AGENDA
PENNINGTON COUNTY PLANNING COMMISSION
February 11, 2019 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building

Recommendations of the Planning Commission on items from this agenda will be considered by
the Board of Commissioners at their regular meeting on February 19, 2019, at 10:30 a.m.

ROLL CALL

1. APPROVAL OF THE JANUARY 28, 2019, MINUTES

2. APPROVAL OF THE AGENDA

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 recommend 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.

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 recommend approval of the extension of Conditional Use Permit / CU 14-34 with
seven (7) conditions.
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.)

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

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 recommend approval of the extension of Conditional Use Permit / CU 16-15 with nine (9) conditions.

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.)

To recommend 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.

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 recommend approval of the extension of Conditional Use Permit / CU 17-49 with six (6) conditions.
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 recommend approval of the extension of Construction Permit / CP 18-02 with seven (7) conditions.

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 recommend approval of Construction Permit / CP 19-01 with fifteen (15) conditions.

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 recommend approval of Minor Planned Unit Development Amendment Review / PU 17-12 with twelve (12) conditions.

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 and approval of Minor Plat / MPL 19-02 with eight (8) conditions.

**END OF CONSENT AGENDA**
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.

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.)

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.)

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.

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

19. ITEMS FROM THE STAFF

   A. Building Permit Report.
   B. Comprehensive Plan Comments to Matrix Design Group, LLC.
   D. Updated Plat File Codes.
   E. Croell, Inc. BOC Meeting Date(s).

20. ITEMS FROM THE MEMBERSHIP

21. ADJOURNMENT

ADA Compliance: Pennington County fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Planning Department so that appropriate auxiliary aids and services are available.
DRAFT MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
January 28, 2019 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Administration Building


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

ROLL CALL

1. APPROVAL OF THE JANUARY 14, 2019, MINUTES
   Moved by Johnson and seconded by Marsh to approve the Minutes of the January 14, 2019, Planning Commission meeting. Vote: unanimous 6 to 0.

2. APPROVAL OF THE AGENDA
   Moved by Runde and seconded by Rivers to approve the Agenda of the January 28, 2019, Planning Commission meeting. Vote: unanimous 6 to 0.

   Moved by Marsh and seconded by Runde to approve the Consent Agenda of the January 28, 2019, Planning Commission meeting. 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 14-33: Lenora and Larry Ruland. 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.

   W1/2SE1/4 Less Tract 1 Ruland Ranch Add less Dedicated Right-of-Way, Section 24, T1S, R16E, BHM, Pennington County, South Dakota.

   To approve of the extension of Conditional Use Permit / CU 14-33 with the following eight (8) conditions:
1. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which will require a site plan to be reviewed and approved by the Planning Director;

2. That the lot address be clearly posted, so as to be visible from both directions on 239th Street, in accordance with Pennington County’s Ordinance #20;

3. That the subject property continue to remain free of debris and junk vehicles;

4. That the mobile home installed on the property continue to have peaked non-reflective type roof and wood or simulated wood-type siding that is 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;

7. That the ramp/stairs added by the applicant’s in 2015, remain unattached to the SWMH and not anchored to the ground, and if the applicant would like to attach or anchor the ramp/stairs or it is found that the applicant has attached or anchored the ramp/stairs, the applicant obtain a Building Permit, with applicable fees prior to doing so; and,

8. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as directed by the Pennington County Planning Board of Commissioners and/or County Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous 6 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CU 17-44:** Jeff Miller. To review a Vacation Home Rental on the subject property in a Low Density Residential District in accordance with Sections 207, 319, and 510 of the Pennington County Zoning Ordinance.

Tract 1, Annie Lode MS 1721, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 17-44 with the following fifteen (15) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, continue to be limited to eight (8) people and the maximum daytime
occupancy be limited to sixteen (16) people, per Pennington County Zoning Ordinance Section 319(F)(13);

2. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;

3. That all necessary permits are obtained prior to any additions to the structure or upgrades/alterations to the on-site wastewater treatment system;

4. That the applicant maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department each year the Vacation Home Rental is in operation;

5. 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;

6. That a minimum of four (4) off-street parking spaces continue to be provided on-site, per Pennington County Zoning Ordinance Section 310(A)(9)(gg), with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

7. That an interior informational sign continue to be posted in accordance with the requirements of Pennington County Zoning Ordinance Section 319(G), with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff’s Department, during operation of the Vacation Home Rental;

8. That the lot address (23826 Highway 385) continue to be posted on the residence at all times and at the driveway so that it is clearly visible from both directions of travel on Highway 385, in accordance with Pennington County’s Ordinance #20;

9. That the applicant ensure the Vacation Home Rental continues to be operated in accordance with the requirements of Pennington County Zoning Ordinance Section 319(F) (Performance Standards) at all times;

10. That if the person designated as the Local Contact is ever changed from LeeAnn Jensen, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by Certified Mail as stated by requirement §319(F)(5);
11. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;

12. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;

13. That the proper permits be obtained prior to utilizing the fire pits on the property and all fire restrictions be followed at all times;

14. That if the subject property is sold, the applicant must notify the Planning Department at least twenty (20) days prior to the date of the transfer, pay the VHR Conditional Use Permit Review Fee and have the new owner meet all of the conditions of Section 319(C)(b) or Conditional Use Permit / CU 17-44 will end at the time of the sale; and,

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

Vote: unanimous 6 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 17-50:** Benjamin Shilling. To review a gunsmithing business on the subject property in a Limited Agriculture District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 5, Hidden Springs Ranchettes #2, Section 31, T2N, R9E, BHM, Pennington County, South Dakota.

To continue the review of Conditional Use Permit / CU 17-50 to the February 25, 2019, Planning Commission meeting.

Vote: unanimous 6 to 0.

END OF CONSENT AGENDA

6. **REZONE / RZ 18-12 AND COMPREHENSIVE PLAN AMENDMENT / CA 18-11:** Borglum Historical Center, Inc., Duane Pankratz; Ken Nash – Agent. To rezone 19.419 acres from General Agriculture District to General Commercial District, for proposed Lot 1, and to rezone 1.953 acres from General Agriculture District to General Commercial
District, for proposed Lot 2, and to amend the Comprehensive Plan to change the Future Land Use from Low Density Residential District to General Commercial District in accordance with Sections 205, 207, 209, and 508 of the Pennington County Zoning Ordinance.

Proposed Lot 1: Commencing at the Section ¼ Corner common to Sections 13 and 14, T1S, R6E, BHM, common to the northeasterly corner of Lot 13 of Stratmeyer Addition, and common to the southwesterly corner of Lot 4 Revised of Stratmeyer Addition, and the point of beginning; Thence, first course: N 89°28'35" E, along the section ¼ line of said Section 13, common to the southerly boundary of said Lot 4 Revised, a distance of 788.89', to the southeasterly corner of said Lot 4 Revised, common to the southwesterly corner of Lot 9 of Stratmeyer Addition; Thence, second course: N 89°16'43" E, along the section ¼ line of said Section 13, common to the southerly boundary of said Lot 9, a distance of 150.62', to the southeasterly corner of said Lot 9, common to the southerly corner of Lot 5 of Stratmeyer Addition; Thence, third course: N 89°27'28" E, along the section ¼ line of said Section 13, common to the southerly boundary of said Lot 5, a distance of 378.55', to the southeasterly corner of said Lot 5, common to a point on the Section 1/16th Line, common to a point on the westerly boundary of Lot 1 of BTP Subdivision; Thence, fourth course: S 00°05'41" E, along the said Section 1/16th line, common to the westerly boundary of said Lot 1, a distance of 107.12', to the southeasterly corner of said Lot 1, common to a point on the northerly edge of US Highway 16 right-of-way; Thence, fifth course: S 40°55'54" W, along the northerly edge of said right-of-way, a distance of 176.94'; Thence, sixth course: N 49°04'06" W a distance of 57.00'; Thence, seventh course: S 40°55'54" W a distance of 252.61'; Thence, eighth course: S 47°32'31" W a distance of 471.73'; Thence, ninth course: S 58°43'08" W a distance of 359.10'; Thence, tenth course: S 62°31'10" W a distance of 383.76', to a point on the section line common to said Sections 13 and 14, common to a point on the easterly boundary of Tract A Revised of Hull Subdivision; Thence eleventh course: N 00°07'28" E, along the section line common to said Sections 13 and 14, common to the easterly boundary of said Tract A Revised, a distance of 402.40, to the northeasterly corner of said Tract A Revised; Thence twelfth course: N 00°01'51" W, along the section line common to said Sections 13 and 14, a distance of 150.60', to the southeasterly corner of said Lot 13; Thence thirteenth course: N 00°08'21" E, along the section line common to said Sections 13 and 14, common to the easterly boundary of said Lot 13, distance of 510.62', to the said point of beginning. Said Parcel contains 19.419 acres more or less, Section 13, T1S, R6E, BHM, Pennington County, South Dakota.

Proposed Lot 2: Commencing at the southwesterly corner of Tract A Revised of Hull Subdivision, common to a point on the section line common to Sections 13 and 14, T1S, R6E, BHM, and the point of beginning; Thence, first course: N 00°07'28" E, along easterly boundary of said Tract A Revised, common to said section line, a distance of 64.32'; Thence, second course: N 62°31'10" E a distance of 383.76'; Thence, third course: N 58°43'08" E a distance of 359.10'; Thence, fourth course: N 47°32'31" E a distance of 471.73'; Thence, fifth course: N 40°55'54" E a distance of 252.61'; Thence, sixth course: S 49°04'06" E a distance of 57.00', to a point on the northerly edge of US Highway 16 right-of-way; Thence, seventh course: S 40°55'54" W, along the northerly
edge of said right-of-way, a distance of 255.91'; Thence, eighth course: S 47°32'31" W, along the northerly edge of said right-of-way, a distance of 480.60'; Thence, ninth course: S 58°43'08" W, along the northerly edge of said right-of-way, a distance of 366.57'; Thence, tenth course: S 62°31'10" W, along the northerly edge of said right-of-way, a distance of 415.46', to the said point of beginning. Said Parcel contains 1.953 acres more or less, Section 13, T1S, R6E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Rezone to rezone 19.419 acres from General Agriculture District to General Commercial District, for proposed Lot 1, and to rezone 1.953 acres from General Agriculture District to General Commercial District, for proposed Lot 2, and to amend the Comprehensive Plan to change the Future Land Use from Low Density Residential District to General Commercial District.

Staff recommended approval of Rezone / RZ 18-12 and Comprehensive Plan Amendment / CA 18-11.

Discussion followed.

Commissioner Drewes left the meeting at 9:28 a.m. Commissioner Drewes returned to the meeting at 9:31 a.m.

Moved by Runde and seconded by Marsh to deny Rezone / RZ 18-12 and Comprehensive Plan Amendment / CA 18-11.

**SUBSTITUTE MOTION:** Moved by Drewes and seconded by Rivers to deny without prejudice Rezone / RZ 18-12 and Comprehensive Plan Amendment / CA 18-11.

All voting aye, the Motion carried 6 to 0.

7. **CONSTRUCTION PERMIT / CP 18-10:** Cross Country Real Estate. To grade in order to flatten the area to receive 4" gravel for a new parking lot.

Unplatted Portion of S1/2SW1/4NW1/4; PT of NW1/4SW1/4 N and E of HWY ROW less that PT within Rapid City Boundary, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Construction Permit to grade and level an area for a parking lot.

Staff is requesting direction from the Planning Commission on how to proceed with this request since there are existing violations on the subject property, drainage concerns, and the use on the subject property is no longer legal non-conforming.

Commissioner Drewes left the meeting at 10:22 a.m.
Discussion followed.

Commissioner Drewes returned to the meeting at 10:25 a.m.

Discussion continued.

Moved by Drewes and seconded by Runde to continue Construction Permit / CP 18-10 to the February 11, 2019, Planning Commission meeting in order for the applicant to address the violations that currently exist on the subject property, with the Planning Department.

SUBSTITUTE MOTION: Moved by Marsh and seconded by Johnson to continue Construction Permit / CP 18-10 to the February 25, 2019, Planning Commission meeting in order for the applicant to address the violations that currently exist on the subject property, with the Planning Department.

SECOND SUBSTITUTE MOTION: Moved by Drewes and seconded Marsh to continue Construction Permit / CP 18-10 to the February 25, 2019, Planning Commission meeting in order for the applicant to address the violations that currently exist on the subject property, with the Planning Department and the SD DOT request is complied with.

THIRD SUBSTITUTE MOTION: Moved by Johnson and seconded by Drewes to continue Construction Permit / CP 18-10 to a time after the applicant satisfies the concerns of the SD DOT, as described in their comments on Page 14 of the January 28, 2019, Staff Report and the meeting will be scheduled after the SD DOT is satisfied with the response from the applicant and the meeting with the Planning Commission is held no earlier than February 25, 2019.

All voting aye, the Motion carried 6 to 0

Moved by Lasseter and seconded by Drewes to recess for 10 minutes. All voting aye, the Motion carried 6 to 0.

Moved by Lasseter and seconded by Marsh to reconvene. All voting aye, the Motion carried 5 to 0.

8. ORDINANCE AMENDMENT / OA 19-01: Pennington County. To consider the amendment / adoption of the Comprehensive Plan.

Conover reviewed that this is an Ordinance Amendment to amend/adopt the Pennington County Comprehensive Plan. Conover further stated that Mr. Rick Rust, Matrix Design Group, Inc. will be providing a public presentation of the Draft Comprehensive Plan – View to 2040.
Staff recommended the Planning Commission listen to the presentation from Matrix Design Group, Inc., along with public comment and discuss as necessary; and, that the Planning Commission then schedule future hearings of Ordinance Amendment / OA 19-01 Comprehensive Plan – View to 2040.


Moved by Marsh and seconded by Runde to continue Ordinance Amendment / OA 19-01 to the February 25, 2019, Planning Commission meeting to consider the amendment / adoption of the Comprehensive Plan.

SUBSTITUTE MOTION: Moved by Marsh and seconded by Johnson to continue Ordinance Amendment / OA 19-01 and Ordinance Amendment / OA 19-01 will be heard at the February 25, 2019, March 11, 2019, and March 25, 2019 Planning Commission meetings to consider the amendment / adoption of the Comprehensive Plan.

