

AGENDA
PENNINGTON COUNTY PLANNING COMMISSION
November 25, 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 December 3, 2019, at 10:30 a.m. The Planning Commission utilizes Speaker Request Forms, which are available in the Commission Chambers during the meeting.

ROLL CALL

1. APPROVAL OF THE NOVEMBER 12, 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 17-22**: Pamela Phillips. To review a single-wide mobile to be used as a permanent, single-family residence on the subject property in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 49A of Lot D, Sweetbriar Heights Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

(Continued from the September 9, 2019, Planning Commission meeting.)

To recommend approval of the extension of Conditional Use Permit / CU 17-22 with eight (8) conditions.

4. **CONDITIONAL USE PERMIT REVIEW / CU 17-37**: Ken and Nancy Denke. To review the use of a camper as temporary living quarters, not to exceed 180 days a year, on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All, Hidden Treasure Lode MS 607, Section 26, T1N, R4E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 17-37 with eleven (11) conditions.

5. **CONDITIONAL USE PERMIT REVIEW / CU 18-41:** Andrew Foley. To review a single-wide mobile home to be used as a single-family residence on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Tract B, 155th Avenue Subdivision, Section 30, T2N, R10E, BHM, Pennington County, South Dakota.

To recommend to end Conditional Use Permit / CU 18-41 with the applicant's concurrence, as it is no longer needed.

6. **MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 18-01:** Deerfield Cabins, LLC; Deon Wynia. To review an existing Planned Unit Development to allow the existing single-family residence on Lot 43 to be used as a Vacation Home Rental on the subject property in accordance with Sections 213 and 319 of the Pennington County Zoning Ordinance.

Lot 43, Burns Placer MS 697, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Major Planned Unit Development Amendment / PU 18-01 with twenty-two (22) conditions.

7. **MINING PERMIT / MP 19-01:** Dakota Stone Mining & Stone Supply / James Dean. To drill and blast for production of building stone and gravel to be hauled offsite.

All of Section 3, T2S, R3E, BHM, Pennington County, South Dakota.

To recommend approval of Mining Permit / MP 19-01 with eight (8) conditions.

8. **MINING PERMIT / MP 19-02:** Pete Lien & Sons. To expand an existing sand and gravel mining operation on the subject property.

All Less Right-of-Way, Section 19, T1N, R14E, BHM, Pennington County, South Dakota.

To recommend approval of Mining Permit / MP 19-02 with ten (10) conditions.

END OF CONSENT AGENDA

9. CONDITIONAL USE PERMIT / CU 19-01: NMMC, Inc; Terry Sayler. To allow for 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.

Lot A, Miller Subdivision #2, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

(Continued from the October 28, 2019, Planning Commission meeting.)

10. CONDITIONAL USE PERMIT / CU 19-29: Chad and Nancy Reber / Reber Sanitation. To utilize an existing structure for the storage of equipment, materials, and supplies used in conjunction with a contractor's business to allow a contractor's equipment storage yard 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 W1/2SW1/4 Less Tract A of Lot 1, Less Blaseg Subdivision and Less Right-of-Way, Section 15, T2N, R8E, BHM, Pennington County, South Dakota

11. LAYOUT PLAN / LPL 19-41: Gordon Howie. To reconfigure lot lines to create Lot 4R and Lot 5R of Bromegrass Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 4 and Lot 5, Bromegrass; Section 2, T1S, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 4R and Lot 5R, Bromegrass; Section 2, T1S, R9E, BHM, Pennington County, South Dakota.

12. ORDINANCE AMENDMENT / OA 19-02: Pennington County. To amend Section 205 "General Agriculture District" and Section 212 "Heavy Industrial District" to renumber paragraphs and reclassify aggregate mining as a Conditional Use; to amend Section 511 "Fees" to set fees regarding Mining Permits; and to add Section 320 "Mining Operation" to regulate aggregate mining [to supercede Section 507-B "Mining Permits"] of the Pennington County Zoning Ordinance.

CONSTRUCTION PERMIT AGENDA

The following items have been placed on the Construction Permit Agenda to be heard for public comment and will not be voted on by the Planning Commission. Any Planning Commissioner, staff member, or audience member may comment on any of the items. Comments received will be considered by the Planning Director who will make the final decision on the Construction Permit.

13. CONSTRUCTION PERMIT / CP 19-17: Pete Lien & Sons. To grade land associated with the expansion of the sand and gravel mining operation on the subject property.

All Less Right-of-Way, Section 19, T1N, R14E, BHM, Pennington County, South Dakota.

14. CONSTRUCTION PERMIT / CP 19-18: Cody Schad. To build a road, to grade and level for a building site, and to remove gypsum to be hauled off site.

Lot 3R, Marvin Subdivision, Section 16, T2N, R7E, BHM, Pennington County, South Dakota.

15. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the November 12, 2019, Planning Commission meeting.

Appeal of Conditional Use Permit 19-27: Marilyn and Greg Bolt. To allow an existing single-family residence to be used as a Bed and Breakfast in a Low Density Residential District. This item was appealed and heard by the Board on November 19th. The Board upheld the Planning Commission's decision of approval for CUP 19-27.

16. ITEMS FROM THE PUBLIC

17. ITEMS FROM THE STAFF

- A. Comprehensive Plan Meetings.
- B. Planner II Interviews.
- C. December 2nd P&Z Potluck
- D. December 6th County Potluck
- E. December 16th Planning Commission Meeting.

18. ITEMS FROM THE MEMBERSHIP

19. 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
November 12, 2019 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Rich Marsh, Kathy Johnson, Sonny Rivers, Travis Lasseter, Sandra Runde, Jim Coleman, and Deb Hadcock.

STAFF PRESENT: PJ Conover, Brittney Molitor, Jason Theunissen, Michaele Hofmann (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE OCTOBER 28, 2019, MINUTES
Moved by Johnson and seconded by Lasseter to approve the Minutes of the October 28, 2019, Planning Commission meeting. Vote: unanimous 7 to 0.

2. APPROVAL OF THE AGENDA
Moved by Lasseter and seconded by Hadcock to approve the Agenda of the November 12, 2019, Planning Commission meeting. Vote: unanimous 7 to 0.

Moved by Johnson and seconded by Lasseter to approve the Consent Agenda of the November 12, 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 14-25:** Jeff DeVeny. To review two storage units to be located on the subject property in a Highway Service Zoning District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

Lot J, Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 14-25 with the following eleven (11) conditions:

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

2. That a minimum of four parking spaces continue to be provided and a loading and unloading zone continue to be provided for all storage units that run along the units and must have four (4) inches of gravel, concrete, or asphalt and maintained in such a manner that no dust will result from continuous use;
3. That two (2) storage buildings continue to be allowed on the subject property not to exceed 50' x 100' and that there continue to be a minimum of 30-feet of separation between both structures for vehicle and trailer access. Any additional storage units will require a new hearing by the Planning Commission, to include advertising the request at owner's expense;
4. That the business address be posted on the property and clearly visible and maintained in accordance with Ordinance #20;
5. That any lighting used to illuminate off-street parking or on-premise lighting shall be so arranged as to deflect the light down and away from all nearby residences;
6. That an on-premise sign(s) shall be allowed in accordance with Pennington County Zoning Ordinance Section 312. The on-premise sign shall not exceed 25-feet in height and have a maximum display area of 250 square feet on each side and not have more than two sides;
7. That any additional disturbance within the 100-year floodplain boundary will require an approved Floodplain Development Permit and/or approved Letter of Map Revision or Amendment from FEMA, prior to the issuance of a Building Permit;
8. That the applicant ensure that all natural drainage ways continue to be maintained and are not blocked;
9. That any work encompassing over one (1) acre will require the applicant to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environmental and Natural Resources;
10. That the hours of operation for the storage units be from 6:00 am to 10:00 pm and a sign be posted indicating after hours contact information with the owner's phone number, which must be clearly visible at the entrance of the lot; and,
11. That this Conditional Use Permit be reviewed by the Planning Commission in six (6) months, on a complaint basis, or as directed by the Pennington County Planning Commission and/or Board of Commissioners to ensure that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CU 17-14:** David and Laura Jones. To review a Recreational Vehicle to be used as temporary living quarters while building a single-family residence on the subject property in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 1R, Forty Oaks Ranch Subdivision, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

(Continued from the May 13, 2019, Planning Commission meeting.)

To end Conditional Use Permit / CU 17-14, per the applicant's request.

Vote: unanimous 7 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 18-43:** Border States Paving. To review a temporary asphalt batch plant and contractor's storage area on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

NE1/4NE1/4 Less Lot H-1; N1/2NW1/4 Less Lot H-1, Section 12, T4S, R17E, BHM, Pennington County, South Dakota.

(Continued from the September 9, 2019, Planning Commission meeting.)

To continue the review of Conditional Use Permit / CU 18-43 to the December 2, 2019, Planning Commission meeting.

Vote: unanimous 7 to 0.

6. **CONDITIONAL USE PERMIT / CU 19-01:** NMMC, Inc; Terry Saylor. To allow for 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.

Lot A, Miller Subdivision #2, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

(Continued from the October 28, 2019, Planning Commission meeting.)

