

**DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
November 13, 2023 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

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

STAFF PRESENT: Brittney Molitor, Megan Talmage, TJ Doreff, Jason Theunissen, Christine Phillip, Cody Sack, Jeri Ervin, and Alexa Moeller (SAO).

ROLL CALL

1. APPROVAL OF THE OCTOBER 23, 2023 MINUTES
Moved by Hadcock and seconded by Lewis to approve the Minutes of the October 23, 2023, Planning Commission meeting, with a correction to the motion on page 16 to state: "Moved by Coleman and seconded by Burton to deny Special Consideration to Trailwood Village Planned Unit Development / PU 23-11, as there are no special conditions on the property that would excuse literal enforcement." Vote: unanimous 6 to 0.

2. APPROVAL OF THE AGENDA
Moved by Burton and seconded by Lewis to approve the Agenda of the November 13, 2023, Planning Commission meeting. Vote: unanimous 6 to 0.

Moved by Burton and seconded by Lewis to approve the Consent Agenda of the November 13, 2023, Planning Commission meeting with the removal of Item #5 and Item #12. 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 / CUR 12-04:** 7260 Tennyson, LLC; Nickolas and Jennifer Verhey. To review a multi-family dwelling unit (tri-plex) in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

SW1/4SW1/4SW1/4NW1/4 of Section 16, T1N, R8E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Review / CUR 12-04 with the following five (5) conditions:

1. That a minimum of six (6) off-street parking spaces continue to be provided on-site, each measuring a minimum of nine (9) feet by 18 feet, surfaced with gravel, concrete or asphalt, and maintained in a dust-free manner;
2. That the property continues to be kept free of debris and junk vehicles;
3. That the address of each unit continues to be clearly posted so it is visible from South Valley Drive, in accordance with Pennington County's Ordinance #20;
4. That smoke alarms continue to be properly maintained in working order in each unit; and,
5. That this Conditional Use Permit be reviewed on a complaint basis, or as deemed necessary by the Planning Director, Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CUR 14-28:** Matt Cavenee. To review a Vacation Home Rental in an Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot 1 Less Lot H1, Custer Trails Subdivision #1, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Review / CUR 14-28 with the following seventeen (17) conditions:

1. That the Vacation Home Rental be allowed to have a maximum overnight occupancy of six (6) people;
2. That the 12' x 16' shed continue to not be utilized as sleeping quarters at any time;
3. That each review of Conditional Use Permit / CU 14-28, be subject to PCZO §511(P), which imposes a \$100 fee per review;
4. That a minimum of 2 off-street parking spaces continue to be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9 by eighteen feet and maintained in a dust-free manner;
5. That the address continues to be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;
6. That the applicant continually complies with Administrative Rules of South Dakota (ARSD) 44:02:08, which regulates Vacation Homes;

7. That the applicant continually maintains a current license with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;
8. That the applicant continually comply with the Performance Standards outlined in PCZO §319(F), which regulates Vacation Home Rentals;
9. That the applicant adheres to the requirements set out by the US Forest Service by not having trails for motorized and non-motorized vehicles such as ATVs and horses;
10. That an interior informational sign continues to be posted in accordance with the requirements of PCZO §319(G) during operation of the residence as a VHR;
11. That if the person designated as the Local Contact is ever changed from Edelweiss Mountain Lodging or if their contact information is changed, that the interior information sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail as stated by PCZO §319(F)(5);
12. That all necessary permits are obtained prior to any additions and/or alterations to the residence or upgrades/alterations to the On-Site Wastewater Treatment System;
13. That if any addition is constructed on the residence and/or the On-Site Wastewater Treatment System is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DANR;
14. That the proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;
15. That the applicant shall provide the phone number and/or internet address to clients regarding the current day's fire condition, as pertaining to the use of the fire pit;
16. That the applicant continually maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department; and,
17. 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 6 to 0.

6. **CONDITIONAL USE PERMIT REVIEW / CUR 18-23**: BCS Invest, LLC; Kevin Haberstroh. To review six storage units and a caretaker / manager's residence on the subject property in a General Commercial District / Agriculture District in accordance with the Pennington County Zoning Ordinance.

