMIT / CU 20-11**: Audra Olson. To allow an existing residence to be used as a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 18 of Tract A, Sunnyside Acres, Section 25, T2N, R4E, BHM, Pennington County, South Dakota.

12. **LAYOUT PLAN / LPL 20-10**: David Grover. To create Lots A, B, C, and D of Buzmar Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

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

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

13. **COUNTY BOARD REPORT**

The Board of Commissioners concurred with the Planning Commission’s recommendations from the June 8, 2020, Planning Commission meeting.

14. **ITEMS FROM THE PUBLIC**

15. **ITEMS FROM THE STAFF**

A. Planning Commission Appointments.

16. **ITEMS FROM THE MEMBERSHIP**

17. **ADJOURNMENT**

**ADA Compliance**: Pennington County fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Planning Department so that appropriate auxiliary aids and services are available.
DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
June 8, 2020 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building


STAFF PRESENT: Brittney Molitor, Stephanie Jansen, Jason Theunissen, Michaele Hoffman (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE MAY 26, 2020, MINUTES
Moved by DiSanto and seconded by Lasser to approve the Minutes of the May 26, 2020, Planning Commission meeting. Roll Call: Marsh – aye, Coleman – aye; DiSanto – aye; Lasser – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

2. APPROVAL OF THE AGENDA
Moved by Lasser and seconded by Runde to approve the Agenda of the June 8, 2020, Planning Commission meeting. Roll Call: Marsh – aye, Coleman – aye; DiSanto – aye; Lasser – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

Moved by LaCroix and seconded by Lasser to approve the Consent Agenda of the June 8, 2020, Planning Commission meeting, with the removal of Item #10. Roll Call: Marsh – aye, Coleman – aye; DiSanto – aye; Lasser – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

CONSENT AGENDA

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

3. CONDITIONAL USE PERMIT REVIEW / CU 17-34: Sherri Wilkie. 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 Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot A of Lot 10, Block 8, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.
To approve the extension of Conditional Use Permit / CU 17-34 with the following seven (7) conditions:

1. That the applicant continues to utilize the existing approach off of Corbin Drive and no new approaches be constructed without prior approval from the County Highway Department;

2. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property, or a variance obtained;

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

4. That the single-wide mobile home installed on the property have a peaked, non-reflective type roof and wood or simulated wood-type siding that is continually maintained, and be provided with skirting from the bottom of the walls to the ground;

5. That the address continue to be clearly posted so that it is visible from both directions of Corbin Drive, and in accordance with Pennington County's Ordinance #20;

6. 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;

7. That this Conditional Use Permit be reviewed in five (5) years 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.

4. **CONDITIONAL USE PERMIT REVIEW / CU 18-28**: Harry and Gail McKane. To review living in the existing residence while building a new single-family residence on the subject property in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 1 (also in Section 36, T1N, R3E), Deerfield Park Parcel #2, Section 1, T1S, R3E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 18-28 with the applicant’s concurrence as it is no longer needed.

Vote: unanimous 7 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 19-08**: Jeffrey Scherr. To live in a Recreational Vehicle (camper) while building a single-family residence on the subject property in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.
Lot D2 of Lot 17 of Fort Mead Placer MS 244, Section 8, T1S, R6E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 19-08 with the following ten (10) conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property during construction of the single-family residence;

2. That the RV be located outside the Special Flood Hazard Area;

3. That the address assigned for the property continue to be clearly posted on the RV while it is being utilized as living quarters, in accordance with Pennington County’s Ordinance #20;

4. That prior to utilization of the RV on the subject property, the applicant install the onsite wastewater treatment system and have it inspected and approved by Pennington County;

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

6. That the minimum setback requirements of a Low Density Residential District be continually maintained on the subject property, or approved Setback Variance(s) be obtained;

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

8. 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;

9. That upon completion of the single-family residence on the subject property, the RV be disconnected from all utilities and may no longer be utilized as living quarters on the subject property; and,

10. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.
6. **CONDITIONAL USE PERMIT REVIEW / CU 19-15**: Samuel G. Fullerton III. To review a caretaker’s residence on the subject property after a single-family residence is built in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 12, Kieffer Ranch Estates, Section 16, T1S, R7E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 19-15 with the following seven (7) conditions:

1. That the addresses for both the proposed single-family residence and the proposed caretaker’s residence be posted on each residence and at the driveway(s), in accordance with Pennington County’s Ordinance #20;

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 minimum setback requirements of a Limited Agriculture District be continually maintained on the property or a setback Variance be obtained;

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

5. That once the caretaker’s residence become habitable, the applicant verify care is needed;

6. That once care is no longer needed, the caretaker’s residence be removed from the subject property, or the subject property be subdivided so that each residence is on a separate lot; and,

7. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CU 19-30**: Harry and Gail McKane. To review allowing the existing residence (Morton building) to remain as a Guest House once the new single-family residence is complete in a Limited Agriculture District in accordance with Sections 206, 318, and 510 of the Pennington County Zoning Ordinance.

Lot 1 (also in Section 36, T1N, R3E), Deerfield Park Parcel #2, Section 1, T1S, R3E, BHM, Pennington County, South Dakota.
To continue the review of Conditional Use Permit / CU 19-30 to the June 22, 2020 Planning Commission meeting.

Vote: unanimous 7 to 0.

8. **CONDITIONAL USE PERMIT REVIEW / CU 19-32:** Jeff and Marcia Spilker. To review living in a garage with living quarters while building a single-family residence and once the single-family residence is habitable, to allow the garage with living quarters to remain and be used as a Guest House in a Low Density Residential District in accordance with Sections 207, 318, and 510 of the Pennington County Zoning Ordinance.

Lot 13, Whaley Subdivision, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 19-32 with the following eight (8) conditions.

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

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

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

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

6. 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;

7. That both of the addresses assigned for the primary residence and the Guest House be clearly posted on each structure and at the driveway so that they are visible from both directions of U.S. Highway 385, in accordance with Pennington County’s Ordinance #20;

8. That the Guest House be continually utilized and maintained in accordance with all requirements of the PCZO, with emphasis on Section 318; and,

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

Vote: unanimous 7 to 0.
9. **CONDITIONAL USE PERMIT / CU 20-09**: David and Janelle Goergen; Jess Island – Agent. To live in the existing double-wide mobile home while building a new single-family residence and then to allow the existing double-wide mobile home to remain and be converted into a garage with the living quarters removed, or the double-wide mobile home will be removed upon completion of the new single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 2-R, Block 1, Palmer Subdivision Addition, Section 14, T2N, R6E, BHM, Pennington County, South Dakota

To approve of Conditional Use Permit / CU 20-09 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 residence and at the driveway in accordance with Pennington County’s Ordinance #20;

3. That the subject property not contain more than one (1) residential structure (i.e. single-family residence or living quarters);

4. That a Building Permit application for the proposed single-family residence be applied for within six months of approval of Conditional Use Permit / CU 20-09;

5. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property or the appropriate Setback Variance(s) be obtained;

6. That the double-wide mobile home be converted into a garage or 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 one (1) year, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

**END OF CONSENT AGENDA**
10. **ROAD NAMING:** GJH Ranch, LLC. To name a 24-foot-wide access easement providing access to properties located in Section 18, T2N, R7E, BHM, and Section 13, T2N, R6E, BHM, Pennington County, South Dakota, to White Buffalo Road.

Commissioner Marsh asked to have this Item removed from the Consent Agenda discussion, and further stated that he would abstain from voting on this item.

Staff recommended approval of the Road Naming of White Buffalo Road.

Moved by DiSanto and seconded by Lasseter to approve of the Road Naming of White Buffalo Road.

**Roll Call:** Coleman – aye; DiSanto – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. **Roll Call Vote:** carried 6 to 0. Commissioner Marsh abstained.

11. **MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 20-03:** LakOrr, LLC; Phillip Lakner. To amend an existing Planned Unit Development to allow a gunsmithing business as a home occupation on the subject property in accordance with Sections 204-C and 213 of the Pennington County Zoning Ordinance.

Tract 2, Rushmore Ranch Estates Subdivision, Section 17, T2S, R7E, BHM, Pennington County, South Dakota.

Jason Theunissen reviewed the Staff Report indicating the applicant has applied for a Minor Planned Unit Development Amendment to allow a gunsmithing business as a home occupation on the subject property,

Staff recommended approval of Minor Planned Unit Development Amendment / PU 20-03 with the following fourteen (14) conditions:

1. That the Conditions of Approval of the Rushmore Ranch Planned Unit Development / PU 02-05 be adhered to at all times;

2. That the proposed Home Occupation be located entirely within the existing 32’ x 36’ equipment building and that the residential character of the property continually be maintained;

3. That one (1) sign be allowed in accordance with Section 312 of the Pennington County Zoning Ordinance;

4. That storage and disposal of materials, liquids, and wastes shall be in a manner that meets all Federal, State and Local requirements;

5. That all necessary Local, State, and Federal licenses and permits be obtained prior to the operation of the Home Occupation and that copies of these licenses and permits be provided to the Planning Department upon request during subsequent
Planned Unit Development Amendment reviews. This includes, but is not limited to, a Federal Firearms License;

6. That the applicant continually comply with all applicable Local, State, and Federal laws and regulations and there be no break. If a break in compliance occurs, PU 20-03 will be placed on a Planning Commission Agenda for review;

7. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;

8. That an address for the subject property continually be posted in accordance with Pennington County’s Ordinance #20;

9. That the business shall be operated by members of the family residing at the residence to include no more than one (1) additional employee;

10. That there be a minimum of two (2) off-street parking spaces available at all times;

11. That the hours of operation will be conducted between the hours of 7:00 a.m. and 6:00 p.m.;

12. That no business retail sales be allowed at the subject property;

13. That the property remain free of debris and junk vehicles; and,

14. That Minor Planned Unit Development Amendment / PU 20-03 be reviewed in one (1) year, on a complaint basis, or as directed by the Board of Commissioners and/or Planning Commission to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by DiSanto and seconded by Lasseter to approve of Minor Planned Unit Development Amendment / PU 20-03 with the following fourteen (14) conditions:

1. That the Conditions of Approval of the Rushmore Ranch Planned Unit Development / PU 02-05 be adhered to at all times;

2. That the proposed Home Occupation be located entirely within the existing 32’ x 36’ equipment building and that the residential character of the property continually be maintained;

3. That one (1) sign be allowed in accordance with Section 312 of the Pennington County Zoning Ordinance;
4. That storage and disposal of materials, liquids, and wastes shall be in a manner that meets all Federal, State and Local requirements;

5. That all necessary Local, State, and Federal licenses and permits be obtained prior to the operation of the Home Occupation and that copies of these licenses and permits be provided to the Planning Department upon request during subsequent Planned Unit Development Amendment reviews. This includes, but is not limited to, a Federal Firearms License;

6. That the applicant continually comply with all applicable Local, State, and Federal laws and regulations and there be no break. If a break in compliance occurs, PU 20-03 will be placed on a Planning Commission Agenda for review;

7. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;

8. That an address for the subject property continually be posted in accordance with Pennington County's Ordinance #20;

9. That the business shall be operated by members of the family residing at the residence to include no more than one (1) additional employee;

10. That there be a minimum of two (2) off-street parking spaces available at all times;

11. That the hours of operation will be conducted between the hours of 7:00 a.m. and 6:00 p.m.;

12. That no business retail sales be allowed at the subject property;

13. That the property remain free of debris and junk vehicles; and,

14. That Minor Planned Unit Development Amendment / PU 20-03 be reviewed in one (1) year, on a complaint basis, or as directed by the Board of Commissioners and/or Planning Commission to verify that all Conditions of Approval are being met.

12. ORDINANCE AMENDMENT / OA 20-02: Pennington County. To amend Section 506 “Building Permits” [to replace and supersede Section 506 “Building Permits”] of the Pennington County Zoning Ordinance.

Molitor reviewed the Staff Report stating this is an Ordinance Amendment to amend Section 506 “Building Permits” [to replace and supersede Section 506 “Building Permits”] of the Pennington County Zoning Ordinance.

Staff recommended approval of Ordinance Amendment / OA 20-02.

Discussion followed.

Moved by Runde and seconded by Coleman to approve of Ordinance Amendment / OA 20-02.

Discussion further followed.

Commissioner Runde left the meeting at 10:07 a.m.
Commissioner Runde returned to the meeting at 10:09 a.m.

**Vote on Motion to approve Ordinance Amendment / OA 20-20: Roll Call: Marsh – aye, Rivers – aye, Johnson – aye; and Runde - aye. Coleman – no, Lasseter – no, and DiSanto – no. Roll Call Vote: Motion carried 4 to 3.**

13. COUNTY BOARD REPORT
The Board of Commissioners concurred with the Planning Commission’s recommendations from the May 26, 2020, Planning Commission meeting.

14. ITEMS FROM THE PUBLIC
No motions or actions were taken at this time.

15. ITEMS FROM THE STAFF

16. ITEMS FROM THE MEMBERSHIP
There were no items from the membership.

17. ADJOURNMENT

Moved by DiSanto and seconded by Rivers to adjourn.

**Roll Call: Marsh – aye, Coleman – aye; DiSanto – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.**

The meeting adjourned at 10:32 a.m.

Rich Marsh, Chairperson
AGENDA ITEM #3
Arch Duran
June 22, 2020

STAFF REPORT

GENERAL INFORMATION:

REQUEST:

CONDITIONAL USE PERMIT REVIEW / CU 17-29: To review a Recreational Vehicle to be used as temporary living quarters on the subject property, for seasonal use from May 1st to October 1st, in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

APPLICANT:
Arch Duran

APPLICANT ADDRESS:
520 W. Esparada Drive, Georgetown, TX 78628

LEGAL DESCRIPTION:
Lot 1 of Lot D of Lot 1 of S1/2SE1/4, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

SITE LOCATION:
12777 Black Forest Road; near the intersection of Custer Gulch Road and Black Forest Road.

