AGENDA
PENNINGTON COUNTY PLANNING COMMISSION
July 13, 2020 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building

Recommendations of the Planning Commission on certain items from this agenda will be considered by the Board of Commissioners at their regular meeting on July 21, 2020, at 10:30 a.m. The Planning Commission utilizes Speaker Request Forms, which are available in the Commission Chambers during the meeting.

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

ROLL CALL

1. ELECTION OF OFFICERS

2. APPROVAL OF THE JUNE 22, 2020, MINUTES

3. APPROVAL OF THE AGENDA

CONSENT AGENDA

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

4. CONDITIONAL USE PERMIT REVIEW / CU 99-52: Pluemjit Aaron (Little). To review a single-wide mobile home as a caretaker’s residence for an existing business in a General Commercial District in accordance with Sections 204-I-7 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Lot J, Weaver Townsite, Section 8, T2N, R9E, BHM, Pennington County, South Dakota.

To recommend to end Conditional Use Permit / CU 99-52 as it is no longer needed.

5. CONDITIONAL USE PERMIT REVIEW / CU 17-41: Pluemjit Aaron (Little). To review an existing structure (restaurant) to be used as a single-family residence on the subject property in a General Commercial District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Lot J, Weaver Townsite, Section 8, T2N, R9E, BHM, Pennington County, South Dakota.

To recommend to end Conditional Use Permit / CU 17-41 as it is no longer needed.
6. **CONDITIONAL USE PERMIT REVIEW / CU 05-31**: Dale and Kathy Wormstadt. To review a second residence on the property to be used as a caretaker's residence in a General Agriculture District in accordance with Sections 204 and 205 of the Pennington County Zoning Ordinance.

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

To recommend to end Conditional Use Permit / CU 05-31 as it is no longer needed.

7. **CONDITIONAL USE PERMIT REVIEW / CU 18-09**: Scott and Christine Grierson. To review a Recreational Vehicle to be used as temporary living quarters on the subject property (Lot 6) while building a single-family residence on Lot 5 in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 6, Block 3, Pactola Estates, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

(Continued from the May 26, 2020, Planning Commission meeting.)

To recommend approval of the extension of Conditional Use Permit / CU 18-09 with conditions.

8. **CONDITIONAL USE PERMIT REVIEW / CU 18-37**: Glenn and Debbie Lepp. To review a store and fiber mill on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

PT S1/2E1/4 N of Highway, Section 35, T1N, R9E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 18-37 to the July 27, 2020, Planning Commission meeting.

9. **CONDITIONAL USE PERMIT REVIEW / CU 19-19**: Dale and Sarah Gadbois. To review a secondary structure prior to a primary residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

SE1/4SE1/4, Section 8, T2S, R7E, BHM, Pennington County, South Dakota.

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

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

(Continued from the June 22, 2020, Planning Commission meeting.)

To recommend approval of the extension of Conditional Use Permit / CU 19-20 with conditions.

11. **CONDITIONAL USE PERMIT / CU 20-12**: Michael and Marella Anderson. To allow an existing living quarters to be used as a Guest House in a Low Density Residential District in accordance with Sections 207, 318, and 510 of the Pennington County Zoning Ordinance.

Lot 9, Stratmeyer Addition, Section 13, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 20-12 with conditions.

12. **CONDITIONAL USE PERMIT / CU 20-13**: Richard Redetzke. To allow a single-wide mobile home to be used as a permanent, single-family residence on the subject property in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Block 1, Sharp Subdivision, Section 3, T1N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 20-13 with conditions.

13. **CONDITIONAL USE PERMIT / CU 20-14**: John and Emily Rowe. To allow an existing single-family residence to be used as a Bed and Breakfast in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

PT Ray Smith Placer MS #995 S of Highway, Ray Smith Placer MS 995, Section 15, T1S, R4E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 20-14 with conditions.

14. **CONDITIONAL USE PERMIT / CU 20-15**: Greg Helgeson. To allow a single-wide mobile home to be used as a single-family residence on the subject property in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

W1/2NE1/4NE1/4 (aka W1/2 GL 1), Section 5, T2S, R7E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 20-15 with conditions.
15. **MINOR PLAT / MPL 20-13:** Dick Kompus. To combine lots to create Lot 1R of Chase Elkhorn Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 2 of Lot B and C and Lot 1, Chase Elkhorn Subdivision, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1R, Chase Elkhorn Subdivision, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Minor Plat / MPL 20-13 with conditions.

**END OF CONSENT AGENDA**

16. **REZONE / RZ 20-03:** Richard Sterkel. To rezone 10.01 acres from Limited Agriculture District to Suburban Residential District in accordance with Sections 206, 208, and 508 of the Pennington County Zoning Ordinance.

Lot G, Clemmons Addition, Section 23, T1N, R8E, BHM, Pennington County, South Dakota.

17. **LAYOUT PLAN / LPL 20-16:** James and Marilyn Dean. To reconfigure lots lines to create Lot A, B, and C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All of Eddy #1 Lode MS 523; Tract 4 and Tract 5 of Storm Hill Subdivision, all located in Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A, B, and C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision, Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

18. **REZONE / RZ 20-04 AND COMPREHENSIVE PLAN AMENDMENT / CA 20-03:** James and Marilyn Dean. To rezone 10.00 acres from General Agriculture District to Low Density Residential District and to change the Future Land Use from Planned Unit Development Sensitive to Low Density Residential District in accordance with Sections 205, 207, 213, and 508 of the Pennington County Zoning Ordinance.

All of Eddy #1 Lode MS 523, Section 28, T1S, R5E, BHM, Pennington County, South Dakota.
19. **LAYOUT PLAN / LPL 20-14**: Grandview Land, LLC (Dan Lewis); Gordon Howie – Agent. To create Lot 2 of Block 2 and Lot 1 and Lot 2 of Block 3 and Lot 7 through Lot 10 of Block 3 of Cedar Gulch No. 2 Subdivision and dedicated Right-of-Way in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

**EXISTING LEGAL**: Balance of Tract A, Cedar Gulch #2 Subdivision, Section 32, T1N, R9E, BHM, Pennington County, South Dakota.

**PROPOSED LEGAL**: Lot 2 of Block 2 and Lot 1 and Lot 2 of Block 3 and Lot 7 through Lot 10 of Block 3 of Cedar Gulch No. 2 Subdivision and dedicated Right-of-Way, Cedar Gulch #2 Subdivision, Section 32, T1N, R9E, BHM, Pennington County, South Dakota.

20. **LAYOUT PLAN / LPL 20-15**: K.W. Lindsay; Robert Livingston – Agent. To create Lots 1, 2, and 3 of Tract Lake Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

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

**PROPOSED LEGAL**: Lots 1, 2, and 3 of Tract Lake Subdivision, Section 32, T1N, R9E, BHM, Pennington County, South Dakota.

21. **ORDINANCE AMENDMENT / OA 20-03**: Pennington County. To amend Section 309-C-6 “Yard, Building Setback Exceptions” [to replace and supersede Section 309-C-6 “Yard, Building Setback Exceptions”] of the Pennington County Zoning Ordinance.

22. **ORDINANCE AMENDMENT / OA 20-04**: Pennington County. To amend Section 511 “Fees” [to replace and supersede Section 511 “Fees”] of the Pennington County Zoning Ordinance.

23. **COUNTY BOARD REPORT**

The Board of Commissioners concurred with the Planning Commission’s recommendations from the June 22, 2020, Planning Commission meeting.

24. **ITEMS FROM THE PUBLIC**

25. **ITEMS FROM THE STAFF**

A. Building Permit Report.

26. **ITEMS FROM THE MEMBERSHIP**

27. **ADJOURNMENT**

**ADA Compliance**: Pennington County fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Planning Department so that appropriate auxiliary aids and services are available.
DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
June 22, 2020 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building


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

ROLL CALL

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

2. APPROVAL OF THE AGENDA
Moved by Lasseter and seconded by Runde to approve the Agenda of the June 22, 2020, Planning Commission meeting. Roll Call: Marsh – aye, Coleman – aye; DiSanto – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

Moved by Rivers and seconded by Lasseter to approve the Consent Agenda of the June 22, 2020, Planning Commission meeting. Roll Call: Marsh – aye, Coleman – aye; DiSanto – aye; Lasseter – aye, Johnson – aye, Rivers – aye, and Runde - aye. Roll Call Vote: carried 7 to 0.

CONSENT AGENDA

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

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

Lot 1 of Lot D of Lot 1 of S1/2SE1/4, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.
To approve the extension of Conditional Use Permit / CU 17-29 with the following ten (10) conditions:

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

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

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

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

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

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

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

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

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

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

Vote: unanimous 7 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CU 18-08:** Stromer Properties, LLC; Brook Stromer. To review an illuminated, on-premise sign within 1,500 feet of a residential zoning district / dwelling unit in a General Commercial in accordance with Sections 209, 312, and 510 of the Pennington County Zoning Ordinance.
Lot A2; Bar P-S Subdivision, Section 20, T1N, R9E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 18-08 with the following eight (8) conditions:

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

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

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

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

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

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

7. That this Conditional Use Permit shall automatically expire if the use for which it was granted has not been established within one (1) year following the date of this extension; and,

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

Vote: unanimous 7 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 19-20**: Cody Rust Butler; Jeannie Marr – Agent. To review an existing residence to be used as a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.
Tract A of Lot 2 of SW1/4NW1/4, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

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

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

Vote: unanimous 7 to 0.

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

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

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

To approve the extension of Conditional Use Permit / CU 19-30 with the following ten (10) conditions:

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

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

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

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

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

6. That both the addresses assigned for the primary residence and the Guest House be posted so they are clearly visible from Deerfield Park Drive, in accordance with Pennington County Ordinance #20;
7. That the Guest House be continually utilized and maintained in accordance with all requirements of the PCZO Section 318;

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

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

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

Vote: unanimous 7 to 0.

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

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

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

To recommend approval of Minor Plat / MPL 20-10 with the following six (6) conditions.

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

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

3. That prior to filing the Plat with the Register of Deeds, the easement line running through Lot D1 has a bearing and distance or a distance along the north property line to the northeast property corner, per County Highway Department comments;
4. That prior to filing the Plat with the Register of Deeds, the Plat Heading be corrected to read Lot 21 of Morse Subdivision #4, per Register of Deeds comments;

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

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

Vote: unanimous 7 to 0.

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

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

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

To recommend approval of Minor Plat / MPL 20-11 with the following eight (8) conditions.

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

2. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;

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

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

5. That prior to the Plat being recorded with the Register of Deeds, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
6. That prior to the Plat being recorded with the Register of Deeds, the plat be updated per Register of Deeds comments;

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

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

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA

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

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

Proietti reviewed the Staff Report indicating the applicants have applied for a Vacation of Easement to vacate a portion of the eight (8) foot Minor Drainage and Utility Easement in the front yard in order to build a shop building on the subject property.

Staff recommended approval of Vacation of Easement / VE 20-01 with the following two (2) conditions:

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

2. That the vacation of the 8-foot utility and drainage easement in the front yard only be for the proposed shop. Any additional encroachments into the easement will require separate vacation of Easement approval(s).

Discussion followed.

Moved by DiSanto to continue Vacation of Easement / VE 20-01 in order to verify where the proposed structure will be placed in the easement. Commissioner DiSanto withdrew his Motion.
Discussion further followed.

Moved by Rivers and seconded by Lasseter to approve of Vacation of Easement / VE 20-01 with the following two (2) conditions:

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

2. That the vacation of the 8-foot utility and drainage easement in the front yard only be for the proposed shop. Any additional encroachments into the easement will require separate vacation of Easement approval(s).


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

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

Proietti reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow an existing residence to be used as a Vacation Home Rental in a Limited Agriculture District.

Staff recommended approval of Conditional Use Permit / CU 20-10 with the following seventeen (17) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);

2. That any website listing(s) for the Vacation Home Rental correctly state that no more than six (6) overnight occupants are allowed;

3. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

4. That prior to the operation of the Vacation Home Rental, the applicant provide pumping receipts and have a service contract put in place with a certified wastewater pumper;
5. That all necessary permits are obtained prior to any additions and/or alterations to the structure or upgrades/alterations to the on-site wastewater treatment system;

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

7. That the applicant continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;

8. That the applicant continually maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;

9. That a minimum of (2) off-street parking spaces be provided on-site, per PCZO Section 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

10. That an interior informational sign be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff’s Office respectively, during operation of the Vacation Home Rental;

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

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

13. That if the person designated as the Local Contact is ever changed from Jennifer Boerger, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

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

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

16. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,
17. That this Conditional Use Permit be reviewed in three (3) months, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by DiSanto and seconded by Lasseter to approve of Conditional Use Permit / CU 20-10 with the following seventeen (17) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);

2. That any website listing(s) for the Vacation Home Rental correctly state that no more than six (6) overnight occupants are allowed;

3. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

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

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

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

7. That the applicant continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;

8. That the applicant continually maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;

9. That a minimum of (2) off-street parking spaces be provided on-site, per PCZO Section 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
10. That an interior informational sign be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental;

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

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

13. That if the person designated as the Local Contact is ever changed from Jennifer Boerger, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

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

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

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

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


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

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

Theunissen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow an existing residence to be used as a Vacation Home Rental.
Staff recommended approval of Conditional Use Permit / CU 20-11 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);

2. That if an addition is constructed on the single-family residence and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

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

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

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

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

7. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO Section 310(A)(9)(g), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

8. That an interior informational sign be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff’s Office, during operation of the Vacation Home Rental;

9. That the lot address (22775 Sunnyside Gulch Road) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Sunnyside Gulch Road, in accordance with Pennington County Ordinance #20;

10. That the applicant ensures the Vacation Home Rental is continually operated in accordance with the requirements of PCZO Section 319(F) (Performance Standards) at all times;
11. That if the person designated as the Local Contact is ever changed from Aaron Olson, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

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

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

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

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

Discussion followed.

Moved by DiSanto and seconded by Lasseter to approve of Conditional Use Permit / CU 20-11 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);

2. That if an addition is constructed on the single-family residence and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

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

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

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

6. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency;
7. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO Section 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

8. That an interior informational sign be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff's Office, during operation of the Vacation Home Rental;

9. That the lot address (22775 Sunnyside Gulch Road) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Sunnyside Gulch Road, in accordance with Pennington County Ordinance #20;

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

11. That if the person designated as the Local Contact is ever changed from Aaron Olson, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

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

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

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

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

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

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

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

Molitor reviewed the Staff Report indicating the applicant has applied for a Layout Plat to create Lots A, B, C, and D of Buzmar Subdivision.

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

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

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

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

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

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

6. That at the time of Preliminary Plat submittal, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met;

7. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance;

8. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,
9. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by DiSanto and seconded by Runde to approve of Layout Plat / LPL 20-12 with the following nine (9) conditions:

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

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

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

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

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

6. That at the time of Preliminary Plat submittal, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met;

7. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance;

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

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

13. **COUNTY BOARD REPORT**
The Board of Commissioners concurred with the Planning Commission’s recommendations from the June 8, 2020, Planning Commission meeting.

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

15. **ITEMS FROM THE STAFF**
   
   A. Planning Commission Appointments. Molitor informed the Planning Commission that Kathy Johnson has been reappointed to the Planning Commission, along with the appointment of Charlie Johnson.

   B. Planning Commissioner Sonny Rivers. The Planning Commission, the Planning Director, and Board of Commissioner, Mark DiSanto, thanked Commissioner Sonny Rivers for his service on the Planning Commission.

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

17. **ADJOURNMENT**

   Moved by DiSanto and seconded by Rivers to adjourn.


   The meeting adjourned at 9:58 a.m.

Rich Marsh, Chairperson
STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT REVIEW / CU 99-52: To review a mobile home as a caretaker’s residence for an existing business in the General Commercial District in accordance with Section 204-I-7 and Section 510 of the Pennington County Zoning Ordinance.

APPLICANT: Pluemjit Aaron (Little)

MAILING ADDRESS: 370 225th Street, Box Elder, SD 57719

LEGAL DESCRIPTION: Lot 1 of Lot J, Weaver Townsite, Section 8, T2N, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: 370 225th Street, Box Elder, SD 57719

SIZE: 0.40 acres

EXISTING LAND USE: Residential

ZONING REFERENCE: Section 204-I-7 and Section 510

CURRENT ZONING: General Commercial District

SURROUNDING ZONING:

| North          | Limited Agriculture District |
| South         | City Limits of Box Elder    |
| East          | Limited Agriculture District |
| West          | General Agriculture District |

PHYSICAL CHARACTERISTICS: Flat

UTILITIES: Public

REPORT BY: Stephanie Jansen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending to end Conditional Use Permit / CU 99-52.

II. GENERAL DESCRIPTION
   A. November 16, 1999 – The Board of Commissioners approved Conditional Use Permit 99-52 with the following four (4) conditions:
      1. That the addition of accessory structures, (i.e., garages additions to the manufactured home, etc.) may be allowed through the issuance of a Building Permit which will include necessary site plans to be reviewed and approved by the Planning Director;
      2. That the 10 foot by 50 foot mobile home to be used as the caretaker’s residence for the Bon Noy Restaurant and should the business activity on the property cease, the mobile home shall be removed;
      3. That prior to County Board approval of Conditional Use Permit 99-52, the applicant shall skirt the mobile home within six (6) months; and,
      4. That this Conditional Use Permit shall be reviewed in two years.
   B. November 20, 2001 – The Board of Commissioners extended Conditional Use Permit #99-52 with the following four (4) conditions:
      1. That the addition of accessory structures, (i.e., garages additions to the manufactured home, etc.) may be allowed through the issuance of a Building Permit which will include necessary site plans to be reviewed and approved by the Planning Director;
      2. That the 10 foot by 50 foot mobile home to be used as the caretaker’s residence for the Bahn Noy and should the business activity on the property cease, the mobile home shall be removed;
      3. That the applicant shall maintain the skirting around the mobile home; and,
      4. That this Conditional Use Permit shall be reviewed on a complaint basis or in two years.
   C. November 10, 2003 – The Planning Commission extended Conditional Use Permit / CU 99-52 with the following four (4) conditions:
      1. That the addition of accessory structures, (i.e., garages additions to the manufactured home, etc.) may be allowed through the issuance of a Building Permit which will include necessary site plans to be reviewed and approved by the Planning Director;
      2. That the 10 foot by 50 foot mobile home to be used as the caretaker’s residence for the Bahn Noy and should the business activity on the property cease, the mobile home shall be removed;
      3. That the applicant shall maintain the skirting around the mobile home; and,
      4. That this Conditional Use Permit shall be reviewed on a complaint basis.
III. EXISTING CONDITIONS
   A. Zoned General Commercial District.
   B. 0.4 acre.
   C. Access off of 225th Street via an existing approach.
   D. Connected to Box Elder City sewer and water.
   E. Lot is vacant:
      2. Removal Permit – COBP20-0142 – 470 sqft. SWMH.
   F. Located within Special Flood Hazard Area (100-year and 500-year floodplains).
   G. Variance / VA 92-49
      1. September 1, 1992 – County Board approved VA 92-49 to reduce the required 25-foot front setback from 25-feet to 11-feet.
   H. Rezone / RZ 92-32
      1. September 1, 1992 – County Board approved RZ 92-32 to rezone the subject property from Limited Agriculture District to General Commercial District.

IV. ANALYSIS
   A. June 26, 2020 – Staff performed a site visit to the subject property and found:
      1. That the property had been sold.
      2. That the single-wide mobile home had been removed and the property is vacant.

RECOMMENDATION: Staff recommends to end Conditional Use Permit / CU 99-52, as it is no longer needed.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: 

CONDITIONAL USE PERMIT REVIEW / CU 17-41: To review an existing structure to be used as a single-family residence on the subject property in a General Commercial District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

APPLICANT/OWNER: Pluemjit Aaron (Little)

APPLICANT ADDRESS: 370 225th Street, Box Elder, SD 57719

LEGAL DESCRIPTION: Lot 1 of Lot J, Weaver Townsite, Section 8, T2N, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: 370 225th Street; at the corner of 225th Street and Hub Road in Box Elder.