Lot 2 (also in Section 19), Heavlin #2 Addition, Section 30, T1N, R9E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Review / CUR 18-23 with the following seventeen (17) conditions:

1. That setbacks be in accordance with Section 209 of the Pennington County Zoning Ordinance (PCZO) or 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 PCZO;
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;
4. That a minimum of 4 parking spaces be provided at the location of the storage unit office and a loading and unloading zone be provided for all storage units. The interior roadways must have 4 inches of gravel, concrete, or asphalt and be maintained in such a manner that no dust will result from continuous use;
5. That, in addition to existing car sales, only the following be allowed on the subject property with approved Permits:
 - a. 6 storage unit buildings, not to exceed the square footage as indicated on the applicant's site plan included with this Staff Report;
 - b. 1 Office;
 - c. 1 Shop; and,
 - d. 1 Caretaker's residence, only to be lived in by an individual engaged in the day-to-day operation of the storage unit business and not to be used as a Vacation Home Rental;
6. That additional non-storage unit structures placed on the subject property may require the Conditional Use Permit to be amended and reviewed by the Planning Commission;
7. That Floodplain Development Permits shall be required for construction in the Special Flood Hazard Area;
8. That the office/shop building and the caretaker's residence are assigned separate addresses and posted, clearly visible and maintained in accordance with Pennington County Ordinance #20;

9. 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;
10. That no more than 2 premise signs shall be allowed in accordance with § 312 of the PCZO, with an approved Sign Permit;
11. That prior to approval of a Building Permit, the applicant complete the Planning Department memo for the Federal Aviation Administration's Federal Regulation for Obstruction Evaluation / Airport Airspace Analysis;
12. That the hours of operation for the storage units be from 6:00 a.m. to 10:00 p.m. and a sign be posted indicating after hours contact with the owner's or caretaker's phone number, which must be clearly visible at the entrance of the lot;
13. That the applicant ensure that all natural drainage ways must be maintained and are not blocked;
14. That any work encompassing over 1 acre will require the applicant to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environmental and Natural Resources;
15. That the property continually remains free of junk and debris;
16. That if any increase of impervious area is greater than 15%, the property owner shall provide storm water treatment of the runoff generated by the first 0.5" of rainfall (See Pennington County Storm Water Manual); and,
17. That this Conditional Use Permit be reviewed 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 6 to 0.

7. **CONDITIONAL USE PERMIT REVIEW / CUR 22-50**: Valley Community Church. To review an illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Suburban Residential District accordance with the Pennington County Zoning Ordinance.

Lot A of Lot 1 and 2 Less Lot H1, Block 1, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Review / CUR 22-50 with the following six (6) conditions:

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

2. That additional Sign Permit(s) be obtained for any on-premise signs, which requires a site plan to be reviewed and approved by the Planning Director;
3. That the sign continually conforms to all regulations in Section 312 of the Pennington County Zoning Ordinance;
4. That the sign must continually meet a minimum of a five (5) foot setback from the front property lines and maintain proper setbacks from all side and rear property lines;
5. That the sign continues to be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated; and,
6. That this Conditional Use Permit be reviewed 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 6 to 0.

8. **CONDITIONAL USE PERMIT REVIEW / CUR 21-66:** Recreational Adventures Company. To review an employee housing / dormitory building for seasonal workers on the subject property in a Highway Service District in accordance with the Pennington County Zoning Ordinance.

Tract A of Tract 37 (in N1/2), Section 4, T2S, R5E, BHM, Pennington County, South Dakota.

To approve Conditional Use Permit Review / CUR 21-66 with the following nine (9) conditions:

1. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
2. That the employee housing / dormitory only be used by workers of the Palmer Gulch KOA;
3. That a smoke detector be placed in each sleeping room of the employee housing/ dormitory;
4. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of the dormitory;
5. 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 be in compliance with Pennington County Zoning Ordinance (PCZO) Section 331 and South Dakota Administrative Rules 74:53:01;

6. That the physical address of each structure be posted in accordance with Ordinance #20;
7. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors or obstruct the vision of motor vehicle operators on Palmer Gulch Road;
8. That any future development within the campground be done as a Planned Unit Development Overlay; and,
9. That this Conditional Use Permit be reviewed on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

9. **PLANNED UNIT DEVELOPMENT REVIEW / PUR 04-08**: 6S Properties, LLC. To review a Planned Unit Development that allows up to five (5) residential lots and a neighborhood commercial area in accordance with the Pennington County Zoning Ordinance.

