

**DRAFT MINUTES  
PENNINGTON COUNTY PLANNING COMMISSION  
November 14, 2022 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

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

STAFF PRESENT: Cody Sack, Megan Talmage, Christine Phillip, Jason Theunissen, and Megan Krueger (State's Attorney's Office).

ROLL CALL

1. APPROVAL OF THE OCTOBER 24, 2022, MINUTES  
**Moved by McGregor and seconded by Kuehn to approve the Minutes of the October 24, 2022, Planning Commission meeting. Vote: unanimous 7 to 0.**

2. APPROVAL OF THE AGENDA  
**Moved by Drewes and seconded by Lewis to approve the Agenda of the November 14, 2022, Planning Commission meeting. Vote: unanimous 7 to 0.**

**Moved by Burton and seconded by McGregor to approve the Consent Agenda of the November 14, 2022, Planning Commission meeting, with the removal of Items #5 and #7. Vote: unanimous 7 to 0.**

**CONSENT AGENDA**

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

3. **CONDITIONAL USE PERMIT REVIEW / CU 94-26:** Synod of SD of the Presbyterian Church. To review a church camp in a Rural Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot A1, B-C (also in Section 8 and 16), Big Bend Placer MS 1442, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 94-26 with the following eleven (11) conditions:**

1. **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;**

2. That the on-site wastewater treatment system be in compliance with PCZO Section 204(J);
3. That the maximum overnight guests of the church camp be 133 people;
4. If the church camp expands beyond the 133 overnight guests, the applicants amend this Conditional Use Permit;
5. That the applicants pay for Building Permits: COBP21-0482, COBP21-0483, and COBP21-0484 prior to the issuance of any additional Building Permits;
6. That an address be posted on each cabin in accordance with Ordinance #20;
7. That all setbacks for structures comply with the required twenty-five feet setback for Rural Residential District;
8. That no Recreational Vehicle camping/parking be located in the floodplain;
9. That minor changes to the approved development plan be permitted, provided that the Planning Director shall determine that said changed do not constitute a substantial deviation from the approved plan;
10. That the addition of accessory structures and/or additions be allowed through the issuance of building permits, provided said permits are accompanied by necessary site plans to be reviewed and approved by the Planning Director; and,
11. That this Conditional Use Permit be reviewed on a complaint basis only.

**Vote: unanimous 7 to 0.**

4. **CONDITIONAL USE PERMIT REVIEW / CU 00-65:** Joyce Metz; Cathy Little Bull - Agent. To review a caretaker's residence in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 3A of Tract A, Metz Addition, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 00-65 with the following six (6) conditions:**

1. 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;
2. That the caretaker's residence be removed from the property when Joyce Metz is no longer in need of a caretaker, or the subject property be subdivided so that each residence is on a separate lot;

3. That the manufactured home continues to have factory installed wood, hardboard or siding with a wood appearance and factory installed, peaked, non-reflective roof;
4. That the caretaker's residence continually utilizes the existing primary approach for the property;
5. That prior to any disturbance within the boundaries of the Special Flood Hazard Area, an approved Floodplain Development Permit be obtained; and,
6. That this Conditional Use Permit be reviewed in five (5) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

6. **CONDITIONAL USE PERMIT REVIEW / CU 18-15:** Koenig Family Trust (Sheila Watkins); Edelweiss Mountain Lodging - Agent. To review a Vacation Home Rental on the subject property in a Suburban Residential District in accordance with Sections 209, 319, and 510 of the Pennington County Zoning Ordinance.

Lot A, Edelweiss Mountain Development, Section 17, T1N, R5E, BHM, Pennington County.

**To approve the extension of Conditional Use Permit / CU 18-15 with the following fourteen (14) conditions:**

1. That the maximum overnight occupancy be limited to twelve (12) people and the maximum daytime occupancy be limited to eighteen (18);
2. That each review of Conditional Use Permit / CU 18-15, be subject to Pennington County Zoning Ordinance (PCZO) § 511(F)(3), which imposes a \$100 fee per review;
3. That the applicant continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;
4. 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;

