

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**July 23, 2012 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Karen Hall, Jim Coleman, Barbara Landers, Bill McCollam, Nancy Trautman, and Ken Davis.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, Kelsey Rausch, Jeri Ervin, and Patrick Grode (State's Attorney's Office).

ROLL CALL

1. APPROVAL OF THE JULY 9, 2012, MINUTES  
**Moved by Hall and seconded by McCollam to approve the July 9, 2012, Planning Commission minutes, with a correction to Item #11 – Marv Matkins, page 2, to correct the date of September 2012 to September 2011. Vote: unanimous (7 to 0).**
  
2. APPROVAL OF THE AGENDA  
**Moved by McCollam and seconded by Hall to approve the July 23, 2012, Planning Commission Agenda, with the removal of Item #10 from the Consent Calendar. Vote: unanimous (7 to 0).**

**CONSENT CALENDAR**

The following items have been placed on the Consent Calendar 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 Calendar, by any Planning Commissioner, staff member, or audience member for separate consideration. The findings of this Planning Commission are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. **PLANNED UNIT DEVELOPMENT REVIEW / PU 02-03:** James Buchanan. To review a Planned Unit Development to allow 29 residential lots and a day-use retreat center in accordance with Section 213 of the Pennington County Zoning Ordinance.

S1/2S1/2NE1/4, E1/2SE1/4, E1/2NW1/4SE1/4, Section 8 and the S1/2SW1/4NW1/4, SE1/4NW1/4, and the balance of NE1/4SW1/4, W1/2SW1/4 and Lot A of the NE1/4 SW1/4, Section 9, T1S, R6E, BHM, Pennington County, South Dakota.

**To recommend to continue the review of Planned Unit Development / PU 02-03 to the August 13, 2012, Planning Commission meeting.**

**Vote: unanimous (7 to 0).**

4. **CONDITIONAL USE PERMIT REVIEW / CU 08-31:** Verizon Wireless. To review a 150 foot communications tower in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 1, North Haines Subdivision, Section 18, T2N, R8E, BHM, Pennington County, South Dakota.

(Continued from the July 9, 2012, Planning Commission meeting.)

**To recommend to revoke Conditional Use Permit / CU 08-31 with the applicant's concurrence.**

**Vote: unanimous (7 to 0).**

5. **CONDITIONAL USE PERMIT REVIEW / CU 08-32:** Wesley Gortmaker / Rick Gortmaker. To review an automotive/towing business as a home occupation in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Gortmaker Acres, Section 14, T2N, R8E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Conditional Use Permit / CU 08-32 with the following seven (7) 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 Tow Service activities;**
3. **That there is no more than one (1) additional employee, excluding family members;**
4. **That there is a minimum of five (5) off-street parking spaces available at all times;**
5. **That all business related items be conducted entirely within an enclosed structure 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 8:00 a.m. and 6:00 p.m., with occasional after-hour recovery; and,**

7. **That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis.**

**Vote: unanimous (7 to 0).**

6. **CONDITIONAL USE PERMIT REVIEW / CU 11-15:** The Royal Company; Roger Johnson – Agent. To review an aircraft landing strip in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The W1/2 of Section 33, T1N, R8E, BHM, Pennington County, South Dakota.

(Continued from the July 9, 2012, Planning Commission meeting.)

**To recommend to continue the review Conditional Use Permit / CU 11-15 to the August 13, 2012, Planning Commission meeting.**

**Vote: unanimous (7 to 0).**

7. **CONDITIONAL USE PERMIT / CU 12-04:** Glenn and Della Wishard. To bring a multi-family dwelling unit (tri-plex) into compliance in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

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

(Continued from the July 9, 2012, Planning Commission meeting.)

