

**DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
July 12, 2021 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Rich Marsh, Charlie Johnson, Karen McGregor, Sande Runde, Jim Coleman, Sandy Brockhouse, and Deb Hadcock.

STAFF PRESENT: Brittney Molitor, Chutima Supboon, Cody Sack, Jason Theunissen, Megan Krueger (SAO) and Jeri Ervin.

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 nominations for officer positions.

Moved by Coleman and seconded by Runde to nominate Rich Marsh as the Chairperson. Moved by Johnson and seconded by Coleman to close nominations. All voting aye, the Motion carried 7 to 0.

Moved by Coleman to nominate Johnson for Vice Chairperson and McGregor as Second Vice Chairperson. Motion died for lack of a second.

Moved by Runde and seconded by Hadcock to nominate McGregor as Vice Chairperson and Johnson as Second Vice Chairperson. All voting aye, the Motion carried 7 to 0.

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

2. APPROVAL OF THE JUNE 28, 2021, MINUTES

Moved by Runde and seconded by Johnson to approve the Minutes of the June 28, 2021, Planning Commission meeting. Vote: unanimous 7 to 0.

3. APPROVAL OF THE AGENDA

Moved by McGregor and seconded by Johnson to approve the Agenda of the July 12, 2021, Planning Commission meeting. Vote: unanimous 7 to 0.

REGULAR AGENDA

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 / CU 21-37: Todd and Deborah Proctor. To temporarily live in a Recreational Vehicle on the subject property, less than 180 days per calendar year, in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

PT of Hope Placer, MS 1653 aka NW1/4SW1/4NW1/4, Hope Placer MS 1653, Section 9, T1N, R4E, BHM, Pennington County, South Dakota.

Supboon reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to temporarily live in a Recreational Vehicle on the subject property, less than 180 days per calendar year.

Staff recommended approval of Conditional Use Permit / CU 21-37 with the following thirteen (13) conditions:

1. That there be no more than 1 Recreational Vehicle (RV) is allowed to be utilized as temporary living quarters on the subject property;
2. That the RV not be utilized as a nightly or weekly vacation rental and only be used by the applicant for personal use;
3. That the RV be pumped and wastewater disposal records be maintained and available for inspection by Planning Staff upon request;
4. That the existing On-Site Wastewater Treatment System (OSWTS) be inspected, if it is not usable, it must be abandoned within 6 months of approval of this Conditional Use Permit and verified by Planning Staff;
5. That an approved OSWTS Construction Permit be obtained prior to the installation of any OSWTS on the property;
6. That an address be clearly posted on the RV while it is being utilized as living quarters and at the end of the driveway where it intersects Mystic Road, in accordance with Pennington County Ordinance #20;
7. That the minimum setback requirements of Agriculture District be maintained on the subject property, or an approved Setback Variance(s) be obtained;
8. That the minimum 58-foot Section Line be maintained on the property;
9. 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;
10. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
11. That the property remains free of debris and junk vehicles;
12. That the applicant adheres to Pennington County Zoning Ordinance § 510; and,

13. 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.

Moved by S. Runde and seconded by Coleman to approve of Conditional Use Permit / CU 21-37 with the following thirteen (13) conditions:

1. That there be no more than 1 Recreational Vehicle (RV) is allowed to be utilized as temporary living quarters on the subject property;
2. That the RV not be utilized as a nightly or weekly vacation rental and only be used by the applicant for personal use;
3. That the RV be pumped and wastewater disposal records be maintained and available for inspection by Planning Staff upon request;
4. That the existing On-Site Wastewater Treatment System (OSWTS) be inspected, if it is not usable, it must be abandoned within 6 months of approval of this Conditional Use Permit and verified by Planning Staff;
5. That an approved OSWTS Construction Permit be obtained prior to the installation of any OSWTS on the property;
6. That an address be clearly posted on the RV while it is being utilized as living quarters and at the end of the driveway where it intersects Mystic Road, in accordance with Pennington County Ordinance #20;
7. That the minimum setback requirements of Agriculture District be maintained on the subject property, or an approved Setback Variance(s) be obtained;
8. That the minimum 58-foot Section Line be maintained on the property;
9. 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;
10. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
11. That the property remains free of debris and junk vehicles;
12. That the applicant adheres to Pennington County Zoning Ordinance § 510; and,
13. 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.

