

**DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
July 24, 2023 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

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

STAFF PRESENT: Brittney Molitor, Kelsey Rausch, Megan Talmage, Christine Phillip, TJ Doreff, Jeri Ervin, Kim Baxter, and Alexa Moeller (SAO).

ROLL CALL

1. APPROVAL OF THE JULY 10, 2023, MINUTES
Moved by McGregor and seconded by Coleman to approve the Minutes of the July 10, 2023, Planning Commission meeting. Vote: unanimous 7 to 0.

2. APPROVAL OF THE AGENDA
Moved by Kuehn and seconded by Burton to approve the Agenda of the July 24, 2023, Planning Commission meeting. Vote: unanimous 7 to 0.

Moved by Lewis and seconded by Kuehn to approve the Consent Agenda of the July 24, 2023, Planning Commission meeting. Vote: unanimous 7 to 0.

CONSENT AGENDA

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

3. **CONDITIONAL USE PERMIT REVIEW / CU 01-18:** Randy and June Guliuzza. To review a Bed and Breakfast as a home occupation in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Tract 2 of Shelter in the Hills Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

To approve the review of Conditional Use Permit / CU 01-18 with the following fourteen (14) conditions:

1. **That a maximum of six (6) people, including both guests and residents, continually be allowed to stay at the bed and breakfast establishment;**

2. **That the business continues to be conducted by members of the family residing on the premises and no more than one (1) additional person;**

3. That a smoke detector be installed in each sleeping room with the minimum of at least one (1) smoke detector per floor;
4. 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;
5. That the minimum of three (3) off-street parking spaces be provided in accordance with Pennington County Zoning Ordinance Section 323;
6. That the applicant maintains a current license with the South Dakota Department of Health (Bed and Breakfast License) and the Department of Revenue (Sale Tax License) and that copies of these licenses be provided to the Planning Department;
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 the address (23888 S. Rockerville Road) be continually posted on the residence in accordance with Ordinance #20;
9. That the applicants provide a combination of continental breakfast items (such as donuts, bagels and cream cheese, yogurt, muffins, fruit, juice, coffee, etc.) for guests at the Bed and Breakfast;
10. That the applicants continue to maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in the event of an emergency and said plan be posted inside the Bed and Breakfast and be made available to the Planning Department upon request;
11. 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 Agriculture and Natural Resources (DANR);
12. 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;
13. That the applicants comply with SDCL 34-18-9.1 – 34-18-9.4, which regulates Bed and Breakfast establishments; and;
14. That this Conditional Use Permit be reviewed in five (5) years, on a complaint basis, or as directed by the Board of Commissioners or Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

4. **CONDITIONAL USE PERMIT AMENDMENT REVIEW / CU 04-35**: Chris Peterson. To review a storage facility, a single-family residence to be used as the caretaker's residence and an office/shop building in a Commercial District in accordance with the Pennington County Zoning Ordinance.

Tract 1 of SE1/4, Section 11, T1N, R6E, BHM, Pennington County, South Dakota.

To approve the review of Conditional Use Permit Amendment / CU 04-35 with the following fourteen (14) conditions:

1. **That setbacks be in accordance with Section 209 of the Pennington County Zoning Ordinance or an approved Variance(s) be obtained;**
2. **That upon sale/transfer of the property, the new landowner(s) notify the Planning Director of the sale/transfer in writing; and the new landowner, applicant, or agent notify the surrounding property owners in accordance with Section 510 of the Pennington County Zoning Ordinance;**
3. **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 additional Staff as deemed necessary by the Planning Director and the Building Permit shall be forwarded to the County Fire Administrator for review;**
4. **That a minimum of eight (8) parking spaces continue to be provided and a loading and unloading zone be provided for all storage units that run along the units and must have four (4) inches of gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;**
5. **That ten (10) storage units (each not to exceed 7,500-square feet in area), an office/shop building, and a single-family residence to be used as a caretaker's residence by a caretaker who is directly engaged in the day-to-day operation of the storage unit business, continue to be allowed on the subject property with approved Building Permits. Additional non-storage unit structures may require the Conditional Use Permit to be amended and reviewed by the Planning Commission;**
6. **That the addition of more storage units may be allowed after the initial ten (10) storage units, from Condition #5, are completed and only after review and approval of an amended CU 04-35 for the additional units and approval by the Planning Director of any additional necessary Permits. Each additional storage unit shall not exceed 7,500-square feet in area and the total number of storage units on the subject property shall not exceed thirteen (13);**
7. **That the addresses for the office/shop building and the caretaker's residence continue to be posted and clearly visible and maintained in accordance with Pennington County Ordinance #20;**

