

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
July 11, 2022 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Charlie Johnson, Karen McGregor, Jim Coleman, Mikal Lewis, Kevin Kuehn, Kevin Burton, and Deb Hadcock.

STAFF PRESENT: Brittney Molitor, Chutima Supboon, Cody Sack, Jason Theunissen, Jeri Ervin and Megan Krueger (State's Attorney's Office).

ROLL CALL

1. ELECTION OF OFFICERS

Molitor stated the Planning Commission elects new officers during the first annual organizational meeting in July of each year. Molitor opened the nominations for officer positions.

Moved by Coleman to nominate Karen McGregor as the Chairperson. Moved by Mike Lewis to nominate Charlie Johnson as the Chairperson.

Moved by McGregor and seconded by Johnson to close nominations for the Chairperson. All voting aye, the Motion carried 7 to 0.

Roll call vote for Chairperson: Commissioner Kuehn, Lewis, Burton, and McGregor voted Commissioner Charlie Johnson. Commissioner Coleman voted Commissioner Karen McGregor. Commissioners Deb Hadcock and Charlie Johnson abstained. All voting, the Motion for Charlie Johnson as Chairperson carried 4 to 1.

Moved by Kuehn to nominate Karen McGregor as Vice Chairperson. Moved by Johnson to close nominations. All voting aye, the Motion carried 7 to 0.

Moved by Coleman to nominate Mike Lewis as Second Chairperson. All voting aye, the Motion carried 7 to 0.

2. APPROVAL OF THE JUNE 27, 2022, MINUTES

Moved by Coleman and seconded by McGregor to approve the Minutes of the June 27, 2022, Planning Commission meeting. Vote: unanimous 7 to 0.

3. APPROVAL OF THE AGENDA

Moved by Coleman and seconded by Kuehn to approve the Agenda of the July 11, 2022, Planning Commission meeting. Vote: unanimous 7 to 0.

Moved by McGregor and seconded by Coleman to approve the Consent Agenda of the July 11, 2022, Planning Commission meeting. Vote: unanimous 7 to 0.

CONSENT AGENDA

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

4. **CONDITIONAL USE PERMIT REVIEW / CU 14-03:** Lonny Ryman. To review storage units located on the subject property in a Highway Service District in accordance with Sections 212 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Tract A of Lot B in the NE1/4NW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

To approve the extension of Condition Use Permit / CU 14-03 with the following ten (10) conditions:

1. **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;**
2. **That the owner be allowed to construct up to 5 separate storage structures on the property. Minor changes may be allowed per the Planning Director, as long as they do not change the intent of the lot or use;**
3. **That all existing and proposed structures must meet the setback and height requirements of the subject property's current Zoning District;**
4. **That the owner continues to ensure that all natural drainage ways are continually maintained and are not blocked;**
5. **That any work encompassing over one (1) acre will require the current owner to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environment and Natural Resources and the Pennington County Planning Department;**
6. **That the address and a sign be continually posted indicating after hours contact information and the current owner's phone number, which must be clearly visible at the entrance of the lot;**
7. **That a Sign Permit be obtained for any on-premise or off-premise signs, which requires a site plan to be reviewed and approved by the planning director;**
8. **That any sign(s) conform to the requirements of Pennington County Zoning Ordinance §312;**
9. **That all lighting located on the outside of the storage units be continually directed towards the ground; and,**

10. That this Conditional Use Permit be reviewed in 5 years, on a complaint basis, or as deemed necessary by Pennington County Board of Commissioners or Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 17-27:** Beverly Sears. To review an existing 12' x 12' structure to be used as a single-family residence in a Suburban Residential District in accordance with Sections 204, 209, and 510 of the Pennington County Zoning Ordinance.

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

To approve the extension of Condition Use Permit / CU 17-27 with the following five (5) conditions:

1. That the assigned address (9105 Main Street) be posted so it is clearly visible from both directions of travel along Main Street in accordance with Pennington County Ordinance #20;
2. That if any plumbing is to be installed in the structure, it is connected to an approved means of wastewater disposal;
3. That an approved Building Permit be obtained for any structures exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
4. That upon sale or transfer of the property, the new owner contacts the Planning Department in order to address the requirements of an On-site Wastewater Treatment System; and,
5. That this Conditional Use Permit be reviewed in 3 years, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

6. **CONDITIONAL USE PERMIT REVIEW / CU 20-30:** Jay and Mary Smith. To review a single-wide mobile home to be used as a single-family residence in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

W1/2E1/2NW1/4NW1/4, Section 17, T2N, R8E, BHM, Pennington County, South Dakota.

To end Condition Use Permit / CU 20-30.

