

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**September 23, 2013 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Jim Coleman, Barbara Landers, Lori Litzen, Bill McCollam, and Lyndell Petersen.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Jeri Ervin, PJ Conover, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE SEPTEMBER 9, 2013, MINUTES  
**Moved by Coleman and seconded by McCollam to approve the September 9, 2013, Planning Commission minutes. Vote: unanimous (6 to 0).**
  
2. APPROVAL OF THE AGENDA  
**Moved by Coleman and seconded by Litzen to approve the September 23, 2013, Planning Commission agenda, to include the addition of Item #10 to the Consent Calendar. Vote: unanimous (6 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. **CONDITIONAL USE PERMIT REVIEW / CU 91-59:** Melissa Ehrhardt. To review a single-wide mobile home as a single-family residence in a Suburban Residential District in accordance with Section 208-C-19 of the Pennington County Zoning Ordinance.

Tract C of Lot 6, Berger Subdivision, Section 14, T2N, R8E, BHM, Pennington County, South Dakota.

(Continued from the August 26, 2013, Planning Commission meeting.)

**To approve of the extension of Conditional Use Permit / CU 91-59 with the following three (3) 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 property be kept clear of debris and inoperable automobiles; and,
3. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis.

**Vote: unanimous (6 to 0).**

4. **CONDITIONAL USE PERMIT REVIEW / CU 05-30:** Melvin and Mary Leui; Debarah Leui – Agent. To review a second manufactured home on the property to be used as a caretaker’s residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 3, Block 7, Ashland Subdivision #2, Section 15, T2N, R8E, Pennington County, South Dakota.

**To continue the review of Conditional Use Permit / CU 05-30 to the November 25, 2013, Planning Commission meeting.**

**Vote: unanimous (6 to 0).**

5. **CONDITIONAL USE PERMIT REVIEW / CU 12-26:** Mark and Mary Hansen. To review a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 28, Block E, Edelweiss Mountain Development, Section 20, T1N, R5E, BHM, Pennington County, South Dakota.

**To approve of the extension of Conditional Use Permit / CU 12-26 with the following eleven (11) conditions:**

1. That no RVs, trailers or campers be occupied or used as living quarters on the subject property;
2. That the maximum overnight occupancy be 12 people and the maximum daytime occupancy be 18 people;
3. That the applicant maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License);
4. That a minimum of four (4) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) by eighteen feet and maintained in a dust-free manner;

5. That an interior informational sign be posted in accordance with the requirements of Section 319-G, prior to further operation of the residence as a VHR;
6. That no outside fires or fire pits be allowed on the property;
7. That the lot address be posted at all times so it is clearly visible from Heidelberg Lane in accordance with Ordinance #20;
8. That if the person designated as the Local Contact is ever changed from Executive Lodging, the interior informational sign be updated and the applicant re-notify the surrounding landowners within 500 feet via notices sent first-class;
9. That a sign be continually posted at the end of the driveway, providing contact information for the Local Contact (Executive Lodging);
10. That the applicant ensure the VHR is operated in accordance with the requirements of Section 319-F. (Performance Standards) at all times; and,
11. 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.

**Vote: unanimous (6 to 0).**

6. **CONDITIONAL USE PERMIT REVIEW / CU 12-27:** Mike Dressler. To review a Vacation Home Rental in a Suburban Residential District in accordance with Sections 207, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 4R (also in Section 13), Block 3, Alpine Acres Meadow, Section 14, T2N, R4E, BHM, Pennington County, South Dakota.

**To approve of the extension of Conditional Use Permit / CU 12-27 with the following seven (7) conditions:**

1. That the Vacation Home Rental be allowed to have a maximum occupancy of eight (8) people;
2. That a minimum of two (2) off-street parking spaces be provided and each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, 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 be visible in both directions in accordance with Pennington County's Ordinance #20;

4. That the applicants continually comply with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;
5. That the applicants obtain and keep current all the necessary permits from the State pertaining to the use of the Vacation Home Rental;
6. That applicants continually comply with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals; and,
7. That this Conditional Use Permit is reviewed in three (3) years or on a complaint basis to verify that all conditions of approval are being met.

**Vote: unanimous (6 to 0).**

7. **CONDITIONAL USE PERMIT / CU 13-21**: Aaron Olson. 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.

Lot 8 of Tract A, Sunnyside Acres Subdivision, Section 25, T2N, R4E, BHM, Pennington County, South Dakota.

**To approve of Conditional Use Permit / CU 13-21 with the following nine (9) conditions:**

1. That the Vacation Home Rental be allowed to have a maximum overnight occupancy of eight (8) people;
2. That a minimum of three (3) off-street parking spaces be provided and each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, 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 be visible in both directions in accordance with Pennington County's Ordinance #20;
4. That the applicant continually complies with South Dakota Administrative Rule 44:02:08 which regulates Vacation Home Rentals;
5. That the applicant obtain and keep up-to-date all the necessary permits from the State pertaining to the use of the Vacation Home Rental;

6. That the applicant continually comply with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals;
7. That the applicant obtains an Operating Permit by November 2015;
8. That an interior informational sign be posted in accordance with the requirements of Section 319-G., during operation of the residence as a VHR; and,
9. 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 (6 to 0).**

8. **MINOR PLAT / PL 13-19:** Robert Tschetter; Fisk Land Surveying – Agent. To create Lots 1R and 2R of Berry Development in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1, 2, and 3, Berry Development, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1R and 2R, Berry Development, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

**To recommend approval of Minor Plat / PL 13-19 with one (1) condition:**

1. That prior to filing the plat with Register of Deeds, the 33-foot access easement be signed as Meander Lane.

**Vote: unanimous (6 to 0).**

9. **REZONE / RZ 13-16 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-10:** Alison Lewis; Fisk Land Surveying – Agent. To rezone 3.71 acres from Limited Agriculture District to Low Density Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Low Density Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lots 4, 5, 7, 8, 9, and 10, Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

**To recommend approval of Rezone / RZ 13-16 and Comprehensive Plan Amendment / CA 13-10.**

**Vote: unanimous (6 to 0).**

10. **MINOR PLAT / PL 13-18 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-10:** Wade and Sharon Reynolds. To create Lots 1 and 2 of Reynolds Subdivision and to waive platting requirements in accordance with Sections 700.1 and 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: E1/2SW1/4 and W1/2SE1/4 lying south of Spring Creek Road, Section 5, T2S, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2 of Reynolds Subdivision, Section 5, T2S, R9E, BHM, Pennington County, South Dakota.