5. That a minimum of four (4) off-street parking spaces be provided on-site, per PCZO § 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
6. That the interior information sign be corrected in accordance with comments from Emergency Services (9-1-1) prior to posting or operation of the Vacation Home Rental;
7. That an interior informational sign be posted in accordance with the requirements of PCZO §319(G), with 9-1-1 and (605) 394-2151 listed as contacts for Fire Department and Sheriff's Office respectively, during operation of the Vacation Home Rental;
8. That the lot address (190 Swiss Drive) be posted on the residence at all times and so it is clearly visible from Swiss Drive, in accordance with Pennington County's Ordinance #20;
9. 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;
10. That if the person designated as the Local Contact is ever changed from Edelweiss Mountain Lodging, the interior informational sign be updated and the applicant re-notify the Planning Director and surrounding landowners within 500 feet via notices sent by First Class Mail;
11. 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;
12. That an approved Sign Permit be obtained prior to the placement of any sign(s);
13. 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;
14. That this Conditional Use Permit be reviewed in 5 years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

8. **CONDITIONAL USE PERMIT REVIEW / CU 20-22:** Mike and Angela Holmberg. To review a second residence to be used as housing for hired help on the subject property in an Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 1B, Lovell Subdivision, Section 29, T1N, R9E, BHM, Pennington County, South Dakota.

**To end Conditional Use Permit / CU 20-22.**

**Vote: unanimous 7 to 0.**

9. **CONDITIONAL USE PERMIT REVIEW / CU 21-27:** Gene Rossman. To review living in a Recreational Vehicle while building a residence and working on the subject property in a Rural Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Pine Meadow Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

**To approve the extension of Conditional Use Permit / CU 21-27 with the following ten (10) conditions:**

1. **That there be no more than one Recreational Vehicle (RV) allowed to be utilized as temporary living quarters on the subject property;**
2. **That the address, 22890 Pine Meadows Court, continue to be clearly posted on the RV while it is being utilized as living quarters and at the end of the approach clearly visible from both directions of travel along Pine Meadows Court, in accordance with Pennington County's Ordinance #20;**
3. **That the applicant adheres to the U.S. Forest Service's requirements at all times;**
4. **That the minimum setback requirements of a Rural Residential District be maintained on the subject property, or approved Setback Variance(s) be obtained;**
5. **That the minimum 58-foot Section Line setback be maintained on the property;**
6. **That the RV no longer be used as a residence once the single-family residence is finished and habitable, following which it only be allowed to be disconnected from utilities and only be allowed to be stored on the property;**
7. **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;**

8. That the property remains free of debris and junk vehicles;
9. That the applicant adheres to Pennington County Zoning Ordinance Section 510; and,
10. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

### **END OF CONSENT AGENDA**

5. CONDITIONAL USE PERMIT REVIEW / CU 10-38: Robert Mills. To review a home occupation, an auto restoration shop, in a Suburban Residential District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

The N1/2 Lot E of E1/2SE1/4, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

Commissioner Lewis asked to have this Item removed from the Consent Agenda for discussion.

Staff recommended approval of the extension of Conditional Use Permit / CU 10-38 with ten (10) conditions.

Discussion followed.

**Moved by Drewes and seconded by Lewis to approve the extension of Conditional Use Permit / CU 10-38 with the following ten (10) conditions:**

1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;
2. That the applicant adheres to all necessary County, State, and Federal regulations, and maintains the necessary permits to conduct the business;
3. That there is no more than one (1) additional employee, excluding family members;
4. That there is a minimum of three (3) off-street parking spaces available at all times;

5. That all aspects of the business be conducted entirely within an enclosed structure (structure being building) and no stock in trade shall be displayed outside the enclosed structure;
6. That the hours of operation will be conducted between the hours of 7:00 a.m. and 6:00 p.m.;
7. That if the amount of waste generated from the restoration shop and disposed of in the sanitary sewer exceeds 10,000 gallons per month, Rapid Valley Sanitary District and City of Rapid City must be notified and pretreatment (i.e. sand filter) implemented prior to disposal;
8. That the address continues to be posted on the shop building in accordance with Ordinance #20;
9. That historic auto restoration be defined as working on motor vehicles 20 years or older.
10. That this Conditional Use Permit be reviewed in three (3) years or on a complaint basis to verify that all conditions of approval are being met, or as directed by the Pennington County Planning Commission or the Board of Commissioners to verify that all Conditions of Approval are being met; and,

All voting aye, the Motion carried 7 to 0.

7. CONDITIONAL USE PERMIT REVIEW / CU 20-20: Larry and Dianne Mathews. To review a multi-family dwelling in a Low Density Residential District in accordance with Sections 208, 303, and 510 of the Pennington County Zoning Ordinance.