Vote: unanimous 7 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CU 21-01**: Thorn Kinetic Systems; Robert Espinosa. To review a home occupation, a home-based firearms business, on the subject property in a Suburban Residential District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

Lot 3, Block 4, Pine Cliff Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

To approve the extension of Condition Use Permit / CU 21-01 with the following twelve (12) conditions:

1. **That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;**
2. **That the gunsmithing and service business shall be operated completely within the existing residence;**
3. **That no business sign be posted on the property;**
4. **That no on-premise retail sales be allowed;**
5. **That the home occupation, including all associated storage, be conducted entirely indoors;**
6. **That the applicants comply with all applicable local, state, and federal laws and the applicants maintain Federal Firearms License from the U.S. Bureau of ATF;**
7. **That the address be continually properly posted on both the residence and at the approach so it is visible in both directions from Wild Flower Lane in accordance with Pennington County's Ordinance #20;**
8. **That the applicants maintain Sales Tax License as required by the South Dakota Department of Revenue prior to operation;**
9. **That reasonable measures continue to be 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;**
10. **That the applicants continually take reasonable measures to prevent the disposal of materials into the on-site wastewater treatment system;**
11. **That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property; and,**

12. That this Conditional Use Permit be reviewed in 3 years, or on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all conditions of approval are being met.

Vote: unanimous 7 to 0.

8. **CONDITIONAL USE PERMIT REVIEW / CU 21-02:** In-Rut Rifles, Inc.; Mark Lembke. To review a home occupation, a home-based firearms business, on the subject property in a Rural Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 3, Sun Country Estates, Section 26, T1S, R6E, BHM, Pennington County, South Dakota.

To approve the extension of Condition Use Permit / CU 21-02 with the following thirteen (13) conditions:

1. That the existing septic system be pumped and inspected and the applicants obtain a new Operating Permit;
2. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
3. That the gunsmithing and service business shall be operated completely within the existing residence;
4. That no business sign be posted on the property;
5. That no on-premise retail sales be allowed;
6. That the home occupation, including all associated storage, be conducted entirely indoors;
7. That the applicants comply with all applicable local, state, and federal laws and the applicants maintain Federal Firearms License from the U.S. Bureau of ATF;
8. That the address be continually properly posted on both the residence and at the approach so it is visible in both directions from Sun Country Lane in accordance with Pennington County's Ordinance #20;
9. That the applicants maintain Sales Tax License as required by the South Dakota Department of Revenue prior to operation;
10. That reasonable measures continue to be 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;

11. **That the applicants continually take reasonable measures to prevent the disposal of materials into the on-site wastewater treatment system;**
12. **That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property; and,**
13. **That this Conditional Use Permit be reviewed in 3 years, or on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all conditions of approval are being met.**

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA

9. CONDITIONAL USE PERMIT / CU 22-27: Jeff and Kelly Gorman. To allow a Bed and Breakfast on the subject property in a Suburban Residential District in accordance with Sections 209, 323, and 510 of the Pennington County Zoning Ordinance.

Lot 7, Block 2, Highland Hills Subdivision, Section 32, T1N, R7E, BHM, Pennington County, South Dakota.

(Continued from the June 13, 2022, Planning Commission meeting.)

Supboon reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to allow a Bed and Breakfast.

Staff recommended to deny without prejudice Conditional Use Permit / CU 22-27.

Discussion followed.

Moved by Coleman and seconded by Kuehn to deny without prejudice Conditional Use Permit / CU 22-27.

All voting aye, the Motion carried 7 to 0.

10. CONDITIONAL USE PERMIT / CU 22-30: Larsson Recreational Properties / Paschal Perrotte. To allow a Recreational Vehicle Park on the subject property in a Highway Service District in accordance with Sections 212, 306, and 510 of the Pennington County Zoning Ordinance.

Lot B of Lot 7, Block 2, Dead Broke Subdivision, Section 1, T2S, R4E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a Recreational Vehicle Park.

Staff recommended approval of Conditional Use Permit / CU 22-30 with the following twenty-two (22) conditions:

1. That the Recreational Vehicle (RV) park shall consist of no more than 47 RV sites;
2. That prior to operation, the RV park has an approved OSWTS installed;
3. That all RVs dispose of wastewater through an approved OSWTS;
4. That any alterations or additions to the OSWTS be reviewed and approved by the Pennington County Environmental Planner and the South Dakota Department of Agriculture and Natural Resources;
5. That the address assigned to the adjacent parcel (24184 Highway 385) continue to be properly posted in accordance with Pennington County Ordinance #20, so it is clearly visible from both directions of travel along Highway 385;
6. That each RV site has a unique number assigned and clearly posted;
7. That a minimum 10-foot separation be maintained between each RV site;
8. That the RV Park conforms to all regulations in Pennington County Zoning Ordinance (PCZO) § 306 prior to operation;
9. That the minimum setback requirements of a Highway Service District be maintained on the subject property;
10. That the minimum setback requirements of a Section Line be maintained on the subject property;
11. That prior to operation, an approved Approach Permit be obtained from the SD Department of Transportation;
13. That prior to any development within the Special Flood Hazard Area or Floodway, an approved Floodplain Development Permit is obtained;
12. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground;
13. That the subject property remains free of debris and junk vehicles;
14. That the applicant adheres to PCZO § 510;
15. That upon guest check-in, notifications be made that there is Special Flood Hazard Area and Floodway on the subject property;

16. That no RVs, located within the Special Flood Hazard Area or Floodway, be allowed to remain more than 180 days;
17. That RVs, located within the Special Flood Hazard Area or Floodway, be fully licensed and ready for highway use (i.e. is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions);
18. That emergency notifications be made to guests, by the RV park manager or staff, in the event of an emergency situation requiring evacuation of the area.
19. That all RVs, located within the Special Flood Hazard Area or Floodway, be removed once emergency notifications are made;
20. That the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times; and,
21. That this Conditional Use Permit be reviewed in 1 (year), on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Hadcock and seconded by McGregor to continue Conditional Use Permit / CU 22-30 to the July 25, 2022, Planning Commission meeting to address the concerns of the Planning Commission.