**To recommend approval of Subdivision Regulations Variance / SV 13-10 with the exception of dedication of a drainage easement for the portion of Spring Creek traversing the southwest portion of proposed Lot 1, and to recommend approval of Minor Plat / PL 13-18 with the following six (6) conditions:**

1. **That the Certificate of Planning Director be removed from the plat;**
2. **That a drainage easement be dedicated on the plat for the portion of Spring Creek traversing the southwest portion of proposed Lot 1;**
3. **That the dedicated access easement on existing W1/2SE1/4 lying south of Spring Creek Road be vacated on the plat;**
4. **That an access easement be dedicated on the plat if the applicant is proposing to share the existing approach off of Lower Spring Creek Road to provide access to proposed Lot 2;**
5. **That an approved Floodplain Development Permit be obtained prior to any work being conducted within the boundaries of the 100-year floodplain; and,**
6. **That following platting of the proposed lots, any on-site wastewater treatment system be subject to the requirements of Section 204-J of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.**

**Vote: unanimous (6 to 0).**

#### **END OF CONSENT CALENDAR**

11. **MINOR PLAT / PL 13-17 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-09:** Arlin Stratmeyer. To create Lots 7 Revised, 8 Revised, and 9 of A & J Subdivision and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 7 and 8, A & J Subdivision, Section 14, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 7 Revised, 8 Revised, and 9 of A & J Subdivision, Section 14, T1S, R6E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicant has applied for a Minor Plat to reconfigure the lot lines between Lots 7 and 8 of A & J Subdivision, and to create a new lot, Lot 9, in A & J Subdivision. The purpose of the plat is to make existing Lot 7 larger and to create a new lot (Lot 9) for a family member of the applicant. In addition, the applicant is also requesting a Subdivision Regulations Variance to waive the following platting requirements:

1. Road improvements to Adjenty Court and Stratmeyer Court, in accordance with Section 500.5 (Local/Collector Road Standards for Low Density Residential); and,
2. Engineered road construction plans for the required road improvements.

Zeller further explained that a Layout Plat request was previously submitted by the applicant to subdivide Lot 8 of A & J Subdivision in order to create Lot 8 Rev and Lot 9, but it did not include Lot 7 Rev. That Layout Plat (#12-18) was approved by County Board on June 7, 2012, with nine (9) conditions. Although that Layout Plat did not include proposed Lot 7 Rev and the Conditions of Approval required the applicant to submit a Preliminary Plat, it had been determined the applicant is eligible to submit this request as a Minor Plat instead, since the proposed platting “contains five (5) or fewer new lots” (it contains only one (1) new lot) in accordance with Section 300.2-1 of the Pennington County Subdivision Regulations. The purpose of including proposed Lot 7 in this plat request is to move its northern lot boundary slightly further north so that the driveway providing access to the residence on this lot is located entirely within its lot boundaries.

Zeller also discussed access to proposed Lots 7 Rev and Lot 8 Rev stating that access will continue to be provided off of Adjenty Court and Stratmeyer Court, respectively. Access to proposed Lot 9 will be provided via a new approach off of Adjenty Court. Both of these Courts are dedicated 66-foot-wide access easements with 100-foot diameter turnarounds (cul-de-sacs) at their terminuses. In addition, the driving surface in both Courts consists of a 20-foot-wide pavement with a 60-foot-wide paved turnaround. Although the existing 66-foot-wide easement width is in conformance with the Subdivision Regulations, the driving surface is required to be 24-foot-wide with a four (4) inch gravel surface (Local/Collector Road Standards for Low Density Residential). The turnaround diameter is also required to be 110-foot-wide diameter with 96 feet of surfacing (four (4) inch gravel). Since the proposed platting is considered an increase in density (one new lot is being created), staff will not be recommending approval of the Subdivision Regulations Variance request.

Zeller further spoke of the County Fire Coordinator's request that a Fire Mitigation Plan be proposed for Lot 9, due to very high to extreme fire danger in the area and there only being one means of ingress/egress for the entire subdivision. This Fire Mitigation Plan is to address thinning, building construction materials and landscaping, and, at the request of the County Fire Coordinator, this needs to be completed prior to the issuance of a Building Permit for this lot. Although staff agrees requiring a Fire Mitigation Plan for this lot would be appropriate, it is not a requirement of the Pennington County Subdivision Regulations.

Staff recommended denial of Subdivision Regulations Variance / SV 13-09, because the applicant is increasing density. Staff recommended approval of Minor Plat / PL 13-17 with the following seven (7) conditions:

1. That an Operating Permit be obtained for the existing on-site wastewater treatment system on proposed Lot 7 Rev prior to filing the plat at the Register of Deed's Office;
2. That the spelling of the last name of the owners of proposed Lot 7 Rev be corrected on the plat prior to filing the plat at the Register of Deed's Office;
3. That the minimum required setbacks be maintained for all structures and on-site wastewater treatment systems on each of the proposed lots in accordance with the Pennington County Zoning Ordinance and South Dakota Administrative Rules. If it is ever determined in the future that any of these improvements are not meeting the minimum required setbacks, it will be the responsibility of the landowner to correct;
4. That the applicant provide verification that Lot 9 will be incorporated into the Pine Haven Road District;
5. That prior to filing the plat at the Register of Deed's Office, Adjenty Court and Stratmeyer Court be improved to Low Density Residential Local/Collector Road Standards, including a 24-foot-wide, four (4)-inch graveled driving surface, a surety or bond be posted for the road improvements, or the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement;
6. That prior to the required road improvements being conducted on Adjenty Court and Stratmeyer Court, engineered road construction plans be provided or else the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement; and,
7. That all U.S. Forest Service boundary markers and corner be protected, no personal property or utilities be located on National Forest System Lands, and no access be provided through National Forest System Lands.

Staff also recommended that the Planning Commission and County Board, at their discretion, may choose to adopt an additional Condition of Approval regarding the County Fire Coordinator's comments, stating the following:

8. That a Fire Mitigation Plan, for proposed Lot 9, addressing thinning, building construction materials, and landscaping be reviewed and approved by the County Fire Coordinator prior to issuance of a Building Permit on proposed Lot 9.