All voting aye, the Motion carried 7 to 0.

5. CONDITIONAL USE PERMIT / CU 21-39: Paul and Carol Nieman. To allow a Recreational Vehicle Park on the subject property in accordance with Sections 205, 306 and 510 of the Pennington County Zoning Ordinance.

Niemann Trust Land Tract of the SE¹/₄ SE¹/₄, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

Supboon reviewed that the applicant applied for a Conditional Use Permit to allow a Recreational Vehicle Park on the subject property.

Staff recommended to continue Conditional Use Permit / CU 21-39 to the July 26, 2021 Planning Commission meeting to allow the applicant time to send the Notice of Hearing Letters.

Moved by Hadcock and seconded by S. Runde to continue Conditional Use Permit / CU 21-39 to the July 26, 2021 Planning Commission meeting to allow the applicant time to send the Notice of Hearing letters.

All voting aye, the Motion carried 7 to 0.

6. CONDITIONAL USE PERMIT / CU 21-42: CAL SD, LLC; Tina Roberts. To allow a Vacation Home Rental in a Suburban Residential District in accordance with Sections 209, 319, and 510 of the Pennington County Zoning Ordinance.

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

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

Staff recommended approval of Conditional Use Permit / CU 21-42 with the following nineteen (19) conditions:

1. That the maximum overnight occupancy based on South Dakota Department of Agriculture and Natural Resources (DANR) approval, be limited to 6 people and the maximum daytime occupancy be limited to 12 people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);
2. That all necessary permits are obtained prior to any additions and/or alterations to the residence or upgrades/alterations to the On-Site Wastewater Treatment System;
3. That if any addition is constructed on the residence and/or the On-Site Wastewater Treatment System is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DANR;
4. That the proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;

5. That the applicant 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;
6. That each review of Conditional Use Permit / CU 21-42, be subject to PCZO § 511(P), which imposes a \$100 fee per review;
7. That the applicant 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 upon request;
8. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
9. That a minimum of 3 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;
10. That an interior informational sign be updated and posted in accordance with the requirements of PCZO § 319(G), with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental;
11. That the lot address (9699 Clarkson Road) be posted on the residence at all times and at the driveway where it intersects Clarkson Road, in accordance with Pennington County's Ordinance #20;
12. That the applicants ensure the Vacation Home Rental is continually operated in accordance with the requirements of PCZO § 319(F) at all times;
13. That if the person designated as the Local Contact is ever changed from Tina Roberts, 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 on-premise Sign Permit be obtained prior to the placement of any sign(s);
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;

17. That a color map illustrating where the Special Flood Hazard Area is located on the property, as determined by the Federal Emergency Management Agency (FEMA) be posted during operation of the Vacation Home Rental;
18. 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,
19. 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 approve of Conditional Use Permit / CU 21-42 with the following nineteen (19) conditions:

- 1. That the maximum overnight occupancy based on South Dakota Department of Agriculture and Natural Resources (DANR) approval, be limited to 6 people and the maximum daytime occupancy be limited to 12 people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);**
- 2. That all necessary permits are obtained prior to any additions and/or alterations to the residence or upgrades/alterations to the On-Site Wastewater Treatment System;**
- 3. That if any addition is constructed on the residence and/or the On-Site Wastewater Treatment System is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DANR;**
- 4. That the proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;**
- 5. That the applicant 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;**
- 6. That each review of Conditional Use Permit / CU 21-42, be subject to PCZO § 511(P), which imposes a \$100 fee per review;**
- 7. That the applicant 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 upon request;**
- 8. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from**

the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;

- 9. That a minimum of 3 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;**
- 10. That an interior informational sign be updated and posted in accordance with the requirements of PCZO § 319(G), with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental;**
- 11. That the lot address (9699 Clarkson Road) be posted on the residence at all times and at the driveway where it intersects Clarkson Road, in accordance with Pennington County's Ordinance #20;**
- 12. That the applicants ensure the Vacation Home Rental is continually operated in accordance with the requirements of PCZO § 319(F) at all times;**
- 13. That if the person designated as the Local Contact is ever changed from Tina Roberts, 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 on-premise Sign Permit be obtained prior to the placement of any sign(s);**
- 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;**
- 17. That a color map illustrating where the Special Flood Hazard Area is located on the property, as determined by the Federal Emergency Management Agency (FEMA) be posted during operation of the Vacation Home Rental;**
- 18. 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,**
- 19. 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.**

All voting aye, the Motion carried 7 to 0.

