

**DRAFT MINUTES  
PENNINGTON COUNTY PLANNING COMMISSION  
August 8, 2022 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Charlie Johnson, Karen McGregor, Jim Coleman, Mikal Lewis, Kevin Burton, and Lloyd LaCroix.

STAFF PRESENT: Brittney Molitor, Madisen, Ransom, Cody Sack, Jason Theunissen, and Megan Krueger (State's Attorney's Office).

ROLL CALL

1. APPROVAL OF THE JULY 25, 2022, MINUTES  
**Moved by Burton and seconded by McGregor to approve the Minutes of the July 25, 2022, Planning Commission meeting, with a correction to the number of Conditions listed for Item #8. Vote: unanimous 6 to 0.**

3. APPROVAL OF THE AGENDA  
**Moved by Burton and seconded by McGregor to approve the Agenda of the August 8, 2022, Planning Commission meeting. Vote: unanimous 6 to 0.**

**Moved by Coleman and seconded by McGregor to approve the Consent Agenda of the August 8, 2022, Planning Commission meeting. Vote: unanimous 6 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 10-23:** Reynolds and Livingston, LLC. To review a Recreational Vehicle Park with four (4) RV sites in a Highway Service District in accordance with Sections 212 and 510 of the Pennington County Zoning Ordinance.

That portion of Lot 1 located in Pennington County of Boyle Subdivision, Section 7, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the July 25, 2022, Planning Commission meeting.)

**To recommend to continue the review of Conditional Use Permit / CU 10-23 to no later than the October 11, 2022, Planning Commission meeting.**

**Vote: unanimous 6 to 0.**

4. **CONDITIONAL USE PERMIT REVIEW / CU 14-27:** Wayne and Phyllis Krell. To review a single-wide manufactured home to be used as a permanent residence in a Suburban Residential District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

Lot 6A of Lot 6 in Block 4, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 14-27 with the following seven (7) conditions:**

1. **That the lot address continue to be clearly posted, so as to be visible from both directions on Gemini Street in accordance with Pennington County's Ordinance #20;**
2. **That the subject property continues to remain free of debris and junk vehicles;**
3. **That the mobile home installed on the property continue to have peaked non-reflective type roofs and wood or simulated wood-type siding that are continually maintained;**
4. **That the minimum setback requirements of a Suburban Residential District be continually maintained on the property;**
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 2 off-street parking spaces be continually provided on the subject property, in accordance with Section 310 of the Pennington County Zoning Ordinance; and,**
7. **That this Conditional Use Permit be reviewed on a complaint basis, or as directed by the Pennington County Board of Commissioners and/or Planning Commission to verify that all Conditions of Approval are being met.**

**Vote: unanimous 6 to 0.**

5. **MINOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 21-01:** The Storage Place/Chris Hamm. To review an existing Planned Unit Development in accordance with Section 216 of the Pennington County Zoning Ordinance.

That PT of W1/2NE1/4SE1/4 lying S of Portrush Road That Lies Outside the City of Rapid City Corporate Boundaries Less Red Rock Estate and Less ROW and That PT of E1/2NE1/4SE1/4 lying Outside the City of Rapid City Corporate Boundaries Less ROW; Section 29, T1N, R7E, BHM, Pennington County, South Dakota

To approve the extension of Minor Planned Unit Development Amendment / PU 21-01 with the following twenty-one (21) conditions:

1. That the uses allowed in Zone 1 continue to be those allowed in the Commercial Zoning District and to include a car wash facility;
2. That the uses allowed in Zone 2 continue to be for 19 storage unit buildings and the single-family residence to be used as a caretaker's residence, and the caretaker be directly engaged in the day-to-day operation of the storage unit business;
3. That a minimum of four parking spaces continue to be provided and that a loading, and unloading zone continue to be provided for all storage unit buildings in Zone 2 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;
4. That the business address for the storage units continue to be posted on the property to be clearly visible from Dunsmore Road and to be maintained in accordance with the Pennington County Ordinance #20;
5. That the address for the caretaker's residence continue to be posted on the property to be clearly visible from Muirfield Drive and to be maintained in accordance with the Pennington County Ordinance 20;
6. That any new approaches and/or access obtain an approved Approach Permit, or similar, from the appropriate road authority;
7. That any lighting used to illuminate any off-street parking or lighting in Zone 1 or Zone 2 continue to be so arranged as to deflect the light from all adjoining residences and the lighting on the outside of the storage units in Zone 2 be directed towards the ground;
8. That sign(s) shall continue to be allowed with an approved Sign Permits in Zone 1 and Zone 2. The sign shall not exceed 25 feet in height and have a maximum display area of 250 square feet on each side and not have more than two sides.
9. That prior to Building Permits being issued, a drainage plan addressing run-off shall be reviewed and approved by the Planning Department;
10. That the applicant ensures that all natural drainage ways continue to be maintained and are not blocked;
11. That any land disturbance which equals or exceeds 10,000 square feet and is not associated with an approved Building Permit, will require an approved Storm Water Permit from the Planning Department;