The unplatted portion of SE1/4 south of Highway 44, Section 11, T1N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Planned Unit Development Review / PUR 04-08 with the following eight (8) conditions:

1. That the approved uses of the Planned Unit Development shall be for up to five (5) stick-built, single-family residences with accessory structures and a neighborhood commercial area not to exceed four (4) acres in area;
2. That any new wastewater disposal systems shall be evapotranspiration systems and any platting that may occur after September 1, 2004, shall include a note indicating this requirement;
3. That prior to a Building Permit being issued for a single-family residence or neighborhood commercial use, the applicant shall submit engineered individual wastewater disposal system plans for review and approval by the Pennington County Environmental Planner;
4. That prior to any Building Permit being issued on the subject property, the applicant shall submit an Approach Permit to the S.D. Department of Transportation for review and approval;
5. The minimum setbacks for the Planned Unit Development shall be twenty-five (25) feet from all exterior property lines, fifty-eight (58) feet from all Section Lines, and ten (10) feet from any interior lot lines;

6. That the neighborhood commercial uses shall be limited to: medical doctor, dentist, optometrist, chiropractor, retail such as a food market, gift shop, pharmacy, bakery, video rental/sales, computer, etc., bank, barber/beauty shop, laundry and cleaning services including collection stations, shoe repair, professional and business offices and other uses providing those services will be conducted to the local community as determined by the Planning Director;
7. That all residences must meet the standards for stick-built as outlined in Section 204 and all commercial structures shall be stick-built; and,
8. That this Planned Unit Development be reviewed on a complaint basis, or as directed by the Planning Director, Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Note: unanimous 6 to 0.

10. **PLANNED UNIT DEVELOPMENT REVIEW / PUR 09-02:** Salvation Army. To review the Salvation Army Camp Planned Unit Development in accordance with the Pennington County Zoning Ordinance.

Lot B of Lot 1 of Lot C of Lot 8 of Lot E; Lot 2 of Lot C of Lot 8 of Lot E; and the unplatted portion of Lot C of Lot 8 of Lot E, Big Bend Placer MS 1442, Section 8, T1N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Planned Unit Development Review / PUR 09-02 with the following twenty (20) conditions:

1. That the minimum setbacks from property lines continue to be twenty-five (25) feet from all property lines and fifty-eight (58) feet from Section Lines;
2. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Planned Unit Development;
3. That a minimum of one 36-unit first aid kit continue to be provided and accessible to the public at all times;
4. That the internal driveway continues to be a minimum of a 24-foot-wide driving surface and maintained in a dust free manner;
5. That the uses for this Planned Unit Development shall continue to be limited to the existing uses already on the property, which include a bunkhouse with a capacity of 15 people, a picnic shelter, two (2) restrooms (male and female) with showers and toilets, a church shelter, a fire pit with seating, an officer's residence, two (2) wells and drainfields, and the expansion to include a pastor's prayer retreat cabin, a meeting/dining/safety hall, six (6) deck platforms, five (5) cabins, and five (5) RV sites;

6. That prior to any work being conducted within the boundaries of the Special Flood Hazard Area, an approved Floodplain Development Permit be obtained;
7. 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;
8. That any new On-Site Wastewater Treatment System be designed by an engineer and that all the supporting percolation tests and soil profile information be stamped by the engineer and obtain approval from the South Dakota Department of Agriculture and Natural Resources;
9. That the applicant ensures the rustic character of the property is continually maintained;
10. That no open fires, barbecue pits, fireplaces, or incinerators shall be allowed, unless a permit is approved and granted by the South Dakota Division of Wildland Fire. Copies of the permit shall be available for inspection;
11. That any parking areas be maintained in a dust free manner;
12. That each sleeping room have a smoke/heat detector and a carbon monoxide detector;
13. That a portable fire extinguisher with a minimum 2-A:10-BC rating shall continually be placed in each structure and shall be inspected and tagged annually, records of said inspection shall be maintained and available for inspection;
14. That each floor, where occupants are to sleep, shall continually have two (2) means of escape;
15. That the applicant continues to work with the Pennington County Fire Administrator in regards to evacuation, mitigation, building construction, water supplies, safety drills, emergency alerting systems and other safety issues and updates the evacuation plan annually;
16. Develop, execute and maintain a Hazardous Fuels Mitigation plan in conjunction with the South Dakota Division of Wildland Fire;
17. That the camp continually be limited to a maximum of one hundred (100) overnight total campers at one time;
18. That any new cabins be limited to one (1) story;
19. That all structures continue to be forty-five (45) feet from the west ridgeline; and,

20. That this Planned Unit Development be reviewed on a complaint basis, by the Planning Director, 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 6 to 0.