Zeller reviewed site pictures of proposed Lot 9 with the Planning Commission and public.

Commissioner Zvejnieks spoke of the recommend denial of the Subdivision Regulations request by staff and wanted to know if the applicant installs the four inch gravel surface, would this be sufficient and meet the intent, or does staff want the driving surface to be 24-feet-wide and paved.

Zeller stated the requirement is 24-feet-wide with a 4 inch gravel driving surface. Currently, both Adjenty Court and Stratmeyer Court are 20-feet-wide and paved. The applicant could add 4 feet of gravel and technically meet the width requirement.

Discussion further followed on the original submittal and approval of the Layout Plat for the two lots (#12-18) and the current Subdivision Regulations Variance request to waive road improvements.

**Moved by Litzen and seconded by McCollam to recommend approval of Subdivision Regulations Variance / SV 13-09 to waive road improvements to Adjenty Court and Stratmeyer Court and to waive submittal of engineered road construction plans for the required road improvements, and to recommend approval of Minor Plat / PL 13-17 with eight (8) conditions, and to include the requirement of a Fire Mitigation Plan for proposed Lot 9:**

1. That an Operating Permit be obtained for the existing on-site wastewater treatment system on proposed Lot 7 Rev prior to filing the plat at the Register of Deed's Office;
2. That the spelling of the last name of the owners of proposed Lot 7 Rev be corrected on the plat prior to filing the plat at the Register of Deed's Office;
3. That the minimum required setbacks be maintained for all structures and on-site wastewater treatment systems on each of the proposed lots in accordance with the Pennington County Zoning Ordinance and South Dakota Administrative Rules. If it is ever determined in the future that any of these improvements are not meeting the minimum required setbacks, it will be the responsibility of the landowner to correct;

4. **That the applicant provide verification that Lot 9 will be incorporated into the Pine Haven Road District;**
5. **That prior to filing the plat at the Register of Deed's Office, Adjenty Court and Stratmeyer Court be improved to Low Density Residential Local/Collector Road Standards, including a 24-foot-wide, four (4)-inch graveled driving surface, a surety or bond be posted for the road improvements, or the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement;**
6. **That prior to the required road improvements being conducted on Adjenty Court and Stratmeyer Court, engineered road construction plans be provided or else the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement;**
7. **That all U.S. Forest Service boundary markers and corner be protected, no personal property or utilities be located on National Forest System Lands, and no access be provided through National Forest System Lands; and,**
8. **That a Fire Mitigation Plan, for proposed Lot 9, addressing thinning, building construction materials, and landscaping be reviewed and approved by the County Fire Coordinator prior to issuance of a Building Permit on proposed Lot 9.**

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

12. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 13-04: First Interstate Bank / Mark Benson – Agent. To amend the Canyon Springs Preserve Planned Unit Development to reduce the pedestrian walking and bike paths within the development in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lots 1-87 and Common Areas 1-16, Canyon Springs Preserve, Sections 22, 23, and 26, T2N, R6E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant has applied to amend the Canyon Springs Preserve Planned Unit Development to reduce the size of the pedestrian walking and bike paths within the development.

Jennissen explained that First Interstate Bank is now the majority landowner of the development and most of the improvements have been completed, with the exception of the bike paths and minor improvements to the water system. A bond is still held by Pennington County; however, it is not sufficient to complete the improvements that are left. First Interstate Bank is completing the remainder of the improvements and this revision is to reduce the cost of the improvements still needed for the paths within the development. A site plan has been submitted that has been reviewed and approved by the

Homeowner's Association and First Interstate Bank. The original plat had paths along all the lots with the exception of the short cul-de-sac properties. The revised plan eliminates paths along Gold Creek Place, Ivory Bluffs Lane, and the very western lots and eastern lots of the development. However, the revised plan for the bike paths do not provide for direct access to every lot within the development and staff cannot recommend approval of the revised plan as the original PUD included those plans for the paths.

Staff recommended denial of Minor Planned Unit Development Amendment 13-04 and the paths be constructed as originally submitted with the initial PUD.

If the Planning Commission approves Minor Planned Unit Development Amendment 13-04, staff recommended an extension be added along North Emerald Ridge Road from Silver Aspen Place to Ivory Birch Place, and to include the following twenty-three (23) conditions:

1. That the Planned Unit Development consists of 87 residential lots, "Conservation Land" trails, clubhouse, 12 storage units with a maintenance building and recreational structures with a minimum lot size of 1/2 acre;
2. That each proposed lot have areas for a single-family residence and two (2) drainfields;
3. That the required setbacks for all structures be a minimum of 25 feet from the front and rear property lines and eight (8) feet from the side yard property lines, and a 58 foot setback from Section Lines or the Section Line Right-of-Ways be vacated;
4. That both access roads off of Nemo Road allow for two-way traffic, paved, meet Ordinance 14 Standards and meet AASHTO Standards for sight distance on Nemo Road;
5. That all wastewater disposal systems be designed by an Engineer and if a normal septic system cannot be located on the property due to inadequate soils, an alternative system will be required that must be reviewed and approved by the Department of Environment and Natural Resources;
6. That all septic tanks be pumped every three (3) years and be inspected at the time of being pumped;
7. 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;
8. That a Building Permit be obtained for any structures exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;

9. That all wastewater disposal systems be a minimum of 50 feet from all major topographic changes within the development;
10. That all roads be constructed to Local Road Standards which includes a minimum of a 24-foot paved surface with curb, gutter, sidewalks and parallel parking or the applicant obtains approval of a Subdivision Regulations Variance waiving these requirements;
11. That a Homeowner's Association be created for the care and maintenance of the "Conservation Land;"
12. That a Road District be formed for the care and maintenance of all roads;
13. That Rapid City, Pennington County Drainage Engineer and Pennington County's Fire Coordinator approve the central water system for the Planned Unit Development that will serve the water needs for the homes and for water protection;
14. That all single-family residences be stick-built homes;
15. That prior to issuance of the Building Permit for the clubhouse, the fire protection plan and water system be reviewed for fire hydrant location and capacity;
16. That access on to Forest Service lands be limited for emergency access only and gated;
17. That the entire water system must be fully operational by the time the 15<sup>th</sup> Building Permit is obtained or when 25 people are residing in the subdivision;
18. That all parking areas be maintained in a dust free manner;
19. That prior to the placement of any on-premise sign, the applicant must obtain a Sign Permit;
20. That a plan be submitted to address the disposal of the swimming pool water;
21. That this Planned Unit Development Amendment is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office;
22. That the revised bike/pedestrian path be approved with an extension along North Emerald Ridge Road from Silver Aspen Place to Ivory Birch Place; and,
23. That this Planned Unit Development be reviewed on a complaint basis.