12. That any work encompassing over (1) one acre will require the applicant to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environment and Natural Resources;
13. That the storage units continue to be used exclusively for storage and not retail business activities;
14. That any additional storage unit buildings require the Planned Unit Development to be amended;
15. That the hours of operation for the storage units continue to be from 7:00 a.m. to 10:00 p.m.;
16. That the address and a sign continue to be posted indicating after hours contact information with the owner phone number, which must be clearly visible at the entrance to the lot for the storage units;
17. 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;
18. That the setbacks from property lines for Zone 2 continue to be a minimum of 25 feet from the front and rear property lines and eight (8) feet from the side yard property lines; and a 58-foot setback from Section Lines or the Section Line be vacated;
19. That the setback of the interior lot line between Lot A and Lot B continue to be six (6) feet;
20. That the setbacks from property lines for Zone 1 continue to follow those for a General Commercial Zoning District; and,
21. That this Planned Unit Development be reviewed in 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 6 to 0.**

**END OF CONSENT AGENDA**

6. CONDITIONAL USE PERMIT / CU 22-36: Michael and Jeanne Wagner. To live in a tiny home while building a single-family residence on the subject property in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 2, Rand Lode Subdivision, Section 18, T1S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to live in a tiny home (in lieu of a Recreational Vehicle) while building a single-family residence on the subject property.

Staff recommended approval of Conditional Use Permit / CU 22-36 with the following ten (10) conditions:

1. That no more than 1 efficiency dwelling/tiny home is allowed to be utilized as temporary living quarters on the subject property;
2. That the efficiency dwelling/tiny home be connected to the approved On-site Wastewater Treatment System (OSWTS);
3. That all requirements of the Pennington County Storm Water Quality Manual continue to be met;
4. That the address (23739 Takoda Road) be assigned to the efficiency dwelling/tiny home and that it be clearly posted on the efficiency dwelling/tiny home and at the intersection of the applicants' driveway and Takoda Road, in accordance with Pennington County's Ordinance #20;
5. That the minimum setback requirements of an Agriculture District be maintained on the subject property;
6. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
7. That the property remains free of debris and junk vehicles;
8. That the applicant adheres to Pennington County Zoning Ordinance §§ 510 and 330;
9. That this Conditional Use Permit be reviewed and amended to allow the efficiency dwelling/tiny home to remain once the single-family residence is finished and habitable; and,
10. 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 Lewis and seconded by McGregor to approve of Conditional Use Permit / CU 22-36 with the following ten (10) conditions:**

- 1. That no more than 1 efficiency dwelling/tiny home is allowed to be utilized as temporary living quarters on the subject property;**
- 2. That the efficiency dwelling/tiny home be connected to the approved On-site Wastewater Treatment System (OSWTS);**
- 3. That all requirements of the Pennington County Storm Water Quality Manual continue to be met;**
- 4. That the address (23739 Takoda Road) be assigned to the efficiency dwelling/tiny home and that it be clearly posted on the efficiency dwelling/tiny home and at the intersection of the applicants' driveway and Takoda Road, in accordance with Pennington County's Ordinance #20;**
- 5. That the minimum setback requirements of an Agriculture District be maintained on the subject property;**
- 6. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;**
- 7. That the property remains free of debris and junk vehicles;**
- 8. That the applicant adheres to Pennington County Zoning Ordinance §§ 510 and 330;**
- 9. That this Conditional Use Permit be reviewed and amended to allow the efficiency dwelling/tiny home to remain once the single-family residence is finished and habitable; and,**
- 10. 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 6 to 0.**

7. CONDITIONAL USE PERMIT / CU 22-37: Nathan and Alexis Sobolewski. To allow a grain bin to be utilized for food and beverage sales on the subject property during the summer months in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

SW1/4 Less RTY, Section 33, T2S, R13E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a grain bin to be utilized for food and beverage sales on the subject property.

