

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**February 11, 2019 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Travis Lassetter, Kathy Johnson, Rich Marsh, Jim Coleman, Sonny Rivers, Sandra Runde, and Lloyd LaCroix.

STAFF PRESENT: PJ Conover, Cassie Bolstad, Brittney Molitor, Cody Sack, Michaelae Hoffman (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE JANUARY 28, 2019, MINUTES  
**Moved by Johnson and seconded by Marsh to approve the Minutes of the January 28, 2019, Planning Commission meeting. Vote: unanimous 7 to 0.**
  
2. APPROVAL OF THE AGENDA  
**Moved by Marsh and seconded by Johnson to approve the Agenda of the February 11, 2019, Planning Commission meeting. Vote: unanimous 7 to 0.**  
  
**Moved by Runde and seconded by Marsh to approve the Consent Agenda of the February 11, 2019, Planning Commission meeting, with the removal of Items #5 and #7. Vote: unanimous 7 to 0.**

**CONSENT AGENDA**

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

3. **CONDITIONAL USE PERMIT REVIEW / CU 08-07:** Marilyn Welch. To review a single-wide manufactured home as a single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 37, Block 4, Green Valley Estates, Section 23, T1N, R8E, BHM, Pennington County, South Dakota.

**To continue the review of Conditional Use Permit / CU 08-07 to the May 13, 2019, Planning Commission meeting, in order to allow the applicant time to clean the property and bring it into compliance with Ordinance 106 and Condition #4.**

**Vote: unanimous 7 to 0.**

4. **CONDITIONAL USE PERMIT REVIEW / CU 14-34:** James Whitcher; Whitcher Land, LLLP. To review a single-wide mobile home to be used as a permanent residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All Less RR ROW, less Lot H1 of NE1/4, less Lot H1 of NW1/4 and less Hwy Row, Section 7, T4S, R15E, BHM, Pennington County, South Dakota.

**To approve of the extension of Conditional Use Permit / CU 14-34 with the following seven (7) conditions:**

1. **That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;**
2. **That the address continue to be properly posted on both the residence and at the approach from 185<sup>th</sup> Avenue, so it be visible in both directions in accordance with Pennington County's Ordinance #20;**
3. **That the subject property continually remains free of debris and junk vehicles;**
4. **That the mobile home installed on the property continue to have a peaked non-reflective type roof and wood or simulated wood-type siding that are continually maintained;**
5. **That the minimum setback requirements of a General Agriculture District be continually maintained on the property;**
6. **That two (2) off-street parking spaces be continually provided on the subject property, in accordance with Section 310 of the Pennington County Zoning Ordinance; and,**
7. **That this Conditional Use Permit be reviewed in five (5) years, on a complaint basis, or as directed by the Pennington County Board of Commissioners and/or Planning Commission to verify that all Conditions of Approval are being met.**

**Vote: unanimous 7 to 0.**

6. **CONDITIONAL USE PERMIT REVIEW / CU 16-15:** Tom or Lynne Distler. To review a Recreational Vehicle to be used as a temporary residence while building a single-family residence on the subject property in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Tract A, Bonnita Subdivision, Section 21, T1S, R7E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 16-15 with the following nine (9) conditions:

1. That the address for the residence (13849 Neck Yoke Road) be posted at the driveway so that it is visible from both directions of travel on Neck Yoke Road in accordance with Pennington County's Ordinance #20;
2. That the On-Site Wastewater Treatment System be installed prior to the Recreational Vehicle (RV) being used as a temporary residence, and the RV must be hooked into the newly installed On-Site Wastewater Treatment System until the single-family residence is habitable;
3. That the minimum setback requirements of a Limited Agriculture District be continually maintained on the property;
4. That the subject property remains free of debris and junk vehicles;
5. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
6. That the RV no longer be used as a temporary residence once the new single-family residence is habitable, following which it may only be allowed to be stored on the property;
7. That should a second RV be used as a temporary residence, the applicant must apply for an additional Conditional Use Permit to allow multiple RVs as living quarters in Suburban Residential District;
8. That the applicant notify the Planning Department when the new residence is habitable, so that this Conditional Use Permit may be automatically revoked; and
9. That this Conditional Use Permit be reviewed in six (6) months, on a complaint basis, or as deemed necessary by the Planning Commission or County Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