Commissioner Coleman questioned why the Planning Department is asking for the extension along North Emerald Ridge Road from Silver Aspen Place to Ivory Birch Place.

Jennissen said this area has the highest traffic, with the highest density of homes.

Mr. Mark Benson, applicant, appeared and stated there are two Letters of Credit that bond these improvements, and they have also completed everything that has been listed with the exception of the bike path. Mr. Benson stated that the estimate to complete the project is around \$110,000 from J&J Asphalt. He also indicated that they are trying to find a way to complete a plan that will meet the needs of the homeowners and satisfy both the County and the City. Mr. Benson further explained that the developer owns the systems in the development, but it is controlled through a settlement agreement from the foreclosure.

Commissioner Zvejnieks expressed concern that the bonds were inadequate.

Mr. Benson said yes, from the original plan that was submitted, and added that they are also taking into account the topography in order to finalize the paths.

Commissioner Zvejnieks commented that the developers should have provided a true estimate when the bonds were applied for.

Commissioner Petersen asked if these paths would become part of the Road District's obligations once they are in place.

Mr. Benson responded yes and further stated that they are in the process of negotiating the transfer of the water system, the common areas, and the road system to the Road District and Water District.

Mr. Peter Wharton, landowner and President of the Homeowner's Association and also on the Water Sanitary Board, appeared and stated he is in support of the proposed request and also added that he appreciates the bank standing behind what they said they would do. He expressed concern with the bonding procedure by the original developer and also expressed concern that bonding was not required for the roads and water system when it was initially developed, by either the City or the County. Mr. Wharton further spoke of including fees to help manage the Water District and Road District in the future.

Mrs. Sally Wharton, landowner and on the Water Sanitary Board, also appeared and expressed concern over the bonding issues that have been associated with this development. She spoke of the City and the County not requiring bonding with such a large development and she also wanted to know how these issues they have had to deal with fell through the cracks.

Mr. Wharton also informed that Planning Commission that the developer told them the Club House was also bonded through the Letters of Credit.

Jennissen said that the bond is routed through the County Highway Department and reviewed by the County Engineers. He is unsure how the bond became inadequate at this time and further stated that the Club House was never bonded.

Mrs. Wharton further expressed concern with the water system and wanted to know why it was never bonded through the Letters of Credit, when the property was originally developed.

Jennissen said the original bond did cover a majority of the initial water system, but he did not know how it was missed and never finished.

Ms. Krista Preston, landowner in the area, appeared and clarified what the applicant's request is and stated she is in support of it.

Jennissen stated that if the Planning Commission approves the applicant's request, Condition #22 would need to be removed.

Moved by Landers to approve of Minor Planned Unit Development Amendment with the removal of Condition #22.

Commissioner Zvejnieks clarified with Commissioner Landers if she wanted to include or exclude the road.

Commissioner Landers stated she wanted to exclude the road and would revise her Motion to indicate as such.

Jennissen said you would only need to remove a portion of the language from Condition #22 "with an extension along North Emerald Ridge Road from Silver Aspen Place to Ivory Birch Place."

Seconded by Litzen.

**Moved by Landers and seconded by Litzen to approve of Minor Planned Unit Development 13-04 with the following twenty-three (23) conditions:**

- 1. That the Planned Unit Development consists of 87 residential lots, "Conservation Land" trails, clubhouse, 12 storage units with a maintenance building and recreational structures with a minimum lot size of 1/2 acre;**
- 2. That each proposed lot have areas for a single-family residence and two (2) drainfields;**
- 3. That the required setbacks for all structures be a minimum of 25 feet from the front and rear property lines and eight (8) feet from the side yard property**

lines, and a 58 foot setback from Section Lines or the Section Line Right-of-Ways be vacated;

4. That both access roads off of Nemo Road allow for two-way traffic, paved, meet Ordinance 14 Standards and meet AASHTO Standards for sight distance on Nemo Road;
5. That all wastewater disposal systems be designed by an Engineer and if a normal septic system cannot be located on the property due to inadequate soils, an alternative system will be required that must be reviewed and approved by the Department of Environment and Natural Resources;
6. That all septic tanks be pumped every three (3) years and be inspected at the time of being pumped;
7. 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;
8. That a Building Permit be obtained for any structures exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
9. That all wastewater disposal systems be a minimum of 50 feet from all major topographic changes within the development;
10. That all roads be constructed to Local Road Standards which includes a minimum of a 24-foot paved surface with curb, gutter, sidewalks and parallel parking or the applicant obtains approval of a Subdivision Regulations Variance waiving these requirements;
11. That a Homeowner's Association be created for the care and maintenance of the "Conservation Land;"
12. That a Road District be formed for the care and maintenance of all roads;
13. That Rapid City, Pennington County Drainage Engineer and Pennington County's Fire Coordinator approve the central water system for the Planned Unit Development that will serve the water needs for the homes and for water protection;
14. That all single-family residences be stick-built homes;

15. That prior to issuance of the Building Permit for the clubhouse, the fire protection plan and water system be reviewed for fire hydrant location and capacity;
16. That access on to Forest Service lands be limited for emergency access only and gated;
17. That the entire water system must be fully operational by the time the 15<sup>th</sup> Building Permit is obtained or when 25 people are residing in the subdivision;
18. That all parking areas be maintained in a dust free manner;
19. That prior to the placement of any on-premise sign, the applicant must obtain a Sign Permit;
20. That a plan be submitted to address the disposal of the swimming pool water;
21. That this Planned Unit Development Amendment is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office;
22. That the revised bike/pedestrian path be approved; and,
23. That this Planned Unit Development be reviewed on a complaint basis.

Commissioner Coleman expressed concern with the bonding procedure and the issues the homeowner's have had to deal with. He questioned how those issues and/or procedures fell through the cracks of the system and asked that research be done and a report be provided to the Planning Commission addressing the matter.