All voting aye, the Motion carried 7 to 0.

11. CONDITIONAL USE PERMIT AMENDMENT / CU 22-06: Kent and Kim Disse. To amend an existing Conditional Use Permit for a gunsmithing business to allow for the buying and selling of new and used firearms in a Rural Residential District in accordance with Sections 204-B, 207, and 510 of the Pennington County Zoning Ordinance.

Lot C of Lot 3 of Tract 1, Tigerville Subdivision, Section 9, T1S, R4E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to amend an existing Conditional Use Permit for a gunsmithing business to allow for the buying and selling of new and used firearms.

Staff recommended approval of Conditional Use Permit Amendment / CU 22-06 with the following fourteen (14) conditions:

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

2. That the gunsmithing and service business shall be operated completely within the existing accessory structure located on the property;
3. That no business sign be posted on the property;
4. That no on-premise retail sales be allowed;
5. That the home occupation, including all associated storage, be conducted entirely indoors;
6. That the applicant complies with all applicable local, state, and federal laws and a current copy of the applicant's Federal Firearms License from the U.S. Bureau of ATF be kept on file with the Planning Department;
7. That an address be assigned to the structure being used for the business and the address be properly posted on both the structure and at the approach so it is visible in both directions from Tigerville Road in accordance with Pennington County's Ordinance #20;
8. That the applicant acquires an Excise Sales Tax License as required by the South Dakota Department of Revenue prior to operation;
9. That the applicant notifies the Hill City Fire Department prior to operation of the business and a copy of the letter shall also be provided to the Planning Department to place in the file prior to operation;
10. 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;
11. That the applicant takes reasonable measures to prevent the disposal of materials into the on-site wastewater treatment system;
12. That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property;
13. That the home occupation shall be operated by a member of the family residing on the premises; and,
14. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all conditions of approval are being met.

Discussion followed.

Moved by Coleman and seconded by Kuehn to approve of Conditional Use Permit Amendment / CU 22-06 with the following fourteen (14) conditions:

1. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
2. That the gunsmithing and service business shall be operated completely within the existing accessory structure located on the property;
3. That no business sign be posted on the property;
4. That no on-premise retail sales be allowed;
5. That the home occupation, including all associated storage, be conducted entirely indoors;
6. That the applicant complies with all applicable local, state, and federal laws and a current copy of the applicant's Federal Firearms License from the U.S. Bureau of ATF be kept on file with the Planning Department;
7. That an address be assigned to the structure being used for the business and the address be properly posted on both the structure and at the approach so it is visible in both directions from Tigerville Road in accordance with Pennington County's Ordinance #20;
8. That the applicant acquires an Excise Sales Tax License as required by the South Dakota Department of Revenue prior to operation;
9. That the applicant notifies the Hill City Fire Department prior to operation of the business and a copy of the letter shall also be provided to the Planning Department to place in the file prior to operation;
10. 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;
11. That the applicant takes reasonable measures to prevent the disposal of materials into the on-site wastewater treatment system;
12. That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property;
13. That the home occupation shall be operated by a member of the family residing on the premises; and,
14. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all conditions of approval are being met.

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

12. PLANNED UNIT DEVELOPMENT OVERLAY / PU 22-10: Wheaton Enterprises, LLC / Natalie Wheaton. To allow a Planned Unit Development Overlay to allow a Recreational Resort on the subject property in accordance with Section 216 of the Pennington County Zoning Ordinance.

Lot 1 of NW1/4NE1/4, Section 22, T2S, R4E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Planned Unit Development Overlay to allow a Recreational Resort.

Commissioner Coleman left the meeting at 10:29 a.m.
Commissioner Coleman returned to the meeting at 10:31 a.m.

Commissioner Burton left the meeting at 10:31 a.m.
Commissioner Burton returned to the meeting at 10:33 a.m.