**To recommend approval of Conditional Use Permit / CU 12-04 with the following eight (8) conditions:**

1. **That a Building Permit be obtained by the applicants for the conversion of the garage into finished apartments;**
2. **That the two apartments hook into the new on-site wastewater treatment system, approved by Rapid City, upon completion of the installation of this system;**
3. **That a minimum of six (6) off-street parking spaces 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;**
4. **That the property be kept free of debris and junk vehicles;**
5. **That the address of each unit be clearly posted so it is visible from South valley Drive in accordance with Pennington County's Ordinance #20;**

6. That smoke alarms be installed and/or properly maintained in working order in each unit;
7. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
8. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

**Vote: unanimous (7 to 0).**

8. **CONDITIONAL USE PERMIT / CU 12-19:** Robert and Carol Hamrin. To allow a Guest House in a Low Density Residential District in accordance with Sections 318 and 510 of the Pennington County Zoning Ordinance.

Lot 2, Black Metal Lode #1 MS #1986, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

**To accept the withdrawal of Conditional Use Permit / CU 12-19 with the applicants' concurrence.**

**Vote: unanimous (7 to 0).**

9. **MINOR PLAT / PL 12-27 AND SUBDIVISION REGULATIONS VARIANCE / SV 12-10:** Roger and Debbie Sieck. To combine two lots in order to create Lot 1R of Melchert Ranch Subdivision and to waive platting requirements in accordance with Sections 700.1 and 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1 and 2, Melchert Ranch Subdivision, Section 15, T2N, R3E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1R, Melchert Ranch Subdivision, Section 15, T2N, R3E, BHM, Pennington County, South Dakota.

**To recommend approval of Subdivision Regulations Variance / SV 12-10 to waive topographic information to be provided at a five (5) foot contour interval, to waive the Section Line to be improved to Ordinance 14 Standards, to waive the dedication of an eight (8) foot utility and minor drainage easement outside of the platted access easement on the south property line of Lot 1R, to waive engineered road construction plans to be provided, and to waive road improvements to be made to Melchert Ranch Road; and, approval of Minor Plat / PL 12-27 with the following eight (8) conditions:**

1. That prior to Minor Plat approval, the applicant shall improve the Section Line Right-of-Way to Ordinance 14 Standards or else obtain an approved Subdivision Regulations Variance waiving this requirement;

2. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines or an approved Subdivision Regulations Variance be obtained waiving this requirement;
3. That prior to Minor Plat approval, the applicant provide engineered road construction plans for any road improvements to be made or else a Subdivision Regulations Variance be obtained waiving this requirement;
4. That prior to Minor Plat approval, the applicant improve Melchert Ranch Road to Low Density Residential Local/Collector Road Standards, including 66 feet of right-of-way (or easement) with a 24-foot-wide, 4-inch-graveled driving surface, or else a surety be posted for the road improvements or an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
6. That an approved Floodplain Development Permit be obtained prior to any work being conducted within the boundaries of the 100-year floodplain for Rapid Creek;
7. That the title of the plat be changed in accordance with the comments received from the Register of Deeds;
8. That at the time of submittal for the Minor Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, including the Plat to be scaled at not more than one (1) inch equals one hundred (100) feet, and topographic information be provided of the subject property at five (5) foot contour intervals or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met.

**Vote: unanimous (7 to 0).**

11. **PRELIMINARY PLAT / PL 12-13:** Marv and Chris Matkins. To create Lots 1, 2, and 3 of Matkins Addition #9 in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: That Pt of GL 24 Lying S Of Hwy 16 Less Lots 3,4 and 5 Of Mewonitoc Lode Sub., Less Lot 4 Bar Placer MS 824, Less Lot 1R, 4, and 5 of Matkins Addn #6 and Less Row, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, and 3 of Matkins Addition #9, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

(Continued from the July 9, 2012, Planning Commission meeting.)

**To recommend Preliminary Plat / PL 12-13 be denied without prejudice.**

**Vote: unanimous (7 to 0).**

## **END OF CONSENT CALENDAR**

10. MINING PERMIT / MP 12-11: Royal Nielsen / Jon Buxton. To remove 24 inches of topsoil from the area that is to be sold in small quantities. The proposed project area is approximately 1.95 acres and would include the removal of 2 feet deep of topsoil uniformly throughout the 1.95 acres. All the material is hauled off-site immediately upon excavation.

The NE1/4SW1/4 of Section 23, T1N, R8E, BHM, Pennington County, South Dakota.