8. That any lighting used to illuminate off-street parking or on-premise lighting shall be so arranged as to deflect the light away from all adjoining residences and residential lots;
9. That no more than one (1) on-premise sign shall be allowed in accordance with Section 312 of the Pennington County Zoning Ordinance, with an approved Sign Permit;
10. That the hours of operation for the storage units continue to be from 6:00 a.m. to 10:00 p.m. and a sign continues to be posted indicating after hours contact with the owner's phone number, which must be clearly visible at the entrance of the lot;
11. That the applicant continues to ensure that all natural drainage ways must be maintained and are not blocked;
12. That any work encompassing over one (1) acre continues to require the applicant to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environmental and Natural Resources;
13. That the subject property remains free of debris and junk vehicles; and,
14. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as deemed necessary by either the Pennington County Planning Commission or Board of Commissioners to ensure that all conditions are being met.

Vote: unanimous 7 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 18-16:** David and Karen Maudlin. To review a Vacation Home Rental in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 3 (also in Section 3, T2S, R5E), Turbo Subdivision, Section 34, T1S, R5E, BHM, Pennington County, South Dakota.

(Continued from the July 10, 2023, Planning Commission meeting.)

To approve the review of Conditional Use Permit / CU 18-16 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on South Dakota Department of Agriculture and Natural Resource (DANR) 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 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 DANR;

3. 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;
4. That each review of Conditional Use Permit / CU 18-16, be subject to PCZO § 511(F)(3), which imposes a \$100 fee per review;
5. 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;
6. 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;
7. That a minimum of three (3) off-street parking spaces be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
8. 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;
9. That the lot address (12754 Devin Court) be posted on the residence at all times and so it is clearly visible from Devin Court, in accordance with Pennington County's Ordinance #20;
10. 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;
11. That if the person designated as the Local Contact is ever changed from David Maudlin, 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 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 three (3) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

6. **CONDITIONAL USE PERMIT REVIEW / CU 18-19:** Jerry and Kari-Ann Casper. To review a Guest House on the subject property in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 7, Back Road Subdivision, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

To approve the review of Conditional Use Permit / CU 18-19 with the following nine (9) conditions:

1. That the rental or lease of the Guest House or the use of the Guest House as a permanent residence for a second family on the premises shall be prohibited;
2. That the Guest House shall not be used for more than 180 days per calendar year;
3. That the primary dwelling continue to be classified as owner-occupied and proof of status be provided to the Planning Department, in accordance with 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 continue to 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 continually be posted so they are clearly visible from Silver Mountain Road, in accordance with Pennington County Ordinance #20;
7. That the Guest House be continually utilized and maintained in accordance with all requirements of 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; and,

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

Vote: unanimous 7 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CU 19-27:** Jerry and Kari-Ann Casper. To review an existing single-family residence to be used as a Bed and Breakfast in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 7, Back Road Subdivision, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

To continue the review of Conditional Use Permit / CU 19-27 to the August 14, 2023, Planning Commission meeting in order for the applicant to address staff's concerns.

Vote: unanimous 7 to 0.

8. **CONDITIONAL USE PERMIT REVIEW / CU 21-13:** Heath Freeman. To review living in an existing residence while building a new single-family residence and to allow the existing residence to remain as a ranch hand residence in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

W1/2 of NE1/4, E1/2NW1/4, S1/2 less ROW, Section 10, T1N, R13E, BHM, Pennington County, South Dakota.