11. **MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PUR 18-06**: Catherine Sopinski. To review an existing Planned Unit Development to allow the single-family residence to be used as a Vacation Home Rental on the subject property in accordance with the Pennington County Zoning Ordinance.

Lot 1, Block 1, The Reserve at Remington Ranch, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

To recommend to end Major Planned Unit Amendment Development Review / PUR 18-06 with the applicant's concurrence.

Vote: unanimous 6 to 0.

13. **MAJOR PLANNED UNIT DEVELOPMENT OVERLAY AMENDMENT REVIEW / PUR 23-02**: Katie Smirnova and Brett Walfish. To review an existing Planned Unit Development Overlay to allow a Specialty Resort in accordance with the Pennington County Zoning Ordinance.

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

To recommend approval of Major Planned Unit Amendment Development Overlay Amendment Review / PUR 23-02 with the following thirty (30) 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 10 practice cabins;
3. That there be no more than two music camps per calendar year not to exceed 30 people including the residents;
4. That there be no more than 10 events per calendar year and that:
 - a. no more than one event occurs per month;
 - b. no more than two fundraiser performances/showcase events occur per year with attendance limited to 100 individuals; and,
 - c. no more than eight performance/showcase events per year with attendance limited to 50 individuals.

5. That the number of guests staying in the Bed and Breakfast is not to exceed 20 guests from no more than three separate groups;
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 accessory structures (practice cabins) will be removed from the property prior to closing;
8. That the unit numbers be assigned to each individual practice cabin and 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 a second music camp, performances, or the operation of the Bed and Breakfast, the road improvements to widen Klondike Road to 18-foot wide be completed and verified by the applicant's engineer that it was constructed in accordance to the engineered design;
18. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That smoke detectors 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 unless otherwise determined by a court;
27. That 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 this Planned Unit Development Overlay is reviewed annually;

29. That this Planned Unit Development be reviewed in one year, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met; and,
30. That the library only be used by the owners and the participants of Rushmore Music Festival.

Vote: unanimous 6 to 0.

END OF CONSENT AGENDA

5. CONDITIONAL USE PERMIT REVIEW / CUR 18-20: William and Corissa Busse. To review an existing shop building with living quarters to be used as a Vacation Home Rental on the subject property in a Suburban Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 8, Feay Reder Subdivision, Section 36, T1N, R6E, BHM, Pennington County, South Dakota.

Commissioner Johnson requested this Item be removed from the Consent Agenda for discussion.

Staff recommend approval of Conditional Use Permit Review / CUR 18-20 with fifteen (15) conditions.

Discussion followed.

Moved by Johnson and seconded by McGregor to approve of Conditional Use Permit Review / CUR 18-20 with the following fifteen (15) conditions:

1. That only the existing one (1) bedroom shop with living quarters be allowed to be utilized as a Vacation Home Rental on the subject property;
2. That the maximum overnight occupancy of the VHR, based on SD DENR approval, be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) § 319(F)(13);
3. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;
4. That all necessary permits are obtained prior to any additions to the structure or upgrades/alterations to the on-site wastewater treatment system;

5. That each review of Conditional Use Permit / CU 18-20, be subject to PCZO § 511(F)(3), which imposes a \$100 fee per review;
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 two (1) off-street parking spaces be provided on-site for the VHR, per PCZO § 310(A)(9)(gg), 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 Department, during operation of the Vacation Home Rental;
9. That a physical address be assigned for the VHR and the addresses for both residences be posted 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 William Busse, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices, provided by the Planning Department, 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 on premise 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;
15. That this Conditional Use Permit be reviewed in three 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.

All voting aye, the Motion carried 6 to 0.

12. MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PUR 19-06: Rockerville Gold Town, LLC, Pat Hall. To review an amendment to an existing Planned Unit Development to allow for townhomes, apartments, and commercial businesses in accordance with the Pennington County Zoning Ordinance.

W1/2SE1/4SE1/4 South of Hwy 16 Westboundless Lot A, Less Lot 1, and Less ROW; E1/2SE1/4SE1/4 South of Hwy 16 Westbound Less ROW; and That Part of the SW1/4SW1/4 lying S of Hwy 16 and W of CO RD; and Lots 6-15, Lot 17, Tract B-1 and Tract B-2; and Common Lot B of Rockerville Ghost Town Subdivision, Sections 13 and 14, T1S, R6E, BHM, Pennington County, South Dakota.

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

Commissioner Johnson requested this Item be removed from the Consent Agenda for discussion.

Staff recommend approval of Major Planned Unit Amendment Development Review / PUR 19-06 with twenty-three (23) conditions with a review in one (1) year. .

Discussion followed to change the review date.

Moved by McGregor and seconded by Burton to approve of Major Planned Unit Amendment Development Review / PUR 19-06 with the following twenty-three (23) conditions:

- 1. That the purpose of this Planned Unit Development be to allow a mixed-use development that includes up to three (3) multi-family dwelling units that include duplexes, triplexes, and four-plexes; two (2) three-story apartment complexes; and neighborhood commercial businesses;**
- 2. That the multi-family dwelling units be permitted to be utilized as a Vacation Home Rental provided all the requirements of Section 319 of the PCZO are met;**
- 3. That the commercial businesses be limited to those neighborhood commercial businesses as allowed in Section 302 of the PCZO;**
- 4. That an Engineered Drainage Study is performed by the applicant's engineer and approved by the County Drainage Engineer prior to the increase in the impervious area greater than 15 percent which includes the area located in both PU 19-05 and PU 19-06;**
- 5. That the required setbacks for all structures be a minimum of 25 feet from all exterior property lines which includes front, side and rear yard setbacks and zero-foot (0) setbacks from the interior property lines, and a 58-foot setback from Section Lines or the Section Line Right-of-Ways be vacated;**
- 6. That the interior access roads off of Rockerville Road and Main Street allow for two-way traffic, meet Ordinance 14 Standards and meet AASHTO Standards;**

7. That the interior access roads be named and the street sign posted in accordance with Ordinance 20 prior to the issuance of Building Permits for residences or structures taking access off of the access roads;
8. That all onsite wastewater treatment systems designed and installed in accordance with Section 204-J of the PCZO and if a conventional onsite wastewater treatment system cannot be located on the property due to inadequate soils, an alternative system will be required. All onsite wastewater treatment systems must be reviewed and approved by the South Dakota Department of Environment and Natural Resources;
9. That all septic tanks be pumped every three (3) years and be inspected at the time of being pumped;
10. That the Planning Director may allow additional development or construction which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land uses as determined by the Planning Director shall require an amendment to this Planned Unit Development;
11. That a minimum of two (2) off-street parking spaces be provided for each unit in the multi-family dwelling unit. All off-street parking spaces on the site shall measure at least 9 feet by 18 feet, be surfaced with gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;
12. That parking for commercial business and apartment buildings be addressed at the time of Building Permit submittal, per Section 310 of the PCZO;
13. That a Building Permit be obtained for any structures exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
14. That all roads be constructed to Local Road Standards which includes a minimum of a 24-foot wide driving surface or a Variance to the Subdivision Regulations is obtained;
15. That a Homeowner's Association be created for the care and maintenance of the "Common Areas";
16. That a Road District be formed for the care and maintenance of all roads;
17. That the Rockerville Fire Protection Plan dated 3-9-2020 be implemented as proposed;
18. That the entire water system must be fully operational by the time the 4th Building Permit for a multi-family dwelling is submitted or when 25 people are residing in the PUD, which includes the area located in both PU 19-05 and PU 19-06; or prior to the issuance of a Commercial Building Permit;

19. That all roads be maintained in a dust free manner;
20. That all-natural drainage ways be maintained;
21. That prior to the placement of any on-premise sign, the applicant must obtain a Sign Permit in accordance with Section 312 of the PCZO;
22. That a Sanitary District is formed for the care and maintenance of the sewer and water systems; and,
23. That Planned Unit Development / PUD 19-06, be reviewed in six months (6) months, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

All voting aye, the Motion carried 6 to 0.