Staff recommended approval of Conditional Use Permit / CU 22-37 with the following fifteen (15) conditions:

1. That the permitted use allows a grain bin to be utilized for the seasonal sale of food and beverages;
2. That daily and event operations be conducted by owners, on-site managers, and staff as necessary;
3. That the annual days of operation of the venue/event center be allowed 7 days each week from May 1st through September 15th;
4. That the hours of operation, for the requested use, shall be between 7:30 a.m. and 5:00 p.m. only;
5. That an address be assigned and posted on the grain bin so it is clearly visible, in accordance with Pennington County Ordinance #20;
6. That access to the site be only from the County approved approach and that no additional access be taken from SD Highway 44, per SDDOT comments;
7. That a minimum of 8 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with the Pennington County Zoning Ordinance (PCZO) §310(A)(9)(m);
8. That prior to operation, port-a-lets be located on the property to serve as a means of wastewater disposal and that a service contract for the pot-a-lets be provided to the Planning Department;
9. That prior to the placement of any on-premise or off-premise signs, the applicant must adhere to PCZO § 312;
10. That any lighting to be installed is maintained to minimize spillage of light outside of the area, so as not to create a nuisance. Lighting must be effectively shielded to prevent beams or rays from being directed towards any portion of the traveled ways and must not be of such intensity or brilliance as to cause glare or impair the vision of any motor vehicle drivers;
11. That the applicant obtains all necessary permits from other governing bodies for the operation, including, but not limited to, a South Dakota Department of Revenue Sales Tax License, Department of Health License, and Liquor License;

12. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director;
13. That all natural drainage paths be continually maintained;
14. That the Planning Director may allow additional uses, which are consistent with the uses approved in this permit. Significant changes in the use or impacts on adjacent lands shall require an amendment to this permit; and,
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 ensure compliance with the PCZO, Conditions of Approval, and state law.

Discussion followed.

**Moved by Coleman and seconded by Lewis to approve of Conditional Use Permit / CU 22-37 with the following fifteen (15) conditions:**

- 1. That the permitted use allows a grain bin to be utilized for the seasonal sale of food and beverages;**
- 2. That daily and event operations be conducted by owners, on-site managers, and staff as necessary;**
- 3. That the annual days of operation of the venue/event center be allowed 7 days each week from May 1st through September 15th;**
- 4. That the hours of operation, for the requested use, shall be between 7:30 a.m. and 5:00 p.m. only;**
- 5. That an address be assigned and posted on the grain bin so it is clearly visible, in accordance with Pennington County Ordinance #20;**
- 6. That access to the site be only from the County approved approach and that no additional access be taken from SD Highway 44, per SDDOT comments;**
- 7. That a minimum of 8 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with the Pennington County Zoning Ordinance (PCZO) §310(A)(9)(m);**
- 8. That prior to operation, port-a-lets be located on the property to serve as a means of wastewater disposal and that a service contract for the pot-a-lets be provided to the Planning Department;**



9. That prior to the placement of any on-premise or off-premise signs, the applicant must adhere to PCZO § 312;
10. That any lighting to be installed is maintained to minimize spillage of light outside of the area, so as not to create a nuisance. Lighting must be effectively shielded to prevent beams or rays from being directed towards any portion of the traveled ways and must not be of such intensity or brilliance as to cause glare or impair the vision of any motor vehicle drivers;
11. That the applicant obtains all necessary permits from other governing bodies for the operation, including, but not limited to, a South Dakota Department of Revenue Sales Tax License, Department of Health License, and Liquor License;
12. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director;
13. That all natural drainage paths be continually maintained;
14. That the Planning Director may allow additional uses, which are consistent with the uses approved in this permit. Significant changes in the use or impacts on adjacent lands shall require an amendment to this permit; and,
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 ensure compliance with the PCZO, Conditions of Approval, and state law.

**All voting aye, the Motion carried 6 to 0.**

8. MINOR PLAT / MPL 22-41: Mary Dietrich. To subdivide and create Lots A, B, and C of Otho Subdivision in accordance with Section 303 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 1 of Otho Subdivision, Section 15, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A, B, and C of Otho Subdivision., Section 15, T2S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Minor Plat to subdivide and create Lots A, B, and C of Otho Subdivision.

Staff recommended approval of Minor Plat / MPL 22-41 with the following three (3) conditions:

1. That within 30 days of filing the Plat with the Register of Deeds, Conditional Use Permit / CU 02-59 be reviewed;
2. That prior to filing the Plat with the Register of Deeds, approved Operating Permits be obtained for the single-family residences on proposed Lots B and C; and,
3. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with § 1701 of the Pennington County Subdivision Regulations.