All voting aye, the Motion carried 6 to 0.

9. MOTION TO SCHEDULE SPECIAL PLANNING COMMISSION MEETING(S) REGARDING CROELL, INC.'S APPLICATIONS FOR MINING AND CONSTRUCTION PERMITS.

Conover discussed the rescheduling of the Special Planning Commission meeting to hear Croell, Inc.’s applications for Mining and Construction Permits.

Discussion followed.

Moved by Marsh and seconded by Johnson to hold a Special Planning Commission meeting on May 8, 2019, at 3:00 p.m. to hear Croell, Inc.’s applications for Mining and Construction Permits.

All voting aye, the Motion carried 6 to 0.

10. COUNTY BOARD REPORT
The Board of Commissioners will hear the Planning Commission’s recommendations from the January 14, 2019, meeting at their February 5th meeting.

11. ITEMS FROM THE PUBLIC
There were no motions or actions were taken at this time.

12. ITEMS FROM THE STAFF
There were no items from staff.
13. **ITEMS FROM THE MEMBERSHIP**

There were no items from the membership.

14. **ADJOURNMENT**

Moved by Runde and seconded by Marsh to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at 12:54 p.m.

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Travis Lasseter, Chairperson
GENERAL INFORMATION:

REQUEST:  

CONDITIONAL USE PERMIT REVIEW / CU 08-07: 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.

OWNER:  

Marilyn Welch

OWNER ADDRESS:  

5435 Greenwood Lane, Rapid City, SD  57703

LEGAL DESCRIPTION:  

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

SITE LOCATION:  

5435 Greenwood Lane

TAX ID:  

2593

SIZE:  

1.00 acre

EXISTING LAND USE:  

Residential

ZONING REFERENCE:  

§ 208 and 510

CURRENT ZONING:  

Suburban Residential District

SURROUNDING ZONING:  

- North: Suburban Residential
- South: Suburban Residential
- East: Suburban Residential
- West: Limited Agriculture

PHYSICAL CHARACTERISTICS:  

Flat

UTILITIES:  

Private

REPORT BY:  

Cassie Bolstad
RECOMMENDATION: Staff will be recommending to continue the review of Conditional Use Permit / CU 08-07 to the May 13, 2019, Planning Commission meeting.

GENERAL DESCRIPTION:
- January 28, 2008 – Planning Commission originally approved Conditional Use Permit / CU 08-07 with the following six (6) conditions:
  1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;
  2. That the applicant limits the number of horses on Lot 37 to one (1) and none on Lot 38;
  3. That the manufactured home continues to have a peaked nonreflective-type roof, and wood or simulated wood-type siding;
  4. That the property remains free of debris and junk vehicles;
  5. That the applicant signs a Statement of Understanding agreeing to the conditions set forth; and,
  6. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to determine that all conditions are being met.
- January 26, 2009 – Planning Commission approved the extension of Conditional Use Permit / CU 08-07 with the same six (6) conditions approved in 2008.
- January 10, 2011 – Planning Commission approved the extension of Conditional Use Permit / CU 08-07 with the following five (5) conditions:
  1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;
  2. That the applicant limits the number of horses on Lot 37 to one (1);
  3. That the manufactured home continues to have a peaked nonreflective-type roof, and wood or simulated wood-type siding;
  4. That the property remains free of debris and junk vehicles; and,
  5. That this Conditional Use Permit be reviewed in four (4) years or on a complaint basis to determine that all conditions are being met.
- January 26, 2015 – Planning Commission approved the extension of Conditional Use Permit / CU 08-07 with the following five (5) conditions:
  1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;
  2. That the applicant limits the number of horses on Lot 37 to one (1);
  3. That the manufactured home continues to have a peaked nonreflective-type roof, and wood or simulated wood-type siding;
  4. That the property remains free of debris and junk vehicles; and,
  5. That this Conditional Use Permit be reviewed in four (4) years, on a complaint basis, or as deemed necessary by either the Pennington County Board of Commissioners and/or Planning Commission to verify that all conditions are being met.
EXISTING CONDITIONS:

- Zoned Suburban Residential District.
- 1.00 acre.
- Lot contains:
  - Storage shed – 2008COBP0252.
  - On-site wastewater treatment system
    - Operating Permit – COOP18-0116.
- The applicant also owns the property directly north of the subject property (Lot 38, Block 4, Green Valley Estates).

ANALYSIS:

- November 7, 2016 – Ordinance Violation case (COVO16-0281) was opened for junk and vehicles on the property.
  - According to notes in COVO16-0281, a follow-up inspection of the property was performed on December 6, 2016, and it was verified that work was being done to clean the property.
  - The property was again inspected on January 23, 2017, and continued progress was observed; therefore, COVO16-0281 was closed.
- January 31, 2019 – Staff performed a site visit and found:
  - There are inoperable and unlicensed vehicles on the subject property, along with a large amount of debris and junk.
    - This is a violation of Condition #4 of CU 08-07 and Pennington County Ordinance 106.
  - It does not appear that continued progress is being made toward cleaning the property, as was observed in 2016 and 2017.
Agenda Item #3  
Marilyn Welch  
February 11, 2019  

- The property must be cleaned and brought into compliance with Ordinance 106 and Condition #4 prior to approval of the extension of CU 08-07.  

RECOMMENDATION: Staff recommends 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.
STAFF REPORT

GENERAL INFORMATION:

REQUEST:

CONDITIONAL USE PERMIT REVIEW / CU
14-34: 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.

APPLICANT: James and Ethel Whitcher

APPLICANT ADDRESS: 18501 185th Avenue, Scenic, SD 57780

OWNER: Whitcher Land LLLP

OWNER ADDRESS: 15031 Riverside Road, Buffalo Gap, SD 57722

LEGAL DESCRIPTION: 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.

SITE LOCATION: 25455 185th Avenue; east of Scenic along E. Highway 44.

TAX ID: 64201

SIZE: 570.79 acres

EXISTING LAND USE: Agriculture

ZONING REFERENCE: Sections 205 and 510

CURRENT ZONING: General Agriculture District

SURROUNDING ZONING:
North General Agriculture District
South General Agriculture District
East General Agriculture District
West General Agriculture District

PHYSICAL CHARACTERISTICS: Badlands / Rolling hills

UTILITIES: Private

Page 1 of 4
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 14-34 with seven (7) conditions.

II. GENERAL DESCRIPTION
   A. January 12, 2015 – The Planning Commission originally approved CU 14-34 with the following seven (7) conditions:
      1. That a Building Permit be obtained for the new single-wide mobile home before it is moved onto the property;
      2. That the lot address be clearly posted, so as to be visible from both directions on 185th Ave in accordance with Pennington County’s Ordinance #20;
      3. That the subject property remains free of debris and junk vehicles;
      4. That the mobile home installed on the property have peaked non-reflective type roofs 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 one (1) year, on a complaint basis, or as directed by the Pennington County Board of Commissioners and/or County Planning Commission to verify that all conditions of approval are being met.

   B. February 8, 2016 – The Planning Commission approved the extension of 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 185th 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 three (3) 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.

III. EXISTING CONDITIONS
A. Zoned General Agriculture District (minimum lot size of 40 acres).
B. 570.79 acres.
C. Access off of 185th Avenue.
D. Lot contains:
   1. COBP15-0019 - 16’ x 80’ single-wide mobile home with enclosed entry.
   2. COSD15-0005 On-site wastewater treatment system.

IV. ANALYSIS
A. February 5, 2019 – County Ordinance officer performed a site visit and found:
   1. A single-wide mobile.
      a. Staff did could not get closer to the house. Due to animals impeding access.
B. February 6, 2019 – Staff contacted the applicant and stated:
   1. CU 14-34 was being reviewed by the Planning Commission on February 11, 2019.
   2. Staff had found a discrepancy with COBP15-0019 and staff needed to update COBP15-0019 with the accurate information.
      a. Staff Comment: During review, staff noticed that the mobile homes physical location was different than what the applicant had proposed in COBP15-0019. Staff was able to verify the location of the SWMH on the property and staff will update the permit to reflect this information.

C. It appears to staff that all Conditions of Approval for CU 14-34 are being met.

RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 16-34 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 185th 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.
STAFF REPORT

GENERAL INFORMATION:

REQUEST:  
CONDITIONAL USE PERMIT REVIEW/ CU  
15-25: To review a Recreational Resort in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

APPLICANT/ AGENT:  
Rushmore Shadows, LLC / Gene Addink

APPLICANT ADDRESS:  
23645 Clubhouse Drive, Rapid City, SD  57702

LEGAL DESCRIPTION:  
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.

SITE LOCATION:  
23680 Busted Five Court; near the intersection of S. Highway 16 and Busted Five Court.

SIZE:  
48.78 acres

TAX ID:  
49925 / 13130

EXISTING LAND USE:  
Rushmore Shadows RV Park

ZONING REFERENCE:  
Sections 210 and 510

CURRENT ZONING:  
Highway Service District

SURROUNDING ZONING:  
- North: Suburban Residential District  
- South: Highway Service District  
- East: Highway Service District  
- West: General Agriculture District  
- Suburban Residential District

PHYSICAL CHARACTERISTICS:  
Forested/Rolling Hills/Flat

UTILITIES:  
Private

REPORT BY:  
Brittney Molitor

Page 1 of 7
I. PROPOSED RECOMMENDATION  
A. Staff is recommending approval of the extension of Conditional Use Permit / CU 15-25 with fifteen (15) conditions.

II. GENERAL DESCRIPTION  
A. On September 28, 2015, Planning Commission approved Conditional Use Permit / CU 15-25 with the following fifteen (15) conditions:
   1. That no more than 194 recreational vehicle sites be allowed. Each recreational vehicle site shall measure a minimum of 40 feet long by 12-foot-wide;
   2. That no more than 16 cabins be allowed;
   3. That no more than 50 tent sites be allowed;
   4. 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;
   5. 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;
   6. That each RV site be equipped with water and electric hook-ups;
   7. 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;
   8. That a minimum 10-foot separation be provided between each RV site;
   9. 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;
 10. 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;
 11. That the Recreational Resort conform to all regulations in Section 306 of the Pennington County Zoning Ordinance;
 12. 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;
 13. 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;
 14. That the applicant signs the Statement of Understanding within seven (7) business days of approval of the Conditional Use Permit / CU 15-25, which is available at the Planning Office; and,
15. That this Conditional Use Permit be reviewed in two (2) years, 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.

III. EXISTING CONDITIONS
A. TRACT A LESS E350ft OF N900ft, BUSTED FIVE DEVELOPMENT
   1. 45.56 acres.
   2. Zoned Highway Service District.
   3. Lot contains:
      a) Recreational Resort - 23680 Busted Five Court
   4. Access is off Highway 16 (State Highway).

B. TRACT 3A OF LOT 3 OF SW½SE½
   1. 3.22 acres
   2. Zoned Highway Service District.
   3. Lot contains:
      a) RV Sites
   4. Access is off Highway 16 (State Highway).

IV. PROPERTY HISTORY
A. On September 5, 2017, Staff performed a site visit and met with a resort employee.
   1. During the site visit, and conversation with resort staff, it was noted that the number of cabins on the site exceeded the 16 approved. In addition, there were an additional number of RV sites (for resort staff) that were not included in the original request.

B. On October 13, 2017, Staff met with the applicant’s agent(s) to discuss future development within the resort. In addition, it was discovered that there were several Building Permits that had to be obtained for existing park models and cabins on the subject property.
   1. During the meeting, it was determined there were 31 cabins on site and 209 Recreational Vehicle sites at that time.
   2. The agents also indicated that they would like to add an additional office building to the resort in the future.

C. On October 23, 2017, the Planning Commission approved 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 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 Building Permits, and all applicable fees to be applied, are obtained for all cabins, park models, and structures (over 144 square
feet and located on a permanent foundation) placed on the subject properties after February 2, 1994 within 30 days of approval of this Conditional Use Permit; 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.

D. On November 27, 2017, the applicant submitted Building Permits for the existing, unpermitted park models and cabins.
   1. COBP17-0686 through COBP17-0702.

E. On January 3, 2018, the applicant submitted a Building Permit for a 40’ x 66’ office building.
   1. Building Permit COBP18-0050 was approved on January 22, 2018.

F. On April 27, 2018, the Environmental Planner received approval (via email) from the South Dakota Department of Environment and Natural Resources (DENR) approving Onsite Wastewater Treatment Systems 1, 3, 6, 9, and 10 (see attached map) for the change of use from an Recreational Vehicle site to a cabin/park model.

G. The Onsite Wastewater Treatment Systems 5, 7, and 8 (see attached map) were not approved by DENR and will need to be addressed by the applicant/landowner.

H. On April 30, 2018, the applicant submitted an Onsite Wastewater Treatment System Construction Permit for holding tanks to serve “wagons” that could be utilized as “tents” on the subject property.
   1. The system was installed and approved on May 14, 2018.

I. November 28, 2018 – The Environmental Planner met with Rushmore Shadows Staff to discuss the upgrades needed to the onsite wastewater treatment systems.
   1. Rushmore Shadows Staff indicated that they were going to contact Scott Hipple, South Dakota Department of Environment and Natural Resources (DENR), directly to discuss what would be needed to bring the systems into compliance.
      a. On December 10, 2018, Staff contacted DENR and Rushmore Shadows had not yet discussed options with them.
   2. The Environmental Planner stated to Rushmore Shadows’ Staff that all of the upgrades were not required immediately, however, progress must be made to bring the systems into compliance.
      a. Staff requested that a work plan be submitted with a timeline as to when the systems will be upgraded and brought into compliance.

VI. ANALYSIS (FEBRUARY 11, 2019)

A. Staff was contacted by a Pennington County certified installer (Solseth Excavation) regarding the necessary upgrades to the onsite water treatment system(s) located on the subject property.
Agenda Item #5
Rushmore Shadows, LLC; Gene Addink - Agent
February 11, 2019

1. The plan is to begin upgrading the septic tanks, by adding more capacity to the system, this spring for the systems that are currently undersized. The installer indicated it could take a couple of years to complete.

2. The DENR is not requiring that the drainfields be updated at this time. In the event that they malfunction or fail, the drainfield which malfunctioned or failed will have to be brought into full compliance with the Pennington County Zoning Ordinance.