SIZE:
2.05 acres

TAX ID:
10595

EXISTING LAND USE:
Residential

ZONING REFERENCE:
Sections 205 and 510

CURRENT ZONING:
General Agriculture District

SURROUNDING ZONING:
North
General Agriculture District
Highway Service District
South
Suburban Residential District
East
General Agriculture District
West
Suburban Residential District

PHYSICAL CHARACTERISTICS:
Trees / Hills

UTILITIES:
Private

REPORT BY:
Stephanie Jansen

Page 1 of 5  CU 17-29
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 17-29 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant requested a Conditional Use permit to allow for the use of a Recreational Vehicle (RV) to be used as seasonal living quarters between May 1st and October 1st in a General Agriculture District.
      1. The applicant planned to hook into the 1,000 septic tank for the RV site.
   C. August 14, 2017 – Planning Commission approved Conditional Use Permit / CU 17-29 with the following twelve (12) conditions:
      1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property;
      2. That the one (1) Recreational Vehicle (RV) will only be used seasonally between May 1st and October 1st each year;
      3. That an address be assigned and clearly posted on the Recreational Vehicle (RV) while it is being utilized as living quarters during the seasonal restrictions. The address must be posted on the residence and at the driveway so as to be visible from Black Forest Road, in accordance with Pennington County’s Ordinance #20;
      4. That the Recreational Vehicle (RV) being used as a temporary residence be hooked into the approved On-Site Wastewater Treatment System;
      5. That the minimum setback requirements of a General Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;
      6. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;
      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;
      8. That the Recreational Vehicle (RV) will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property upon end of the seasonal use;
      9. That the Recreational Vehicle (RV) is for personal use only and shall not be rented at any time;
      10. That applicant obtain current Operating Permits for all three (3) On-Site Wastewater Treatment Systems (OWTS) within ninety (90) days of the approval of CU 17-29;
      11. That the applicant signs the Statement of Understanding within ten (10) business days of Conditional Use Permit / CU 17-14, which is available at the Planning Office; and,
12. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

D. August 13, 2018 – Planning Commission approved the extension of Conditional Use Permit / CU 17-29 with the following ten (10) conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property;
2. That the one (1) Recreational Vehicle (RV) continue to only be used seasonally between May 1st and October 1st each year;
3. That the address assigned be clearly posted on the Recreational Vehicle (RV) while it is being utilized as living quarters during the seasonal restrictions, so as to be visible from Black Forest Road, in accordance with Pennington County’s Ordinance #20;
4. That the Recreational Vehicle (RV) being used as a temporary residence continue to be hooked into the approved On-Site Wastewater Treatment System;
5. That the minimum setback requirements of a General Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;
6. That the subject property continually remains free of debris and junk vehicles, in accordance with Ordinance #106;
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;
8. That the Recreational Vehicle (RV) will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property upon end of the seasonal use each year;
9. That the Recreational Vehicle (RV) continue to be utilized for personal use only and shall not be rented at any time; and,
10. That this Conditional Use Permit be reviewed in two (2) years, 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.

III. EXISTING CONDITIONS
A. 2.05 acres.
B. Zoned General Agriculture District.
C. Lot contains:
3. Studio/Former Caretaker’s Residence – 2004COBP0152, CU 05-31:
   a. **Staff Note:** Staff previously verified that the Caretaker’s Residence is no longer in use, and that the caretaker’s structure has been converted into a studio, as the kitchen has been removed.
   b. **Staff will place CU 05-31 on a future PC Agenda to end, as it is no longer needed.**

4. On-Site Wastewater Treatment Systems
   a. Operating Permits – COOP17-0498 and COOP17-0499.

IV. ANALYSIS

A. June 8, 2020 – Staff performed a site visit.
   1. There did not appear to be an RV on the subject property.
   2. Minimum set backs appear to be met and the property appeared to remain free of junk and debris (Conditions #5 & #6)

B. June 8, 2020 – Staff spoke with the applicant, Arch Duran, on the phone.
   1. Mr. Duran stated they have not utilized the RV this year yet, but continue to only use seasonally between May 1st and October 1st each year (Condition #2).
   2. Mr. Duran also stated that no more than one (1) RV is utilized on the subject property (Condition #1).

C. All other conditions appear to be met.
RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 17-29 with conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property;

2. That the one (1) Recreational Vehicle (RV) continue to only be used seasonally between May 1st and October 1st each year;

3. That the address assigned be clearly posted on the Recreational Vehicle (RV) while it is being utilized as living quarters during the seasonal restrictions, so as to be visible from Black Forest Road, in accordance with Pennington County’s Ordinance #20;

4. That the Recreational Vehicle (RV) being used as a temporary residence continue to be hooked into the approved On-Site Wastewater Treatment System;

5. That the minimum setback requirements of a General Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;

6. That the subject property continually remains free of debris and junk vehicles, in accordance with Ordinance #106;

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;

8. That the Recreational Vehicle (RV) will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property upon end of the seasonal use each year;

9. That the Recreational Vehicle (RV) continue to be utilized for personal use only and shall not be rented at any time; and,

10. That this Conditional Use Permit be reviewed in three (3) years, 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.
GENERAL INFORMATION:

REQUEST:  CONDITIONAL USE PERMIT REVIEW / CU 18-08: To review an illuminated, on-premise sign within 1,500 feet of a residential zoning district / dwelling unit in a General Commercial in accordance with Sections 209, 312, and 510 of the Pennington County Zoning Ordinance.

APPLICANT/OWNER: Brook Stromer / Stromer Properties, LLC.

APPLICANT ADDRESS: 5410 Aviation Road, Rapid City, SD 57703

LEGAL DESCRIPTION: Lot A2; Bar P-S Subdivision, Section 20, T1N, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: Located off of E. Highway 44; at the intersection of Airport Road and Aviation Road.

SIZE: 15.01 acres

TAX ID: 61558

EXISTING LAND USE: Vacant

ZONING REFERENCE: Sections 209, 312, and 510

CURRENT ZONING: General Commercial District

SURROUNDING ZONING:

North Limited Agriculture District
South General Agriculture District
East General Commercial District
West General Commercial District

PHYSICAL CHARACTERISTICS: Flat

UTILITIES: None

REPORT BY: Jason Theunissen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 18-08 with conditions.

II. GENERAL DESCRIPTION
   A. May 29, 2018 – The Planning Commission approved Conditional Use Permit / CU 18-08 with the following eight (8) conditions:
      1. That all lighting be installed and maintained so as to minimize spillage of light outside of each sign face so as not to create a nuisance and the signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the roadways or airspace, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or pilot of an aircraft, or otherwise interfere with any driver’s operation of a motor vehicle or pilot’s operation of an aircraft;
      2. That the applicant obtain a Sign Permit for the proposed sign prior to any work being done, which requires a site plan to be reviewed and approved by the Planning Director;
      3. That the sign continually conforms to all regulations in § 312 of the Pennington County Zoning Ordinance;
      4. That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated;
      5. That the sign must meet a minimum of a five (5) foot setback from the front property lines and twenty-five (25) foot setbacks from all side and rear property lines. In addition, no part of the sign or infrastructure may be located in any right-of-way;
      6. That the overall height of the proposed sign, including ground clearance, not exceed 30 feet and the maximum display area not exceed 250 square feet on each face;
      7. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Conditional Use Permit / CU 18-08, which is available at the Planning Office; and,
      8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
B. July 8, 2019 – The Planning Commission approved the extension of Conditional Use Permit / CU 18-08 with the following seven (7) conditions:

1. That all lighting be installed and maintained so as to minimize spillage of light outside of each sign face so as not to create a nuisance and the signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the roadways or airspace, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or pilot of an aircraft, or otherwise interfere with any driver’s operation of a motor vehicle or pilot’s operation of an aircraft;

2. That the applicant obtain a Sign Permit for the proposed sign prior to any work being done, which requires a site plan to be reviewed and approved by the Planning Director;

3. That the sign continually conforms to all regulations in § 312 of the Pennington County Zoning Ordinance;

4. That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated;

5. That the sign must meet a minimum of a five (5) foot setback from the front property lines and twenty-five (25) foot setbacks from all side and rear property lines. In addition, no part of the sign or infrastructure may be located in any right-of-way;

6. That the overall height of the proposed sign, including ground clearance, not exceed 30 feet and the maximum display area not exceed 250 square feet on each face;

7. That this Conditional Use Permit shall automatically expire if the use for which the use was granted, has not been established within two (2) years following the date of approval, May 29, 2018; and,

8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditionals of Approval are being met.

III. EXISTING CONDITIONS

A. Zoned General Commercial District.

B. 15.01 acres.

C. Currently vacant of any structures.

D. City of Rapid City Right-of-Way Permit / CIBP18-1139 to pave an approach.

E. County Construction Permit / CP 18-04 to construct a parking area.

F. There are two (2) platted easements on the property.

1. A 20-foot-wide irrigation ditch easement that runs along the west property line.

2. A 66-foot-wide access easement runs along the southern property line.

G. The applicant has indicated the proposed sign will be placed in the southwest corner of the property near the points where the easements intersect.
IV. ANALYSIS

A. June 15, 2020 – Staff spoke with the applicant, Brook Stromer, via telephone and he stated that a Sign Permit has not been applied for and that the sign has not been placed on the subject property. The applicant stated that economical impacts of the pandemic have delayed his plans to place the sign and requested that Conditional Use Permit / CU 18-08 be extended for one additional year.

1. Pennington County Zoning Ordinance Section 510 (E)(1)(b) states: A Conditional Use Permit shall automatically expire if: The use for which the Conditional Use Permit was granted has not been established, according to the terms and conditions of the Conditional Use Permit, within two years following the date of approval.
   a. The Planning Director recommends approval of this extension, given the unforeseen impacts the pandemic has had on the applicant’s plans to meet this requirement.

RECOMMENDATION: Staff recommends the extension of Conditional Use Permit / CU 18-08 with the following eight (8) conditions:

1. That all lighting be installed and maintained so as to minimize spillage of light outside of each sign face so as not to create a nuisance and the signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the roadways or airspace, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or pilot of an aircraft, or otherwise interfere with any driver’s operation of a motor vehicle or pilot’s operation of an aircraft;

2. That the applicant obtain a Sign Permit for the proposed sign prior to any work being done, which requires a site plan to be reviewed and approved by the Planning Director;

3. That the sign continually conforms to all regulations in Section 312 of the Pennington County Zoning Ordinance;

4. That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated;

5. That the sign must meet a minimum of a five (5) foot setback from the front property lines and twenty-five (25) foot setbacks from all side and rear property lines. In addition, no part of the sign or infrastructure may be located in any right-of-way;

6. That the overall height of the proposed sign, including ground clearance, not exceed 30 feet and the maximum display area not exceed 250 square feet on each face;
7. That this Conditional Use Permit shall automatically expire if the use for which it was granted has not been established within one (1) year following the date of this extension; and,

8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditionals of Approval are being met.
STAFF REPORT

GENERAL INFORMATION:

REQUEST:

CONDITIONAL USE PERMIT REVIEW / CU 19-20: To review an existing residence to be used as a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

APPLICANT:

Cody Rust Butler

APPLICANT ADDRESS:

1301 Ottawa Trail, Amarillo, TX 79118

AGENT / LOCAL CONTACT:

Jeannie Marr

ADDRESS:

1005 Needles Drive, Custer, SD 57730

LEGAL DESCRIPTION:

Tract A of Lot 2 of SW1/4NW1/4, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

SITE LOCATION:

23835 Marshall Gulch Road; located northeast of the intersection of Deerfield Road and Marshall Gulch Road.

SIZE:

21.79 acres

TAX ID:

12848

EXISTING LAND USE:

Residential

ZONING REFERENCE:

§ 205, 319, and 510

CURRENT ZONING:

General Agriculture District

SURROUNDING ZONING:

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

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES:

Private
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending to continue the review of Conditional Use Permit / CU 19-20 to the July 13, 2020 PC Meeting with one (1) condition.

II. GENERAL DESCRIPTION
   A. The applicant, Cody Rust Butler, requested a Conditional Use Permit to allow an existing two (2) bedroom residence to be utilized as a Vacation Home Rental on the subject property.
   B. August 12, 2019 – Planning commission approved Conditional Use Permit / CU 19-20 with the following seventeen (17) conditions:
      1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);
      2. That the website listing(s) for the Vacation Home Rental is updated to correctly state that six (6) overnight occupants are allowed;
      3. 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;
      4. 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;
      5. That each review of Conditional Use Permit / CU 19-20, be subject to PCZO § 511(F)(3), which imposes a $100 fee per review;
      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 continually 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 two (2) off-street parking spaces be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
      9. That an interior informational sign be posted in accordance with the requirements of PCZO §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. The
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Cody Rust Butler; Jeannie Marr - Agent
June 22, 2020

interior informational sign must also contain a color map illustrating the Special Flood Hazard Area, as determined by FEMA;

10. That the lot address (23835 Marshall Gulch Road) be posted on the residence at all times and so it is clearly visible from Marshall Gulch 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 § 319(F) (Performance Standards) at all times;

12. That if the person designated as the Local Contact is ever changed from Jeannie Marr, 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;

16. 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; and,

17. 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.

III. EXISTING CONDITIONS

A. Zoned General Agriculture District.
B. 21.79 acres.
C. Access off of Marshall Gulch Road via an existing approach.
D. Lot contains:
   3. Two (2) loafing sheds – built in 1965 and 1984, per DOE records.
   4. On-site Wastewater Treatment System (OSWTS) Construction Permit / COSD15-0043 to install a new OSWTS.

E. Special Flood Hazard Area (100-year floodplain) located on the subject property.
   1. All existing structures appear to be located with the boundaries of the Special Flood Hazard Area.
IV. ANALYSIS

A. June 11, 2020 – Staff performed a site visit to the subject property and found the following:
   1. That an updated Vacation Home License and Sales Tax License were missing (Condition #6).
   2. Some of the interior informational sign requirements were not included (Condition #9).
   3. An address was not posted on the residence (Condition #10).
   4. An evacuation plan was not provided (Condition #7).

B. June 12, 2020 – Staff has communicated with the applicant and Local Contact about what needs to be done and will be giving them additional time to meet the required conditions.