TAX ID: 44716

SIZE: 0.40 acre

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 209 and 510

CURRENT ZONING: General Commercial District

SURROUNDING ZONING:

North Limited Agriculture District
South City Limits of Box Elder
East Limited Agriculture District
West General Commercial District

PHYSICAL CHARACTERISTICS: Flat

UTILITIES: Public

REPORT BY: Stephanie Jansen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending to end Conditional Use Permit / CU 17-41.

II. GENERAL DESCRIPTION
   A. December 18, 2017 – Planning Commission approved Conditional Use Permit / CU 17-41 with the following eight (8) conditions:
      1. That an approved Floodplain Development Permit be obtained prior to any disturbance within the regulated Special Flood Hazard Area on the subject property;
      2. That the existing single-wide mobile home be allowed to remain on the subject property, provided that it is strictly utilized for storage purposes only and is not utilized as living quarters. The existing single-wide mobile home shall not be replaced or utilized as living quarters, unless a separate Conditional Use Permit is obtained for such use;
      3. 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;
      4. That the minimum setback requirements of a General Commercial District be continually maintained on the property, or the appropriate Variance(s) be obtained;
      5. That the subject property remains free of debris and junk vehicles, in accordance with Pennington County’s Ordinance #106;
      6. That the assigned address (370 225th Street) be posted on the residence and so that it is visible from 225th Street, in accordance to Pennington County’s Ordinance #20;
      7. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Conditional Use Permit / CU 17-41, which is available at the Planning Office; and,
      8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

   B. December 3, 2018 – Planning Commission approved Conditional Use Permit / CU 17-41 with the following eight (8) conditions:
      1. That an approved Floodplain Development Permit be obtained prior to any disturbance within the regulated Special Flood Hazard Area on the subject property;
      2. That the existing single-wide mobile home be allowed to remain on the subject property, provided that it is strictly utilized for storage purposes only and is not utilized as living quarters. The existing single-wide mobile home shall not be replaced or utilized as living quarters, unless a separate Conditional Use Permit is obtained for such use;
Agenda Item #5
Pluemjit Aaron (Little)
July 13, 2020

3. 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;
4. That the minimum setback requirements of a General Commercial District be continually maintained on the property, or the appropriate Variance(s) be obtained;
5. That the subject property remains free of debris and junk vehicles, in accordance with Pennington County’s Ordinance #106;
6. That the assigned address (370 225th Street) be posted on the residence and so that it is visible from 225th Street, in accordance to Pennington County’s Ordinance #20;
7. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Conditional Use Permit / CU 17-41, which is available at the Planning Office; and,
8. That this Conditional Use 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.

II. EXISTING CONDITIONS
   A. Zoned General Commercial District.
   B. 0.4 acre.
   C. Access off of 225th Street via an existing approach.
   D. Connected to Box Elder City sewer and water.
   E. Lot is vacant:
      2. Removal Permit – COBP20-0142 - 470 sqft. SWMH.
   F. Located within Special Flood Hazard Area (100-year and 500-year floodplains).
Agenda Item #5
Pluemjit Aaron (Little)
July 13, 2020

G. Variance / VA 92-49
   1. September 1, 1992 – County Board approved VA 92-49 to reduce the required 25-foot front setback from 25-feet to 11-feet.

H. Rezone / RZ 92-32
   1. September 1, 1992 – County Board approved RZ 92-32 to rezone the subject property from Limited Agriculture District to General Commercial District.

III. ANALYSIS
   A. June 26, 2020 – Staff performed a site visit to the subject property and found:
      1. That the property has been sold.
      2. That the single-family residence has been removed and the property is vacant.

RECOMMENDATION: Staff recommends to end Conditional Use Permit / CU 18-03, as it is no longer needed.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT REVIEW / CU 05-31: To review a second residence on the property to be used as a caretaker’s residence in a General Agriculture District in accordance with Sections 204 and 205 of the Pennington County Zoning Ordinance.

APPLICANT: Dale and Kathy Wormstadt

APPLICANT ADDRESS: 12777 Black Forest Rd, Rapid City, SD 57702

NEW OWNER: Arch Duran

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

SITE LOCATION: 12777 Black Forest Road, west of the intersection of Custer Gulch Road and Highway 385.

SIZE: 2.05 Acres

TAX ID: 10595

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 204 and 205

CURRENT ZONING: General Agriculture District

SURROUNDING ZONING:

North General Agriculture District
South Suburban Residential District
East General Agriculture District
West Suburban Residential District

PHYSICAL CHARACTERISTICS: Forested

UTILITIES: Private
I. PROPOSED RECOMMENDATION  
   A. Staff will be recommending to end Conditional Use Permit / CU 05-31, as it is no longer needed.

II. GENERAL DESCRIPTION  
   A. August 22, 2005 – Planning Commission approved Conditional Use Permit / CU 05-31 with the following conditions:
      1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;  
      2. That the cabin be removed from the property when care is no longer needed or subdivide the property into two (2) lots to allow for both homes. The applicant could also remove the range once care is no longer needed, and the cabin would be considered a studio that cannot be rented as a residence;  
      3. That the caretaker’s residence utilizes the existing primary approach for the property;  
      4. That each residence has a separate address and that the addresses are clearly displayed;  
      5. That the on-site wastewater disposal system for the caretaker’s residence meet all state requirements and be inspected by the Pennington County Environmental Planner; and,  
      6. That this Conditional Use Permit be reviewed in four (4) years or on a complaint basis.

B. August 27, 2007 – Planning Commission approved the extension of Conditional Use Permit / CU 05-31 with the same conditions.

C. October 5, 2011 - Planning Commission approved the extension of Conditional Use Permit / CU 05-31 with five (5) conditions.
      1. Originally approved Condition #5 was removed.

D. August 29, 2014 – A Warranty Deed (14-2881) was filed indicating a new property owner, ARE Property Management LLC (Arch Duran).

III. EXISTING CONDITIONS  
   A. General Agriculture District, minimum three (40) acre lot size.  
      1. Legal non-conforming lot size.

   B. 2.05 acres.

   C. Access off of Black Forest Road.

   D. No Special Flood Hazard Area on the property.

   E. Single-family residence – Built in 1900, per Department of Equalization records.
      1. County Onsite Wastewater Treatment System Operating Permit – COOP17-0499.
      2. Cabin, Carport & Deck additions – County Building Permit (COBP) 2004COBP0152.
F. Single-family residence – Built in 1962, per Department of Equalization records.
   5. County Onsite Wastewater Treatment System Operating Permit – COOP17-0498.

G. Shed – 1999COBP0291.

H. 12’ x 16’ tool shed – Built in 1990, per Department of Equalization records.

IV. ANALYSIS

A. August 29, 2014 – A Warranty Deed (14-2881) was filed indicating a new property owner, ARE Property Management LLC (Arch Duran).

B. August 14, 2017 – Mr. Duran applied for Conditional Use Permit / CU 17-29 to allow a recreational vehicle to be used for no more than 180 days of the year. Through the application process, Staff verified that the caretaker’s residence was converted to an allowed studio, with living quarters having been removed.

C. July 1, 2020 – Staff has verified that Conditional Use Permit / CU 05-31 is no longer required, as the applicant no longer owns the property and care is no longer being provided.

RECOMMENDATION: Staff recommends ending Conditional Use Permit / CU 05-31, as the established use is no longer valid or required.
GENERAL INFORMATION:

REQUEST:

CONDITIONAL USE PERMIT REVIEW / CU 18-09: To review a Recreational Vehicle to be used as temporary living quarters on the subject property (Lot 6) while building a single-family residence on Lot 5 in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

APPLICANT:

Scott and Christine Grierson

APPLICANT ADDRESS:

270 Murphy Creek Lane, Fayetteville, GA 30215

LEGAL DESCRIPTION:

Lot 6, Block 3, Pactola Estates, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

SITE LOCATION:

Jax Court; near the corner of Pactola Drive and Jax Court.

SIZE:

1.01 acres

TAX ID:

7504

EXISTING LAND USE:

RV/Carport

ZONING REFERENCE:

Section 206 and 510

CURRENT ZONING:

Limited Agriculture District

SURROUNDING ZONING:

<table>
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<th>General Agriculture District</th>
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<td>East</td>
<td>Limited Agriculture District</td>
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<td>West</td>
<td>General Agriculture District</td>
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PHYSICAL CHARACTERISTICS: Forested

UTILITIES:

None

REPORT BY:

Kristina Proietti
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending to approve the extension of Conditional Use Permit / CU 18-09 with Conditions.

II. GENERAL DESCRIPTION
   A. April 27, 2018 – The applicant, Scott and Christine Grierson, applied for Conditional Use Permit / CU 18-09.
   B. May 29, 2018- The Planning Commission approved Conditional Use Permit / CU 18-09 with the following twelve (12) conditions:
      1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property (Lot 6, Block 3) during construction of the single-family residence (Lot 5, Block 3);
      2. That a Building Permit application for the proposed single-family residence on Lot 5, Block 3 be submitted within six (6) months of approval of Conditional Use Permit / CU 16-27;
      3. That the address assigned for the property be clearly posted on the Recreational Vehicle (RV) while it is being utilized as living quarters, in accordance with Pennington County’s Ordinance #20;
      4. That the applicant obtain an approved On-Site Wastewater Treatment System Construction Permit for the proposed on-site wastewater treatment system prior to placement of the RV on the subject property;
      5. That the RV being used as a temporary residence be hooked into an approved On-Site Wastewater Treatment System until the single-family residence is habitable;
      6. That the minimum setback requirements of a Limited Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;
      7. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;
      8. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
      9. That upon completion of the single-family residence on Lot 5, Block 3, the RV on Lot 6, Block 3 will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property;
     10. That the applicant notify the Planning Department when the new residence is habitable, so that this Conditional Use Permit may be ended;
     11. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Conditional Use Permit / CU 18-09, which is available at the Planning Office; and,
12. That this Conditional Use Permit be reviewed in six (6) months, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

C. May 28, 2019- The Planning Commission approved the extension of Conditional Use Permit / CU 18-09 with the following ten (10) conditions:
1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property (Lot 6, Block 3) during construction of the single-family residence (Lot 5, Block 3);
2. That the address assigned for the property be clearly posted on the Recreational Vehicle (RV) while it is being utilized as living quarters, in accordance with Pennington County’s Ordinance #20;
3. That the applicant obtain an approved On-Site Wastewater Treatment System Construction Permit for the proposed on-site wastewater treatment system prior to placement of the RV, as living quarters, on the subject property;
4. That the RV being used as a temporary residence be connected to an approved On-Site Wastewater Treatment System until the single-family residence is habitable;
5. That the minimum setback requirements of a Limited Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;
6. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;
7. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
8. That upon completion of the single-family residence on Lot 5, Block 3, the RV on Lot 6, Block 3 will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property;
9. That the applicant notify the Planning Department when the new residence is habitable, so that this Conditional Use Permit may be ended; and,
10. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
III. EXISTING CONDITIONS
   A. Lot 6, Block 3 of Pactola Estates (RV location).
      1. Zoned Limited Agriculture District, minimum ten (10) acre lot size.
      2. 1.01 acres.
         b. Lot size is legal, non-conforming.
      3. Access off of Pactola Drive.
         a. Located within the Pactola Estates Road District.
      4. 16’ x 12’ deck (COBP18-0708).
      5. 40’ x 16’ carport (COBP18-0477).
      6. No Special Flood Hazard Area on the subject property.
   B. Lot 5, Block 3 of Pactola Estates (proposed single-family residence location).
      1. Zoned Limited Agriculture District, minimum ten (10) acre lot size.
      2. 1.06 acres.
         b. Lot size is legal, non-conforming.
      3. Access off of Pactola Drive.
         a. Located within the Pactola Estates Road District.
      4. Garage with living space, which is in the process of being built (COBP19-0268).
      5. 28’ x 14’ temporary carport (COBP18-0478).
      6. No Special Flood Hazard Area on the subject property.

IV. ANALYSIS
   A. May 14, 2020 – Staff performed a site visit to the subject property and found that the applicants are in the process of constructing a single-family residence (SFR) on Lot 5, Block 3 of Pactola Estates and are living in a recreational vehicle (RV) on Lot 6, Block 3 of Pactola Estates during construction of the garage with living space.
      1. Mr. Grierson was informed that Condition #4 was not being met and that an Onsite Wastewater Treatment System Construction (OSWTS) Permit was a Condition of Approval to allow for the RV to be placed on the subject property. Mr. Grierson informed Staff that they have been using a portable holding tank to contain the waste and that they haul the waste to their parent’s house to dispose of in their OSWTS.
         a. The applicants submitted an OSWTS Construction Permit Application for Lot 5, Block 3 of Pactola Estates (the proposed single-family residence location), after the RV had been utilized as living quarters.
         b. May 22, 2020, the applicant’s septic system was inspected and approved to allow them to hook their RV into the new septic system.
2. Staff also informed the applicant that Condition #2 was not being met as there is no address posted on the RV.
   a. The address has since been posted on the RV.
   B. Staff recommends to remove Condition #3 and Condition #4 from the previous Conditions of Approval as they have been met.

May 14, 2020, site photo of subject property.

RECOMMENDATION: Staff will be recommending to approve the extension of Conditional Use Permit / CU 18-09 with the following Conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property (Lot 6, Block 3) during construction of the single-family residence (Lot 5, Block 3);

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

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

4. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;
5. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

6. That upon completion of the single-family residence on Lot 5, Block 3, the RV on Lot 6, Block 3 will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property;

7. That the applicant notify the Planning Department when the new residence is habitable, so that this Conditional Use Permit may be ended; and,

8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
On May 22, 2020 the applicant at 23117 Pactola Dr. had their septic system inspected and approved. The applicant was also hooking their RV into the new septic system.

T.J. Doreff
Pennington County Administration Building
Planning and Zoning Department
130 Kansas City Street, Suite 200
Rapid City, SD 57701
Phone: 605-394-2186 ext. 1403
STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT REVIEW/ CU 18-37: To review a store and fiber mill on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

APPLICANT/AGENT: Glenn and Debbie Lepp

APPLICANT ADDRESS: P.O. Box 64, Caputa, SD 57725

SITE LOCATION: 15268 E. Highway 44; east of the intersection of Antelope Creek Road and Caputa Loop.

SIZE: 6.61 acres

TAX ID: 11853

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 205 and 510

CURRENT ZONING: General Agriculture District

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

PHYSICAL CHARACTERISTICS: Flat

UTILITIES: Private

REPORT BY: Brittney Molitor

I. PROPOSED RECOMMENDATION
A. Staff will be recommending to continue Conditional Use Permit / CU 18-37 to the July 27, 2020, Planning Commission meeting.
II. GENERAL DESCRIPTION
   A. The applicants, Glenn and Debbie Lepp, requested a Conditional Use Permit to allow for an Alpaca Guest Ranch, shop, fiber mill, and RV Campground.
   B. The applicant’s request was considered an Agritourism Operation for purposes of operation.
      1. Per the United States Department of Agriculture, Agritourism is describes as, "[A] way to add value to enterprises, and increasingly the public is visiting these agricultural, horticultural, or similar enterprises to learn more about them, to take part in farming activities, or just to enjoy a day out."
   C. Due to the cost involved to meet the requirements of the requested Conditional Use, the applicant chose to downgrade from the original request and pursued only the approval of the Alpaca Store and fiber mill.
   D. IMAGE 1 – Per the applicant, this is the interior make-up of the large structure pictured below, with the proposed location of the Alpaca Store.
III. EXISTING CONDITIONS
   A. 6.61 acres.
   B. General Agriculture District – Current Zoning.
   C. Single access off of Highway 44.
   D. Structures on the subject property:
      1. County Building Permit / COBP16-0368 for removal of Single-family residence (SFR) with attached garage.
         a. SFR was destroyed by fire.
      2. County Building Permit / COBP17-0008 for SFR with attached garage and storage.
      3. Two 8’ x 7’ loafing sheds (movable).
         a. Building Permits not needed.
         b. Floodplain Development Permits needed only if structures are not moved every 180-days.
      4. 5’ x 7’ chicken coop (movable).
         a. Building Permit not needed.
         b. Floodplain Development Permits needed only if structure is not moved every 180-days.
      5. 20’ x 12’ Loafing shed (movable).
         a. Was built in or around 2000 without a Building Permit.
            i. A Building Permit may be needed.
         b. Floodplain Development Permit needed only if structure is not moved every 180-days.
      6. 24’ x 12’ Loafing shed (movable).
         a. Was built in or around 2000 without a Building Permit.
            i. A Building Permit may be needed.
         b. Appears to be encroaching within the Section-Line Right-of-Way and/or the ROW setback and the twenty-five (25) foot side-yard setback and/or rear yard setback of the irregular lot.
         c. Floodplain Development Permit needed only if structure is not moved every 180-days.
      7. 20’ x 14’ Equipment Shop.
         a. No Building Permit needed as Department of Equalization (DOE) records indicate the shop was constructed in 1980.
      8. 24’ x 16’ Equipment Shop.
         a. No Building Permit needed as DOE records indicate the shop was constructed in 1980.
      9. 20’ x 40’ Mini Mobile storage unit.
         a. Was placed on the subject property without a Building Permit.
            i. A Building Permit may be needed.
         b. Appears to be encroaching within the Section Line ROW and/or the ROW setback.
c. Floodplain Development Permits needed only **if** structure is not moved every 180-days.

10. 20' x 20' enclosed gazebo.
   a. Was placed on the subject property without a Building Permit.
      i. A Building Permit may be needed.
   b. Floodplain Development Permit needed only **if** structure is not moved every 180-days.

11. 20' x 26' carport.
   a. Was placed on the subject property without a Building Permit.
      i. A Building Permit may be needed.
   b. Floodplain Development Permit needed only **if** structure is not moved every 180-days.

E. Zone A – Special Flood Hazard Area on the subject property.
1. Floodplain Development Permit / FP 14-09 to place the new SFR on the subject property via COBP17-0008.

VI. PROPERTY HISTORY
A. Throughout 2018 and 2019, the applicant provided several photos showing flooding on the subject property. This continued flooding prevented the applicant from performing the necessary investigations into the sizing of the existing OSWTS. Examples of the photos sent by the applicant are shown below:
Agenda Item #8
Caputa Alpaca’s Guest Ranch and Fiber Mill
July 13, 2020

B. Staff performed a site-visit on October 23, 2019, and spoke to Mr. Lepp regarding CU 18-37.
   1. Staff noticed a camper parked outside of the main residence in what appeared to be a small RV-Park.
   2. Staff spoke to Mr. Lepp regarding the small RV park and the sizing of the onsite wastewater treatment system.
   3. Staff was aware of the difficulties encountered by the Landowner due to the Special Flood Hazard Area on the property and the amount of rain that has fallen in 2019.
   4. Staff proposed another review in June of 2020, whereupon the items of concern will need to be addressed. The applicant agreed to this proposal.

VII. UPDATE FOR JULY 13, 2020
   A. Staff met with Mr. Lepp on July 1, 2020. Mr. Lepp indicated that he was working with an installer to see what needed to be done and whether he wants to upgrade the onsite wastewater system and keep the RV sites.
   B. Staff is meeting with Mr. Lepp again on July 10, 2020 to discuss moving forward.

RECOMMENDATION: Staff recommends to continue Conditional Use Permit / CU 18-37 to the July 27, 2020, Planning Commission meeting.
AGENDA ITEM #9
Dale Gadbois
July 13, 2020

STAFF REPORT

GENERAL INFORMATION:

REQUEST:

CONDITIONAL USE PERMIT / CU 19-19: To review a secondary structure prior to a primary residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

APPLICANT:

Dale and Sarah Gadbois

APPLICANT ADDRESS:

13876 Box Canyon Road, Hermosa, SD 57744

LEGAL DESCRIPTION:

SE1/4SE1/4, Section 8, T2S, R7E, BHM, Pennington County, South Dakota.

SITE LOCATION:

Located east of the intersection of Rushmore Ranch Road and Martin Ranch Trail, along Martin Ranch Trail.