Staff recommended approval of Planned Unit Development Overlay / PU 22-10 with the following twenty-five (25) conditions:

1. That the approved uses of the Recreational Resort include: 4 Vacation Home rental units, 4 cabin rentals, 6 recreational vehicle sites, and a manager's residence;
2. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
3. That daily and event operations be conducted by owners, on-site manager, and local contact as necessary;
4. That all natural drainage paths be continually maintained;
5. That the applicant obtains an approved Sign Permit prior to the placement of any on or off-premise sign;
6. That all assigned addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;
7. That prior to operation, the applicant obtains Emergency Service approval of the numbering plan for the Recreational Resort and a final copy be kept on file with the Planning Department;
8. That each Recreational Vehicle site must be equipped with a numbered and color-coded sign indicator which is attached to a post on or near the campsite;
9. That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;

10. That all parking follows Pennington County Zoning Ordinance (PCZO) § 310;
11. That quiet hours in the Recreational Resort be from 11:00 p.m. to 7:00 a.m.;
12. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
13. That any Vacation Home Rental and Cabin Rental within the Recreational Resort obtain all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue;
14. That a smoke detector be placed in each sleeping room utilized for a Vacation Home Rental and Cabin Rental, with a minimum of at least 1 smoke detector per floor;
15. That the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times;
16. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of a Vacation Home Rental and Cabin Rental so it is accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
17. That the maximum number of people staying at any Vacation home Rental and Cabin Rental adhere to the South Dakota Lodging Establishment's Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
18. That the applicants comply with South Dakota Codified Law 34-18;
19. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must adhere to PCZO § 204-J and South Dakota Administrative Rules 74:53:01;
20. That any Recreation Vehicle Park / Site must comply with PCZO §306;
21. That setbacks for all structures shall comply with those required in an Agriculture District;
22. That significant changes in the use or impacts on the subject property, as determined by the Planning Director, shall require an amendment to this Planned Unit Development Overlay;
23. That prior to operation, the applicants submit a copy of the Forest Service Access Agreement;

24. That all OSWTS obtain approval from Pennington County and the SD DANR and that all septic systems adhere to the PCZO; and,
25. That this Planned Unit Development Overlay be reviewed in 1 year, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

Discussion followed.

Moved by Coleman and seconded by McGregor to add a condition addressing open fires and fire pits on the subject property.

All voting aye, the Motion carried 7 to 0.

Moved by Hadcock and seconded by Coleman to approve of Planned Unit Development Overlay / PU 22-10 with the following twenty-six (26) conditions:

1. **That the approved uses of the Recreational Resort include: 4 Vacation Home rental units, 4 cabin rentals, 6 recreational vehicle sites, and a manager's residence;**
2. **That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;**
3. **That daily and event operations be conducted by owners, on-site manager, and local contact as necessary;**
4. **That all natural drainage paths be continually maintained;**
5. **That the applicant obtains an approved Sign Permit prior to the placement of any on or off-premise sign;**
6. **That all assigned addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;**
7. **That prior to operation, the applicant obtains Emergency Service approval of the numbering plan for the Recreational Resort and a final copy be kept on file with the Planning Department;**
8. **That each Recreational Vehicle site must be equipped with a numbered and color-coded sign indicator which is attached to a post on or near the campsite;**
9. **That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;**

10. That all parking follows Pennington County Zoning Ordinance (PCZO) § 310;
11. That quiet hours in the Recreational Resort be from 11:00 p.m. to 7:00 a.m.;
12. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
13. That any Vacation Home Rental and Cabin Rental within the Recreational Resort obtain all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue;
14. That a smoke detector be placed in each sleeping room utilized for a Vacation Home Rental and Cabin Rental, with a minimum of at least 1 smoke detector per floor;
15. That the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times;
16. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of a Vacation Home Rental and Cabin Rental so it is accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
17. That the maximum number of people staying at any Vacation home Rental and Cabin Rental adhere to the South Dakota Lodging Establishment's Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
18. That the applicants comply with South Dakota Codified Law 34-18;
19. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must adhere to PCZO § 204-J and South Dakota Administrative Rules 74:53:01;
20. That any Recreation Vehicle Park / Site must comply with PCZO §306;
21. That setbacks for all structures shall comply with those required in an Agriculture District;
22. That significant changes in the use or impacts on the subject property, as determined by the Planning Director, shall require an amendment to this Planned Unit Development Overlay;

23. **That prior to operation, the applicants submit a copy of the Forest Service Access Agreement;**
24. **That all OSWTS obtain approval from Pennington County and the SD DANR and that all septic systems adhere to the PCZO;**
25. **That the applicants shall provide the phone number and/or internet address to clients regarding the current day's fire condition, as pertaining to the use of the fire pit; and**
26. **That this Planned Unit Development Overlay be reviewed in 1 year, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.**

All voting aye, the Motion carried 7 to 0.

13. PRELIMINARY PLAN / PPL 22-33: No Bad Days Campground, LLC; Rob Livingston. To subdivide and create Lots 1, 2, 3, and 4 and Utility Lot of No Bad Days Subdivision in accordance with Section 500 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract Lake of SW1/4SW1/4 of Section 27 and SE1/4 of Section 28 located in Section 27, T2N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, 3, and 4 and Utility Lot of No Bad Days Subdivision, Section 27, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the June 27, 2022, Planning Commission meeting.)

Sack stated this item had been continued from the June 27, 2022, Planning Commission meeting to address concerns of the Planning Commission.