RECOMMENDATION: Staff recommends to continue the review of Conditional Use Permit / CU 19-20 to the July 13, 2020 Planning Commission meeting in order for the applicant to meet the Conditions of Approval with the following one (1) condition:

1. That any continuation after the July 13, 2020 Planning Commission meeting, will be subject to a $100.00 continuation fee in accordance with Section 511(X) of the Pennington County Zoning Ordinance.
GENERAL INFORMATION:

REQUEST:  
CONDITIONAL USE PERMIT REVIEW/ CU 19-30: To review the allowance of an existing residence (Morton building) to remain as a Guest House once the new single-family residence is complete in a Limited Agriculture District in accordance with Sections 206, 318, and 510 of the Pennington County Zoning Ordinance.

APPLICANT:  
Harry and Gail McKane

APPLICANT ADDRESS:  
23510 Deerfield Road, Hill City, SD 57745

LEGAL DESCRIPTION:  
Lot 1 (also in Section 36, T1N, R3E), Deerfield Park Parcel #2, Section 1, T1S, R3E, BHM, Pennington County, South Dakota.

SITE LOCATION:  
23510 Deerfield Park Drive; north of the intersection of E. Slate Road and Deerfield Park Drive.

SIZE:  
19.26 acres

TAX ID:  
64151

EXISTING LAND USE:  
Residential

ZONING REFERENCE:  
Sections 206, 318, and 510

CURRENT ZONING:  
Limited Agriculture District

SURROUNDING ZONING:

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

PHYSICAL CHARACTERISTICS:  Open Meadow / Hills

UTILITIES:  Private
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending to approve the extension of Conditional Use Permit / CU 19-30 with conditions.

II. GENERAL DESCRIPTION
   A. April 13, 2004 – The Board of Adjustment approved Variance / VA 04-15, to reduce the minimum side yard setback from 25 feet to 10 feet and to reduce the minimum lot size from 40 acres to 22.44, to allow for the construction of a pole barn in a General Agriculture District.
   B. March 15, 2011 – The Board of Commissioners approved Layout Plan / PL 11-03 to create Lot 1 and Lot 2 of Deerfield Park Parcel #2 with the following thirteen (13) conditions.
      1. That prior to County Board approval of the Minor Plat, the proposed lots be rezoned to Limited Agriculture District;
      2. That prior to County Board approval of the Minor Plat, the applicant improve Paradise Drive, Paradise Court, and Deerfield Park Road to Local/Collector Road Standards, including 66 feet of right-of-way with a 24-foot-wide, 4 inch graveled driving surface, or else a surety be posted for the road improvements or an approved Subdivision Regulations Variance be obtained waiving this requirement;
      3. That prior to County Board approval of the Minor Plat, the applicant provide engineered road construction plans for the required road improvements or else obtain an approved Subdivision Regulations Variance waiving this requirement;
      4. That prior to County Board approval of the Minor Plat, the applicant shall improve the Section Line Right-of-Way to Ordinance 14 Standards or else obtain an approved Subdivision Regulations Variance waiving this requirement;
      5. That an approved Floodplain Development be obtained prior to any work being conducted within the boundaries of the 100-year floodplain;
      6. That the limits of the 100-year floodplain be shown on the plat in accordance with current FEMA maps;
      7. That a drainage easement be dedicated on the Minor Plat, along to the high water line, in accordance with Section 500.6 of the Pennington County Subdivision Regulations;
      8. That all setbacks from lot lines be maintained for the existing structures and utilities as a result of the proposed lot reconfiguration;
      9. That a site plan showing the location of all existing structures and associated utilities on proposed Lot 1 be submitted with the Minor Plat application or else a Subdivision Regulations Variance be obtained waiving this requirement;
10. That an Operating Permit be obtained prior to County Board approval of the Minor Plat for the existing wastewater system which services the residence located on proposed Lot 1;

11. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines on the Preliminary Plat or an approved Subdivision Regulations Variance be obtained waiving this requirement;

12. That at the time of submittal for the Minor Plat, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, including the Plat to be scaled at not more than one (1) inch equals one hundred (100) feet, and topographic information be provided of the subject property at five (5) foot contour intervals or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met; and,

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

C. April 05, 2011 – The Board of Commissioners approved Rezone / RZ 11-02, to rezone 28.96 acres from Low Density Residential District and General Agriculture District to Limited Agriculture District.

D. May 3, 2011 - Minor Plat / MPL 11-08 and Subdivision Regulations Variance / SV 11-02 were approved by the Board of Commissioners with the following four (4) conditions and SV 11-02 with the following waivers:

1. MPL 11-08:
   i. That prior to County Board approval of the Minor Plat, the proposed lots be rezoned to Limited Agriculture District;
   ii. That an approved Floodplain Development be obtained prior to any work being conducted within the boundaries of the 100-year floodplain;
   iii. That the addresses for each lot be posted in accordance with Ordinance #20; and,
   iv. That the corrections to the plat heading be made in accordance with the comments received from the Register of Deeds Office.

2. SV 11-02:
   i. Road improvements to be conducted to Local/Collector Road Standards;
   ii. Engineered road construction plans to be submitted;
   iii. The scale of the plat to be no greater than one (1) inch equals 100 feet (the prepared plat is drawn at a one (1) inch equals 200 feet);
   iv. Topographical information provided at five (5) foot contour intervals; and,
v. For the Section Line to be improved to Ordinance 14 Standards.

E. August 13, 2018 - the Planning Commission approved Conditional Use Permit / CU 18-28 to allow the applicants to live in the existing residence while building a new single-family residence on the subject property with the following ten (10) conditions:

1. That an approved Floodplain Development Permit be obtained prior to any work being done near or within the Special Flood Hazard Area;

2. 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;

3. That the address is clearly posted on the residence and at the driveway in accordance with Pennington County’s Ordinance #20;

4. That the subject property not contain more than one (1) residential structure (i.e. single-family residence or living quarters);

5. That the minimum setback requirements of a Limited Agriculture District be continually maintained on the property or the appropriate Setback Variance(s) be obtained;

6. That the landowners work with the Pennington County Environmental Planner to ensure compliance with Pennington County Zoning Ordinance Section 204(J);

7. That the temporary living quarters be removed from the hay shed once the single-family residence is habitable or the expiration of the Building Permit for the single-family residence, whichever comes first;

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

9. That the applicant signs the Statement of Understanding at the Planning Office within ten (10) business days of approval of Conditional Use Permit / CU 18-28; and,

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

F. August 12, 2019 – The Planning Commission approved the extension of Conditional Use Permit CU / 18-28 with the following eight (8) conditions:

1. That an approved Floodplain Development Permit be obtained prior to any work being done near or within the Special Flood Hazard Area;

2. 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;
3. That the address is clearly posted on the residence and at the driveway in accordance with Pennington County’s Ordinance #20;
4. That the subject property not contain more than one (1) residential structure (i.e. single-family residence or living quarters) unless a Conditional Use Permit is approved to allow the existing residence (hay shed) as a second residence;
5. That the minimum setback requirements of a Limited Agriculture District be continually maintained on the property or the appropriate Setback Variance(s) be obtained;
6. That the temporary living quarters be removed from the hay shed once the single-family residence is habitable or the expiration of the Building Permit for the single-family residence, whichever comes first. If the applicants wish to keep the living quarters in the hay shed, a new Conditional Use Permit allowing such use must be applied for once the new single-family residence is habitable;
7. That the subject property continually remains free of debris and junk vehicles; and,
8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

G. October 31, 2019 – The applicants, Harry Scott and Gail W. McKane, applied for a Conditional Use Permit to live in an existing residence (Morton Building) while building a single-family residence on the subject property.

H. December 12, 2019 – The Planning Commission approved Conditional Use Permit / CU 19-28 To allow the existing residence (Morton building) to remain as a Guest House once the new single-family residence is complete with the following eleven (11) conditions:
1. That prior to the review of Conditional Use Permit / CU 19-30 for the Guest House, the applicant record a deed restriction with the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Pennington County Zoning Ordinance Section 318(B)(13);
2. That the rental or lease of the Guest House or the use of the Guest House as a permanent resident for a second family on the premises shall be prohibited;
3. That the Guest House shall not be used for more than 180 days per calendar year;
4. That the primary dwelling, upon completion, be classified as owner-occupied and proof of status be provided to the Planning Department, in accordance with PCZO Section 318(B)(10);
5. That all necessary utilities for the Guest House shall be extended from the primary dwelling unit’s services. No separate meters for
the Guest House shall be allowed, unless required by the utility service provider;

6. That the Guest House utilize the same on-site wastewater treatment system as the primary dwelling, except if required and approved by the Pennington County Environmental Planner;

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

8. That the Guest House be continually utilized and maintained in accordance with all requirements of PCZO Section 318;

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

10. That prior to any work within the 100-year floodplain, the applicant obtain approval of a Floodplain Development Permit; and,

11. That this Conditional Use Permit be reviewed in six (6) months, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

F. December 2, 2019, the Planning Commission approved the extension of Conditional Use Permit / CU 19-30 with the following eleven (11) conditions:

1. That prior to the review of Conditional Use Permit / CU 19-30 for the Guest House, the applicant record a deed restriction with the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Pennington County Zoning Ordinance (PCZO) Section 318(B)(13);

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

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

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

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

6. That the Guest House utilize the same on-site wastewater treatment system as the primary dwelling, except if required and approved by the Pennington County Environmental Planner;
7. That both the addresses assigned for the primary residence and the Guest House be posted so they are clearly visible from Deerfield Park Drive, in accordance with Pennington County Ordinance #20;
8. That the Guest House be continually utilized and maintained in accordance with all requirements of PCZO § 318;
9. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director;
10. That prior to any work within the 100-year floodplain, the applicant obtain approval of a Floodplain Development Permit; and,
11. That this Conditional Use Permit be reviewed in six (6) months, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

III. EXISTING CONDITIONS
   A. Zoned Limited Agriculture District.
   B. 19.26 acres.
   C. Access is taken from Deerfield Park Drive.
   D. There is Special Flood Hazard Area on the subject property (see Image 1).
   E. Lot contains:
      1. One storage shed, County Building Permit / 2004COBP0184.
      2. One 800 square foot addition to the existing storage shed / 2004COBP0184, to include living quarters (Guest House) / 2011COBP0044.
         1. Onsite Wastewater Treatment System Construction Permit / 2006COSD0177.
         2. County Onsite Wastewater Treatment System Operating Permit / COOP20-0002.
         1. Onsite Wastewater Treatment System Construction Permit / COSD19-0019.
Map of Special Flood Hazard Area on the subject property.

May 29, 2020 site photo of subject property – Guest House.
IV. ANALYSIS

A. May 29, 2020, Staff performed a site visit to the subject property and spoke with Mr. and Mrs. McKane, who informed Staff that they are now living in the single-family residence and are in the process of recording a deed restriction with the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Pennington County Zoning Ordinance (PCZO) Section 318(B)(13);

1. Staff is recommending to continue the extension of Conditional Use Permit / CU 19-30 to the June 22 Planning Commission meeting to allow the applicants time to file with the Register of Deeds.

B. June 10, 2020, the applicant, Mr. McKane, recorded a deed restriction with the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Pennington County Zoning Ordinance (PCZO) Section 318(B)(13), attached to this Staff Report.

1. Staff recommends to remove Condition #1 from the previous conditions as it has been met.

C. Staff has not received any complaints for this Conditional Use Permit.
RECOMMENDATION: Staff will be recommending to approve the extension of Conditional Use Permit / CU 19-30 with the following conditions.

1. That the rental or lease of the Guest House or the use of the Guest House as a permanent resident 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 dwelling, upon completion, be classified as owner-occupied and proof of status be provided to the Planning Department, in accordance with PCZO Section 318(B)(10);

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

5. That the Guest House utilize the same on-site wastewater treatment system as the primary dwelling, except if required and approved by the Pennington County Environmental Planner;

6. That both the addresses assigned for the primary residence and the Guest House be posted so they are clearly visible from Deerfield Park Drive, in accordance with Pennington County Ordinance #20;

7. That the Guest House be continually utilized and maintained in accordance with all requirements of the PCZO Section 318;

8. 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;

9. That prior to any work within the 100-year floodplain, the applicant obtain approval of a Floodplain Development Permit; and,

10. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
Subject Property
DEED RESTRICTIONS

Harry Scott McKane and Gail McKane, husband and wife, are the owners of certain real property whose street address is 23510 Deerfield Park Drive, Hill City, Pennington County, South Dakota 57745, (the “Property”) and which is further legally described as follows:

Lot One (1) of Deerfield Park Parcel No. 2, as shown by the plat recorded in Book 36 of Plats on Page 65 in the Office of the Register of Deeds, Pennington County, South Dakota.

Additional Property Identifier: Parcel ID: 50-01-100-003

Harry S. McKane and Gail McKane (the “Owners”) make the following acknowledgements:

1) That the original residence that exists on the Property is a Morton building (which is to be referred to as “Guest House”) which bears the street address of 23510 Deerfield Park Drive, Hill City, SD 57745;

2) That Owners are constructing a separate structure on the Property that is intended to be the principal residence (also sometimes referred to as “primary residence” or “primary dwelling”) which bears the street address of 23512 Deerfield Park Drive, Hill City, SD 57745; and

3) That the Property is zoned as Limited Agriculture District and that in accordance with the Pennington County Zoning Ordinance for a “Guest House” (“PCZO”) § 318(B)(13), there can only be one primary residence and one Guest House on the Property, and the Guest House shall be allowed to remain on the Property upon the county’s approval of a Conditional Use Permit.

Pennington County Planning Commission, in its meeting held on December 2, 2019 at 9:00 a.m., unanimously approved Conditional Use Permit (CU 19-30), with eleven (11) conditions.