Lot 2, Cedar Gulch Subdivision, Section 4, T1S, R9E, BHM, Pennington County, South Dakota.

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

Commissioner Lewis asked to have this Item removed from the Consent Agenda for discussion.

Staff recommended approval of the extension of Conditional Use Permit / CU 20-20 with six (6) conditions.

Discussion followed.

**Moved by McGregor and seconded by Lewis to approve the extension of Conditional Use Permit / CU 20-20 with the following six (6) conditions:**

1. That both addresses be clearly posted, so as to be visible from Cattle Drive, in accordance with Pennington County's Ordinance #20;

2. **That the minimum of four (4) off-street parking spaces be provided on-site, each measure a minimum of nine (9) feet by eighteen (18) feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;**
3. **That the minimum setback requirements of a Low Density Residential District be continually maintained on the property;**
4. **That the subject property remains free of debris and junk vehicles;**
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; and,**
6. **That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.**

**All voting aye, the Motion carried 7 to 0.**

10. CONDITIONAL USE PERMIT / CU 22-49: Leslie and Tina Wasson. To allow a caretaker's residence on the subject property in a Suburban Residential District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

W171.68 of E314.5 of Lot 2, Block 1, Ashland Subdivision, Section 15, T2N, R8E, BHM, Pennington County, South Dakota.

Rausch reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a caretaker's residence on the subject property.

Staff recommended approval of Conditional Use Permit / CU 22-49 with the following eight (8) conditions:

1. That the addresses for both the single-family residence and the proposed caretaker's residence be posted on each residence and so that it can be seen from both directions of travel on Hickory Drive in accordance with Pennington County's Ordinance #20;
2. That an approved On-Site Wastewater Construction Permit be obtained prior to the addition to the existing On-Site Wastewater Treatment System on the property;
3. That an approved Building Permit be obtained for the caretaker's residence and 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;



4. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property or a setback Variance be obtained;
5. That the caretaker's residence uses the existing approach off of Hickory Drive and no additional approach is allowed;
6. That the subject property remains free of debris and junk vehicles;
7. That once care is no longer needed, either the caretaker's residence be removed from the subject property, or the kitchen and living quarters removed from the main residence to allow the structure to remain as personal storage, or the subject property is subdivided so that each residence is on a separate lot; and,
8. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

**Moved by Lewis and seconded by Drewes to approve of Conditional Use Permit / CU 22-49 with the following eight (8) conditions:**

- 1. That the addresses for both the single-family residence and the proposed caretaker's residence be posted on each residence and so that it can be seen from both directions of travel on Hickory Drive in accordance with Pennington County's Ordinance #20;**
- 2. That an approved On-Site Wastewater Construction Permit be obtained prior to the addition to the existing On-Site Wastewater Treatment System on the property;**
- 3. That an approved Building Permit be obtained for the caretaker's residence and 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;**
- 4. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property or a setback Variance be obtained;**
- 5. That the caretaker's residence uses the existing approach off of Hickory Drive and no additional approach is allowed;**
- 6. That the subject property remains free of debris and junk vehicles;**
- 7. That once care is no longer needed, either the caretaker's residence be removed from the subject property, or the kitchen and living quarters removed from the main residence to allow the structure to remain as personal storage, or the subject property is subdivided so that each residence is on a separate lot; and,**

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

**All voting aye, the Motion carried 7 to 0.**

11. CONDITIONAL USE PERMIT / CU 22-50: Valley Community Church. To allow an illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in accordance with Sections 209, 312, and 510 of 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.

Rausch reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow an illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit.

Staff recommended approval of Conditional Use Permit / CU 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 in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

**Moved by Kuehn and seconded by Burton to approve of Conditional Use Permit / CU 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 in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.**

**All voting aye, the Motion carried 7 to 0.**

12. CONDITIONAL USE PERMIT / CU 22-48: Argyle Properties, LLC; Anita Lee. To allow a Vacation Home Rental in an Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 5, Baumgartner Subdivision, Section 25, T1S, R6E, BHM, Pennington County, South Dakota.