7. CONDITIONAL USE PERMIT / CU 21-36: Larry and Ramona Vander Zee. To allow an Accessory Dwelling Unit on the subject property in an Agriculture District in accordance with Sections 205, 324, and 510 of the Pennington County Zoning Ordinance.

All (also in Section 35, T1N, R3E), HES 573, Section 2, T1S, R3E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant applied for a Conditional Use Permit to allow an Accessory Dwelling Unit on the subject property.

Staff recommended approval of Conditional Use Permit / CU 21-36 with the following thirteen (13) conditions:

1. That only 1 Accessory Dwelling Unit (ADU) be allowed and that it *not* be placed in the front yard;
2. That home occupations, Vacation Home Rentals, and nightly rentals of the ADU be prohibited;
3. That if the ADU is rented or leased, it must be done so for a period of 28 consecutive days or more;
4. That the ADU have a residential appearance, have its own assigned address, and not be a Recreational Vehicle;
5. That the addresses assigned to the ADU and the principle dwelling be posted so they are clearly visible, in accordance with Pennington County Ordinance #20;
6. That the On-site Wastewater Treatment System comply with Pennington County Zoning Ordinance (PCZO) § 204(J);
7. That all utilities for the ADU be extended from the primary residence and be on 1 meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;
8. That the ADU *not* exceed 2 stories, 2 bedrooms, or 700 square feet;
9. That the principal dwelling on the property be owner occupied, per PCZO § 324(A)(3), or utilized as a long-term rental;
10. That at least 1 off-street parking space be provided for the ADU;
11. That the ADU be continually utilized and maintained in accordance with all requirements of the PCZO § 324;
12. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,

13. 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 ensure compliance with the PCZO, Conditions of Approval, and state law.

Discussion followed.

Moved by Johnson and seconded by Runde to approve of Conditional Use Permit / CU 21-36 with the following thirteen (13) conditions:

- 1. That only 1 Accessory Dwelling Unit (ADU) be allowed and that it *not* be placed in the front yard;**
- 2. That home occupations, Vacation Home Rentals, and nightly rentals of the ADU be prohibited;**
- 3. That if the ADU is rented or leased, it must be done so for a period of 28 consecutive days or more;**
- 4. That the ADU have a residential appearance, have its own assigned address, and not be a Recreational Vehicle;**
- 5. That the addresses assigned to the ADU and the principle dwelling be posted so they are clearly visible, in accordance with Pennington County Ordinance #20;**
- 6. That the On-site Wastewater Treatment System comply with Pennington County Zoning Ordinance (PCZO) § 204(J);**
- 7. That all utilities for the ADU be extended from the primary residence and be on 1 meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;**
- 8. That the ADU *not* exceed 2 stories, 2 bedrooms, or 700 square feet;**
- 9. That the principal dwelling on the property be owner occupied, per PCZO § 324(A)(3), or utilized as a long-term rental;**
- 10. That at least 1 off-street parking space be provided for the ADU;**
- 11. That the ADU be continually utilized and maintained in accordance with all requirements of the PCZO § 324;**
- 12. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,**

13. **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 ensure compliance with the PCZO, Conditions of Approval, and state law.**

All voting aye, the Motion carried 7 to 0.

8. CONDITIONAL USE PERMIT / CU 21-40: Rob Livingston/No Bad Days Campground. To allow for the rental of kayaks, paddle boards, and UTVs on the subject property in a Highway Service District in accordance with Sections 212 and 510 of the Pennington County Zoning Ordinance.

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

Theunissen reviewed the Staff Report indicating the applicant applied for a Conditional Use Permit to allow for the rental of kayaks, paddle boards, and UTVs on the subject property.