To continue the hearing of Conditional Use Permit / CU 19-01 to the November 25, 2019, Planning Commission meeting for purposes of advertisement.

Vote: unanimous 7 to 0.

7. **PLANNED UNIT DEVELOPMENT REVIEW / PU 06-07:** Rapid City MHP, LLC. (Cimarron Mobile Home Park). To review a Planned Unit Development to allow a mobile home park in accordance with Section 213 of the Pennington County Zoning Ordinance.

Tract C of Lot B of NE1/4 NW1/4 less Pengra Subdivision, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

(Continued from the September 23, 2019, Planning Commission meeting.)

To recommend to continue the review of Planned Unit Development / PU 06-07 to no later than the December 2, 2019, Planning Commission meeting with the following one (1) condition:

- 1. That any continuation hereafter 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.**

Vote: unanimous 7 to 0.

- 8. MINOR PLAT / MPL 19-40: Great Western Bank for Dorothy Johnson Estate. To create Lots A, B, C, and D and Well Lot of Johnson Estates Subdivision in accordance with § 400.3 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 and Well Lot of Johnson Estates Subdivision, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Minor Plat / MPL 19-40 with the following nine (9) conditions:

- 1. That the dimensions of the western boundary of Lot A be verified prior to filing the plat with the Register of Deeds;**
- 2. That prior to filing the plat with the Register of Deeds the percolation and soil profile hole information be submitted for proposed Lot A and Lot D or an approved Variance to the Subdivision Regulations be obtained waiving this requirement;**
- 3. That prior to filing the plat with the Register of Deeds, the plat meets all requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Variance to the Subdivision Regulations be obtained waiving any of these requirements that are not met;**
- 4. 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;**
- 5. That the Certifications on the plat be in accordance with § 400.3.1.n of the Pennington County Subdivision Regulations;**

6. That prior to filing the plat with the Register of Deeds the drawings and references to buildings, tanks, etc. be removed from the plat drawing;
7. That prior to filing the plat with the Register of Deeds the portion of the driveway for Lot B that lies in Lot A be included as part of the private access easement;
8. That the applicant ensures all-natural drainage ways are maintained and are not blocked; and,
9. That following platting of the proposed lots, any Onsite Wastewater Treatment System(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.

Vote: unanimous 7 to 0.

END OF CONSENT AGENDA

9. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 17-05: Tanner Colburn. To review the existing Sunset Ranch Planned Unit Development to reduce the setback from 25 feet to 12 feet along the west property line in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 3, Block 4, Sunset Ranch Subdivision, Section 32, T2N, R10E, BHM, Pennington County, South Dakota.

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

Theunissen reviewed the Staff Report indicating this item was continued from the October 14, 2019, Planning Commission meeting to allow time for the applicant to contact staff.

Discussion followed.

Moved by Hadcock and seconded by Runde to refer Minor Planned Unit Development Amendment / PU 17-05 to the State's Attorney's Office for further action.

All voting aye, the Motion carried 7 to 0.

10. REZONE / RZ 19-16 AND COMPREHENSIVE PLAN AMENDMENT / CA 19-16:
Richard Aldren. To rezone 107.24 acres from General Agriculture District to Limited Agriculture District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from General Agriculture District to Limited Agriculture District in accordance with Sections 205, 206, and 508 of the Pennington County Zoning Ordinance.

NE1/4NW1/4 less West 520 feet of East 800 feet less ROW; the NE1/4NW1/4 less East 800 feet less ROW; the W1/2NW1/4NW1/4 less ROW; the E1/2NW1/4NW1/4 less ROW; and the NE1/4NE1/4 less ROW, all located in Section 34, T2N, R11E, BHM, Pennington County, South Dakota.

Conover reviewed the Staff Report indicating the applicant applied for a Rezone and Comprehensive Plan Amendment to rezone 107.24 acres from General Agriculture District to Limited Agriculture District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from General Agriculture District to Limited Agriculture District.

Conover further stated that, due to the Rapid City Journal failing to advertise one of the legal notices, this item will be continued to the December 2, 2019, Planning Commission meeting in order for the item to be re-advertised.

Moved by Hadcock and seconded by Lasseter to continue Rezone / RZ 19-16 and Comprehensive Plan Amendment / CA 19-16 to the December 2, 2019, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

11. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the October 14th and October 28th Planning Commission meetings.

12. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

13. ITEMS FROM THE STAFF

- A. Building Permit Report. Conover reviewed the Building Permit Report for October 2019.
- B. Construction Permits. Conover discussed the process for Construction Permits and when they will be placed on Planning Commission Agendas to be heard.
- C. Comprehensive Plan – Update. Conover provided the Planning Commission with an update on the amendment to the Comprehensive Plan, and further stated the Board of Commissioners will start reviewing the document on December 4th and December 18th starting at 9 a.m.

- D. Holiday Potluck. Conover spoke of the holiday potluck in the office on December 2nd.
- E. December 16th Planning Commission meeting. Conover noted that this meeting will start at 2 p.m.

14. ITEMS FROM THE MEMBERSHIP

Commissioner Hadcock spoke of the upcoming Mining Ordinance.

15. ADJOURNMENT

Moved by Lasseter and seconded by Rivers to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at 9:23 a.m.

Rich Marsh, Chairperson

Agenda Item # 3
Pamela Phillips
November 25, 2019

3

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **CONDITIONAL USE PERMIT REVIEW/ CU 17-22:** To review a single-wide mobile home to be used as a permanent, single-family residence on the subject property in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Pamela Phillips

APPLICANT ADDRESS: 2465 Covington Street, Rapid City, SD 57703

LEGAL DESCRIPTION: Lot 49A of Lot D, Sweetbriar Heights Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

SITE LOCATION: South of the intersection of Twilight Drive and Covington Street, on Covington Street.

SIZE: 0.29 acre

TAX ID: 67756

EXISTING LAND USE: Residential

ZONING REFERENCE: § 208 and 510

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: Flat

UTILITIES: Public (Rapid Valley Sanitary District)

REPORT BY: PJ Conover

NOTE: Updated information is in **BOLD** on Page 8.

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 17-22 with eight (8) conditions.

II. GENERAL DESCRIPTION

- A. The applicant, Pamela Phillips, requested a Conditional Use Permit to allow a single-wide mobile home to be used as a permanent, single-family residence in a Suburban Residential District.
- B. June 12, 2017 – The Planning Commission approved CU 17-22 with the following nine (9) conditions:
1. That a Building Permit be obtained for the proposed single-wide mobile home prior to any work being done;
 2. That an approved Approach Permit from County Highway be obtained prior to submittal of a Building Permit;
 3. That the minimum setback requirements of a Suburban Residential District be continually maintained on the property;
 4. That the subject property remains free of debris and junk vehicles;
 5. That the single-wide mobile home installed on the property have a peaked, non-reflective type roof and wood or simulated wood-type siding that is continually maintained;
 6. 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;
 7. That the address is clearly posted on the residence and so that it is visible from both directions of Covington Street, in accordance with Pennington County's Ordinance #20;
 8. That the applicant signs the Statement of Understanding at the Planning Office within ten (10) business days of approval of Conditional Use Permit / CU 17-22; and,
 9. That this Conditional Use Permit be reviewed in one (1) year, 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.
- C. June 13, 2018 - During a site visit, Staff noticed that the existing single-wide mobile home with deck and the new detached garage appear to violate the setbacks for a Suburban Residential District (SRD), and also appear to cross lot lines.
- D. June 25, 2018 – The Planning Commission continued the review of CU 17-22 to the August 27, 2018, Planning Commission meeting to allow the applicant time to bring the subject property into compliance.
- E. July 13, 2018 – Staff met with the applicant and agent to further discuss bringing the subject property into compliance.


- F. August 21, 2018 – The Planning Department received a letter from Pamela Phillips, along with a Site Plan (from Fisk Land Surveying) of the subject property.
- G. August 22, 2018 – Staff spoke with the applicant and informed her that CU 17-22 was not ready for a hearing before the Planning Commission yet, due in part to the Site Plan from Fisk Land Surveying, and that Staff would need to set up an additional meeting with her, in September, to further discuss CU 17-22
- H. September 2018 – Staff briefly spoke to the applicant regarding CU 17-22 about the need to set up a meeting. Staff has not been able to meet with the applicant to fully discuss the findings of the Fisk Land Surveying Site Plan.

III. EXISTING CONDITIONS

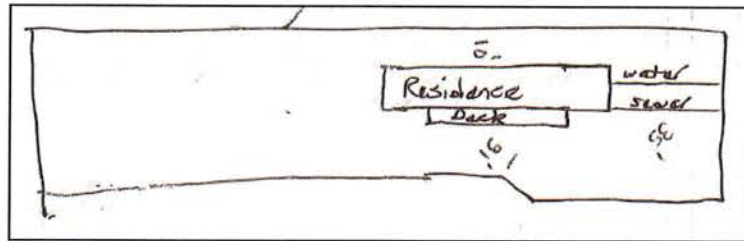
- A. Zoned Suburban Residential District.
- B. 0.29 acre.
- C. Access off of Covington Street by way of an existing approach, approved for shared use by the County Highway Department.
 - 1. The County Highway Department commented that a new approach onto Covington, from the subject property, would not be approved.
- D. Lot contains:
 - 1. Single-wide mobile home with uncovered deck – COBP17-0344 (approved on July 29, 2017).
 - 2. Detached garage – constructed without a Building Permit.