Owners now make the following Deed Restrictions to the Property as required under the approved Conditional Use Permit (CU 19-30) (hereafter “Conditional Use Permit”), subject to the stated terms and conditions therein, to-wit:

1
1. The Guest House shall not be separately rented or leased from the principal residence, in accordance with the Pennington County Zoning Ordinance ("PCZO") § 318(B)(13);

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

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

4. That the principal residence, upon completion, shall be classified as owner-occupied and proof of such status shall be provided to the Planning Department, in accordance with PCZO § 318(B)(10);

5. That all necessary utilities for the Guest House shall be extended from the utilities in place for the primary residence. No separate meters for the Guest House shall be allowed, unless required by a utility service provider or unless the electrical service provider offers a reduced rate under a "dual meter program" for utilities for primary heat sources and electric water heaters;

6. That the Guest House will utilize the same on-site wastewater treatment system as the principal residence, unless a separate on-site wastewater treatment system is approved or required by Pennington County Environmental Planner;

7. That the posting of the street address for the principal residence and the Guest House shall be the same address, and such address shall be posted for each dwelling to be clearly visible when viewed from Deerfield Park Drive, in accordance with Pennington County Ordinance #20;

8. That the Guest House be continually utilized and maintained in accordance with all requirements of PCZO § 318;

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

10. That prior to any improvements, development or construction within the 100-year floodplain, the applicant must obtain a Floodplain Development Permit; and

11. That the Conditional Use Permit may be reviewed in six (6) months following its approval, which review will be prompted in the event that a complaint has been filed, or as directed by the Pennington County Planning Commission or Pennington County Board of Commissioners to verify that all Conditions of Approval are being met.

Owners represent and warrant that these Deed Restrictions shall be incorporated into the Warranty Deed conveying title to the Owners, dated the 26th day of December, 2012, recorded
with the Pennington County Register of Deeds on the 31st day of December, 2012 at 3:52 PM as Document # A201221365.

These Deed Restrictions shall run with the land and cannot be released by the Owners, for so long as the Conditional Use Permit (CU 19-30) remains in full force and effect; provided however, these Deed Restrictions shall automatically terminate and be of no further effect in the event that the Conditional Use Permit is no longer in effect for any reason, including but not limited to its expiration, its discontinuance, its replacement by a different use, its revocation, or upon the expiration of twenty (20) years from the date of these Deed Restrictions.

Dated this 10 day of June, 2020.

[Signature]
Harry Scott McKane

[Signature]
Gail McKane

STATE OF SOUTH DAKOTA  )
COUNTY OF PENNINGTON  )

On this the 10 day of June, 2020, before me, the undersigned officer, personally appeared Harry Scott McKane and Gail McKane, husband and wife, who are known to me or satisfactorily proven to be the persons whose names are subscribed to these Deed Restrictions and who acknowledged that they signed it for the purposes therein contained.

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

[Seal]
SHANON E. ELLERTON
NOTARY PUBLIC
State of South Dakota

[Seal]
Shanon E. Ellerton
Notary Public, South Dakota

My Commission Expires: 5-11-2028
STAFF REPORT

GENERAL INFORMATION:

REQUEST:

MINOR PLAT / MPL 20-10: To reconfigure lot lines to create Lot D1 and Lot 1A of the Log Porch Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

APPLICANT:
Robert Schryvers

APPLICANT ADDRESS:
23001 Log Porch Road, Rapid City, SD 57702

OTHER LANDOWNER:
Leland and Pamela Winchester

LANDOWNER ADDRESS:
13186 Morse Place, Rapid City, SD 57702

AGENT:
All Aspects Inc. Land Surveying

AGENT ADDRESS:
444 Saint Joseph Street, Spearfish, SD 57783

LEGAL DESCRIPTION:

EXISTING LEGAL: Lot 21 of Morse Subdivision #4; Lot 1 of D-R-J Subdivision and Tract in NE1/4NE1/4; Lot D of NE1/4NE1/4, all located in Section 8, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot D1 and Lot 1A of the Log Porch Subdivision, Section 8, T1N, R6E, BHM, Pennington County, South Dakota.

SITE LOCATION:
23001 Log Porch Road and 13186 Morse Place; located off of W. Highway 44.

TAX ID:
42291 / 42290 / 39316

SIZE:
2.61 acres

EXISTING LAND USE:
Residential

SUBDIVISION REGULATIONS
REFERENCE:
Section 400.3

CURRENT ZONING:
Suburban Residential District
Agenda Item #7  
Robert Schryvers  
June 22, 2020  

SURROUNDING ZONING:  
- North: General Agriculture District  
- South: Suburban Residential District  
- East: Suburban Residential District  
- West: Suburban Residential District  

PHYSICAL CHARACTERISTICS:  Forested / Hills  

UTILITIES:  Private  

REPORT BY:  Jason Theunissen  

I. PROPOSED RECOMMENDATION  
A. Staff will be recommending approval of Minor Plat / MPL 20-10 with conditions.  

II. GENERAL DESCRIPTION  
A. The applicant, Robert Schryvers, has applied for a Minor Plat / MPL 20-10 to reconfigure lot lines in order to create Lot D1 and Lot 1A of Log Porch Subdivision.  

III. EXISTING CONDITIONS  
Note: For ease of description, the subject properties are labeled A, B, and C.  
A. Lot A (Tax ID 42291)  
1. Zoned Suburban Residential District.  
2. .87 acre – Plat# 25967, Book 7, Page 152.  
3. No Special Flood Hazard Area.  
B. Lot B (Tax ID 39316)  
1. Zoned Suburban Residential District.  
2. .24 acre.  
3. Takes access off of Log Porch Road.  
4. Not located within a Road District.  
5. 15’ x 73’ Temporary Road Use Permit.  
7. Single-family residence.  
   a. County Building Permit 1995COBP0458.  
8. On-site Wastewater Treatment System.  
   a. Operating Permit COOP18-0901.  
9. 16’ x 20’ Shop Building.  
   a. County Building Permit 1996COBP0415.  
10. 8’ x 12’ shed.
C. Lot C (Tax ID 42290)
   1. Zoned Suburban Residential District.
   2. 1.5 acres – Plat# 21-236, Book 21, Page 236.
   3. Takes access off of Morse Place – within Morse Place Road District.
   4. No Special Flood Hazard Area.
   5. Single-family residence.
      a. Built in 1981, according to Department of Equalization (DoE) records.
   6. On-site Wastewater Treatment System.
      a. Operating Permit COOP17-0398.
   7. 17’ x 32’ Detached Garage.
      a. Built in 1981, according to DoE records.
   8. 30’ x 40’ Shop Building.
      a. County Building Permit 1995COBP0086.

IV. PROPOSED LOTS
A. Lot D1
   1. Zoned Suburban Residential District.
   2. .745 acre.
   3. Access will be taken off of Log Porch Road.
   4. 15’ x 73’ Temporary Road Use Permit.
   5. Single-family Residence.
      a. County Building Permit 1995COBP0458.
   6. On-site Wastewater Treatment System.
      a. Operating Permit COOP18-0901.
   7. 16’ x 20’ Shop Building.
      a. County Building Permit 1996COBP0415.
   8. 8’ x 12’ shed.
B. Lot 1A
   1. Zoned Suburban Residential District.
   2. 1.831 acres.
   3. Takes access off of Morse Place – within Morse Place Road District.
   4. No Special Flood Hazard Area.
   5. Single-family Residence.
      a. Built in 1981, according to DoE records.
   6. On-site Wastewater Treatment System.
      a. Operating Permit COOP17-0398.
   7. 17’ x 32’ Detached Garage.
      a. Built in 1981, according to DoE records.
   8. 30’ x 40’ Shop Building.
      a. County Building Permit 1995COBP0086.
V. REQUEST FOR COMMENT

A. County Highway Department
   1. Note 2 should have 8-foot easement on interior lot lines, not 5-feet.
   2. Easement across Lot D1 should be labeled or give reference to Easement Document.
   3. The easement line running through Lot D1 should have a bearing and distance or a distance along the north property line to the northeast property corner.
      a. Staff Comment: These will be included as Conditions of Approval.

B. County Environmental Planner II
   1. The house located on future Lot D1 has 2 approved septic permits (1995COSD0072 & 2000COSD0051) and an approved operating permit COOP18-0398. Future lot 1A has an approved Operating permit COOP17-0398. I have no concerns with the current proposal.

C. County Ordinance Enforcement
   1. No known violations.

D. Black Hills Electric Cooperative
   1. BHEC has no concerns with this Minor Plat.

E. Department of Equalization
   1. Looks pretty good! I've just got two comments on minor stuff. In the "formerly" section, it should be "Morse Subd #4." Also, I just want to clarify – is the name of the new subdivision going to be "The Log Porch Subd" or just "Log Porch Subd?"
F. County Fire Administrator and County Sheriff’s Office
   1. No comments received.

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

H. Emergency Services (9-1-1)
   1. Ensure applicants are in compliance with Pennington County
      Ordinance #20 and have their physical addresses posted accordingly.

I. United States Forest Service
   1. The Forest Service has interest in the Log Porch Road for access to
      National Forest Service land.
      a. Staff Comment: National Forest Service access easement is
         attached to this Staff Report.

J. County Addressing Coordinator / Floodplain Manager
   1. No addressing concerns at this time. Future addresses will be
      assigned during the Building Permit application process. Once
      assigned, addresses must be posted in accordance with Pennington
      County Ordinance #20.
   2. No Special Flood Hazard Area on the subject properties.

K. Register of Deeds
   1. Formerly needs to be corrected to read Lot 21 of Morse Subdivision
      #4.
   2. Certificates appear to be required certificates per state statute.
      a. Staff Comment: This will be included as a Condition of
         Approval.

VI. ANALYSIS

A. May 5, 2020 – Board of Commissioners approved Layout Plan / LPL 20-07
   with twelve (12) conditions.
   1. That at the time of Minor Plat submittal, the Plat labels Log Porch
      Road and either establishes an Easement on proposed Lot D1 or
      references an existing Easement;
      a. Staff comment: This Condition has been satisfied.
   2. That at the time of Minor Plat submittal, previous lot lines be
      identified on the Plat;
      a. Staff comment: This Condition has been satisfied.
   3. That prior to the mylar being filed at the Register of Deeds, proposed
      Lot D-1 be completely included in the Morse Place Road District, per
      County Highway comments;
      a. Staff comment: County Highway has rescinded this comment
         and it is no longer applicable.
   4. That at the time of Minor Plat submittal, a new subdivision be named
      for the two proposed lots, per County Highway and Register of Deeds
      comments;
      a. Staff comment: This Condition has been satisfied.
5. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
   a. Staff comment: Note 2 of the Minor Plat indicates a 5-foot utility easement, which does not satisfy this Condition.

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

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

8. That any portion of National Forest Service land lying between the original north property lines of Tax ID 39316 & 42291 and the Section Line be removed from proposed Lot D1;
   a. Staff comment: Staff verified that the platted north property line is the Section Line. Therefore, this Condition is satisfied.

9. That all-natural drainage ways are maintained and are not blocked;

10. 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;

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

12. At the time of Minor Plat submittal, action be taken to bring the 8’ x 12’ shed located within the Section Line Right-of-Way into conformance with Pennington County Zoning Ordinance requirements.
   a. Staff comment: The shed has been relocated outside of the Section Line Right-of-Way and meets required setbacks.

B. May 20, 2020 – The applicant applied for Minor Plat 20-10 to reconfigure interior lot lines on the subject properties.

C. Staff noted a certificate for the Planning Director that needs to be removed, as this in not a Final Plat and is not required.

D. The proposed lots do not appear to reduce the size of either property below minimum lot size requirements for a Suburban Residential District.

E. County Highway, Register of Deeds and Department of Equalization have comments that must be addressed prior to filing the Minor Plat with the Register of Deeds.
RECOMMENDATION: Staff recommends approval of Minor Plat 20-10 with the following conditions:

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

2. That prior to filing the Plat with the Register of Deeds, the Planning Director Certificate be removed from the Plat;

3. That prior to filing the Plat with the Register of Deeds, Note 2 be corrected to identify eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;

4. That prior to filing the Plat with the Register of Deeds, the easement line running through Lot D1 has a bearing and distance or a distance along the north property line to the northeast property corner, per County Highway Department comments;

5. That prior to filing the Plat with the Register of Deeds, the Plat Heading be corrected to read Lot 21 of Morse Subdivision #4, per Register of Deeds comments;

6. That all natural drainage ways are maintained and are not blocked; and,

7. 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.
TEMPORARY ROAD USE PERMIT

Robert "Bob" Schryvers of 23001 Log Porch Road, Rapid City, SD, herein after called Grantor, grants to the United States of America, acting through the Forest Service, Department of Agriculture, hereinafter called Grantee, a temporary permit to occupy and use the following described lands in the County of Pennington, State of South Dakota:

Lot D of the NE1/4NE1/4 of Section 8
Township 1 North, Range 6 East, BHM

This permit authorizes Forest Service administrative use of an existing road (NFSR 173) across private lands owned by Grantor. The right-of-way for such authorized use is estimated at 0.013 miles (less than 73.7 feet in length), 15 feet in width plus 15 feet on the NE side of the road, 0 feet on the inside edge of road (SW side of road), containing approximately 0.025 acres with such additional width as required for accommodation and protection of cuts and fills, as described on attached EXHIBIT A attached hereto, the centerline of said road as constructed is hereby accepted by Grantor and Grantee as the true centerline of the premises granted.

The purpose of this permit is to authorize access to National Forest System (NFS) lands by the Forest Service, its personnel, contractors, representatives, or other authorized agents, for the purpose(s) of: access, vegetative management by harvesting and hauling timber and treating the harvesting slash from National Forest System land.

This permit is granted subject to the following terms and conditions:

1. This permit is subject to all valid rights existing on this date.

2. This permit does not convey any right, title, or interest in real property, and does not provide public access to National Forest System land.

3. Grantee claims no interest in the premises by virtue of this permit, nor through occupancy or use hereunder.

4. Grantor agrees that valid rights held by Grantee in the premises, if any, shall not be extinguished, relinquished, terminated nor diminished by virtue of this permit.

5. Grantee shall fully repair all damage to roads, other than ordinary wear and tear, and provide routine maintenance commensurate with use by Grantee in exercising the privileges granted by this permit.
6. Grantee shall prevent unnecessary damage to Grantor’s adjacent land, timber, soil, water and other resources, and improvements. Grantee shall ensure its operations on Grantor’s land comply with applicable federal and state laws, regulations, and standards regarding resource protection, fire prevention and control, slash disposal, and noxious weed prevention and control.