SIZE:

40.00 acres

TAX ID:

61563

EXISTING LAND USE:

Shop building

ZONING REFERENCE:

Sections 205 and 510

CURRENT ZONING:

General Agriculture District

SURROUNDING ZONING:

North
South
East
West

General Agriculture District
General Agriculture District
General Agriculture District
General Agriculture District

PHYSICAL CHARACTERISTICS:

Forest / Hills

UTILITIES:

None

REPORT BY:

Jason Theunissen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 19-19 with conditions.

II. GENERAL DESCRIPTION
   A. August 12, 2019 – Planning Commission approved Conditional Use Permit / CU 19-19 to allow an accessory structure prior to a principal structure.
      1. That an approved On-Site Wastewater Construction Permit be obtained prior to the installation of an On-Site Wastewater Treatment System on the property;
      2. That an approved Approach Permit be obtained from Martin Ranch Trail Road District prior to the installation of a driveway;
      3. That an approved Building Permit be obtained for the proposed shed prior to any construction, which requires a site plan to be reviewed and approved by the Planning Director;
      4. That an approved Construction Permit be obtained for the access road to the shed on the property if over 10,000 square feet of dirt is disturbed, per Pennington County Zoning Ordinance (PCZO) § 507(A) and 511(C)(1);
      5. That a 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;
      6. That if any plumbing is to be installed in the accessory structure, the shed, it be hooked into an approved means of wastewater disposal;
      7. That the proposed shed be used for personal use only and no commercial and or residential-type uses;
      8. That all the natural drainage paths be maintained;
      9. That the minimum setback requirements of a General Agriculture District be maintained on the property or the appropriate Variance(s) be obtained;
     10. That the address, once assigned, be posted during the construction of the shed and at the end of the driveway off of Martin Ranch Trail, so it is visible from both directions of travel on Martin Ranch Trail, in accordance with Pennington County’s Ordinance #20;
     11. That the applicant adhere to PCZO § 510(E) regarding the time limit on Conditional Use Permit established uses; and,
     12. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.
III. EXISTING CONDITIONS
   A. Zoned General Agriculture District.
   B. Access is off of Martin Ranch Trail.
   C. 40 acres.
   D. 40' x 64' shop building with loft.

IV. ANALYSIS
   A. July 6, 2020 – Staff met the applicant, Dale Gadbois, and performed a site visit and verified the following:
      1. That Building Permits were obtained and the proposed shop was constructed (Condition #3).
      2. That all Conditions of Approval appeared to be met.
   B. Conditions #3, and #11 were removed, as they have been met.
   C. Conditions #1 and #6 were combined.
Agenda Item #9
Dale Gadbois
July 13, 2020

RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 19-19 with the following conditions:

1. That an approved Approach Permit be obtained from Martin Ranch Trail Road District prior to the installation of a driveway;

2. That an approved Construction Permit be obtained for the access road to the accessory structure if over 10,000 square feet of dirt is disturbed, per Pennington County Zoning Ordinance (PCZO) Section 507(A) and 511(C)(1);

3. That an approved Building Permit be obtained for any structures exceeding 144 square feet or permanently anchored to the ground;

4. That an approved On-Site Wastewater Treatment System Construction Permit be obtained prior to the installation of any plumbing in the accessory structure;

5. That the proposed shed be used for personal use only and no commercial and or residential-type uses;

6. That all the natural drainage paths be maintained;

7. That the minimum setback requirements of a General Agriculture District be maintained on the property or the appropriate Variance(s) be obtained;

8. That the address (13815 Martin Ranch Trail) continue to be posted on the shed and at the end of the driveway off of Martin Ranch Trail, in accordance with Pennington County's Ordinance #20; and,

9. That this Conditional Use Permit be reviewed in two (2) 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.
GENERAL INFORMATION:

REQUEST:

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

APPLICANT:

Cody Rust Butler

APPLICANT ADDRESS:

1301 Ottawa Trail, Amarillo, TX 79118

AGENT / LOCAL CONTACT:

Jeannie Marr

ADDRESS:

1005 Needles Drive, Custer, SD 57730

LEGAL DESCRIPTION:

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

SITE LOCATION:

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

SIZE:

21.79 acres

TAX ID:

12848

EXISTING LAND USE:

Residential

ZONING REFERENCE:

§ 205, 319, and 510

CURRENT ZONING:

General Agriculture District

SURROUNDING ZONING:

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

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES:

Private
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Conditional Use Permit / CU 19-20 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Cody Rust Butler, requested a Conditional Use Permit to allow an existing two (2) bedroom residence to be utilized as a Vacation Home Rental on the subject property.
   B. August 12, 2019 – Planning commission approved Conditional Use Permit / CU 19-20 with the following seventeen (17) conditions:
      1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);
      2. That the website listing(s) for the Vacation Home Rental is updated to correctly state that six (6) overnight occupants are allowed;
      3. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;
      4. That all necessary permits are obtained prior to any additions and/or alterations to the structure or upgrades/alterations to the on-site wastewater treatment system;
      5. That each review of Conditional Use Permit / CU 19-20, be subject to PCZO § 511(F)(3), which imposes a $100 fee per review;
      6. That the applicant continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;
      7. That the applicant continually maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
      8. That a minimum of two (2) off-street parking spaces be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
      9. That an interior informational sign be posted in accordance with the requirements of PCZO §319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff’s Office respectively, during operation of the Vacation Home Rental. The
interior informational sign must also contain a color map illustrating the Special Flood Hazard Area, as determined by FEMA;

10. That the lot address (23835 Marshall Gulch Road) be posted on the residence at all times and so it is clearly visible from Marshall Gulch Road, in accordance with Pennington County's Ordinance #20;

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

12. That if the person designated as the Local Contact is ever changed from Jeannie Marr, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

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

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

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

16. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of the Special Flood Hazard Area located on the subject property; and,

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

III. EXISTING CONDITIONS

A. Zoned General Agriculture District.

B. 21.79 acres.

C. Access off of Marshall Gulch Road via an existing approach.

D. Lot contains:


3. Two (2) loafing sheds – built in 1965 and 1984, per DOE records.

4. On-site Wastewater Treatment System (OSWTS) Construction Permit / COSD15-0043 to install a new OSWTS.

E. Special Flood Hazard Area (100-year floodplain) located on the subject property.

1. All existing structures appear to be located with the boundaries of the Special Flood Hazard Area.
IV. ANALYSIS
   A. June 11, 2020 – Staff performed a site visit to the subject property and found the following:
      1. That an updated Vacation Home License and Sales Tax License were missing (Condition #6).
      2. Some of the interior informational sign requirements were not included (Condition #9).
      3. An address was not posted on the residence (Condition #10).
      4. An evacuation plan was not provided (Condition #7).
   B. June 12, 2020 – Staff spoke with the applicant and Local Contact about what needs to be done and will be giving them additional time to meet the required conditions.
   C. June 22, 2020 – Planning Commission approved the continuation of the Conditional Use Permit / CU 19-20 to the July 13, 2020 meeting.
   D. June 23, 2020 – Staff received all required material from the Local Contact and all conditions appear to be met.
RECOMMENDATION: Staff recommends approval of Conditional Use Permit / CU 19-20 with the following conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);

2. That the website listing(s) for the Vacation Home Rental is updated to correctly state that six (6) overnight occupants are allowed;

3. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

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

5. That each review of Conditional Use Permit / CU 19-20, be subject to PCZO § 511(F)(3), which imposes a $100 fee per review;

6. That the applicant continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;
7. That the applicant continually maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;

8. That a minimum of two (2) off-street parking spaces be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

9. That an interior informational sign be posted in accordance with the requirements of PCZO §319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff’s Office respectively, during operation of the Vacation Home Rental. The interior informational sign must also contain a color map illustrating the Special Flood Hazard Area, as determined by FEMA;

10. That the lot address (23835 Marshall Gulch Road) be posted on the residence at all times and so it is clearly visible from Marshall Gulch Road, in accordance with Pennington County’s Ordinance #20;

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

12. That if the person designated as the Local Contact is ever changed from Jeannie Marr, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;

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

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

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

16. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of the Special Flood Hazard Area located on the subject property; and,

17. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
SOUTH DAKOTA DEPARTMENT OF HEALTH
LODGING LICENSE

Issued To: CODEY RUST
GANDMA'S HOUSE
23815 MARSHALL GULCH RD
PUE CITY, SD 57745

License Type: Vacation Home License
License Number: 18735
Number of Units: 1
Swimming Pool: 1
Spa or Hot Tub: 0

Expires: 12/31/2020

Secretary of Health

License is Not Transferable - Post in the Establishment
WELCOME TO GRANDMA’S HOUSE
23835 Marshall Gulch RD. Hill City S.D. 57745
Local contact: Jeannie Marr (605)920-0246
Secondary contact: Cody Rust (806)282-5973

KEEP YOUR CHILDREN SAFE NEAR WATER

- Local EMERGENCY and POLICE can be reached by calling 911 or (805)994-4139
- Maximum number of guests: 6
- Maximum number of day guests: 12
- Parking: There is room to park up to 8 cars in the driveway (PLEASE DO NOT PARK ON GRASS)
- The use of open fires, fire pits, fireworks, or other devices (as applicable) shall not be allowed
- Without permission from the local contact or owner, fire safety is of paramount importance in the Black Hills.
- Pets are only allowed with pre-approval and must follow the rules/regulations for pets and applicable leash laws.
- NO smoking in the house and dispose of cigarette butts properly.
- Quiet hours are from 10 pm to 7am. Guests are expected to be courteous to all neighbors and to respect property boundaries.
- Trash may be left in the garbage can by the garage, or if large amounts please carry to large green can by road. Garbage pickup day is Tuesdays.
- The tenants and occupants are responsible for the creation of any disturbances or for violating Pennington County Ordinance. Failure to comply with parking and occupancy regulations of this vacation rental unit is a violation of Pennington County Ordinance 106.
- SUPERVISE YOUR CHILDREN AROUND THE WATER

WIFI: ELLIPSIS Jetpack 2286
PASSWORD: x3924715

ENJOY YOUR VISIT!
GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT / CU 20-12: To allow an existing living quarters be used as a Guest House in a Low Density Residential District in accordance with Sections 207, 318, and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Michael and Marella Anderson

APPLICANT ADDRESS: 13517 Earl Court, Rapid City, SD 57702

LEGAL DESCRIPTION: Lot 9, Stratmeyer Addition, Section 13, T1S, R6E, BHM, Pennington County, South Dakota.

SITE LOCATION: 13517 Earl Court; located off of S. Highway 16 and Pine Haven Drive.

SIZE: 3.00 acres

TAX ID: 50198

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 207, 318, and 510

CURRENT ZONING: Low Density Residential District

SURROUNDING ZONING:
- North: Low Density Residential District
- South: Highway Service District
- East: Low Density Residential District
- West: Low Density Residential District

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: Private

REPORT BY: Stephanie Jansen
I. PROPOSED RECOMMENDATION
   a. Staff will be recommending approval of Conditional Use Permit / CU 20-12 with conditions.

II. GENERAL DESCRIPTION
   a. The applicants, Michael and Marella Anderson, have requested a Conditional Use Permit to allow for an existing living quarters connected to an existing single-family residence by a breezeway to be used as a Guest House.

III. EXISTING CONDITIONS
   a. Zoned: Low Density Residential.
   b. 3 acres.
   c. Access off of Earl Court.
   d. No Special Flood Hazard Area on the property.
   e. Attached living quarters – 2000COBP0724.
      1. Staff Comment: This building was lived in while constructing a single-family residence on the subject property. It was later attached to the single-family residence built in 2012 by a breezeway.
   f. Single-family residence w/ attached garage – 2012COBP0134
   g. Basement finish – COBP17-0075
   h. On-Site Wastewater Treatment System – 2000COSD0170 & COSD16-0086
      1. Operating Permits:
         a. COOP18-0818 – Bed System
         b. COOP19-0156 – Holding Tank

IV. REQUEST FOR COMMENT
   a. County Highway Department
      1. The Highway Department has no comments.
   b. Emergency Services
      1. County assign a separate physical address for the second new living quarters.
      2. The applicant must post both physical addresses in accordance with Penn Co Ord #20.
      3. Currently, it appears from available photography that the current address is not posted in accordance with our ordinance. In this case, due to distance from the named road and the trees that line Earl Ct, the applicant should post both physical addresses when the driveway intersects Earl Ct and on each addressed structure, facing and visible from the driveway.
c. County Environmental Planner II
   1. The applicant first built a one bedroom room with living quarters. At that time they installed a septic system sized for 3 bedrooms (2000COSD0170). The applicant in 2012 built the main house with 2 bedrooms and an unfinished basement. Later the applicant finished the basement and added 2 bedrooms. The applicant installed a holding tank to accommodate the 2 new bedrooms (COSD16-0086). They also have current Operating permits COOP18-0818 and COOP19-0156. I have no further concerns.

d. County Addressing Coordinator/ Certified Floodplain Manager
   1. The assigned address must be posted in accordance with Pennington County Ordinance #20.
   2. No Special Flood Hazard Area on the subject property.

e. County Ordinance Enforcement Officer
   1. No violations.

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

a. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.
   1. This Conditional Use Permit should not change the residential use of the property and, thus, should not have any long-term, negative effects on the use and enjoyment of other properties in the immediate vicinity.
   2. Staff cannot predict the impact the use may have on property values in the surrounding area.

b. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
   1. Allowing this Conditional Use Permit should not affect the normal, orderly development or improvement of any surrounding vacant property in the area.

c. That utilities, access roads, drainage, and/or other necessary facilities are provided.
   1. The subject property will be served by a private on-site wastewater treatment system and well. Access to the property will provided via an approach off of Earl Court.
d. That the off-street parking and loading requirements are met.

1. Pennington County Zoning Ordinance § 310(A)(9)(k) requires two (2) off-street parking spaces per dwelling unit and § 318(B)(6) requires one (1) additional off-street parking space for the Guest House. Therefore, three (3) spaces would be required on the subject property for the main dwelling and the Guest House. It appears there is sufficient parking on the subject property to meet this requirement.

e. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

1. The proposed Conditional Use, by its very nature, should have limited odor, fumes, dust, noise, vibrations, and intrusive lighting. The applicant should take care so the proposed use should not create the above-listed elements in any amount that would constitute a nuisance.

VI. ANALYSIS

a. April 21, 2020 – the applicants applied for a Building Permit to attach a garage to the existing living quarters attached to a single-family residence by a breezeway.

1. Staff Comment: The applicants mentioned that their daughter has stayed in the attached living quarters on several occasions in the last six months, but they have never rented it out to anyone and have no intentions of doing so. After further research, the attached living quarters with a full kitchen, bedroom, and bathroom did not have a separate Conditional Use Permit for the space.

2. The applicants have withdrawn their Building Permit for the garage attachment.

B. May 29, 2020 – The applicants filed for a Conditional Use Permit to allow an attached living quarters to be used as a Guest House on the subject property.

1. The Guest House already exists.

C. June 29, 2020 – Staff performed a site visit to the subject property and found:

1. The Guest House exists and meets the requirements for a Guest House in Pennington County Zoning Ordinance Section 318.

D. Guest Houses in Pennington County are governed under Pennington County Zoning Ordinance Section 318.
E. Section 318(B) states that, “an accessory Guest House shall be permitted in Low Density Residential, Limited Agriculture and General Agriculture Zoning Districts upon the issuance of a Conditional Use Permit or in Planned Unit Developments with approval of a Planned Unit Development Amendment and is subject to the following standards:”

1. Only one (1) Guest House shall be allowed on a lot and/or parcel.
   a. Staff Comment: The applicant is requesting one (1) Guest House on the subject property.

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

3. The minimum lot size requirement for the construction of an accessory Guest House shall be three (3) acres.
   a. Staff Comment: The subject property is 3.00 acres.

4. The maximum allowed living space of a Guest House shall not exceed 50% of the living space in the main dwelling unit or 1,000 square feet, whichever is less. Covered decks attached to the Guest House shall be included in the calculation for the overall square footage, but decking and garage space shall not.

5. The Guest House shall not be used for more than 180 days per calendar year.

6. The Guest House shall use the same driveway approach as the primary dwelling. One additional off-street parking space, measuring a minimum of nine (9) feet by eighteen (18) feet and maintained in a dust free manner, shall be provided for the Guest House.
   a. Staff Comment: The Guest House uses the same driveway approach as the primary dwelling. One additional off-street parking space measuring at least 9’ X 18’ wide and maintained in a dust free manner is provided for the Guest House.

7. The Guest House shall have a minimum setback of 25-feet from all property lines.
   a. Staff Comment: The Guest House appears to have a minimum setback of 25’ from all property lines.

8. A single-wide mobile home shall not be allowed as a Guest House.
   a. Staff Comment: The Guest House is not a single-wide mobile home.

9. The Guest House shall be located closer to the primary dwelling on the subject lot than a primary dwelling on any adjacent existing lot at the time the Building Permit is approved for the Guest House.

10. The primary dwelling unit shall be classified as owner-occupied. Proof of status must be provided.
11. Utilities: All public water, sewer, electricity, and natural gas for the Guest House shall be extended from the primary dwelling unit’s services. No separate meters for the Guest House shall be allowed, unless required by the utility service provider.

12. On-Site Wastewater Treatment Systems: A Guest House shall use the same on-site wastewater disposal system as the primary dwelling, except when a separate system is required by the Pennington County Environmental Planner due to site constraints, failure of the existing system, or where the size or condition of the existing system precludes its use.

13. Prior to the issuance of a Building Permit for a Guest House, or for use of an existing structure as a Guest House, the applicant shall record a deed restriction stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence.
RECOMMENDATION: Staff recommends approval of Conditional Use Permit / CU 20-12 with conditions:

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

2. That a separate address be assigned for the Guest House;

3. That the address for the Guest House and the primary residence is clearly posted on each of the structures and at the driveway so that it is visible from Earl Court, in accordance with Pennington County’s Ordinance #20;

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

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

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

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

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

9. That prior to the existing attached living space being used as a Guest House, the applicant file a deed restriction record a deed restriction with the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Pennington County Zoning Ordinance (PCZO) Section 318(B)(13);

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

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

REQUEST: **CONDITIONAL USE PERMIT / CU 20-13:** To allow a single-wide mobile home to be used as a permanent, single-family residence on the subject property in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Richard Redetzke

APPLICANT ADDRESS: 14153 Cobb Road, Hermosa, SD 57744

LEGAL DESCRIPTION: Lot 1, Block 1, Sharp Subdivision, Section 3, T1N, R8E, BHM, Pennington County, South Dakota.

SITE LOCATION: 1713 Sharp Drive; located north of the intersection of Twilight Drive and Sharp Drive.

SIZE: 0.18 acres

TAX ID: 8752

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 208 and 510

CURRENT ZONING: Suburban Residential District

SURROUNDING ZONING:

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<th>North</th>
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<th>West</th>
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<td>Suburban Residential District</td>
<td>Suburban Residential District</td>
<td>Suburban Residential District</td>
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</tbody>
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PHYSICAL CHARACTERISTICS: Flat

UTILITIES: Rapid Valley Sanitary District

REPORT BY: Stephanie Jansen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Conditional Use Permit / CU 20-13 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Richard Redetzke, has requested a Conditional Use Permit to allow a single-wide mobile home to be utilized as a permanent single-family residence on the subject property.

III. EXISTING CONDITIONS
   A. Zoned Suburban Residential District
   B. 0.18 acres.
   C. Access off of Sharp Drive.
   D. Currently vacant.
   E. No Special Flood Hazard.