To approve the review of Conditional Use Permit / CU 21-13 with the following seven (7) conditions:

1. That an approved Building Permit be obtained for the proposed single-family residence prior to any construction, which requires a site plan to be reviewed and approved by the Planning Director;
2. That an approved On-Site Wastewater Treatment System Construction Permit be obtained prior to the installation of any On-Site Wastewater Treatment System on the property;
3. That the addresses, 23050 and 23054 175th Avenue, be properly posted on each residence and at the end of the driveway clearly visible from both directions of travel along 175th Ave, in accordance with Pennington County Ordinance #20;
4. That the minimum setback requirements for an Agriculture District be maintained on the property or the appropriate Variance(s) be obtained;
5. That the applicant obtains a Removal Permit prior to the removal of the existing single-family residence (23050 175th Avenue);

6. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,
7. That this Conditional Use Permit be reviewed in one (1) month, 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.

9. **MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 15-02**: Deerfield Park Condominiums Council of Co-Owners. To review an existing Planned Unit Development in accordance with the Pennington County Zoning Ordinance.

Deerfield Park Condominiums Family Units 1 through 10, Section 2, T1S, R3E, BHM, Pennington County, South Dakota.

To recommend approval of the review of Major Planned Unit Development Amendment / PU 15-02 with the following thirteen (13) conditions:

1. That the specific uses of this Planned Unit Development continue to be for single-family residences not to exceed ten (10) units located in not more than five (5) structures, of which only Units 5, 7, and 9 may be used for nightly/weekly tourist rental and accessory structures;
2. That the Planned Unit Development continues to be kept clean of all trash, debris and junk;
3. That each residential condominium unit (1-4, 6, 8, and 10) continue to have a minimum of two (2) off street parking spaces. All off street parking spaces on the site shall measure at least nine (9) feet by eighteen (18) feet and be surfaced with gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;
4. That only Condominium Units 5, 7, and 9 may be used for night/weekly rental or normal residential use;
5. That Condominium Units 5, 7, and 9 continue to have a minimum of four (4) off street parking spaces. All off street parking spaces on the site shall measure at least nine (9) feet by eighteen (18) feet and be surfaced with gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;
6. That the maximum occupancy for the night/weekly rental units (Units #5, #7, #9) shall be two (2) people per bedroom and two (2) people for each living room or family room;
7. That smoke detectors are installed in sleeping rooms and common hallways and tested annually as requested by the Pennington County Fire Coordinator. The smoke detectors must be Underwriters Laboratory (UL) listed and be either AC or battery operated;

8. That 2 lb. ABC dry chemical fire extinguishers continue to be accessible to all guests at all times on each floor or structure as requested by the Pennington County Fire Coordinator;
9. That the nightly/weekly rental units remain licensed with the South Dakota Department of Health as a Vacation Home Rental;
10. That the applicants continually have a Sales Tax License as required by the South Dakota Department of Revenue;
11. That signs be allowed to advertise the nightly/weekly rental units in accordance with Section 312 of the Pennington County Zoning Ordinance;
12. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director; and,
13. That this Planned Unit Development be reviewed in three (3) years, on a complaint basis, or as directed by the Pennington County Board of Commissioners or Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA

10. ROAD NAMING: Preston Family, Inc./John Preston. To name a 40-foot-wide access easement that provides access to five or six future lots located off of S. Highway 79 located in Section 20, T2S, R8E, BHM, Pennington County, South Dakota, to Blue Heron Road.

Rausch reviewed the Staff Report indicating the applicant has applied to name an access easement to Blue Heron Road.

Staff recommended approval of the road naming of Blue Heron Road.

Discussion followed.

Moved by Rossknecht and seconded by Burton to approve the road naming of Blue Heron Road.

All voting aye, the Motion carried 7 to 0.

11. ROAD NAMING: Preston Family, Inc./John Preston. To name a 40-foot-wide access easement that provides access to one existing lot located off of S. Highway 79 located in Section 20, T2S, R8E, BHM, Pennington County, South Dakota, to Porcupine Road.

Rausch reviewed the Staff Report indicating the applicant has applied to name an access easement to Porcupine Road.

Staff recommended approval of the road naming of Porcupine Road.

Discussion followed.