Staff recommended approval of Conditional Use Permit / CU 21-40 with the following seventeen (17) conditions:

1. That the permitted use includes the rental of 2 paddleboards, 8 Utility Vehicles (UTVs), and 9 kayaks;
2. That all assigned addresses be posted so they are clearly visible, in accordance with Pennington County Ordinance #20;
3. That access to the site be only from the approved South Dakota Department of Transportation (SDDOT) approved approach and any additional approaches off of Highway 44 West be approved by SDDOT;
4. That at least 4 off-street parking spaces be provided for customers and 1 additional parking space be provided for employees, per Pennington County Zoning Ordinance (PCZO) § 310;
5. That any On-site Wastewater Treatment System comply with PCZO and SD Department of Agriculture and Natural Resources requirements (SD DANR);
6. That the days of operation for the rentals be allowed seven (7) days each week, and the hours of operation, for the above-mentioned, shall be between 9 a.m. and 5 p.m. only;
7. That prior to the placement of any on-premise signs, the applicant must adhere to PCZO § 312;
8. That the UTVs be thoroughly cleaned after use, to prevent the spread of invasive weeds;

9. That a designated equipment wash area be designated and utilized to ensure no runoff is allowed to enter any waters of the state;
10. That a portable fire extinguisher with a minimum 2A:10B:C rating shall be placed in each structure supporting the UTV rentals so it is accessible at all times;
11. That all lighting to be installed is maintained to minimize spillage of light outside of the area, so as not to create a nuisance. Lighting must be effectively shielded to prevent beams or rays from being directed towards any portion of the traveled ways and must not be of such intensity or brilliance as to cause glare or impair the vision of any motor vehicle drivers;
12. That all U.S. Forest Service comments be adhered to, including the protection of all National Forest System (NFS) lands boundaries, with no access, utilities, or parking allowed on NFS lands;
13. That the applicant obtains all necessary permits from other governing bodies for the operation, including, but not limited to, a sales tax license from the South Dakota Department of Revenue;
14. That no disturbance within the boundaries of the FEMA designated Special Flood Hazard Area occur without an approved Floodplain Development Permit;
15. 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;
16. That the Planning Director may allow additional uses, which are consistent with the uses approved in this permit. Significant changes in the use or impacts on adjacent lands shall require an amendment to this permit; and,
17. 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 ensure compliance with the PCZO, Conditions of Approval, and state law.

Discussion followed.

Moved by Johnson and seconded by McGregor to approve Conditional Use Permit / CU 21-40 with the following seventeen (17) conditions:

- 1. That the permitted use includes the rental of 2 paddleboards, 8 Utility Vehicles (UTVs), and 9 kayaks;**
- 2. That all assigned addresses be posted so they are clearly visible, in accordance with Pennington County Ordinance #20;**

3. That access to the site be only from the approved South Dakota Department of Transportation (SDDOT) approved approach and any additional approaches off of Highway 44 West be approved by SDDOT;
4. That at least 4 off-street parking spaces be provided for customers and 1 additional parking space be provided for employees, per Pennington County Zoning Ordinance (PCZO) § 310;
5. That any On-site Wastewater Treatment System comply with PCZO and SD Department of Agriculture and Natural Resources requirements (SD DANR);
6. That the days of operation for the rentals be allowed seven (7) days each week, and the hours of operation, for the above-mentioned, shall be between 9 a.m. and 5 p.m. only;
7. That prior to the placement of any on-premise signs, the applicant must adhere to PCZO § 312;
8. That the UTVs be thoroughly cleaned after use, to prevent the spread of invasive weeds;
9. That a designated equipment wash area be designated and utilized to ensure no runoff is allowed to enter any waters of the state;
10. That a portable fire extinguisher with a minimum 2A:10B:C rating shall be placed in each structure supporting the UTV rentals so it is accessible at all times;
11. That all lighting to be installed is maintained to minimize spillage of light outside of the area, so as not to create a nuisance. Lighting must be effectively shielded to prevent beams or rays from being directed towards any portion of the traveled ways and must not be of such intensity or brilliance as to cause glare or impair the vision of any motor vehicle drivers;
12. That all U.S. Forest Service comments be adhered to, including the protection of all National Forest System (NFS) lands boundaries, with no access, utilities, or parking allowed on NFS lands;
13. That the applicant obtains all necessary permits from other governing bodies for the operation, including, but not limited to, a sales tax license from the South Dakota Department of Revenue;
14. That no disturbance within the boundaries of the FEMA designated Special Flood Hazard Area occur without an approved Floodplain Development Permit;

15. **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;**
16. **That the Planning Director may allow additional uses, which are consistent with the uses approved in this permit. Significant changes in the use or impacts on adjacent lands shall require an amendment to this permit; and,**
17. **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 ensure compliance with the PCZO, Conditions of Approval, and state law.**

All voting aye, the Motion carried 7 to 0.