Commissioner Hall asked to have this item removed from the Consent Calendar to discuss Condition #3 of the Conditions of Approval. She questioned the area being properly reclaimed and revegetated within 30 days of project completion, if the topsoil is removed. She further expressed concern the work to be done is located too close to the creek on the subject property.

Mr. Shawn Nielson, applicant, appeared and stated that, even after removing 2 feet of topsoil, good dirt remains to allow reseeding and reclaiming.

Commissioner Trautman also questioned how long the area will be exposed once the topsoil is removed?

Mr. Nielson stated it will be less than one year and then reseeded and reclaimed.

Commissioner Trautman further spoke of potential damage to the area and flooding with the project located close to the creek.

Commissioner Zvejnieks recommended the applicant install a silt fence and/or booms along the banks of the creek.

Mr. Nielson said there is a 2 foot bank along the perimeter of the area they are working with, so there is not a need to put in a silt fence or boom and indicated there should not be runoff into the creek. He further noted the area they are working on is quite a distance from the actual banks of the creek and the water. The property is very flat and there is a barrier where the applicant is excavating from.

Commissioner Zvejnieks spoke of the potential for mosquitoes with the property being flat and the possibility of standing water left on the property.

Mr. Nielson noted that there is good drainage on the property and the water will drain away and will not be left standing.

Commissioner Davis spoke of revising Condition #3, when the area is to be reclaimed, based upon the date of completion of the project and weather conditions permitting.

Mr. Nielson said they should have the project done by October 1<sup>st</sup>.

Commissioner Hall asked Mr. Nielson if he intends to fertilize the area.

Mr. Neilson stated no, that he will be reseeding and placing a hydro-seed type mulch on the area to be disturbed.

Jennissen further stated the language to incorporate for Condition #3 is “or as soon as weather permits.”

**Moved by Hall and seconded by Trautman to approve Mining Permit 12-11 with the following six (6) conditions:**

- 1. That the applicant file and record an easement with Register of Deeds allowing access across Mr. Hotz’s property;**
- 2. That all aspects of the Floodplain Development Permit be maintained;**
- 3. That all disturbed areas must be reclaimed and revegetated within 30 days of project completion, or as soon as weather permits, to ensure final stabilization is achieved quickly due to the sensitivity of the site and the proximity of Rapid Creek;**
- 4. That all sediment and erosion control measures be properly selected, installed, and maintained;**
- 5. That periodic inspections by the contractor and/or landowner are done to ensure the erosion and sediment controls are effective in preventing sediment from leaving the site and records kept of those inspections that would be available for review by Planning staff; and,**
- 6. That this Mining Permit be reviewed in one (1) year from the approval date.**

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

12. CONDITIONAL USE PERMIT / CU 12-17: ARC Business Ventures/Penny and Jon Fosheim. To allow for a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

(From the July 9, 2012, Planning Commission meeting.)

Lots 1-3, Block 11, Silver City, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

Jennissen stated this item is on the Agenda because of a tie vote from the July 9<sup>th</sup> Planning Commission meeting. He further noted that he did receive an e-mail from the State Department of Health addressing the address change on the applicant's Lodging License Application and they were the ones who made the change of the address, since their licensing rules do not allow for two separate homes or structures to fall under one vacation home license, even if they are not rented out as separate units.

Mrs. Penny Fosheim, applicant, appeared and answered questions of the Planning Commission.

Commissioner Trautman wanted to know if the fire pit had been removed from the property.

Mrs. Fosheim said no, but it has been removed from the advertisement and she also changed the number of people allowed to ten in the main house and four in the cabin.

Commissioner Trautman spoke of the possibility of a fire with the fire pit still located on the property and she further expressed her concern about this.

Mrs. Fosheim indicated she has complied with everything asked of them and further requested approval of the application for one year and revisit it at that time.

Commissioner Zvejnieks stated he is opposed to allowing Vacation Home Rentals in Suburban Residential Districts. He also expressed concern that the applicants assumed the property could be used as a rental, and noted the website was previously advertised as 16 people being allowed, when the State only will allow between 8-10 people.

Mrs. Fosheim commented that she did not know the residence could not be used as a rental and found out later she could only rent it out for 14 days each year.

Commissioner Zvejnieks further spoke the wastewater system for the two properties.