IV. ANALYSIS

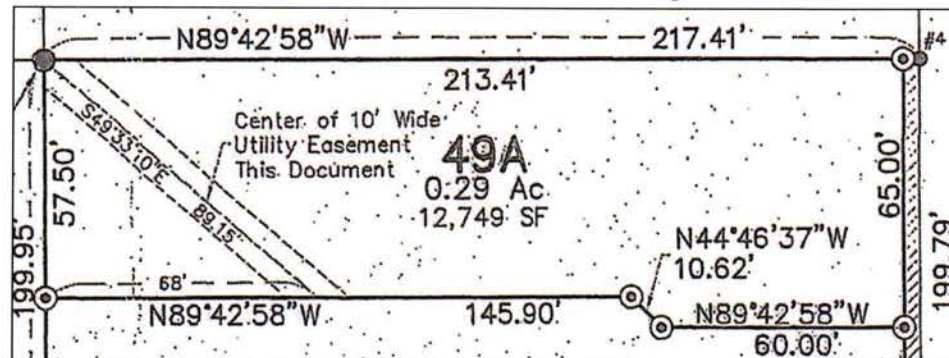
- A. The use of a single-wide mobile home as a single-family residence appears to be consistent with existing uses in the surrounding area.
- B. COBP17-0344 was approved, based on the following information provided by the applicant.
 - 1. The applicant signed Page 1 of 3 of the Building Permit Application to acknowledge the accuracy of the information provided therein.

** INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED **		
<i>I certify that all information contained within this application form and any other information provided by me in relation to this application is true and accurate to the best of my knowledge; I certify that I will comply with all applicable Federal, State and local laws and regulations in performing the work for which this permit is intended, up to and including current International Building Codes, as applicable; and, I FURTHER UNDERSTAND THAT SUBMITTAL OF THIS APPLICATION IS NOT AND DOES NOT CONSTITUTE AN APPROVED BUILDING PERMIT.</i>		
Landowner/Applicant/Agent: <small>CIRCLE ONE OR MORE</small>	 <small>SIGNATURE</small>	6/12/17 <small>DATE</small>

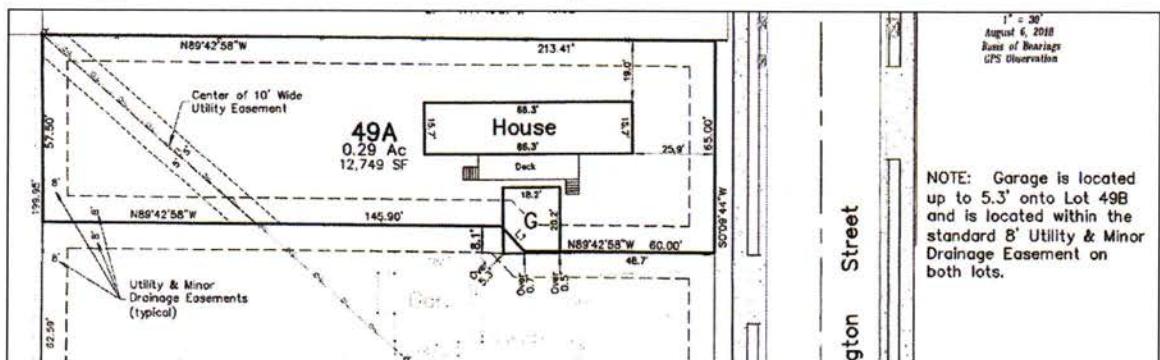
2. The site plan shows that the residence and deck will not encroach into the Utility and Minor Drainage Easement and setbacks in SRD.



3. Plat Document # A201617012 shows the existing width of Lot 49A.



- D. In addition to the possible encroachment of the existing deck, it appears the detached single-car garage also traverses the existing Utility and Minor Drainage Easement as well as the setbacks in SRD.
- E. On August 06, 2018, Fisk Land Surveying completed a Site Plan for the applicant which included the following:



- F. The detached single-car garage was built without an approved Building Permit.
1. An approved Building Permit will be required.
- G. Staff has requested continuations of CU 17-22 to allow time for Staff and the applicant/landowner to discuss the violations and what was needed to bring the subject property into compliance.
1. The abutting property to the south is also owned by Pamela Phillips. Staff has not held-back approval of Building Permits on the abutting property due to the encroachment of the garage.

V. PHOTOS FROM SITE VISIT ON JUNE 13, 2018.



VI. DECEMBER 2018

- A. December 11, 2018 – Staff contacted the applicant/owner regarding the unpermitted garage and the encroachment into the easement (and over the property line). Staff indicated to the applicant/owner that a structure cannot be located in an easement and the easement will need to be vacated and the garage moved and/or removed.
1. The following was stated by the applicant/owner:
 - a. The company that was hired to place the garage, just “showed up and put it up”.
 - i. The company that put it there is “no longer in business and no other company wants anything to do with moving the garage”.
 - b. The “garage is temporary and is for storage of Christmas stuff” for the applicant’s/owner’s mother.
 - c. There is “no other place on the property to put it and the applicant’s/owner’s mother is not going to walk farther” due to age.
 - d. The applicant/owner was told by the City that the easement could not be vacated, however, there are no utilities currently in the easement.
 - e. An employee at Fisk Land Surveying said “not to vacate it and didn’t believe it was needed”.
 - f. That the garage “will be moved” when the applicant’s/owner’s mother no longer is residing on the property.
 - g. The applicant/owner will not work with anyone in the Planning Department except the Planning Director and wants to meet with him.
 - h. The applicant/owner stated she was misled and told not to apply for the carport at the time of the submittal of the Building Permit for the single-wide mobile home.

VII. FEBRUARY – MARCH 2019

- A. February 20, 2019 – Staff received comments from the City of Rapid City Department of Community Development regarding CU 17-22.
- B. March 20, 2019 – Staff met with Pamela Phillips to discuss options to bring the property into compliance.
1. A friend of Ms. Phillips will be working on searching South Dakota Codified Laws to see if there are Laws which could be used to help Ms. Phillips, and the County, to avoid having to go through Vacations and Variances.
 2. County Staff will assist in this research.
- C. Ms. Phillips is the owner of records for both properties involved with CU 17-22.

- D. The existing non-compliant, four-sided carport crosses into setbacks and newly platted Utility and Minor Drainage Easements.
 - 1. At this time, the City of Rapid City Department of Community Development, who platted the subject properties, has no issues with the encroachments, but suggests that it be corrected.
- E. As of this Staff Report, no known Utilities are located within either Utility and Minor Drainage Easements.

IX. AUGUST 2019

- A. August 2019 – The Planning Department received an email from the City of Rapid City’s Community Development Department (RCCDD) concerning their long-standing practice of vacating easements, plats, Right-of-Way’s, etc., within their Platting Jurisdiction. The RCCDD concluded that they had no authority to continue with that practice.
 - 1. During this time, County Staff is looking into the validity of the RCCDD conclusion and believes it may impact the concerns with CU 17-22.
 - 2. Staff spoke to the applicant and informed them of the new information.
 - 3. Staff has also set up a site-visit with the applicant.
 - 4. In lieu of the new information, Staff recommended a continuation of the hearing of CU 17-22, to the November 25, 2019, Planning Commission meeting, with the applicant’s concurrence.

VI. UPDATE – NOVEMBER 25, 2019 PLANNING COMMISSION MEETING

- A. **September 06, 2019 – Staff met with the landowners onsite.**
 - 1. **The Landowners have acknowledged that the existing garage does encroach into existing easements, setbacks, and traverses property lines.**
 - 2. **The Landowners, State’s Attorney, and Planning Staff have come to an agreement that: since the encroachment does not appear to negatively affect the normal, orderly growth and development of the area nor does it appear to endanger the health, safety or general welfare of Pennington County, the garage shall be allowed to stay in its current location. However, it shall be understood that a setback and easement violation does still exist and if the garage encroachment affects anyone other than the current landowner (i.e. new landowners or utility companies), the garage encroachment will need to be addressed and rectified.**