IV. REQUEST FOR COMMENT
   A. County Highway Department
      1. The Highway Department has no comments.
   B. County Ordinance Enforcement
      1. No violations.
   C. Rapid City Long Range Planning
      1. Plan Rapid City Future Land Use designation of the property is Low Density Neighborhood.
      2. No transportation impacts.
   D. Emergency Services
      1. No comments here.
   E. Rapid City Public Works
      1. They are hooked to RVSD sewer, so nothing from me. Thanks.
   F. County Addressing Coordinator/ Certified Floodplain Manager
      1. No addressing concerns at this time. 1713 Sharp Drive has been assigned to an existing SWMH and will not change. The assigned address must be posted in accordance with Pennington County Ordinance #20.
         a. Staff Comment: This will be included in the Conditions of Approval.
      2. Flood hazards have been “Unstudied” on the subject property.
   G. Rapid City Community Planning
      1. The City’s Future Land Use Plan identifies the appropriate use of the property as Low Density Neighborhood which supports single family residential development.
      2. Sharp Drive is classified as a Local Street pursuant to the Infrastructure Design Criteria Manual.
H. County Environmental Planner II
   1. Rapid City 1-mile.
      a. \textit{Staff Comment: The proposed single-side mobile home will be connected to Rapid Valley Sanitary District services.}

V. \textbf{ANALYSIS}
   A. April 23, 2020 – The applicant applied for a removal permit for an older SWMH to be moved off of the property.
   C. June 29, 2020 – Staff performed a site visit to the subject property and found:
      1. The subject property is currently vacant.
      2. It appears the requested use is in harmony with surrounding land uses in the area.
VI. CONSIDERATIONS FOR CONDITIONAL USE PERMIT REQUEST

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

A. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.

1. The use of the single-wide mobile home as a residence on the property should not affect the surrounding properties, as it appears to be consistent with surrounding properties. Therefore, there should be no long-term effects on the use and enjoyment of other properties in the immediate vicinity.
2. Staff cannot predict how the proposed use will affect property values in the surrounding area.

B. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

1. Allowing this Conditional Use Permit should not affect the normal, orderly development or improvement of any surrounding property in the area.

C. That utilities, access roads, drainage and/or other necessary facilities are provided.

1. The proposed single-wide mobile home will be connected to Rapid Valley Sanitary District services.
2. Access will be off of Sharp Drive.

D. That the off-street parking and loading requirements are met.

1. PCZO Section 310(A)(9)(k) requires two (2) off-street parking spaces for a single-family residence. It appears that adequate parking is provided on the subject property.

E. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

1. The proposed Conditional Use, by its very nature, should have limited odor, fumes, dust, noise, vibrations and intrusive lighting. The proposed use should not create any of the above-listed elements in amounts that would constitute a nuisance.
RECOMMENDATION: Staff recommends approval of Conditional Use Permit / CU 20-13 with the following conditions:

1. That a Building Permit be obtained for the proposed single-wide mobile home prior to any work being done;

2. That the property address (1713 Sharp Drive) be posted in accordance with Pennington County Ordinance #20;

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

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

5. That the single-wide mobile home installed on the property have a peaked, non-reflective type roof and wood or simulated wood-type siding that is continually maintained;

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

7. That the applicant utilizes the existing approach and that no new approaches be constructed; and,

8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.
Agenda Item #13
John and Emily Rowe
July 13, 2020

STAFF REPORT

GENERAL INFORMATION:

REQUEST:  

CONDITIONAL USE PERMIT / CU 20-14: To allow an existing single-family residence to be used as a Bed and Breakfast in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

APPLICANT:  

John and Emily Rowe

APPLICANT ADDRESS:  

12175 Deerfield Road, Hill City, SD  57745

LEGAL DESCRIPTION:  

PT Ray Smith Placer MS #995 S of Highway, Ray Smith Placer MS 995, Section 15, T1S, R4E, BHM, Pennington County, South Dakota.

SITE LOCATION:  

12175 Deerfield Road; south of the intersection of Ray Smith Drive and Deerfield Road.

SIZE:  

19.38 acres

TAX ID:  

4710

EXISTING LAND USE:  

Residential

ZONING REFERENCE:  

Sections 206 and 510

CURRENT ZONING:  

Limited Agriculture District

SURROUNDING ZONING:

- North: Planned Unit Development District
- South: General Agriculture District
- East: General Agriculture District
- West: General Agriculture District

PHYSICAL CHARACTERISTICS:  

Forest / Hills

UTILITIES:  

Private

REPORT BY:  

Jason Theunissen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Conditional Use Permit / CU 20-14
      with conditions.

II. GENERAL DESCRIPTION
   A. The applicants, John and Emily Rowe, are requesting a Conditional Use
      Permit to allow an existing secondary residence to be utilized as a Bed and
      Breakfast.

III. EXISTING CONDITIONS
   A. Limited Agriculture District.
   B. 19.38 acres.
   C. Access is off of Deerfield Road.
   D. No Special Flood Hazard Area.
   E. Single-family residence (Primary).
      1. Built in 1971, per Department of Equalization records.
         a. Attached garage and residential addition – County Building
            Permit – COBP19-0399.
      2. On-site Wastewater Treatment System.
         a. County Operating Permit – COOP15-0229.
   F. Single-family residence (Secondary).
      1. Built in 1940, per Department of Equalization records.
      2. On-site Wastewater Treatment System.
         a. County Operating Permit – COOP20-0191.
   G. 40’ x 60’ utility building – County Building Permit – COBP19-0262.
      1. 20’ x 27’ tool shed.
      2. 12’ x 16’ tool shed.
      3. 30’ x 34’ barn.
IV. REQUEST FOR COMMENT

A. County Highway Department
   1. No comment received.

B. County Fire Administrator
   1. No comment received.

C. County Environmental Planner (Septic)
   1. The applicant has updated operating permits for both the primary house and cabin and approval from the DENR.

D. County Ordinance Enforcement
   1. No violations.

E. County Addressing Coordinator / Floodplain Manager
   1. The assigned addresses (12171 and 12175 Deerfield Road) must be posted in accordance with Pennington County Ordinance #20.
      2. No Special Flood Hazard Area on the subject property.

F. County Natural Resources
   1. No objections.
G. Emergency Services (9-1-1)
   1. Approve with condition that applicant has physical address posted
      where the driveway intersects Deerfield Rd and on the addressed
      structure facing the driveway (if they don’t already – can’t tell with
      available photos).

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

V. ANALYSIS
   A. May 29, 2020 – The applicants, John and Emily Rowe, applied for
      Conditional Use Permit / CU 20-14 to allow an existing secondary
      residence to be utilized as a Bed and Breakfast.
   B. There is an existing on-site wastewater treatment system (OSWTS) that
      serves the secondary residence.
      1. March 24, 2020 – South Dakota Department of Environment and
         Natural Resources (SDDENR) approved the size of the OSWTS to
         accommodate the applicant's requested use as a Bed and Breakfast.
         SDDENR evaluation limits the Bed and Breakfast to six (6)
         overnight guests.
C. June 30, 2020 – Staff performed a site visit and discussed the following with the applicant, Emily Rowe:

1. The South Dakota Department of Health (SD DOH) completed an inspection of the secondary residence on June 4, 2020 and scored it 98/100, granting approval to operate.
   a. Two points were deducted for not having ventilation in a restroom.

2. The applicant plans to live in the primary residence while utilizing the secondary residence, built in 1940, as a Bed and Breakfast and to provide a minimal (non-cooked) meal to guests.
   a. SDCL 34-18-9.1.(3): "Operator," the owner or the owner's agent, who is required to reside in the Bed and Breakfast establishment or on the contiguous property.

3. That a South Dakota Department of Revenue issued a Sales Tax License will need to be obtained prior to operation of the Bed and Breakfast.

D. Staff approved County Operating Permits COOP20-0191 on June 9, 2020 and COOP19-0137 on January 16, 2019.

1. The applicant will need to pay the associated fees and obtain the Operating Permits prior to operation of the Bed and Breakfast.
VI. CONSIDERATIONS FOR CONDITIONAL USE PERMIT REQUEST

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

A. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.
   1. This Conditional Use Permit could affect the use and enjoyment of other properties in the immediate vicinity due to increased traffic and potential noise. The applicant will be managing the Bed and Breakfast and living on the contiguous property while the secondary residence is utilized as a Bed and Breakfast.
   2. Staff cannot predict the effect that the requested use will have on property values within the immediate vicinity.

B. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
   1. The proposed use should have a minimal effect on the normal, orderly development or improvement of any surrounding vacant property in the area.

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

D. That the off-street parking and loading requirements are met.
   1. Pennington County Zoning Ordinance Section 310(r), requires the proposed Bed and Breakfast have one (1) parking space per two rooms.
   2. The single-family residence has two (2) bedrooms and appears to have adequate parking.

E. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.
   1. The proposed use should not create the above-listed elements in any amount that would constitute a nuisance.
RECOMMENDATION: Staff recommends approval of Conditional Use Permit / CU 20-14 with the following conditions:

1. That the maximum overnight occupancy of the Bed and Breakfast be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13) and South Dakota Department of Environmental and Natural Resources approval;

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

3. That the minimum required setbacks of a Limited Agriculture District be continually maintained on the subject property or approved Setback Variance(s) be obtained;

4. That the addresses for each residence (12171 and 12175 Deerfield Road) be posted on the Bed and Breakfast and the primary single-family residence at all times, in accordance with Pennington County’s Ordinance #20;

5. That an On-Site Wastewater Construction Permit be obtained prior to any additional On-site Wastewater Treatment Systems being installed on the subject property, which will also require review and approval by the South Dakota Department of Environmental and Natural Resources;

6. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance Section 310(r), which requires one (1) parking space per two rooms or suite plus two (2) parking spaces per every three (3) employees;

7. That a Sign Permit be obtained prior to the installation of any signs on the subject property. All signs must meet the requirements of Section 312 of the Pennington County Zoning Ordinance;

8. That prior to the use of the secondary residence as a Bed and Breakfast, the applicant obtains all necessary permits from other governing bodies for the operation of the Bed and Breakfast, including, but not limited to, approval from the South Dakota Department of Health and a Sales Tax License from the South Dakota Department of Revenue;

9. That prior to the use of the secondary residence as a Bed and Breakfast, the applicant obtains all required County On-site Wastewater Treatment System Operating Permits;
10. That the applicant maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in the event of an emergency and said plan be made available to the Planning Department upon request;

11. That the property remains free of debris and junk vehicles and all structures be well-maintained;

12. That portable fire extinguishers be placed on each floor level of the Bed and Breakfast so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;

13. That quiet hours for the Bed and Breakfast be between 10 p.m. and 8 a.m.;

14. That the applicant comply with SDCL 34-18-9, which regulates Bed and Breakfast establishments and requires a guest list to be maintained; and,

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

APPLICATION REQUIREMENTS:

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

☐ An interior diagram/plan of the VHR.

☐ The maximum number of overnight occupants.  

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

☐ Specifications of the existing wastewater treatment system.

☐ Copy of Covenants, if applicable.

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

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

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

LOCAL CONTACT INFORMATION:

Name: Emily Rowe                     Primary Contact Number: 605.574.9056
Mailing Address: 12175 Deerfield Rd
City: Hill City State: SD Zip Code: 57745

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

_________________________________________   Date

Signature of Local Contact

Subscribed and sworn to before me this____ day of ____________, 20__

_________________________________________
Notary Public for the State of South Dakota

My Commission Expires
SOUTH DAKOTA DEPARTMENT OF HEALTH
LODGING LICENSE APPLICATION

SECTION 1: ESTABLISHMENT INFORMATION

ESTABLISHMENT NAME
Rowe Escapes

CORPORATION/OWNER NAME
Rowe Escapes

CORPORATE CONTACT/PHONE
Emot Row
605.574.9056

ESTABLISHMENT PHONE
605.574.9056

CELL PHONE
760.270.6317

CITY
Hill City

STATE
SD

ZIP
57745

COUNTY
Pennington County

MAILING ADDRESS (IF DIFFERENT THAN PHYSICAL ADDRESS)

EMAIL ADDRESS

APPLICATION IS FOR:
☐ NEW BUSINESS
☐ CHANGE OF OWNERSHIP

DATES OPEN - IF SEASONAL
From: 5/1/2020 To: 5/1/2020

PROPOSED OPENING DATE
5/1/2020

WATER SUPPLY
☐ Public
☐ Private

SEWER SYSTEM
☐ Public
☐ Private

SECTION 2: LODGING LICENSING FEES – Type of Business (Choose One)

Bed & Breakfast:
(No other fees apply)

Number of Units

FULL YEAR FEE: Jan 1 – Dec 31
☐ $38.00 Registration Fee

HALF YEAR FEE: July 1 – Dec 31
☐ $38.00 Registration Fee

FEE TOTAL
$38

Vacation Home:

☐ $70.00 This includes the inspection fee

Specialty Resort:
10 or Less Sleeping Rooms

☐ $70.00 This includes the inspection fee

Hotel:
11 or More Sleeping Rooms

☐ $2.25 per unit Plus $25.00 Inspection Fee

$70.00 Minimum Total

Initial License Fee:

☑ $100.00

SECTION 3: WATER RECREATION FEES

Number of Pools and Hot Tubs

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$0 $40.00 $65.00 $0 $20.00 $32.50

Total All Fees Above
This Is The Amount You Owe
$138.00

SECTION 4: SIGNATURE

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

Owner/Agent Signature

Subscribed and sworn to me this day of March, 2020.

Notary Public

My commission expires

APPLICANTS MUST BE SIGNED AND NOTARIZED TO BE PROCESS

Rev. 02/2014
GENERAL INFORMATION:

REQUEST: **CONDITIONAL USE PERMIT / CU 20-15**: To allow a single-wide mobile home to be used as a single-family residence on the subject property in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Greg Helgeson

APPLICANT ADDRESS: 13779 Ember Road, Rapid City, SD 57702

LEGAL DESCRIPTION: W1/2NE1/4NE1/4 (aka W1/2 GL 1), Section 5, T2S, R7E, BHM, Pennington County, South Dakota.

SITE LOCATION: 13779 Ember Road; east of the intersection of Pine Grove Road and Ember Road.

SIZE: 20.21 acres

TAX ID: 69859

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 206 and 510

CURRENT ZONING: Limited Agriculture District

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

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: Private

REPORT BY: Kristina Proietti
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Conditional Use Permit / CU 20-15 with conditions.

II. GENERAL DESCRIPTION
   A. June 16, 2020, the applicant, Greg Helgeson, requested a Conditional Use Permit to allow a single-wide mobile home (SWMH) to be utilized as a permanent, single-family residence on the subject property.

III. EXISTING CONDITIONS
   A. Zoned: Limited Agriculture.
   B. 20.21 acres.
   C. Access taken off of Ember Road.
   D. No Special Flood Hazard Area on the subject property.
   E. Lot Contains:
      1. 14’ x 12’ tool shed per Department of Equalizations (DOE) Property Record Card.
      2. 62’ x 12’ single-wide mobile home built in 1972, per DOE Property Record Card.
      3. Onsite Wastewater Treatment System (OSWTS) – no information can be found on this system.

IV. REQUEST FOR COMMENT
   A. County Fire Administrator
      1. No comment received.
   B. County Addressing Coordinator/Floodplain Manager
      1. No addressing concerns at this time. 13779 Ember Road is already assigned to this parcel from a previously placed mobile home. This address will need to be posted on the new residence in accordance with Pennington County ordinance #20.
      2. No Special Flood Hazard Area on the subject property.
   C. County Environmental Planner II
      1. The applicant needs to indicate if they plan on using the existing septic system or if they will install a new system. The applicant can use the existing system as long as the number of bedrooms in the new unit are the same or less as the removed unit.
   D. County Ordinance Enforcement
      1. No violations.
   E. Emergency Services (9-1-1)
      1. Good here as long as approval is conditioned on ensuring compliance with Penn. Co. Ord #20 and that the house number is posted where the driveway meets Ember Rd. and on the new single wide, visible from the driveway when it is in place.
F. Black Hills Electric Cooperative
   1. Black Hills Electric Cooperative has no concerns.

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

A. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.
   1. The use of the single-wide mobile home as a residence on the property should not affect the surrounding properties, as it appears to be consistent with surrounding properties. Therefore, there should be no long-term effects on the use and enjoyment of other properties in the immediate vicinity.
   2. Staff cannot predict how the proposed use will affect property values in the surrounding area.

B. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
   1. Allowing this Conditional Use Permit should not affect the normal, orderly development or improvement of any surrounding property in the area.

C. That utilities, access roads, drainage and/or other necessary facilities are provided.
   1. The proposed single-wide mobile home will be connected to the existing OSWTS, the applicant can use the existing system as long as the number of bedrooms in the new unit are the same or less as the removed unit.
   2. Access will be off of Ember Road.

D. That the off-street parking and loading requirements are met.
   1. PCZO Section 310(A)(9)(k) requires two (2) off-street parking spaces for a single-family residence. It appears that adequate parking is provided on the subject property.

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

A. June 24, 2020, Staff performed a site visit to the subject property and found the lot to be vacant.

B. It appears the requested use is in harmony with surrounding land uses in the area.

RECOMMENDATION: Staff will be recommending approval of Conditional Use Permit / CU 20-15 with the following conditions:

1. That a Building Permit be obtained for the proposed single-wide mobile home prior to any work being done;

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

2. That the property address (13779 Ember Road) be clearly posted, so as to be visible from Ember Road, as well as located on the mobile home in accordance with Pennington County’s Ordinance #20;
3. That the minimum setback requirements of a Limited Agriculture District be continually maintained on the property;

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

5. That the single-wide mobile home installed on the property have a peaked, non-reflective type roof and wood or simulated wood-type siding that is continually maintained;

6. That an approved Approach Permit be obtained from the Pennington County Highway Department prior to adding an additional approach;

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

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

GENERAL INFORMATION:

REQUEST: MINOR PLAT / MPL 20-13: To combine lots to create Lot 1R of Chase Elkhorn Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

APPLICANT: Dick Kompus

APPLICANT ADDRESS: 28261 Cheney Road, Rexford, KS 67753

SURVEYOR / ENGINEER: Renner Associates

ADDRESS: 3231 Tweewinot Drive, Rapid City, SD 57703

LEGAL DESCRIPTION: EXISTING LEGAL: Tract 2 of Lot B and C and Lot 1, Chase Elkhorn Subdivision, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1R, Chase Elkhorn Subdivision, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

SITE LOCATION: 13323 Highway 40; east of Keystone along Highway 40.

SIZE: 7.866 acres

TAX ID: 2104 / 53168

EXISTING LAND USE Residential

SUBDIVISION REGULATIONS REFERENCE: Section 400.3

CURRENT ZONING: Suburban Residential District

Limited Agriculture District

SURROUNDING ZONING:

North
South
East
West

Planned Unit Development District
General Agriculture District
Limited Agriculture District
Suburban Residential District
General Agriculture District
AGENDA ITEM #15
Dick Kompus
July 13, 2020

PHYSICAL CHARACTERISTICS: Rolling hills / Trees

UTILITIES: Private

REPORT BY: Jason Theunissen

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Minor Plat / MPL 20-13 with
      conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Dick Kompus, has requested a Minor Plat to combine two
      (2) lots into one (1) lot to create Lot 1R of Chase Elkhorn Subdivision.
   B. April 7, 2020 – Board of Commissioners approved Layout Plan / LPL 20-04
      with the following eight (8) conditions:
         1. That at the time of the Minor Plat submittal, the proposed Plat be
            prepared by a Registered Land Surveyor;
         2. That at the time of Minor Plat submittal, the plat meets all
            requirements of Pennington County Subdivision Regulations, or
            approved Subdivision Regulations Variance(s) be obtained waiving
            any of these requirements that are not met. Subdivision Regulations
            Variances shall be submitted per Section 700 of Pennington County
            Subdivision Regulations;
         3. That prior to the mylar being filed at Register of Deeds, the
            applicant obtains approval of Rezone and a Comprehensive
            Amendment;
         4. That access for Lot 1R is taken from the existing approach for the
            subject property;
         5. That an approved Floodplain Development permit be obtained prior
            to any disturbance in the Special Flood Hazard Area;
         6. That the applicant ensures all-natural drainage ways are maintained
            and are not blocked;
         7. That following platting of the proposed lot, any on-site wastewater
            treatment system(s) be subject to the requirements of Section 204(J)
            of the Pennington County Zoning Ordinance, including the
            requirement to obtain an Operating Permit; and,
         8. That approval of this Layout Plan does not constitute approval of
            any further applications to be submitted for the above-described
            property.
III. EXISTING CONDITIONS

A. Tract 2 of Lot B and C:
   1. 6.3 acres.
   2. Limited Agriculture District.
      a. To change Zoning and Future Land Use to Suburban Residential District.
   4. Special Flood Hazard Area – FIRM Panel 46103C1169H.
   5. Vacant of structures.
   6. Construction Permit / CP 11-07 to create a pond.
   7. Construction Permit / CP 12-19 to extract more than 100 cubic feet of material.