RECOMMENDATION: Staff is recommending approval 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.
SOUTH DAKOTA
DEPARTMENT OF HEALTH
Lodging License

License Type: Hotel License
License Number: 18229
Number of Units: 33
Swimming Pool: 1
Spa or Hot Tub: 1

Expires: 12/31/2019

Secrecy of Health

License is Not Transferable - Post in the Establishment

Issued To: MIDWEST OUTDOOR RESORT LLC
Located At: RUSHMORE SHADOWS RESORT
HOTEL: 23680 BUSTED FIVE CT
RAPID CITY, SD 57702
SOUTH DAKOTA
DEPARTMENT OF HEALTH
CAMPGROUND LICENSE

License Type
Campground License

License Number
9912

Number of Sites
200

Swimming Pool
0

Spa or Hot Tub
0

Issued To:
MIDWEST OUTDOOR RESORT LLC

Located At:
RUSHMORE SHADOWS RESORT
23680 BUSTED FIVE COURT
RAPID CITY, SD 57702

Expires:
12/31/2019

License is Not Transferable - Post in the Establishment

Secretary of Health,
Kim Malm: Rapid
SOUTH DAKOTA DEPARTMENT OF HEALTH
FOOD SERVICE LICENSE

Issued To: MIDWEST OUTDOOR RESORTS LLC
Located At: RUSHMORE SHADOWS RESORT
23691 BUSTED FIVE COURT
RAPID CITY, SD 57702

License Type: Convenience Store License
License Number: 187784
Seating Capacity: 0

Expiration Date: 10-07-2020
Certification Number: 12687554
Certified Food Service, Manager/Employ ee: Jocelyn Jones

Expires 12/31/2019

License is Not Transferable - Post in the Establishment

Secretary of Health

Kim Malem, Pt. Addn.

[Signature]
STAFF REPORT

GENERAL INFORMATION:

REQUEST:

CONDITIONAL USE PERMIT REVIEW/ CU 16-15: 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.

APPLICANT/OWNER:
Tom and Lynne Distler

APPLICANT ADDRESS:
13849 Neck Yoke Rd, Rapid City, SD 57702

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

SITE LOCATION:
13849 Neck Yoke Road; approximately 0.2 miles east of the intersection of Neck Yoke Road and Kieffer Ranch Road.

SIZE:
10.09 acres

TAX ID:
57591

EXISTING LAND USE:
Vacant

ZONING REFERENCE:
Sections 206 and 510

CURRENT ZONING:
Limited Agriculture District

SURROUNDING ZONING:
- North: Limited Agriculture District
- South: General Agriculture District
- East: Limited Agriculture District
- West: Limited Agriculture District

PHYSICAL CHARACTERISTICS: Trees/ Sloping

UTILITIES:
Private

REPORT BY:
Brittney Molitor
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 16-15 with nine (9) conditions.

II. GENERAL DESCRIPTION
   A. On June 13, 2016, the Planning Commission approved a Conditional Use Permit to allow a Recreational Vehicle (RV) to be used as a temporary residence while building a single-family residence with nine (9) conditions.

   B. July 24, 2017 – Planning Commission approved the extension of Conditional Use Permit / CU 16-15 to allow a Recreational Vehicle (RV) to be used as a temporary residence while building a single-family residence with the following ten (10) 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;

      9. That the applicant signs the Statement of Understanding within ten (10) business days of approval, which is available at the Planning Department; and,

      10. That this Conditional Use Permit be reviewed in one (1) year, 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.
III. EXISTING CONDITIONS

A. Zoned Limited Agriculture District (minimum lot size is 10 acres).

B. 10.09 acres.

C. Detached garage (COBP16-0235).

D. Soil profile hole and percolation tests have been completed on the subject property.

E. An On-Site Wastewater Construction Permit (COSD16-0031), and Building Permit for the new residence (COBP16-0194) have been approved.

IV. ANALYSIS

A. Staff preformed a site visit on June 16, 2017, to the subject property. At the site visit, staff discovered two Recreational Vehicle septic hookup sites constructed.

B. June 29, 2017 – Applicant submitted the proposed septic plans for the dual RV sites with an approval letter from the Department of Environment and Natural Resources (DENR) allowing for the use of a holding tank for the RV sites. At that time staff informed the applicant that multiple RVs were not a condition of Conditional Use Permit / CU 16-15, and, that should the applicant use the RV sites as such, an additional Conditional Use Permit will be required. The applicant stated that he will not be using the two sites for RV hookups. The applicant further noted that he will be only storing his RV at the property.

C. July 11, 2017 – The County Environmental Planner inspected the installation of the holding tank for the RV sites and approved the installation. At that time the RV had been moved onto the subject property.

D. July 16, 2018 – Staff spoke with the applicant via phone to check the status of construction on the subject property. Mr. Distler stated that he was still in
the final stages of construction for the residence on the subject property and would like to have the Conditional Use Permit extended into the fall.

E. July 17, 2018 – Staff performed a site visit and confirmed that construction of the single-family residence was being finalized.
   1. Plumbing and electric installation had been completed, and the applicant was waiting for the HVAC system to be finished before drywall could be hung.

F. Because construction on the residence was nearing completion, Staff recommended to continue the review of Conditional Use Permit / CU 16-15 to allow time for the applicant to finish the residence.

V. UPDATE FOR FEBRUARY 11, 2019

A. February 6, 2019 - Staff contacted the applicant.
   1. The applicant indicated that there is about a month of work that needs to be completed (kitchen) and they will be working on it in May/June of 2019 and will still need to live in the RV while completing the work.

RECOMMENDATION: Staff recommends approval 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.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT REVIEW / CU
17-30: To review a multi-family residence used as a Vacation Home Rental in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Daniel Johnson, Highmark Properties, LLC

APPLICANT ADDRESS: 136 Heritage Drive, Yankton, SD 57078

LOCAL CONTACT: Jeannie Marr

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

SITE LOCATION: 24236 Highway 385; near the intersection of Highway 385 and Highway 244.

SIZE: 1.77 acres

TAX ID: 4410

EXISTING LAND USE: Residential

ZONING REFERENCE: §§ 205 and 510

CURRENT ZONING: General Agriculture District

SURROUNDING ZONING:
- North: General Agriculture District
- South: General Agriculture District
- East: General Agriculture District
- West: General Agriculture District

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: Private

REPORT BY: Brittney Molitor

Page 1 of 11
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending 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 NFS lands with one (1) condition.

II. GENERAL DESCRIPTION
   A. The applicant, Daniel Johnson, applied for a Conditional Use Permit to allow an existing four (4) bedroom multi-family residence to be used as a Vacation Home Rental on the subject property.

III. EXISTING CONDITIONS
   A. 1.77 acres.
   B. General Agriculture District.
   C. Access:
      1. Legal access to the property is off a ten (10) foot Private Roadway Easement which runs along the length of Lot B and Lot C.
      2. The applicant has legal access into the subject property (Lot A), off the above-mentioned Private Roadway Easement per Easement – Book 7, Pages 6964-6965.
      3. By way of the above-mentioned Easement, a ten (10) foot wide driveway was constructed and currently exists on the property.
   D. Lot contains:
            i. Operating Permit – COOP16-0638.
   E. Special Flood Hazard Area, including floodway, exists on the subject property.
IV. PROPERTY HISTORY

A. July 7, 2017 – Applicant applied for Conditional Use Permit / CU 17-30 to allow a Vacation Home Rental (VHR) on the subject property.
   1. A copy of the South Dakota Department of Health Lodging License Application for a Vacation Home Rental was submitted with the Conditional Use Permit application.

B. July 12, 2017 – Staff received an email from the United States Forest Service in regards to utilizing an alternate route, through National Forest Service lands, in the event of an emergency (see attached).

C. August 9, 2017 – Staff performed a site visit to the subject property and spoke with the applicant’s son-in-law.
   1. The single-family residence contains four (4) bedrooms and each bedroom is equipped with a smoke detector.
   2. The applicant has designated sufficient parking spaces on the subject property to meet the off-street parking requirements, per Section 310-A-9-gg of the Pennington County Zoning Ordinance.
   3. The existing on-site wastewater treatment system was approved by the South Dakota Department of Environment and Natural
Resources (SD DENR) on July 20, 2017, which allows for a maximum overnight occupancy of eight (8) people.

a. On the Site Plan, the applicant has indicated six (6) adults on the lower level and six (6) adults and two (2) children on the main floor.

b. This is over the allowable maximum of eight (8) approved by SD DENR for both units.

4. During the site visit, Staff observed two “dwelling units”. The main floor contained a full kitchen and the lower level had cabinets and spaces for appliances that would serve as a full kitchen.

i. A multi-family dwelling unit required a Conditional Use Permit (CUP) in a General Agriculture District.
D. August 14, 2017 – Applicant submitted a Conditional Use Permit application for a multi-family dwelling.

E. October 23, 2017 – The Pennington County Planning Commission approved Conditional Use Permit / CU 17-38 to allow for a multi-family dwelling on the subject property with the following nine (9) conditions:
1. That a minimum of four (4) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) feet by 18 feet, surfaced with gravel, concrete or asphalt, and maintained in a dust-free manner;
2. That the property be kept free of debris and junk vehicles;
3. That the residence and the addresses of each unit be properly posted so they are visible from Highway 385 in accordance with Pennington County Ordinance #20;
4. That smoke alarms and fire extinguishers be installed and/or properly maintained in working order in each unit;
5. That a Floodplain Development Permit is obtained prior to any disturbance in the Special Flood Hazard Area;
6. That the onsite wastewater treatment system is approved by the South Dakota Department of Environment and Natural Resources for a multi-family dwelling within 30 days of approval of this request;
7. That a Building Permit be obtained for any structures over 144 square feet or placed on a permanent foundation on the property, which requires a site plan to be reviewed and approved by the Planning Director;

8. That the Conditions of Approval for Conditional Use Permit / CU 17-30 be followed at all times; and,

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

Two separate driveways to upper and lower level.
Addresses for each unit must be posted at the split of the driveway.
Outside of multi-family dwelling unit.
F. On October 26, 2017 – The South Dakota Department of Environment and Natural Resources approved the onsite wastewater treatment system for a four bedroom multi-family dwelling that will allow up to eight (8) people total for both units.

G. The agent, Jeannie Marr, is designated as the Local Contact for the VHR.
   1. The applicant’s primary residence is on the eastern side of South Dakota; however, he has a local contact, Charles Johnson, who will reside within 50 driving miles of the VHR during the months of operation.

H. According to the Pennington County Zoning Ordinance, a Vacation Home Rental is defined “as any dwelling unit that is rented for pay or other consideration, leased, or furnished in its entirety to the public on a daily or weekly basis for more than 14 days in a calendar year and is not occupied by an owner or manager during the time of rental.”

I. At the time of this Staff Report writing, staff has not received any complaints regarding the proposed use.

J. On November 13, 2017, the Planning Commission approved Conditional Use Permit / CU 17-30 with the following eighteen (18) conditions:
   1. That the maximum overnight occupancy, based on SD DENR approval, be limited to eight (8) people (total includes both units) and the maximum daytime occupancy be limited to sixteen (16) people (total includes both units), per Pennington County Zoning Ordinance Section 319-F-13;
   2. That the multi-family dwelling is rented as one Vacation Home Rental to one family at a time and is not occupied by the property owner at the time of rental, and if both units are to be utilized as separate Vacation Home Rentals, an additional Conditional Use Permit is obtained so each separate unit has a Conditional Use Permit for a Vacation Home Rental;
   3. That the applicant provide a cell phone booster for the Vacation Home Rental to ensure that adequate cell phone service is available, in case of an emergency;
   4. That if an addition is constructed and/or the on-site wastewater treatment system is upgraded in the future, this Conditional Use Permit and Conditional Use Permit / CU 17-38 be reviewed so that the maximum occupancy may be adjusted accordingly, which will require approval from SD DENR;
   5. That all necessary permits are obtained prior to any additions to the structure or upgrades/alterations to the on-site wastewater treatment system;
   6. That the applicant continually maintain current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these licenses be provided to the Planning Department upon request;
7. That the applicant continually maintain an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;

8. That a minimum of four (4) off-street parking spaces continue to be provided on-site, per Pennington County Zoning Ordinance Section 310-A-9-gg, with each measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;

9. That an interior informational sign continue to be posted in accordance with the requirements of Pennington County Zoning Ordinance Section 319-G, with 9-1-1 and (605) 394-4139 listed as contacts for Fire Department and Sheriff’s Department, during operation of the Vacation Home Rental. The interior informational sign must also contain a color map illustrating the Special Flood Hazard Area, as determined by FEMA;

10. That the lot address be posted for each unit on the multi-family residence at all times, at the split in the driveway, and so that it is clearly visible from Highway 385, in accordance with Pennington County’s Ordinance #20;

11. That the applicant ensure the Vacation Home Rental is continually operated in accordance with the requirements of Pennington County Zoning Ordinance Section 319-F (Performance Standards) at all times;

12. That if the person designated as the Local Contact is ever changed from Charles Johnson, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices, provided by the Planning Department, sent by First Class Mail;

13. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;

14. That an approved Sign Permit be obtained prior to the placement of any on premise sign(s);

15. That an approved Floodplain Development Permit be obtained prior to any disturbance within the boundaries of either the Floodway or Special Flood Hazard Area located on the subject property;

16. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
Agenda Item #7
Daniel Johnson, Highmark Properties, LLC; Charles Johnson – Agent
February 11, 2019

17. That the applicant signs the Statement of Understanding at the Planning Office within ten (10) business days of approval of Conditional Use Permit / CU 17-30; and,

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

K. On September 24, 2018, the applicant submitted another request for a Vacation Home Rental for the other dwelling unit in the structure (CU 18-38).
   1. On October 2, 2018, Staff received comments from the United States Forest Service (USFS) on that request (CU 18-38) stating that there is no FLPMA Private Road Easement in place across National Forest System lands and, therefore, does not have legal access to the subject property.
   2. The applicant has been working with the United States Forest Service to obtain access to the subject property.

L. On January 7, 2019, Staff contacted the applicant regarding the status of the FLPMA Private Road Easement. And the following was communicated:
   1. “They have all the information from me that they requested and I have paid the 2019 fees but the final approval is pending their processing.”