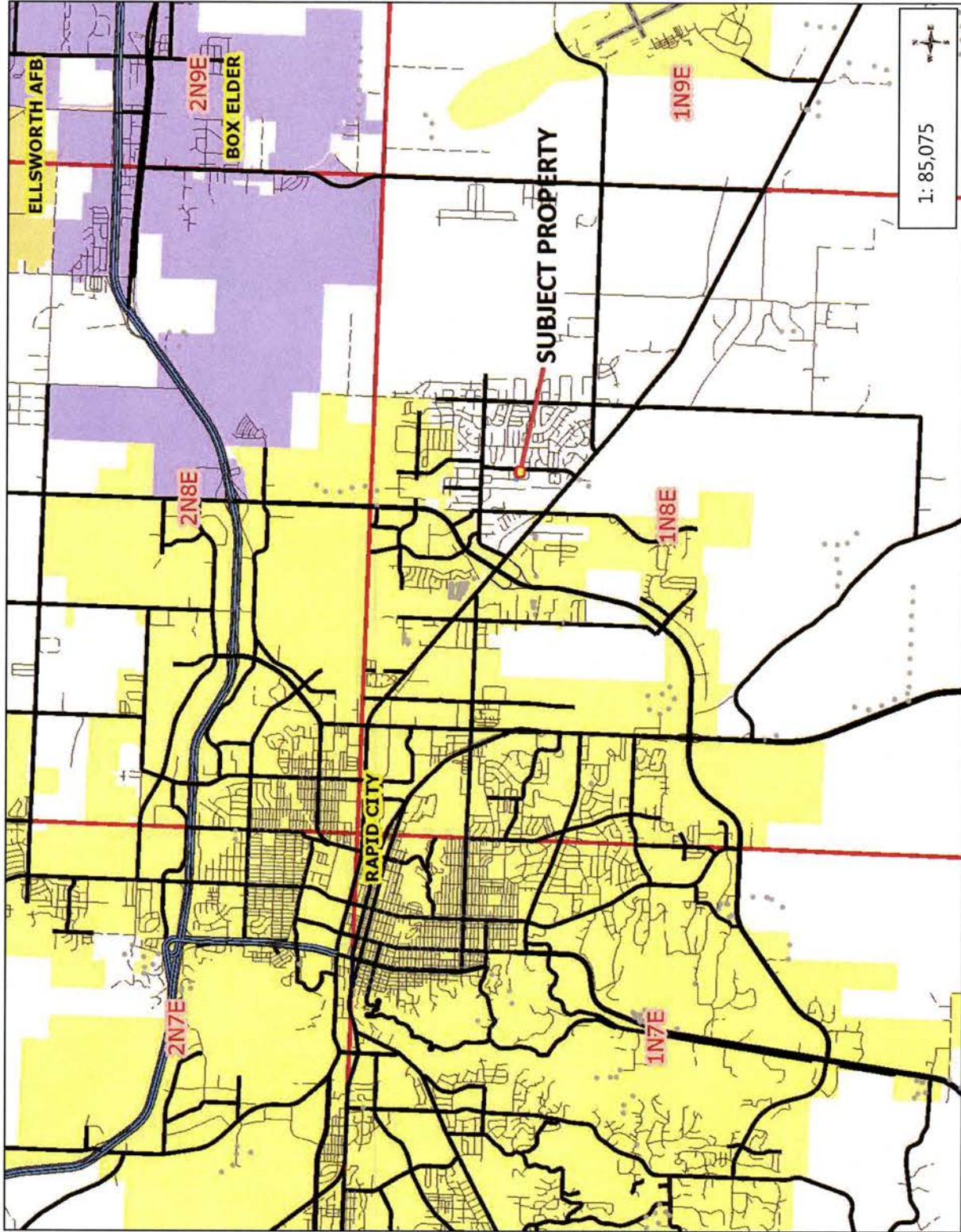
B. Therefore, staff will be recommending approval of the extension of CU 17-22.

RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 17-22 with the following eight (8) conditions:

1. That the approved shared approach be continually uses for access to the subject property and that an approved Approach Permit be obtained by the Pennington County Highway Department prior to the construction of a new approach;
2. That the minimum setback requirements of a Suburban Residential District continue to be maintained on the property, with the exception of the existing garage and its encroachment which shall be allowed to remain until anyone other than the current landowners are affected;
3. The existing garage, with encroachment, shall not be expanded upon;
4. That the subject property continues to remain free of debris and junk vehicles;

Agenda Item # 3
Pamela Phillips
November 25, 2019

5. That the single-wide mobile home installed on the property continue to have a peaked, non-reflective type roof and wood or simulated wood-type siding that is continually maintained;
6. 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;
7. That the address continues to be clearly posted on the residence and so that it is visible from both directions of Covington Street, in accordance with Pennington County's Ordinance #20; and
8. That this Conditional Use Permit be reviewed in four (4) 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.



1: 85,075

14,179.1
7,089.55
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14,179.1 Feet

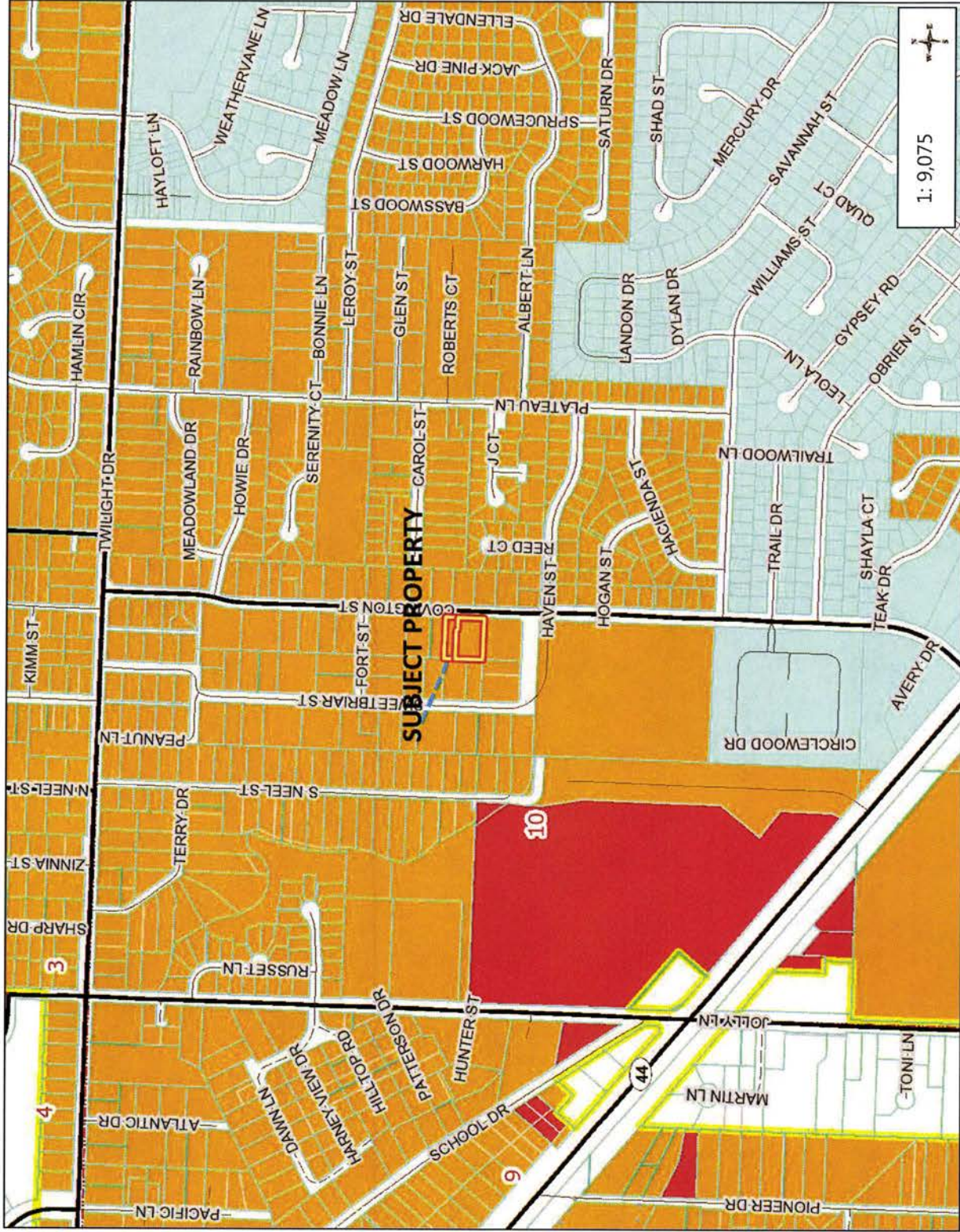
NAD_1983_2011_StatePlane_South_Dakota_South_FIPS_4002_Ft_US
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Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- Townships**
- BOX ELDER
 - ELLSWORTH AFB
 - HILL CITY
 - KEYSTONE
 - NEW UNDERWOOD
 - QUINN
 - RAPID CITY
 - WALL
 - WASTA
- City Limits**
- Not yet coded

Map Notes:



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- Trail
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- Alley
- Unimproved road
- Airport Runway
- Not yet coded

Section Lines 0-25k

- 0
- 7

Tax Parcels

- <Null>
- Lot Line
- Parcel Line

Pennington County Zoning

- General Agriculture
- General Commercial
- Heavy Industrial
- Highway Services
- Limited Agriculture
- Low Density Residential
- Light Industrial
- Planned Unit Development

Map Notes:

1: 9,075

1.512.4 Feet

0 756.22 1.512.4 Feet

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STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT REVIEW/ CU 17-37: To review the use of a camper for temporary living quarters, not to exceed 180-days a year, on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Ken and Nancy Denke

APPLICANT ADDRESS: 21150 Creighton Road, Creighton, SD 57790

LEGAL DESCRIPTION: All, Hidden Treasure Lode MS 607, Section 26, T1N, R4E, BHM, Pennington County, South Dakota.

SITE LOCATION: 12233 Horse Creek Road; near the intersection of Mystic Road and Horse Creek Road.