Jennissen stated he would review the matter and provide the Planning Commission with a report.

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

13. CONDITIONAL USE PERMIT / CU 13-19: Ken and Cory Tomovick. To allow for events of 20 people or less and to allow for a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Bonanza Bar MC 970 and the Unplatted Part of Bonanza Bar MC 970 (also in Section 1), Section 12, T1S, R6E, BHM, Pennington County, South Dakota.

(Continued from the September 9, 2013, Planning Commission meeting.)

Jennissen stated this item had been continued from the September 9, 2013, Planning Commission meeting in order for the applicants to work with the Pennington County Fire Coordinator and the Rockerville Volunteer Fire Department to develop an acceptable evacuation plan. Jennissen stated that an approved Evacuation Plan has been submitted and staff would now be recommending approval of Conditional Use Permit 13-19 with the following twenty (20) conditions:

1. That the Conditional Use Permit be for a reception with a maximum of 20 guests;
2. That the business be conducted by members of the family residing on the premises and no more than one (1) additional person;
3. That prior to any work within the 100 year floodplain, the applicant obtain approval of a Floodplain Development Permit;
4. That the applicant provides a landline in case of an emergency;
5. That the address of the property be posted at the driveway and at the reception area in case of an emergency;
6. That the applicant maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
7. That a minimum of 10 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
8. That all music being provided for outdoor activities be shut down by 10:00 p.m.;
9. That if alcoholic beverages are to be sold on the property, the appropriate permits or licenses be obtained;
10. That temporary structures, such as tents and port-a-potties only be erected when needed and not on a permanent basis;
11. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
12. That the applicant obtain all necessary permits from other governing bodies for operation of the Vacation Home Rental and including, but not limited to, approval from the South Dakota Department of Health for the Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue;

13. That a port-a-potty may be utilized by the guests of the events for wastewater disposal. Any other means of wastewater disposal will require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Environment and Natural Resources;
14. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
15. 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 Conditional Use Permit;
16. That the applicant sign a Statement of Understanding, which is available at the Planning Office;
17. That the Vacation Home Rental be allowed to have a maximum occupancy of six (6) people;
18. That the applicants comply with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;
19. That applicants comply with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals; and,
20. 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.

Mr. Mike Loos, representing the applicants, appeared and spoke of the proposed application and stated his clients have scaled back their request from 200 to 20 people or less and they only plan to have small weddings on the property. He noted that his clients have worked with a number of residents and agencies to accommodate everyone and to meet regulations. He discussed the days of operation and asked that the applicants not be limited to specific days and also that a functioning and reliable cell phone be available at the event instead of a landline phone. Mr. Loos further explained that the applicants will be at every event, since they will be officiating the wedding. He also stated that the applicants are good stewards of their property and have lived in this area for many years and asked that their application be approved.

Commissioner Zvejnieks questioned if the number of people (20) is realistic.

Mrs. Cory Tomovick, applicant, appeared and stated the weddings they usually officiate are 10 or less, but they have asked for 20.

Commissioner Coleman discussed the previous Evacuation Plan the applicant submitted with other applications and he further spoke of the new updated Evacuation Plan submitted with this Staff Report.

Mrs. Tomovick responded and spoke of the Forest Management Plan that was done in 2006. She said that Jim Strain of the State Forestry explained to them at that time, that if there is ever an extreme emergency and their family needed a safe zone, to identify them in an evacuation plan. She also stated that the County Fire Coordinator further explained to them that it is their responsibility to create a more defined Evacuation Plan for their guests and to have them removed from the property in a safe manner.

Commissioner Coleman asked if there is a second means of ingress/egress from the property.

Mrs. Tomovick said no, but with the new plan in place and with everyone in communication, they would be able to remove the guests from the property.

Commissioner Zvejnieks spoke of Mr. Loos' comments limiting the days of operation and stated he could not find this in the Conditions of Approval.

Jennissen stated this limitation is not in the Conditions of Approval.

Mr. Loos responded to this and stated that he only mentioned this because the applicants do not want to be limited to certain days of the week to hold small weddings. Mr. Loos further provided photos of the area and the property to the Planning Commission.

Commissioner Litzen asked Mrs. Tomovick if there is reliable cell phone service.

Mrs. Tomovick said there is.

Commissioner Zvejnieks asked Mrs. Tomovick if there would be a problem if the event is over by 10:00 p.m.

Mrs. Tomovick said they are okay with this.

Mrs. Roberta Roller, landowner, appeared and spoke in opposition to the applicants' request. Mrs. Roller expressed concern that the proposed request will invade their privacy, as the Strato Bowl area is a sanctuary, and she asked that the area not be turned into a commercialized operation, as it is residential. She stated that the Strato Bowl area is very quiet and allowing 20 people or less is still impacting them. She discussed the road and spoke of the blind curves and also that it is not wide enough for two cars. She further spoke of hiking the Strato Bowl and finding a lot of cigarette butts along the way and also commented on the fire danger and there is only one way in and one way out of the area. Mrs. Roller also stated that emergency vehicles would not have room on the property.

Mr. Jeff Roller, landowner, appeared and also spoke in opposition to the applicants' request. He spoke of the blind curves on the road and safety concerns for guests not familiar with it. He further provided the Planning Commission with letters from other landowners and visitors discussing the safety of the road and he also provided pictures of the area. Mr. Roller stated the area is very peaceful and quiet, but now there will be three businesses operating in a small area.

Commissioner Coleman asked Mr. and Mrs. Roller if they would be opposed to residential development in the area.

Mr. Roller said he would need to take a look at the availability of water and how the development was laid out, and Mrs. Roller further stated that is why they agreed to the applicants other Conditional Use Permit to allow a Vacation Home Rental, because there would be people living there.

Mr. Rich Huffman, representing Mr. and Mrs. Roller, appeared and spoke of the five factors the Planning Commission reviews when considering a Conditional Use Permit. He reviewed those with the Planning Commission and addressed concerns stating the proposed use will affect the property values in the area, the road needing to be improved for these type of commercial operations because of the increase in traffic, the safety of the road, the applicants not being limited to specific days in which they can operate, the property is zoned agriculture and not compatible with commercial businesses in the area, and he further asked that the application be denied.

Discussion further followed regarding the safety of the road, the *SD Magazine* cover page, the Evacuation Plan, and the days of operation.