Staff recommended approval of Preliminary Plan / PPL 22-33 with the following nine (9) conditions:

1. That at the time of submittal of the Final Plat, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That at the time of submittal for the Final Plat, the plat meets all the requirements of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;
3. That at the time of submittal for the Final Plat, the access easement be labeled "66-foot-wide Private Access Easement";
4. That at the time of submittal of the Final Plat, the proposed Plat be prepared by a Registered Land Surveyor;

5. That the applicant ensures all-natural drainage ways are maintained and are not blocked and all necessary drainage ways are noted on the plat;
6. That prior to filing the Plat at Register of Deeds, the applicant obtains Variances for the required setback for the telecommunication tower,
7. That the applicant obtains an approved Rezone and a Comprehensive Plan Amendment for proposed Lots 2-4 prior to filing the Final Plat at Register of Deeds;
8. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
9. That approval of this Preliminary Plat does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by Kuehn and seconded by Coleman to wave rules to discuss directly related and similar Agenda Items 13, 14, and 15 at the same time. All voting aye, the Motion carried 7 to 0.

Discussion continued.

Moved by McGregor and seconded by Coleman to approve of Preliminary Plan / PPL 22-33 with the following nine (9) conditions:

1. **That at the time of submittal of the Final Plat, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
2. **That at the time of submittal for the Final Plat, the plat meets all the requirements of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;**
3. **That at the time of submittal for the Final Plat, the access easement be labeled “66-foot-wide Private Access Easement”;**
4. **That at the time of submittal of the Final Plat, the proposed Plat be prepared by a Registered Land Surveyor;**
5. **That the applicant ensures all-natural drainage ways are maintained and are not blocked and all necessary drainage ways are noted on the plat;**
6. **That prior to filing the Plat at Register of Deeds, the applicant obtains Variances for the required setback for the telecommunication tower,**

7. **That the applicant obtains an approved Rezone and a Comprehensive Plan Amendment for proposed Lots 2-4 prior to filing the Final Plat at Register of Deeds;**
8. **That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;**
9. **That approval of this Preliminary Plat does not constitute approval of any further applications to be submitted for the above-described property.**

All voting aye, the Motion carried 7 to 0.

14. COMPREHENSIVE PLAN AMENDMENT / CA 22-15: No Bad Days Campground, LLC; Rob Livingston. To amend the Comprehensive Plan to change the Future Land Use from Highway Service District to Rural Residential District in accordance with Sections 207, 212, and 508 of the Pennington County Zoning Ordinance.

A tract of land being a portion of Tract Lake of the SW1/4SW1/4 of Sec. 27 and SE1/4 of Sec. 28, T2N, R5E, BHM, Pennington County, South Dakota, and being more particularly described as follows: beginning at the W1/16 corner of Sections 27 and 34, said corner being a U.S.F.S. cap and being the true point of beginning of the herein described Tract, Thence N00°04'02"E a distance of 366.36' to a set pin and cap stamped "LS11918; thence N00°04'02"E a distance of 336.36' to a set pin and cap stamped "LS11918", said pin and cap being in the southerly right-of-way of Highway 44, and from which bears a SDDOT cap S00°04'02"W a distance of 28.41'; thence following said southerly right-of-way N85°01'22"W a distance of 299.74' to a set pin and cap stamped "LS11918; thence S84°11'25"W a distance of 154.88' to a found rebar; thence S83°43'37"W a distance of 101.45' to a set pin and cap stamped "LS11918; thence S76°03'37"W a distance of 101.45' to a found rebar; thence S66°36'13"W a distance of 99.20' to a set pin and cap stamped "LS11918; thence S63°36'13"W a distance of 99.20' to a set pin and cap stamped "LS11918; thence S54°54'13"W a distance of 99.20' to a set pin and cap stamped "LS11918; thence S50°24'26"W a distance of 82.78' to a set pin and cap stamped "LS11918; thence departing said southerly right-of-way S51°32'50"E a distance of 62.23' to a set pin and cap stamped "LS11918; thence S81°34'55"E a distance of 142.01' to a set pin and cap stamped "LS11918; thence S00°30'19"E a distance of 100.84' to a set pin and cap stamped "LS11918; thence N85°22'53"E a distance of 57.21' to a set pin and cap stamped "LS11918; thence N65°24'15"E a distance of 114.81' to a set pin and cap stamped "LS11918; thence S89°33'20"E a distance of 146.23' to a set pin and cap stamped "LS11918; thence S00°09'27"E a distance of 197.57' to a set pin and cap stamped "LS11918; thence S00°00'00"E a distance of 192.37' to a set pin and cap stamped "LS11918; thence S00°00'00"W a distance of 176.75' to a set pin and cap stamped "LS11918; thence S89°50'54"E a distance of 285.37' to the point of beginning; the herein described tract having an area of 9.83 acres more or less; Section 27, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the June 27, 2022, Planning Commission meeting.)

Moved by Coleman and seconded by Lewis to approve of Comprehensive Plan Amendment / CA 22-15.

All voting aye, the Motion carried 7 to 0.

15. REZONE / RZ 22-21: No Bad Days Campground, LLC; Rob Livingston. To rezone 9.83 acres from Highway Service District to Rural Residential District in accordance with Sections 207, 212, and 508 of the Pennington County Zoning Ordinance.