Jennissen stated that there are two holding tanks on the property.

Mrs. Fosheim addressed this and noted she based the number of people allowed on the size of her structure and sleeping areas, not the size of the wastewater system.



Commissioner Davis spoke of an e-mail provided regarding the rental of the property.

Mrs. Fosheim indicated their intent was not to rent when they were building, but the costs continued to rise and that's when they decided to start renting, but not during the wintertime.

Mr. Greg Strommen, appeared, and spoke in support of Mrs. Fosheim and the proposed use. Mr. Strommen also discussed the five factors the Planning Commission may consider in their review to grant Conditional Use Permit applications. He asked the Planning Commissioners to approve the application since the applicant is meeting the five factors and not to deny it, based upon the public who appear in opposition to the request. He doesn't feel the application should be governed by the people who speak in opposition. He asked that the Conditional Use Permit be approved, and, when it is reviewed in one year, if there is evidence of Violations, the public can ask at that time to not allow the Conditional Use Permit to be renewed.

Commissioner Trautman explained that they need to be careful in granting Conditional Use Permit applications in a contentious atmosphere. If the Conditional Use Permit is granted and immediately there are complaints, they have to be investigated. Commissioner Trautman indicated that both the applicant and the public are being protected under careful consideration for each application.

Commissioner Zvejnieks also spoke of the first factor to be met under Conditional Use Permits which considers the effect upon the use and enjoyment of other property in the immediate vicinity or the uses already permitted.

Mr. Strommen indicated that there's no evidence that this Conditional Use Permit should not be granted.

Commissioner Trautman noted that there is evidence it was being rented early on and when the applicant applied for the Conditional Use Permit, it was being advertised for rental without prior approval.

Commissioner Hall stated she did check the Executive Lodging's website and the advertisement has been removed.

Mr. Jim Bickett, Bickett Construction, appeared, and spoke in support of the proposed use. He stated the Fosheims are good people and they did not know they could not advertise to rent it out. They have addressed the egress window, parking for the properties, and are meeting with people in the community to resolve their concerns.

Ms. Deb Telcamp, resident in Silver City, appeared, and spoke in support of the proposed use.

Mr. Todd Tobin, resident of Silver City, appeared and noted his opposition to allow VH Rentals in Suburban Residential Districts. He stated the Fosheims are good neighbors

and contribute to the community. He spoke of the Conditional Use Permit process for Vacation Home Rentals, including the numerous committee meetings and tremendous opposition to allow them in other areas of the County. He further expressed concern that, if restrictions are loosened on Conditional Use Permits, a year from now, what level of opposition would have to be met for the County to overturn or to reject a Conditional Use Permit.

Mr. Jake Cameron, resident of Silver City, appeared and also spoke in opposition of allowing Vacation Home Rentals in Suburban Residential Districts. He further spoke in opposition to allow commercial/business uses, including VH Rentals, in specific residential areas. He asked the Planning Commission to deny the application.

Mrs. Fosheim stated they have not violated any laws and have gone above and beyond to meet the expectations of what they need for approval of their application. She noted they did make mistakes, only because they did not know they could not rent for more than 14 days each year.

Ms. Rita Chapman, appeared, and spoke of the community of Silver City and allowing Vacation Home Rentals.

**Moved by Coleman and seconded by McCollam to approve of Conditional Use Permit 12-17.**

Commissioner Landers reviewed her concerns with the public and the Planning Commission and stated she is opposed to the Motion.

Commissioner Coleman spoke of the criteria for approving Conditional Use Permits and stated he is in favor of the Motion.

Mr. Patrick Grode, Deputy State's Attorney, spoke of case law and noted that if criteria are met, the Planning Commission has to follow the Ordinance.

Commissioner Davis spoke of the public and listening to the people when they speak for or against applications.

Commissioner Trautman also spoke of decisions that are made, based on people speaking for and against Vacation Home Rentals.

Commissioner Hall noted the applicants are good people and also discussed Vacation Home Rentals in Suburban Residential Districts. She noted she would vote in favor of the Motion and would like to add a condition stating the fire pit is to be removed from the property. She further spoke of reconciliation between the residents in Silver City.