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

Staff recommended approval of Conditional Use Permit / CU 22-48 with the following sixteen (16) conditions:

1. That the maximum overnight occupancy, based on the Department of Agriculture and Natural Resources (DANR), be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);

2. That if an addition is constructed on the single-family residence and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from DANR;
3. That the use of the outdoor fire pit, gas fire place, and barbeque grill shall not be allowed without permission from the Property Manager or Owner.
4. That prior to operation of the Vacation Home Rental, the applicant obtain an Approach Permit from County Highway;
5. That the applicant continually maintains current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
6. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency;
7. That a minimum of one off-street parking space per bedroom be provided on-site, per PCZO Section 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
8. That an interior informational sign be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff's Office, during operation of the Vacation Home Rental;
9. That the lot address (23911 Hidden Valley Trail) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Pioneer Drive, in accordance with Pennington County Ordinance #20;
10. That the applicant ensures the Vacation Home Rental is continually operated in accordance with the requirements of PCZO Section 319(F) (Performance Standards) at all times;
11. That if the person designated as the Local Contact is ever changed from Wayde Walther, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail;
12. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;

13. That a Variance be obtained for the garage located within the Section Line easement before operation of the Vacation Home Rental;
14. That an approved Sign Permit be obtained prior to the placement of any sign(s);
15. That an approved Building Permit be obtained for any future structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director; and,
16. That this Conditional Use Permit be reviewed in one 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 McGregor and seconded by Lewis to continue Conditional Use Permit / CU 22-48 to the November 28, 2022, Planning Commission meeting.**

**All voting, the Motion carried 6 to 1. Commissioners Johnson, McGregor, Burton, Lewis, Drewes, and Kuehn voted yes. Commissioner Coleman voted no.**

**Moved by Lewis and seconded by Drewes to wave rules to discuss directly related and similar Agenda Items #13 and #14 at the same time. All voting aye, the Motion carried 7 to 0.**

Commissioner Burton left the meeting at 10: 47 a.m.  
Commissioner Burton returned to the meeting at 10:54 a.m.

Commissioner Lewis left the meeting at 10:57 a.m.  
Commissioner Lewis returned to the meeting at 10:59 a.m.

13. COMPREHENSIVE PLAN AMENDMENT / CA 22-21: Argyle Properties, LLC; Anita Lee. To amend the Comprehensive Plan to change the Future Land Use from Ranchette District and Rural Residential District to Rural Residential District in accordance with Sections 206, 207, and 508 of the Pennington County Zoning Ordinance.

Lot 5, Baumgartner Subdivision, Section 25, T1S, R6E, BHM, Pennington County, South Dakota.

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

Staff recommended approval of Comprehensive Plan Amendment / CA 22-21.

Discussion followed.

Commissioner Lewis left the meeting at 10:57 a.m.  
Commissioner Lewis returned to the meeting at 10:59 a.m.

Commissioner McGregor left the meeting at 11:20 a.m.  
Commissioner McGregor returned to the meeting at 11:22 a.m.

Planning Commission took a 10 minutes recess.

**Moved by Burton and seconded by Lewis to deny Comprehensive Plan Amendment / CA 22-21.**

**All voting, the Motion carried 4 to 3. Commissioners Johnson, McGregor, Burton, and Drewes voted yes. Commissioners Coleman, Lewis, and Kuehn voted no.**

14. REZONE / RZ 22-28: Argyle Properties, LLC; Anita Lee. To rezone 13.55 acres from Agriculture District to Rural Residential District in accordance with Sections 205, 207, and 508 of the Pennington County Zoning Ordinance.

Lot 5, Baumgartner Subdivision, Section 25, T1S, R6E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 13.55 acres from Agriculture District to Rural Residential District.

Staff recommended approval of Rezone / RZ 22-28.

Discussion followed.

**Moved by Burton and seconded McGregor to deny Rezone / RZ 22-28.**

**All voting, the Motion carried 4 to 3. Commissioners Johnson, McGregor, Burton, and Drewes voted yes. Commissioners Coleman, Lewis, and Kuehn voted no.**

15. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 22-11: Kristin Bennett / Haven Homes, LLC. To amend an existing Planned Unit Development to allow a Vacation Home Rental on the subject property in accordance with Section 216 of the Pennington County Zoning Ordinance.

Lot 2, Merchen Addition No. 2, Section 21, T2N, R6E, BHM, Pennington County, South Dakota.

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

Sack reviewed that the applicant has applied for a Vacation Home Rental and this Item was continued from the October 11, 2022, Planning Commission meeting, per the request of the applicant.