SIZE: 10.33 acres

TAX ID: 4427

EXISTING LAND USE: Vacant / Camper

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: Forested / Hills

UTILITIES: Private

REPORT BY: P.J. Conover

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending approval of the extension of Conditional Use Permit / CU 17-37, with eleven (11) conditions.

II. GENERAL DESCRIPTION

- A. 2017 - The applicants originally applied for a Conditional Use Permit to allow a camper to be used as temporary living quarters (less than 180-days in one calendar year) while the applicants build a new single-family residence, and to allow up to four (4) additional camper RVs on the subject property for seasonal use by family and friends.

- B. After further discussions with the applicants, Staff determined that a Conditional Use Permit to allow the camper as temporary living quarters was acceptable, but that a Variance would be needed to allow the additional campers/RVs on the subject property:

1. Per the Pennington County Zoning Ordinance (PCZO) § 205-C-26: *“Recreational vehicle as temporary living quarters. (This ordinance shall not allow multiple recreational vehicles as temporary living quarters on the same parcel and shall not allow additional living quarters when living quarters already exist on the property). The site must have an approved wastewater disposal system, including bathroom/shower facilities and an improved site area for the recreational vehicle. If the recreational vehicle is not equipped with a bathroom/shower facility, said facility must be provided on the premises and connected to the wastewater disposal system. The recreational vehicle shall not be used as temporary living quarters on premises for more than 180 days per calendar year.”*

- C. Prior to their hearing in 2017, the applicants, Ken and Nancy Denke, requested a Conditional Use Permit to allow a camper to be used as temporary living quarters while building a single-family residence on the subject property. The existing camper is pictured to the right of this text.



OCTOBER 04, 2017 CAMPER & DECK

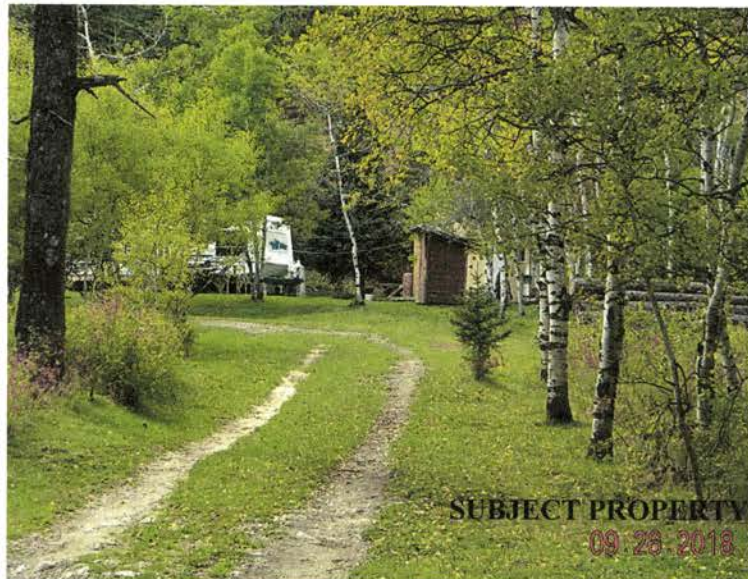
- D. October 09, 2017 – The Planning Commission approved CU 17-37 with the following eleven (11) conditions:
1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as temporary living quarters on the subject property during construction of the single-family residence or cabin; unless the Landowner(s) receive an approved Variance, for said use, by the Board of Adjustment;
 2. That an address be assigned for the property and clearly posted on the Recreational Vehicle (RV)/Camper while it is being utilized as living quarters. Once the single-family residence is complete, the address must be posted on the residence in accordance with Pennington County's Ordinance #20;
 3. That prior to any Building Permits being approved on the subject property, the landowner bring the existing deck into compliance and obtain an approved Building Permit, with applicable fees;
 4. That prior to the Recreational Vehicle (RV)/Camper being used as a temporary residence an approved means On-Site Wastewater Disposal be determined by the Pennington County Environmental Planning Supervisor or designee.
 5. That the minimum setback requirements of a General Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;
 6. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;
 7. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
 8. That upon completion of the single-family residence or cabin on the subject property, the Recreational Vehicle (RV) will be disconnected from all utilities and may no longer be utilized as living quarters on the subject property, unless the Landowner(s) receive an approved Variance, for said use, by the Board of Adjustment;
 9. That the applicant notify the Planning Department when the new residence is habitable, so that this Conditional Use Permit can end;
 10. That the applicant signs the Statement of Understanding within ten (10) business days of Conditional Use Permit / CU 17-37, which is available at the Planning Office; and,
 11. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

III. EXISTING CONDITIONS

- A. Zoned General Agriculture District, minimum forty (40) acre lot size.
- B. 10.33 acres.
- C. The applicant owns seven (7) adjoining Mining Claims in the area totaling over 70+ acres. This conglomerate of Mining Claims are completely surrounded by Forest Service Land, which stretches out, at a minimum, 1.35 miles in every direction.
- D. Lot contains:
 - 1. Camper (8-feet x 26-feet).
 - 2. Wood Deck (size unknown)
 - a. Unpermitted.
 - 3. Two storage structures each under 144 square feet and not permanently attached to the ground.
 - 4. Outhouse.

IV. OCTOBER 08, 2018 PLANNING COMMISSION MEETING

- A. September 26, 2018 – Staff spoke to the applicant and performed a site visit the same day.
 - 1. The applicants indicated they have not moved forward with any improvements on the subject property.
 - 2. Per Staff's site visit , it appears no work has been done on the subject property.
 - 3. Prior to the next review, Staff required:
 - a. That the applicants meet with Planning Staff to discuss the proper means of septic disposal; and
 - b. The unpermitted deck be brought into compliance.
 - 4. The above-mentioned items were adjustments to the previously approved Conditions of Approval and are evident in Conditions #3 and #4.



V. UPDATED AERIAL PHOTO

- A. An updated RapidMap aerial photo from mid-2018.



VI. UPDATE

- A. Beginning on October 01, 2019, Staff has attempted to make contact with the applicant via phone calls. Staff is seeking permission to be on the subject property to perform the review.
1. During the first phone call attempt, the person who answered the phone hung up after Staff mentioned they were from Pennington County and that it was time to do a review of their Conditional Use Permit.
- B. Since the initial attempt, Staff has only received a busy signal when attempting to call back.
- C. October 08, 2019 – Staff mailed a first class letter to the Landowner requesting contact.
- D. Mid-October 2019 – Staff received a phone call from Mrs. Denke who provided permission for staff to visit the subject property for a review of CU 17-37.
- E. October 18, 2019 – The Pennington County Ordinance Officer performed a site visit to the subject property. A photo from this site visits can be found on Page 6 of this Staff Report.



RECOMMENDATION: Staff recommends approval of the extension of Conditional Use Permit / CU 17-37 with the following eleven (11) conditions:

1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as temporary living quarters on the subject property unless the Landowner(s) receives an approved Variance, for said use, by the Board of Adjustment;
2. That an address be assigned for the property and clearly posted in accordance with Pennington County's Ordinance #20;
3. That prior to the next review of CU 17-37, the landowner bring the existing deck into compliance and obtain an approved Building Permit, with applicable penalty fees;
5. That the minimum setback requirements of a General Agriculture District be continually maintained on the subject property, or an approved Setback Variance be obtained;
6. That the subject property remains free of debris and junk vehicles, in accordance with Ordinance #106;
7. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
11. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.



1: 189,055



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Legend

- Roads**
- Interstate
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 - Driveway
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 - Airport Runway
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- BOX ELDER
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 - ELLSWORTH AFB
 - HILL CITY
 - KEYSTONE
 - NEW UNDERWOOD
 - QUINN
 - RAPID CITY
 - WALL
 - WASTA

Map Notes:



1: 23,632

3,938.6 Feet

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Legend

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- Alley
- Unimproved road
- Airport Runway
- Not yet coded

Section Lines 0-25k

Tax Parcels

Lot Lines

- <Null>
- Lot Line
- Parcel Line

Pennington County Zoning

- General Agriculture
- General Commercial
- Heavy Industrial
- Highway Services
- Limited Agriculture
- Low Density Residential
- Light Industrial
- Planned Unit Development
- Suburban Residential
- NOCODE

Map Notes:

STAFF REPORT

GENERAL INFORMATION:

REQUEST: CONDITIONAL USE PERMIT REVIEW/ CU 18-41: To review a single-wide mobile home to be used as a single-family residence on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Andrew Foley

APPLICANT ADDRESS: 204 Douglas Road Lot #15, Box Elder, SD 57719

LEGAL DESCRIPTION: Tract B, 155th Avenue Subdivision, Section 30, T2N, R10E, BHM, Pennington County, South Dakota.

SITE LOCATION: South of the intersection of Highway 1416 and 155th Avenue.

SIZE: 31.22 acres

TAX ID: 68903

EXISTING LAND USE: Vacant

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: Flat / Open Prairie

UTILITIES: Private

REPORT BY: Kristina Proietti

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending to end Conditional Use Permit / CU 18-41, with the applicant's concurrence, as it is no longer needed.