9. CONDITIONAL USE PERMIT / CU 21-41: Rob Livingston/No Bad Days Campground. To allow for an illuminated, on-premise sign to be located within 1,500 feet of a residential district /dwelling unit in a Highway Service District in accordance with Sections 212, 312, and 510 of the Pennington County Zoning Ordinance.

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

Theunissen reviewed the Staff Report indicating the applicant applied for a Conditional Use Permit to allow an illuminated, on-premise sign to be located within 1,500 feet of a residential district /dwelling unit in a Highway Service District.

Staff recommended approval of Conditional Use Permit / CU 21-41 with the following nine (9) conditions:

1. That this Conditional Use Permit (CUP) only allows for 1 internally illuminated on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District;
2. That the sign maintains a minimum 5-foot setback from the front property line and that no part of the sign, or infrastructure of the sign, be placed within any right-of-way;
3. That only on-premise advertising be allowed on the proposed sign and no off-premise advertising is allowed unless an approved Variance is obtained and this CUP is amended to allow for an off-premise sign;
4. 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 sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the roadways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle, or otherwise interfere with any driver's operation of a motor vehicle;

5. That an approved Floodplain Development Permit is obtained *prior* to any disturbance within the Special Flood Hazard Area located on the subject property;
6. That an approved Sign Permit be obtained *prior* to the construction of the sign;
7. That the sign continually conforms to all regulations in § 312 of the Pennington County Zoning Ordinance;
8. That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated; and,
9. 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.

Discussion followed.

Moved by Coleman and seconded by Runde to approve of Conditional Use Permit / CU 21-41 with the following nine (9) conditions:

- 1. That this Conditional Use Permit (CUP) only allows for 1 internally illuminated on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District;**
- 2. That the sign maintains a minimum 5-foot setback from the front property line and that no part of the sign, or infrastructure of the sign, be placed within any right-of-way;**
- 3. That only on-premise advertising be allowed on the proposed sign and no off-premise advertising is allowed unless an approved Variance is obtained and this CUP is amended to allow for an off-premise sign;**
- 4. 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 sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the roadways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle, or otherwise interfere with any driver's operation of a motor vehicle;**
- 5. That an approved Floodplain Development Permit is obtained *prior* to any disturbance within the Special Flood Hazard Area located on the subject property;**
- 6. That an approved Sign Permit be obtained *prior* to the construction of the sign;**
- 7. That the sign continually conforms to all regulations in § 312 of the Pennington County Zoning Ordinance;**

8. That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated; and,
9. 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.

All voting aye, the Motion carried 7 to 0.

10. REZONE / RZ 21-23: Lorraine and Doug Smith; Fisk Land Surveying - Agent. To rezone 19.92 acres from Agriculture District to Rural Residential District in accordance with Sections 205, 207, and 508 of the Pennington County Zoning Ordinance.

E1/2S3/4NE1/4SW1/4; E1/2SE1/4SW1/4 Less That PT Lying S of Highway, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 19.92 acres from Agriculture District to Rural Residential District.

Staff recommended approval of Rezone / RZ 21-23.

Discussion followed.

Moved by Coleman and seconded by McGregor to approve of Rezone / RZ 21-23.

All voting aye, the Motion carried 6 to 0.

11. LAYOUT PLAN / LPL 21-42: Randall Peregrine. To subdivide and create Lots D1, D2, and D3 of Johnson Estates Subdivision of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot D, Johnson Estates Subdivision, Section 9, T1N, R6E, BHM, Pennington County.

PROPOSED LEGAL: Lots D1, D2, and D3 of Johnson Estates Subdivision, Section 9, T1N, R6E, BHM, Pennington County.