B. Lot 1:
   1. 1.58 acres.
   2. Suburban Residential District.
   3. Takes access from Highway 40.
   4. Special Flood Hazard Area – FIRM Panel 46103C1169H.
   7. Garage – Building Permit #6666.
   8. Floodplain Development Permit / FP 18-20 for a creek crossing.
   9. Variance / VA 08-01 to reduce the rear yard setback from 25 feet to eight (8) feet.
      a. Variance is only for the construction of the residence.
      b. Approved by the Board of Adjustment on January 8, 2008.

IV. PROPOSED LOT

A. Lot 1R, Chase Elkhorn Subdivision:
   1. 7.88 acres.
   2. Special Flood Hazard Area – FIRM Panel 46103C1169H.
   3. Suburban Residential District.
   4. Takes access from Highway 40.
V. REQUEST FOR COMMENT

A. County Highway Department
   1. Highway Department has no comments.

B. County Environmental Planner (Onsite)
   1. The applicant has a current Operating permit (COOP14-0437). I have no further concerns with the current proposal.

C. County Addressing Coordinator / Floodplain Manager
   1. No addressing concerns at this time. Future addresses must be posted in accordance with Pennington County Ordinance #20.
   2. There is Special Flood Hazard Area on the subject property – FIRM Panel 46103C1169H.
   3. A Floodplain Development Permit will be required for any development within the Special Flood Hazard Area.

D. Pennington County Department of Equalization
   1. Looks good. Some of the dimensions don’t match the plats for the existing parcels perfectly, but they are within a certain tolerance so it’s fine.

E. Register of Deeds
   1. Plat heading is ok.
   2. Certificates appear to be the required certificates per state statute.
F. Emergency Services (9-1-1)
   1. Good here.

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

VI. ANALYSIS
A. June 5, 2020 – The applicant applied for Minor Plat / MPL 20-13 to combine two (2) lots in order to create Lot 1R of Chase Elkhorn Subdivision.
B. June 16, 2020 – Board of Commissioners approved the second reading of Rezone / RZ 20-02 & Comprehensive Plan Amendment / CA 20-02.
   1. This satisfies Condition #3 of Layout Plan / LPL 20-04.
C. Staff finds no significant issues with the applicant’s request as it appears to be in harmony with existing lots and current land uses in the area.
RECOMMENDATION: Staff recommends approval of Minor Plat / MPL 20-13 with the following conditions:

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

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

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

4. That access for Lot 1R is taken from the existing approach for the subject property; and,

5. That an approved Floodplain Development permit be obtained prior to any disturbance within the Special Flood Hazard Area.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: REZONE / RZ 20-03: To rezone 10.01 acres from Limited Agriculture District to Suburban Residential District in accordance with Sections 206, 208, and 508 of the Pennington County Zoning Ordinance.

APPLICANT: Richard Sterkel

APPLICANT ADDRESS: 5702 Green Valley Drive, Rapid City, SD 57703

OWNER: Harley Mohr Trust

OWNER ADDRESS: 510 130th Street NW, Aberdeen, SD 57401

LEGAL DESCRIPTION: Lot G, Clemmons Addition, Section 23, T1N, R8E, BHM, Pennington County, South Dakota.

SITE LOCATION: East of the intersection of Reservoir Road and Green Valley Drive.

SIZE: 10.01 acres

TAX ID: 68551

EXISTING LAND USE: Vacant

ZONING REFERENCE: Sections 206, 208, and 508

CURRENT ZONING: Limited Agriculture District

SURROUNDING ZONING: Limited Agriculture District

PHYSICAL CHARACTERISTICS: Flat

UTILITIES: Private

REPORT BY: Jason Theunissen
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Rezone / RZ 20-03.

II. GENERAL DESCRIPTION
   A. The applicant, Richard Sterkel, has requested to rezone 10.01 acres from Limited Agriculture District to Suburban Residential District.
   B. The applicant is currently working through the City of Rapid City to subdivide the subject property in order to create eight (8) residential lots ranging in size from 1/2-acre to 1+ acres.

III. EXISTING CONDITIONS
   A. Limited Agriculture District.
   B. 10.01 acres.
   C. Access off of Highway 40.
   D. Special Flood Hazard Area (100-year) and Floodway.
      1. FIRM Panel 46103C0811H.
   E. No structures on subject property.
   F. No existing utilities.
   G. Within the 3-mile platting jurisdiction of the City of Rapid City.

IV. CURRENT ZONING WITHIN 1/2-MILE
   A. General Agriculture District.
   B. Limited Agriculture District.
   C. Low Density Residential District.
   D. Suburban Residential District.
   E. Planned Unit Development District.
V. FUTURE LAND USE ZONING WITHIN 1/2-MILE
   A. Low Density Residential District.
   B. City of Rapid City Limits.

VI. REQUEST FOR COMMENT
   A. County Highway Department
      1. Highway Department has no comments.
   B. County Natural Resources Director
      1. No objections.
   C. Rapid City Public Works
      1. The City Public Works Department had no concerns with this rezone.
   D. Rapid City Community Development
      1. Plan Rapid City Future Land Use designation of the property is Rural Residential. Green Valley Drive is classified as a Proposed Collector on the Major Street Plan.
   E. City of Rapid City Current Planning
      1. A majority of the property is located within a flood hazard designation as determined by the Federal Emergency Management Agency (FEMA). In particular, the western portion of the property is designated floodway. The balance of the property is located within the Federally designated 100 year or 500 year floodplain with the exception of a small area in the northeast corner of the property, which is located outside of any flood designation. The City’s Future Land Use Plan identifies the floodway area as restricted for development due to the flood issues. The balance of the property is identified as appropriate for Rural Reserve which allows a minimum 3-acre lot size. The City’s Future Land Use Plan does not support the proposed Rezone request to Suburban Residential District.
      2. The City’s Major Street Plan identifies Green Valley Drive as a collector street. Greenfield Drive is classified as a local street. Access to the property should be taken from Greenfield Drive.
3. The property is located within the City’s 3-mile platting jurisdiction. Any future subdivision of the property will require that the streets be improved to City Street Design Standards as per the Infrastructure Design Criteria Manual. In addition, water and sewer must be provided in compliance with the same manual.

VII. ANALYSIS

A. May 26, 2020 – The applicant applied for Rezone / RZ 20-03.

B. There are currently several Suburban Residential District properties located within 1/2-mile of the subject property. Future Land Use, as of the date of application, identifies Suburban Residential as the primary Zoning District within 1/2-mile of the subject property.

C. The applicant’s request to rezone appears to be in harmony with the Current and Future Land Use zoning.

RECOMMENDATION: Staff is recommending approval of Rezone / RZ 20-03.
GENERAL INFORMATION:

REQUEST:  
**LAYOUT PLAN / LPL 20-16:** To reconfigure lots lines to create Lot A, B, and C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

APPLICANT / OWNER:  
James and Marilyn Dean

APPLICANT ADDRESS:  
23863 Palmer Gulch Road, Hill City, SD  57745

OWNER:  
Henry Kogel

OWNER ADDRESS:  
23973 Palmer Gulch Road, Hill City, SD  57745

SURVEYOR/ENGINEER:  
Britton Engineering

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

LEGAL DESCRIPTION:  
**EXISTING LEGAL:** All of Eddy #1 Lode MS 523; Tract 4 and Tract 5 of Storm Hill Subdivision, all located in Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

**PROPOSED LEGAL:** Lots A, B, and C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision, Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

SITE LOCATION:  
23863 and 23973 Palmer Gulch Road; north of the intersection of Old Hill City Road and Palmer Gulch Road.

SIZE:  
19.45 acres

TAX ID:  
4401 / 69917 / 39881

EXISTING LAND USE:  
Residential

SUBDIVISION REGULATIONS REFERENCE:  
Section 400.1

CURRENT ZONING:  
General Agriculture District
Low Density Residential District
Agenda Item #17
James & Marilyn Dean
July 13, 2020

SURROUNDING ZONING:
  North  General Agriculture District
  Low Density Residential District
  South  General Agriculture District
  Low Density Residential District
  East  Low Density Residential District
  West  General Agriculture District

PHYSICAL CHARACTERISTICS:  Hills / Forested

UTILITIES TAX ID 4401:  Private

UTILITIES TAX ID 69917:  None

UTILITIES TAX ID 39881:  Private

REPORT BY:  Kristina Proietti

I.  PROPOSED RECOMMENDATION
A.  Staff will be recommending approval of Layout Plan / LPL 20-16 with conditions.

II.  GENERAL DESCRIPTION
A.  June 10, 2020, the applicants, James and Marilyn Dean, requested to reconfigure lot lines for the subject properties to create Lot A, Lot B, Lot C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision. Proposed Lot A will have approximately 3 acres, proposed Lot B will have approximately 6.76 acres, proposed Lot C will have approximately 3.00 acres, and proposed Tract 5R will have approximately 6.76 acres.

III.  EXISTING CONDITIONS
A.  Tax ID# 4401:
   1.  Zoned: General Agriculture District.
   2.  10 acres.
   3.  Access taken off of Palmer Gulch Road.
   4.  No Special Flood Hazard Area on the subject property.
   5.  Lot contains:
      i.  Onsite Wastewater Operating Permit / COOP16-0107.
      c.  30’ x 50’ shed / COBP16-0539.
B. Tax ID# 69917:
   1. Zoned: Low Density Residential District.
   2. 5.45 acres.
   3. Access taken off of Palmer Gulch Road.
   4. No Special Flood Hazard Area on the subject property.
   5. Lot contains:
      a. Vacant.

C. Tax ID# 39881:
   1. Zoned: Low Density Residential District.
   2. 4 acres.
   3. Access taken off of Palmer Gulch Road.
   4. No Special Flood Hazard Area on the subject property.
   5. Lot contains:
         i. OSWTS Operating Permit / COOP14-0277.
      c. 26’ x 32’ detached garage / COBP16-0242.
      d. 14’ x 24’ carport / 1999CGBP0442.

IV. PROPOSED LOTS
   A. Lot A, Lot B, and lot C
      1. Approximately 10.00 acres.
      2. Rezone or Lot Size Variance required.
      3. Comprehensive Plan Amendment required.
         a. June 10, 2020, the applicants, James and Marilyn Dean, applied for a Rezone request (RZ 20-04) to change the zoning from General Agriculture District to Low Density Residential District.
         b. June 10, 2020, the applicants, James and Marilyn Dean, applied for a Comprehensive Plan Amendment (CA 20-03) to change the Future Land Use from General Agriculture District to Low Density Residential District.
         c. The Rezone (RZ 20-04) and Comprehensive Plan Amendment (CA 20-03) will be heard at this same meeting.
V. REQUEST FOR COMMENT
   A. County Highway Department
      1. The Highway Department has no comments.
   B. County Fire Administrator
      1. No comments received.
   C. County Environmental Planner II
      1. The applicant for the future Lot C has an approved septic permit
         attached with BP94-153 and a valid Operating Permit, COOP16-
         0107. The applicant for future Lot 5R has an approved septic permit
         1995COSD0036 and an Operating Permit that expires July 10, 2020
         (COOP14-0277). If any future applicants wish to install a septic
         system on the remaining lots all rules of Pennington County Zoning
         Ordinance 204-J must be followed.
   D. County Addressing Coordinator
      1. No addressing concerns at this time. Future addresses will be
         assigned during the Building Permit application process. Once
         assigned, addresses must be posted in accordance with Pennington
         County Ordinance #20.
      2. No Special Flood Hazard Area on the subject property.
   E. Emergency Services (911)
      1. Good here.
   F. County Sheriff's Office
      1. No comment received.
   G. Register of Deeds
      1. No comment received.
   H. Department of Equalization
      1. Because this is a rezone and doesn’t affect parcel
         shape/size/ownership/legal, I have no comments.
   I. U.S. Forest Service
      1. No additional access roads will be authorized across National Forest
         System lands.
      2. Protect all posted boundary line corners, signs and bearing trees.
      3. Adhere to the setback requirements along the posted boundary
         between National Forest System lands and private property.
      4. Protect all known stream courses, ponds and riparian areas located
         on National Forest System lands.
      5. No resource damage to occur on National Forest System lands.
      6. All proposed drain fields, leach lines or septic systems will need to
         be located on private property and not located on or drain or leach
         onto National Forest System lands.
      7. All construction materials, supplies, trash or garbage will not be
         located or dumped on National Forest System lands.
      8. Public roads in this area of the Black Hills National Forest are
         classified as “Roads Open to Highway Legal Vehicles Only” and
         “Highways, US, State” per the latest version of the Motor Vehicle
         Use Map.
9. No motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.

10. No motorized trails for ATV, motorcycles or ORV will be authorized from private property unto National Forest System lands (USFS does not want unauthorized trails constructed on National Forest System lands).

J. Black Hills Energy

1. Tract 5 has powerlines on the lot. It was filed in 1995. Looks like Tract 4 was filed in 1938 – see image below provided by Black Hills Energy (BHE).

Map from BHE showing powerline placement on Tract 4 and 5.

VI. ANALYSIS

A. June 10, 2020, the applicants, James and Marilyn Dean, requested to reconfigure lot lines for the subject properties to create Lot A, Lot B, Lot C of JM Dean Subdivision and Tract 5R of Storm Hill Subdivision. Proposed Lot A will have approximately 3 acres, proposed Lot B will have approximately 6.76 acres, proposed Lot C will have approximately 3.00 acres, and proposed Tract 5R will have approximately 6.76 acres.
B. June 10, 2020, the applicants, James and Marilyn Dean, applied for a Rezone request (RZ 20-04) to change the zoning from General Agriculture District to Low Density Residential District for proposed Lots A, B, and a portion of Lot C of JM Dean Subdivision involving approximately 10.01 ± acres.

C. June 10, 2020, the applicants, James and Marilyn Dean, applied for a Comprehensive Plan Amendment (CA 20-03) to change the Future Land Use from General Agriculture District to Low Density Residential District for proposed Lots A, B, and a portion of Lot C of JM Dean Subdivision involving approximately 10.01 ± acres.

D. For the purposes of a Layout Plan, staff finds no significant issues with the applicant’s request as it appears to be in harmony with existing lots and current land uses in the area.
   1. A Layout Plan is an informal preliminary review of the proposed subdivision for general scope and conditions, which might affect the plat.

RECOMMENDATION: Staff will be recommending approval of Layout Plan / LPL 20-16 with the following conditions:

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

2. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;

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

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

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

6. That 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,

7. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.
AGENDA ITEM #18
James and Marilyn Dean
July 13, 2020

STAFF REPORT

GENERAL INFORMATION:

REQUEST: REZONE / RZ 20-04 AND COMPREHENSIVE PLAN AMENDMENT / CA 20-03: To rezone 10.00 acres from General Agriculture District to Low Density Residential District and to change the Future Land Use from Planned Unit Development Sensitive to Low Density Residential District in accordance with Sections 205, 207, 213, and 508 of the Pennington County Zoning Ordinance.

APPLICANT / OWNER: James and Marilyn Dean

APPLICANT ADDRESS: 23863 Palmer Gulch Road, Hill City, SD 57745

LEGAL DESCRIPTION: All of Eddy #1 Lode MS 523, Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

SITE LOCATION: 12626 Eddy Lode Road; west of the intersection of Palmer Gulch Road and Eddy Lode Road.

SIZE: 10.00 acres

TAX ID: 4401

EXISTING LAND USE Residential

ZONING REFERENCE: Sections 205, 207, 213, and 508

CURRENT ZONING: General Agriculture District

North General Agriculture District
South Low Density Residential District
East Low Density Residential District
West General Agriculture District

PHYSICAL CHARACTERISTICS: Hills / Forested

UTILITIES TAX ID 4401: Private

UTILITIES TAX ID 69917: None
Agenda Item #18
James and Marilyn Dean
July 13, 2020

UTILITIES TAX ID 39881: Private

REPORT BY: Kristina Proietti

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Rezone / RZ 20-04 and
      Comprehensive Plan Amendment / CA 20-03.

II. GENERAL DESCRIPTION
   A. June 10, 2020, the applicants, James and Marilyn Dean, applied for a
      request to rezone approximately 10.00 acres from General Agriculture
      District to Low Density Residential District. The applicants are also
      requesting to amend the Pennington County Comprehensive Plan to change
      the Future Land Use from General Agriculture District to Low Density
      Residential District.
   B. June 10, 2020, June 10, 2020, the applicants, James and Marilyn Dean,
      requested to reconfigure lot lines on the subject properties to create Lot A,
      Lot B, Lot C of JM Dean Subdivision and Tract 5R of Storm Hill
      Subdivision. Proposed Lot A will have approximately 3 acres, proposed Lot
      B will have approximately 6.76 acres, proposed Lot C will have
      approximately 3.00 acres, and proposed Tract 5R will have approximately
      6.76 acres.

III. EXISTING CONDITIONS
   A. Zoned: General Agriculture District.
   B. 10 acres.
   C. Access taken off of Palmer Gulch Road.
   D. No Special Flood Hazard Area on the subject property.
   E. Lot contains:
      i. Onsite Wastewater Operating Permit / COOP16-0107.
      c. 30’ x 50’ shed / COBP16-0539.
IV. SURROUNDING CURRENT ZONING WITHIN 1 MILE OF THE SUBJECT PROPERTY
   A. General Agriculture District.
   B. Low Density Residential District.
   C. Limited Agriculture District.

V. SURROUNDING FUTURE LAND USE (FLU) ZONING WITHIN 1 MILE OF THE SUBJECT PROPERTY
   A. Public Land.
   B. PUD Sensitive.
   C. Low Density Residential District.
VI. REQUEST FOR COMMENT

A. County Highway Department
   A. The Highway Department has no comments.

B. County Fire Administrator
   A. No comments received.

C. County Environmental Planner II
   A. The applicant for the future Lot C has an approved septic permit attached with BP94-153 and a valid Operating Permit, COOP16-0107. The applicant for future Lot 5R has an approved septic permit 1995COSD0036 and an Operating Permit that expires July 10, 2020 (COOP14-0277). If any future applicants wish to install a septic system on the remaining lots all rules of Pennington County Zoning Ordinance 204-J must be followed.

D. County Addressing Coordinator
   A. No addressing concerns at this time. Future addresses will be assigned during the Building Permit application process. Once assigned, addresses must be posted in accordance with Pennington County Ordinance #20.
   B. No Special Flood Area on the subject property.

E. Emergency Services (911)
   A. Good here.

F. County Sheriff's Office
   A. No comment received.

G. Register of Deeds
   A. No comment received.

H. Department of Equalization
   A. Because this is a rezone and doesn’t affect parcel shape/size/ownership/legal, I have no comments.

I. U.S. Forest Service
   1. No additional access roads will be authorized across National Forest System lands.
   2. Protect all posted boundary line corners, signs and bearing trees.
   3. Adhere to the setback requirements along the posted boundary between National Forest System lands and private property.
   4. Protect all known stream courses, ponds and riparian areas located on National Forest System lands.
   5. No resource damage to occur on National Forest System lands.
   6. All proposed drain fields, leach lines or septic systems will need to be located on private property and not located on or drain or leach onto National Forest System lands.
   7. All construction materials, supplies, trash or garbage will not be located or dumped on National Forest System lands.
   8. Public roads in this area of the Black Hills National Forest are classified as “Roads Open to Highway Legal Vehicles Only” and “Highways, US, State” per the latest version of the Motor Vehicle Use Map.
9. No motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.

10. No motorized trails for ATV, motorcycles or ORV will be authorized from private property unto National Forest System lands (USFS does not want unauthorized trails constructed on National Forest System lands).

J. Black Hills Energy
   A. Tract 5 has powerlines on the lot. It was filed in 1995. Looks like Tract 4 was filed in 1938 – see image below provided by Black Hills Energy (BHE).