II. GENERAL DESCRIPTION

- A. November 26, 2018, Conditional Use Permit / CU 18-41 was approved with the following nine (9) conditions:
1. That a Building Permit be obtained for the proposed single-wide mobile home, prior to any work being done and prior to a Building Permit for the proposed garage;
 2. That the single-wide mobile home be assigned an address, which must be posted in accordance with Pennington County Ordinance #20;
 3. That any work proposed within the Special Flood Hazard Area be approved, at a minimum, by way of a Floodplain Development Permit prior to any work being done;
 4. That the minimum setback requirements of a General Agriculture District be continually maintained on the property;
 5. That the subject property remains free of debris and junk vehicles;
 6. That the single-wide mobile home installed on the property be in compliance with Pennington County Zoning Ordinance § 304;
 7. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
 8. That the applicant signs the Statement of Understanding at the Planning Office within ten (10) business days of approval of Conditional Use Permit / CU 18-41; and,
 9. That this Conditional Use Permit be reviewed in one (1) year, 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.

III. EXISTING CONDITIONS

- A. General Agriculture District, minimum forty (40) acre lot size – current and Future Land Use Zoning.
- B. 31.22 acres (Southeast portion of Parent Parcel).
- C. Access is proposed from 155th Avenue.
- D. There is Zone A – Special Flood Hazard Area (SFHA) on the subject property. (IMAGE 2)



Special Flood Hazard Area on the subject property.

- E. Lot contains:
1. Double-wide mobile home (DWMH), 28' X 56', County Building Permit (COBP) / COBP19-0016.
 2. Detached garage, 60' X 81', COBP / COBP18-0176.
 3. Onsite Wastewater Treatment System Construction Permit / COSD18-0024.
 4. Onsite Wastewater Treatment System Operating Permit / COOP19-1192.

V. HISTORY

- A. August 7, 2018 – A Plat was approved by the Box Elder City Council to create Tract B of 155th Avenue Subdivision (31.215 acres).
- B. September 18, 2018 – The Board of Adjustment approved Lot Size Variance / VA 18-05 to allow for a 31.215 acre lot in a General Agriculture District.

VI. ANALYSIS

- A. November 18, 2019, Staff performed a site visit to the subject property to verify that a DWMH had been placed there as opposed to the single-wide mobile home (SWMH) that Conditional Use Permit / CU 18-41 was approved for.
- B. November 18, 2019, Staff spoke with Mr. Foley on the phone where it was discussed that Conditional Use Permit / CU 18-41 would no longer be needed.
- C. The applicant has concurred to end Conditional Use Permit / CU 18-4 as the plan to get a SWMH for the lot was changed to a DWMH instead (see attached letter).

RECOMMENDATION: Staff recommends to end Conditional Use Permit / CU 18-41 with the applicant's concurrence.

Proietti Kristina

From: Andrew Foley <andrew.foley7817@gmail.com>
Sent: Monday, November 18, 2019 3:16 PM
To: Proietti Kristina
Subject: Re: Regarding the End of CU 18-41

CAUTION: This email is from an outside source. Use caution before opening attachments, clicking links or providing confidential information.

I Andrew Foley would like to discontinue or close conditional use permit as it is no longer needed we placed a Doublewide Manufactured home on the property that is in compliance with the county laws and regulations.

Thank you have a good week

On Mon, Nov 18, 2019 at 4:12 PM Proietti Kristina <Kristina.Proietti@pennco.org> wrote:

Mr. Foley,

Hello, this is my email address in regards to the ending of Conditional Use Permit 18-41 for the single-wide mobile home. I just need it in email form from you.

Thank you,

Kristina Proietti

Planner 1

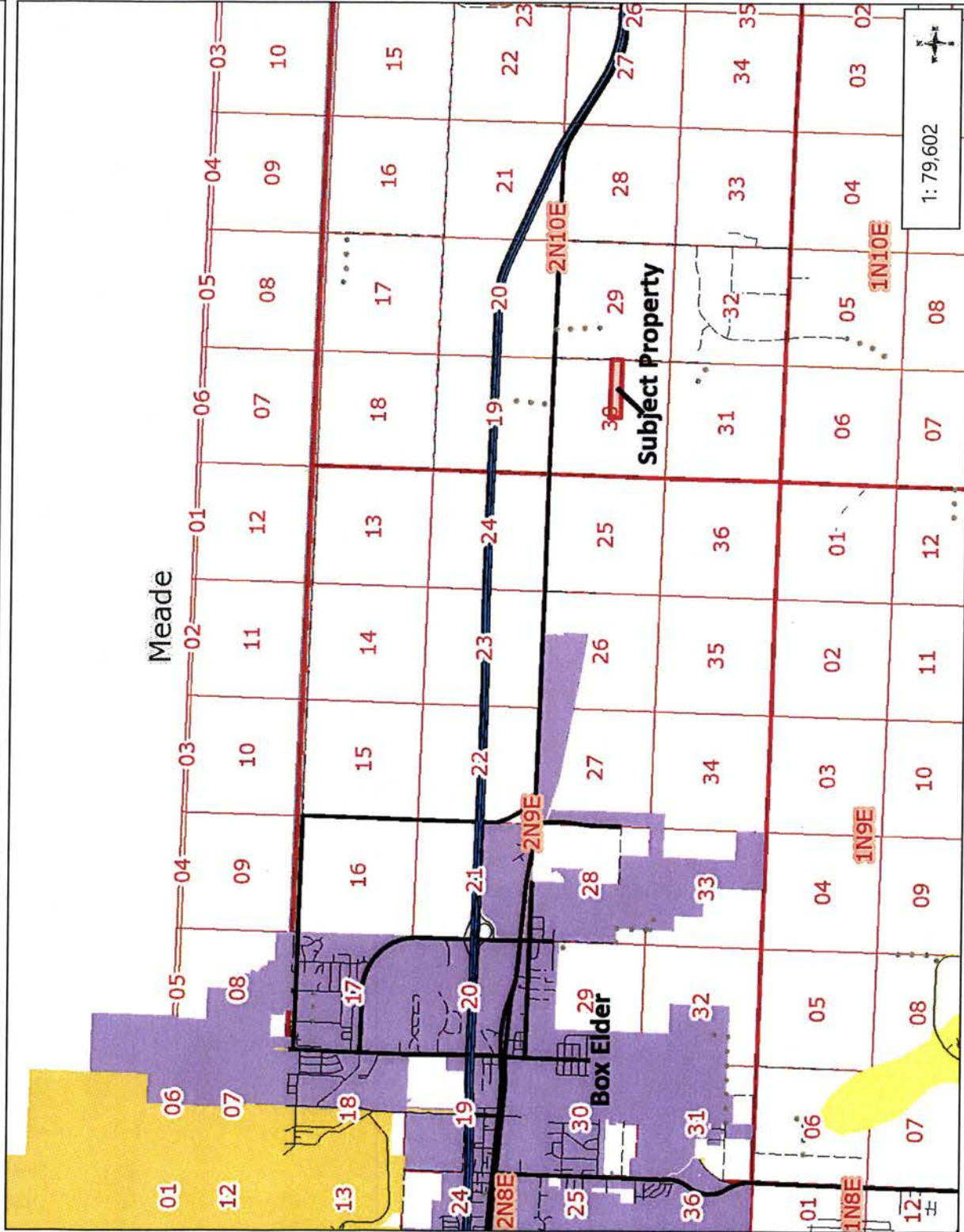
Office: (605) 394-2186, Ext 1409

kristina.proietti@pennco.org

Mailing Address: P.O. Box 6160, Rapid City, South Dakota 57709

Physical Address: [130 Kansas City Street, Suite 200, Rapid City, South Dakota 57701](#)

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Legend

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Map Notes:

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13,267.0 0 6,633.50 13,267.0 Feet

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1: 22,544

Legend

- Roads**
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NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet

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1: 22,544

3,757.4 0 1,878.71 3,757.4 Feet

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Section Lines 0-25k

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- Lot Lines
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- Lot Line
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Pennington County Zoning

- General Agriculture
- General Commercial
- Heavy Industrial
- Highway Services
- Limited Agriculture
- Low Density Residential
- Light Industrial
- Planned Unit Development
- Suburban Residential
- NOCODF

Map Notes:

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT REVIEW / PU 18-01**: To review an existing Planned Unit Development to allow the existing single-family residence on Lot 43 to be used as a Vacation Home Rental on the subject property in accordance with § 213 and 319 of the Pennington County Zoning Ordinance.

APPLICANT / OWNER: Deerfield Cabins, LLC; Deon Wynia

APPLICANT ADDRESS: 202 9th Street SE, Sioux Center, IA 51250

LOCAL CONTACT: Sheralin Groves

LEGAL DESCRIPTION: Lot 43, Burns Placer MS 697, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

SITE LOCATION: 12293 Deerfield Road; south of the intersection of Burnt Fork Road and Deerfield Road.

TAX ID: 551

SIZE: 2.4 acres

EXISTING LAND USE: Residential

ZONING REFERENCE: § 213 and 319

CURRENT ZONING: Planned Unit Development District

SURROUNDING ZONING:

North	Planned Unit Development District
South	Planned Unit Development District
East	General Agriculture District
West	General Agriculture District

PHYSICAL CHARACTERISTICS: Flat / Sloping

UTILITIES: Private

REPORT BY: P.J. Conover

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending approval of PU 18-01 with twenty-two (22) conditions.