8. **CONDITIONAL USE PERMIT REVIEW / CU 17-49:** Don and Debra Williamson. To review two existing structures prior to a principal structure on the subject property in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 2, Redfern Valley Subdivision, Section 33, T1N, R4E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 17-49 with the following six (6) conditions:

1. That all lot addresses continue to be posted so they are clearly visible from Mystic Road in accordance with Pennington County Ordinance #20;
2. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
3. That the minimum setback requirements of a Low Density Residential District be continually maintained on the property, or the appropriate Variance(s) be obtained;
4. That the subject property continually remains free of debris and junk vehicles;
5. That the accessory structures continue to be used for personal use only and no commercial-type uses and not for living space; and,
6. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

9. **CONSTRUCTION PERMIT REVIEW / CP 18-02:** Black Hills Energy. To review the rebuilding of an existing 230 kV transmission line. The rebuild will consist of approximately 81 miles of 230 kV transmission line from the south Rapid City area to the Nebraska State Line.

Various Sections (secured land easements with private property owners).

To approve of the extension of Construction Permit / CP 18-02 with the following seven (7) conditions:

1. That the Conditions of the Approval of the South Dakota Department of Environment and Natural Resources General Permits for Storm Water Discharges Associated with Construction Activities be continually met;
2. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction and that the requirements, guidelines, and criteria for stormwater and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
3. That erosion control measures, such as seeding and mulching the disturbed

area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the Construction Activity has stopped. All erosion control methods (mulch and seed) need to be certified noxious weed-free;

4. That the disturbed areas be re-vegetated as required in §507(A)(5)(c);
5. That the requirements, guidelines, and criteria for stormwater and erosion and sediment control in the Pennington County Stormwater Manual shall be followed;
6. That weed free seed or mulch when re-seeding. Any equipment coming onto site is clean of earthen material and noxious weeds; and,
7. That this Construction Permit expires one (1) year from approval date, and may be reviewed on a complaint basis, or as directed by the Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

10. **CONSTRUCTION PERMIT / CP 19-01**: Site Work Specialists. To install public and private utilities to include water, sanitary sewer, storm sewer, common utility trench (power, communication, and gas). Also includes installation of concrete curb, gutter, and sidewalk; to also include asphalt pavement.

Tract F of NW1/4 less Murphy ftS Subdivision less Murphy Ranch Estates Subdivision and less Right-of-Way, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

**To approve of Construction Permit / CP 19-01 with the following fifteen (15) conditions:**

1. That erosion control measures are implemented *immediately* and maintained until the site has been revegetated in accordance with § 507(A)(5)(c) of the PCZO;
2. That all erosion control measures submitted with the Construction Permit application to the Planning Department be implemented or amended and approved by the Planning Department prior to the Stop Work Order being lifted;
3. That the Conditions of the Approval of the South Dakota Department of Environment and Natural Resources General Permits for Storm Water Discharges Associated with Construction Activities be continually met;
4. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction;

5. That the owner or designee must inspect the site at least once every 7 calendar days or every 14 calendar days and within 24 hours of the end of a storm event that exceeds 0.25 inches or snowmelt that generates runoff. A properly maintained rain gauge must be kept on the site. Inspection reports must be submitted to the Planning Director every month during construction;
6. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
7. That all natural drainage ways and paths be continually maintained;
8. That sediment from the site is contained in such a manner that sediment does not reach or fill the drainage. If sediment is deposited in the drainage from the construction activity, the owner will be responsible for the removal of sediment from the drainage *immediately* after being notified or as discovered by the owner during weekly inspections;
9. That failure of the owner or designee to submit Inspection Reports, as required, shall result in the immediate issuance of a Stop Work Order and a review by the Planning Commission to determine if all Conditions of Approval are being met;
10. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
11. That erosion control measures, such as seeding and mulching the disturbed area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the Construction Activity has stopped. All erosion control methods (mulch and seed) need to be certified noxious weed-free;
12. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c) of the PCZO;
13. That the applicant or landowner pay a penalty fee in accordance with § 511(W)(2) of the PCZO prior to the Stop Work Order being lifted;
14. That any more than one continuation caused by the applicants failure to meet Conditions of Approval will be fined \$100.00 per continuation in accordance with § 511(X) of the PCZO; and,
15. That this Construction Permit be reviewed in two (2) months, or on a complaint basis, or as directed by the Planning Commission and/or the

Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

11. **MINOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 17-12:** Jeremy Cummings. To review a gunsmithing business in a Planned Unit Development in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 1, Block 3, Prairiefire Subdivision, Section 26, T1N, R8E, BHM, Pennington County, South Dakota.

**To approve of the extension of Minor Planned Unit Development Amendment / PU 17-12 with the following twelve (12) conditions:**

1. **That the Conditions of Approval of Planned Unit Development / PU 05-06 be continually adhered to;**
2. **That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;**
3. **That the home occupation, a gunsmithing and service business, shall continue to be operated completely within the existing attached garage and all associated storage be continually contained indoors;**
4. **That no on-premise business retail sales be allowed and customers be restricted from pick and/or drop off at the subject property;**
5. **That the applicant continues to comply with all applicable local, state, and federal laws;**
6. **That the address continues to be properly posted on both the residence and at the approach so it is visible in both directions from Zamia Street in accordance with Pennington County's Ordinance #20;**
7. **That the applicant continues to maintain a Sales Tax License as required by the South Dakota Department of Revenue;**
8. **That the residential characteristics of the property continues to be maintained and remains free of junk and debris;**
9. **That measures continue to be taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;**
10. **That the applicant continues to take measures to prevent the disposal of materials into the on-site wastewater treatment system;**

11. That the Minor Planned Unit Development Amendment shall automatically be revoked upon sale or transfer of the subject property;
12. That Minor Planned Unit Development Amendment / PU 17-12 be reviewed in three (3) years, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

**Vote: unanimous 7 to 0.**

12. **MINOR PLAT / MPL 19-02 AND SUBDIVISION REGULATIONS VARIANCE / SV 19-01:** Edward Hix; Faith Lewis – Agent. To create Hix Tract and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: PT of HES #572 – Tracts A and B, H.E.S 572, Section 1, T1S, R2E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Hix Tract (Formerly a portion of Tract A of H.E.S. 572) located in Gov't Lot 4, Section 1, T1S, R2E, BHM, Pennington County, South Dakota.

**To recommend approval of Subdivision Regulations Variance / SV 19-01 to waive submittal of the following: (1.) Engineered road construction plans and road improvements; and (2.) Percolation test and profile hole information; and, approval of Minor Plat / MPL 19-02 with the following eight (8) conditions:**

1. That prior to filing the Plat with the Register of Deeds, the proposed tract size meets County requirements by way of an approved Lot Size Variance or Rezoning;
2. That prior to filing the Plat with the Register of Deeds, the existing powerline and/or powerline easement be drawn and noted on the plat;
3. That prior to filing the Plat with the Register of Deeds, a minimum eight (8) foot utility and minor drainage easement continue to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
4. That prior to filing the Plat with the Register of Deeds, percolation tests and soil profile hole information be submitted for the proposed lot for review and approval by the County Environmental Planner, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of



these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;

6. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
7. That, at a minimum, an approved Floodplain Development Permit be obtained prior to any disturbance in the Special Flood Hazard area; and,
8. That following platting of the proposed tract, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.