Moved by Burton and seconded by Lewis to approve the road naming of Porcupine Road.

All voting aye, the Motion carried 7 to 0.

12. ROAD NAMING: Preston Family, Inc./John Preston. To name a 40-foot-wide access easement that provides access to five future lots located off of S. Highway 79 located in Section 20, T2S, R8E, BHM, Pennington County, South Dakota, to Marmot Road.

Rausch reviewed the Staff Report indicating the applicant has applied to name an access easement to Marmot Road.

Staff recommended approval of the road naming of Marmot Road.

Discussion followed.

Moved by McGregor and seconded by Burton to approve the road naming of Marmot Road.

All voting aye, the Motion carried 7 to 0.

13. CONDITIONAL USE PERMIT / CU 23-24: Walter and Barbara Digmann. To allow an Accessory Dwelling Unit in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot B, Gold King Lode MS 2064, Section 28, T1S, R6E, BHM, Pennington County, South Dakota, Section 27, T1N, R6E, BHM, Pennington County, South Dakota.

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

Staff recommended approval of Conditional Use Permit / CU 23-24 with the following fifteen (15) conditions:

1. That only one Accessory Dwelling Unit (ADU) be allowed;
2. That the applicants obtain an approved Building Permit for the ADU;
3. That the ADU *not* exceed two stories, two bedrooms, or 700 square feet;

4. That the ADU has a residential appearance and cannot be a Recreational Vehicle;
5. That the addresses assigned to the ADU and the primary residence be posted on each residence and at the end of the driveway where it intersects Klondike Road so they are clearly visible, in accordance with Pennington County Ordinance #20;
6. That the On-site Wastewater Treatment System (OSWTS) complies with § 331 of the Pennington County Zoning Ordinance (PCZO);
7. That all necessary permits are obtained prior to any additions and/or alterations to the ADU or upgrades/alterations to the OSWTS;
8. That all utilities for the ADU be extended from the primary residence and be on one (1) meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;
9. That home occupations, Vacation Home Rentals, and nightly rentals of the ADU are prohibited;
10. That if the ADU is rented or leased, it must be done so for a period of 28 consecutive days or more;
11. That the principal dwelling on the property be owner occupied or utilized as a long-term rental;
12. That at least 1 off-street parking space be provided for the ADU;
13. That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;
14. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,
15. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Rossknecht and seconded by Kuehn to approve of Conditional Use Permit / CU 23-24 with the following fifteen (15) conditions:

- 1. That only one Accessory Dwelling Unit (ADU) be allowed;**
- 2. That the applicants obtain an approved Building Permit for the ADU;**
- 3. That the ADU *not* exceed two stories, two bedrooms, or 700 square feet;**

4. That the ADU has a residential appearance and cannot be a Recreational Vehicle;
5. That the addresses assigned to the ADU and the primary residence be posted on each residence and at the end of the driveway where it intersects Klondike Road so they are clearly visible, in accordance with Pennington County Ordinance #20;
6. That the On-site Wastewater Treatment System (OSWTS) complies with § 331 of the Pennington County Zoning Ordinance (PCZO);
7. That all necessary permits are obtained prior to any additions and/or alterations to the ADU or upgrades/alterations to the OSWTS;
8. That all utilities for the ADU be extended from the primary residence and be on one (1) meter, unless the utility provider requires otherwise and proof of that requirement is provided to the Planning Director;
9. That home occupations, Vacation Home Rentals, and nightly rentals of the ADU are prohibited;
10. That if the ADU is rented or leased, it must be done so for a period of 28 consecutive days or more;
11. That the principal dwelling on the property be owner occupied or utilized as a long-term rental;
12. That at least 1 off-street parking space be provided for the ADU;
13. That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;
14. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,
15. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

All voting aye, the Motion carried 7 to 0.

14. CONDITIONAL USE PERMIT / CU 23-23: Ryan and Rhonda Kelly. To allow an Accessory Dwelling Unit in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

S1/2SE1/4NE1/4, Section 27, T1N, R6E, BHM, Pennington County, South Dakota.