![Map from BHE showing powerline placement on Tract 4 and 5.](image)

VII. ANALYSIS
   A. June 10, 2020, the applicants, James and Marilyn Dean, applied for a request to rezone approximately 10.00 acres from General Agriculture District to Low Density Residential District.
   B. The applicant is also requesting to amend the Pennington County Comprehensive Plan to change the Future Land Use from General Agriculture District to Low Density Residential District.
C. The applicant’s request to rezone from General Agriculture District to Low Density Residential District is not in harmony with Pennington County’s Proposed Future Land Use (FLU).

D. There is currently Low Density Residential District zoning lying directly to the southeast of the subject property.
   A. Although the zoning request does not match the county’s FLU, it is in harmony with the existing uses of the land and lot sizes in the general area.

**RECOMMENDATION:** Staff recommends approval of Rezone / RZ 20-04 and Comprehensive Plan Amendment / CA 20-03.
AGENDA ITEM #19
Grandview Land, LLC (Dan Lewis); Gordon Howie - Agent
July 13, 2020

STAFF REPORT

GENERAL INFORMATION:

REQUEST: LAYOUT PLAN / LPL 20-14: To create Lot 2 of Block 2 and Lot 1 and Lot 2 of Block 3 and Lot 7 through Lot 10 of Block 3 of Cedar Gulch No. 2 Subdivision and dedicated Right-of-Way in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

APPLICANT: Grandview Land, LLC / Dan Lewis

APPLICANT ADDRESS: 2601 Grandview Drive, Rapid City, SD 57701

AGENT: Gordon Howie

AGENT ADDRESS: 15372 Antelope Creek Road
Rapid City, SD 57703

SURVEYOR / ENGINEER: Longbranch Civil Engineering

ADDRESS: 821 Columbus St., Ste. 1, Rapid City, SD 57701

LEGAL DESCRIPTION: EXISTING LEGAL: Balance of Tract A, Cedar Gulch #2 Subdivision, Section 32, T1N, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 2 of Block 2 and Lot 1 and Lot 2 of Block 3 and Lot 7 through Lot 10 of Block 3 of Cedar Gulch No. 2 Subdivision and dedicated Right-of-Way, Cedar Gulch #2 Subdivision, Section 32, T1N, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: Bradsky Road; south of the intersection of E. Highway 44 and Bradsky Road.

SIZE: 121.11 acres

TAX ID: 60752

EXISTING LAND USE Vacant

SUBDIVISION REGULATIONS REFERENCE: Section 400.1
CURRENT ZONING: Planned Unit Development District

SURROUNDING ZONING:
- North: General Agriculture District
- South: Planned Unit Development District
- East: Planned Unit Development District
- West: General Agriculture District

PHYSICAL CHARACTERISTICS: Open Prairie / Rolling hills

UTILITIES: Community water and sewer

REPORT BY: Brittney Molitor

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending denial of Layout Plan / LPL 20-14 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Gordon Howie, is requesting to create seven (7) lots in the Cedar Gulch No. 2 Subdivision.
   B. The proposed lots are in response to Court Order CIV. 16-001140 (attached).

III. EXISTING CONDITIONS
   A. Planned Unit Development District / PU 05-18.
      1. Approved by the Board of Commissioners on January 3, 2006 and January 16, 2007.
   B. 121.11 acres.
   C. Vacant of any structures.
   D. Special Flood Hazard Area on the subject property – Zone A.

IV. PROPOSED LOTS
   A. Lot 2 of Block 2, Cedar Gulch No. 2 Subdivision.
      1. Planned Unit Development District / PU 05-18.
      2. 6.263 acres.
      3. Vacant of any structures.
      4. Special Flood hazard Area – Zone A.
      5. Access off of Bradsky Road or Galloway Drive.
         a. Cedar Gulch #2 Road District.
      6. 20’ Water Main Easement.
B. Lot 1 of Block 3, Cedar Gulch No. 2 Subdivision.
   1. Planned Unit Development / PU 05-18.
   2. No acreage given on proposed plat.
   3. Vacant of any structures.
   4. Access off of Brahman Lane.
      a. Cedar Gulch #2 Road District.

C. Lot 2 of Block 3, Cedar Gulch No. 2 Subdivision.
   1. Planned Unit Development District / PU 05-18.
   2. No acreage given on proposed plat.
   3. Vacant of any structures.
   4. Access off of Brahman Lane.
      a. Cedar Gulch #2 Road District.

D. Lot 7 of Block 3, Cedar Gulch No. 2 Subdivision.
   1. Planned Unit Development / PU 05-18.
   2. 1.007 acres.
   3. Vacant of any structures.
   4. Access off of Brahman Lane.
      a. Cedar Gulch #2 Road District.

E. Lot 8 of Block 3, Cedar Gulch No. 2 Subdivision.
   1. Planned Unit Development / PU 05-18.
   2. 1.007 acres.
   3. Vacant of any structures.
   4. Access off of Brahman Lane.
      a. Cedar Gulch #2 Road District.

F. Lot 9 of Block 3, Cedar Gulch No. 2 Subdivision.
   1. Planned Unit Development / PU 05-18.
   2. 1.007 acres.
   3. Vacant of any structures.
   4. Access off of Brahman Lane.
      a. Cedar Gulch #2 Road District.

G. Lot 10 of Block 3, Cedar Gulch No. 2 Subdivision.
   1. Planned Unit Development / PU 05-18.
   2. 1.005 acres.
   3. Vacant of any structures.
   4. Access off of Brahman Lane or Dawkins Road.
      a. Cedar Gulch #2 Road District.
V. PLANNED UNIT DEVELOPMENT / PU 05-18
   A. Planned Unit Development / PU 05-18 was approved by the Board of
      Commissioners on January 16, 2007, with the following conditions:
      1. That prior to any platting, the second means of ingress/egress is
         engineered. That prior to the issuance of the seventh Building Permit,
         the second means of ingress/egress be constructed to allow
         construction vehicles access to the development. That prior to
         issuance of the thirty-first Building Permit, the second means of
         ingress/egress be constructed to Ordinance 14 standards. That prior to
         issuance of the seventy-first Building Permit, the second means of
         ingress/egress be paved;
      2. That prior to any work being done within the 100-year floodplain, a
         Floodplain Development Permit is obtained;
      3. That no lots within the Planned Unit Development be allowed direct
         access onto Bradsky Road;
      4. That the Planned Unit Development consists of no more than 150 lots
         and the minimum lot size be one (1) acre;
      5. That the Special Animal Keeping Regulations, as outlined in Section
         204-G of the Pennington County Zoning Ordinance, and no more than
         one (1) large animal be housed on one (1) acre, be continually
         followed;
      6. That all residences must meet the standards for stick-built and
         manufactured homes as outlined in Section 204;
      7. That the minimum setbacks for the Planned Unit Development shall be
         twenty-five (25) feet from all property lines and fifty-eight (58) feet
         from all Section Lines;
      8. That a Homeowner’s Association is created and covenants filed along
         with the Final Plat for the maintenance of the community water system
         and all common areas;
      9. That a road district be formed prior to the seventh Building Permit, for
         the maintenance and care of all roads within the development; and,
      10. That the Planned Unit Development be reviewed on a complaint basis.

VI. REQUEST FOR COMMENT
   A. County Highway Department
      1. Highway Department has no comments.
   B. County Natural Resources
      1. The property in question has Canada Thistle present on the property,
         see attached Noxious Weed Plan to comply with the state noxious
         weed laws.
   C. Register of Deeds
      1. Plat heading is okay.
      2. Formerly needs Government Lot 2 corrected to Government Lot 3.
      3. Certificates appear to be required certificates per state statute.
   D. 9-1-1
      1. Good here.
Agenda Item #19
Grandview Land, LLC (Dan Lewis); Gordon Howie - Agent
July 13, 2020

E. Department of Equalization
   1. I'll need the acreage for Lots 1 and 2 of Block 3.
   2. Also, in the formerly section on the plat, it says Government Lot 2 of Section 4 – I believe that should say GL 3.

F. County Ordinance Enforcement
   1. No known violations.

G. County Addressing Coordinator and Floodplain Coordinator
   1. No addressing concerns at this time. Future addresses must be posted in accordance with Pennington County Ordinance #20.
   2. There is Special Flood Hazard Area (SFHA) on the property – FIRM Panel 46103C0818H.
   3. Minor Plat will need to contain one hundred (100) year floodplain limits in accordance with current FIRM Panel.
   4. A Floodplain Development Permit will be required for any development within the SFHA.

H. County Environmental Planner
   1. The applicant must obtain a septic permit to install a septic tank to connect to the community lagoon.
   2. All rules of Pennington County Zoning Ordinance Section 204-J must be followed.

VII. ANALYSIS
A. Staff contacted the engineer (Longbranch Civil Engineering) for the plat regarding water, sewer and access issues pertaining to the proposed plat request. According to the engineer:
   1. There are water hook ups at each of the proposed seven (7) lots.
   2. There are dry sewer hook ups on proposed Lots 1 and 2 of Block 3 and Lot 2 of Block 2. Sewer line extension will be required along Galloway Drive prior to issuance of a Building Permit on those lots. A septic tank will be required at each of the lots and connected to the lagoon system once the sewer line extension is installed.
   3. There are sewer hook ups for Lots 7-10 of Block 3. A septic tank will be required at each of the lots and connected to the lagoon system.
   4. There are engineered construction plans for connection of the Cedar Gulch No. 2 Subdivision to South Airport Road via a gravel road constructed to Ordinance 14 Standards.
      a. Construction plans were prepared in order to meet the requirements of Condition #1 of Planned Unit Development / PU 05-18.
      b. To date, this road has not been constructed.
      c. There was limited emergency construction access via this route during the construction and widening of the Bradsky Road bridge.
B. There are over 60 address points currently addressed off of Bradsky Road (see map below)

C. Creation of additional lots on Bradsky Road will require a Variance to the Subdivision Regulations to allow additional lots on a dead-end road without the construction of the second means of vehicular ingress or egress.

**RECOMMENDATION:** Staff recommends denial of Layout Plan / PL 20-14, as the proposed subdivision would further increase density on a dead-end road system with only one (1) means of vehicular ingress and egress.

If the Planning Commission chooses to approve Layout Plat / PL 20-14, Staff recommends the following conditions:

1. That upon filing the Plat with the Register of Deeds, a Deed Restriction also be filed restricting the residential use and issuance of any Building Permits on all the
proposed lots (Lot 2 of Block 2, Lots 1 and 2 of Block 3 and Lots 7-10 of Block 3) until such time that a second means of vehicular ingress and egress is constructed in accordance with Ordinance 14 Standards and the road approved by County Highway;

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

3. That at the time of Preliminary Plat submittal, the Plat heading be corrected to state “Formerly needs Government Lot 2 corrected to Government Lot 3…”, as required by the Register of Deeds;

4. That a Variance to the Subdivision Regulations be obtained from the Board of Adjustment to allow additional lots on a dead-end road without a second means of vehicular ingress or egress conditioned that no Building Permits will be issued on those lots until such time a second means of vehicular ingress or egress is constructed;

5. That at the time of Final Plat submittal, the applicant provide engineered construction plans for sewer line improvements for extension of the sewer line to the lagoon system, or an approved Variance to the Subdivision Regulations be obtained waiving this requirement;

6. That no Building Permits will be issued on proposed Lot 2 of Block 2 and Lots 1 and 2 of Block 3 until such time the sewer line is installed and connected to the existing lagoon system;

7. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations; and,

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

Pennington County

1. RELATIONSHIP OF APPLICANT TO PROPERTY IS: Owner
   □ Owner □ Tenant □ Lessee □ Other

2. APPLICANT: Dan L. Lewis, Agent for Grandview Land LLC
   MAILING ADDRESS: 2801 Grandview Drive, Rapid City, SD 57701-7103
   LANDOWNER: 
   MAILING ADDRESS: 
   AUTHORIZED AGENT: Gordon Howie
   MAILING ADDRESS: 15372 Antelope Creek Road, Rapid City, SD 57703

3. SURVEYOR / ENGINEER: Longbranch Civil Engineering, Inc.
   ADDRESS: 821 Columbus Street, Suite 1, Rapid City, SD 57701
   DAYTIME PHONE: 605-721-4040
   REGISTRATION NUMBER: PLS #11700

4. NAME OF SUBDIVISION: Cedar Gulch No. 2 Subdivision
   PURPOSE: Creation of seven (7) lots
   PROPOSED LAND USE: □ Single-Family Residential □ Mixed-Use □ Commercial □ Industrial
   EXISTING LEGAL DESCRIPTION: A portion of Tract A of Cedar Gulch No. 2 Subdivision and a portion of “Government” Lot 2 of Section 4, T1S, R9E, BHM, Pennington County, South Dakota
   PROPOSED LEGAL DESCRIPTION: Lot 2 of Block 2, and Lot 1 and Lot 2 of Block 3, Lots 7 through 10 of Block 3 Cedar Gulch No. 2 Subdivision, and Dedicated Right-of-Way Located in the SE1/4, Section 32, T1H, R9E, BHM, and “Government” Lot 3 of Section 4, T1S, R9E BHM, Pennington County, South Dakota
   EXISTING LAND USE: Ag
   ACREAGE: 14.492
   SUBDIVISION SECTION(S): 300.3 and 400.1
   CURRENT ZONING: PUD
   SURROUNDING ZONING: NORTH GA SOUTH PUD EAST PUD WEST PUD
   PHYSICAL CHARACTERISTICS: Rolling Prairie
   WATER SOURCE: □ Well □ Cistern
   SEWER: □ Public □ Private □ Community

5. THE OWNER, APPLICANT, OR AUTHORIZED AGENT, ACKNOWLEDGES: That he / she has read and received a copy of the instruction sheet and this application form concerning the filing and hearing of this matter; that he / she authorizes the Pennington County Planning Department staff and designees to enter onto and inspect the above-described property; and that he / she has been advised of the fee requirements.

Signature of APPLICANT or AGENT: [Signature]

DATE: 6-8-2020

Subscribed and sworn to before me this 8th day of , 20.

Notary Public for the State of South Dakota
My Commission Expires: 2-4-21
STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT
) SS.
COUNTY OF PENNINGTON ) SEVENTH JUDICIAL CIRCUIT
GORDON HOWIE and ) CIV. 16-001140
CONSTANCE L. HOWIE,
) Plaintiffs,
)
v.
)
BOWEN RANCH LAND
COMPANY, LLC, a California
limited liability company, and
GRANDVIEW LAND, LLC, a
South Dakota limited liability
company,
) Defendants.
)

This matter came on for court trial on June 3 and 4, 2019, at the Pennington
County Courthouse, the Honorable Matt Brown presiding. Plaintiffs appeared
personally and by and through their counsel, Roger A. Tellinghuisen and Michael V.
Wheeler; Defendant Grandview Land, LLC appeared personally and by and through
its counsel of record, Steven J. Oberg. The Court having heard testimony and
considered the evidence and having entered its Findings of Fact and Conclusions of
Law, which are incorporated herein by this reference, now makes and enters the
following Judgment. It is hereby

ORDERED, ADJUDGED AND DECREED that the Agreement to Convey
Title to Property at issue in this case is valid and enforceable in accordance with its
terms; it is further

ORDERED, ADJUDGED AND DECREED that Plaintiffs are entitled to
specific performance on the part of Grandview Land, LLC. As such, Defendant
Grandview Land, LLC shall cooperate with Plaintiffs in the platting of the property hereinafter described and shall endorse the requisite Pennington County Layout Plat Application, or its equivalent, as necessary to complete the platting of the undeveloped lots located on the East 734.57 feet of the Southeast Quarter of Section 32, T1N, R9E, BHM, Pennington County, South Dakota, as further described in the attached Exhibit A. The cost of prosecuting the platting process of this property shall be borne by the Plaintiffs; it is further

ORDERED, ADJUDGED AND DECREED that upon completion of the platting of the property described above, Defendant Grandview, LLC shall execute and deliver to Plaintiffs good and sufficient Quit Claim Deeds transferring the lots so platted to the Plaintiffs. Plaintiffs shall be responsible for the preparation of the Quit Claim Deeds and any filing costs associated with filing such deeds with the Register of Deeds; it is further

ORDERED, ADJUDGED AND DECREED that Plaintiffs are entitled to an award of costs and disbursements in the amount of $______________, to be inserted by the Clerk of Court upon proper submission.

Dated this __ day of October, 2019.

BY THE COURT:

Matt Brown, Circuit Court Judge

ATTEST:

Clerk

Deputy
1. **APPLICANT:** Gordon Howie and Constance Howie  
   **DAYTIME PHONE:** 605-381-3998  
   **MAILING ADDRESS:** 23415 Bradsky Road, Rapid City, SD 57703

2. **LANDOWNER:** Grandview Land, LLC  
   **DAYTIME PHONE:** 605-342-3585  
   **MAILING ADDRESS:** 2601 Grandview Drive, Rapid City, SD 57701

3. **AUTHORIZED AGENT:** ______________________________________  
   **MAILING ADDRESS:** ______________________________________  
   **DAYTIME PHONE:** ______________________________________  
   **RELATIONSHIP OF APPLICANT TO PROPERTY IS:** (Owner, Tenant, Lessee, Other)

4. **SURVEYOR/ENGINEER:** Kate McNaboe, Sperlich Consulting  
   **ADDRESS:** 821 Columbus St., Suite 1, Rapid City, SD 57701  
   **DAYTIME PHONE:** 605-721-4040  
   **REGISTRATION NUMBER:** 7198

5. **NAME OF SUBDIVISION:** Cedar Gulch No. 2 Subdivision

6. **PROPOSED USE:**  
   - [ ] Single-Family Residential  
   - [ ] Mixed-Use  
   - [ ] Commercial  
   - [ ] Industrial

   **PURPOSE:** Layout Plat of 3 Lots

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**EXISTING LEGAL DESCRIPTION:** A portion of Tract A of Cedar Gulch No. 2 Subdivision, located in the SE 1/4 of Section 32, T1N, R9E, B.H.M., and a portion of “Government” Lot 3 of Section 4, T1S, R9E, B.H.M.

**PROPOSED LEGAL DESCRIPTION:** Lot 2 of Block 2 and Lot 2 and Lot 7 of Block 3 of Cedar Gulch No. 2 Subdivision and Dedicated Right-of-Way, located in the SE 1/4 of Section 32, T1N, R9E, B.H.M., and in “Government” Lot 3 of Section 4, T1S, R9E, B.H.M.

**LANDMARK LOCATION:** Northwest of the Intersection of Dawkins Road and Brahmash Lane  
**EXISTING LAND USE:** Vacant  
**ACREAGE:** 12.541 Acres

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**EXISTING LAND USE:** Vacant  
**ACREAGE:** 12.541 Acres  
**SUBDIVISION REFERENCE:** Cedar Gulch No. 2 Subdivision  
**CURRENT ZONING:** PUD

**SURROUNDING ZONING:** NORTH PUD  
**EAST PUD  
**WEST PUD  
**SOUTH PUD

**PHYSICAL CHARACTERISTICS:** Flat

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**WATER:** Community Water System  
**SEWER:** Community Sewer System

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**THE OWNER, APPLICANT, OR AUTHORIZED AGENT, ACKNOWLEDGES:** That he/she has read and received a copy of the instruction sheet and this application form concerning the filing and hearing of this matter; that he/she authorizes the Pennington County Planning Department staff and designee to enter onto and inspect the above-described property; and, that he/she has been advised of the fee requirements and they have been paid on __________.

**Signature of APPLICANT or AGENT:** ________________________________

**Signature of LANDOWNER:** ________________________________

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**DATE:** ________________________________  
**DATE:** ________________________________

**Subscribed and sworn to before me this day of ________________________________, 20___**  
**Subscribed and sworn to before me this day of ________________________________, 20___

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Notary Public for the State of South Dakota  
My Commission Expires: ________________________________

Notary Public for the State of South Dakota  
My Commission Expires: ____________________________________

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**EXHIBIT A**
Pennington County's subdivision process has three steps: the Layout Plat, Preliminary Plat, and Final Plat. There will be public hearings before the Planning Commission and the Board of County Commissioners (BOCC). The Planning Commission recommends approval, conditional approval or denial to the BOCC. The BOCC then makes the final decision on the application.