Commissioner Zvejnieks spoke of Silver City and Vacation Homes in residential areas.

Commissioner Davis called the Question. All in favor of calling the Question, Motion passed 7 to 0.

**Vote on Original Motion: 3 to 4. Motion to approve failed. Commissioners McCollam, Coleman, and Hall voted yes. Commissioners Davis, Trautman, Landers, and Zvejnieks voted no.**

13. CONDITIONAL USE PERMIT / CU 12-18: Paul and Dawn Marso. To allow for a Vacation Home Rental in a Suburban Residential District in accordance with Sections 319 and 510 of the Pennington County Zoning Ordinance.

Lot 19, Block B, Edelweiss Mountain Development, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to allow for an existing two bedroom residence to be used as a Vacation Home Rental. The residence is currently being used as a nightly rental.

Schmierer stated staff researched the Building Permit history of the property and found that a permit was issued in July of 2000 for the construction of a single-family residence (BP #00-585). A note was placed on the Building Permit that states the residence shall not be used for nightly and or weekly rentals. As mentioned above, the residence is currently being advertised as a Vacation Home ([www.edelweissmountain.com](http://www.edelweissmountain.com)). The existing septic system is connected to the community wastewater system. Further research of the property shows a front yard Setback Variance was granted in November of 2004 to bring the existing residence into compliance. Specifically, the Variance request was to reduce the front yard setback from 25 feet to 23 feet. Although the site plan submitted by the applicant shows the house to be located 60 feet from the front lot line, the survey provided in 2004 appears to be more accurate.

Schmierer noted that staff recently received a letter of opposition to the proposed request. The letter expressed concern about noise that has occurred in the area from homes being rented out on a short-term basis.

Staff recommended approval of Conditional Use Permit/ CU 12-18 with the following eight (8) conditions:

1. That the two (2) bedroom Vacation Home Rental be allowed up to eight (8) overnight guests;
2. That a minimum of two (2) off-street parking spaces be provided and each parking space shall not be less than 162 square feet, nor less than nine feet (9') by eighteen feet (18'), surfaced with gravel, concrete or asphalt and maintained in a dust free manner;

3. That the address be properly posted on both the residence and at the approach so it is visible in both directions in accordance with Pennington County's Ordinance #20;
4. That the applicant complies with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;
5. That the applicants obtain all the necessary permits from the State pertaining to the use of the Vacation Home Rental;
6. That the applicant complies with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals;
7. That this Conditional Use Permit not be valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
8. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

Commissioner Davis wanted to know many Notice of Hearing letters were sent by the applicant.

Schmierer said 36 letters.

Commissioner Landers spoke of the note on the Building Permit where the residence shall not be used for nightly or weekly rentals.

Jennissen stated that in 2000, when the Building Permit was applied for, the Zoning Ordinance did not allow for VH Rentals, but they are now allowed with approval of a Conditional Use Permit.

Mr. Patrick Grode, Deputy State's Attorney, noted that Edelweiss Mountain has a number of Vacation Home Rentals, which are "grandfathered-in." This was a new Building Permit applied for in 2000 and the Planning Department wanted the new owner to know they could not use the residence as a nightly and weekly rental, so that is why a note was written on the Building Permit.

Commissioner Hall asked staff if the covenants allow Vacation Home Rentals.

Schmierer indicated that the covenants state no commercial uses. Vacation Home Rentals are not considered commercial, according to Patrick Grode from the State's Attorney's Office.

Commissioner Hall noted that she did visit the Edelweiss Mountain website and there are 13 residences currently advertised for rental and she questioned if they are operating illegally.

Jennissen explained that many of them are likely “grandfathered,” but this has not been confirmed for all 13 of the residences.

Mr. Chuck McCalley, Edelweiss Mountain Lodging, appeared, and stated they purchased the business about five years ago. He spoke of controversy in the area and he is trying to make sure everything they do is done correctly. He also discussed property taxes, helping people in the area in the winter time, and clearing roads in the development. Mr. McCalley noted that the applicant’s, the Marso’s, are new to the Edelweiss Mountain area, and it was explained to them that they would need a Conditional Use Permit in order to rent the residence, and McCalley further stated he is informing people in Edelweiss that they need to apply for Conditional Use Permits to continue renting their homes.