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

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

1. That only one Accessory Dwelling Unit (ADU) be allowed;
2. That the applicants obtain an approved Building Permit for the ADU;
3. That the ADU *not* exceed two stories, two bedrooms, or 700 square feet;
4. That the ADU has a residential appearance and cannot be a Recreational Vehicle;
5. That the addresses assigned to the ADU and the primary residence be posted on each residence and at the end of the driveway where it intersects First Thunder Road so they are clearly visible, in accordance with Pennington County Ordinance #20;
6. That the On-site Wastewater Treatment System (OSWTS) complies with § 204(J) of the Pennington County Zoning Ordinance (PCZO);
7. That all necessary permits are obtained prior to any additions and/or alterations to the ADU or upgrades/alterations to the OSWTS;
8. That home occupations, Vacation Home Rentals, and nightly rentals of the ADU are prohibited;
9. That if the ADU is rented or leased, it must be done so for a period of 28 consecutive days or more;
10. That the principal dwelling on the property be owner occupied or utilized as a long-term rental;
11. That at least 1 off-street parking space be provided for the ADU;
12. That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;
13. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,
14. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Coleman and seconded by Kuehn to approve of Conditional Use Permit / CU 23-23 with the following fourteen (14) conditions:

- 1. That only one Accessory Dwelling Unit (ADU) be allowed;**

2. That the applicants obtain an approved Building Permit for the ADU;
3. That the ADU *not* exceed two stories, two bedrooms, or 700 square feet;
4. That the ADU has a residential appearance and cannot be a Recreational Vehicle;
5. That the addresses assigned to the ADU and the primary residence be posted on each residence and at the end of the driveway where it intersects First Thunder Road so they are clearly visible, in accordance with Pennington County Ordinance #20;
- 6 That the On-site Wastewater Treatment System (OSWTS) complies with § 204(J) of the Pennington County Zoning Ordinance (PCZO);
- 7 That all necessary permits are obtained prior to any additions and/or alterations to the ADU or upgrades/alterations to the OSWTS;
- 8 That home occupations, Vacation Home Rentals, and nightly rentals of the ADU are prohibited;
- 9 That if the ADU is rented or leased, it must be done so for a period of 28 consecutive days or more;
10. That the principal dwelling on the property be owner occupied or utilized as a long-term rental;
11. That at least 1 off-street parking space be provided for the ADU;
12. That the ADU be continually utilized and maintained in accordance with all requirements of § 324 of the Pennington County Zoning Ordinance;
13. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director; and,
14. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

All voting aye, the Motion carried 7 to 0.

15. COMPREHENSIVE PLAN AMENDMENT / CA 23-06: Adam Weaver / Sharon Holte Weaver; Sarah Tschetter - Agent. To amend the Comprehensive Plan to change the Future Land Use from Rural Residential District to Low Density Residential District in accordance with the Pennington County Zoning Ordinance.

The subject property is located on the following metes and bounds description: Commencing at the Southeast Corner of Lot 4 of Strato Rim Estates located in Gov't

Lot 4 and the SE1/4 of the SW1/4 of Section 7, Township 1 South, Range 7 East of the Black Hills Meridian, which is the POINT OF BEGINNING, POINT NO 1; Thence N 89°15'32" W - a distance of 580.00 feet to Point No. 2 which is the TRUE POINT OF BEGINNING, Thence N 30°14'44" E - a distance of 172.33 feet to Point No. 3; Thence S 89°15'32" E - a distance of 173.89 feet to Point No. 4; Thence S 00°44'28" W - a distance of 149.98 feet to Point No. 5; Thence N 89°15'32" W - a distance of 258.76 feet to the TRUE POINT OF BEGINNING, Point No. 2; Containing 0.740 Acres "more or less", located in Gov't Lot 4 and SE1/4 of SW1/4 of Section 7, T1S, R7E, BHM, Pennington County, South Dakota.

(Continued from the June 26, 2023, Planning Commission meeting.)

Talmage reviewed the Staff Report indicating the applicants have applied for a Comprehensive Plan Amendment to amend the Comprehensive Plan to change the Future Land Use from Rural Residential District to Low Density Residential District.