Staff recommended approval of Minor Planned Unit Development Amendment / PU 22-11 with the following twenty-one (21) conditions:

1. That the maximum overnight occupancy, based on the Department of Agriculture and Natural Resources (DANR), be limited to six (6) people and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);
2. That prior to operation, the applicant upgrades the Onsite Wastewater Treatment System to allow the fourth bedroom;
3. That if an addition is constructed on the single-family residence and/or the on-site wastewater treatment system is upgraded in the future, this Planned Unit Development be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DANR;
4. That the proper permits be obtained prior to utilizing a fire pit on the property and all fire restrictions be followed at all times;
5. That the applicants shall provide the phone number and/or internet address to clients regarding the current day's fire condition, as pertaining to the use of the fire pit;
6. That prior to operation of the Vacation Home Rental, the applicant obtain an Approach Permit from County Highway;
7. That the applicant continually maintains current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
8. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency;
9. That a minimum of one off-street parking space per bedroom be provided on-site, per PCZO Section 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
10. That an interior informational sign be posted in accordance with the requirements of PCZO Section 319(G), with 9-1-1 and contact information listed for the local Fire Department and Sheriff's Office, during operation of the Vacation Home Rental;
11. That the lot address (22611 Hazel Lane) continue to be posted on the residence at all times and that it also be posted on a sign where the driveway intersects Hazel Lane, in accordance with Pennington County Ordinance #20;

12. That the applicant ensures the Vacation Home Rental is continually operated in accordance with the requirements of PCZO Section 319(F) (Performance Standards) at all times;
13. That if the person designated as the Local Contact is ever changed from Kristen Bennett, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail;
14. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;
15. That an approved Sign Permit be obtained prior to the placement of any sign(s);
16. That an approved Building Permit be obtained for any future structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
17. That the Planned Unit Development consist of three (3) residential lots ranging in size from 3.322 acres, 8.942 acres and 10 acres;
18. That each proposed lot have areas for a single-family residence and two (2) drainfields;
19. That the required setbacks for all structures be a minimum of 25 feet;
20. That the permitted uses be residential, which includes one single-family residence, guest house (not to be used as a rental) and accessory and agricultural structures; and,
21. That this Conditional Use Permit be reviewed in one 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 Drewes and seconded by Kuehn to deny Minor Planned Unit Development Amendment / PU 22-11.**

**All voting aye, the Motion carried 7 to 0.**

**Moved by Lewis and seconded by Drewes to wave rules to discuss directly related and similar Agenda Items #16 and #17 at the same time. All voting aye, the Motion carried 7 to 0.**



16. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 22-14: Bryon and Kristin Mobley. To amend the existing Planned Unit Development to remove a condition of approval of the Planned Unit Development in order to vacate a portion of the Access and Utility Easement on the subject property in accordance with Sections 216 and 313 of the Pennington County Zoning Ordinance.

Lot 5, Block 4, Sheridan Lake Highlands, Section 2, T1S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied to amend the existing Planned Unit Development to remove a condition of approval of the Planned Unit Development in order to vacate a portion of the Access and Utility Easement on the subject property.

Staff recommended approval of Planned Unit Development Amendment / PU 22-14 with the following eighteen (18) conditions:

1. That the Planned Unit Development consists of no more than four (4) residential lots;
2. That the minimum size of the residential lots be two (2) acres;
3. That proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands Subdivision have areas for a single-family residence, accessory structures, and two (2) drainfields sites;
4. That a minimum of two (2) off-street parking spaces be provided for each residential lot. All off-street parking spaces on the site shall measure at least nine (9) feet by eighteen (18) feet, be surfaced with gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;
5. That no off-premise signs be allowed within the Planned Unit Development;
6. 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;
7. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
8. That no lot is permitted to take access off of Sheridan Lake Road;
9. That the required minimum setbacks for all structures be a minimum of 25-feet from all property lines;