7. The United States liability to the Grantor shall be governed by the Federal Tort Claims Act.

8. Grantee shall cut only such timber as necessary to clear the authorized right-of-way for road construction, reconstruction, and maintenance. Timber so cut shall, unless otherwise agreed, be cut into logs of lengths specified by Grantor, and shall be decked along the road for disposal by Grantor. – N/A

9. In order to allow for the safe transportation of log trucks, logging equipment and Forest Service contractors vehicles and other vehicles, minor repairs to the existing road surface and drainage structures may be completed by Grantee, through the timber sale purchaser or other authorized agent(s).

10. Grantee, its contractors, representatives, or agents acting on its behalf shall keep the following gates closed, except during the passage of vehicles. (Gate locations are shown on exhibit A):
   a) Gate located at junction - N/A
   b) Gate located at the national forest boundary in Section __, T.__, R.__.

11. This permit shall terminate December 31, 2022, unless earlier terminated by Grantor for breach of any terms or conditions herein, or upon written request by Grantee. Provided however, Grantor shall provide Grantee notice in writing a minimum of sixty (60) days prior to termination for breach, and shall provide Grantee with reasonable opportunity to satisfactorily cure the breach.

Grantee’s exercise of any privileges authorized by this permit shall constitute acceptance of all terms and conditions herein.

By: ___________________________ 10/27/14
   Robert "Bob" Schryvers
   Date

This permit is hereby accepted subject to all terms and conditions herein.

UNITED STATES OF AMERICA

By: ___________________________ 11/18/2014
   Craig Bobzien
   Forest Supervisor
   Black Hills National Forest
   Rocky Mountain Region, R-2
   Forest Service, Department of Agriculture

Page 2 of 3
Temporary Road Use Permit
Schryvers
Lot D of NE1/4 NE1/4 of Section 8
Township 1 North, Range 6 East, BHM

End Permit Area
Begin Permit Area

Big Bend

Temporary Road Use Permit
- 2012_BKMF_Trails
- 2012_BKMF_Roads

Miles
0 0.0379.075 0.15 0.225 0.3
STAFF REPORT

GENERAL INFORMATION:

REQUEST: 

MINOR PLAT / MPL 20-11: To create Tract A of Rustlers Ranch Addition in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

APPLICANT: 

Rustlers Ranch, LLC

APPLICANT ADDRESS: 

1318 Bennington Court, Glenview, IL  60026

SURVEYOR: 

Davis Engineering

ADDRESS: 

1060 Kings Road, Rapid City, SD  57702

LEGAL DESCRIPTION: 

EXISTING LEGAL: SW1/4SE1/4; SE1/4SE1/4 Less Tract 1754 and Less Right-of-Way, Section 8, T1N, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract A of Rustlers Ranch Addition, Section 8, T1N, R4E, BHM, Pennington County, South Dakota.

SITE LOCATION: 

23692 Newton Fork Road; five and one-half miles (5.5) northwest of Hill City.

TAX ID: 

45224

SIZE: 

10.03 acres

EXISTING LAND USE: 

Residential / Agriculture

SUBDIVISION REGULATIONS REFERENCE: 

Section 400.3

CURRENT ZONING: 

Limited Agriculture District

SURROUNDING ZONING: 

North General Agriculture District
South General Agriculture District
East Limited Agriculture District
West General Agriculture District
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Minor Plat / MPL 20-11 with conditions.

II. GENERAL DESCRIPTION
   A. July 25, 2005, The Planning Commission approved Conditional Use Permit / CU 05-26 with twenty (20) conditions:
   B. February 17, 2015, The Board of Commissioners approved Layout Plat / PL 15-01 with thirteen (13) conditions:
   C. September 18, 2018, The Board of Commissioners approved Preliminary Plat and Subdivision Regulation Variance / PL 18-26 and SV 18-06 with eleven (11) conditions:
   D. September 18, 2018, The Board of Commissioners denied the applicants, Rustlers Ranch LLC., request for a Variance / VA 18-11 to reduce the minimum required lot size from 40 acres to 10 acres in General Agriculture District.
   E. January 14, 2019, The Board of Commissioners approved the applicants request to rezone 10 acres from General Agriculture to Limited Agriculture District and to amend the Comprehensive plan to change the Future Land Use from Planned Unit Development Sensitive to Limited Agriculture District / RZ 18-10 and CA 18-09.
   F. April 7, 2020, The Board of Commissioners approved Layout Plan / 20-05 with the following eleven (11) 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;

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

7. That prior to the Plat being recorded with the Register of Deeds, the plat clarifies the Plat Heading;

8. That prior to the Plat being recorded with the Register of Deeds, that the 40-foot road easement on the subject property be recorded with the Register of Deeds;

9. That an address be assigned to the detached garage with loft on the proposed lot, and that it be posted in accordance with Pennington County Ordinance #20;

10. 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,

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

III. EXISTING CONDITIONS

A. Zoned Limited Agriculture District.

B. Lot size: 69.82 acres.

C. Access taken off of Newton Fork Road.

D. There is No Special Flood Hazard Area on the subject property.

E. Lot contains:

1. Single-family residence built in 1975 per Department of Equalization’s Property Record Card.

2. 8’ x 12’ Guest cottage on skids, built in 2000 per Department of Equalization’s Property Record Card.

3. Addition to single-family residence / 2001COBP0558.


5. Onsite Wastewater Treatment System (OSWTS) Construction Permit / COSD15-0046.

6. OSWTS Operating Permit / COOP19-1057.
   a. The Planning Department has not received payment for the current Operating Permit to date.
IV. PROPOSED LOT
   A. Tract A of Rustlers Ranch Addition.
   B. Lot size: 10 acres.
   C. Zoned Limited Agriculture District.

V. REQUEST FOR COMMENT
   A. County Highway Department
      1. A reference of the book and page for the document that created the
         66-foot easement crossing USFS needs to be included in the label of
         that easement. The 40-foot access easement is to be recorded before
         the plat is recorded, therefore a document number of that recording
         needs to replace “dedicated this plat” in the label of that easement.
         The beginning or end of the 40-foot access easement should have a
         dimension to one of the property corners.
            a. Staff comment: This will be addressed in the Conditions of
               Approval.
   B. County Fire Administrator
      1. No comment received.
   C. County Planning Director
      1. There is no Special Flood Hazard Area on the subject property.
   D. County Environmental Planner II
      1. There is currently a structure located on the future proposed lot. The
         septic system was pumped and inspected 12/5/2017. The applicant
         later turned in a pump receipt and was issued permit COPR18-0080.
         The applicant then wanted to use the information to obtain the
required Operating Permit. They were issued Operating permit # COOP19-1057. This permit has not been paid for and will not be valid until payment is received.

E. County Ordinance Enforcement Officer
   1. No violations.

F. County Natural Resources
   1. No objections.

G. County Addressing Coordinator
   1. An address will need to be assigned to the garage with loft. Once assigned, the address must be posted in accordance with Pennington County Ordinance #20.

H. Department of Equalization
   1. Looks good.

I. Register of Deeds
   1. Located in and Formerly should be switched around.
      a. Staff comment: This will be addressed in the Conditions of Approval.
   2. Certificates appear to be required certificates per state statute.

J. U.S. Forest Service
   1. No additional access roads from the Newton Fork Road will be authorized across National Forest System lands.
   2. Protect all posted boundary line corners, signs and bearing tress.
   3. Adhere to the setback requirements along the posted boundary between National Forest System lands and private property.
   4. Protect all known stream courses, ponds and riparian areas located on National Forest System lands.
   5. No resource damage to occur on National Forest System lands.
   6. All proposed drain fields, leach lines or septic systems will need to be located on private property and not located on or drain or leach onto National Forest System lands.
   7. All construction materials, supplies, trash or garbage will not be located or dumped on National Forest System lands.
   8. Public roads in this area of the Black Hills National Forest are classified as “Roads Open to Highway Legal Vehicles Only” and “Highways, US, State” per the latest version of the Motor Vehicle Use Map.
   9. No motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.
   10. No motorized trails for ATV, motorcycles or ORV will be authorized from private property unto National Forest System lands (USFS does not want unauthorized trails constructed on National Forest System lands).
K. Black Hills Electric Cooperative
   1. Black Hills Electric Cooperative has no comments on this layout plat.
VI. ANALYSIS

A. May 20, 2020, the applicant, Rustlers Ranch LLC., has submitted a request to plat approximately 10 acres of the subject property to create Tract A of Rustlers Ranch Addition, leaving a remaining unplatted balance of approximately 59.82 acres.

B. If approved, the subject property’s current zoning of Limited Agriculture District would satisfy the proposed 10-acre Tract.

C. The proposed land use would be for a single-family residence as indicated on the Layout Plan Application.

D. The existing Conditional Use Permit / CU 05-26 for a temporary campground on the subject property needs to be updated or ended if the use is no longer needed.

E. Staff finds no significant issues with the applicant’s request as it appears to be in harmony with existing lots and current land uses in the area.

RECOMMENDATION: Staff recommends approval of Minor Plat / MPL 20-11 with the following 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 prior to the Plat being recorded with the Register of Deeds, 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;

6. That prior to the Plat being recorded with the Register of Deeds, the plat be updated per Register of Deeds comments;
7. That prior to the Plat being recorded with the Register of Deeds the 40-foot access easement is to be recorded, therefore a document number of that recording needs to replace "dedicated this plat" in the label of that easement. The beginning or end of the 40-foot access easement should have a dimension to one of the property corners, per County Highway Department comments; and,

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

GENERAL INFORMATION:

REQUEST:  

VACATION OF EASEMENT / VE 20-01:  To vacate a portion of the Minor Drainage and Utility Easement to construction a shop building on the subject property.

APPLICANT:  

Tom and Pam Troxel

APPLICANT ADDRESS:  

22905 Rimrock Court, Rapid City, SD  57702

SURVEYOR/ENGINEER:  

Fisk Land Surveying

SURVEYOR ADDRESS:  

P.O. Box 8154, Rapid City, SD  57709

LEGAL DESCRIPTION:  

Lot 6R, Block 1, Mission Hills #2 Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

SITE LOCATION:  

22905 Rimrock Court; located off of W. Highway 44 and Forest Road on Rimrock Court.

SIZE:  

0.74 acre

TAX ID:  

55775

EXISTING LAND USE:  

Residential

CURRENT ZONING:  

Low Density Residential District

SURROUNDING ZONING:  

| North   | Low Density Residential District |
| South   | Low Density Residential District |
| East    | Low Density Residential District |
| West    | Suburban Residential District    |

PHYSICAL CHARACTERISTICS:  

Forested / Hills

UTILITIES:  

Private

REPORT BY:  

Kristina Proietti
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Vacation of Easement / VE 20-01 with conditions.

II. GENERAL DESCRIPTION
   A. May 19, 2020, the applicants, Thomas and Pamela Troxel, are requesting to vacate a portion of an existing 8-foot utility and drainage easement in the front yard in order to construct a shop building. Exhibit A, filed with this application indicates that an 8-foot-wide Utility and Drainage easement is proposed to be vacated along the interior side of the front yard of Lot 6R, of Block 1 of Mission Hills #2 Subdivision.

III. EXISTING CONDITIONS
   A. Zoned Limited Agriculture District.
   B. 0.74 acre.
   C. Access taken off of Rimrock Court.
   D. 500-year Flood Area located on the subject property.
   E. Lot contains:
      1. Single-family residence with attached garage, County Building Permit / 1993COBP0405.
      2. Onsite Wastewater Treatment System Operating Permit / COOP17-0492.

Subject property showing the 500-year Flood Area.
IV. REQUEST FOR COMMENT

A. County Highway Department
   1. The Highway Department opposes the vacation of the 8' utility and drainage easement. Exhibit A does not provide existing or proposed structures with dimensions to property lines. It is unknown how much of the easement would need to be vacated for a new structure.

B. County Fire Administrator
   1. No comments received.

C. County Planning Director
   1. 500-year Flood Area on subject property.

D. County Ordinance Officer
   1. No known violations.

E. County Natural Resources Director
   1. No comments received.

F. Register of Deeds
   1. Exhibit is ok.

G. Emergency Services (9-1-1)
   1. It appears the applicant is not in compliance with Penn Co Ord #20 and does not have their address posted on their home, visible from Rimrock Ct. Recommend conditioning approval on them being in compliance with this ordinance.

   a. Staff Comment: This will be addressed with the applicants.

H. Black Hills Electric Cooperative
   1. Black Hills Electric Cooperative has no comments.

V. ANALYSIS

A. May 6, 2003 – Plat filed with the Register of Deeds (Plat Book 31, Page 87).
   1. Plat indicates 8-foot Utility & Drainage Easements along the interior sides of all lots within Mission Hills Subdivision No. 2.

B. April 8, 2020, the applicants requested Variance 20-02 To reduce the side yard setback from twenty-five (25) feet to ten (10) feet, and to reduce front yard setback from 25 feet to zero (0) feet in a Low Density Residential District. And to allow an accessory structure (woodshop) to be placed the front yard.

   1. This request will be heard on July, 7, 2020.

C. March 1, 2020 – The applicant applied for Vacation of Easement / VE 20-01. The request is as follows:
   1. Vacate the existing 8-foot-wide Utility & Drainage Easement along the front yard of Lot 6R, Block 1, Mission Hills #2, see figure 1.
Figure 1: Exhibit A, produced by Fisk Land Surveying & Consulting Engineers, Inc.
Agenda Item #9
Tom and Pam Troxel
June 22, 2020

RECOMMENDATION: Staff recommends approval of Vacation of Easement / VE 20-01 with conditions:

1. That all necessary resolutions and exhibits vacating the easement be recorded by the applicant at the Register of Deed’s Office; and,

2. That the vacation of the 8-foot utility and drainage easement in the front yard only be for the proposed shop. Any additional encroachments into the easement will require separate vacation of Easement approval(s).
EXHIBIT A
Vacation of a portion of 8' Utility & Drainage Easement
Lot 6R of Block 1 of Mission Hills Subdivision No. 2
located in the NW1/4 NE1/4 of Section 6, T1N, R6E, BHM,
Pennington County, South Dakota

Lot 7R

Lot 30 B

8' Utility & Drainage Easement
(Plat Book 31, Page 87)

Lot 6R
(Plat Book 31, Page 87)

Area of 8' Utility & Drainage Easement
Vacated this Document

Rimrock Court

Lot 5

PREPARED BY:
FISK LAND SURVEYING & CONSULTING ENGINEERS, INC.
P.O. BOX 8154, RAPID CITY, SD 57709 (605) 348-1538 May 12, 2020

NO. 03-03-05
STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT / CU 20-10: To allow an existing residence to be used as a Vacation Home Rental in a Limited Agriculture District in accordance with Sections 206, 319, and 510 of the Pennington County Zoning Ordinance.