Staff recommended to deny without prejudice of Comprehensive Plan Amendment / CA 23-06.

Discussion followed.

Moved by Rossknecht and seconded by Lewis to deny without prejudice Comprehensive Plan Amendment / CA 23-06.

All voting aye, the Motion carried 7 to 0.

16. REZONE / RZ 23-09: Adam Weaver / Sharon Holte Weaver; Sarah Tschetter - Agent. To rezone 0.74 acre from Rural Residential District to Low Density Residential District in accordance with the Pennington County Zoning Ordinance.

The subject property is located on the following metes and bounds description: Commencing at the Southeast Corner of Lot 4 of Strato Rim Estates located in Gov't Lot 4 and the SE1/4 of the SW1/4 of Section 7, Township 1 South, Range 7 East of the Black Hills Meridian, which is the POINT OF BEGINNING, POINT NO 1; Thence N 89°15'32" W - a distance of 580.00 feet to Point No. 2 which is the TRUE POINT OF BEGINNING, Thence N 30°14'44" E - a distance of 172.33 feet to Point No. 3; Thence S 89°15'32" E - a distance of 173.89 feet to Point No. 4; Thence S 00°44'28" W - a distance of 149.98 feet to Point No. 5; Thence N 89°15'32" W - a distance of 258.76 feet to the TRUE POINT OF BEGINNING, Point No. 2; Containing 0.740 Acres "more or less", located in Gov't Lot 4 and SE1/4 of SW1/4 of Section 7, T1S, R7E, BHM, Pennington County, South Dakota.

(Continued from the June 26, 2023, Planning Commission meeting.)

Talmage reviewed the Staff Report indicating the applicants have applied for a Rezone to rezone 0.74 acre from Rural Residential District to Low Density Residential District.

Staff recommended to deny without prejudice of Rezone / RZ 23-09.

Discussion followed.

Moved by Burton and seconded by McGregor to deny without prejudice of Rezone / RZ 23-09.

All voting aye, the Motion carried 7 to 0.

17. MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 23-07: Black Elk Resort, LLC; Daniel Roth. To amend an existing Planned Unit Development to allow an additional Recreational Vehicle site on the subject property in accordance with the Pennington County Zoning Ordinance.

Lot 1, Whispering Wind Subdivision, Section 27, T1S, R5E, BHM, Pennington County, South Dakota.

(Continued from the June 26, 2023, Planning Commission meeting.)

Talmage stated this item was continued from the June 26, 2023, Planning Commission meeting.

Staff recommended approval of Major Planned Unit Development Amendment / PU 23-07 with the following twenty-five (25) conditions:

1. That the uses allowed with this Planned Unit Development be a nine (9) site RV Park, six (6) attached cabins for rental purposes with restroom facilities, one (1) duplex with a residence and rental unit, one (1) single-family residence, one (1) garage, one (1) low water bridge, one (1) central pavilion, two (2) detached rental cabins, an outdoor meeting space to include a bar area, fireplace, and cooking area, and including any associated improvements;
2. That twenty-five (25) foot setbacks be maintained along all exterior lot lines, which abut properties under different ownership;
3. That each campsite (RV or tent) 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;
4. That the interior one-way road shall be a minimum of 15 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner. All other interior roads shall be a minimum of 24 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner;
5. That a Floodplain Development Permit shall be submitted for review and approval prior to any work or placement of any structure(s) within the boundaries of the 100-year floodplain;
6. That natural drainage paths be maintained and/or any alterations to the natural drainage paths be adequately compensated for in accordance with the County Drainage Engineer's comments;