10. That each unit has an individual address that must be posted in accordance with Pennington County Ordinance Amendment #20;
11. That subject lots within this PUD remain part of the Sheridan Lake Highlands Road District and that proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands, remain part of the Homeowners Association created for Sheridan Lake Highlands;
12. That prior to applying for any future plats within this Planned Unit Development, the applicant submits to the Sheridan Lake Highlands Road District and Pennington County Planning Department revised road and drainage plans. Pennington County Planning Staff will forward the plans to the Pennington County Highway Department for their review;
13. That the applicant signs and complies with the Pennington County Noxious Weed Management Plan for proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands Subdivision, if required by the Pennington County Natural Resources Director;
14. That any portion of proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands Subdivision lying within the Rapid City platting jurisdiction be platted through both Pennington County and the City of Rapid City;
15. That due to the possibility of poor soil conditions and negative environmental impacts, no On-Site Wastewater Permits be issued for proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands prior to the Pennington County Environmental Planner approving the type and location of such system. This may include the use of Aqua Safe septic tanks. The Pennington County Environmental Planning Supervisor may, at his or her discretion, require a Registered Professional Engineer to approve of and sign off the percolation tests and septic system design;
16. That the existing 60-foot x 126-foot structure (built in 1987) be allowed on proposed Lot 3 of Block 4 of Sheridan Lake Highlands Subdivision, that no items be left outside of the structure that would constitute a public nuisance, and that all future structures meet current Pennington County Zoning Ordinance Standards;
17. That no private wells will be drilled on any individual lots; and,
18. That this Planned Unit Development be reviewed in one (1) year or upon a complaint basis; or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Discussion followed.

Moved by Kuehn and seconded by Burton to approve of Minor Planned Unit Development Amendment / PU 22-14 with the following eighteen (18) conditions:

1. That the Planned Unit Development consists of no more than four (4) residential lots;
2. That the minimum size of the residential lots be two (2) acres;
3. That proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands Subdivision have areas for a single-family residence, accessory structures, and two (2) drainfields sites;
4. That a minimum of two (2) off-street parking spaces be provided for each residential lot. All off-street parking spaces on the site shall measure at least nine (9) feet by eighteen (18) feet, be surfaced with gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;
5. That no off-premise signs be allowed within the Planned Unit Development;
6. 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;
7. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
8. That no lot is permitted to take access off of Sheridan Lake Road;
9. That the required minimum setbacks for all structures be a minimum of 25-feet from all property lines;
10. That each unit has an individual address that must be posted in accordance with Pennington County Ordinance Amendment #20;
11. That subject lots within this PUD remain part of the Sheridan Lake Highlands Road District and that proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands, remain part of the Homeowners Association created for Sheridan Lake Highlands;
12. That prior to applying for any future plats within this Planned Unit Development, the applicant submits to the Sheridan Lake Highlands Road District and Pennington County Planning Department revised road and drainage plans. Pennington County Planning Staff will forward the plans to the Pennington County Highway Department for their review;

13. That the applicant signs and complies with the Pennington County Noxious Weed Management Plan for proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands Subdivision, if required by the Pennington County Natural Resources Director;
14. That any portion of proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands Subdivision lying within the Rapid City platting jurisdiction be platted through both Pennington County and the City of Rapid City;
15. That due to the possibility of poor soil conditions and negative environmental impacts, no On-Site Wastewater Permits be issued for proposed Lots 3 – 6 of Block 4 of Sheridan Lake Highlands prior to the Pennington County Environmental Planner approving the type and location of such system. This may include the use of Aqua Safe septic tanks. The Pennington County Environmental Planning Supervisor may, at his or her discretion, require a Registered Professional Engineer to approve of and sign off the percolation tests and septic system design;
16. That the existing 60-foot x 126-foot structure (built in 1987) be allowed on proposed Lot 3 of Block 4 of Sheridan Lake Highlands Subdivision, that no items be left outside of the structure that would constitute a public nuisance, and that all future structures meet current Pennington County Zoning Ordinance Standards;
17. That no private wells will be drilled on any individual lots; and,
18. That this Planned Unit Development be reviewed in one (1) year or upon a complaint basis; or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

All voting aye, the Motion carried 7 to 0.

17. VACATION OF EASEMENT / VE 22-03: Bryon and Kristin Mobley. To vacate an Access and Utility Easement on the subject property in accordance with Sections 216 and 313 of the Pennington County Zoning Ordinance.

Lot 5, Block 4, Sheridan Lake Highlands, Section 2, T1S, R6E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Vacation of Easement to vacate an Access and Utility Easement on the subject property.

Staff recommended approval of Vacation of Easement / VE 22-03 with the following one (1) condition:

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

Discussion followed.