Commissioner Zvejnieks wanted to know how many full-time residents are in the Edelweiss development.

Mr. McCalley said about one-third of the residents are probably full-time, and there is a full-time manager for Edelweiss Mountain Lodging.

Discussion followed.

**Moved by Davis and seconded by Coleman to approve of Conditional Use Permit 12-18 with the following eight (8) conditions:**

- 1. That the two (2) bedroom Vacation Home Rental be allowed up to eight (8) overnight guests;**
- 2. That a minimum of two (2) off-street parking spaces be provided and each parking space shall not be less than 162 square feet, nor less than nine feet (9’) by eighteen feet (18’), surfaced with gravel, concrete or asphalt and maintained in a dust free manner;**
- 3. That the address be properly posted on both the residence and at the approach so it is visible in both directions in accordance with Pennington County’s Ordinance #20;**
- 4. That the applicant complies with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;**
- 5. That the applicants obtain all the necessary permits from the State pertaining to the use of the Vacation Home Rental;**
- 6. That the applicant complies with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals;**

7. **That this Conditional Use Permit not be valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
8. **That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.**

**All voting, the Motion carried 6 to 1. Commissioner McCollam voted no.**

14. CONDITIONAL USE PERMIT / CU 12-20: Jarod and Becki Groven. To allow for a Vacation Home Rental in a Limited Agricultural District in accordance with Sections 206, 319, and 510 of the Pennington County Zoning Ordinance.

Lot A of Gold King Lode M.S. #2064, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to allow a Vacation Home Rental (VHR) on the subject property. Zeller informed the Planning Commission that, during the site visit, staff noticed approximately five (5) unlicensed and/or inoperable vehicles on the property, a camper and trailer also believed to be unlicensed, and a small amount of debris, including building materials, tires, and automotive parts.

Zeller further noted that the subject property contains a double-wide manufactured home with multiple decks, a two-story detached garage/shop building, well, and on-site wastewater treatment system. Upon review of the Building Permit history for the subject property, staff has determined that some of decking for the double-wide manufactured home was never permitted. Also, the detached garage/shop building was originally permitted as 32 feet by 40 feet; however, the applicant's site plan submitted with this Conditional Use Permit application and the DOE's records show the footprint of the building to be 32 feet by 48 feet. Staff also discovered during the site visit that this structure has a second floor, which also was not permitted. An Assessor's Building Permit (ASBP #07-216) done by the DOE in 2007 notes that the second floor of this structure appears to have been converted to living quarters, though the applicant has indicated it is unfinished storage space.

Zeller explained that the applicant did come into the office and apply for the required Building Permits late in the day on Friday, July 20th, but staff was not able to perform a site visit to confirm that the property has been cleaned up and to verify if the unlicensed/inoperable vehicles have been licensed or removed from the property. Therefore, staff will be recommending this item be continued to the August 13<sup>th</sup> Planning Commission meeting.

Moved by Davis and seconded by Landers to continue Conditional Use Permit 12-20 to the August 13, 2012, Planning Commission meeting.

Commissioner Hall questioned if the living quarters above the garage is included in the Vacation Home Rental property.

Zeller indicated that it is not and the applicant has stated it is unfinished storage space.

Commissioner Trautman wanted to know if the subject property has been previously operated as a Vacation Home Rental.

Zeller noted that staff has received complaints in the past, but has not been able to verify it being used as a VH Rental and staff was not able to find advertising for the rental on the internet.

Ms. Becky Groven, applicant, appeared and stated she would like approval of her request and to not continue the item until the August 13<sup>th</sup> meeting. This would give them time to be able to rent the residence and not miss the summer season. She also stated they operate under the name of American Pines Cabins and also operate rental cabins in Keystone. Ms. Groven further stated the vehicles have been moved or are out of sight and a trailer loaded with junk and debris will be removed by the early part of next week.

Commissioner Davis stated he would change his Motion for approval and staff could visit the property today to make sure everything is done to staff's satisfaction and include a condition, as such, in the Conditions of Approval.

Commissioner Davis asked Ms. Groven if the property can be cleaned up today.