**Vote: unanimous 7 to 0.**

#### **END OF CONSENT AGENDA**

5. CONDITIONAL USE PERMIT REVIEW / CU 15-25: Rushmore Shadows, LLC; Gene Addink – Agent. To review a Recreational Resort with the addition of 45 RV sites to the subject property in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

Tract A Less E350 feet of N900 feet and Tract 3A of Lot 3 of SW1/4SE1/4, located in Section 7, T1S, R7E, BHM, Pennington County, South Dakota.

(Continued from the December 17, 2018, Planning Commission meeting.)

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

Staff recommended approval of the extension of Conditional Use Permit / CU 15-25 with seventeen (17) conditions.

Discussion followed.

**Moved by Coleman and seconded by Marsh to approve of the extension of Conditional Use Permit / CU 15-25 with the following seventeen (17) conditions:**

1. That the Recreational Resort consist of recreational vehicle sites, cabins, office buildings, shower houses, clubhouse, convenience store, maintenance buildings, storage buildings, laundry facilities, and other amenities directly related to resort activities (i.e. playgrounds, swimming pools, horseshoe pits, etc.) approved by the Planning Director;

2. That no more than 225 recreational vehicle sites be allowed. Each recreational vehicle site shall measure a minimum of 40 feet long by 12-foot-wide;
3. That no more than 50 cabins be allowed, which may consist of park models, stick built cabins, or wagons;
4. That no more than 50 tent sites be allowed;
5. That each site (RV or tent) must include one (1) parking space for a vehicle (in addition to the recreation vehicle, where applicable) and the parking space must be constructed so no portion of the vehicle extends onto any interior roadway;
6. That the applicant maintain some type of barrier (i.e. fence, boulders) around the on-site wastewater system to prevent any parking and/or camping over top of the on-site wastewater system and that proper setbacks to the on-site wastewater system be maintained;
7. That each RV site be equipped with water and electric hook-ups;
8. That each RV site, cabin, or tent site must be equipped with a numbered sign which is attached to a post on or near the cabin or site;
9. That a minimum 10-foot separation be provided between each RV site;
10. That all the interior streets shall be a minimum of 12 feet in width and surfaced with gravel (minimum of 4 inches), concrete or asphalt and maintained in a dust free manner;
11. That any alterations or additions to the on-site wastewater treatment system be reviewed and approved by the South Dakota Department of Environment and Natural Resources and the Pennington County Environmental Planner;
12. That construction or placement of any additional cabins, recreational vehicle sites, laundry facilities, shower house(s), or any other structure utilizing waste treatment on the subject properties will require review and approval of the onsite wastewater treatment system by the South Dakota Department of Environment and Natural Resources and the Pennington County Environmental Planner;
13. That the Recreational Resort continue to conform to all regulations in Section 306 of the Pennington County Zoning Ordinance;
14. That the applicants conform to all applicable State and County regulations, including those established by the South Dakota Departments of Environment and Natural Resources and Health;

15. **That a Building Permit be obtained for any new structures exceeding 144 square feet and located on a permanent foundation, which will require a site plan to be reviewed and approved by the Pennington County Planning Director;**
16. **That the septic tanks for systems 5, 7, and 8 be upgraded in accordance with DENR's recommendation within two (2) years of approval of the extension of this Conditional Use Permit or this Conditional Use Permit will be recommended to end; and,**
17. **That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to verify that all Conditions of Approval are being met.**

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

7. CONDITIONAL USE PERMIT REVIEW / CU 17-30: Daniel Johnson, Highmark Properties, LLC. To review a multi-family residence to be used as a Vacation Home Rental in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot A of Lot 1 less of Highway 385, Walker Placer MS 551, Section 12, T2S, R4E, BHM, Pennington County, South Dakota.

(Continued from the January 14, 2019, Planning Commission meeting.)

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

Staff recommended to continue the review of Conditional Use Permit / CU 17-30 indefinitely until such time the applicant can receive approval from the United States Forest Service for access across NSF lands with one (1) condition.

Discussion followed.