**Moved by Litzen and seconded by Coleman to approve of Conditional Use Permit 13-19, to include the change to Condition #4 where reliable cell phone service is available, with the following twenty (20) conditions:**

- 1. That the Conditional Use Permit be for a reception with a maximum of 20 guests;**
- 2. That the business be conducted by members of the family residing on the premises and no more than one (1) additional person;**
- 3. That prior to any work within the 100 year floodplain, the applicant obtain approval of a Floodplain Development Permit;**
- 4. That the applicant provides reliable cell phone service in case of an emergency;**
- 5. That the address of the property be posted at the driveway and at the reception area in case of an emergency;**

6. That the applicant maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
7. That a minimum of 10 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
8. That all music being provided for outdoor activities be shut down by 10:00 p.m.;
9. That if alcoholic beverages are to be sold on the property, the appropriate permits or licenses be obtained;
10. That temporary structures, such as tents and port-a-potties only be erected when needed and not on a permanent basis;
11. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
12. That the applicant obtain all necessary permits from other governing bodies for operation of the Vacation Home Rental and including, but not limited to, approval from the South Dakota Department of Health for the Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue;
13. That a port-a-potty may be utilized by the guests of the events for wastewater disposal. Any other means of wastewater disposal will require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Environment and Natural Resources;
14. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
15. 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 Conditional Use Permit;
16. That the applicant sign a Statement of Understanding, which is available at the Planning Office;

17. **That the Vacation Home Rental be allowed to have a maximum occupancy of six (6) people;**
18. **That the applicants comply with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;**
19. **That applicants comply with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals; and,**
20. **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 Landers expressed concern with the road and stated the request is a commercial venture that does not have safe access. She also expressed concern that there is not a second means of ingress/egress in a case of a fire.

Commissioner Litzen asked staff if the balloon event in the Strato Bowl obtained the proper permits.

Jennissen stated the Zoning Ordinance allows one three-day event, each year without any permits from the Planning Department.

**All voting, the Motion carried 4 to 2. Commissioner Litzen, Petersen, McCollam, and Coleman voted yes. Commissioners Landers and Zvejnieks voted no.**

14. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 13-03: John and Barbara Majchrzak. To amend the High Country Ranch Planned Unit Development to reduce the setback from 25 feet to zero (0) for a proposed chapel in accordance with Section 213-E-2 of the Pennington County Zoning Ordinance.

Tract A less High Country Ranch Subdivision and less Right-of-Way of Ray, Smith Placer MS 995, Section 15, T1S, R4E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant has applied to amend the High Country Guest Ranch Planned Unit Development to reduce the setback from 25 feet to zero (0) for a proposed chapel to be located in the very southeast corner of Tract A.

Jennissen stated the applicants have obtained approval of reduced setbacks for other structures within the development, with the exception of an existing barn that was granted a zero foot setback; all other structures were to be 10 feet from property lines. Also, it appears that there are adequate areas within the development that would allow the chapel and still meet the required setbacks. Staff recommends the chapel have a 10 foot setback from property lines, which is consistent with previous setback reductions within the development.

Staff recommended approval of Minor Planned Unit Development Amendment 13-03 with the following twenty-eight (28) conditions (change in condition #9 is underlined and bolded):

1. That the permitted uses allowed on Tract A less High Country Ranch Subdivision and less Right-of-Way, Ray Smith Placer MS 995 not exceed six (6) vacation cabins, an eight (8) bedroom bunkhouse, eight (8) campsites, 160 parking spaces, band shell, concession and merchandise building, restroom facility, wood shed and community wastewater disposal system area for the uses on site and lodge;
2. That the retail space in the lodge be limited to 750 square feet, a kitchen for those using the lodge and dining area, guest registration area, and administrative offices are also permitted within the lodge and shall not be included in the 750 square feet of retail space;
3. That the permitted uses allowed on Lot 12 be offices (which shall include guest registration), laundry, outdoor movie screen, commercial trail ride operations, a shop and maintenance building and a commercial kitchen and dining facility;
4. That the permitted uses for proposed Lots 17-20 be for private single-family residences or nightly/weekly rentals;
5. The permitted uses on Lot 13 include up to a twenty (20) unit lodge not to exceed 21,000 square feet with a commercial kitchen and dining area be used only by those renting the lodge, swimming pool, meeting rooms, bike rentals, and a maximum of twelve (12) guest stables;
6. That an On-site Wastewater Treatment System Construction Permit for the restroom facilities must be applied for by May 1, 2013. Soil profile and percolation tests will be completed prior to application submittal. In addition the OSWTS must be approved by DENR prior to application submittal;
7. That prior to any construction work within the 100-year floodplain, a Floodplain Development Permit be obtained;
8. That that if any disturbance would occur on the property that is greater than 10,000 square feet, a Construction Permit be required. The Construction Permit will require erosion control measures to prevent sediment from leaving the site and entering into Newton Fork Creek;
9. The minimum required front setback for Lots 1-9 shall be 20 feet and the minimum side yard setback for Lot 9 shall be 10 feet along the east side with the exception of Lot 3;
10. That the setbacks for Lot 3 be 14 feet for the rear-yard and 23 feet for the side-yard for the existing deck;

11. That all perimeter setbacks be at least twenty-five (25) feet with exception of the existing barn/office to be zero (0) feet; shed (Lot 12), gift shop (Lot 12), wood shed and chapel (Tract A) and the stable (Lot 12) to be ten (10) feet;
12. The minimum required setbacks for Lots 14, 15 and 17, the residential/vacation cabins sites, shall be a 15 foot front, 25 foot side yard and rear yard;
13. The minimum required setback for Lot 16 be twenty (20) foot front, twenty (25) feet from the north and east property line, and eighteen (18) feet from the west property line;
14. That all residential or resort structures located on Lots 1-9 not exceed 32 feet by 36 feet;
15. That quiet hours be 10:00 p.m. for the concert area;
16. That the maximum size of the outdoor movie screen be 20 feet by 20 feet;
17. 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;
18. That Ray Smith Drive be maintained in a dust free manner;
19. That any open fires have a permit from South Dakota Wildland Fire;
20. That if the structure for the restroom facilities is not constructed prior to operation (June 11, 2013), at least one port-o-potty unit (or similar) be required per 50 persons;
21. That a second means of ingress/egress be provided;
22. That traffic control, such as (flaggers) on Deerfield Road be provided at the end of each concert;
23. That the ATV rentals not exceed seven (7) vehicles;
24. That all rental ATVs leaving the Planned Unit Development not exceed ten (10) miles per hour on the first 4/10 of a mile of Battle Ax Road off Deerfield Road;
25. That all ground disturbed areas (other than road surface) be seeded with an approved native seed mix in accordance with the U.S. Forest Service;
26. That all traffic for the concert venue be directed / limited to Ray Smith Drive;

27. That an additional sign be allowed on the sign lot to allow a maximum of three signs; and,
28. That this Planned Unit Development shall be reviewed in one (1) year to verify all conditions are being met or upon a complaint basis.