**Moved by Burton and seconded by Lewis to approve of Vacation of Easement / VE 22-03 with the following one (1) condition:**

- 1. That all necessary resolutions and exhibits vacating the easement be recorded by the applicant at the Register of Deed's Office.**

**All voting aye, the Motion carried 7 to 0.**

18. CONDITIONAL USE PERMIT REVIEW / CU 20-24: Greenbacker Capital. To review a utility-scale solar energy system in an Agriculture District in accordance with Sections 205, 317, and 510 of the Pennington County Zoning Ordinance.

GL 2-4; SE1/4NW1/4; E1/2SW1/4; S1/2SE1/4 and N1/2SE1/4; S1/2NE1/4 of Section 31, T1N, R9E, BHM, Pennington County, South Dakota.

Theunissen stated this is a review of the applicant's Conditional Use Permit to allow a utility-scale solar energy system on the subject property.

Staff recommended approval of the extension of Conditional Use Permit / CU 20-24 with the following twenty-seven (27) conditions:

1. That Building Permits are obtained for all solar modules prior to construction;
2. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the project area;
3. That the address of all operational structures (i.e. O&M building) be posted in accordance with Ordinance #20 following completion of the structure;
4. That setbacks from the property lines and all utilities be maintained for all structures located on the property, or an approved Setback Variance(s) be obtained;
5. That an approved Approach Permit(s) be obtained from the approving Street Authority and that a copy of the approved Approach Permit be sent to the Pennington County Planning Director with a note identifying the Permit for CU 20-24;
6. That an approved Floodplain Development Permit is obtained prior to any disturbance or placement of structures designated Special Flood Hazard Areas;
7. That a Storm Water Permit is obtained to prior to any land disturbance;
8. That prior to construction, the applicant takes steps to minimize prairie dog movement onto neighboring properties;

9. That the design of the solar energy system must conform to applicable local, state and national solar codes and standards at all times;
10. That a Conditional Use Permit is obtained for any temporary contractor's equipment storage yard prior to construction of all solar modules;
11. That no junk material, vehicles, or debris is stored on the site at any given time;
12. That any natural drainage ways and paths be continually maintained;
13. That all exterior lights must use hoods and lens that cast light downward;
14. 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;
15. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
16. That the Planning Department is provided with the safety/access information in case of an emergency;
17. That the proposed structure(s) maintain the 35-foot height requirement, with the exception of utility poles as exempted in Section 204(D) of the PCZO, or an approved Variance(s) be obtained;
18. That the solar panels be non-reflective and unobtrusive at all times;
19. That a Haul Road Agreement, if required, is in place with the County Highway Department prior to construction of the project;
20. That any private access roads or portions of Sections Lines be constructed to Ordinance 14 Standards or a request to waive these Standards be approved by the Board of Commissioners;
21. That prior to any work being done in a Section Line, an approved Road Construction in a Section Line be obtained;
22. That all design and installation work shall comply with all applicable provisions in the National Electric Code, International Building Code, International Residential Code, International Commercial Building Code, and State Fire Code;
23. That no advertising signage shall be placed on any portion of the solar facilities;
24. That any on-site wastewater treatment system(s) are subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance;

25. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line;
26. That prior to construction, a cash surety/bond in the amount of \$438,910.00 be submitted for the decommissioning of the solar modules; and,
27. That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as directed by the Planning Commission.

Discussion followed.

**Moved by McGregor and seconded by Lewis to approve the extension of Conditional Use Permit / CU 20-24 with the following twenty-seven (27) conditions:**

- 1. That Building Permits are obtained for all solar modules prior to construction;**
- 2. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the project area;**
- 3. That the address of all operational structures (i.e. O&M building) be posted in accordance with Ordinance #20 following completion of the structure;**
- 4. That setbacks from the property lines and all utilities be maintained for all structures located on the property, or an approved Setback Variance(s) be obtained;**
- 5. That an approved Approach Permit(s) be obtained from the approving Street Authority and that a copy of the approved Approach Permit be sent to the Pennington County Planning Director with a note identifying the Permit for CU 20-24;**
- 6. That an approved Floodplain Development Permit is obtained prior to any disturbance or placement of structures designated Special Flood Hazard Areas;**
- 7. That a Storm Water Permit is obtained to prior to any land disturbance;**
- 8. That prior to construction, the applicant takes steps to minimize prairie dog movement onto neighboring properties;**
- 9. That the design of the solar energy system must conform to applicable local, state and national solar codes and standards at all times;**
- 10. That a Conditional Use Permit is obtained for any temporary contractor's equipment storage yard prior to construction of all solar modules;**