APPLICANTS: Properties by Jenn, LLC; Jennifer Boerger – Agent

APPLICANT ADDRESS: 2731 Country Club Drive, Rapid City, SD 57702

LOCAL CONTACT: Jennifer Boerger

LEGAL DESCRIPTION: Lot B of Lot 1 of Lot G of Lot 2, Reno Placer MS 823, Section 2, T2S, R4E, BHM, Pennington County, South Dakota.

SITE LOCATION: 12273 Reno Gulch Road; west of the intersection of Highway 385 and Reno Gulch Road.

SIZE: 1.01 acres

TAX ID: 4634

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 206, 319 and 510

CURRENT ZONING: Limited Agriculture District

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

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: Private

PREPARED BY: Kristina Proietti
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Conditional Use Permit / CU 20-10 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Jennifer Boeger, has requested a Conditional Use Permit to allow an existing three (3) bedroom, single-family residence to be used as a Vacation Home Rental on the subject property.

III. EXISTING CONDITIONS
   A. Zoned General Agriculture District.
   B. 1.01 acres.
   C. Access taken off of Reno Gulch Road.
   D. Lot contains:
      2. Onsite Wastewater Treatment System (OSWTS) Construction Permit for two (2) holding tanks / 1997COSD0080.
         a. OSWTS Operating Permit / COOP20-0107 – Payment not yet received.

June 12, 2020, site photo of subject property.
IV. REQUEST FOR COMMENT
   A. County Highway Department
      1. The Highway Department has no comment since off street parking is provided.
   B. County Fire Administrator
      1. No comment received.
   C. County Planning Director
      1. There is no Special Flood Hazard Area on the subject property.
   D. County Onsite Wastewater Specialist
      1. The applicant has an approved septic permit 1997COSD0080. The applicant still needs to provide pumping receipts for approval of their Operating Permit (COOP20-0107). All future pump receipts must be saved and submitted to the County for review. I have no further concerns with the current proposal.
   E. County Ordinance Officer
      1. No current violations.
   F. County Addressing Coordinator
      1. No addressing concerns at this time. Future addresses will be assigned during the Building Permit application process. Once assigned, addresses must be posted in accordance with Pennington County Ordinance #20.
   G. Emergency Services (9-1-1)
      1. It appears from Google Maps Street View that the applicant does not have their address properly posted in accordance with Penn Co Ord. #20. Approval should be conditioned on them being in compliance with this ordinance. At this specific location, they need to post the house number where the driveway intersects the named road. Even though the house sits close to Reno Gulch Rd, it is mostly screened from view by trees, thus the need to post the number at the driveway (and on the house).
         a. Staff notes: This will be addressed in the Conditions of Approval.
   H. Black Hills Electric Cooperative
      1. Black Hills Electric Cooperative has no concerns.

V. CONSIDERATIONS FOR CONDITIONAL USE PERMIT REQUEST
   A. The Zoning Ordinance lists five (5) factors that the Planning Commission may consider in their review of Conditional Use Permit applications. They are as follows:

      1. The effect upon the use and enjoyment of the other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.
a. The proposed use for the single-family residence used as a Vacation Home Rental should not affect the use and enjoyment of other property in the immediate vicinity for the uses already permitted.

2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
   a. It appears that by allowing this Conditional Use Permit, the use should not affect the normal, orderly development or improvement of any surrounding vacant property in the area.

3. That utilities, access roads, drainage, and/or other necessary facilities are provided.
   a. The proposed use of the existing single-family residence should not require any utilities or facilities that are not already in place. Access is provided off of Reno Gulch Road. Lastly, staff has no drainage concerns relating specifically to the applicant’s request at this time.

4. That the off-street parking and loading requirements of these Zoning Ordinances are met.
   a. Pennington County Zoning Ordinance Section 310(A)(9)(gg) requires one (1) off-street parking spaces per bedroom. It appears that adequate parking is provided on the subject property.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.
   a. The proposed Conditional Use, by its very nature, should have limited odor, fumes, dust, noise, vibrations, and intrusive lighting. The applicant should take care so the proposed use does not create the above-listed elements in any amount that would constitute a nuisance.

VI. ANALYSIS
A. The applicant, Jennifer Boerger, has requested a Conditional Use Permit to allow an existing three (3) bedroom, single-family residence to be used as a Vacation Home Rental on the subject property.
B. Section 205(C)(30) of the Pennington County Zoning Ordinance (PCZO) lists “Vacation Home Rental in accordance with Section 319” as a Conditional Use in a General Agriculture District.
C. Since there are two (2) holding tanks on the subject property the applicant will need to provide pump receipts and have a service contract put in place with a certified wastewater pumper prior to operation of the VHR.

D. Section 319(B) states:
As long as the subject property for the VHR is a minimum of 1-acre with a combination of acceptable Public and/or Private Systems, as determined by the South Dakota Department of Health and the Pennington County Planning Department, VHRs are permitted with approval of a Conditional Use Permit in, General Agriculture Zoning Districts, Limited Agriculture Zoning Districts, Low Density Residential Zoning Districts, and Suburban Residential Zoning Districts.
   1. The subject property is zoned General Agriculture District with 1.01 acres.

E. The applicant has complied with all of the application submittal requirements for a VHR, as listed in PCZO Section 319, including the following:
   1. Complete application and floorplans;
   2. Approval from SD DENR – received April 17, 2020;
   3. South Dakota Department of Health Lodging License; and,
   4. Local Contact: Jennifer Boerger.

F. The SD DENR approved the Vacation Home Rental for a maximum overnight occupancy of six (6) persons.

G. June 12, 2020 - Staff met with the applicant, Jennifer Boerger at the site to perform a site visit.

H. Staff has received one complaint regarding Conditional Use Permit / CU 20-10 at this time which is included in this Staff Report.

RECOMMENDATION: Staff recommends approval of Conditional Use Permit / CU 20-10 with the following 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 any website listing(s) for the Vacation Home Rental correctly state that no more than six (6) overnight occupants are allowed;

3. 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;

4. That prior to the operation of the Vacation Home Rental, the applicant provide pumping receipts and have a service contract put in place with a certified wastewater pumper;
5. 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;

6. That each review of Conditional Use Permit / CU 20-10, be subject to PCZO Section 511(F)(3), which imposes a $100 fee per review;

7. 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;

8. That the applicant continually 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 (2) 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;

10. 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;

11. That the lot address (12273 Reno Gulch Road) be posted on the residence at all times and is posted where the driveway intersects Reno Gulch Road, in accordance with Pennington County’s Ordinance #20;

12. 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;

13. That if the person designated as the Local Contact is ever changed from Jennifer Boerger, 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;

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;

15. That an approved Sign Permit be obtained prior to the placement of any sign(s);
Agenda Item #10
Properties by Jenn, LLC; Jennifer Boerger – Agent
June 22, 2020

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; and,

17. That this Conditional Use Permit be reviewed in three (3) months, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
We’re so glad you’re here! Please relax and enjoy your stay. If you have any additional questions, you can contact us through the VRBO App or you can call 605-484-8921. Here is the important information for your stay. Additional information can also be found in our Info Binder on the kitchen table.

1. **Maximum Nightly Occupants:** 6
   a. **Maximum day guests:** 12
2. **Parking:** 3 onsite parking spots are available for guests. No parking on the road.
3. **No open fires, use of fire pit, fireworks, charcoal grills** or other devices allowed without prior owner permission.
4. **No Pets Allowed.**
5. **No Smoking**
6. **Quiet Hours:** 10pm-7am
7. Please take all trash (including bathrooms, bedrooms, and kitchen) to the large garbage can at the end of the driveway.
8. Guests are expected to **be courteous** to all neighbors and to respect property boundaries.
9. Renters and occupants are responsible for any disturbances or for violating any provisions of this section. Failure to conform to the parking and occupancy regulations of this Vacation Rental Unit is a violation of county ordinance.

10. **Plumbing:** Our cabin utilizes holding tanks for our septic system. This is a unique system deemed necessary by our area. It is very important that ONLY toilet paper be flushed down the toilets. Do not under any circumstances flush any other objects including feminine products, flushable wipes, diapers, or similar. These tanks are located to the right (or south) of the driveway. The lids are locked securely and we ask that you not tamper with them. There are also two red lights posted next to the holding tanks. The red lights turn on and beep when they are full. To silence the alarm, press the button once. We ask that you call us immediately when these alarms go off as we need to have the tanks pumped promptly!

11. **In case of emergency dial 911.**
12. **Sheriff 605-394-6113**
13. Before departure we ask that you:
   a. Wash and put all dishes away
   b. Dispose of any leftover food, especially perishables
   c. Dispose of all garbage to trash can at the end of driveway
   d. Check for any personal items
   e. Close and lock all windows and doors
   f. Notify us of your departure and safe travels!
LEGAL DESCRIPTION: Lot B of Lot 1 of Lot G of Lot 2 and unplatted portion of Lot 7 of Lot G of Lot 2 of Reno Placer M.S. No. 823, Pennington County, SD.

PROPERTY ADDRESS: 12273 Reno Gulch Road

SURVEYORS STATEMENT:
I, James P. Heald, Registered Land Surveyor No. 2199 in the State of South Dakota, do hereby state that on Oct. 19, 2019, the improvement location shown hereon was made by me or under my direct supervision and was made from the recorded bearings and distances shown on the original plat or description. This improvement location was prepared to satisfy the needs of a lender or insurer, only. This document does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. No property corners have been set and the information shown hereon should not be used to establish any fence, structure or other improvements. James P. Heald, doing business as Heald Land Surveying, is not extending a warranty to the present or future owners or occupants. Any easements or restrictions of miscellaneous record or private agreements that are not known to me are not shown hereon.

SPECIAL NOTES: None.
On-Site Wastewater Treatment System Operating Permit

Pennington County Planning Department - 130 Kansas City Street, Suite 200 - Rapid City, SD 57701
Phone: (605) 394-2186 - Fax: (605) 394-6016 - Web: www.pennco.org

Operating Permit Number: COOP20-0107

PROPERTY INFORMATION

Property Address: 12273 RENO GULCH RD
Pin #: 68-02-201-004
Tax ID #: 4634
Owner Name: PROPERTIES BY JENN LLC
Owner Address: 2731 COUNTRY CLUB DR
            RAPID CITY, SD 57702-

Legal Description:
Block:
Subdivision: RENO PLACER MS 823
Section-Township-Range: 2-2S-4E

ON-SITE WASTEWATER TREATMENT SYSTEM INFORMATION

Septic/Holding Tank System
Tank Size: 1000
Tank Material: Concrete
Treatment System Type: Holding Tank

Graywater System (if applicable)
Tank Present: YES
Tank Size: 1000
Tank Material: Concrete

OSWTS Permit Number (new systems only):

PERMIT INFORMATION

Date of System Observation: 10-Feb-2020
Operating Permit Expiration: 17-Jun-2026
Observed By: DAVID WIEGE

THE PROPERTY OWNER IS RESPONSIBLE FOR LOCKING ALL SEPTIC AND HOLDING TANK LIDS THAT ARE ABOVE GRADE OR HAVE LESS THAN 6 INCHES OF EARTH BACKFILL.

Approval of this Permit does not in any way release the owner from the responsibility that the onsite wastewater treatment system must be operable.

§ 204(I) of the Pennington County Zoning Ordinance requires that your onsite wastewater treatment system be pumped and observed at a minimum frequency of six (6) years. There are subdivisions and commercial properties within the County that require more frequent pumping and observation. The longevity and performance of your onsite wastewater treatment system is dependent upon proper maintenance and care of the system, which may require more frequent pumping and/or observation. For more information, please visit <http://water.epa.gov/infrastructure/septic/septicsmart.cfm>
ON-SITE WASTEWATER TREATMENT SYSTEM OBSERVATION FORM

Date: 11-29 Time: 10:00 AM Weather: Clear
Owner: Jennifer Boerger Phone: (605) 484-8931
Address: 12273 Reno Gulch Rd City: Hill City Zip: 57745

System Information

<table>
<thead>
<tr>
<th>Septic Tank</th>
<th>Size (gallons)</th>
<th>Type of Tank *</th>
<th>Type of Drainfield**</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black 1</td>
<td>1000</td>
<td>C F P S X O T B M H E T D I O</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Black 2</td>
<td>1000</td>
<td>C F P S X O T B M H E T D I O</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gray</td>
<td>1000</td>
<td>C F P S X O T B M H E T D I O</td>
<td>with pump</td>
<td></td>
</tr>
</tbody>
</table>

If a steel tank is present, is the tank pitted, flaking or appear to be collapsing? YES NO

* C=Concrete F=Fiberglass P=Plastic S=Steel X=Cesspool, Seepage Pit, Drywell, or Leaching Pit O=Other
** T=Trench B=Bed M=Mound H=Holding Tank ET=Evapotranspiration System DI=Drip Irrigation O=Other

Performance and Integrity

1. Tank lid(s) secure if above grade NO YES Comments & Additional Information
   Depth if below grade
2. Tank lid(s) need repaired or replaced
3. Both inspection pipes are present
4. Backup into structure
5. Evidence of surfacing or discharge to surface waters
6. Possible tank leak (i.e. cracks, inflow or outflow @ seam)
7. Tank overfull
8. Water drained back into the tank from the drainfield
   Trickle___ Steady Flow__ - addl gal ___
9. Constant stream of water into tank from the structure
   Trickle___ Steady Flow__
10. Baffles: Inlet (Concrete, PVC, Cast Iron) Circle One
    Outlet (Concrete, PVC, Cast Iron) Circle One
    Baffles: missing or in need of repair Circle One
    Inlet Outlet Both
11. Pump or siphon? Grey water tank
12. Advanced Treatment Unit (ATU)
13. Is there a pit privy (Outhouse)
14. Downspouts influencing tank or drainfield

Site Plan:

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Observation Completed by: David Wiege Date: 2/10/20
Signature: David Wiege
Company: Wiege Sanitation
Phone: (605) 393-9711
Comments: House was sold

***A follow-up letter will be sent by Pennington County outlining the observation results and payment procedures.***
April 17, 2020

Jennifer Boerger  
Properties by Jenn LLC  
2731 Country Club Dr  
Rapid City, SD 57702

RE:  Holding tank and grey water wastewater design for a three-bedroom residence located at 12273 Reno Gulch Road

Dear Jennifer Boerger:

The South Dakota Department of Environment and Natural Resources is in receipt of one set of plans and specifications for a mound wastewater system that will service a three-bedroom residence without a garbage disposal located at 12273 Reno Gulch Road. The plans have been reviewed for compliance with South Dakota’s “Individual and Small On-Site Wastewater Systems” regulations.