Commissioner Litzen asked if weddings will be held in the chapel.

Jennissen said no.

Mr. John Majchrzak, applicant, appeared and spoke of the proposed request. He stated the proposed small chapel will be a replicate of another chapel located on the Lower Brule Indian Reservation. The chapel is where Paul LaRoche's grandmother played piano. Mr. LaRoche is the founder and lead singer of the band Brule, which plays during the summer at High Country Guest Ranch. Mr. Majchrzak also stated they had a family vacation at High Country Guest Ranch this summer and would like to honor their father by having the chapel built by donating their time and money to the project. He also said they would not be holding events or services in the chapel, but there will be seating and an alter inside. Mr. Majchrzak further asked for approval of the zero foot setback since a 10 foot setback would limit them to the size of the building and he would like the chapel to be at least 18 to 20 feet in depth and 10 to 12 feet in width.

Jennissen stated that if the zero foot setback is approved, Condition #11 would need to be changed to reflect that.

Discussion followed.

**Moved by Zvejnieks and seconded by Litzen to approve of Minor Planned Unit Development Amendment 13-03 with the following twenty-eight (28) conditions and to allow the zero foot setback for the chapel:**

- 1. That the permitted uses allowed on Tract A less High Country Ranch Subdivision and less Right-of-Way, Ray Smith Placer MS 995 not exceed six (6) vacation cabins, an eight (8) bedroom bunkhouse, eight (8) campsites, 160 parking spaces, band shell, concession and merchandise building, restroom facility, wood shed and community wastewater disposal system area for the uses on site and lodge;**
- 2. That the retail space in the lodge be limited to 750 square feet, a kitchen for those using the lodge and dining area, guest registration area, and administrative offices are also permitted within the lodge and shall not be included in the 750 square feet of retail space;**
- 3. That the permitted uses allowed on Lot 12 be offices (which shall include guest registration), laundry, outdoor movie screen, commercial trail ride**

operations, a shop and maintenance building and a commercial kitchen and dining facility;

4. That the permitted uses for proposed Lots 17-20 be for private single-family residences or nightly/weekly rentals;
5. The permitted uses on Lot 13 include up to a twenty (20) unit lodge not to exceed 21,000 square feet with a commercial kitchen and dining area be used only by those renting the lodge, swimming pool, meeting rooms, bike rentals, and a maximum of twelve (12) guest stables;
6. That an On-site Wastewater Treatment System Construction Permit for the restroom facilities must be applied for by May 1, 2013. Soil profile and percolation tests will be completed prior to application submittal. In addition the OSWTS must be approved by DENR prior to application submittal;
7. That prior to any construction work within the 100-year floodplain, a Floodplain Development Permit be obtained;
8. That that if any disturbance would occur on the property that is greater than 10,000 square feet, a Construction Permit be required. The Construction Permit will require erosion control measures to prevent sediment from leaving the site and entering into Newton Fork Creek;
9. The minimum required front setback for Lots 1-9 shall be 20 feet and the minimum side yard setback for Lot 9 shall be 10 feet along the east side with the exception of Lot 3;
10. That the setbacks for Lot 3 be 14 feet for the rear-yard and 23 feet for the side-yard for the existing deck;
11. That all perimeter setbacks be at least twenty-five (25) feet with exception of the existing barn/office to be zero (0) feet; shed (Lot 12), gift shop (Lot 12), wood shed (Tract A) and the stable (Lot 12) to be ten (10) feet and the chapel (Tract A) to be a zero (0) foot setback;
12. The minimum required setbacks for Lots 14, 15 and 17, the residential/vacation cabins sites, shall be a 15 foot front, 25 foot side yard and rear yard;
13. The minimum required setback for Lot 16 be twenty (20) foot front, twenty (25) feet from the north and east property line, and eighteen (18) feet from the west property line;
14. That all residential or resort structures located on Lots 1-9 not exceed 32 feet by 36 feet;

15. That quiet hours be 10:00 p.m. for the concert area;
16. That the maximum size of the outdoor movie screen be 20 feet by 20 feet;
17. 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;
18. That Ray Smith Drive be maintained in a dust free manner;
19. That any open fires have a permit from South Dakota Wildland Fire;
20. That if the structure for the restroom facilities is not constructed prior to operation (June 11, 2013), at least one port-o-potty unit (or similar) be required per 50 persons;
21. That a second means of ingress/egress be provided;
22. That traffic control, such as (flaggers) on Deerfield Road be provided at the end of each concert;
23. That the ATV rentals not exceed seven (7) vehicles;
24. That all rental ATVs leaving the Planned Unit Development not exceed ten (10) miles per hour on the first 4/10 of a mile of Battle Ax Road off Deerfield Road;
25. That all ground disturbed areas (other than road surface) be seeded with an approved native seed mix in accordance with the U.S. Forest Service;
26. That all traffic for the concert venue be directed / limited to Ray Smith Drive;
27. That an additional sign be allowed on the sign lot to allow a maximum of three signs; and,
28. That this Planned Unit Development shall be reviewed in one (1) year to verify all conditions are being met or upon a complaint basis.

All voting aye, the Motion carried 6 to 0.