V. UPDATE FOR FEBRAURY 11, 2019
   A. Due to the government shutdown and the uncertainty of the process time of the FLPMA Private Road Easement, Staff will be recommending to continue this request indefinitely until such time the Easement request can be processed.

   B. The applicant did pay a $100 continuation fee as required in § 511(X) of the Pennington County Zoning Ordinance.

   C. February 5, 2019 – Staff spoke to the USFS regarding the FLPMA Private Road Easement. Staff from the USFS indicated that the approval will not happen before early 2020.
      1. The applicant does not have legal access to this property and can no longer operate a Vacation Home Rental at this location.
      2. A letter from Staff will be sent to the owner and local contact indicating that the Vacation Home Rental cannot be operated at this time.
RECOMMENDATION: Staff is recommending 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 NFS 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.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT REVIEW / CU 17-49: To review two accessory 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.

APPLICANT: Carol Marso

NEW OWNERS: Don and Debra Williamson

NEW OWNER'S ADDRESS: 23489 Mystic Road, Hill City, SD 57745

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

SITE LOCATION: North of the intersection of Deerfield Road and Mystic Road.

SIZE: 6.66 acres

TAX ID: 68605

EXISTING LAND USE: Sheds

ZONING REFERENCE: § 207 and 510

CURRENT ZONING: Low Density Residential District

SURROUNDING ZONING: North Low Density Residential District
South General Agriculture District
Low Density Residential District
East General Agriculture District
West General Agriculture District

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: None
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 17-49 with six (6) conditions.

II. GENERAL DESCRIPTION
   A. In 2017, the applicant, Carol Marso, requested a Conditional Use Permit to allow two (2) existing sheds to remain on a lot without a principle structure.

III. EXISTING CONDITIONS
   A. 6.66 acres.
   B. Zoned Low Density Residential District, minimum three (3) acre lot size.
   C. Access off of Mystic Road via an existing approach.
   D. Lot contains:
      1. 14’ x 13’ shed – built in 1989, per DOE records.
      2. 14’ x 12’ shed – built in 1936, per DOE records.

Existing Sheds

IV. ANALYSIS
   A. December 5, 2017 – Board of Commissioners approved Minor Plat / PL 17-42 to create Lots 1, 2, and 3 of Redfern Valley Subdivision with the following eleven (11) conditions:
      1. That prior to filing the Plat with the Register of Deeds, proposed Lots 1-3 of Redfern Valley Subdivision obtain approved Lot Size Variances or be Rezoned appropriately;
2. That prior to filing the Plat with the Register of Deeds, an Operating Permit be obtained for the existing on-site wastewater treatment system on proposed Lot 1;

3. That the single-family residence on proposed Lot 1 be assigned an address by the County Addressing Coordinator and the address be posted in accordance with Pennington County’s Ordinance #20;

4. That at the time of new Plat submittal, eight (8) foot 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;

5. That upon filing the Plat with the Register of Deeds, the applicant apply for Conditional Use Permits on proposed Lot 2 for accessory structures prior to a principle structure;

6. That at the time of new Plat submittal, the plat meets all the requirements of Section 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;

7. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;

8. That address be properly posted on the existing residences and any future residence(s) constructed on the proposed lots and at the approaches so they are visible from Mystic Road, in accordance with Pennington County’s Ordinance #20;

9. That the applicant ensures that all natural drainage ways are maintained and are not blocked;

10. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204-J of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit; and,

11. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Minor Plat / PL 17-42, which is available at the Planning Office.

B. December 5, 2017 – Board of Commissioners approved the Second Reading of Rezone / RZ 17-09 and Comprehensive Plan Amendment / CA 17-08 to rezone the subject property from General Agriculture District to Low Density Residential District.

C. February 12, 2018 – Planning Commission approved Conditional Use Permit / CU 17-49 with the following seven (7) conditions:

1. That all lot addresses 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 remains free of debris and junk vehicles;

5. That the accessory structures be used for personal use only and no commercial-type uses and not for living space;

6. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Conditional Use Permit / CU 17-49, which is available at the Planning Office; and,

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

D. February 26, 2018 – Plat filed with the Register of Deeds creating Lots 1, 2 and 3 of Redfern Valley Subdivision (Plat A201802532).

E. March 8, 2018 – The subject property was sold to the new owners, Don and Debra Williamson (Deed # 201803144).

RECOMMENDATION: Staff recommends approval 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.
GENERAL INFORMATION:

REQUEST:
CONSTRUCTION PERMIT REVIEW / CP 18-02: To review the rebuild 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.

APPLICANT:
Black Hills Energy

APPLICANT ADDRESS:
P.O. Box 1400, Rapid City, SD 57709

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

SITE LOCATION:
South Rapid City area to Custer / Pennington County Line.

SIZE:
>10 acres disturbance in Pennington County

TAX ID:
Various

EXISTING LAND USE:
Vacant

ZONING REFERENCE:
Section 507

CURRENT ZONING:
Limited Agriculture District
General Agriculture District
Planned Unit Development District

SURROUNDING ZONING:
North
General Agriculture District
South
General Agriculture District
Planned Unit Development District
East
General Agriculture District
West
General Agriculture District

PHYSICAL CHARACTERISTICS:
Flat / Rolling Prairie / Hills

UTILITIES:
Private
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Construction Permit / CP 18-02 with seven (7) conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Black Hills Power, requested a Construction Permit to rebuild an existing 230 kV transmission line. The rebuild consisted of approximately 81 miles of 230 kV transmission line from the South Rapid City area to the Nebraska State Line.

   B. Phase 1 consisted of the portion south of Rapid City to West Hill that was to begin on March 5, 2018 and to be completed by July 27, 2018. Phase 2 consists of the portion from West Hill to the State Line and was scheduled to begin August 13, 2018 and be completed by November 30, 2018.

   C. Access to the Project Area was via existing roads. Construction vehicles and equipment accessed individual transmission structure locations via overland travel or construction temporary access roads.

![Map of Project Location (I-5 in Pennington County)](image)

D. Work areas were established at each structure location to facilitate installation of structures and the safe operation of construction equipment. The size of the work area was driven by the need to lay down the poles and construction materials, install the necessary hardware, and frame the poles to full length. A typical work area was approximately 10,000 square feet (100 feet long by 100 feet wide). Temporary and permanent disturbances occurred within the work areas. Permanent disturbance resulted from auguring holes and installing poles. The area of permanent disturbance associated with each multi-pole wood structure was approximately 9.0 square feet. Construction equipment, worker vehicles and material laydown
resulted in temporary disturbance within each work area. Generally, temporary disturbance included the compaction of soils and crushing of vegetation.

E. Pulling and tensioning sites, 100 feet wide by 600 feet long, was established approximately every two (2) miles along tangent portions of the transmission line. Construction equipment and worker vehicles caused temporary disturbance in these areas.

F. Angle and dead-end work areas were established at large angle structures (>45°) and dead-end structures. These areas were approximately 100 feet wide by 400 feet long. Construction equipment and worker vehicles caused temporary disturbance in these areas.

G. Work areas and laydown yards were kept in an orderly condition throughout the duration of the construction period. All refuse and waste produced during construction was collected and disposed of in a designated disposal site. Refuse and waste included all discarded materials, trash, garbage, packing material, containers, waste petroleum products, broken equipment, used parts, and construction materials.

H. Diesel fuel, gasoline, oil, lubricants, adhesives, solvent, and sealants were used during the construction of the transmission line. Bulk quantities (less than 1320 gal.) of these materials were stored in designated construction yards/staging areas. Vehicle fueling and maintenance activities occurred in staging areas and approved areas away from drainage channels or sensitive habitats. All construction vehicles were monitored for leaks and receive regular off-site preventive maintenance to reduce the chance of leakage. No oils or fuels were disposed of within the Project area, and no open burning of construction trash was permitted within the area.

III. EXISTING CONDITIONS

A. The Project area was generally located in south-west South Dakota in Pennington, Custer, and Fall River counties. The Project area was comprised predominantly by private, agricultural lands and grasslands with some Black Hills foot slopes.

B. Portions of the following water resources were located in the Project area: Spring Creek, Grace Coolidge Creek, French Creek, Beaver Creek, Fall River, Cheyenne River, Horsehead Creek, and numerous small ephemeral or intermittent streams as well as Angostura Reservoir.

C. Incorporated towns and cities in the Project study area include Rapid City, Hermosa, Fairburn, Buffalo Gap, and Hot Springs.

IV. ANALYSIS

A. January 25, 2018 – A Construction Permit for this Project was received by Staff via email.
B. January 25, 2018 – Coverage was granted under the SWD General Permit for Storm Water Discharges Associated with Construction Activities (SDR10444).

C. The sequence for construction was generally as follows:
   1. Centerline was surveyed and staked;
   2. Right of Way cleared of trees (if required);
   3. Existing structures and transmission lines were removed;
   4. Work areas cleared as necessary;
   5. Laydown yards were established and material distributed along the centerline; (No laydown yards in Pennington County)
   6. Poles were assembled, holes were excavated and then poles were installed;
   7. Conductors and ground wires were strung and tensioned; and,
   8. Work areas were cleaned up and restored.

D. March 6, 2018 – The Pennington County Board of Commissioners approved Construction Permit / CP 18-02 with the following eight (8) 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;
   7. That the applicant sign a Statement of Understanding within ten (10) days of Permit approval; and,
   8. 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.

E. January 29, 2019 – Staff spoke with the applicant who stated:
   1. That construction for the Pennington County Phases was completed.
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Black Hills Energy  
February 11, 2019

2. That they would like to request a one (1) year extension to complete all stabilization and remediation in the Pennington County portion.

F. January 30, 2019 – Staff performed a site visit and found the following:
   1. Utility poles and transmission lines were installed.
   2. Final stabilization and re-vegetation needed to take place.
      a. Seeding was not established.

RECOMMENDATION: Staff recommends approval 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.
GENERAL INFORMATION:

REQUEST:  

CONSTRUCTION PERMIT / CP 19-01: 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.

APPLICANT/CONTRACTOR: Site Work Specialists

APPLICANT ADDRESS: P.O. Box 7504, Rapid City, SD 57709

LANDOWNER: Davis Engineering

OWNER ADDRESS: 1060 Kings Road, Rapid City, SD 57702

LANDOWNER: Murphy Brothers Partnership, LLC

OWNER ADDRESS: 5666 E. Highway 44, Rapid City, SD 57703

LEGAL DESCRIPTION: 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.

SITE LOCATION: Remington Road and Springfield Road in Murphy Ranch Estates.

SIZE: 6 acres

TAX ID: 65469

EXISTING LAND USE: Residential / Vacant

ZONING REFERENCE: Section 507

CURRENT ZONING: Suburban Residential District
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Construction Permit / CP 19-01 with fifteen (15) conditions.

II. GENERAL DESCRIPTION
   A. January 22, 2019, the applicant, Site Work Specialists, applied for a Construction Permit to install public and private utilities to include water, sanitary sewer, storm sewer, common utility trench (power, communication, and gas) and includes installation of concrete curb, gutter, and sidewalk; to also include asphalt pavement.
III. EXISTING CONDITIONS
   A. Zoned Suburban Residential District.
   B. Lot size 48.08 acres.
   C. Vacant.
   D. Murphy Ranch Road District.
   E. No Floodplain or Special Hazard Area.

IV. REQUEST FOR COMMENT
   A. County Highway Department.
      1. The erosion control must be in place before construction starts and
         maintained throughout construction until restoration is complete.
         As-buils need to be furnished to the Murphy Ranch Road Districts
         instead of Highway Department since they have jurisdiction.
   B. County Fire Administrator.
      1. No comments received.
   C. County Environmental Supervisor.
      1. The subject property is located within Pennington County’s
         regulated Municipal Separate Storm Sewer System (MS4) National
         Pollutant Discharge Elimination System (NPDES) Permit area. The
         applicant must meet the requirements set forth in the Storm Water
         Management Plan as well as the Storm Water Quality Manual.
      2. That the requirements, guidelines, and criteria for storm water and
         erosion control in the Pennington County Storm Water Manual shall
         be followed during construction.
      3. That the owner must inspect the site at least once every 7 days or
         once every 14 calendar days and within 24 hours of precipitation that
         exceeds 0.25 inches or snowmelt that generates runoff. A properly
         maintained rain gauge must be kept at the site. Inspection reports
         must be submitted to the Planning Director every month during
         construction.
      4. The site must be stabilized and sediment contained such that
         sediment does not reach or fill drainage areas. If sediment is
         deposited in drainage areas from the construction activity, the owner
         will be responsible for the removal immediately after being notified.
      5. 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.
      6. There is no Special Flood Hazard Area on the subject property.
      7. The site shall be re-vegetated as required in § 507-A(5)(c) of the
         PCZO.
D. County Ordinance Enforcement.
   1. A Stop Work Order was issued on January 28, 2019. This Stop Work Order must be lifted by the Planning Director before work can commence again.

E. County Natural Resource Director.
   1. No objections.

F. RC Community Planning
   1. The City has approved a Development Engineering Plan application for Phase 6 of Murphy Ranch which included this property. In addition, the associated construction plans were approved by the Public Works Department on 12/20/18. The City does not object to the issuance of a Construction Permit for this phase of the Murphy Ranch Subdivision.

G. RC Public Works (1-mile OSWTS).
   1. Construction plans for this project were approved by Public Works on December 20, 2018. A preconstruction conference was held on January 7, 2019. The conference agenda included an item discussing Pennington County permits for all work outside of City limits. Public Works does not object to issuance of this permit.

H. RC Engineering (3-mile Platting).
   1. No comments received.

I. Rapid Valley Sanitary District.
   1. No comments received.

V. ANALYSIS
   A. January 22, 2019 – The applicant applied for Construction Permit / CP 19-01.
   B. January 28, 2019 – Staff performed a site visit and found:
      1. Construction had already begun without the approval of a Construction Permit.
C. January 28, 2019 – Staff contacted the applicant who stated:
   1. They did not have a Construction Permit.
   2. The workers on the site would be pulled off site and work would stop.
D. January 28, 2019 – A Stop Work Order was signed by the Planning Director.
   1. A violation was opened for dirt work without a Construction Permit (COEV19-0013).
E. January 29, 2019 – The County Ordinance Enforcement Officer performed a site visit to deliver a Stop Work Order.
   1. There was no work activity at the site and the time, therefore, the Ordinance Officer was unable to deliver a Stop Work Order.
F. January 30, 2019 – The County Ordinance Enforcement Officer performed a site visit and found what appeared to be people getting ready to begin work.
   1. Staff delivered a Stop Work Order to the Site Work Specialist office.
   2. Staff was contacted by the applicants, who stated that they were just doing work to stabilize the site.
G. February 1, 2019 – Staff performed a site visit and found:
   1. No work was being done.
   2. Wattles had been placed on the downslope perimeter of the construction site.
   3. A silt fence has yet to be implemented.
4. Piping and other construction materials had been moved onto the site.