The results of the review process indicate the wastewater system is designed for a maximum daily flow of 360 gallons. This design will meet the minimum design requirements and is hereby approved with the following conditions:

- The high-water alarm shall be positioned to allow at least 3 days of storage after the alarm is activated.
- The area over the tank shall be protected from vehicle traffic, or the pad placed over the tank and all access ports shall be designed to withstand the weight of vehicles and vehicle traffic.
- This wastewater may be land applied on agricultural, crop, or pasture land, or disposed of as septage.
- Other fixtures shall not be connected unless the system will be modified to account for the additional flow and the modified design is submitted to the department for review and approval.

Our review is primarily to determine compliance with the minimum sanitary engineering requirements and does not cover items, such as quality of materials, structural soundness, electrical and mechanical design features. Approval of the plans and specifications does not in any way release the applicant from the responsibility that the project will be an operable facility when construction is completed.

In accordance with ARSD § 74:03:06:07, the Department of Environment and Natural Resources’ approval of plans and specifications becomes void two years after the date of approval if construction is not initiated prior to that time. Upon request of the owner, voided plans and specifications may be submitted for reconsideration.
The lifetime of this system is dependent upon proper construction and regularly scheduled maintenance. Please feel free to contact this office if you have any questions.

Sincerely,

[Signature]

Kent R. Woodmansey, P.E.
Natural Resources Engineering Director
(605) 773-3351

cc:    TJ Doreff, Pennington County Planning
April 17, 2020

Jennifer Boerger
Properties by Jenn LLC
2731 Country-Club Dr.
Rapid City, SD 57702

RE: Approval of the wastewater system for your vacation rental located at 12273 Reno Gulch Road, Hill City, South Dakota.

Dear Jennifer Boerger:

The South Dakota Department of Environment and Natural Resources reviewed and approved the holding tank and grey water wastewater system that service a three-bedroom residence without a garbage disposal located on 12273 Reno Gulch Road, Hill City, South Dakota.

The holding tank and grey water wastewater system was approved for an anticipated maximum daily flow of 360 gallons. Your request to use the home as a vacation rental would allow to up to 6 persons per night based on the wastewater system’s capacity.

The lifetime of this system is dependent upon proper construction and regularly scheduled maintenance. Please feel free to contact this office if you have any questions.

Sincerely,

[Signature]
Kent R. Woodmansey, P.E.
Engineering Manager
(605) 773-3351

cc: TJ Doreff, Pennington County Planning
    Bill Chalcraft, Administrator DOH – Robert Hayes Bldg.
# SOUTH DAKOTA DEPARTMENT OF HEALTH
## LODGING LICENSE APPLICATION

**SECTION 1: ESTABLISHMENT INFORMATION**

<table>
<thead>
<tr>
<th>Establishment Name</th>
<th>List Previous Establishment Name</th>
<th>Old Lic. #</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Surname &amp; First]</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Corporation Owner Name</th>
<th>Corporate Contact Phone</th>
<th>Establishment Phone</th>
<th>Cell Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Establishment Physical Address (No PO Box #s)</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>2131 Country Club Drive, Rapid City, SD</td>
<td></td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Mailing Address (If different than Physical Address)</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
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<tbody>
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<td></td>
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</table>

<table>
<thead>
<tr>
<th>Email Address</th>
<th>Application is for:</th>
<th>Dates Open - If Seasonal</th>
<th>Proposed Opening Date</th>
<th>Water Supply</th>
<th>Sewer System</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>SECTION 2: LODGING LICENSING FEES – Type of Business (Choose One)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of Units</strong></td>
</tr>
<tr>
<td>---------------------</td>
</tr>
<tr>
<td>Bed &amp; Breakfast:</td>
</tr>
<tr>
<td>(No other fees apply)</td>
</tr>
<tr>
<td>Vacation Home:</td>
</tr>
<tr>
<td>Specialty Resort:</td>
</tr>
<tr>
<td>10 or Less Sleeping Rooms</td>
</tr>
<tr>
<td>Hotel:</td>
</tr>
<tr>
<td>11 or More Sleeping Rooms</td>
</tr>
<tr>
<td>Initial License Fee</td>
</tr>
</tbody>
</table>

**SECTION 3: WATER RECREATION FEES**

<table>
<thead>
<tr>
<th>Number of Pools and Hot Tubs</th>
<th>Name</th>
<th>One</th>
<th>Two or More</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pools</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hot Tubs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$30</td>
<td></td>
<td>$40.00</td>
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</tr>
<tr>
<td>$20.00</td>
<td></td>
<td>$20.00</td>
<td>$32.50</td>
</tr>
</tbody>
</table>

**Is Your Pool Or Hot Tub Associated With Another Licensed Establishment?** Yes [ ] No [ ]

If Yes, Please Name Other Licensed Facility:

**SECTION 4: SIGNATURE**

Being first duly sworn, I, as the owner or the owner’s agent with legal authority to bind the owner, verify that the information contained in this application is true and complete, and I consent to allow inspections of the food service, lodging, or campground establishment by authorized inspectors during normal business hours upon the presentation of identification.

[Signature]

<table>
<thead>
<tr>
<th>Date</th>
<th>Subscribed and sworn before me this day of</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-1-2020</td>
<td>July 2020</td>
</tr>
</tbody>
</table>

My commission expires:

[Signature]

[Signature]

Rev. 02/2014
Ervin Jeri

Subject: FW: 12273 Reno Gulch Road

From: Thomas Thorson <tdthorson60@gmail.com>
Sent: Wednesday, June 10, 2020 9:23 PM
To: plz <plz@pennco.org>
Cc: Cindy Gates <Mccarrot@aol.com>; Madlyn Hansen <madlynhansen@gmail.com>; Robert Simon <wdwrknman@gmail.com>; Thomas Thorson <tdthorson60@gmail.com>
Subject: 12273 Reno Gulch Road

CAUTION: This email is from an outside source. Use caution before opening attachments, clicking links or providing confidential information.

Dear Pennington County Planning Commission,

In our mail today is a letter announcing the application by Properties by Jenn LLC for a conditional use permit enabling the use of the house at 12273 Reno Gulch Road as a vacation rental house. The letter was sent by Properties by Jenn LLC. Our feedback has been solicited by you and we have been informed of a public hearing on Monday, June 22, 2020, at 9:00 a.m., in the Commissioner’s Meeting Room at the Pennington County Administration Building. I am unable to attend that public meeting and am grateful for being given the alternative of writing to you via email with my feedback about what happens in my neighborhood. Robert Simon will be sending you his comments separately.

As a 25 year resident of Reno Gulch Road, having moved here because I love the Black Hills, I am opposed to the commercialization of my neighborhood and for several reasons. At the financial level, I am aware from the precedent elsewhere that commercial properties in my area can change the valuation of my house and raise my taxes. I of course cannot favor that, though I can understand why the county would love to raise its tax base. But if you are asking me, as I assume you are required, I’m telling you, I would not like my taxes raised for the purpose of somebody else’s turning a profit that in part profits from the efforts of my neighborhood. Houses here are not close together on Reno Gulch Road but people here still cherish a sense of neighborhood, knowing who lives nearby, who is there to count on in times of need or even crisis or who it is I am available to help and to be ready to help specifically by knowing the nature of potential need. A vacation rental is not inhabited by somebody who is available to watch my house when I am not home but would profit by my watching out for the concern of their house. We have been celebrating neighbors and burying them as they die, respecting privacy and serving each other. To have a neighborhood slowly gutted by houses one by one turning into empty shells for transient unsupervised visitors to pass through during a season to stand empty the rest of the year is not my idea of home and it’s not why we moved here. I believe it’s not why the other residents who live on this road live here. There have been brief businesses of vacation homes on this road and I can’t say that they were noisy or terribly distracting. But we are now in an era of ATV’s and already ATV’s travel up and down this road by the chains of a dozen at a time so loudly that all conversation has to stop because two individuals standing next to each other can’t hear each other speak. This trend of vacationers arriving with ATV’s right next door is not a tantalizing prospect. I have heard accounts of people living elsewhere in the Black Hills where a house became a vacation rental and that overnight vacation house was used for loud parties strewing trash and there was nobody to supervise or contact to take responsibility.

The prospect of the degradation of this neighborhood doesn’t make for the quality of life sought by those of us choosing to live where we expect to hear birds sing and wind in the trees, water in the streams and responsible neighbors who choose the responsibility of shared stewardship and neighborliness. There are things traded for this lifestyle. We are not interested in trading this lifestyle now for somebody whose only interest in the neighborhood is to
turn a profit and in part off our backs. There are enough other stresses pressing on the Black Hills to now add this diminishment of respect to place.

So, no, I cannot add my name to any sort of favoring this conditional use for an existing house or a house newly constructed for the use of vacation rental. I thank you for following up on your duty to ask for my input.

Respectfully,
Tom Thorson
12281 Reno Gulch Road

Todd and Cindy Gates requested to add their names to the sentiments of meh letter.
tbgates64@gmail.com
Cindy Gates <Mccarrot@aol.com>
605-659-0699
815-222-1310

Todd and Cindy Gates own the cabin next door to our home and spend every weekend and holidays there if they are not gone to family out of state. They watch our house when we are on vacation and tend to our animals. We watch their cabin when they are not there. I only offer these details as some of the examples of neighborhood that doesn’t exist between vacation rentals.
AGENDA ITEM #11
Audra Olson
June 22, 2020

STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT / CU 20-11: To allow an existing residence to be used as a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

APPLICANTS: Audra Olson

APPLICANT ADDRESS: 336 E. 1st Avenue #309, Denver, CO 80203

LOCAL CONTACT: Aaron Olson

LEGAL DESCRIPTION: Lot 18 of Tract A, Sunnyside Acres, Section 25, T2N, R4E, BHM, Pennington County, South Dakota.

SITE LOCATION: 22775 Sunnyside Gulch Road; west of the intersection of Highway 385 and Silver City Road and Jenny Gulch Road.

SIZE: 1.09 acres

TAX ID: 67189

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 208, 319 and 510

CURRENT ZONING: Suburban Residential District

SURROUNDING ZONING:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Suburban Residential District</td>
</tr>
<tr>
<td>South</td>
<td>General Agriculture District</td>
</tr>
<tr>
<td>East</td>
<td>General Agriculture District</td>
</tr>
<tr>
<td>West</td>
<td>General Agriculture District</td>
</tr>
</tbody>
</table>

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: Private

PREPARED BY: Jason Theunissen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Conditional Use Permit / CU 20-11 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Audra Olson, has requested a Conditional Use Permit to allow an existing three (3) bedroom residence to be utilized as a Vacation Home Rental (VHR) on the subject property.

III. EXISTING CONDITIONS
   A. Zoned Suburban Residential District.
   B. 1.09 acres.
   C. Access is off of Sunnyside Gulch Road.
   D. No Special Flood Hazard Area.
   E. Single-family residence – Building Permit COBP18-0227.
   F. 8’ x 10’ shed – no Building Permit required.
   G. On-site wastewater treatment system:
      2. Operating Permit COOP17-0572.

IV. REQUEST FOR COMMENT
   A. County Highway Department
      1. The Highway Department has no comments since off street parking is provided and drainage is not impacted.
   B. County Fire Administrator
      1. No comments received.
   C. County Environmental Planner II
      1. The applicant has met all septic requirements for the Vacation Home Rental.
   D. County Ordinance Enforcement
      1. No violations.
   E. County Natural Resources Director
      1. No objections.
   F. County Addressing Coordinator / Floodplain Manager
      1. No addressing concerns at this time. The address (22775 Sunnyside Gulch Road) must be posted in accordance with Pennington County Ordinance #20.
      2. No Special Flood Hazard Area on the subject property.
   G. Black Hills Electric Cooperative
      1. BHEC has no comments on this VHR.
   H. Emergency Services (9-1-1)
      1. No comments received.
V. CONSIDERATIONS FOR CONDITIONAL USE PERMIT REQUEST

A. The Zoning Ordinance lists five (5) factors that the Planning Commission may consider in their review of Conditional Use Permit applications. They are as follows:

1. The effect upon the use and enjoyment of the other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.
   a. The proposed use for the single-family residence as a Vacation Home Rental should not affect the use and enjoyment of other properties in the immediate vicinity for the uses already permitted, and upon property values in the surrounding properties.

2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
   a. It appears that by allowing this Conditional Use Permit, the use should not affect the normal, orderly development or improvement of any surrounding vacant property in the area.

3. That utilities, access roads, drainage, and/or other necessary facilities are provided.
   a. The proposed use of the existing single-family residence should not require any utilities or facilities that are not already in place. Access is to be provided off of Sunnyside Gulch Road. Additionally, Staff has no drainage concerns relating specifically to the applicant’s request at this time.

4. That the off-street parking and loading requirements of these Zoning Ordinances are met.
   a. Pennington County Zoning Ordinance Section 310(A)(9)(gg) requires one (1) off-street parking space per bedroom. Three (3) parking spaces are required for CU 20-11 and it appears that adequate parking is provided on the subject property.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.
   a. The proposed Conditional Use should not present odor, fumes, dust, noise, vibrations, or intrusive lighting. The applicant should take care so the proposed use does not create the above-listed elements in any amount that would constitute a nuisance.
VI. ANALYSIS

A. May 22, 2020 – The applicant applied for Conditional Use Permit / CU 20-11 to allow an existing three (3) bedroom residence to be utilized as a Vacation Home Rental.