14. LOT LINE ADJUSTMENT PLAT / LAPL 23-23: Ruth and Verne Henrickson. To reconfigure lot lines to create Lots B and C of Morse Subdivision No. 1 in accordance with the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1-8 of Morse Subdivision #1 and Lot Q of the NE1/4NW1/4 and NW1/4NE1/4, Section 8, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots B and C of Morse Subdivision #1, Section 8, T1N, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Lot Line Adjustment Plat to reconfigure lot lines to create Lots B and C of Morse Subdivision No. 1.

Staff recommended approval of Lot Line Adjustment Plat / LAPL 23-23 with the following one (1) condition:

1. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of § 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met.

Discussion followed.

Moved by Hadcock and seconded by Kuehn to approve of Lot Line Adjustment Plat / LAPL 23-23 with the following one (1) condition:

1. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of § 303 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met.

All voting aye, the Motion carried 6 to 0.

15. CONDITIONAL USE PERMIT / CU 23-35: Glynda Rahn. To allow an Efficiency Dwelling Unit on the subject property in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 3, Rahn Subdivision, Section 15, T1S, R7E, BHM, Pennington County, South Dakota.

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

Staff recommended approval of Conditional Use Permit / CU 23-35 with the following twelve (12) conditions:

1. That only 1 efficiency dwelling be allowed;
2. That the applicant obtains an approved Building Permit for the efficiency dwelling, and pays the applicable penalty fees associated with the Building Permit;
3. That the Efficiency Dwelling maintains a residential appearance;
4. That the Efficiency Dwelling *not* exceed 400 square feet;
5. That the address assigned to the efficiency dwelling be posted on the structure, and where the driveway intersects Neck Yoke Road 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 the applicant remove the northeast approach, and obtain a permit to restore the ditch in the Right-of-Way;
8. That all necessary permits are obtained prior to any additions/ alterations to the Efficiency Dwelling or additions/alterations to the OSWTS;
9. That at least 2 off-street parking spaces be provided for the efficiency dwelling;
10. That the Efficiency Dwelling be continually utilized and maintained in accordance with all requirements of § 330 of the PCZO;
11. 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
12. 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 Burton and Lewis to approve of Conditional Use Permit / CU 23-35 with the following twelve (12) conditions:

- 1. That only 1 efficiency dwelling be allowed;**
- 2. That the applicant obtains an approved Building Permit for the efficiency dwelling, and pays the applicable penalty fees associated with the Building Permit;**
- 3. That the Efficiency Dwelling maintains a residential appearance;**
- 4. That the Efficiency Dwelling *not* exceed 400 square feet;**
- 5. That the address assigned to the efficiency dwelling be posted on the structure, and where the driveway intersects Neck Yoke Road 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 the applicant remove the northeast approach, and obtain a permit to restore the ditch in the Right-of-Way;**
- 8. That all necessary permits are obtained prior to any additions/ alterations to the Efficiency Dwelling or additions/alterations to the OSWTS;**
- 9. That at least 2 off-street parking spaces be provided for the efficiency dwelling;**
- 10. That the Efficiency Dwelling be continually utilized and maintained in accordance with all requirements of § 330 of the PCZO;**
- 11. 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**
- 12. 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.

Moved by Lewis and seconded by Burton to wave rules to discuss similar Agenda Items #16 and #17 at the same time. All voting aye, the Motion carried 6 to 0.

16. COMPREHENSIVE PLAN AMENDMENT / CA 23-11: Pactola Heights. 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.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 of Block 1; Lot W of Block 1; and Lots 1, 2, 3, 4, 5 and 6 of Block 2, and all located in Pactola Heights Subdivision, Section 28, T2N, R5E, BHM, Pennington County, South Dakota.

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

Staff recommended to continue Comprehensive Plan Amendment / CA 23-11 to the November 27, 2023, Planning Commission meeting, as a Variance has been submitted for the Well Lot.

Discussion followed.

Moved by McGregor and seconded by Kuehn to continue Comprehensive Plan Amendment / CA 23-11 to the November 27, 2023, Planning Commission meeting, as a Variance has been submitted for the Well Lot.