H. A Notice of Intent (NOI) for a SWD General Permit for Storm Water Discharges has been submitted to South Dakota Department of Environment and Natural Resources (December 18, 2018).

I. An Air Quality Permit was approved approved by the City of Rapid City (CIBP19-0186) February 1, 2019.

J. The property is located within Pennington County’s MS4.
   1. Inspection reports will need to be done and filed with the Planning Department.
      a. Staff will address this in the Conditions of Approval.

K. Since Construction began without an approved Construction Permit, the applicant/Landowner will need to pay for a penalty fee in accordance with § 511(W)(2) of the Pennington Counting Zoning Ordinance prior to the Stop Work Order being lifted.
   1. Staff will make this a Condition of Approval.

L. The applicant’s must implement (or amend their plan) other erosion control measures as submitted to the Planning department prior to the Stop Work Order being lifted.
   1. Any amendment needs to show that it is effective and needs to be submitted to and approved by the Planning Department.
      a. Staff will make this a Condition of Approval.

M. 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.
RECOMMENDATION: Staff recommends the approval 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;
Agenda Item #10
Site Work Specialists, Inc.
February 11, 2019

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.
1. **Air Testing**

The test shall be performed in accordance with the procedures outlined in the text. This includes:
- Proper installation of test equipment
- Correct application of test materials
- Quality control of test results

2. **Table 1-1**

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<th>Description</th>
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<td>Test Type</td>
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3. **Typical Concrete Sidewalk Expansion Joint Detail**

4. **Typical Concrete Sidewalk Saw-Cut Joint Detail**

5. **Typical Concrete Sidewalk Detail**

6. **Typical Concrete Handicap Ramp Detail**

7. **Typical Utility Trench Below Concrete/Asphalt Surface Detail**

8. **Typical Sewer Connection Detail**

9. **Typical Water Connection Detail**

10. **Typical Testing of Sewer Lines Procedure**

**Note:**

All pavement details shall be verified with geotechnical reports prior to installation. Any discrepancies between the pavement details and geotechnical shall be reported to the civil engineer immediately.
1. **PROJECT DESCRIPTION:** The project consists of developing 5.02 acres of land into 22 residential building sites located in Rapid Valley, Pennington County, SD.

2. **EXISTING SITE CONDITIONS:** This site has been used for agricultural purposes with irrigation. It is part of an 80-acre tract that is now being developed into residential lots.

3. **ADJACENT AREAS:** The site is located on the south side of Longview Road, the land to the north of this site is residential housing. The land to the south of this site is agricultural land that is still used for grazing purposes. The land to the east of this site is a railroad.

4. **SOILS:** The soils on this site are Type B Sandy Loam and Medium Clays.

5. **EROSION AND SEDIMENT CONTROL MEASURES:** The site will use all dewatering and sediment control practices listed on the site plan. All erosion and sediment control installations shall meet all City of Rapid City, Standard Details and Specifications.

6. **CONSTRUCTION SCHEDULE:** The site grading will begin November 15, 2018. The sewer and water installations will follow immediately after December 5, 2018. The subgrade grading will follow on January 15, 2019. The curb and gutter will follow on February 15, 2019. The final grading will follow on March 15, 2019.

7. **SPILL CONTROL PRINCIPLES:** Chemical and Petroleum Product spills of any kind or hazardous material shall be reported to the appropriate state or local government agency as soon after the spill as possible. All spills shall be cleaned up immediately after discovery.

8. **SPILL PREVENTION:** Petroleum Products: Spills at construction equipment shall be monitored for leaks and remove regular preventative measures. Equipment shall be stored in a secure area.

   - **Dewatering:** If water from temporary dewatering is drained to a point where it will flow to a point where it may be collected, it shall be conveyed to a point where it will not enter the City's storm water system. Contact the City's Engineering Department for information.

9. **SOIL SURFACE STABILIZATION PRINCIPLES:** Surface stabilization shall be applied within 24 hours of all disturbed areas that may be in four feet of the grading area. Sediment shall be applied within 24 hours of the grading area. Surface stabilization shall be applied to all disturbed areas and test areas.

10. **PERMANENT STABILIZATION METHODS:** Permanent stabilization methods will be applied to the disturbed areas and shall be applied within 24 hours of the grading area. Sediment shall be applied to all disturbed areas and test areas.

11. **STORM WATER MANAGEMENT CONSIDERATIONS:** Stormwater will flow into the street and then to the constructed storm sewer or when it flow through to the storm sewer stormwater will be conveyed to the stormwater treatment area or downstream location for construction to be completed construction.

12. **MAINTENANCE:** Inspection and sediment control measures will be scheduled bi-weekly or more often as necessary. All disturbed areas shall be maintained in good working order. Inspection and maintenance procedures shall continue until all disturbed areas are in good working order.

13. **SUMMARY:** The City of Rapid Valley Erosion Control Plan is intended to ensure that all development activities will be conducted in a manner that will protect public health and safety and the environment. The plan includes provisions for erosion and sediment control, stormwater management, and general site development. The plan is designed to comply with all applicable regulations and standards.

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**GENERAL NOTES:**

- All regularly used permanent materials are listed on the site plan.
- All excavation is limited to the areas shown on the site plan. All excavation is limited to the areas shown on the site plan.
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GENERAL INFORMATION:

REQUEST: MINOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 17-12: To review an existing Planned Unit Development to allow a gunsmithing business on the subject property in accordance with Section 213 of the Pennington County Zoning Ordinance.

APPLICANT/AGENT: Jeremy Cummings

APPLICANT ADDRESS: 6431 Zamia Street, Rapid City, SD 57703

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

SITE LOCATION: 6431 Zamia Street.

TAX ID: 61125

SIZE: 0.57 acre

EXISTING LAND USE: Residential

ZONING REFERENCE: Section 213

CURRENT ZONING: Planned Unit Development District

SURROUNDING ZONING: North
South
East
West

Planned Unit Development District
Planned Unit Development District
Planned Unit Development District
Suburban Residential District

PHYSICAL CHARACTERISTICS: Flat / Prairie

UTILITIES: Public

REPORT BY: P. J. Conover
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval the extension of Minor Planned Unit Development Amendment / PU 17-12 with twelve (12) conditions.

II. GENERAL DESCRIPTION
   A. The subject property is located within Planned Unit Development / PU 05-06. Therefore, the applicant shall also comply with the Conditions of Approval for PU 05-06.
   B. November 13, 2017, the applicant applied for Minor Planned Unit Development Amendment / PU 17-12 to allow for a gunsmithing business on Lot 1, Block 3 of Prairiedale Subdivision.
   C. January 22, 2018, the Planning Commission approved PU 17-12 with the following seventeen (17) 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 gunsmithing and service business shall be operated completely within the existing attached garage;
      4. That no business sign be posted on the property;
      5. That no on-premise retail sales be allowed and customers be restricted from pick and/or drop off at the subject property;
      6. That the home occupation, including all associated storage, be conducted entirely indoors;
      7. That the applicant complies with all applicable local, state, and federal laws and a current copy of the applicant’s Federal Firearms License from the U.S. Bureau of ATF be kept on file with the Planning Department;
      8. That the address 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;
      9. That the applicant maintains an Excise Sales Tax License as required by the South Dakota Department of Revenue;
     10. That the residential characteristics of the property be maintained and remains free of junk and debris;
     11. That the applicant notifies the Rapid Valley Volunteer Fire Department prior to operation of the business and a copy of the letter shall also be provided to the Planning Department to place in the file;
     12. That measures are 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;
     13. That the applicant takes measures to prevent the disposal of materials into the on-site wastewater treatment system;
14. That the Minor Planned Unit Development Amendment shall be revoked upon sale or transfer of the subject property;
15. That business operations shall not commence on the subject property until staff have received proof of safe and security features for the subject property;
16. This Minor Planned Unit Development Amendment is not valid until the Statement of Understanding, which is available at the Planning Office, has been signed by the applicant; and,
17. That this Minor Planned Unit Development Amendment be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

D. January 07, 2019 – The applicant informed Planning Staff that he needed to update his Tax License with the South Dakota Department of Revenue (SDDOR).
E. January 08, 2019 – Staff spoke to the applicant, via email, and the applicant agreed to an extension of the hearing for PU 17-12, to allow him time to obtain the necessary License from SDDOR.

1. Since that time, Staff has worked with the applicant and the ATF and have confirmed that Mr. Cummings now has the following:
   a. Valid Federal Firearms License (FFL)
      i. License Number: 3-46-01528
      ii. Expires: 03.20.2021
   b. Current South Dakota Department of Revenue Sales Tax License.
      i. Issued: 01.14.2019
      ii. License Number: 1034-2779-ST

III. ANALYSIS
A. Staff has received no complaints relative to PU 17-12 from citizens or the ATF.
B. The applicant appears to be in compliance with all required regulations.
RECOMMENDATION: Staff recommends approval of the extension of Minor Planned Unit Development Amendment Review / PUR 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.
STAFF REPORT

GENERAL INFORMATION:

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

APPLICANT: Edward Hix

APPLICANT ADDRESS: 229 W. 28th Avenue, Torrington, WY 82240

AGENT: Faith Lewis

AGENT ADDRESS: P.O. Box 97, Custer, SD 57730

SURVEYOR / ENGINEER: Andersen Engineers

SURVEYOR ADDRESS: P.O. Box 446, Edgemont, SD 57735

LEGAL DESCRIPTION: EXISTING LEGAL: PT of HES #572 – Tracts A and B, HES #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 Govt. Lot 4 of Section 1, T1S, R2E, BHM, Pennington County, South Dakota.

SITE LOCATION: 23526 Ditch Creek Road; south of the intersection of Deerfield Road and Ditch Creek Road.

SIZE: 6.68 acres

TAX ID: 12609

EXISTING LAND USE: Vacant

SUBDIVISION REGULATIONS REFERENCE: § 400.3 and 700.1

CURRENT ZONING: General Agriculture District
SURROUNDING ZONING:
  North                        General Agriculture District
  South                        General Agriculture District
  East                         General Agriculture District
  West                         General Agriculture District

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES:                   Private

PREPARED BY:                 P.J. Conover

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Subdivision Regulations Variance / SV 19-01 and Minor Plat / MPL 19-02.

II. GENERAL DESCRIPTION
   A. The applicant, Edward Hix, has submitted Minor Plat / MPL 19-02 and Subdivision Regulations Variance / SV 19-01 to create Hix Tract. The remaining balance will be unplatted.

III. EXISTING CONDITIONS
   A. Current Zoning: General Agriculture District.
      1. Forty (40) acre minimum lot size.
   B. Future Land Use Zoning: Planned Unit Development Sensitive.
   C. 140.61 acres.
   D. Access off of Ditch Creek Road.
   E. Property contains:
         a. Constructed in 1950 per Department of Equalization (DOE) records.
      2. Shed (circled in red).
         a. Appears to be under 144-square feet and not on a permanent foundation.
         b. Built prior to 1982.
         c. Located within a Special Flood Hazard Area (SFHA)
         d. Considered a Pre-FIRM building.
            i. Pre-FIRM buildings are constructed or substantially
improved prior to 12/31/1974 or the effective date of an initial Flood Insurance Rate Map (FIRM).

ii. Pennington County’s initial FIRMbs were published on February 03, 1982.

3. Operating Permit / COOP14-0213.

4. SFHA – Zone A.
   a. Flood Insurance Rate Map Number: 46103C1100H.
   b. Effective Date: 06.03.2013

IV. PROPOSED TRACT
   A. Hix Tract.
      1. 6.68 acres ±.
      2. Contains a Shed.
   B. Shed – Mentioned in Section III(E)(2) above.
   C. Proposed access off of Ditch Creek Road.
   D. Special Flood Hazard Area – Zone A.
      1. Flood Insurance Rate Map Number: 46103C1100.
      2. Effective Date: 06.03.2013.
V. VARIANCE / VA 19-01
A. The applicant has applied for VA 19-01 due to the requested 6.68 acre Tract size.
B. A minimum lot size of forty (40) acres is required in a General Agriculture Zoning District.
C. VA 19-01 is scheduled to be heard by the Board of Adjustment on February 19, 2019.
   1. A Condition of Approval will be added to this Staff Report which will not allow the recording of the new plat until the proposed tract is in conformance with Pennington County Zoning Ordinances.

VI. SUBDIVISION REGULATIONS VARIANCE / SV 19-01
A. The applicant has requested to waive the following Subdivision Regulations:
   1. The submittal of engineered road construction plans and road improvements; and,
   2. The submittal of information for percolation tests and a soil profile hole review.
B. Staff does not object to the two above-mentioned requests.
C. Future subdivision of the parent parcel or proposed tract may require the submittal of engineered road construction plans and road improvements.

VII. REQUEST FOR COMMENT FOR MPL 19-02 AND SV 19-01
A. County Highway Department
   1. An approach permit will be required.
B. County Environmental Planning Supervisor
   1. There is Special Flood Hazard Area on the subject property. If any disturbance occurs in the SFHA, at a minimum, a Floodplain Development Permit is required.
C. County Environmental Planner
   1. There is currently a small cabin on the lot [parent parcel] with a valid Operating Permit (COOP14-0213). If a septic system is installed on either of the two new lots [proposed Hix Tract and parent parcel] all rules of Pennington County Zoning Ordinance 204-J must be followed including conduction PERC tests and investigating a soil Profile hole.
D. County Ordinance Enforcement Officer
   1. Ordinance Enforcement has no objections.
E. County Addressing Coordinator
   1. No addressing concerns at this time. All current and future addresses must be posted in accordance with Pennington County Ordinance #20.
F. Register of Deeds
   1. Plat heading is acceptable.
   2. Certificates appear to be the required certificates per state statute.
G. Department of Equalization
   1. This plat looks ok for me to sign...