**Moved by Johnson and seconded by Runde to continue the review of Conditional Use Permit / CU 17-30 indefinitely until such time the applicant can receive approval from the United States Forest Service for access across NSF lands with the following one (1) condition:**

1. **That the Vacation Home Rental is not operated/rented until such time legal access is obtained from the United States Forest Service through an approved FLMPA Private Road Easement.**

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

13. CONSTRUCTION PERMIT REVIEW / CP 18-12: Brad Nible. To review the excavation and leveling of a hillside for a future residence in accordance with Sections 208 and 507 of the Pennington County Zoning Ordinance.

Lot 2A, Block 6, Harney Peak View Addition, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

Sack stated this is a review of the applicant's Construction Permit to excavate and level the hillside for a future residence in accordance with Sections 208 and 507 of the Pennington County Zoning Ordinance.

Staff recommended approval of the extension of Construction Permit / CP 18-12 with the following fourteen (14) conditions:

1. That erosion control measures are implemented *immediately* and maintained until the site has been revegetated in accordance with § 507(A)(5)(c) of the Pennington County Zoning Ordinance;
2. That cut-and-fill slopes be designed and constructed to minimize erosion and design plans submitted to the Pennington County Planning Department for review within 30 days;
3. That the owner or designee must inspect the site at least once every 7 calendar days or every 14 calendar days and within 24 hours of the end of a storm event that exceeds 0.25 inches or snowmelt that generates runoff. A properly maintained rain gauge must be kept on the site. Inspection reports must be submitted to the Planning Director every month during construction, and all overdue inspection reports shall be submitted to the Planning Director by March 25, 2019;
4. That failure of the owner or designee to submit Inspection Reports, as required, shall result in the immediate issuance of a Stop Work Order and a review by the Planning Commission to determine if all Conditions of Approval are being met;
5. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
6. That all natural drainage ways and paths be continually maintained;
7. That an engineered plan to stabilize the hillside either by a retaining wall or by sloping the hillside is developed and the design plans submitted to the Pennington County Drainage Engineer for review within 30 days;
8. That sediment from the site is contained in such a manner that sediment does not reach or fill the right-of-way (road ditch). If sediment is deposited in the right-of-way (road ditch) from the construction activity, the owner will be responsible for

the removal of sediment from the right-of-way (road ditch) *immediately* after being notified or as discovered by the owner during weekly inspections;

9. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
10. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
11. That erosion control measures, such as seeding and mulching the disturbed area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the Construction Activity has stopped. All erosion control methods (mulch and seed) need to be certified noxious weed-free;
12. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c) of the Pennington County Zoning Ordinance;
13. That any more than one continuation caused by the applicants failure to meet Conditions of Approval will be fined \$100.00 per continuation in accordance with § 511(X) of the Pennington Counting Zoning Ordinance; and,
14. That this Construction Permit be reviewed at the March 25, 2019, Planning Commission meeting to verify that erosion controls have been implemented and progress is being made on engineered design plans.

Discussion followed.

**Moved by LaCroix and seconded by Coleman to approve of the extension of Construction Permit / CP 18-12 with the following fourteen (14) conditions:**

1. **That erosion control measures are implemented *immediately* and maintained until the site has been revegetated in accordance with § 507(A)(5)(c) of the Pennington County Zoning Ordinance;**
2. **That cut-and-fill slopes be designed and constructed to minimize erosion and design plans submitted to the Pennington County Planning Department for review within 30 days;**
3. **That the owner or designee must inspect the site at least once every 7 calendar days or every 14 calendar days and within 24 hours of the end of a storm event that exceeds 0.25 inches or snowmelt that generates runoff. A properly maintained rain gauge must be kept on the site. Inspection reports must be submitted to the Planning Director every month during construction, and all overdue inspection reports shall be submitted to the Planning Director by March 25, 2019;**