7. That natural drainage be diverted around the absorption area for the new on-site wastewater system so as to prevent run-off into Palmer Creek;
8. That the applicant maintain 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;
9. That any new On-site Wastewater systems be installed in accordance with all Department of Environment and Natural Resources regulations, including a minimum 100 foot setback for the absorption area from the high water line of the Palmer Creek;
10. That a minimum ten (10) foot separation be maintained at all times between each RV site;
11. That the internal road network not exceed a maximum of an eight (8) percent grade;
12. That each RV and tent site has a lot number clearly posted and Guests made aware of the complete address should they need to call 9-1-1;
13. That the RV Park conforms to all regulations in Section 306 of the Pennington County Zoning Ordinance;
14. That the applicants conform to all applicable State and County regulations, including those established by the South Dakota Department of Environmental and Natural Resources and Health;
15. That all other conditions of approval of the original PUD are still valid and applicable to the subject property with the exception of Condition #3 regarding the allowed uses and Condition #10 pertaining to setbacks;
16. That Operating Permits be obtained for all existing on-site wastewater treatment systems on the property;
17. That the applicant notify the Pennington County Onsite Wastewater Specialist concerning the overall plan for the onsite wastewater treatment systems for review and approval by the Pennington County Environmental Planner and South Dakota Department of Environment and Natural Resources (SD DANR);
18. That the property address be posted so that it is visible from both directions of S. Highway 16, in accordance with Pennington County's Ordinance #20;
19. That each habitable structure be identified with a unique unit number that is posted on the exterior of the cabin, next to the main entrance door, using characters that are reflective and at least 4" in height by 3" wide. Guests at the cabin should be advised or given a card that lists the complete address in the event they need to call 9-1-1;

20. That the new residence have a separate physical address from the existing house, and the address number be posted on the new house in accordance with County Ordinance #20;
21. That an approved Construction Permit be obtained for any land disturbance greater than 10,000 square feet. Construction must meet all the requirements of the Pennington County Stormwater Quality Manual;
22. That the comments provided by the U.S. Forest Service be adhered to at all times;
23. That prior to installation of the low-water bridge, the applicant obtain the proper permits and approvals from all applicable agencies;
24. That the applicant maintain the appropriate permits from Pennington County and any other appropriate agency to selling Beer and Wine on the subject property; and,
25. That this Planned Unit Development Amendment be reviewed in two (2) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to ensure that all Conditions of Approval are being met.

Discussion followed.

Moved by Rossknecht and seconded by Lewis to approve of Major Planned Unit Development Amendment / PU 23-07 with the following twenty-five (25) conditions:

- 1. That the uses allowed with this Planned Unit Development be a nine (9) site RV Park, six (6) attached cabins for rental purposes with restroom facilities, one (1) duplex with a residence and rental unit, one (1) single-family residence, one (1) garage, one (1) low water bridge, one (1) central pavilion, two (2) detached rental cabins, an outdoor meeting space to include a bar area, fireplace, and cooking area, and including any associated improvements;**
- 2. That twenty-five (25) foot setbacks be maintained along all exterior lot lines, which abut properties under different ownership;**
- 3. That each campsite (RV or tent) 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;**
- 4. That the interior one-way road shall be a minimum of 15 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner. All other interior roads shall be a minimum of 24 feet in width and surfaced with gravel (minimum of 4 inches) or concrete or asphalt and maintained in a dust free manner;**

5. That a Floodplain Development Permit shall be submitted for review and approval prior to any work or placement of any structure(s) within the boundaries of the 100-year floodplain;
6. That natural drainage paths be maintained and/or any alterations to the natural drainage paths be adequately compensated for in accordance with the County Drainage Engineer's comments;
7. That natural drainage be diverted around the absorption area for the new on-site wastewater system so as to prevent run-off into Palmer Creek;
8. That the applicant maintain 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;
9. That any new On-site Wastewater systems be installed in accordance with all Department of Environment and Natural Resources regulations, including a minimum 100 foot setback for the absorption area from the high water line of the Palmer Creek;
10. That a minimum ten (10) foot separation be maintained at all times between each RV site;
11. That the internal road network not exceed a maximum of an eight (8) percent grade;
12. That each RV and tent site has a lot number clearly posted and Guests made aware of the complete address should they need to call 9-1-1;
13. That the RV Park conforms to all regulations in Section 306 of the Pennington County Zoning Ordinance;
14. That the applicants conform to all applicable State and County regulations, including those established by the South Dakota Department of Environmental and Natural Resources and Health;
15. That all other conditions of approval of the original PUD are still valid and applicable to the subject property with the exception of Condition #3 regarding the allowed uses and Condition #10 pertaining to setbacks;
16. That Operating Permits be obtained for all existing on-site wastewater treatment systems on the property;
17. That the applicant notify the Pennington County Onsite Wastewater Specialist concerning the overall plan for the onsite wastewater treatment systems for review and approval by the Pennington County Environmental Planner and South Dakota Department of Environment and Natural Resources (SD DANR);