II. GENERAL DESCRIPTION

- A. To review an existing single-family residence, used as a Vacation Home Rental, with five (5) bedrooms, within a Planned Unit Development.
- B. PU 18-01 was continued to the November 25, 2019, Planning Commission meeting to allow the Local Contact and owner time to post addressed, obtain a Building Permit and address septic concerns for Lot 43. Staff has verified that Lot 43, as of this Staff Report, is in compliance.
- C. The next review of PU 18-01, shall include a review of all the Vacation Home Rentals within PU 18-01.

III. ZONING HISTORY

- A. On September 14, 2004, the Board of Commissioners approved Planned Unit Development / PU 04-10 with the following fifteen (15) conditions:
 - 1. That the Planned Unit Development consist of four (4) lots with one (1) single-family residence and one (1) picnic shelter on Lot 43, and one (1) vacation home and accessory structure on Lots 41, 42 and 44 and all structures be stick built;
 - 2. That the setbacks for the planned Unit Development be 25 feet from all property lines;
 - 3. That prior to County Board approval, the applicant shall submit a copy of the easement to the Planning Department for review and approval, that provides access across Mickelson Trail and U.S. Forest Service Land;
 - 4. That each unit have smoke/heat detectors, fire extinguishers and two means of escape;
 - 5. That the internal road be named and an address assigned to each unit and the existing single-family residence re-addressed using the new road name;
 - 6. That a minimum of eight (8) parking spaces be provided measuring at least 9 feet by 18 feet and be maintained in a dust free manner;
 - 7. That building permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
 - 8. That prior to construction or dirt work within the 100-year floodplain the applicant must obtain approval of a Floodplain Development Permit;
 - 9. That prior to issuance of a Building Permit for any of the vacation homes, an easement be filed with the Register of Deeds across Lots 42, 43, and 44 to provide legal access to all lots;

10. That prior to issuance of a Building Permit for the vacation homes, necessary septic application be submitted and reviewed by the Environmental Planner and the Department of Environmental and Natural Resources;
 11. That no drainfield be located within the areas designated as 100-year floodplain;
 12. That prior to County Bards approval; the applicant submits a floodplain Development Permit for the proposed roads;
 13. That prior to the issuance of a Building Permit for the vacation home, the applicant must grant an easement for the tow homes that will be serviced by the wells not on the same lot;
 14. That the internal roads and parking spaces be maintained in a dust free manner; and,
 15. That this Planned Unit Development be reviewed in two (2) years times or on a complaint basis.
- B. Since the original approval, PU 04-10 has been reviewed one (1) time on October 17, 2006, and was extended with the following ten (10) conditions:
1. That the Planned Unit Development consist of four (4) lots with one (1) single-family residence and one (1) picnic shelter on Lot 43, and one (1) vacation home and accessory structure on Lots 41, 42 and 44 and all structures be stick built;
 2. That the setbacks for the planned Unit Development be 25 feet from all property lines;
 3. That each unit have smoke/heat detectors, fire extinguishers and two means of escape;
 4. That a minimum of eight (8) parking spaces be provided measuring at least 9 feet by 18 feet and be maintained in a dust free manner;
 5. That building permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
 6. That prior to construction or dirt work within the 100-year floodplain the applicant must obtain approval of a Floodplain Development Permit;
 7. That no drainfield be located within the areas designated as 100-year floodplain;
 8. That the internal roads and parking spaces be maintained in a dust free manner;
 9. That the applicant properly post the addresses in compliance with Ordinance No. 20; and,
 10. That this Planned Unit Development be reviewed on a complaint basis.

IV. EXISTING PROPERTIES WITHIN PU 04-10

- A. Lot 41
 - 1. 2.1 acres.
 - 2. Lot contains:
 - a. Vacation Homes Rental (VHR) with attached deck – 2004COBP0779.
 - b. 12' x 16' shed – COBP13-0410.
- B. Lot 42
 - 1. 2.2 acres.
 - 2. Lot contains:
 - a. Vacation Home Rental (VHR) with attached deck – 2004COBP0780.
- C. Lot 43
 - 1. 2.4 acres.
 - 2. Lot contains:
 - a. Single-family residence with an attached garage and decks – 2002COBP1016.
 - b. 20' x 24' Picnic pavilion – 2004COBP0782.
 - i. 2004COBP0782 was for a 20' x 20' Picnic Pavilion
 - ii. Floodplain Development Permit / FP 18-05.
- D. Lot 44
 - 1. 2.3 acres.
 - 2. Lot contains:
 - a. Vacation Home Rental (VHR) with attached decks – 2004COBP0761.
 - b. 24' x 24' Detached garage – 2004COBP0781.
 - c. Building Permit and Septic concerns.
 - i. A letter was sent to Deerfield Cabins, LLC on May 14, 2018 stating that the subject VHR was being advertised for rental for twenty (20) people or more.
 - ii. This raised concerns regarding construction without Building Permits and Onsite Wastewater Treatment system concerns, which may also involve the United States Environmental Protection Agency.
 - iii. The Pennington County Environmental Planning Supervisor and Onsite Wastewater Specialist will be working with the landowners to rectify the issues.

V. HISTORY OF LOT 43

- A. February 26, 2018, staff received several emails from the landowner with the updated floorplan, application for the Lodging License, and notarized Local Contact information, all of which are included with the Staff Report.
 - 1. The floorplan show the first and second story to have five (5) bedrooms which is the maximum number of bedrooms allowed per §319(F)(2) PCZO.

2. In the same email, the landowner stated that there are also two (2) additional bedrooms in the basement level of the residence that could be rented out as a separate unit from the main living levels.
 - a. These floorplans were not included with that email at the time.
 - b. UPDATE: On July 03, 2019, Staff observed the two additional subject rooms in the basement. One was locked and the other full of storage items. The Local Contact, Sheralin Groves, stated the two rooms are **NOT** rented out when the rest of the house is rented.
- B. The only Building Permit for the subject property that pertains to the single-family residence, 2002COBP1016, indicates that the basement was permitted as unfinished square footage.
 1. Additionally the onsite wastewater treatment system, installed via 2002COSD0213, is sized for a four (4) bedroom residence without a garbage disposal.
 - a. The tank installed is 2050 gallons and the drainfield is 720 square feet, which leaves the existing drainfield and tank undersized for the finished number of bedrooms and garbage disposal.
- C. February 27, 2018, staff received the letter from DENR stating that the overnight guest limit is nine (9) people.
- D. February 28, 2018, staff conducted a site visit to the subject property.
 1. During the site visit, staff confirmed that the basement has been mostly finished and comprises of two (2) bedrooms, one (1) bathroom and a large living room with a separate entrance. There is also a wall partitioning the previously described finished space from the mechanical space and upstairs access.
 2. Staff verified that there were smoke alarms on every level of the residence as well as fire extinguishers.
 - a. Under §319 PCZO, fire alarms must be placed in every bedroom and fire extinguishers must be mounted 5'3" from the floor to the gauge on each level.
 - i. UPDATE: On July 03, 2019, Staff verified the smoke detectors and fire extinguishers were still in place as noted above.
- E. March 1, 2018, the landowner provided the lower level floorplan with the dimensions showing the difference between what was permitted under 2002COBP1016 and what was completed prior to obtaining an approved Building Permit.

- F. March 2, 2018, staff sent an email to the landowner addressing the violations on the subject property.
 - 1. The drainfield and septic tank are undersized for the number of existing bedrooms for the residence and will need to be expanded to accommodate the additional finished living space.
 - 2. Building Permits, with all applicable fees paid, must be obtained for the unpermitted finished living spaces.
 - 3. Should the landowner wish to proceed with the request to use the existing residence as a VHR, an approved Variance must be obtained to allow a seven (7) bedroom VHR.
 - 4. Should the landowner wish to rent the units separately, PU 18-01 must be amended and re-advertised to include a multi-family dwelling VHR on the subject property.
- G. March 7, 2018, the applicant applied for COBP18-0128 to permit the finished basement.
 - 1. This included amending the floorplan for the VHR application and the floorplan changed.
- H. March 19, 2018, staff conducted a site visit to the subject property to inspect the profile hole on the subject property.
 - 1. During this site visit, staff found that there was a fire pit in use on the subject property with an existing burn permit in the former owner's name.
 - a. The applicant stated that this would be removed from the subject property as well as the fire wood in the picnic pavilion.
- I. March 19, 2018, the applicant applied for Variance / VA 18-03 to allow a seven (7) bedroom VHR.
 - 1. § 319 of the PCZO states that the maximum number of bedrooms in a VHR is five (5).
 - 2. This Variance request was heard on May 01, 2018 by the Board of Adjustment and denied.
- J. March 28, 2018, staff received a new letter of approval from DENR for eighteen (18) nightly guest occupancy for the subject property.
- K. April 4, 2018, the applicant applied for an OSWTS Construction Permit COSD18-0028 to expand the drainfield to accommodate the finished basement and seven (7) bedroom residence.
 - 1. To avoid expanding the tank as well, the applicant agreed to remove the garbage disposal.
- L. During the review of the picnic pavilion, staff found that the structure was never included in the original Floodplain Development Permit / FP 04-12.
 - 1. New Floodplain Development Permit / FP 18-05 was approved for the picnic pavilion.
- M. April 10, 2018, staff conducted a site visit to the subject property to verify that the fire pit and garbage disposal had been removed.