4. That failure of the owner or designee to submit Inspection Reports, as required, shall result in the immediate issuance of a Stop Work Order and a review by the Planning Commission to determine if all Conditions of Approval are being met;
5. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
6. That all natural drainage ways and paths be continually maintained;
7. That an engineered plan to stabilize the hillside either by a retaining wall or by sloping the hillside is developed and the design plans submitted to the Pennington County Drainage Engineer for review within 30 days;
8. That sediment from the site is contained in such a manner that sediment does not reach or fill the right-of-way (road ditch). If sediment is deposited in the right-of-way (road ditch) from the construction activity, the owner will be responsible for the removal of sediment from the right-of-way (road ditch) *immediately* after being notified or as discovered by the owner during weekly inspections;
9. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
10. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
11. That erosion control measures, such as seeding and mulching the disturbed area, shall be implemented immediately after the work is completed in the area, but in no case later than 14 days after the Construction Activity has stopped. All erosion control methods (mulch and seed) need to be certified noxious weed-free;
12. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c) of the Pennington County Zoning Ordinance;
13. That any more than one continuation caused by the applicants failure to meet Conditions of Approval will be fined \$100.00 per continuation in accordance with § 511(X) of the Pennington Counting Zoning Ordinance; and,
14. That this Construction Permit be reviewed at the March 25, 2019, Planning Commission meeting to verify that erosion controls have been implemented and progress is being made on engineered design plans.

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

14. LAYOUT PLAT / PL 17-38: Dorothy Johnson Estate; Great Western Bank - Personal Representative for Dorothy Johnson Estate. To create Lots A, B, C, and D of Johnson Estates Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Balance of Lot 1 of the NW1/4NW1/4, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A, B, C, and D of Johnson Estates Subdivision, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

(Continued from the January 14, 2019, Planning Commission meeting.)

Molitor reviewed the Staff Report indicating the applicant has applied for a Layout Plat to create Lots A, B, C, and D of Johnson Estates Subdivision.

Staff recommended approval of Layout Plat / PL 17-38 to the February 11, 2019, Planning Commission meeting with the following fourteen (14) conditions:

1. That prior to filing the Plat with the Register of Deeds, the proposed lots obtain approved Lot Size Variances or be Rezoned appropriately;
2. That at the time of new Plat submittal, eight (8) foot (minimum) Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
3. That percolation and soil profile hole information be submitted for proposed Lot A and Lot D or an approved Subdivision Regulations Variance be obtained waiving this requirement;
4. That at the time of new Plat submittal, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
5. That at the time of new Plat submittal, the Plat heading needs to be corrected to say: "Lot A, Lot B, Lot C, and Lot D of Johnson Estates Subdivision. Formerly the Unplatted Portion of Government Lot 1 (aka NW1/4NW1/4) of Section 9, T1N, R6E, All located in..." as requested by the Register of Deeds;
6. That at the time of new Plat submittal, the Plat heading must also include the Well Lot;
7. The Plat must include the acreage of the Well Lot;

8. That the existing approach is utilized off of W. Highway 44 for proposed Lots A, B, C, D and the Well Lot, as well as the 66-foot-wide Access and Utility Easement, as SDDOT will not allow additional direct access to W. Highway 44 as a result of this subdivision;
9. That the proposed 66-foot-wide Access and Utility Easement for Lots A-D be designated on the plat as either “public” or “private” and include the Well Lot prior to filing the plat with the Register of Deeds;
10. That the Certifications on the plat be in accordance with § 400.3.1.n of the Pennington County Subdivision Regulations;
11. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
12. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
13. That prior to the filing of the plat with the Register of Deeds, the onsite wastewater treatment system be installed and the installation approved by the Environmental Planner on proposed Lot B of Johnson Estates Subdivision; and,
14. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by Coleman and seconded by Johnson to approve of Layout Plat / PL 17-38 to the February 11, 2019, Planning Commission meeting with fourteen (14) conditions.