H. County Fire Administrator – Hill City Fire Department
   1. Hill City Fire has no comments.

I. Black Hills Electric Cooperative
   1. Black Hills Electric Cooperative would like to request that the plat show the current powerline crossing the property.

VIII. ANALYSIS
A. Black Hills Electric Cooperative has requested that the plat show the current powerline crossing proposed Hix Tract.
B. Andersen Engineers has made note of two separate types of easements for the proposed plat.
   1. Ten (10) foot wide Utility Easement on the interior side of all side and rear lot lines; and
   2. Eight (8) foot wide Minor Drainage Easement on the interior sides of all lot lines.
      a. The Pennington County Subdivision Regulations requires an eight (8) foot wide utility and minor drainage easement … on the interior side of all lot lines…;
      b. The Notes on the plat for the two (2) above-mentioned easements meet and exceed the County’s requirements.
C. Staff has not identified any other concerns, at this time, that would inhibit approval of MPL 19-02 or SV 19-01.

RECOMMENDATION: Staff recommends 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.

RECOMMENDATION: Staff recommends 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;
Agenda Item # 12  
Edward Hix; Faith Lewis - Agent  
February 11, 2019

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.
PLAT OF HIX TRACT
(FORMERLY A PORTION OF TRACT A OF H.E.S. 572)
LOCATED IN GOVT. LOT 4 OF SECTION 1, T1S, R2E, BHM, PENNINGTON
COUNTY, SOUTH DAKOTA

WATER PROTECTION STATEMENT
Pursuant to SDCC 11-9-6.1 and 11-9-5.2, the developer of the property described herein shall be responsible for protecting any water body of the state, including groundwater, located adjacent to or within such delineated area from pollution from sewage from such subdivision and all pollution of such property, including to and adjacent to all regulations of the South Dakota Department of Environment and Natural Resources relating to the same.

CERTIFICATE OF OWNERSHIP
STATE OF PENNINGTON COUNTY
Edward E. Kloetje, as shown herein, is the owner of the tract herein described. He has filed the Plat of HIX Tract enclosed herein approved by the Platting Engineer for the purpose of recording the Plat of HIX Tract as shown herein.

CERTIFICATE OF SURVEYOR
STATE OF SOUTH DAKOTA
L. Dahl, Registered Land Surveyor, in the State of South Dakota, do hereby certify that the points and curves shown on the Plat of HIX Tract as shown herein are true points and curves as shown on the Plat of HIX Tract as drawn, and that the Plat of HIX Tract as shown herein has been surveyed as per the specifications of the platting engineer and is true to scale.

RESOLUTION BY GOVERNING BODY
STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON
The undersigned Board of Commissioners of said county do hereby approve the plat as shown and described.

Prepared by
ANDERSEN ENGINEERS
606 N. Main St.
Pennington, SD 57770
(605) 235-2215
(605) 235-2218

1 14 0 0

200 300 400 500

0 50 100 150 200 250 300

CERTIFICATE OF DIRECTOR OF ENGINEERING
I, Director of Engineering of Pennington County, do hereby certify that I have read the plat and that I have made a copy of the plat from the originals described.

Certificate Date:

Director of Engineering of Pennington County

CERTIFICATE OF COUNTY TREASURER
I, Treasurer of Pennington County, do hereby certify that the Plat of HIX Tract enclosed herein is true and correct and that the Plat of HIX Tract has been recorded and is a true and correct description of the Plat of HIX Tract as shown herein.

Certificate Date:

Treasurer of Pennington County

CERTIFICATE OF STREET AUTHORITY
The Plat of HIX Tract enclosed herein is true and correct and is in conformity with all ordinances and regulations of the City of Pennington as shown herein.

Certificate Date:

City Administrator of Pennington

Highway Authority of Pennington County

Prepared by
ANDERSEN ENGINEERS
606 N. Main St.
Pennington, SD 57770
(605) 235-2215
(605) 235-2218
STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONSTRUCTION PERMIT REVIEW / CP 18-12: To review a Construction Permit to excavate and level of a hillsode for a future residence in accordance with Sections 208 and 507 of the Pennington County Zoning Ordinance.

APPLICANT: Brad Nible / Carle Schauer

APPLICANT ADDRESS: 3517 School Drive, Rapid City, SD 57703

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

SITE LOCATION: School Drive; located west of the intersection of Jolly Lane and School Drive.

TAX ID: 68597

SIZE: 0.68 acre

EXISTING LAND USE: Vacant

ZONING REFERENCE: Sections 208 and 507

CURRENT ZONING: Suburban Residential District

SURROUNDING ZONING:
- North: Suburban Residential District
- South: Suburban Residential District
- East: Suburban Residential District
- West: Suburban Residential District

PHYSICAL CHARACTERISTICS: Hillside / sloping

UTILITIES: None / Rapid Valley Sanitary District

REPORT BY: Cody Sack
I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of the extension of Construction Permit / CP 18-12 with fourteen (14) conditions.

II. GENERAL DESCRIPTION
   A. The applicant, Bradley Nible, applied for a Construction Permit to bring into compliance an existing violation on the subject property to excavate and level a hillside for a future residence(s).

III. EXISTING CONDITIONS
   A. Zoned Suburban Residential District.
   B. 0.68 acre.
   C. Total area of disturbance – 11,813 square feet.
   D. Lot vacant of structures.
IV. ROAD DITCH ALONG SCHOOL DRIVE
   A. The road ditch was filled with sediment and caused the ditch to flatten and therefore water would pool in the lots on the south side of the road.
   B. The drainage improvements were completed to correct drainage problems within the road ditch along School Drive.
   C. Drainage improvements along School Drive were completed by County Highway in 2015.

V. Property History (November 2018 – December 2018)
   A. October 18, 2018 - County Ordinance Enforcement issued a violation (COVO18-0241).
      1. Disturbing more than 10,000 square feet of dirt without a Construction Permit.
   B. October 23, 2018 - The applicant, Bradley Nible, applied for a County Construction Permit.
      1. The applicant stated he did not believe that he needs a Construction Permit.
      2. The applicant stated in multiple emails to the Commission Office and the State’s Attorney’s Office that Staff was going by cubic feet not square feet (see attachments).
   C. October 24, 2018 - Staff performed a site visit and found the following:
      1. Significant land disturbance on the lot.
      2. The hillside on the property was being excavated out.
      3. An approach had been constructed (Approach permit 07/24/18-3).
         a. May be in violation of the Approach Permit.
         b. No erosion control practices
   D. November 3, 2018 - Staff drove by the property and found:
      1. The applicant was putting in his second approach.
         a. Applicant does have a Permit for two approaches, however, the Permit is contingent on the Final Platting of the property with the city of Rapid City
   E. November 5, 2018 - Staff was in contact with the applicant:
      1. The applicant contacted Staff because he wants to put a double-wide-mobile home on the property with apartments in the basement.
      2. No Building Permit has been submitted for the subject property.
      3. The applicant informed Staff that the dirt being excavated was being removed from the property by “Nielson” to another project off-site.
         a. Through various conversations with staff, the applicant has stated that he is selling the material and that the material is not for personal use.
Disturbance of hillside (11/5/18)

Retaining wall on property to the west (11/5/18)
Foundation Excavation Area (11/5/18)

Installed Approach (11/5/18)
F. November 8, 2018 - Staff mailed, by way of certified return receipt, a Stop Work Order for the property. One to Mr. Nible and one to Carl Schauer, the other landowner.
   1. The Stop Work order will be lifted when the site is stabilized and the engineered plans have been reviewed.

G. November 13, 2018 – Construction Permit / CP 18-12 was originally approved by the Planning Commission with the following twelve (12) conditions:
   1. That erosion control measures are implemented immediately and maintained until the site has been revegetated in accordance with § 507(A)(5)(c);
   2. That cut-and-fill slopes be designed and constructed to minimize erosion and design plans submitted to the Pennington County Drainage Engineer for review within 30 days;
   3. That the owner must inspect the site at least once every 7 days and within 24 hours of the end of a storm event that is one-half inch or greater (this includes rain or snow-melt runoff). Inspection reports must be submitted to the Planning Director every month during construction;
   4. 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;
   5. That all natural drainage ways and paths be continually maintained;
   6. 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;
   7. 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;
   8. 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;
   9. 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;
10. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c);
11. That the applicant sign the Statement of Understanding prior to the Stop Work Order being lifted; and,
12. That this Construction Permit be reviewed at the December 3, 2018, Planning Commission meeting to verify that erosion controls have been implemented and progress is being made on engineered design plans.

H. The applicant has submitted a Preliminary Subdivision Plan with Rapid City (City 3-mile Platting Jurisdiction) to divide the property into two (2) lots with eight (8) stipulations.
   1. Preliminary Subdivision Plan (PSP).
   2. According to correspondence with the City, the all stipulations set forth by the City have not been met.
   3. Also, according to correspondence with the City, a Final Plat has not been approved.
   4. The stipulations for the city are listed below.
      a. Upon submittal of a Development Engineering Plan application, construction plans for School Drive shall be submitted for review and approval showing the street constructed with a minimum 26 foot wide paved surface or a minimum 20 foot wide paved surface with no-parking signs if approved by the County, curb, gutter, and sidewalk or an Exception shall be obtained. If an Exception is obtained, a copy of the approved Exception Shall be submitted with the Development Engineering Plan application;
      b. Upon submittal of a Development Engineering Plan application, a drainage plan in compliance with the Infrastructure Design Criteria Manual shall be submitted for review and approval to address storm water detention if subdivision improvements are required;
      c. Prior to approval of the Development Engineering Plan application, engineering reports required for construction approval shall be accepted and agreements required for construction approval shall be executed. In addition, permits required for construction shall be approved and issued and construction plans shall be accepted in accordance with the Infrastructure Design Criteria Manual. All final engineering reports shall be signed and sealed by a Professional Engineer;
      d. Upon submittal of a Development Engineering Plan application, a cost estimate for any required subdivision improvements shall be submitted for review and approval;
Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements if applicable;

Prior to submittal of a Final Plat application, the plat document shall be revised to include an ownership certificate for Carl Schauer;

Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and,

Prior to the City’s acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

I. The applicant submitted an Approach Permit to County Highway with approval of the Permit contingent upon Final Platting of the property.
   1. The approaches have been constructed, however, Final Platting has not been approved.

J. Per § 507(A)(3)(b)(i) of the Pennington County Zoning Ordinance (PCZO), a Construction Permit is required prior to a person engaging in an excavation, clearing, or land disturbance greater than or equal to 10,000 square feet, unless the disturbance is exempt under § 507(A)(3)(b)(iv) of the PCZO.
   1. Per the Applicant’s Construction Permit:
      a. Excavating and/or grading is 110’ x 80’ = 8,800 square feet (Construction Permit Application).
      b. Stockpile is 25’ x 40’ = 1,000 square feet (Construction Permit Application).
   2. Per the Applicant:
      a. First approach is 48’ x 21’ = 1,008 (Per Applicant).
      b. Second approach is 48’ x 21’ = 1,008 (Per Applicant)
      c. Total square feet of disturbance is 8,800 + 1,000 + 1,008 + 1,008 = 11,816 square feet.
   3. At 11,816 square feet, the Applicant is over 10,000 square feet and requires a Construction Permit.

K. Staff has concerns about stabilization of the hillside behind where the future residence will be.
   1. There is an existing residence above the site.
   2. The applicant stated that placing a basement on the property will stabilize the hillside and soil, however, no plans have been submitted showing how the basement is going to stabilize the hillside.

L. November 13, 2018- Staff met with applicant who stated:
   1. He was going to have the stockpile of dirt moved offsite.
   2. He was going to stabilize the site for winter.
a. The stabilization would be through wattles and straw mats.

M. On November 13, 2018, the Planning Commission continued CP 18-12 to the November 26, 2018, Planning Commission meeting to allow the applicant time to stabilize the site.

N. November 19, 2018 - Staff performed a site visit and found:
   1. The stockpiles were removed.
   2. No erosion control measures had been implemented to date.

O. November 26, 2018 - Staff was in contact with the applicant who stated:
   1. He was going to contact Davis Engineering.
   2. The applicant was going to put straw mats down and gravel over the approaches.

P. November 26, 2018 – The Planning Commission approved the extension of CP 18-12 with twelve (12) conditions.
   1. During the Planning Commission meeting, the applicant stated, “The only thing that I have a problem with in the, I think twelve items in the back, is inspecting the property every seven days.”
   2. Staff agreed and the Planning Commission approved that a person designated by the property owner could also do the inspection reports.
   3. Below are the twelve (12) conditions from the meeting on November 26, 2018.
      a. That erosion control measures are implemented immediately and maintained until the site has been revegetated in accordance with § 507(A)(5)(c);
      b. That cut-and-fill slopes be designed and constructed to minimize erosion and design plans submitted to the Pennington County Drainage Engineer for review within 30 days;
      c. That the owner designee must inspect the site at least once every 7 days and within 24 hours of the end of a storm event that is one-half inch or greater (this includes rain or snowmelt runoff). Inspection reports must be submitted to the Planning Director every month during construction;
      d. 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;
      e. That all natural drainage ways and paths be continually maintained;
      f. 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;
g. 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;

h. 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;

i. 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;

j. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c);

k. That the applicant sign the Statement of Understanding prior to the Stop Work Order being lifted; and

l. That this Construction Permit be reviewed at the December 3, 2019, Planning Commission meeting to verify that erosion controls have been implemented and progress is being made on engineered design plans.

Q. November 28, 2018 - Staff performed a site visit and found the following:
1. There have been several straw mats placed on the property.
2. It appears that the applicant was making progress to stabilize the site; however, the site was not stabilized.
December 3, 2018 – The Planning Commission approved the extension of CP 18-12 with the following eleven (11) conditions:

1. That erosion control measures are implemented immediately and maintained until the site has been revegetated in accordance with § 507(A)(5)(c);

2. That cut-and-fill slopes be designed and constructed to minimize erosion and design plans submitted to the Pennington County Drainage Engineer for review within 30 days;

3. That the owner must inspect the site at least once every 7 days and within 24 hours of the end of a storm event that is one-half inch or greater (this includes rain or snow-melt runoff). Inspection reports must be submitted to the Planning Director every month during construction;

4. 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;

5. That all natural drainage ways and paths be continually maintained;

6. 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;

7. 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;

8. 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;

9. 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;

10. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c); and,

11. That this Construction Permit be reviewed at the February 11, 2019, Planning Commission meeting to verify that erosion controls have been implemented and progress is being made on engineered design plans.
Agenda Item #13
Brad Nible
February 11, 2019

S. Staff removed Condition #11 as the applicant signed his Statement of Understanding (SOU).
   1. A copy of the SOU is included with this staff report.