A Layout Plat is intended to be a conceptual drawing of the proposed site design, showing locations of all major elements (i.e.: building lots, common lots, roads, existing structures on-site, etc.). Prior to the scheduled Planning Commission meeting, the Planning Department will conduct an on-site inspection of the property and prepare a written staff report discussing the proposal in relation to the Pennington County Subdivision Regulations.

A pre-application conference is required prior to submittal of a Layout Plat application. The Layout Plat shall be submitted to the Planning Department at least 25 days prior to the next regularly scheduled Planning Commission hearing.

**SUBMITTAL MATERIAL**

- Layout Plat application form.
- Submittal fee of $100.00.
- A written description of the proposed subdivision.
- A minimum of six (6) copies of the Layout Plat request drawn at a scale of not more than 1 inch equals 100 feet. The plat shall include:
  - Name of the proposed subdivision
  - Ownership and Surveyor Information
  - Existing and proposed legal description, including graphic scale, north arrow, and date
  - Location, dimensions and areas of all proposed and/or existing lots
  - Existing structures within the proposed subdivision.

- One 8½” x 11” reduction of the plat.
- Topography from any source.
- A vicinity map.
- General information describing the existing and/or proposed water system.
- Approximate location of existing and/or proposed wastewater systems.
- Proposed improvements to be installed or constructed.
- Location of existing drainage ways and preliminary proposals for the handling of surface water discharge, where applicable.
- Master Plan as applicable.
- Other information as required in Section 400.1 of the Pennington County Subdivision Regulations.
Agenda Item #20
K.W. Lindsay; Robert Livingston - Agent
July 13, 2020

STAFF REPORT

GENERAL INFORMATION:

REQUEST:  

LAYOUT PLAN / LPL 20-15: To create Lots 1, 2, and 3 of Tract Lake Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

APPLICANT:  

K. W. Lindsay

APPLICANT ADDRESS:  

7110 CR 657, W. Bushnell, FL 33513

AGENT:  

Robert Livingston

AGENT ADDRESS:  

23851 Highway 385, Hill City, SD 57745

LEGAL DESCRIPTION:  

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

PROPOSED LEGAL: Lots 1, 2, and 3 of Tract Lake Subdivision, Section 32, T1N, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION:  

16001 W. Highway 44; at the intersection of W. Highway 44 and Highway 385.

SIZE:  

14.98 acres

TAX ID:  

51321

EXISTING LAND USE:  

Recreational Vehicle Park / Vacant Land

SUBDIVISION REGULATIONS REFERENCE:  

Section 400.1

CURRENT ZONING:  

Highway Service District

SURROUNDING ZONING:  

North  

Low Density Residential District  
General Agriculture District  
Suburban Residential

South  

General Agriculture District

East  

General Agriculture District

West  

General Agriculture District
Agenda Item #20
K.W. Lindsay; Robert Livingston - Agent
July 13, 2020

PHYSICAL CHARACTERISTICS: Flat / Hills / Forested

UTILITIES: Private / None

REPORT BY: Brittney Molitor

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Layout Plan / LPL 20-15 with conditions.

II. GENERAL DESCRIPTION
   A. The applicant, K. W. Lindsey, is requesting a Layout Plan to subdivide an existing 14.98-acre lot into three lots to allow for residential development on two (2) new lots.

III. EXISTING CONDITIONS
   A. Zoned Highway Service District.
   B. 14.98 acres.
   C. Lot contains:
         a. An Easement is filed with the Register of Deeds for the encroachment of the onsite wastewater treatment system onto National Forest System (NFS) lands to the west.
         b. The size of the onsite wastewater treatment system is unknown.
      2. Equipment Shed – built in 1980 per DOE records.
         a. 2005COSD0125 – 1,000 gallon holding tank.
      3. Telecommunications Tower.
         a. Conditional Use Permit / CU 08-10
         b. Approved on August 5, 2008 by the Board of Commissioners.
      4. Fuel pumps.
         a. Underground storage tanks for fuel storage.
            i. Building Permit 97-295
      D. Special Flood Hazard Area on the subject property (Zone A)
         1. Floodplain Development Permit / FP 19-49
      E. Access is taken off of West Highway 44 via an approved South Dakota Department of Transportation (SDDOT) Approach.
         1. SDDOT Approach Permit approved on April 23, 2020.
      F. Conditional Use Permit / CU 19-33 – To allow for a Recreational Vehicle Park. The Planning Commission approved Conditional Use Permit / CU 19-33 on May 11, 2020 with the following conditions:
1. That no more than 22 recreational vehicle sites be allowed. Each recreational vehicle site shall measure a minimum of 35 feet long by 12-foot-wide;
2. That one convenience store with a bar is allowed;
3. That a gas station with two pumps and underground storage tanks is allowed;
4. That a shop/storage building is allowed;
5. That erosion control measures be implemented to prevent silt from leaving the applicant’s property and entering Deer Creek or other bodies of water;
6. That a water right is obtained and the well operational prior to operation of the RV Park;
7. That prior to any disturbance or construction within the Special Flood Hazard Area, a Floodplain Development Permit is obtained by the Planning Department;
8. That if the convenience store/bar is substantially improved, the structure be brought into full compliance with Pennington County’s Flood Damage Prevention Ordinance;
9. That each site must include one (1) parking space for a vehicle (in addition to the recreation vehicle, where applicable) and the parking space must be constructed so no portion of the vehicle extends onto any interior roadway;
10. That access to the site is from the approved SDDOT approach. This which includes removal of the existing approach to the southwest and widening of the existing approach to the northeast;
11. That eight (8) parking spaces and an additional one parking space per three employees (minimum 9 spaces) be provided for the convenience store and bar per Section 310 of the PCZO;
12. That the underground fuel storage tanks that service the gas station meet the requirements of South Dakota Administrative Rule 74:56:01 at all times;
13. That the applicant maintains some type of barrier (i.e. fence, boulders) around the on-site wastewater system to prevent any parking and/or camping over top of the on-site wastewater system and that proper setbacks to the on-site wastewater system be maintained;
14. That all septic tanks be pumped every three (3) years and be inspected at the time of being pumped;
15. That the existing sanitary holding tank located east of the garage building be removed or used as a lift station;
16. That dust control measures be implemented to prevent dust from leaving the site and impacting the adjacent properties and/or street(s);
17. That any alterations or additions to the on-site wastewater treatment system be reviewed and approved by the South Dakota Department
of Environment and Natural Resources and the Pennington County Environmental Planner;
18. That each RV site be equipped with water, sewer and electric hook-ups;
19. That each campsite must be equipped with a numbered and color-coded sign indicator which is attached to a post on or near the campsite;
20. That a minimum 10-foot separation be provided between each RV site;
21. That all the interior streets shall be a minimum of 12 feet in width and surfaced with gravel (minimum of 4 inches), concrete or asphalt and maintained in a dust free manner;
22. That the Recreational Vehicle Park conform to all regulations set forth in Section 306 of the Pennington County Zoning Ordinance;
23. That the applicants conform to all applicable State and County regulations, including those established by the South Dakota Departments of Environment and Natural Resources and the Department of Health;
24. That a Building Permit be obtained for any new structures exceeding 144 square feet and located on a permanent foundation, which will require a site plan to be reviewed and approved by the Pennington County Planning Director;
25. That an Engineered Drainage Study is performed by the applicant’s engineer and approved by the County Drainage Engineer prior to the increase in the impervious area greater than 15 percent;
26. That all-natural drainage ways be maintained;
27. That prior to the placement of any on-premise sign, the applicant must obtain a Sign Permit in accordance with Section 312 of the PCZO;
28. That no parking is allowed within the Private Road Easement (OMB No. 0596-0082);
29. That the Recreational Vehicle Park be constructed in strict compliance with the final set of Engineered Construction Plans;
30. That the minimum setback requirements of a Highway Service District be maintained on the property or the appropriate Variance(s) be obtained;
31. That the switchback trail located on the hillside be gated to restrict access;
32. That the applicant adheres to Section 510(E) regarding the time limit on Conditional Use Permit established uses; and,
33. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.
IV. PROPOSED LOTS

A. Lot 1 of Tract Lake.
   1. Zoned Highway Service District.
   2. 7.38 acres.
   3. Lot contains:
      a. Convenience Store building – built in 1960 per Department of Equalization (DOE) records.
         i. An Easement is filed with the Register of Deeds for the encroachment of the onsite wastewater treatment system onto National Forest System (NFS) lands to the west.
         ii. The size of the onsite wastewater treatment system is unknown.
         i. 2005COSD0125 – 1,000 gallon holding tank.
      c. Telecommunications Tower.
         i. Conditional Use Permit / CU 08-10
         ii. Approved on August 5, 2008 by the Board of Commissioners.
      d. Fuel pumps.
         i. Underground storage tanks for fuel storage.
            (a) Building Permit 97-295
      e. Recreational Vehicle Park.
         i. Conditional Use Permit / CU 19-33.

4. Special Flood Hazard Area on the subject property (Zone A)
   a. Floodplain Development Permit / FP 19-49

5. Access is taken off of West Highway 44 via an approved SDDOT Approach.
   a. SDDOT Approach Permit approved on April 23, 2020.

B. Lot 2 of Tract Lake.
   1. Zoned Highway Service District.
      a. Lot will have to be rezoned to a residential district prior to plat filing.
   2. Future Land Use Designation is Ranchette, five (5) acre minimum.
      a. A Comprehensive Plan Amendment may be required.
   3. 3.42 acres.
   4. Vacant of any structures.
   5. Approach off of Highway 385 via a shared approach with Lot 3 of Tract Lake.
      a. Approach has been approved by SDDOT.
C. Lot 3 of Tract Lake.
   1. Zoned Highway Service District.
      a. Lot will have to be rezoned to a residential district prior to
         plat filing.
   2. Future Land Use Designation is Ranchette, five (5) acre minimum.
      a. A Comprehensive Plan Amendment may be required.
   3. 4.18 acres.
   4. Vacant of any structures.
   5. Approach off of Highway 385 via a shared approach with Lot 2 of
      Tract Lake.
      a. Approach has been approved by SDDOT.

REQUEST FOR COMMENT

D. County Highway
   1. The Highway Department has no comments since this abuts SD 44
      and drainage should not be affected.

E. Register of Deeds
   1. Proposed lots are okay.

F. Department of Equalization
   1. Looks good at this stage. One question: Is “Tract Lake” intended to
      be a new subdivision.
G. County Addressing Coordinator and Floodplain Administrator
   1. No addressing concerns at this time. Future addresses will be assigned during the Building Permit application process. Once assigned, addresses must be posted in accordance with Pennington County Ordinance #20.
   2. There is Special Flood Hazard (SFHA) on the property – FIRM panel 46103C0710H.
   3. Minor Plat will need to contain one hundred (100) year floodplain limits in accordance with current FIRM Panel.
   4. A Floodplain Development Permit will be required for any development within the SFHA.

H. County Environmental Planner
   1. The applicant currently has two approved septic systems on the property (2005COSD0125 and 2010COSD0091). The applicant intends to remove 7 RV sites from the 2010COSD0091 permit to accommodate the resort store and bar. The other system (2005COSD0125) will be also incorporated into the main system. I have no further concerns as long as the applicant follows the proposed plan.

I. County 9-1-1
   1. No concerns here.

J. County Ordinance Enforcement
   1. No violations.

V. ANALYSIS
   A. June 6, 2020 – The applicant’s agent, Robert Livingston, applied for Layout Plan / LPL 20-15 to create Lots 1, 2, 3 of Tract Lake from an existing 14.98-acre lot.
   B. Lots 2 and 3 of Tract Lake will require rezoning to allow for residential development. The Future Land Use Designation is Ranchette (View to 2040) which requires a five (5) acre minimum.
   C. This Layout Plan will increase density along Highway 385.
   D. There are smaller sized residential lots within 1,000 feet of this requested plat.
   E. Staff finds no significant issues with the applicant’s request as it appears to be in harmony with existing lots and current land uses in the area.

RECOMMENDATION: Staff recommends approval of Layout Plan / LPL 20-15 with the following conditions:

1. That the applicants obtain approved Approach Permits from the South Dakota Department of Transportation prior to installation of any approaches off of Highway 385;

2. That prior to filing the Plat with the Register of Deeds, Lots 2 and 3 be Rezoned appropriately, to include a Comprehensive Plan Amendment;
3. That the applicants ensure all natural drainage ways are maintained and not blocked;

4. That the Certifications on the Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations and Register of Deeds comments contained in this report;

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

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

7. That at the time of Minor Plat submittal, the plat contain one hundred (100) year floodplain limits in accordance with current FEMA maps and Pennington County Subdivision Regulations, Section 400.3(1)(l);

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

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

PIN: 1827354002
Tax ID: 51321
Property Address: 16001 W HIGHWAY 44
Owner Last Name: K W LINDSAY
Owner First Name: 
Mailing Address: PO BOX 1327

Mailing City/State: DADE CITY
Zip Code: 33526-1327
Acres: 14.98
Land Value: 371200
Non-ag Structure Value: 54400

Legal: TRACT LAKE OF SW1/4SW1/4 OF SEC. 27 AND SE1/4 OF SEC 28

Block: Subdivision:

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
Rapid City-Pennington County
Parcel Report

Parcel ID: 1827354901

Report generated 6/16/2020 9:50:23 AM

Parcel location within Pennington County

Parcel highlighted in blue

Parcel Information

PIN: 1827354901
Tax ID: 67702

Property Address: 16015 W HIGHWAY 44

Owner Last Name: CELLULAR INC NETWORK CORPORATION
Owner First Name:

Mailing Address: 10801 BUSH LAKE RD

Mailing City/State: BLOOMINGTON MN
Zip Code: 55438-2646

Acres: 0
Land Value: 0
Non-ag Structure Value: 0

Legal: BLL LOCATED ON TRACT LAKE OF SW1/4SW1/4
Block: Subdivision:

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
PLAT FILING APPLICATION

Date of PC Meeting: ______________________ Fee Paid: ________________
Date of BOC Meeting: ______________________

1. RELATIONSHIP OF APPLICANT TO PROPERTY IS: Robert Livingston
   □ Owner  □ Tenant  □ Lessee  □ Other

2. APPLICANT: Robert Livingston
   DAYTIME PHONE: 605-574-9550
   MAILING ADDRESS: 23851 HWY 36X MILL CITY SD 57745
   LANDOWNER: Kaumah Naouri Lusis
   DAYTIME PHONE: 352-761-7775
   MAILING ADDRESS: 23851 HWY 36X MILL CITY SD 57745
   AUTHORIZED AGENT: Robert Livingston
   DAYTIME PHONE: 605-574-9550
   MAILING ADDRESS: 23851 HWY 36X MILL CITY SD 57745

3. SURVEYOR / ENGINEER: Rehmus & Son
   ADDRESS: 3281 Tremont Drive RC SD 57703
   DAYTIME PHONE: 721-3667
   REGISTRATION NUMBER: C-2260

4. NAME OF SUBDIVISION: TRACT LAKE
   PURPOSE: TRACT LAKE
   PROPOSED LAND USE: □ Single-Family Residential  □ Mixed-Use  □ Commercial  □ Industrial
   EXISTING LEGAL DESCRIPTION: TRACT LAKE SW1/4 SW1/4 OF SECT 27
   AND SE 1/4 OF SECTION 28, T27N, R2E
   BHM, Pennington County, South Dakota
   PROPOSED LEGAL DESCRIPTION: LOTS 1, 2, 3 OF TRACT LAKE
   BHM, Pennington County, South Dakota
   EXISTING LAND USE: Harvesting
   ACREAGE: 14.98 ACRES
   SUBDIVISION SECTION(S): 27
   SURROUNDING ZONING: NORTH  SOUTH  EAST  WEST
   PHYSICAL CHARACTERISTICS: Hill, Flat
   WATER SOURCE: □ Well  □ Cistern
   SEWER: □ Public  □ Private  □ Community

5. THE OWNER, APPLICANT, OR AUTHORIZED AGENT, ACKNOWLEDGES: That he/she has read and received
   a copy of the instruction sheet and this application form concerning the filing and hearing of this matter; that he/she
   authorizes the Pennington County Planning Department staff and designees to enter onto and inspect the above-
   described property; and that he/she has been advised of the fee requirements.

Signature of APPLICANT or AGENT: ____________________________
DATE: ___________ 20__

Signature of LANDOWNER: ____________________________
DATE: ___________ 20__

Subscribed and sworn to before me this 6th day of ___________ 20__
Notary Public for the State of South Dakota
My Commission Expires: ___________ 20__

Subscribed and sworn to before me this 4th day of ___________ 20__
Notary Public for the State of South Dakota
My Commission Expires: ___________ 20__
Application for Highway Access Permit
South Dakota Department of Transportation

Instructions: Please contact the local South Dakota Department of Transportation office to determine what supporting documents must accompany this application. Please submit a complete application and supporting documentation for each access requested. Attach additional sheets as necessary. Please print or type. Owner and applicant agree to comply with special and standard conditions if access permitted.

Property Owner:
Name(s): WAYNE L. OSAGA
Mailing Address: 75351 HWY BOX
City, State, Zip: HILL CITY, SD 57345
Daytime Phone: 572-747-2745

Property to be Served by Approach:
Section: 281 Township: 281
Range: 5"E
Subdivision: Block/Lot: 1600 N HWY 44
City/County: HILL CITY

State Highway to be Accessed by Approach:
State Highway Number: HWY 44
Access would be 175 feet (north, south, east, or west) from HWY 386 (nearest cross street).

Land Use of Property to be Served (check one):
[ ] Agricultural: acres served ______
[ ] Business: type ______
[ ] Business: total square footage of buildings: ______
[ ] Businesses: number of employees ______
[ ] Residential: number of single-family dwellings ______
[ ] Residential: number of multi-family dwellings ______
[ ] Other: describe ________

Type of Permit Requested (check one)
[ ] Slew approach
[ ] Change in use
[ ] Temporary access
[ ] Improve existing access
[ ] Relocate existing access
[ ] Remove existing access

Requested Approach Width (check one)
[ ] 24" [ ] 30" [ ] 36" [ ] 40"

Local Government Reviews:
County: Municipalities:
Comments: Comments:

Concurrence signature: Date: Concurrence signature: Date:

Estimated Date of Construction:
I, the undersigned, request permission to construct or modify an access approach subject to the rules and regulations set forth in SDCL 70:08.

Signature of Applicant: P.I. Dransfield Date: 3/12/20

Signature of Owner (if different than applicant):
Date: 1/1

Supporting Materials Required (Required) (Received)
Access Approach Design 
Vicinity Map 
Traffic Volumes 
Three Copies of Site Plan 
Traffic Control Plan 
Proof of Liability Insurance 
Detailed Development Plan 
Drainage Plan 
Traffic Impact Study 
Revegetation Plan 
Other: ________

Received by SDDOT: Date: 3/30/20

Decision: (to be made after Application Review)
[ ] Access Approved
[ ] Access Approved with Variance: ________
[ ] Access Denied

Terms and Conditions of Approval (or Reason for Denial)
See all attached conditions & standard plates for all that apply.