**SUBSTITUTE MOTION: Moved by Coleman and seconded by Johnson to approve of Layout Plat / PL 17-38 with the following fourteen (14) conditions:**

- 1. That prior to filing the Plat with the Register of Deeds, the proposed lots obtain approved Lot Size Variances or be Rezoned appropriately;**
- 2. That at the time of new Plat submittal, eight (8) foot (minimum) Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 3. That percolation and soil profile hole information be submitted for proposed Lot A and Lot D or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 4. That at the time of new Plat submittal, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved**



**Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**

- 5. That at the time of new Plat submittal, the Plat heading needs to be corrected to say: “Lot A, Lot B, Lot C, and Lot D of Johnson Estates Subdivision. Formerly the Unplatted Portion of Government Lot 1 (aka NW1/4NW1/4) of Section 9, T1N, R6E, All located in...” as requested by the Register of Deeds;**
- 6. That at the time of new Plat submittal, the Plat heading must also include the Well Lot;**
- 7. The Plat must include the acreage of the Well Lot;**
- 8. That the existing approach is utilized off of W. Highway 44 for proposed Lots A, B, C, D and the Well Lot, as well as the 66-foot-wide Access and Utility Easement, as SDDOT will not allow additional direct access to W. Highway 44 as a result of this subdivision;**
- 9. That the proposed 66-foot-wide Access and Utility Easement for Lots A-D be designated on the plat as either “public” or “private” and include the Well Lot prior to filing the plat with the Register of Deeds;**
- 10. That the Certifications on the plat be in accordance with § 400.3.1.n of the Pennington County Subdivision Regulations;**
- 11. That the applicant ensures that all natural drainage ways are maintained and are not blocked;**
- 12. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;**
- 13. That prior to the filing of the plat with the Register of Deeds, the onsite wastewater treatment system be installed and the installation approved by the Environmental Planner on proposed Lot B of Johnson Estates Subdivision; and,**
- 14. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.**

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

- 15. REZONE / RZ 17-10 AND COMPREHENSIVE PLAN AMENDMENT / CA 17-09: Dorothy Johnson Estate; Great Western Bank - Personal Representative for Dorothy Johnson Estate. To rezone 21.39 acres from Limited Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change**

the Future Land Use from PUD Sensitive to Suburban Residential District in accordance with Sections 206, 208, and 508 of the Pennington County Subdivision Regulations.

Balance of Lot 1 of NW1/4NW1/4, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

(Continued from the January 14, 2019, Planning Commission meeting.)

Molitor reviewed the Staff Report indicating the applicant has applied for a Rezone and Comprehensive Plan Amendment to rezone 21.39 acres from Limited Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from PUD Sensitive to Suburban Residential District.

Staff recommended approval of Rezone / RZ 17-10 and Comprehensive Plan Amendment / CA 17-09.

**Moved by Marsh and seconded by Rivers to approve of Rezone / RZ 17-10 and Comprehensive Plan Amendment / CA 17-09 to rezone 21.39 acres from Limited Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from PUD Sensitive to Suburban Residential District.**

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

16. LAYOUT PLAT / LPL 19-01: Donald Patnoe. To combine four lots to create Union Hill Climax in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All of Climax Lode MS 942; All of Buckeye Lode #1 MS 942; All of Buckeye Lode MS 942; and All of Buckeye Lode #2 MS 942, all located in Section 12, T1S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Union Hill Climax, Section 12, T1S, R4E, BHM, Pennington County, South Dakota.

Bolstad reviewed the Staff Report indicating the applicant has applied for a Layout Plat to combine four lots to create Union Hill Climax.

Staff recommended approval of Layout Plat / PL 19-01 with the following eleven (11) conditions:

1. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor or Engineer;
2. That at the time of Minor Plat submittal, the applicant rename the proposed lot, per comments from the Register of Deeds (such as “Union Hill Group Tract” or “Union Hill Tract”);

3. That at the time of Minor Plat submittal, the book and page number, or document number, for the 40' wide Private Access Easement be shown on the Plat to verify that legal access has been recorded;
4. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That at the time of the Minor Plat submittal, percolation tests and soil profile hole information be submitted for the proposed lot for review and approval by the County Environmental Planner, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
6. That at the time of Minor Plat submittal, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;
7. That prior to approval of a Building Permit on the proposed lot, the Private Access Easement that provides access to the subject property be named with a Road Name approved by 9-1-1 and the Pennington County Board of Commissioners, per comments from Emergency Services;
8. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
9. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
10. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 19-01, which is available at the Planning Office; and,
11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