All voting aye, the Motion carried 6 to 0.

17. REZONE / RZ 23-16: Pactola Heights. To rezone from Rural Residential District to Low Density Residential District in accordance with the Pennington County Zoning Ordinance.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 of Block 1; Lot W of Block 1; and Lots 1, 2, 3, 4, 5 and 6 of Block 2, and all located in Pactola Heights Subdivision, Section 28, T2N, R5E, BHM, Pennington County, South Dakota.

Talmage reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone from Rural Residential District to Low Density Residential District.

Staff recommended to continue Rezone / RZ 23-16 to the November 27, 2023, Planning Commission meeting, as a Variance has been submitted for the Well Lot.

Discussion followed.

Moved by Kuehn and seconded by Lewis to continue Rezone / RZ 23-16 to the November 27, 2023, Planning Commission meeting, as a Variance has been submitted for the Well Lot.

All voting aye, the Motion carried 6 to 0.

18. CONDITIONAL USE PERMIT / CU 23-35: Saint Patrick, LLC; Doyle Estes - Agent. To allow a manager/caretaker's residence on the subject property in a Commercial District in accordance with the Pennington County Zoning Ordinance.

Lot B of NW1/4NE1/4, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

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

Commissioner Hadcock stated she would be abstaining from voting on this item.

Sack reviewed the Staff Report indicating this item was continued from the October 10, 2023, Planning Commission meeting to address concerns of Staff and the Planning Commission.

Staff recommended to deny without prejudice Conditional Use Permit / CU 23-32, as the request does not meet the Pennington County Zoning Ordinance definition of a caretaker's residence.

Discussion followed.

Moved by McGregor and seconded by Burton to approve of Conditional Use Permit / CU 23-32.

Sack recommended this item be continued to the December 11, 2023, Planning Commission meeting to allow Staff time to prepare the Conditions of Approval and for the applicant to install a sprinkler system in the proposed caretaker's residence.

Moved by McGregor and seconded by Burton to withdraw the previous motion to approve Conditional Use Permit / CU 23-32. All voting aye, the Motion carried 5 to 0.

Moved by McGregor and seconded by Burton to continue Conditional Use Permit / CU 23-32 to the December 11, 2023, Planning Commission meeting to allow Staff time to prepare the Conditions of Approval and for the applicant to install a sprinkler system in the proposed caretaker's residence.

All voting aye, the Motion carried 5 to 0. Commissioner Hadcock abstained.

19. CONDITIONAL USE PERMIT / CU 23-34: Benjamin and Katherine Lee. To allow an Accessory Dwelling Unit on the subject property in a Rural Residential District in accordance with the Pennington County Zoning Ordinance.

Lot 5, Block 6, Paha Sapa High Country Tract 2, Section 18, T2N, R6E, BHM, Pennington County, South Dakota.

(Continued from the October 23, 2023, Planning Commission meeting.)

Sack reviewed the Staff Report indicating this item was continued from the October 23, 2023, Planning Commission meeting.

Staff recommended approval of Conditional Use Permit / CU 23-34 with the following sixteen (16) 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 Aspen Drive 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 in 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;
15. That within 30 days of approval the applicants obtain approved Building Permits for the ADU, tool shed, and loafing shed and pay all applicable penalty fees; and,
16. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Hadcock and seconded by Burton to approve of Conditional Use Permit / CU 23-34 with the following sixteen (16) 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 Aspen Drive 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 in 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;**
- 15. That within 30 days of approval the applicants obtain approved Building Permits for the ADU, tool shed, and loafing shed and pay all applicable penalty fees; and,**

- 16. 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.

20. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the October 23, 2023, Planning Commission meeting.

21. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

22. ITEMS FROM THE STAFF

- A. Building Permit Report. Molitor reviewed the October 2023 Building Permit Report.

23. ITEMS FROM THE MEMBERSHIP

Commissioner Hadcock thanked the Planning Commission for their service.

The Planning Commission spoke of Vacation Home Rentals.

Commissioner Burton discussed the SD Planner's Conference held in Mitchell.

24. ADJOURNMENT

Moved by Burton and seconded by Lewis to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at 10:02 a.m.

Charlie Johnson, Chairperson