18. That the property address be posted so that it is visible from both directions of S. Highway 16, in accordance with Pennington County's Ordinance #20;
19. That each habitable structure be identified with a unique unit number that is posted on the exterior of the cabin, next to the main entrance door, using characters that are reflective and at least 4" in height by 3" wide. Guests at the cabin should be advised or given a card that lists the complete address in the event they need to call 9-1-1;
20. That the new residence have a separate physical address from the existing house, and the address number be posted on the new house in accordance with County Ordinance #20;
21. That an approved Construction Permit be obtained for any land disturbance greater than 10,000 square feet. Construction must meet all the requirements of the Pennington County Stormwater Quality Manual;
22. That the comments provided by the U.S. Forest Service be adhered to at all times;
23. That prior to installation of the low-water bridge, the applicant obtain the proper permits and approvals from all applicable agencies;
24. That the applicant maintain the appropriate permits from Pennington County and any other appropriate agency to selling Beer and Wine on the subject property; and,
25. That this Planned Unit Development Amendment be reviewed in two (2) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to ensure that all Conditions of Approval are being met.

All voting aye, the Motion carried 7 to 0.

18. ORDINANCE AMENDMENT / OA 23-01: Pennington County. To amend Section 319 Vacation Home Rental [to amend and supersede the existing Section 319 Vacation Home Rental] of the Pennington County Zoning Ordinance.

(Continued from the June 26, 2023, Planning Commission meeting.)

Molitor stated this is an Ordinance Amendment to amend Section 319 Vacation Home Rental of the Zoning Ordinance.

Chairman Johnson noted that the Planning Commission had previously moved to incorporate the current language of the Local Contact procedure and process in Section 319 and add it to the proposed Ordinance Amendment.

Moved by McGregor and seconded by Lewis to continue discussion of the Vacation Home Rental Memo dated April 24, 2023.

All voting aye, the Motion carried 7 to 0.

Discussion followed.

Commissioner McGregor left the meeting at 10:41 a.m.
Commissioner McGregor returned to the meeting at 10:43 a.m.

Commissioner Rossknecht left the meeting at 10:46 a.m.
Commissioner Rossknecht returned to the meeting at 10:50 a.m.

Moved by Rossknecht and seconded by Johnson to direct staff to perform research and provide feedback on vacation home rental distances and percentages to single-family residences and the total number of vacation home rentals contiguous to single-family residences.

All voting aye, the Motion carried 7 to 0.

Moved by Burton and seconded by Kuehn to continue the discussion of density to the August 14, 2023, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

Commissioner Burton left the meeting at 11:11 a.m.
Commissioner Burton returned to the meeting at 11:13 a.m.

Moved by Kuehn and seconded by Lewis to approve the Fees as submitted for Ordinance Amendment / OA 23-01, with amended language for the bi-annual fee.

All voting aye, the Motion carried 7 to 0.

Commissioner Kuehn left the meeting at 11:33 a.m. and did not return.

Commissioner Lewis left the meeting at 11:34 a.m.
Commissioner Lewis returned to the meeting at 11:35 a.m.

Moved by McGregor and seconded by Coleman to continue Ordinance Amendment / OA 23-01 to the August 14, 2023, Planning Commission meeting.

All voting aye, the Motion carried 6 to 0.

19. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the July 10, 2023, Planning Commission meeting.

20. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

21. ITEMS FROM THE STAFF

There were no items from Staff.

22. ITEMS FROM THE MEMBERSHIP

Commissioner Lewis spoke of Section 318 Bed and Breakfast establishments.

23. ADJOURNMENT

Moved by Burton and seconded by McGregor to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at 11:42 a.m.

Charlie Johnson, Chairperson