Discussion followed.

**Moved by Lewis and seconded by Burton to approve Minor Plat / MPL 22-41 with the following three (3) conditions:**

- 1. That within 30 days of filing the Plat with the Register of Deeds, Conditional Use Permit / CU 02-59 be reviewed;**
- 2. That prior to filing the Plat with the Register of Deeds, approved Operating Permits be obtained for the single-family residences on proposed Lots B and C; and,**
- 3. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with § 1701 of the Pennington County Subdivision Regulations.**

**All voting aye, the Motion carried 6 to 0.**

9. PRELIMINARY PLAN / PPL 22-36: Dale Kjerstad. To subdivide and create Lots A and B of Kjerstad Addition in accordance with Section 500 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract A Less Lot H-2 (aka MS #433) of Reder Placer MS 07905, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A and B of Kjerstad Addition, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Preliminary Plan to subdivide and create Lots A and B of Kjerstad Addition.

Staff recommended approval of Preliminary Plan / PPL 22-36 with the following four (4) conditions:

1. That at the time of Final Plan submittal the certificates be on the Plat in accordance with § 1700 of the Pennington County Subdivision Regulations;

2. That at the time of submittal for the Final Plat, the access easement be labeled “40-foot-wide Private Access Easement”;
3. That the applicant ensures all natural drainage ways are maintained and not blocked; and,
4. That at the time of submittal of the Final Plan and Plat, the Plan and Plat meet requirements of § 600.

Discussion followed.

**Moved by McGregor and seconded by Coleman to approve Preliminary Plan / PPL 22-36 with the following four (4) conditions:**

- 1. That at the time of Final Plan submittal the certificates be on the Plat in accordance with § 1700 of the Pennington County Subdivision Regulations;**
- 2. That at the time of submittal for the Final Plat, the access easement be labeled “40-foot-wide Private Access Easement”;**
- 3. That the applicant ensures all natural drainage ways are maintained and not blocked; and,**
- 4. That at the time of submittal of of the Final Plan and Plat, the Plan and Plat meet requirements of § 600.**

**All voting aye, the Motion carried 6 to 0.**

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

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

(Continued from the July 11, 2022, Planning Commission meeting.)

**Moved by Lewis and seconded by Coleman to wave rules to discuss directly related and similar Agenda Items 10, 11 and 12 at the same time. All voting aye, the Motion carried 6 to 0.**

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

Staff recommended to deny Conditional Use Permit / CU 22-31 without prejudice, due to the advertising being done for lots that have not been platted, an incomplete drainage plan, and unapproved approaches.

Discussion followed.

**Moved by McGregor and seconded by Coleman to deny Conditional Use Permit / CU 22-31 without prejudice, due to the advertising being done for lots that have not been platted, an incomplete drainage plan, and unapproved approaches.**

**All voting aye, the Motion carried 6 to 0.**

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

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

(Continued from the July 11, 2022, Planning Commission meeting.)

**Moved by Lewis and seconded by Coleman to wave rules to discuss directly related and similar Agenda Items 10, 11 and 12 at the same time. All voting aye, the Motion carried 6 to 0.**

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

Staff recommended to deny Conditional Use Permit / CU 22-32 without prejudice, due to the advertising being done for lots that have not been platted, an incomplete drainage plan, and unapproved approaches.

Discussion followed.

**Moved by Lewis and seconded by Coleman to deny Conditional Use Permit / CU 22-32 without prejudice, due to the advertising being done for lots that have not been platted, an incomplete drainage plan, and unapproved approaches.**

**All voting aye, the Motion carried 6 to 0.**

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

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

(Continued from the July 11, 2022, Planning Commission meeting.)

**Moved by Lewis and seconded by Coleman to wave rules to discuss directly related and similar Agenda Items 10, 11 and 12 at the same time. All voting aye, the Motion carried 6 to 0.**

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

Staff recommended to deny Conditional Use Permit / CU 22-33 without prejudice, due to the advertising being done for lots that have not been platted, an incomplete drainage plan, and unapproved approaches.

Discussion followed.