**Moved by Marsh and seconded by Runde to approve of Layout Plat / LPL 19-01 with the following eleven (11) conditions:**

- 1. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor or Engineer;**

2. That at the time of Minor Plat submittal, the applicant rename the proposed lot, per comments from the Register of Deeds (such as “Union Hill Group Tract” or “Union Hill Tract”);
3. That at the time of Minor Plat submittal, the book and page number, or document number, for the 40’ wide Private Access Easement be shown on the Plat to verify that legal access has been recorded;
4. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That at the time of the Minor Plat submittal, percolation tests and soil profile hole information be submitted for the proposed lot for review and approval by the County Environmental Planner, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
6. That at the time of Minor Plat submittal, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements that are not met. Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;
7. That prior to approval of a Building Permit on the proposed lot, the Private Access Easement that provides access to the subject property be named with a Road Name approved by 9-1-1 and the Pennington County Board of Commissioners, per comments from Emergency Services;
8. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
9. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
10. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 19-01, which is available at the Planning Office; and,
11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

All voting aye, the Motion carried 7 to 0.

**Moved by Runde and seconded by Marsh to Reconsider Item #13. Commissioners Marsh, Lassetter, Johnson, Runde, and Rivers voted yes. Commissioners Coleman and LaCroix voted no. Motion to Reconsider Item #13 carried 5 to 2.**

13. CONSTRUCTION PERMIT REVIEW / CP 18-12: Brad Nible. To review the excavation and leveling of a hillside for a future residence in accordance with Sections 208 and 507 of the Pennington County Zoning Ordinance.

Lot 2A, Block 6, Harney Peak View Addition, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

Mr. Brad Nible, the applicant, appeared and spoke of the review of his Construction Permit and the Conditions of Approval.

Discussion followed.

17. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the January 14, 2019, and January 28, 2019, meetings, with the exception of Rezone 18-12 and Comprehensive Plan Amendment 18-11 (Borglum Historical Center, Inc., Duane Pankratz; Ken Nash – Agent). The Board of Commissioners approved the First Reading to rezone the subject property to General Commercial District.

18. ITEMS FROM THE PUBLIC

There were no motions or actions taken at this time.

19. ITEMS FROM THE STAFF

- A. Building Permit Report. Conover reviewed the Building Permit Report for January 2019.
- B. Comprehensive Plan Comments to Matrix Design Group, LLC. Conover stated that any comments from the Planning Commission or Board can be e-mailed through the View to 2040 website to the consultant and the consultant will add those comments to their updated Comment List.
- C. 2019 Drug-Free Workplace Resolution & Workplace Affirmation Statement. Conover spoke of the 2019 Drug-Free Workplace Resolution and Workplace Affirmation Statement. He further stated that Planning Commission members are employees of Pennington County, and asked the Planning Commission members to review the documents and sign the Drug-Free Workplace Affirmation Statement.
- D. Updated Plat File Codes. Conover stated that, starting January 1, 2019, the Planning Department has updated the Plat File Submittal Codes to indicate that a Layout Plat is (LPL), Preliminary Plat is (PPL), Minor Plat is (MPL), and Final Plat is (FPL).

- E. Croell, Inc. BOC Meeting Date(s). Conover informed the Planning Commission that the Board of Commissioners have scheduled their Special Board Meeting for May 10th at 9 a.m. and, if necessary, Saturday, May 11th, at 9 a.m.
- F. 2019 Western SD Hydrology Conference. Conover spoke of the upcoming 2019 Western SD Hydrology Conference, which is scheduled for April 11th at the Rushmore Plaza Civic Center.

20. ITEMS FROM THE MEMBERSHIP

Commissioner Lasseter confirmed the start date for the Planner II position.

21. ADJOURNMENT

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

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

**The meeting adjourned at 9:53 a.m.**

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Travis Lasseter, Chairperson