Ms. Groven said yes.

Zeller stated that Ms. Groven can notify staff in order for a site visit to be performed.

**SUBSTITUTE MOTION: Moved by Davis and seconded by Landers to approve of Conditional Use Permit 12-20 with the following twelve (12) conditions:**

- 1. That the Vacation Home Rental only be operated from May to September and that the maximum occupancy of the Vacation Home Rental be limited to six (6) people;**
- 2. That Building Permits be obtained for the decking attached to the double-wide modular home and the larger size and second floor of the detached shop/garage building;**
- 3. That the lot address for the subject property be clearly posted at all intersections along Klondike Road and at the property so it is visible at all times in accordance with Pennington County's Ordinance #20;**
- 4. That the property be kept free of debris and junk vehicles at all times. All vehicles stored on the property must be licensed and operable and any other**

vehicles not in this condition, must be stored indoors or not located on the property;

5. That a minimum of three (3) off-street parking spaces 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. The parking area shall be designated on-site;
6. That a copy of the Vacation Home Rental License from the South Dakota Department of Health be provided to the Planning Department upon its issuance;
7. That the applicant obtains a Sales Tax License from the South Dakota Department of Revenue;
8. That the applicant complies with the requirements of Section 319 of the Zoning Ordinance at all times, including the Performance Standards and the requirement to post an Interior Informational Sign;
9. 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;
10. That this Conditional Use Permit not be valid until the applicant signs the Statement of Understanding, which is available at the Planning Office;
11. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met; and,
12. That the Vacation Home Rental not be operated until such time staff is able to verify the property has been satisfactorily cleaned up and the excess vehicles have been stored indoors or removed from the property.

All voting aye, the Motion carried 7 to 0.

15. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the July 9, 2012, Planning Commission meeting with the exception of Rezone 12-05 and Comprehensive Plan Amendment 12-03 (Orvil Davis) to rezone 35.88 acres from Highway Service District and General Agriculture District to Commercial District. These items were denied.

16. ITEMS FROM THE PUBLIC

There were no items from the public.



17. ITEMS FROM THE STAFF

- A. Guest House Discussion. Jennissen asked for clarification for what is considered a Guest House and direction for staff in order to provide information to the public when dealing with questionable Building Permits.

Discussion followed between the Planning Commission, the Planning Director, and staff regarding Guest Houses, what constitutes living quarters, changes in use, and guidelines/policies to develop and use.

- B. Conditional Use Permit / CU 12-20: Jarod and Becki Groven. Zeller informed the Planning Commission that there is a neighbor who wished to speak about the Groven's Conditional Use Permit and was unable to do so when the item was presented.

**Moved by Landers and seconded by Trautman to Reconsider Items From The Public. All voting aye, the Motion carried 7 to 0.**

16. RECONSIDERATION OF ITEMS FROM THE PUBLIC

Mr. Walt Digman, neighboring landowner, appeared and questioned if the applicants' also intend to use the shop building as a Vacation Home Rental. He expressed concern that the use not expand beyond the use of the residence as a rental.

Jennissen explained that the current Conditional Use Permit allows only one residence to be used as a Vacation Home Rental. If the property owner wished to expand the use, they would need to reapply to allow the shop building to be used as a Guest House.

Commissioner Landers stated that Mr. Digman can file a complaint at any time with the Planning Department regarding violations of the Conditions of Approval and the item can be placed on the Planning Commission Agenda.

Ms. Groven noted that the septic system is approved for only six people and they also have provided Mr. Digman a letter stating they will not rent out the shop building.

18. ITEMS FROM THE MEMBERSHIP

Commissioner Zvejnieks spoke of Vacation Home Rentals and owner's intentions in buying several properties to operate and that was not the intent of the Ordinance. He spoke of amending the Vacation Home Rental Ordinance to limit this type of use.

Discussion followed to place this item on the Planning Commisison Agenda for a future meeting.

19. DISCUSSION ITEMS

There were no discussion items.

20. ADJOURNMENT

**Moved by Davis and seconded by Hall to adjourn.**

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

The meeting adjourned at **11:24 a.m.**

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Chairperson, Sig Zvejnieks