**Moved by Burton and seconded by McGregor to deny Conditional Use Permit / CU 22-33 without prejudice, due to the advertising being done for lots that have not been platted, an incomplete drainage plan, and unapproved approaches.**

**All voting aye, the Motion carried 6 to 0.**

13. MINOR PLAT / MPL 22-37: Charles and Kimberly Klafka. To combine two lots to create Lot 45A of Burns Placer MS 697 in accordance with Section 303 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 45 and Lot 46, Burns Placer MS 697, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 45A, Burns Placer MS 697, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for Minor Plat / MPL 22-37 to combine two lots to create Lot 45A of Burns Placer MS 697.

Staff recommended approval of Minor Plat / MPL 22-37 with the following eight (8) conditions:

1. That at the time of Minor Plat submittal, the plat be prepared by a South Dakota Registered Land Surveyor;
2. That prior to Minor Plat submittal, a Building Permit be applied for the work being done on the detached garage on the existing Lot 45, with all applicable penalty fees to be paid;
3. That prior to Minor Plat submittal, a new survey site plan be submitted showing the structure located on the existing Lot 46;
4. That at the time of Minor Plat submittal, the Certifications on the Minor Plat be in accordance with § 303 of the Pennington County Subdivision Regulations;

5. That at the time of Minor Plat submittal, the 100-year Floodplain limits be identified on the plat, in accordance with FEMA maps;
6. That at the time of Minor Plat submittal, the plat meets the requirements of Section 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
7. That 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; and,
8. That the applicant ensures all-natural drainage ways are maintained and not blocked.

Discussion followed.

**Moved by Coleman and seconded by Burton to approve of Minor Plat / MPL 22-37 with the following eight (8) conditions:**

- 1. That at the time of Minor Plat submittal, the plat be prepared by a South Dakota Registered Land Surveyor;**
- 2. That prior to Minor Plat submittal, a Building Permit be applied for the work being done on the detached garage on the existing Lot 45, with all applicable penalty fees to be paid;**
- 3. That prior to Minor Plat submittal, a new survey site plan be submitted showing the structure located on the existing Lot 46;**
- 4. That at the time of Minor Plat submittal, the Certifications on the Minor Plat be in accordance with § 303 of the Pennington County Subdivision Regulations;**
- 5. That at the time of Minor Plat submittal, the 100-year Floodplain limits be identified on the plat, in accordance with FEMA maps;**
- 6. That at the time of Minor Plat submittal, the plat meets the requirements of Section 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**
- 7. That 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; and,**
- 8. That the applicant ensures all-natural drainage ways are maintained and not blocked.**

**All voting aye, the Motion carried 6 to 0.**

14. COMPREHENSIVE PLAN AMENDMENT / CA 22-17: Brian Deschaine. To amend the Comprehensive Plan to change the Future Land Use from Agriculture District to Ranchette District in accordance with Sections 205, 206, and 508 of the Pennington County Zoning Ordinance.

W1075 feet of SW1/4SW1/4 Less N850 feet, Section 13, T1N, R9E, BHM, Pennington County, South Dakota

**Moved by Lewis and seconded by McGregor to wave rules to discuss directly related and similar Agenda Items 14 and 15 at the same time. All voting aye, the Motion carried 6 to 0.**

Sack reviewed the Staff Report indicating the applicant has applied for a Comprehensive Plan Amendment to change the Future Land Use from Agriculture District to Ranchette District.

Discussion followed.

Staff recommended approval of Comprehensive Plan Amendment / CA 22-17.

**Moved by McGregor and seconded by Lewis to approve of Comprehensive Plan Amendment / CA 22-17.**

**All voting aye, the Motion carried 6 to 0.**

15. REZONE / RZ 22-23: Brian Deschaine. To rezone 11.6 acres from Agriculture District to Ranchette District in accordance with Sections 205, 206, and 508 of the Pennington County Zoning Ordinance.

W1075 feet of SW1/4SW1/4 Less N850 feet, Section 13, T1N, R9E, BHM, Pennington County, South Dakota.

**Moved by Lewis and seconded by McGregor to wave rules to discuss directly related and similar Agenda Items 14 and 15 at the same time. All voting aye, the Motion carried 6 to 0.**

Sack reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 11.6 acres from Agriculture District to Ranchette District.

Discussion followed.

Staff recommended approval of Rezone / RZ 22-23.

**Motion by McGregor and seconded by Lewis to approve Rezone / RZ 22-23.**

**All voting aye, the Motion carried 6 to 0.**

16. MINING PERMIT REVIEW / MP 16-01: Western Construction. To review a Mining Permit to excavate, extract and process gravel on a portion of the E1/2 of Section 18, T1N, R9E, BHM, Pennington County, South Dakota.