T. Staff also changed the wording of Condition #3 to allow the applicant to designate a person to inspect the property if the applicant is unable to do so.
   1. This was done at the request of the Applicant at the November 26, 2018 Planning Commission meeting.

VI. PENNINGTTON COUNTY BOARD OF ADJUSTMENT
A. January 2, 2019 – The Board of Adjustment denied a Variance for a second approach on the property.
   1. Commissioner Disanto stated, “I was in that planning meeting and you did agree to give us those reports and progress reports and that kind of stuff and I am kind of concerned as far as your follow up on that is concerned.”
   2. Commissioner Hadcock stated, “Since he hasn’t followed through with the conditions and has started this process with Stop Work Order because he is doing things without permission or permits I believe the second access isn’t necessary.”

VII. ANALYSIS
A. February 1, 2019 – Staff was in contact with the applicant who stated:
   1. He had inspection forms but was not going to submit them until his lawyer was done looking into things.
   2. The applicant stated that he wishes his Construction Permit to end.
      a. Staff informed the applicant that he would have to submit something in writing stating he wishes to end his permit.
      b. Staff received an email from the applicant requesting to end his Construction Permit (see below).

From: NoReply
Sent: Friday, February 01, 2019 9:58 AM
To: pitt <plb@pensco.org>
Subject: WEBFORM: Planning and Zoning - Contact Us

The following information was submitted from a web form on the Pennington County website.

DO NOT click reply. To reply, copy and paste the e-mail address below into the "To" field of an outgoing message.

>>>>>>>>>>>>>>>>>>>>>>>>

Submitted Information:
Your name: Bradley Nible
Your e-mail address: brad56@yahoo.com
Your phone number: 6052093916

Message: To PJ Conner and Cody Sach I would like to cancel my construction permit on School Drive at this time I am not able to fulfill the obligations that you have requested I will be working with a new engineer in the next week's to reapply at a later date.

Email from Mr. Nible
B. February 1, 2019 – Staff performed a site visit and found:
   1. Straw mats have been placed over parts of the site.
   2. The second approach has been removed from the property.

C. It appears to Staff that the following Conditions of Approval of CP 18-12 are not being met:
   1. No erosion control measures have been implemented (#1).
   2. Cut and fill slopes have not been stabilized (#2).
   3. There have been no inspection forms submitted to the Planning and Zoning office or to its Director (#3).
   4. No Engineer designed plans to stabilize the hillside have been submitted (#6).
   5. There is nothing in place to ensure sediment does not reach the right-of-way (road ditch) (#7).
      a. Sediment has reached the ditch and drainage has been impacted. Storm water and runoff is now “pooling” within the road ditch.

*Site Visit (2/1/19)*
D. Staff does not agree with the applicants request to end CP 18-12 since significant disturbance has occurred and has impacted drainage.

1. Ending CP 18-12 will create a violation on that property because 10,000 square feet of disturbance has already occurred, and would require a Construction Permit for the property to come into compliance.

2. Final stabilization of the site is not complete as described by § 507(A)(5)(c) of the PCZO.

RECOMMENDATION: Staff recommends 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;
Agenda Item #13
Brad Nible
February 11, 2019

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.
STATEMENT OF UNDERSTANDING

Bradley Nible or Carle Schauer
3517 School Dr,
Rapid City, SD 57703

Lot 2A, Block 6, Harney Peak View Addition, Section 09, T1N, R08E, BHM, Pennington County, South Dakota.

Listed below are twelve (12) conditions that have been placed on your Construction Permit / CP 18-12 request. Please carefully read all of the conditions of approval. It is important that you completely understand and adhere to these conditions at all times. Any deviation from the conditions, as listed below, constitutes an immediate review of the approved request and possible revocation and termination of the approved use.

1. That erosion control measures are implemented immediately and maintained until the site has been revegetated in accordance with § 507(A)(5)(c);

2. That cut-and-fill slopes be designed and constructed to minimize erosion and design plans submitted to the Pennington County Drainage Engineer for review within 30 days;

3. That the owner must inspect the site at least once every 7 days and within 24 hours of the end of a storm event that is one-half inch or greater (this includes rain or snow-melt runoff). Inspection reports must be submitted to the Planning Director every month during construction;

4. 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;

5. That all natural drainage ways and paths be continually maintained;

6. 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;

7. 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;

8. 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;

9. 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;

10. That the disturbed areas be re-vegetated as required in § 507(A)(5)(c);

11. That the applicant sign a Statement of Understanding prior to the Stop Work Order being
lifted; and,

12. That this Construction Permit be reviewed at the December 03, 2018, Planning
Commission meeting to verify that erosion controls have been implemented and progress
is being made on engineered design plans.

By signing this form, you hereby acknowledge you fully understand and agree to comply with all
the Conditions of Approval.

Bradley Nible or Carle Schauer  11-26-18
Date

Subscribed and sworn to before me at Rapid City, South Dakota, this 26th
day of November, 2018.

Notary Public: BRITTNEY MOLITOR
NOTARY PUBLIC
State of South Dakota

My Commission Expires: OCT 30, 2020
STAFF REPORT

GENERAL INFORMATION:

REQUEST:  
**LAYOUT PLAT / PL 17-38:** To create Lots A, B, C, and D of Johnson Estates Subdivision in accordance with § 400.1 of the Pennington County Subdivision Regulations.

APPLICANT/AGENT:  
Great Western Bank for Dorothy Johnson Estate

APPLICANT ADDRESS:  
14 Saint Joseph Street, Rapid City, SD 57701

SURVEYOR/ENGINEER:  
Baseline Surveying

ADDRESS:  
1921 Lazelle Street, Sturgis, SD 57785

LEGAL DESCRIPTION:  
**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.

SITE LOCATION:  
10940 W. Highway 44; east of the intersection of Thunderhead Falls Road and W. Highway 44.

SIZE:  
21.39 acres

TAX ID:  
10765

EXISTING LAND USE:  
Residential

SUBDIVISION REGULATIONS
REFERENCE:  
§ 400.1

CURRENT ZONING:  
Limited Agriculture District

SURROUNDING ZONING:  
<table>
<thead>
<tr>
<th>North</th>
<th>General Agriculture District</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Limited Agriculture District</td>
</tr>
<tr>
<td>East</td>
<td>General Agriculture District</td>
</tr>
<tr>
<td>West</td>
<td>Suburban Residential District</td>
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Page 1 of 8
Agenda Item #14
Dorothy Johnson Estate
February 11, 2019

PHYSICAL CHARACTERISTICS: Wooded / Hills

UTILITIES: Private

REPORT BY: Brittney Molitor

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Layout Plat / PL 17-38 with fourteen (14) conditions.

II. GENERAL DESCRIPTION
   A. The applicant is requesting to subdivide one (1) existing lot in order to create four (4) lots. The applicant is also requesting to rezone the lots from Limited Agriculture District to Suburban Residential District.

III. EXISTING CONDITIONS
   A. 21.39 acres.
   B. Zoned Limited Agriculture District, minimum 10 acre lot size.
   C. Access off of W. Highway 44 via existing approach.
   D. No Special Flood Hazard Area.
   E. Lot Contains:

IV. PROPOSED LOTS
   A. Lot A
      1. 2.714 acres.
      2. Vacant of any structures.
      3. A lot size variance or rezone will be required.
   B. Lot B
      1. 4.701 acres.
         a. Built in 1920 – per DOE records
      3. A lot size variance or rezone will be required.
   C. Lot C
      1. 6.746 acres
      2. Single-family residence
         a. Built in 1991 – per DOE records
      3. A lot size variance or rezone will be required.
   D. Lot D
      1. 8.249 acres
      2. Vacant of any structures
      3. A lot size variance or rezone will be required.
V. REQUEST FOR COMMENT – RESPONSES

A. County Highway Department
1. Highway Department has no comments since drainage isn’t impacted and it fronts a State highway.

B. County Fire Administrator
1. Addressed to meet or exceed county regulations, in accordance with Pennington County Ordinance 20 and ESCC/911 Department guidelines. Signage clearly visible from both approaching directions
2. If the length of the driveway/access way exceeds 75 feet or a physical obstruction prevents the number from being visible from the road of which the address is taken, then the house number shall be posted
adjacent to the area in which the driveway/access way intersects the road.

3. The posted house number must be placed in such a way as to ensure its visibility year round and not be obstructed by such things as, but not limited to, snow or vegetation, to provide for emergency identification at all times.

4. Each character of the posted house number shall be a minimum of four (4) inches in height by three (3) inches in width and must be of a contrasting color to the background.


6. Develop and execute a plan following fire wise guidelines based on the Free State assessment to create defensible space to include the proposed or existing structure. 50% cost-share funds MAY be available through the South Dakota Division of Wildland Fire Suppression to execute the Hazardous Fuels Mitigation Plan http://wildlandfire.sd.gov/fuelsmitigation/fuelsmitigation.aspx

7. Fire wise Information: http://www.gpfiresafecouncil.com/

C. County Environmental Planning Supervisor
   1. No Special Flood Hazard Area on subject property.
   2. Notices were sent and arrangements were made to pump the on-site wastewater system in May 2017, but staff has not received any information or Observation Form for the on-site wastewater treatment system.
      a. Staff Comment: This will be addressed as a Condition of Approval.

D. County Environmental Planner
   1. One of the houses was built in 1920 and no septic information could be found. The other existing house was permitted in 1991 (#9566) and has a 1000 gal tank and 480 sq. ft of drainfield. If any new septic systems are add to any of the lots, all rules of Pennington County Zoning Ordinance 204(J) must be followed.

E. County Ordinance Enforcement Officer
   1. Ordinance Enforcement has no objection.

F. County Natural Resources Director
   1. No comments received.

G. County Addressing Coordinator
   1. All existing and future addresses should be posted in accordance with Pennington County Ordinance #20.

H. County Sheriff’s Office
   1. No comments received.
I. Register of Deeds
   1. 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…”
      a. *Staff Comment: This will be addressed as a Condition of Approval.*

J. Department of Equalization
   1. It looks as though this is also creating a Well Lot. It should be in the title and will need the acres for the well lot.
      a. *Staff Comment: This will be included as a Condition of Approval.*

K. Emergency Services (9-1-1)
   1. No comments received.

L. U.S. Forest Service
   1. Protect all posted boundary line corners, signs and bearing tress.
   2. Adhere to the setback requirements along the posted boundary between National Forest System lands and private property.
   3. Protect all known stream courses, ponds and riparian areas located on National Forest System lands.
   4. No resource damage to occur on National Forest System lands.
   5. All proposed drain fields, leach lines or septic systems will need to be located on private property and not located on or drain or leach onto National Forest System lands.
   6. All construction materials, supplies, trash or garbage will not be located or dumped on National Forest System lands.
   7. National Forest System Roads in this area of the Black Hills National Forest are classified as “Roads Open to Highway Legal Vehicles Only”, per the latest version of the Motor Vehicle Use Map.
   8. No additional motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.
   9. No motorized trails for ATV, motorcycles or ORV will be authorized from private property unto National Forest System lands (USFS does not want unauthorized trails constructed on National Forest System lands).

M. South Dakota Department of Transportation
   1. SDDOT has not comment on the request. Please note, that although not requested, SDDOT will not allow additional direct access to SD44 as a result of this subdivision.
      a. *Staff Comment: This will be included as a Condition of Approval.*
N. Black Hills Electric Cooperative  
   1. Black Hills Electric Cooperative has no concerns with this layout plat.

VI. ANALYSIS  
   A. The applicant’s request will resolve an existing nonconformity on the property by subdividing the property to allow the two single-family residences to remain on their own lots.
   B. The applicant’s request will increase the number of buildable lots by two (2).
   C. Staff has received one phone call regarding the proposed subdivision, from a current resident who was unaware that the layout consists of four (4) lots.
   D. The on-site wastewater treatment systems do not have current Operating Permits. No change in designation of the property, including zoning or platting, may take place until current On-Site Wastewater Treatment System Operating Permits are obtained, per Section 204(J)(2)(C), PCZO.
   E. A resident of the cabin (built in 1920, per DOE records) indicated that it is being serviced by a cesspool. They are currently raising funds to install a new OSWTS.
   F. The two (2) on-site wastewater treatment systems were pumped and Observation forms were submitted.
      1. The single family residence (built in 1991) on proposed Lot C is serviced by a 1000 gallon tank with an unknown drainfield.
      2. The cabin (built in 1920) is serviced by a cesspool.
   G. The cesspool is a malfunctioning system and must be replaced, in accordance with § 204(J)(5)(a).
   H. A current Operating Permit (COOP18-0124) has been created for the functioning system that services the single-family residence with the address of 10918 W. Highway 44 (built in 1991).
   I. April 18, 2018 – Staff spoke with the applicant via phone and the applicant indicated that they are in the process of gathering cost estimates for replacing the malfunctioning system.
   J. July 11, 2018 – Staff spoke with the applicant via phone regarding the progress on replacing the cesspool on the property. The Dorothy Johnson Estate was in the process of selling off another piece of property, and may be able to begin working with a Certified Installer to replace the malfunctioning system on the subject property as soon as September.
   K. August 8, 2018 – Staff spoke with the applicant via phone regarding the progress on replacing the cesspool on the property. The applicant indicated that they are in the process of selling another piece of property and should be able to replace the malfunctioning system once it is sold. Staff told the applicant that this will be last continuance and they will have to reapply at a later date once the property is compliance.
   L. November 6, 2018 – Staff spoke with the applicant via phone regarding the progress of the property. According to the applicant there is a court hearing
scheduled for November 30, 2018, and there should be money available to make necessary repairs to the property after the hearing.

M. November 27, 2018 – Staff was contacted by applicant indicating that they have retained funds and are able to replace the cesspool and bring the property into compliance. The applicant also requested a month extension to allow time for installation of the new onsite wastewater treatment system.