Sack reviewed the Staff Report indicating the applicant has applied for a Layout Plan to subdivide and create Lots D1, D2, and D3 of Johnson Estates Subdivision.

Staff recommended approval of Layout Plat / LPL 21-42 with the following nine (9) conditions:

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

2. That all setbacks from lot lines be maintained for the existing structures and utilities as a result of the proposed lot split;
3. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
4. That at the time of the Preliminary Plat application submittal, the proposed Plat be prepared by a Registered Land Surveyor;
5. That prior to recording the Final Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Lots D1, D2, and D3, to be reviewed by the Pennington Environmental Planner or obtain an approved Subdivision Regulations Variance be obtained waiving this requirement;
6. That prior to recording the Final Plat, the applicant improves and dedicates the Section Line Right-of-Way or obtains a Subdivision Regulation Variance to waive the requirement;
7. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;
8. That at the time of Preliminary Plat submittal, 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; and,
9. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by Johnson and seconded by McGregor to approve of Layout Plat / LPL 21-42 with the following nine (9) conditions:

- 1. That the applicant ensures all natural drainage ways are maintained and are not blocked;**
- 2. That all setbacks from lot lines be maintained for the existing structures and utilities as a result of the proposed lot split;**
- 3. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;**
- 4. That at the time of the Preliminary Plat application submittal, the proposed Plat be prepared by a Registered Land Surveyor;**

5. **That prior to recording the Final Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Lots D1, D2, and D3, to be reviewed by the Pennington Environmental Planner or obtain an approved Subdivision Regulations Variance be obtained waiving this requirement;**
6. **That prior to recording the Final Plat, the applicant improves and dedicates the Section Line Right-of-Way or obtains a Subdivision Regulation Variance to waive the requirement;**
7. **That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;**
8. **That at the time of Preliminary Plat submittal, 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; and,**
9. **That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.**

All voting aye, the Motion carried 7 to 0.

12. COMPREHENSIVE PLAN AMENDMENT / CA 21-13: Keith Lau. To amend the Comprehensive Plan to change the Future Land Use from Rural Residential District to Low Density Residential District in accordance with Sections 207, 209, and 508 of the Pennington County Zoning Ordinance.

The subject property is located on the following metes and bounds description: A tract of land containing one acre, more or less, situated in Lot 5 of Lau Subdivision, located in the South Half of the Northwest Quarter (S½NW¼) and in the West Half of the Northeast Quarter (W½NE¼) of Section 9, Township 1 North, Range 6 East of the Black Hills Meridian, Pennington County, South Dakota, as shown on plat filed November 2, 2012, and recorded as Document No. A201217946, in the office of the Pennington County Register of Deeds; said one acre tract of land being more particularly described as follows, to-wit: BEGINNING at an iron rod with cap stamped "1019" at the Northwest corner of said Lot 5 being the Northwest corner of the herein described parcel; Thence, North 89°46'48" East along the North boundary line of Lot 5, a distance of 100.70 feet to a point from which an iron rod with cap stamped "4208" at an angle point in the North boundary line bears North 89°46'48" East a distance of 212.18 feet; Thence, South 04°25'24" East a distance of 430.41 feet to a point in the South boundary line of Lot 5 from which an iron rod at the Southeast corner of Lot 5 bears North 85°55'54" East a distance of 654.58 feet; Thence, South 85°55'54" West along the South boundary line of Lot 5, a distance of 100.43 feet to an iron rod with cap stamped "1019" at the Southwest corner of Lot 5 being the Southwest corner of the herein described parcel; Thence, North 04°25'24" West along the West boundary line of Lot 5, a distance of 437.17 feet to the

POINT OF BEGINNING and containing 1.00 acre, more or less, of land; Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied to amend the Comprehensive Plan to change the Future Land Use from Rural Residential District.

Staff recommended approval of Comprehensive Plan Amendment / CA 21-13.

Discussion followed.

Moved by Johnson to deny. Motion died for lack of a second.

Moved by Coleman and seconded by McGregor to approve of Comprehensive Plan Amendment / CA 21-13.