E1/2 of Section 18, T1N, R9E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has had several complaints regarding the dust coming from the site and why the request is in front of the Planning Commission.

Staff recommended approval of the extension of Mining Permit / MP 16-01 with the following nineteen (19) conditions:

1. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mining & Minerals License (Mining License #09-880) be continually met;
2. That the applicant submits a copy of the annual Mine License Report and a copy of the Mine License to the Planning Department when it is renewed;
3. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit to Operate Under the Air Quality Operating Permit Program and Surface Water Discharge System for Nonmetallic Mineral Processing Plants in South Dakota (SDG05A185) be continually met;
4. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;
5. The requirements, guidelines, and criteria for stormwater and erosion control in the Pennington County Stormwater Manual shall be followed;
6. That any permanent development should be designed so as not to interfere with any future street alignments;
7. That all debris and materials must be secured and contained on site in a manner that prevents a safety hazard to persons, property, and/or equipment on the airport;
8. That all dust, smoke and particulate matter must be controlled in a manner that does not impact airport operations or pose a safety hazard;
9. That the Conditions of Approval of the South Dakota Department of Environment and Natural Resources for General Permit for Storm Water Discharges Associated with Industrial Activities (SDR00B597) be continually met;



10. That self-contained toilets be maintained on-site: one (1) unit per 50 employees. The self-contained toilets must meet all State and County regulations. The method and schedule of disposal of the solid waste must be in compliance with State and local rules and regulations;
11. That the conditions of the FAA determination be continually met and extended as needed per the FAA expiration date;
12. That all stockpiles of material on the subject property, including equipment being stored on site, shall not exceed a height of 45 feet from ground level, 3,185 feet site elevation, and 3,230 feet above mean sea level;
13. That all dust, smoke and particulate matter must be controlled in a manner that does not impact airport operations or pose a safety hazard to the runways;
14. That no ponding of water that could cause an attractant to flocking birds, ducks or geese;
15. That all mining operations shall maintain adequate separation from the existing water main and not place overburden, material stockpiles or heavy mining equipment within the easement or adjacent to valves and hydrants;
16. That the site shall be re-vegetated as required in Section 507-A(5)(c);
17. That the applicant signs a statement of Understanding within ten (10) business days of Permit approval;
18. That this Permit be brought before a revocation hearing if staff receives any substantiated complaint regarding dust; and,
19. That this Mining Permit be reviewed in five (5) years, and may be reviewed on a complaint basis, or as directed by the Planning Commission or the Board of Commissioners to verify that all conditions of approval are being met.

Discussion followed.

**Moved by Lewis and seconded by McGregor to approve the extension of Mining Permit / MP 16-01 with the following nineteen (19) conditions:**

- 1. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mining & Minerals License (Mining License #09-880) be continually met;**
- 2. That the applicant submits a copy of the annual Mine License Report and a copy of the Mine License to the Planning Department when it is renewed;**
- 3. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit to Operate Under the**

**Air Quality Operating Permit Program and Surface Water Discharge System for Nonmetallic Mineral Processing Plants in South Dakota (SDG05A185) be continually met;**

- 4. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;**
- 5. The requirements, guidelines, and criteria for stormwater and erosion control in the Pennington County Stormwater Manual shall be followed;**
- 6. That any permanent development should be designed so as not to interfere with any future street alignments;**
- 7. That all debris and materials must be secured and contained on site in a manner that prevents a safety hazard to persons, property, and/or equipment on the airport;**
- 8. That all dust, smoke and particulate matter must be controlled in a manner that does not impact airport operations or pose a safety hazard;**
- 9. That the Conditions of Approval of the South Dakota Department of Environment and Natural Resources for General Permit for Storm Water Discharges Associated with Industrial Activities (SDR00B597) be continually met;**
- 10. That self-contained toilets be maintained on-site: one (1) unit per 50 employees. The self-contained toilets must meet all State and County regulations. The method and schedule of disposal of the solid waste must be in compliance with State and local rules and regulations;**
- 11. That the conditions of the FAA determination be continually met and extended as needed per the FAA expiration date;**
- 12. That all stockpiles of material on the subject property, including equipment being stored on site, shall not exceed a height of 45 feet from ground level, 3,185 feet site elevation, and 3,230 feet above mean sea level;**
- 13. That all dust, smoke and particulate matter must be controlled in a manner that does not impact airport operations or pose a safety hazard to the runways;**
- 14. That no ponding of water that could cause an attractant to flocking birds, ducks or geese;**
- 15. That all mining operations shall maintain adequate separation from the existing water main and not place overburden, material stockpiles or heavy mining equipment within the easement or adjacent to valves and hydrants;**