11. That no junk material, vehicles, or debris is stored on the site at any given time;
12. That any natural drainage ways and paths be continually maintained;
13. That all exterior lights must use hoods and lens that cast light downward;
14. 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;
15. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
16. That the Planning Department is provided with the safety/access information in case of an emergency;
17. That the proposed structure(s) maintain the 35-foot height requirement, with the exception of utility poles as exempted in Section 204(D) of the PCZO, or an approved Variance(s) be obtained;
18. That the solar panels be non-reflective and unobtrusive at all times;
19. That a Haul Road Agreement, if required, is in place with the County Highway Department prior to construction of the project;
20. That any private access roads or portions of Sections Lines be constructed to Ordinance 14 Standards or a request to waive these Standards be approved by the Board of Commissioners;
21. That prior to any work being done in a Section Line, an approved Road Construction in a Section Line be obtained;
22. That all design and installation work shall comply with all applicable provisions in the National Electric Code, International Building Code, International Residential Code, International Commercial Building Code, and State Fire Code;
23. That no advertising signage shall be placed on any portion of the solar facilities;
24. That any on-site wastewater treatment system(s) are subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance;
25. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line;



26. **That prior to construction, a cash surety/bond in the amount of \$438,910.00 be submitted for the decommissioning of the solar modules; and,**
27. **That this Conditional Use Permit be reviewed in 1 year, on a complaint basis, or as directed by the Planning Commission.**

**All voting aye, the Motion carried 7 to 0.**

Commissioner Kuehn left the meeting at 12:44 p.m.

19. CONDITIONAL USE PERMIT REVOCATION / CU 71-04: David Allard. To revoke a mobile home park in a Commercial District in accordance with Sections 211, 305, and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Lot D of SW1/4SE1/4 and RR Right-of-Way Across Lot 1, Subdivision of Section 31, 2N-6E, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

(Continued from the October 24, 2022, Planning Commission meeting.)

Theunissen stated this item was continued from the October 24, 2022, Planning Commission meeting in order for the applicant to address Ordinance Violations on the property.

Staff recommended to continue Conditional Use Permit / CU 71-04 to the December 12, 2022, Planning Commission meeting, with the following one (1) condition:

1. That the applicant applies for a Planned Unit Development Overlay by the December 7, 2022, application deadline.

Discussion followed.

**Moved by Lewis and seconded by Burton to continue Conditional Use Permit / CU 71-04 to the December 12, 2022, Planning Commission meeting, with the following one (1) condition:**

1. **That the applicant applies for a Planned Unit Development Overlay by the December 7, 2022, application deadline.**

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

20. ORDINANCE AMENDMENT / OA 22-12: Pennington County. To amend Section 511 “Fees” [to amend and supersede the existing 511 “Fees”] of the Pennington County Zoning Ordinance.

Theunissen reviewed the Staff Report indicating this is an Ordinance Amendment to amend Section 511 - Fees.

Staff recommended approval of Ordinance Amendment / OA 22-12.

Commissioner McGregor left the meeting at 12:57 p.m.

Discussion followed.

**Moved by Lewis and seconded by Burton to approve of Ordinance Amendment / OA 22-12.**

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

21. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from their October 24<sup>th</sup> meeting.

22. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

23. ITEMS FROM THE STAFF

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

24. EXECUTIVE SESSION PER SDCL 1-25-2

Moved by Lewis and seconded by Burton to go into Executive Session, pursuant to per SDCL 1-25-2(3), for the purpose of discussing contractual/pending litigation. All voting aye, the Motion carried 5 to 0. The Planning Commission remained in Executive Session from 1:00 p.m. to 1:18 p.m. Moved by Burton and seconded by Drewes to come out of Executive Session. All voting aye, the Motion carried 5 to 0.

25. ITEMS FROM THE MEMBERSHIP

Commissioner Johnson spoke of including the initial dates when properties were rezoned to a Planned Unit Development in Staff Reports. He further discussed the By-Laws and conflicts of interest.

26. ADJOURNMENT

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

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

**The meeting adjourned at 1:21 p.m.**

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Charlie Johnson, Chairperson