15. REZONE / RZ 13-17 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-11: Rapid City DSDP VIII, LLC; Austin Rogers – Agent; (Landowner – Jerry and Donna Olson). To rezone 1.5 acres from Limited Agriculture District to General Commercial District and to amend the Pennington County Comprehensive Plan to change the Future

Land Use from Suburban Residential District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

The following describes a parcel of real property being a portion of Tract 1, less Utility Lot 1, less Lot B, less Lot WR of the NE1/4NE1/4, less Lots H1, H2, H3, H4 and less ROW of Longview Road, all in Paul Subdivision, Section 15, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, being more particularly described as follows: COMMENCING at the Southeast corner of Lot H-4 of Tract 1 of Paul Subdivision recorded in Book 11 of Highway Plats at Page 173, said corner marked by a 5/8" rebar capped "LS 3712"; THENCE; along the southerly boundary line of said Lot H-4, also being the southerly Right-of-Way line of Longview Road, South 87°54'00" East, 242.58 feet to a found 5/8" rebar capped "LS 3712" marking the Southwest corner of said Lot H-4; THENCE; leaving said southerly boundary line along the westerly boundary line of said LOT H-4, South 02°06'47" West, 11.22 feet to a point on the southerly Right-of-Way of Longview Road; THENCE; leaving said westerly boundary line, along said southerly Right-of-Way line, also being the Southerly boundary line of Lot H1 as shown on the official plat thereof on file in the Pennington County Register of Deeds office in Book 11 of Plats at Page 67, North 87°53'13" West, 112.49 feet to a set 5/8" rebar capped " CETEC LS 4725" marking the beginning of a curve to the left; THENCE; along said curve to the left 90.79 feet to a set 5/8" rebar capped "LS 4215" marking the Northwest corner of said Lot C, said curve having a central angle of 37°03'34", a radius of 460.00 feet, and being subtended by a chord which bears South 86°36'37" West, a distance of 90.64 feet to the POINT OF BEGINNING; THENCE; leaving said southerly Right-of-Way line, along the northerly boundary line of said Lot C, South 49°16'36" East, 168.91 feet to a set 5/8" rebar capped "LS 4725" marking the Northeast corner of said Lot C; THENCE; leaving said northerly boundary line, along the easterly boundary line of said Lot C, South 40°43'03" West, a distance of 271.80 feet to a set 5/8" rebar capped "LS 4725" marking the Southeast corner of said Lot C, said point also being on the northerly Right-of-Way line of SD Highway 44; THENCE; leaving said easterly boundary line, along the southerly boundary line of said Lot C, also being the northerly Right-of-Way line of said SD Highway 44, North 49°15'59" West, a distance of 277.06 feet to a set 5/8" rebar marking the southwest corner of said Lot C, said corner also marks the intersection of the Right-of-Way lines for said Longview Road and said SD Highway 44; THENCE; leaving said southerly boundary line, and said northerly Right-of-Way line, along the southeasterly Right-of-Way of said Longview Road, also being the westerly boundary line of lot C, 297.53 feet along the arc of a curve to the right, said curve having a central angle of 37°03'34", a radius of 460.00 feet and being subtended by a chord which bears North 62°25'35" East, a distance of 292.37 feet to the POINT OF BEGINNING; The above-described parcel of real property contains 65,282.32 Sq. Ft., 1.498 Acres, more or less and is SUBJECT TO a 15 foot wide Right-of-Way Easement granted to the Rapid Valley Irrigation Ditch Company being centered on the centerline of the Murphy Ditch, said Easement is recorded in Book 15 at Page 8318 of Miscellaneous Record, Pennington County Records Office; Also SUBJECT TO an Access and Culvert Maintenance Easement granted to the Rapid Valley Irrigation Ditch Company for the maintenance of a 48 inch pipe and the aforementioned Murphy Ditch, said Easement is recorded in Book

16 at Page 5460 of Miscellaneous Records, Pennington County Records Office; Also SUBJECT TO all easement and reservations of record.

Jennissen reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone from Limited Agriculture District to Highway Service District and to change the Future Land Use from Suburban Residential District to Highway Service District to allow for the construction of a retail commercial structure. The property is located within the three mile platting jurisdiction of Rapid City and will be platted through the City of Rapid City. As of September 19, 2013, the applicants had not submitted a Layout Plat to the City of Rapid City.

Staff recommended approval of Rezone 13-17 to rezone the property from Limited Agriculture District to General Commercial District and Comprehensive Plan Amendment 13-11 to change the Future Land Use Map from Suburban Residential District to General Commercial District.

Ms. Rosemary Wolvington, landowner in the area, who appeared on behalf of the neighbors, spoke of the proposed request and expressed concern with the drainage and runoff from the subject property across E. Highway 44. She also expressed concern with where the structure is being built on the property and what effects it will have on the drainage and runoff after it is built. Ms. Wolvington spoke of accidents turning onto LongView Road from E. Highway 44, and she also expressed concern with the irrigation ditch and the flow of water. Ms. Wolvington further stated she is not against the store being built, but would like the issues she spoke of addressed.

Jennissen explained that the developer included a proposed site plan for the building and the County Highway Department would like the developer to use the access already located off of Long View Road and not the one proposed. This will require the applicant to submit a new site plan showing the use of that access and possibly also submitting a new Rezone application, since the property where the other access is located, was not included in the legal advertisement to be rezoned.

Mr. Bob Gage, GBT Realty, developer for the proposed building, appeared and stated the proposed site plan is a starting point for them to move forward with comments and suggestions from all parties involved. He indicated that they will not perform any work in the Murphy Ditch, and they cannot generate more water runoff than what is already existing, and the water retained will be released in the area through approval of SD DENR and other agencies. Mr. Gage further noted that they will submit an alternate site plan to meet the access requirement and asked for approval of the rezone.

**Moved by Landers and seconded by Coleman to recommend approval of Rezone 13-17 to rezone from Limited Agriculture District to General Commercial District and to recommend approval of Comprehensive Plan Amendment 13-11 to change the Future Land Use Map from Suburban Residential District to General Commercial District.**

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

16. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the September 9, 2013, Planning Commission meeting, and Rezone 13-14 and Comprehensive Plan Amendment 13-08 (Mitch Morris), which was recommended by the Planning Commission to deny without prejudice, was continued to the October 1, 2013, Board of Commissioners' meeting, at the request of the applicant.

17. ITEMS FROM THE PUBLIC

There were no items from the public.

18. ITEMS FROM THE STAFF

There were no items from the staff.

19. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

20. DISCUSSION ITEMS

There were no discussion items.

21. ADJOURNMENT

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

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

The meeting adjourned at **11:00 a.m.**

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Chairperson, Sig Zvejnieks