The subject property is located on the following metes and bounds description: A tract of land being a portion of Tract Lake of the SW1/4SW1/4 of Sec. 27 and SE1/4 of Sec. 28, T2N, R5E, BHM, Pennington County, South Dakota, and being more particularly described as follows: beginning at the W1/16 corner of Sections 27 and 34, said corner being a U.S.F.S. cap and being the true point of beginning of the herein described Tract, Thence N00°04'02"E a distance of 366.36' to a set pin and cap stamped "LS11918; thence N00°04'02"E a distance of 336.36' to a set pin and cap stamped "LS11918", said pin and cap being in the southerly right-of-way of Highway 44, and from which bears a SDDOT cap S00°04'02"W a distance of 28.41'; thence following said southerly right-of-way N85°01'22"W a distance of 299.74' to a set pin and cap stamped "LS11918; thence S84°11'25"W a distance of 154.88' to a found rebar; thence S83°43'37"W a distance of 101.45' to a set pin and cap stamped "LS11918; thence S76°03'37"W a distance of 101.45' to a found rebar; thence S66°36'13"W a distance of 99.20' to a set pin and cap stamped "LS11918; thence S63°36'13"W a distance of 99.20' to a set pin and cap stamped "LS11918; thence S54°54'13"W a distance of 99.20' to a set pin and cap stamped "LS11918; thence S50°24'26"W a distance of 82.78' to a set pin and cap stamped "LS11918; thence departing said southerly right-of-way S51°32'50"E a distance of 62.23' to a set pin and cap stamped "LS11918; thence S81°34'55"E a distance of 142.01' to a set pin and cap stamped "LS11918; thence S00°30'19"E a distance of 100.84' to a set pin and cap stamped "LS11918; thence N85°22'53"E a distance of 57.21' to a set pin and cap stamped "LS11918; thence N65°24'15"E a distance of 114.81' to a set pin and cap stamped "LS11918; thence S89°33'20"E a distance of 146.23' to a set pin and cap stamped "LS11918; thence S00°09'27"E a distance of 197.57' to a set pin and cap stamped "LS11918; thence S00°00'00"E a distance of 192.37' to a set pin and cap stamped "LS11918; thence S00°00'00"W a distance of 176.75' to a set pin and cap stamped "LS11918; thence S89°50'54"E a distance of 285.37' to the point of beginning; the herein described tract having an area of 9.83 acres more or less; Section 27, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the June 27, 2022, Planning Commission meeting.)

Moved by McGregor and seconded by Kuehn to approve Rezone / RZ 22-21.

All voting aye, the Motion carried 7 to 0.

Moved by Burton and seconded by McGregor to wave rules to discuss directly related and similar Agenda Items 16, 17, and 18 at the same time. All voting aye, the Motion carried 7 to 0.

16. CONDITIONAL USE PERMIT / CU 22-31: Scott Mohr. To allow a multi-family residence (4-plex) on the subject property in a Suburban Residential District in accordance with Sections 209, 303, and 510 of the Pennington County Zoning Ordinance.

Tract H (proposed Lot A), Murphy Ranch Estates Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a multi-family residence (4-plex) on the subject property.

Staff recommended to continue Conditional Use Permit / CU 22-31 to the August 8, 2022, Planning Commission with the following four (4) conditions:

1. That a new site plan is submitted showing the contours, the four-plex structures, lot lines, private leisure areas, active or passive recreational areas, and size and location of the two detention cells;
2. That a report is provided to Pennington County and Rapid City showing that the detention cells will still meet the post-development flows;
3. That a grading plan is submitted that shows how drainage will be diverted to the detention cells; and,
4. That the proposed approaches off of Knuckleduster Road are approved by the Murphy Ranch Road District for the four-plex structure.

Molitor further stated is recommending to amend the language in Condition #2 to state: “That an engineered drainage report is provided to Pennington County and Rapid City showing that the new detention cell design will meet the post-development flows.

Discussion followed.

Moved by Coleman and seconded by McGregor to continue Conditional Use Permit / CU 22-31 to August 8, 2022, Planning Commission meeting, with amended language in Condition #2, with the following four (4) conditions:

- 1. That a new site plan is submitted showing the contours, the four-plex structures, lot lines, private leisure areas, active or passive recreational areas, and size and location of the two detention cells;**
- 2. That an engineered drainage report is provided to Pennington County and Rapid City showing that the new detention cell design will meet the post-development flows;**
- 3. That a grading plan is submitted that shows how drainage will be diverted to the detention cells; and,**
- 4. That the proposed approaches off of Knuckleduster Road are approved by the Murphy Ranch Road District for the four-plex structure.**

All voting aye, the Motion carried 7 to 0.

17. CONDITIONAL USE PERMIT / CU 22-32: Scott Mohr. To allow a multi-family residence (4-plex) on the subject property in a Suburban Residential District in accordance with Sections 209, 303, and 510 of the Pennington County Zoning Ordinance.