B. Section 206(C)(27) of the Pennington County Zoning Ordinance (PCZO) lists “Vacation Home Rental in accordance with Section 319” as a Conditional Use in a General Agriculture District.

C. Section 319(B): “As long as the subject property for the VHR is a minimum of 1-acre with a combination of acceptable Public and/or Private Systems, as determined by the South Dakota Department of Health and the Pennington County Planning Department; VHRs are permitted with approval of a Conditional Use Permit in: Suburban Residential Zoning Districts.”

D. The applicant has complied with all of the application and submittal requirements for a VHR, as listed in PCZO Section 319, including the following:

1. Complete application and floor plan.
3. Local contact: Aaron Olson.
RECOMMENDATION: Staff recommends approval of Conditional Use Permit / CU 20-11 with the following 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 on the single-family residence and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

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

4. That each review of Conditional Use Permit / CU 20-11, be subject to PCZO Section 511(F)(4), which includes a $100 fee per review;

5. That the applicant continually maintains current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;

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

7. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO 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;

8. That an interior informational sign be posted in accordance with the requirements of PCZO Section 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 (22775 Sunnyside Gulch Road) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Sunnyside Gulch 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 Section 319(F) (Performance Standards) at all times;
11. That if the person designated as the Local Contact is ever changed from Aaron Olson, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

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

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

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

15. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
The maximum number of occupants for Hilltop Hideaway vacation home, located at 22775 Sunnyside Gulch Rd, Silver City, SD 57702 will be 6 adults.

Audra Olson
I, Audra Olson, acknowledge that the vacation home rental meets all fire safety standards for vacation home establishment requirements in accordance with current South Dakota Codified Laws.

Audra Olson 5.1.20
VACATION HOME RENTAL (VHR)
CHECKLIST and SUPPLEMENTAL APPLICATION

APPLICATION REQUIREMENTS:

☑ Site plan depicting the layout of the property, including all existing and proposed structures with setbacks, wells and/or water lines, on-site wastewater treatment system and/or sanitary sewer lines, and on-site parking spaces.

☑ An interior diagram(plan of the VHR.

☑ The maximum number of overnight occupants.

☑ Acknowledgement from the Owner that the VHR meets all Fire Safety Standards for Vacation Home Establishments requirements in accordance with current South Dakota Codified Laws.

☑ Specifications of the existing wastewater treatment system.

☑ Copy of Covenants, if applicable.

☑ Copy of approval letter from SD DENR for the on-site wastewater treatment system (for existing systems only).

☑ Copy of approved Operating Permit, from the Planning & Zoning Department, for the on-site wastewater treatment system (for existing systems only).

☑ A copy of the Vacation Home Rental License or Application from the South Dakota Department of Health. At the time of issuance of the Vacation Home Rental License from the South Dakota Department of Health, a copy of the license shall be furnished to the Planning Department.

LOCAL CONTACT INFORMATION:

Name: [Name Redacted]  Primary Contact Number: 605-480-2453
Mailing Address: 2276 L Sunnyside Gulch Road
City: Silver City  State: SD  Zip Code: 57222

***The Local Contact can file an application for a CUP, with the Owner's signature notarized on the CUP Application, but the CUP shall only be issued to the Owner of the VHR.

Signature of Local Contact  Date: 05-21-2020

Subscribed and sworn to before me this 31st day of May, 2020.

Notary Public for the State of South Dakota  My Commission Expires 03-31-2026

DONNA SMART
NOTARY PUBLIC SEAL
STATE OF SOUTH DAKOTA
Shed

Septic

Drain Field

Home

Porch

Porch

Porch

Parking

Well

preparain tank

22775 Sunnyside Valley Rd
FLOOR PLANS

Floor Plan - Main Floor Plan

Reverse

Floor Plan - Upper Floor Plan

Reverse
FULL SPECS & FEATURES

Basic Features

Bedrooms : 3
Stories: 2
Baths : 2
Garages: 0

Dimension

Depth : 45'
Width : 40'
Height : 23'

Area
May 14, 2020

Audra Olson
336 E. 1st Avenue
Unit 309
Denver, CO 80203

RE: Approval of the wastewater system for your vacation rental located at 22775 Sunnyside Gulch Road, Rapid City 57702.

Dear Audra Olson:

The South Dakota Department of Environment and Natural Resources is in receipt of your request for approval of an existing wastewater system for a vacation rental guest house located at 22775 Sunnyside Gulch Road, Rapid City 57702. The request has been reviewed for compliance with South Dakota’s “Individual and Small On-Site Wastewater Systems” regulations.

The following information was used in making the determination.

• This system was previously approved by the DENR on May 1, 2018.

Based on our 2018 approval and the information provided by Pennington County we consider this wastewater system approved for a maximum daily flow of 360 gallons, until such time as the system is altered or fails. This would be sufficient for up to 6 persons per night staying at this vacation rental.

The lifetime of this system is dependent upon proper construction and regularly scheduled maintenance.

Sincerely,

[Signature]

Kent R. Woodmansey, P.E.
Engineering Manager
(605) 773-3351

cc: TJ Doreff, Pennington County Planning
Bill Chalcraft, Administrator DOH – Robert Hayes Bldg.
On-Site Wastewater Treatment System Operating Permit

Pennington County Planning Department - 130 Kansas City Street, Suite 200 - Rapid City, SD 57701
Phone: (605) 394-2186 - Fax: (605) 394-6016 - Web: www.pennco.org

**Operating Permit Number:** COOP17-0572

### PROPERTY INFORMATION

- **Property Address:** 22775 SUNNYSIDE GULCH RD
- **Pin #:** 17-25-426-020
- **Tax ID #:** 67189
- **Owner Name:** OLSON AUDRA
- **Owner Address:** 1030 N LOGAN ST DENVER, CO 80203-5701

**Legal Description:**

**Block:**

**Subdivision:** SUNNYSIDE ACRES

**Section-Township-Range:** 25-2N-4E

### ON-SITE WASTEWATER TREATMENT SYSTEM INFORMATION

- **Septic/Holding Tank System**
  - **Tank Size:** 1500
  - **Tank Material:** Concrete
  - **Treatment System Type:** Trench

- **Graywater System** (if applicable)
  - **Tank Present:**
  - **Tank Size:** 0
  - **Tank Material:**

**OSWTS Permit Number (new systems only):** GOSD17-0000

### PERMIT INFORMATION

**Date of System Observation:**

**Operating Permit Expiration:** 3-Mar-2023

**Observed By:**

---

**THE PROPERTY OWNER IS RESPONSIBLE FOR LOCKING ALL SEPTIC AND HOLDING TANK LIDS THAT ARE ABOVE GRADE OR HAVE LESS THAN 6 INCHES OF EARTH BACKFILL.**

**Approval of this Permit does not in any way release the owner from the responsibility that the onsite wastewater treatment system must be operable.**
SOUTH DAKOTA DEPARTMENT OF HEALTH

LODGING LICENSE

Issued To: AUDRA OLSON

Located At: HILLTOP HIDEAWAY
22775 SUNNYSIDE GULCH RD
RAPID CITY, SD 57702

License Number: 20155

Number of Units: 1
Swimming Pool: 0
Spa or Hot Tub: 1

Mayor of Rapid City

License is Not Transferable - Post in the Establishment

Expires 12/31/2020

Secretary of Health

Karin Malcom, Rpoden
Dear AUDRA OLSON

Below is your current South Dakota tax license. It is non-transferable and shall be valid only for the person or entity named on the license. The license is for the transaction of business at the place designated on the license. The license is to be conspicuously displayed at the place of business.

Please review your information and contact our department if there are any changes in ownership, names, or addresses. If you have a Streamlined sales tax license any changes must be made through the Streamlined Registration System at www.streamlinesalestax.org.

For more information, visit our website at http://dor.sd.gov, call the Department of Revenue at 1-800-829-9188 weekdays from 8:00 am to 5:00 pm Central Time or e-mail us at bustax@state.sd.us. Thank you.

Website: http://dor.sd.gov

Having made proper application therefore, and upon compliance with all applicable laws and regulations of the state of South Dakota, this license is hereby issued to the below named. This license remains the property of the state of South Dakota and while in possession of the person to whom issued, entitles the licensee to transact whatever business or activity is specified on this license, until this license expires or is cancelled.

AUDRA OLSON
22775 SUNNYSIDE GULCH RD
SILVER CITY, SD 57702

HILLTOP HIDEAWAY VACATION RENTAL
22775 SUNNYSIDE GULCH RD
SILVER CITY, SD 57702

Jim Terwilliger
Secretary of Revenue
GENERAL INFORMATION:

REQUEST: LAYOUT PLAN / LPL 20-12: To create Lots A, B, C, and D of Buzmar Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

APPLICANT: David Grover

APPLICANT ADDRESS: P.O. Box 678, Hill City, SD 57745

SURVEYOR / ENGINEER: Britton Engineering

SURVEYOR ADDRESS: P.O. Box 649, Black Hawk, SD 57718

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

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

SITE LOCATION: Near 12585 Old Hill City Road. Approximately one and one-half (1.5) miles southeast of Hill City, along Old Hill City Road.

SIZE: 12.82 acres

TAX ID: 70048

EXISTING LAND USE: Residential / Vacant

SUBDIVISION REGULATIONS REFERENCE: Section 400.1

CURRENT ZONING: Low Density Residential District

SURROUNDING ZONING:

North
- General Agriculture District
- Limited Agriculture District
- Low Density Residential District

South
- General Agriculture District
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Layout Plan / LPL 20-12 with nine (9) conditions.

II. GENERAL DESCRIPTION
   A. The applicant, David Grover, is requesting to subdivide one (1) 12.83-acre lot into four (4) lots.
   B. Each lot will be approximately three (3) acres.

III. EXISTING CONDITIONS
   A. Zoned Low Density Residential District
   B. 12.83 acres
   C. Lot is vacant of any structures.
      1. There is an existing onsite wastewater treatment system on proposed lot C. – COOP15-0474.
   D. Access is off of Old Hill City Road.
      1. Old Hill City Road is maintained by Pennington County Highway.
   E. There is no Special Flood Hazard Area on the subject property.
IV. PROPOSED LOTS

A. Lot A of Buzmar Subdivision
   1. Zoned Low Density Residential, minimum 3-acre lot size.
   2. 3.531 acres.
   3. Vacant of any structures.
   4. Access is off of Old Hill City Road.
   5. There is a 40-foot Access Easement shown on the plat for access to proposed Lots B and D of Buzmar Subdivision.

B. Lot B of Buzmar Subdivision
   1. Zoned Low Density Residential, minimum 3-acre lot size.
   2. 3.100 acres.
   3. Vacant of any structures.
   4. Access is off a 40-foot Access Easement located on proposed Lot A of Buzmar Subdivision.

C. Lot C of Buzmar Subdivision
   1. Zoned Low Density Residential, minimum 3-acre lot size.
   2. 3.1891 acres.
   3. Vacant of any structures.
   4. Existing onsite wastewater treatment system.
   5. Access is off of Old Hill City Road.

D. Lot D of Buzmar Subdivision
   1. Zoned Low Density Residential, minimum 3-acre lot size.
   2. 3.007 acres.
   3. Vacant of any structures.
   4. Access is off a 40-foot Access Easement located on proposed Lot A of Buzmar Subdivision.
V. REQUEST FOR COMMENT

A. County Highway
   1. An Approach Permit will need to be obtained for Lot C and Lots, A, B, and D at the platted access easement. An Approach Permit will need to be obtained for Lot b if the platted access easement is not used.
      a. *Staff Comment: This will be addresses as a Condition of Approval.*

B. Register of Deeds
   1. Plat heading is okay.
   2. Certificates appear to be required certificates per state statute.

C. Department of Equalization (Cartographer)
   1. Looks good.

D. County Ordinance Enforcement
   1. No violations.
E. County Environmental Planner

1. According to the USDA Web Soil Survey, the soils at the property are classified as “very limited to somewhat limited” due to slope and slow water movement. If any septic systems are installed on any of the future lots, all rules of Pennington County Zoning Ordinance 204-j must be followed.

F. County Addressing/Floodplain Coordinator

1. No addressing concerns at this time. Future addresses will be assigned during the Building Permit application process. Once assigned, addresses must be posted in accordance with Pennington County Ordinance #20.

G. Forest Service

1. No additional access roads will be authorized across National Forest System lands.
2. Protect all posted boundary line corners, signs, and bearing trees.
3. Adhere to the setback requirements along the posted boundary between National Forest System lands (USA Public Domain; located on the north side of private property) and private property.
4. Protect all known stream courses, ponds and riparian areas located on National Forest System lands.
5. No resource damage to occur on National Forest System lands.
6. All proposed drain fields, leach lines or septic systems will need to be located on private property and not located on or drain or leach onto National Forest System lands.
7. All construction materials, supplies, trash or garbage will not be located or dumped on National Forest System lands.
8. Public roads in this area of the Black Hills National Forest are classified as “Roads Open to all Vehicles”, “Other Public Roads” per the latest version (January 1, 2019) of the Motor Vehicle Use Map.
9. No motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.
10. No motorized trails for ATV, motorcycles or ORV will be authorized from private property unto National Forest System lands (USFS does not want unauthorized trails constructed on National Forest System lands).

VI. ANALYSIS

A. May 21, 2020, the applicant, David Grover, applied to create four (4) lots from Lot 1 of Buzmar Subdivision.
B. The proposed subdivision, if approved, will create four (4) lots.
C. There is an existing onsite wastewater system (OSWTS) on the proposed Lot C.
D. For the purposes of a Layout Plat, Staff finds no significant issues with the applicant’s request.

RECOMMENDATION: Staff recommends approval of Layout Plat / LPL 20-12 with the following nine (9) conditions:

1. That the applicant obtains Approach Permits from the County Highway Department prior to installation of any approaches off of Old Hill City Road;

2. That the 40-foot-wide Access Easement on the plat be designated as either “private” or “public”;

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

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

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

6. That at the time of Preliminary Plat submittal, 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;

7. 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;

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

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