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

13. CONDITIONAL USE PERMIT / CU 21-38: David and Nancy Miller. To allow for food trucks to be parked and operated on the subject property in a Highway Service District in accordance with Sections 212 and 510 of the Pennington County Zoning Ordinance.

Lots 10-16, Block 2, Old Town Subdivision, Section 26, T1N, R7E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow for food trucks to be parked and operated on the subject property in a Highway Service District.

Staff recommended approval of Conditional Use Permit / CU 21-38 with the following seventeen (17) 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 only 8 food trucks are allowed to be on the subject property at a time;
3. That any sign complies with §312 of the Pennington County Zoning Ordinance;
4. That all picnic tables, food trucks, parking, and port-a-potties be a minimum 10 feet from all property lines;
5. That each food truck maintains a 10-foot setback to one another;
6. That the 4 port-a-potties be located a minimum 50 feet from all picnic tables and food trucks;

7. That there be a minimum of 16 parking spaces measuring not less than 9 feet x 18 feet or 162 square feet;
8. That each individual parking space be clearly designated as one parking stall and meet the requirements of §311 of the Pennington County Zoning Ordinance;
9. That no off-premise parking be allowed;
10. That the applicant works with the South Dakota Department of Transportation on a traffic impact study prior to operation of the food truck court;
11. That the applicant acquires all applicable State, Federal, and Local Licenses;
12. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the food truck court so as to not constitute a nuisance to the general public;
13. That operation only be Friday, Saturday, and Sunday;
14. That the hours of operation be from 5p.m to 8p.m;
15. The food truck park operates from April 1st to October 31st;
16. That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property; and,
17. That this Conditional Use Permit be reviewed in 1 year, 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.

Sack further stated that Staff would like to add another condition to state: “That the maximum number of patrons allowed to utilize the food trucks at any given time be 50.”

Discussion followed.

Commissioner Runde left the meeting at 10:20 a.m.

Commissioner Runde returned to the meeting at 10:23 a.m.

Moved by Hadcock and seconded by Coleman to continue Conditional Use Permit / CU 21-38 to the July 26, 2021, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

14. REZONE / RZ 21-20: Pink Cabin, LLC; KTM Design Solutions - Agent. To rezone 5.09 acres from Agriculture District to Suburban Residential District in accordance with Sections 205, 209, and 508 of the Pennington County Zoning Ordinance.

Lot 1 of Buchholz Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 5.09 acres from Agriculture District to Suburban Residential District.

Staff recommended approval of Rezone / RZ 21-20.

Discussion followed.

Moved by McGregor and seconded by Coleman to approve of Rezone / RZ 21-20.

All voting aye, the Motion carried 7 to 0.

15. REZONE / RZ 21-21: Pink Cabin, LLC; KTM Design Solutions - Agent. To rezone 6.01 acres from Agriculture District to Suburban Residential District in accordance with Sections 205, 209, and 508 of the Pennington County Zoning Ordinance.

Lot C of NE1/4SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 6.01 acres from Agriculture District to Suburban Residential District.

Staff recommended approval of Rezone / RZ 21-21.

Discussion followed.

Moved by Hadcock and seconded by McGregor to approve of Rezone / RZ 21-21.

All voting aye, the Motion carried 7 to 0.

16. REZONE / RZ 21-22: Pink Cabin, LLC; KTM Design Solutions - Agent. To rezone 4.91 acres from Agriculture District to Suburban Residential District in accordance with Sections 205, 209, and 508 of the Pennington County Zoning Ordinance.

Lot B of SE1/4NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 4.91 acres from Agriculture District to Suburban Residential District.

Staff recommended approval of Rezone / RZ 21-21.

Discussion followed.

Moved by Hadcock and seconded by Runde to approve of Rezone / RZ 21-22.

All voting aye, the Motion carried 7 to 0.

17. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 21-11: Robert and Heather Greenspan. To amend the existing Planned Unit Development to allow a pole

barn as a primary structure on the subject property in accordance with Section 216 of the Pennington County Zoning Ordinance.

Lot 10, Merchen Estates, Section 21, T2N, R6E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied to amend the existing Planned Unit Development to allow a pole barn as a primary structure on the subject property.