N. January 7, 2019 – Staff contacted the applicant regarding the installation of the new onsite wastewater treatment system.
1. The Planning Office had not received an Onsite Wastewater Construction Permit Application for replacement of the cesspool.
2. The applicant requested another continuance to work on getting the Onsite Wastewater Construction Permit Application submitted and the start working on the installation of the new system.
3. Staff told the applicant they will have to pay the continuance fee and progress must be made prior to the February 11, 2019, Planning Commission meeting, or the requests will end.
4. The applicant stated that they are in contact with the installer and progress is being made.

VII. UPDATE FOR FEBRUARY 11, 2019
A. January 14, 2019 – Staff performed a preliminary evaluation of a soil profile hole on the subject property.
B. February 4, 2019 – Staff received an Onsite Wastewater Treatment System Construction Permit application for the replacement of the cesspool on proposed Lot B.

RECOMMENDATION: Staff recommends 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.
STAFF REPORT

GENERAL INFORMATION:

REQUEST: 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 in accordance with § 206, 208, and 508 of the Pennington County Zoning Ordinance.

APPLICANT/AGENT: Dorothy Johnson Estate; Great Western Bank - Personal Representative for Dorothy Johnson Estate

APPLICANT ADDRESS: 14 Saint Joseph Street, Rapid City, SD 57701

SURVEYOR: Baseline Surveying

SURVEYOR ADDRESS: 1921 Lazelle Street, Sturgis, SD 57785

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

SITE LOCATION: 10940 W. Highway 44; east of the intersection of Thunderhead Falls Road and W. Highway 44.

SIZE: 21.39 acres

TAX ID: 10765

EXISTING LAND USE: Residential

ZONING REFERENCE: § 206, 208, and 508

CURRENT ZONING: Limited Agriculture District

SURROUNDING ZONING:

<table>
<thead>
<tr>
<th>North</th>
<th>General Agriculture District</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Limited Agriculture District</td>
</tr>
<tr>
<td>East</td>
<td>General Agriculture District</td>
</tr>
<tr>
<td>West</td>
<td>Suburban Residential District</td>
</tr>
</tbody>
</table>
PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: Private

REPORT BY: Brittney Molitor

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Rezone / RZ 17-10 and Comprehensive Plan Amendment / CA 17-09.

II. GENERAL DESCRIPTION
   A. The applicant is requesting to rezone 21.39 acres from Limited Agriculture District to Suburban Residential District and to amend the Comprehensive Plan to change the Future Land Use to Suburban Residential District. The applicant is also requesting to subdivide one (1) existing lot in order to create four (4) lots, with the smallest being 2.714 acres.

III. EXISTING CONDITIONS
   A. 21.39 acres.
   B. Zoned Limited Agriculture District.
   C. No Special Flood Hazard Area on the subject property.
   D. Lot contains:

IV. LAYOUT PLAT / PL 17-38
   A. The applicant has also applied to subdivide the subject property into four (4) lots, which will also be heard at the same meeting.
   B. Proposed Lots
      1. Lot A
         a. 2.714 acres.
         b. Vacant of any structures.
         c. A lot size variance or rezone will be required.
      2. Lot B
         a. 4.701 acres.
         b. Single-family residence.
         c. Built in 1920 – per DOE records
         d. A lot size variance or rezone will be required.
      3. Lot C
         a. 6.746 acres
         b. Single-family residence
         c. Built in 1991 – per DOE records
         d. A lot size variance or rezone will be required.
4. Lot D
   a. 8.249 acres
   b. Vacant of any structures
   c. A lot size variance or rezone will be required.

V. CURRENT ZONING WITHIN 1-MILE OF SUBJECT PROPERTY
   A. Suburban Residential District
   B. Low Density Residential District
   C. Limited Agriculture District
   D. General Agriculture District
   E. Highway Service District
   F. Planned Unit Development District
   G. General Commercial District
VI. CURRENT LAND USE ZONING

VII. FUTURE LAND USE ZONING
VIII. REQUEST FOR COMMENT – RESPONSES

A. County Highway Department
   1. Highway Department has no comments.

B. County Fire Administrator
   1. No Comments received.

C. County Environmental Planning Supervisor
   1. No Special Flood Hazard Area on the subject property.

D. County Environmental Planner
   1. No comments received.

E. County Ordinance Enforcement Officer
   1. Ordinance Enforcement has no objection.

F. County Natural Resources Director
   1. No objections.

G. County Addressing Coordinator
   1. No objections.

IX. ANALYSIS

A. The proposed Rezone and Comprehensive Plan Amendment requests appear to be in harmony with the surrounding zoning districts.

B. The on-site wastewater treatment systems do not have current Operating Permits. No change in designation of the property, including zoning or platting, may take place until current On-Site Wastewater Treatment System Operating Permits are obtained, per §204(J)(2)(C), Pennington County Zoning Ordinance.

C. A resident of the cabin (built in 1920, per DOE records) indicated that it is being serviced by a cesspool. They are currently raising funds to install a new OSWTS.

D. The two (2) on-site wastewater treatment systems were pumped and Observation forms were submitted.
   1. The single family residence (built in 1991) on proposed Lot C is serviced by a 1000 gallon tank with an unknown drainfield.
   2. The cabin (built in 1920) is serviced by a cesspool.

E. The cesspool is a malfunctioning system and must be replaced, in accordance with § 204(J)(5)(a).

F. A current Operating Permit (COOP18-0124) was created for the functioning system that services the single-family residence with the address of 10918 W. Highway 44 (built in 1991).

G. April 18, 2018 – Staff spoke with the applicant via phone and the applicant indicated that they were in the process of gathering cost estimates for replacing the malfunctioning system.

H. July 11, 2018 – Staff spoke with the applicant via phone regarding the progress on replacing the cesspool on the property. The Dorothy Johnson Estate was in the process of selling off another piece of property, and may be able to begin working with a Certified Installer to replace the malfunctioning system on the subject property as soon as September.
I. August 8, 2018 – Staff spoke with the applicant via phone regarding the progress on replacing the cesspool on the property. The applicant indicated that they are in the process of selling another piece of property and should be able to replace the malfunctioning system once it is sold. Staff told the applicant that this will be last continuance and they will have to reapply at a later date once the property is compliance.

J. November 6, 2018 – Staff spoke with the applicant via phone regarding the progress of the property. According to the applicant there is a court hearing scheduled for November 30, 2018, and there should be money available to make necessary repairs to the property after the hearing.

K. November 27, 2018 – Staff was contacted by applicant indicating that they have retained funds and are able to replace the cesspool and bring the property into compliance. The applicant also requested a month extension to allow time for installation of the new onsite wastewater treatment system.

L. January 7, 2019 – Staff contacted the applicant regarding the installation of the new onsite wastewater treatment system.
   1. The Planning Office had not received an Onsite Wastewater Construction Permit Application for replacement of the cesspool.
   2. The applicant requested another continuance to work on getting the Onsite Wastewater Construction Permit Application submitted and the start working on the installation of the new system.
   3. Staff told the applicant they will have to pay the continuance fee and progress must be made prior to the February 11, 2019, Planning Commission meeting, or the requests will end.
   4. The applicant stated that they are in contact with the installer and progress is being made.

X. UPDATE FOR FEBRUARY 11, 2019
   A. January 14, 2019 – Staff performed a preliminary evaluation of a soil profile hole on the subject property.
   B. February 4, 2019 – Staff received an Onsite Wastewater Treatment System Construction Permit application for the replacement of the cesspool.

RECOMMENDATION: Staff recommends approval of Rezone / RZ 17-10 and Comprehensive Plan Amendment / CA 17-09.
STAFF REPORT

GENERAL INFORMATION:

REQUEST:  

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

APPLICANT:  Donald Patnoe

APPLICANT ADDRESS:  3115 Flint Drive, Rapid City, SD 57702

LANDOWNER:  Jane Patnoe

OWNER ADDRESS:  3115 Flint Drive, Rapid City, SD 57702

LEGAL DESCRIPTION:  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.

SITE LOCATION:  North of Hill City located off of China Gulch Road and Log Cabin Road.

SIZE:  40.51 acres

TAX ID:  4693 / 4692 / 4691 / 4690

EXISTING LAND USE:  Vacant

SUBDIVISION REGULATIONS REFERENCE:  § 400.1

CURRENT ZONING:  General Agriculture District

SURROUNDING ZONING:  
  North  General Agriculture District
  South  General Agriculture District
  East  General Agriculture District
Agenda Item #16
Donald Patnoe
February 11, 2019

West General Agriculture District

PHYSICAL CHARACTERISTICS: Forested

UTILITIES: None

REPORT BY: Cassie Bolstad

I. PROPOSED RECOMMENDATION
   A. Staff will be recommending approval of Layout Plat / PL 19-01 with eleven (11) conditions.

II. GENERAL DESCRIPTION
   A. The applicants, Jane and Donald Patnoe, have applied for a Layout Plat to combine four (4) existing lots (Mining Lodes) into one (1) platted lot.

III. EXISTING CONDITIONS
   A. Four (4) separate lots.
   B. All existing lots are zoned General Agriculture District.
      1. Future Land Use (FLU) designation is Planned Unit Development Sensitive.
   C. No Special Flood Hazard Area on the existing properties.
   D. All four (4) existing properties are currently vacant.
   E. Climax Lode MS 942
      1. 10.33 acres.
   F. All of Buckeye Lode #1 MS 942
      1. 10.05 acres.
   G. All of Buckeye Lode MS 942
      1. 9.8 acres.
   H. All of Buckeye Lode #2 MS 942
      1. 10.33 acres.
IV. PROPOSED LOT

A. Union Hill Climax
   1. 40.51 acres.
      a. Meets the minimum lot size requirement for a General Agriculture District.
      b. A Rezone or Lot Size Variance will not be required at this time.

B. Access to the proposed lot is provided via a 40-foot-wide Private Access Easement.
V. REQUEST FOR COMMENT

A. County Highway Department
   1. The landowner must obtain access easements or ROW to Burnt Fork Road or China Gulch Road, if not already obtained, to prevent this parcel from being an isolated tract. The easements shown on the exhibit do not reference a volume and page it is recorded on which implies they are not recorded. Log Cabin Road is not a public ROW according to RapidMap even though the Forest Service allows motorized vehicles on it seasonally. Proof of the easement and/or ROW need to be furnished.
      a. Staff Comment: An FLPMA Private Road Easement has been granted from the Forest Service to provide access to the subject properties from Log Cabin Road (Document # A201604214). Staff will add a Condition of Approval that the book and page number for the denoted 40’ wide Private Access Easement through private property be added to the Plat.

B. County Fire Administrator
   1. No comments received.

C. County Environmental Planning Supervisor
   1. There is no Special Flood Hazard Area on the subject properties.

D. County Environmental Planner
   1. If the applicant wishes to install a septic system, all rules of Pennington County Zoning Ordinance Section 204(J) must be followed.

E. County Ordinance Enforcement
   1. Ordinance Enforcement has no objection.

F. County Natural Resources
   1. No comments received.

G. County Addressing Coordinator
   1. No comments received.

H. Register of Deeds
   1. The staff suggest a different proposed legal description be submitted for this plat. I suggest the proposed legal description could be “Union Hill Group Tract” or “Union Hill Tract”.
      a. Staff Comment: This will be included as a Condition of Approval.

I. Department of Equalization
   1. I see no issues at this time.

J. Emergency Services (9-1-1)
   1. No concerns with the consolidation but the private drive that provides access will need to be given a name and addresses issued accordingly if and when they decide to build on it.
      a. Staff Comment: This will be included as a Condition of Approval.
K. U.S. Forest Service
   1. The Forest Service worked with the Union Hill Homeowners Association regarding a FLPMA Private Road Easement that provides legal access to the private property. This Easement is recorded in the Public Records for Pennington County, Register of Deeds Office as A201604214 and filed April 8-2016.
   2. The Forest Service will not approve a secondary access across National Forest System lands to the private property.
   3. Protect all posted boundary line corners, signs and bearing trees.
   4. Adhere to the setback requirements along the posted boundary between National Forest System lands and private property.
   5. Protect all known stream courses, ponds and riparian areas located on National Forest System lands.
   6. No resource damage to occur on National Forest System lands.
   7. All proposed drain fields, leach lines or septic systems will need to be located on private property and not located on or drain onto National Forest System lands.
   8. All construction materials, supplies, trash or garbage will not be located or dumped on National Forest System lands.
   9. Public roads in this area of the Black Hills National Forest are classified as “Roads Open to All Vehicles” and “Highways, US, State” per the latest version of the Motor Vehicle Use Map.
   10. No motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.
   11. No motorized trails for ATV, motorcycles or ORV will be authorized from private property unto National Forest System lands (USFS does not want unauthorized trails constructed on National Forest System lands).

L. Black Hills Electric Cooperative
   1. Black Hills Electric Cooperative has no comments on the consolidation of the four lots.

VI. ANALYSIS
   A. January 9, 2019 – The applicant applied for Layout Plat / PL 19-01 to consolidate four (4) existing lots into one (1) lot.
      1. Per a document submitted by the applicant, “The sole reason for the consolidation is to reduce property taxes.”
   B. The proposed Plat will decrease density in the area by three (3) lots.
   C. A document submitted with the Layout Plat application indicates the surveyor is FMG Engineering; however, the Layout Plat was not prepared by FMG at this time.
      1. Pennington County Subdivision Regulations § 400.1 does not require that a Registered Land Surveyor or Engineer prepare the plat at the Layout phase.
2. If the Layout Plat is approved, the applicant will be required to have the Minor Plat prepared by a Registered Land Surveyor or Engineer upon submittal of the Minor Plat application.

D. For the purposes of a Layout Plat, staff finds no significant issues with the applicant’s request.

1. A Layout Plat is an informal preliminary review of the proposed subdivision for general scope and conditions, which might affect the plat.

**RECOMMENDATION**: Staff recommends 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.
January 9, 2019

To Whom It May Concern:

The description of the proposed subdivision is a consolidation of 4 separate Mineral Surveys each of approximate 10 acres into one parcel of approximately 40.51 acres. The sole reason for the consolidation is to reduce property taxes.

Respectfully submitted,

[Signature]

Jane O. Patnoe

Landowner
Proposed plat: Union Hill Climax

Owner: Jane O. Patnoe  Surveyor: EMG Engineering