Tract H (proposed Lot B), Murphy Ranch Estates Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a multi-family residence (4-plex) on the subject property.

Staff recommended to continue Conditional Use Permit / CU 22-32 to the August 8, 2022, Planning Commission with the following four (4) conditions:

1. That a new site plan is submitted showing the contours, the four-plex structures, lot lines, private leisure areas, active or passive recreational areas, and size and location of the two detention cells;
2. That a report is provided to Pennington County and Rapid City showing that the detention cells will still meet the post-development flows;
3. That a grading plan is submitted that shows how drainage will be diverted to the detention cells; and,
4. That the proposed approaches off of Knuckleduster Road are approved by the Murphy Ranch Road District for the four-plex structure.

Discussion followed.

Molitor further stated is recommending to amend the language in Condition #2 to state: “That an engineered drainage report is provided to Pennington County and Rapid City showing that the new detention cell design will meet the post-development flows.

Discussion followed.

Moved by Coleman and seconded by McGregor to continue Conditional Use Permit / CU 22-32 to August 8, 2022, Planning Commission meeting, with amended language in Condition #2, with the following four (4) conditions:

- 1. That a new site plan is submitted showing the contours, the four-plex structures, lot lines, private leisure areas, active or passive recreational areas, and size and location of the two detention cells;**
- 2. That an engineered drainage report is provided to Pennington County and Rapid City showing that the new detention cell design will meet the post-development flows;**
- 3. That a grading plan is submitted that shows how drainage will be diverted to the detention cells; and,**
- 4. That the proposed approaches off of Knuckleduster Road are approved by the Murphy Ranch Road District for the four-plex structure.**

All voting aye, the Motion carried 7 to 0.

18. CONDITIONAL USE PERMIT / CU 22-33: Scott Mohr. To allow a multi-family residence (4-plex) on the subject property in a Suburban Residential District in accordance with Sections 209, 303, and 510 of the Pennington County Zoning Ordinance.

Tract H (proposed Lot C), Murphy Ranch Estates Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a multi-family residence (4-plex) on the subject property.

Staff recommended to continue Conditional Use Permit / CU 22-33 to the August 8, 2022, Planning Commission with the following four (4) conditions:

1. That a new site plan is submitted showing the contours, the four-plex structures, lot lines, private leisure areas, active or passive recreational areas, and size and location of the two detention cells;
2. That a report is provided to Pennington County and Rapid City showing that the detention cells will still meet the post-development flows;
3. That a grading plan is submitted that shows how drainage will be diverted to the detention cells; and,
4. That the proposed approaches off of Knuckleduster Road are approved by the Murphy Ranch Road District for the four-plex structure.

Discussion followed.

Molitor further stated is recommending to amend the language in Condition #2 to state: "That an engineered drainage report is provided to Pennington County and Rapid City showing that the new detention cell design will meet the post-development flows.

Discussion followed.

Moved by Coleman and seconded by McGregor to continue Conditional Use Permit / CU 22-33 to August 8, 2022, Planning Commission meeting, with amended language in Condition #2, with the following four (4) conditions:

- 1. That a new site plan is submitted showing the contours, the four-plex structures, lot lines, private leisure areas, active or passive recreational areas, and size and location of the two detention cells;**
- 2. That an engineered drainage report is provided to Pennington County and Rapid City showing that the new detention cell design will meet the post-development flows;**
- 3. That a grading plan is submitted that shows how drainage will be diverted to the detention cells; and,**

4. **That the proposed approaches off of Knuckleduster Road are approved by the Murphy Ranch Road District for the four-plex structure.**

All voting aye, the Motion carried 7 to 0.

19. CONDITIONAL USE PERMIT AMENDMENT REVIEW / CU 20-18: Wild Springs Solar, LLC; Geronimo Energy. To review an existing Conditional Use Permit for a utility-scale solar energy system in a Rural Residential and Agriculture District in accordance with Sections 205, 207, and 510 of the Pennington County Zoning Ordinance.

That PT of NE1/4 S of Chicago Northwestern RR; SE1/4 of Section 36, T2N, R10E; GL 1-4; S1/2NE1/4; S1/2NW1/4, Less ROW, and S1/2 of Section 1, T1N, R10E; GL 6-7; E1/2SW1/4, W1/2SE1/4; E1/2SE1/4 of Section 6, T1N, R11E; E1/2NE1/4; W1/2NE1/4, E1/2NW1/4; GL 1-4; NE1/4SW1/4, N1/2SE1/4, SE1/4SE1/4, Less ROW of Section 7, T1N, R11E; All Less ROW of Section 8, T1N, R11E; E1/2SW1/4 of Section 5, T1N, R11E; N1/2NE1/4, SE1/4NE1/4, S1/2SW1/4, E1/2SE1/4, SW1/4SE1/4, NW1/4, Less ROW of Section 9, T1N, R11E, and GL3-4; E1/2SW1/4, Less ROW of Section 31, T2N, R11E BHM, Pennington County, South Dakota.

Molitor stated this is a review of the applicant's Conditional Use Permit for a utility-scale solar energy system on the subject properties to address the requirement of Section 510 in the Zoning Ordinance.