16. **That the site shall be re-vegetated as required in Section 507-A(5)(c);**
17. **That the applicant signs a statement of Understanding within ten (10) business days of Permit approval;**
18. **That this Permit be brought before a revocation hearing if staff receives any substantiated complaint regarding dust; and,**
19. **That this Mining Permit be reviewed in one (1) year, and may be reviewed on a complaint basis, or as directed by the Planning Commission or the Board of Commissioners to verify that all conditions of approval are being met.**

**All voting aye, the Motion carried 6 to 0.**

17. PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PU 22-06: Katie Smirnova and Brett Walfish. To review a Planned Unit Development Overlay to allow a single-family residence to be used as a summer/winter educational music camp, to allow off-season musical performance concerts each year, to allow shed/cabins to be used for classes and rehearsals, and a Bed and Breakfast on the subject property in accordance with Section 216 of the Pennington County Zoning Ordinance.

Lot C2, Brassfield Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

Sack indicated the Board of Commissioners approved Planned Unit Development Overlay / PU 22-06 at their June 10, 2022, meeting. The conditions did not allow the Bed and Breakfast until this review.

Staff recommended approval of the extension of Planned Unit Development Overlay / PU 22-06 with the following twenty-nine (29) conditions:

1. That the approved uses include: practice cabins to be used for daily practices, music rehearsals and music coaching, an educational music school/camp, a single-family residence to also be used as a Bed and Breakfast or lodging facility for music camp attendees and performance/showcase events for the Rushmore Music Festival Board of Directors;
2. That there be no more than 4 practice cabins;
3. That there be no more than one music camp per calendar year not to exceed 30 people including the residents;
4. That there be no more than one performance/showcase event per year with attendance limited to 50 individuals for the Rushmore Music Festival Board of Directors;

5. That the number of guests staying in the Bed and Breakfast is not to exceed 6 guests from a single family;
6. That at the time of sale or transfer of the property, the PUD would only transfer to the current applicant, their heirs, or the Rushmore Music Festival, with Rushmore Music Festival being the only organization allowed to use the property through the PUD. Otherwise, the PUD will automatically end;
7. That if the Rushmore Music Festival ceases the property's use and the PUD is ended, all temporary sheds (used for lessons & practicing) will be removed from the property prior to closing;
8. That the unit numbers be assigned to each individual rehearsal cabin, be posted on the cabin and inside the cabin;
9. That the address for the main house continue to be posted on the residence, so that it is visible from both directions of travel on Klondike Road, in accordance with Pennington County's Ordinance #20;
10. That the Bed and Breakfast meet § 323 (PCZO);
11. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance (PCZO) §310 and that a parking plan is submitted to the Planning Department prior to operation of the music camp or Bed and Breakfast;
12. That the applicant maintains 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;
13. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be provided to the Planning Department;
14. That the property remains free of debris and junk vehicles and all structures be well-maintained;
15. That all existing drainage ways be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water per PCZO § 507(A). This includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures and that the existing turn outs and work be stabilized and replanted to prevent continued erosion, soil movement and damage to the surrounding property and the road;

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;
17. That any increase in the number of people staying at the Bed and Breakfast or any increase in the number of music camps per year, will require Klondike Road to be improved to a minimum of 18-foot wide south/southeast of the bridge to the driveway of the single-family residence;
18. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That a smoke detector be placed in each sleeping room, with a minimum of at least one (1) smoke detector per floor;
20. That portable fire extinguishers be placed on each floor level so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
21. That quiet hours be between 10 p.m. and 8 a.m.;
22. That daily operations be conducted by the owners, on-site manager, and staff of the Rushmore Music Festival or their heirs or subsidiaries;
23. That the applicants comply with South Dakota Codified Law 34-18;
24. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must comply with Pennington County Zoning Ordinance (PCZO) § 204-J and South Dakota Administrative Rules 74:53:01;
25. That setbacks for all structures shall be a minimum of 25 feet from exterior lot lines;
26. That there is legal access to the property for the requested uses;
27. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Any “significant change”, including but not limited to, the use or impacts on adjacent land or access road, the increase in the number of guests permitted to stay at the bed and breakfast, an increase in the number of attendees or the frequency of music camps or performances/showcases, the increase in the number of structures, and/or as required by PCZO §216, shall require an amendment to this Planned Unit Development Overlay;

28. That the Board of Commissioners are able to restrict the uses in this Planned Unit Development Overlay and that this Planned Unit Development Overlay is reviewed annually; and,
29. That this Planned Unit Development be reviewed in February 2023, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

Discussion followed.