Staff recommended approval of Planned Unit Development / PU 21-11 with the following eight (8) conditions:

1. That the Planned Unit Development not exceed twelve residential lots with a minimum lot size of four acres;
2. That each proposed lot have areas for a single-family residence, accessory structures, home offices and two drainfield sites;
3. That Lot 10 contains a pole barn as a primary structure;
4. That the required setbacks for all structures be a minimum of 25 feet from all property lines;
5. That the required setbacks for all structures be a minimum of 58 feet from all Section Line Right-of-Ways;
6. That the Road District be continually active to maintain the roads;
7. That the Homeowner's Association or Water Association maintains the water reservoir; and,
8. That this Planned Unit Development be reviewed on a complaint basis only.

Discussion followed.

Moved by Hadcock and seconded by Runde to approve of approval of Planned Unit Development / PU 21-11 with the following eight (8) conditions:

- 1. That the Planned Unit Development not exceed twelve residential lots with a minimum lot size of four acres;**
- 2. That each proposed lot have areas for a single-family residence, accessory structures, home offices and two drainfield sites;**
- 3. That Lot 10 contains a pole barn as a primary structure;**
- 4. That the required setbacks for all structures be a minimum of 25 feet from all property lines;**

5. **That the required setbacks for all structures be a minimum of 58 feet from all Section Line Right-of-Ways;**
6. **That the Road District be continually active to maintain the roads;**
7. **That the Homeowner’s Association or Water Association maintains the water reservoir; and,**
8. **That this Planned Unit Development be reviewed on a complaint basis only.**

All voting aye, the Motion carried 7 to 0.

18. TELECOMMUNICATIONS FACILITY PERMIT / TC 21-03: Elevated Towers; Jonah Snyder / Ben Snyder. To allow for a 300-foot self-supporting telecommunications tower and equipment shelter on the subject property in a Highway Service District in accordance with Sections 212 and 316 of the Pennington County Zoning Ordinance.

Tract 2, Annie Lode MS 1721, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

(Continued from the June 28, 2021, Planning Commission meeting.)

Molitor reviewed that the applicant has applied to allow for a 300-foot self-supporting telecommunications tower and equipment shelter on the subject property.

Staff recommended approval of Telecommunications Facilities Permit / TC 21-03 with the following ten (10) conditions:

1. That a Building Permit(s) is obtained prior to the installation of the proposed Telecommunications Facility;
2. That the Telecommunications Facility be constructed in accordance with Telecommunication Industry Standard ANSI/TIA-22-G “Structural Standard for Antenna Supporting Structures and Antennas”;
3. That the Telecommunications Facility maintains compliance with current Federal Aviation Administration and Federal Communications Commission Rules and Regulations;
4. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the tower and equipment building;
5. That at the time a Building Permit is submitted, an address be assigned to the Tower and that the address be properly posted in accordance with Ordinance #20;
6. That a minimum of two (2) off-street parking spaces be provided. Each space shall measure at least nine (9) feet by eighteen (18) feet, graveled and be maintained in a dust free manner;

7. That an approved Approach Permit 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 TC 21-03;
8. That prior to submittal of a Building Permit, an easement be obtained from the property owner to the west to allow a buffer area for the telecommunications tower;
9. That proper setbacks from the property lines and all utilities be maintained for all structures located on the property in accordance with Section 316, or a Variance be obtained; and,
10. That this Telecommunication Facilities Permit be reviewed in two (2) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Hadcock and seconded by Johnson to continue Telecommunications Facility Permit / TC 21-03 to the July 26, 2021, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

19. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the June 14th and June 28th meetings with the exception of Rezone 21-16: Keith Lau, which was continued to the July 20th Board meeting in order for the applicant's Comprehensive Plan to be heard.

20. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

21. ITEMS FROM THE STAFF

A. Building Permit Report. Molitor reviewed the Building Permit Report for June 2021.

B. Planning Commissioner Sandy Brockhouse. The Planning Commission and staff welcomed Sandy Brockhouse to the Planning Commission.

22. ITEMS FROM THE MEMBERSHIP

Commissioner Johnson asked to have a color-coded guide for the Future Land Use of the Comprehensive Plan.

23. ADJOURNMENT

Moved by Hadcock and seconded by McGregor to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at 10:55 a.m.

Rich Marsh, Chairperson