Molitor further stated that Wild Springs Solar is requesting confirmation from the Planning Commission that completion of activities on or before August 24, 2022, is sufficient to establish the use authorized by, and pursuant to the terms and conditions of, CUP 20-18 for the Project in accordance with the requirements of the County's Zoning Ordinance (i.e., Section 510(G)(2) of the current Zoning Ordinance; Section 510(E)(1)(b) of the prior Zoning Ordinance) and, therefore, CUP 20-18 will remain in effect beyond August 24, 2022.

Discussion followed.

Moved by Coleman and seconded by Lewis to approve the extension of Conditional Use Permit / CU 20-18 and add the above language to the Conditions of Approval, with the following twenty-nine (29) conditions:

1. **That Building Permits are obtained for all solar modules prior to construction;**
2. **That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the Project area;**
3. **That the address of all operational structures (i.e. O&M building) be posted in accordance with Ordinance #20 following completion of the structure;**

4. That setbacks from the property lines and all utilities be maintained for all structures located on the property, or an approved Setback Variance(s) be obtained;
5. That an approved Approach Permit(s) be obtained, if necessary, from the approving Street Authority and that a copy of the approved Approach Permit be sent to the Pennington County Planning Director with a note identifying the Permit for CU 20-18;
6. That an approved Floodplain Development Permit is obtained prior to any disturbance or placement of structures in the designated Special Flood Hazard Area;
7. That a Storm Water Permit is obtained prior to any land disturbance;
8. That the applicant signs the Noxious Weed Plan and it be followed at all times;
9. That the design of the solar energy system must conform to applicable local, state and national solar codes and standards at all times;
10. That a Conditional Use Permit is obtained for the temporary contractor's equipment storage yard prior to construction of all solar modules;
11. That no junk material, vehicles, or debris is stored on the site at any given time;
12. That any natural drainage ways and paths be continually maintained;
13. That all exterior lights must use hoods and lens that cast light downward;
14. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
15. The requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
16. That the Planning Department is provided with the safety/access information in case of an emergency;
17. That the proposed structure(s) maintain the 35-foot height requirement, with the exception of utility poles as exempted in Section 204(E) of the PCZO, or an approved Variance(s) be obtained;
18. That the solar panels be non-reflective and unobtrusive at all times;
19. That temporary fencing is installed during construction to ensure livestock are protected;

20. That a Haul Road Agreement, if required, is in place with the County Highway Department prior to construction of the Project;
21. That all design and installation work shall comply with all applicable provisions in the National Electric Code, International Building Code, the International Residential Code, International Commercial Building Code, and state fire code;
22. That no advertising signage shall be placed on any portion of the solar facility;
23. That any on-site wastewater treatment system(s) are subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance;
24. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line;
25. That once the Project's design is finalized, Wild Springs Solar, LLC must prepare and submit an updated decommissioning cost estimate to Pennington County; and,
26. That prior to commencement of construction, Wild Springs Solar, LLC shall provide a surety bond in the total amount of the updated decommissioning cost estimate naming the SD PUC and Pennington County as beneficiaries;
27. That Wild Springs Solar, LLC provide an updated decommissioning cost estimate to Pennington County at the completion of year ten of operation and every five years thereafter, and Wild Springs Solar, LLC must adjust the financial security provided to align with the updated cost estimate;
28. That Wild Springs Solar's completion of activities on or before August 24, 2022, is sufficient to establish the use authorized by, and pursuant to the terms and conditions of, CUP 20-18 for the Project in accordance with the requirements of the County's Zoning Ordinance (i.e., Section 510(G)(2) of the current Zoning Ordinance; Section 510(E)(1)(b) of the prior Zoning Ordinance) and, therefore, CUP 20-18 will remain in effect beyond August 24, 2022; and,
29. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission.

All voting aye, the Motion carried 7 to 0.

Commissioner Hadcock left the meeting at 11:39 a.m.
Commissioner Hadcock returned to the meeting at 11:41 a.m.

Discussion continued.

Moved by Coleman and seconded by Burton to approve that Wild Springs Solar has established the use for Conditional Use Permit / CU 20-18.

All voting aye, the Motion carried 7 to 0.

20. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from their June 27th meeting.

1. Ordinance Amendment 22-01: Pennington County. To add Section 321 – Hard Rock Mining to the Zoning Ordinance, was continued to the July 19th Board Meeting.

21. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

22. ITEMS FROM THE STAFF

- A. Building Permit Report. Molitor reviewed the June 2022 Building Permit Report.
- B. Planning Department. Molitor stated that P&Z employee, Chutima Supboon, has taken another position and staff wishes her the best on her new adventure.

23. ITEMS FROM THE MEMBERSHIP

Chairman Johnson spoke of discussing applicant's items at the same time to streamline the meeting process. He further discussed clerical corrections and professionalism at the meetings.

24. ADJOURNMENT

Moved by Coleman and seconded by McGregor to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at 11:46 a.m.

Charlie Johnson, Chairperson