Access Must be Constructed By: 7/9/2010

SDDOT Area Engineer Signature: Michael L. Conlon Date: 4/9/2010

SDDOT Area: Area Office: SD - C
Contact Person: Contact Phone: Steve Hiige 840-4100
Permit Number: ________

Distribution: Original – Owner; Copies – Access Management, Area Office
v.10/2005
## SDDOT Highway Access Permit Application Review Sheet (to be completed by SDDOT)

### Highway Access Classification: (check one)
- [ ] Expressway
- [ ] Free Flow Urban
- [ ] Intermediate Urban
- [ ] Urban Developed
- [ ] Urban Fringe
- [ ] Rural

Highway: 44W  
MMR + Displacement: 27 + 25  
Left ☐ Right ☒  
Average Daily Traffic: 1820  
Accidents (three years): 349

### Highway Alignment to Left of Access (as seen when standing on access)
- [ ] Straight  
- [ ] Turns left  
- [ ] Turns right  
- [ ] Flat  
- [ ] Slopes up  
- [ ] Slopes down

- Stopping Sight Distance: 200 ft.  
- Entering Sight Distance: __________ ft.  
- Posted Speed Limit: __________ mph

### Highway Alignment to Right of Access (as seen when standing on access)
- [ ] Straight  
- [ ] Turns left  
- [ ] Turns right  
- [ ] Flat  
- [ ] Slopes up  
- [ ] Slopes down

- Stopping Sight Distance: 750 ft.  
- Entering Sight Distance: __________ ft.  
- Posted Speed Limit: __________ mph

### Significant Design and Potential Impact Considerations (check all that apply and explain checked items):
- [ ] Sidewalks or Bike Paths  
- [ ] Curb & Gutter  
- [ ] On-Street Parking  
- [ ] Shoulder Width  
- [ ] Historical Resources  
- [ ] Surface Drainage  
- [ ] Drainage Structures  
- [ ] Major Structures  
- [ ] Guard Rail  
- [ ] Above-Ground Utilities  
- [ ] Railroad Tracks  
- [ ] Distance to Nearby Streets, Both Directions  
- [ ] Distance to Nearby Driveways, Both Directions  
- [ ] Others Streets with Access or Available Access  
- [ ] Traffic Control Devices or Relocation Needed  
- [ ] Median Crossovers

### Explain Impact on design:

### SDDOT Region Traffic Engineer Review (optional):
- Comments:

### SDDOT Access Management Review (optional):
- Comments:

| Signature: | date: / / |
| Signature: | date: / / |

### APPROACH DESIGN SKETCH

- List Attachments:
  - Driveway details
  - Culvert details
  - Mailbox details
  - Fencing details
  - Cattle guard
  - Sidewalk details
  - Median crossovers
  - Recreation paths
  - Rail crossings
  - Auxiliary lanes
  - Storm sewer
  - Pavement
  - Curb & gutter
  - Traffic Control
  - Sign/signal/marking
  - Other

### SDDOT Review Performed by:  
Date: / /
State Highway Access Approach Permit
Standard Conditions

When this permit was issued, the Department made its decision based in part on information submitted by the applicant, what alternative access to other public roads and streets was available, the operation of the highway and safety and design standards. Changes in access approach use or design not approved by the Department may cause the revocation or suspension of the permit. The permittee is responsible for the costs of construction, maintenance, and removal (if necessary) of the approach.

PERMIT EXPIRATION
A permit shall be considered expired if the access is not under construction within one year of the permit issue date or before the expiration of any authorized extension. When the permittee is unable to commence construction within one year after the permit issue date, the permittee may request a one-year extension from the Department. Only one extension may be granted. Any request for an extension must be in writing and submitted to the Department before the permit expires. The request should state the reasons why the extension is necessary, when construction is anticipated, and include a copy of page 1 (face of permit) of the access permit. Extension approvals shall be in writing. Any person wishing to reestablish an access permit that has expired may begin again with the application procedures.

CONSTRUCTION
1. The construction of the access and its appurtenances as required by the terms and conditions of the permit shall be completed at the expense of the permittee. All materials used in the construction of the access within the highway right-of-way or on permanent easements, become public property. Any materials removed from the highway right-of-way will be disposed of only as directed by the Department. Only clean fill material may be used for construction. Rubble and organic materials are prohibited. Permittee is responsible for salvaging and replacing topsoil, erosion control and revegetation of access.
2. The permittee shall notify the Area Office at least two working days prior to any construction within state highway right-of-way. Construction of the access shall not proceed until the access permit is issued. The access shall be completed in an expeditious and safe manner and shall be finished within 45 days from the initiation of construction within the highway right-of-way. One construction time extension may be requested from the Area Engineer. The permittee shall also notify the Area Office two days prior to substantial completion of the access construction.
3. A utility permit shall be obtained for any utility work within highway right-of-way. Where necessary to remove, relocate, or repair any traffic control device or public or private utility for the construction of a permitted access, the relocation, removal or repair shall be accomplished by the permittee without cost to the Department, and at the direction of the Department or utility company. Any damage to the state highway or other public right-of-way beyond that which is allowed in the permit shall be repaired immediately. The permittee is responsible for the repair of any utility damaged in the course of access construction, reconstruction or repair. Utilities are responsible for salvaging and replacing topsoil and must have an approved erosion control and revegetation plan. A final inspection must be held with the utility at the completion of the work.
4. The Department and the local government may inspect the access during construction and upon completion of the access to determine that all terms and conditions of the permit are met. Inspectors are authorized to enforce the conditions of the permit during and after construction and to halt any activities within state right-of-way that do not comply with the provisions of the permit, that conflict with concurrent highway construction or maintenance work, that endanger highway property, natural or cultural resources protected by law, or the health and safety of workers or the public.
5. Prior to using the access, the permittee is required to complete the construction according to the terms and conditions of the permit. Failure by the permittee to abide by all permit terms and conditions shall be sufficient cause for the Department to initiate action to suspend or revoke the permit and close the access. If in the determination of the Department the failure to comply with or complete the construction requirements of the permit create a highway safety hazard, such shall be sufficient cause for the summary suspension of the permit. If the permittee wishes to use the access prior to completion, arrangements must be approved by the Department and included in the permit. The Department may order a halt to any unauthorized use of the access pursuant to statutory and regulatory powers. Reconstruction or improvement of the access may be required when the permittee has failed to meet required specifications of design or materials.
6. The permittee shall provide construction traffic control devices at all times during access construction, in conformance with the Manual on Uniform Traffic Control Devices as required by state statute.
7. In the event it becomes necessary to remove any right-of-way fence, the posts on either side of the access shall be securely braced with an approved end post before the fence is cut to prevent any slacking of the remaining fence.

8. The permittee shall ensure that a copy of the permit is available for review at the construction site at all times. The permit may require the contractor to notify the individual or office specified on the permit at any specified phases in construction to allow the field inspector to inspect various aspects of the construction such as concrete forms, subbase, base course compaction, and materials specifications. Minor changes and additions may be ordered by the Department or local authority field inspector to meet unanticipated site conditions.

9. Each access shall be constructed in a manner that shall not cause water to enter onto the roadway or shoulder, and shall not interfere with the existing drainage system on the right-of-way or any adopted municipal system and drainage plan.

10. By accepting the permit, permittee agrees to save, indemnify, and hold harmless to the extend allowed by law, the Department, its officers, and employees from suits, actions, claims of any type or character brought because of injuries or damage sustained by any person resulting from the permittee’s use of the access permit during construction of the access.

CHANGES IN ACCESS USE AND PERMIT VIOLATIONS

1. It is the responsibility of the property owner and permittee to ensure that the use of the access to the property is not in violation of the permit terms and conditions. The terms and conditions of any permit are binding upon all assigns, successors-in-interest, heirs and occupants. If any significant changes are made or will be made in the use of the property that will affect access operation, traffic volume and or vehicle type, the permittee or property owner shall contact the Department to determine if a new access permit and modification to the access are required.

2. When an access is constructed or used inconsistent with the terms and conditions in violation of the permit, the Department may summarily suspend an access permit and immediately order closure of the access.

MAINTENANCE

The permittee shall be responsible for the repair and maintenance of the access beyond the edge of the roadway including:

1. surfacing,
2. curb and gutter,
3. cattle guard and gate,
4. vegetation control,
5. removal or clearance of snow or ice upon the access even though deposited on the access in the course of department snow removal operations,

6. repair and replacement of any access-related culverts of 36 inch diameter or smaller within the right-of-way in unincorporated areas,

7. obtaining department approval for all culvert repairs, drainage repairs, resurfacing, and changes in access design or configuration, and

8. all other maintenance required for continued safe and satisfactory operation of the access point.

The department shall perform no maintenance of access points, except:

1. modification of access point as necessary to meet adjacent highway reconstruction, as determined by the department,

2. access surface maintenance only when the department performs similar type maintenance on the highway at the access,

3. maintenance of new approaches required for construction under §31-24-1 and §31-24-2.

4. culvert cleaning in unincorporated areas, and

5. repair and replacement of culverts larger than 36" diameter in unincorporated areas.

In the event that the permittee fails to maintain an access point, the department may declare the negligently maintained access point a public nuisance, and upon notice to the permittee, may correct maintenance deficiencies at cost to the owner.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: 

ORDINANCE AMENDMENT / OA 20-03: To amend Section 309-C-6 “Yard, Building Setback Exceptions” [to replace and supersede Section 309-C-6 “Yard, Building Setback Exceptions”] of the Pennington County Zoning Ordinance.

REPORT BY: Brittnay Molitor

GENERAL DESCRIPTION: To amend Section 309-C-6 “Yard, Building Setback Exceptions to clarify the requirements and to allow accessory structures in the front yard on larger lots without a Variance.

PROPOSED TEXT:

SECTION 309 - YARD, BUILDING SETBACK EXCEPTIONS

C. The purpose here is to clarify certain conditions pertaining to the use of lots and access points:

6. Accessory buildings shall not be located in any required front yard in residential zoning districts less than one (1) acre.

RECOMMENDATION: Staff recommends approval of Ordinance Amendment / OA 20-03.
GENERAL INFORMATION:

REQUEST: ORDINANCE AMENDMENT / OA 20-04: To amend Section 511 “Fees” [to replace and supersede Section 511 “Fees”] of the Pennington County Zoning Ordinance.

REPORT BY: Britney Molitor

GENERAL DESCRIPTION: To amend Section 511 “Fees” to update and alphabetize this Section.

PROPOSED TEXT:

SECTION 511 - FEES

The below prescribed fees are payable to Pennington County and must be levied and collected by the Planning Department. All fees will be rounded to the nearest whole dollar.

A. Building Permit:

1. Commercial/Industrial building or structure. $100.00 or .01 of construction cost (including cost of building or structure, parking areas, and roads), whichever is greater.
   a. Construction cost will be determined by bid, bill of sale, or materials list.

2. Demolition or removal of building or structure. Building Permit required (no charge).

3. Mobile Home. A Building Permit is required for the placement of any mobile, manufactured, or modular home.
   a. Mobile Home Park. Fee for mobile, manufactured, or modular home placed within an approved mobile home park. $50.00.
   b. Other. Fee for mobile, manufactured, or modular home placed outside an approved mobile home park will be calculated at $45.00 per square foot x .004 or $25, whichever is greater.

4. Recreational Park Trailer (also referred to as “Park Model Home”). A Building Permit is required for the placement of any recreational park trailer deemed an improvement to the land and taxable as real property under SDCL 10-4-2.
a. Recreational Vehicle Park. Fee for recreational park trailer placed within an approved recreational vehicle park. $50.00.

b. Other. Fee for recreational park trailer placed outside an approved recreational vehicle park will be calculated at $45.00 per square foot x .004 or $25.00, whichever is greater.

5. Renewal of Building Permit. $25.00 or 25% of original Building Permit fee, whichever is greater.

6. Residential/Non-Commercial building or structure. $25.00 or .004 of construction cost, whichever is greater.

a. Calculation of Construction Cost.

i. Dwelling or residential accessory building or structure. Construction cost will be determined by bid or bill of sale. If work is performed by a licensed contractor, a bid is required. If no bid is available (i.e., work is performed by a property owner) then construction cost will be determined by square feet using the most current International Code Council Building Valuation Data.

ii. Agricultural building or structure (not including dwellings). Real property must be zoned and taxed Agriculture. Construction cost will be calculated at $15.00 per square foot.

iii. Fence over eight feet in height. Construction cost will be calculated at $10.00 per square foot.

iv. Retaining wall over four feet in height. Construction cost will be calculated at $10.00 per square foot.

7. Temporary Building Permit. $60.00

B. Conditional Use Permit under Section 510: $300.00

C. Energy System:


a. Application. $1,000.00

b. Annual Review Fee. $200.00
2. Wind Energy System (utility-scale).
   a. Application. $1,000.00
   b. Annual Review Fee. $200.00

D. Floodplain Development Permit: $125.00

E. Highway/Section Line:
   1. Road Construction Within a Section Line. $150.00
   2. Road Naming. $100.00
   3. Vacation of Public Right-of-Way or Section Line. $350.00

F. Mining Permit:
   1. Application.
      a. Permit Limit exceeding 10 acres. $2,500.00
      b. Permit Limit equal to or less than 10 acres. $500.00
   2. Transfer of Mining Permit. $1,000.00
   3. Review Fee. $500.00
   4. Legal Non-Conforming Registration. $300.00

* If applicant is a unit of state or local government, no fee is required.

G. On-site Wastewater Treatment System:
   1. Operating Permit. $20.00
   2. Construction Permit.
      a. Initial application (including two on-site inspections). $275.00
      b. Additional on-site inspections (if necessary). $100.00 (per inspection)
      c. Inspections outside of normal office hours. $250.00 (in addition to application fee)
H. Planned Unit Development:

1. Application. $930.00
2. Major Amendment. $400.00
3. Minor Amendment. $300.00
4. Special Consideration (Trailwood Village only). $300.00

I. Plat:

1. Layout Plan. $100.00
2. Minor. $350.00 plus $25.00 per lot
3. Preliminary. $350.00 plus $25.00 per lot
4. Final. $100.00
5. Vacation of Plat. $350.00

J. Sign Deposit:

A $100.00 refundable deposit is required for signs provided by the Planning Department pursuant to the requirements of SDCL Chapter 11-2. The deposit will be refunded if the sign is returned within three months of Commission or Board action.

K. Sign Permit:

1. On-premise or Business Sign. $100.00
2. Off-premise. $260.00
3. Community Sign. $60.00

L. South Dakota Housing acreage letter. $25.00

M. Storm Water Permit:

1. Small Scale Project.
   a. Associated with a Building Permit. $25.00
   b. Stand-alone. $50.00
   c. Renewal. $50.00
2. Large Scale and Industrial Project.
   a. Associated with a Building Permit. $100.00
   b. Stand-alone. $250.00
   c. Renewal. $250.00

3. Continuous Operation.
   a. Applicable small or large-scale Storm Water Permit fee. See above.
   b. Annual Review Fee. $100.00

N. Tax Increment Finance District Application: $1,000.00

O. Telecommunications:
   1. Facility Permit. $600
   2. Administrative Review. $300.00

P. Vacation Home Rental Permit Review Fee: $100.00 (per review)

Q. Variance: $300.00

R. Zoning
   1. Ordinance Amendment. $350.00
   2. Rezone. $300.00

S. PENALTIES

Fee is tripled for any use or work commenced prior to approval of a required permit. Penalty fee will not be assessed if work performed without a permit arises out of an emergency and Planning Director or designee concludes work necessary to protect public health, welfare, or safety. The Board of Commissioners may waive penalty fees if mitigating factors are present.

RECOMMENDATION: Staff recommends approval of Ordinance Amendment / OA 20-04.
Building Valuation Data – FEBRUARY 2020

The International Code Council is pleased to provide the following Building Valuation Data (BVD) for its members. The BVD will be updated at six-month intervals, with the next update in August 2020. ICC strongly recommends that all jurisdictions and other interested parties actively evaluate and assess the impact of this BVD table before utilizing it in their current code enforcement related activities.

The BVD table provides the “average” construction costs per square foot, which can be used in determining permit fees for a jurisdiction. Permit fee schedules are addressed in Section 109.2 of the 2018 International Building Code (IBC) whereas Section 109.3 addresses building permit valuations. The permit fees can be established by using the BVD table and a Permit Fee Multiplier, which is based on the total construction value within the jurisdiction for the past year. The Square Foot Construction Cost table presents factors that reflect relative value of one construction classification/occupancy group to another so that more expensive construction is assessed greater permit fees than less expensive construction.

ICC has developed this data to aid jurisdictions in determining permit fees. It is important to note that while this BVD table does determine an estimated value of a building (i.e., Gross Area x Square Foot Construction Cost), this data is only intended to assist jurisdictions in determining their permit fees. This data table is not intended to be used as an estimating guide because the data only reflects average costs and is not representative of specific construction.

This degree of precision is sufficient for the intended purpose, which is to help establish permit fees so as to fund code compliance activities. This BVD table provides jurisdictions with a simplified way to determine the estimated value of a building that does not rely on the permit applicant to determine the cost of construction. Therefore, the bidding process for a particular job and other associated factors do not affect the value of a building for determining the permit fee. Whether a specific project is bid at a cost above or below the computed value of construction does not affect the permit fee because the cost of related code enforcement activities is not directly affected by the bid process and results.

Building Valuation

The following building valuation data represents average valuations for most buildings. In conjunction with IBC Section 109.3, this data is offered as an aid for the building official to determine if the permit valuation is underestimated. Again it should be noted that, when using this data, these are “average” costs based on typical construction methods for each occupancy group and type of construction. The average costs include foundation work, structural and nonstructural building components, electrical, plumbing, mechanical and interior finish material. The data is a national average and does not take into account any regional cost differences. As such, the use of Regional Cost Modifiers is subject to the authority having jurisdiction.

Permit Fee Multiplier

Determine the Permit Fee Multiplier:
1. Based on historical records, determine the total annual construction value which has occurred within the jurisdiction for the past year.
2. Determine the percentage (%) of the building department budget expected to be provided by building permit revenue.
3. Permit Fee Multiplier = \[
\frac{\text{Bldg. Dept. Budget} \times (\%)}{\text{Total Annual Construction Value}}
\]

Example

The building department operates on a $300,000 budget, and it expects to cover 75 percent of that from building permit fees. The total annual construction value which occurred within the jurisdiction in the previous year is $30,000,000.

\[
\text{Permit Fee Multiplier} = \frac{300,000 \times 0.75}{30,000,000} = 0.0075
\]

Permit Fee

The permit fee is determined using the building gross area, the Square Foot Construction Cost and the Permit Fee Multiplier.

Permit Fee = Gross Area x Square Foot Construction Cost x Permit Fee Multiplier

Example

Type of Construction: IIB
Area: 1st story = 8,000 sq. ft. 
2nd story = 8,000 sq. ft.
Height: 2 stories
Permit Fee Multiplier = 0.0075
Use Group: B
1. Gross area:
   Business = 2 stories x 8,000 sq. ft. = 16,000 sq. ft.
2. Square Foot Construction Cost:
   B/IIB = $177.38/sq. ft.
3. Permit Fee:
   Business = 16,000 sq. ft. x $177.38/sq. ft x 0.0075
   = $21,286
Important Points

- The BVD is not intended to apply to alterations or repairs to existing buildings. Because the scope of alterations or repairs to an existing building varies so greatly, the Square Foot Construction Costs table does not reflect accurate values for that purpose. However, the Square Foot Construction Costs table can be used to determine the cost of an addition that is basically a stand-alone building which happens to be attached to an existing building. In the case of such additions, the only alterations to the existing building would involve the attachment of the addition to the existing building and the openings between the addition and the existing building.

- For purposes of establishing the Permit Fee Multiplier, the estimated total annual construction value for a given time period (1 year) is the sum of each building's value (Gross Area x Square Foot Construction Cost) for that time period (e.g., 1 year).

- The Square Foot Construction Cost does not include the price of the land on which the building is built. The Square Foot Construction Cost takes into account everything from foundation work to the roof structure and coverings but does not include the price of the land. The cost of the land does not affect the cost of related code enforcement activities and is not included in the Square Foot Construction Cost.

### Square Foot Construction Costs

<table>
<thead>
<tr>
<th>Group (2018 International Building Code)</th>
<th>IA</th>
<th>IB</th>
<th>IIA</th>
<th>IIB</th>
<th>IIIA</th>
<th>IIIB</th>
<th>IV</th>
<th>VA</th>
<th>VB</th>
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<td>247.86</td>
<td>239.47</td>
<td>233.25</td>
<td>223.81</td>
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<td>144.33</td>
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<td>185.56</td>
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<td>167.64</td>
<td>147.29</td>
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<td>A-3 Assembly, churches</td>
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<td>78.87</td>
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</table>

a. Private Garages use Utility, miscellaneous
b. For shell only buildings deduct 20 percent
c. N.P. = not permitted
d. Unfinished basements (Group R-3) = $22.45 per sq. ft.