**Moved by Burton and seconded by McGregor to approve of the extension of Planned Unit Development Overlay / PU 22-06, with an amendment to Condition #17 that the Bed and Breakfast is not operated until the road is improved, with the following twenty-nine (29) conditions:**

1. That the approved uses include: practice cabins to be used for daily practices, music rehearsals and music coaching, an educational music school/camp, a single-family residence to also be used as a Bed and Breakfast or lodging facility for music camp attendees and performance/showcase events for the Rushmore Music Festival Board of Directors;
2. That there be no more than 4 practice cabins;
3. That there be no more than one music camp per calendar year not to exceed 30 people including the residents;
4. That there be no more than one performance/showcase event per year with attendance limited to 50 individuals for the Rushmore Music Festival Board of Directors;
5. That the number of guests staying in the Bed and Breakfast is not to exceed 6 guests from a single family;
6. That at the time of sale or transfer of the property, the PUD would only transfer to the current applicant, their heirs, or the Rushmore Music Festival, with Rushmore Music Festival being the only organization allowed to use the property through the PUD. Otherwise, the PUD will automatically end;
7. That if the Rushmore Music Festival ceases the property's use and the PUD is ended, all temporary sheds (used for lessons & practicing) will be removed from the property prior to closing;
8. That the unit numbers be assigned to each individual rehearsal cabin, be posted on the cabin and inside the cabin;

9. That the address for the main house continue to be posted on the residence, so that it is visible from both directions of travel on Klondike Road, in accordance with Pennington County's Ordinance #20;
10. That the Bed and Breakfast meet § 323 (PCZO);
11. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance (PCZO) §310 and that a parking plan is submitted to the Planning Department prior to operation of the music camp or Bed and Breakfast;
12. That the applicant maintains 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;
13. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be provided to the Planning Department;
14. That the property remains free of debris and junk vehicles and all structures be well-maintained;
15. That all existing drainage ways be maintained and erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water per PCZO § 507(A). This includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures and that the existing turn outs and work be stabilized and replanted to prevent continued erosion, soil movement and damage to the surrounding property and the road;
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;
17. That prior to operation of a Bed and Breakfast or any increase in the number of music camps per year, will require Klondike Road to be improved to a minimum of 18-feet wide south/southeast of the bridge to the driveway of the single-family residence;
18. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That a smoke detector be placed in each sleeping room, with a minimum of at least one (1) smoke detector per floor;

20. That portable fire extinguishers be placed on each floor level so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
21. That quiet hours be between 10 p.m. and 8 a.m.;
22. That daily operations be conducted by the owners, on-site manager, and staff of the Rushmore Music Festival or their heirs or subsidiaries;
23. That the applicants comply with South Dakota Codified Law 34-18;
24. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must comply with Pennington County Zoning Ordinance (PCZO) § 204-J and South Dakota Administrative Rules 74:53:01;
25. That setbacks for all structures shall be a minimum of 25 feet from exterior lot lines;
26. That there is legal access to the property for the requested uses;
27. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Any “significant change”, including but not limited to, the use or impacts on adjacent land or access road, the increase in the number of guests permitted to stay at the bed and breakfast, an increase in the number of attendees or the frequency of music camps or performances/showcases, the increase in the number of structures, and/or as required by PCZO §216, shall require an amendment to this Planned Unit Development Overlay;
28. That the Board of Commissioners are able to restrict the uses in this Planned Unit Development Overlay and that this Planned Unit Development Overlay is reviewed annually; and,
29. That this Planned Unit Development be reviewed in February 2023, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

**Roll Call: Commissioners LaCroix, Lewis, Burton, McGregor, and Coleman voted yes. Commissioner Johnson voted no.**

**All voting, the Motion carried 5 to 1.**



18. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from their July 25th meeting.

19. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

20. ITEMS FROM THE STAFF

A. Building Permit Report. Theunissen reviewed the July 2022 Building Permit Report.

21. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

Commissioner Lewis left the meeting at 11:51 am.

22. ADJOURNMENT

**Moved by Burton and seconded by McGregor to adjourn.**

**All voting aye, the Motion carried 5 to 0.**

**The meeting adjourned at 11:52 a.m.**

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Charlie Johnson, Chairperson