- N. April 18, 2018, staff received a copy of the Information Sign indicating the Local Contact, emergency information and designated parking areas.
- O. There are addressing concerns from both the road and on the residence, as the address posted on the roadside mail box was incomplete and there is no address posted on the residence.
- P. April 23, 2018 – staff received photos of the complete address numbers posted on the mailboxes which are included with the Staff Report.
- Q. April 25, 2018 - the applicant emailed a photo of the address posted on the residence which is included with the Staff Report.
- R. Per the Fire Administrator's comments, it has been recommended that the residence include a sprinkler system as there has been a precedence set regarding sprinkler system installation through other Minor Planned Unit Development Amendments, Layout and Minor Plats.
 - 1. While this may not be a plat request, the requested change in use is significant and could warrant additional safety measures, such as a sprinkler system request.
 - 2. A sprinkler system requirement was not added to the Conditions of Approval by the Planning Commission or the Board of Commissioners.

VI. MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT APPROVAL

- A. On July 03, 2018, the Board of Commissioners approved PU 18-01 with the following twenty-nine (29) conditions:
 - 1. That the Planned Unit Development consist of four (4) lots with one (1) vacation home and accessory structure on each lot, and one (1) picnic pavilion on Lot 43, with all structures being stick built;
 - 2. That the setbacks for the planned Unit Development be 25 feet from all property lines;
 - 3. That each unit has smoke/heat detectors, fire extinguishers and two means of escape;
 - 4. That a minimum of one (1) parking space per bedroom be provided for each Vacation Home Rental measuring at least 9 feet by 18 feet and be maintained in a dust free manner;
 - 5. That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
 - 6. That prior to construction or dirt work within the 100-year floodplain the applicant must obtain approval of a Floodplain Development Permit;
 - 7. That no drainfield be located within the areas designated as 100-year floodplain;
 - 8. That the internal roads and parking spaces be maintained in a dust free manner;

9. That the applicant properly posts the addresses in compliance with Ordinance No. 20;
10. That prior to operation, the applicant provide proof showing that only five (5) bedrooms are accessible for the Vacation Home Rental Unit on Lot 43;
11. That the dwelling on Lot 43 is rented as one (1) Vacation Home Rental Unit to one (1) family at a time and is not occupied by the property owner at the time of rental, and if both units are utilized separately as Vacation Home Rental Units, an additional Major Planned Unit Development Amendment must be obtained to allow a multi-family Vacation Home Rental Unit prior to operation;
12. That prior to operation, the applicant and/or landowner of the Lot 43 obtain a license from the 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;
13. That prior to operation, the Vacation Home Rental, on Lot 43, designate five (5) off-street parking spaces in such a manner that does not block or obstruct any means of ingress or egress to and from the residence and subject property, with each parking space measuring a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
14. That the residence on Lot 43 remain garbage disposal free or the landowner must increase the septic tank capacity to accommodate the increase wastewater;
15. That Lot 43 remain fire pit free or the landowner obtain State Burn Permits to be filed with the Planning Department;
16. That if encroachments are located on National Forest System lands and adjacent to Lot 43, the landowner of record has the responsibility to remove all personal property and real property from National Forest System lands at the landowners' expense per the email from the U.S. Forest Service;
17. That no additional trails shall be constructed onto National Forest Service Lands without obtaining permission from the U.S. Forest Service;
18. That, for Lot 43, the number of nightly guests shall not exceed fourteen (14) people per § 319(F)(1), with the number of day guests at a maximum of eighteen (18) people, based on the DENR approval letter;
19. That the Lot 43 address (112293 Deerfield Road) be posted on the residence at all times and at the driveway so that it is clearly visible from both directions of travel on Deerfield Road, in accordance with Pennington County's Ordinance #20;
20. That all necessary permits are obtained prior to any additions to the structure or upgrades/alterations to the on-site wastewater treatment system;

21. That the applicants 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 current copy of said plan be kept on file at the Planning Department;
22. That an interior informational sign be posted in the residence on Lot 43, in accordance with the requirements of PCZO § 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;
23. That the applicants ensure the Vacation Home Rental on Lot 43 is operated in accordance with the requirements of PCZO § 319-F (Performance Standards) at all times;
24. That if the person designated as the Local Contact for Lot 43 is ever changed from Sheralin Groves, the interior informational sign be updated and the applicant re-notify the Planning Department and surrounding landowners within 500 feet via notices sent by First Class Mail;
25. 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;
26. That prior to operation, a Fire Mitigation Plan shall be submitted for review and approval by the Planning Director and the County Fire Administrator or jurisdictional entity;
27. That an approved Sign Permit be obtained prior to the placement of any sign(s), per PCZO § 312;
28. That the landowner of Lot 43 signs the Statement of Understanding at the Planning Office within ten (10) business days of approval of Major Planned Unit Development Amendment / PU 18-01; and,
29. That this Major Planned Unit Development Amendment 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.

VII. ANALYSIS

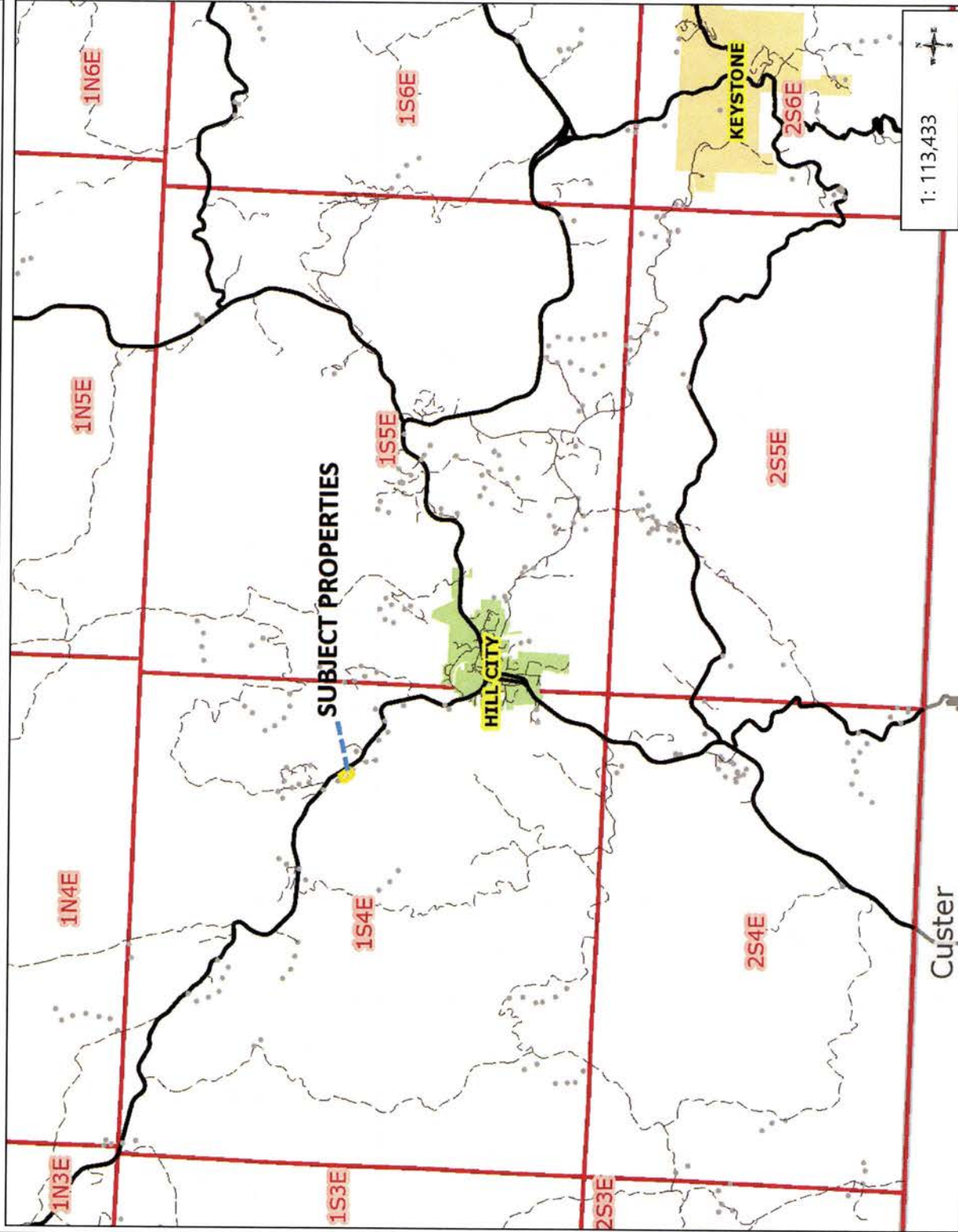
- A. §213(B)(2) of the Pennington County Zoning Ordinance (PCZO), states that Vacation Home Rentals, in accordance with §319 PCZO, are a permitted use in Planned Unit Developments if it states that they are permitted in that specific PUD.
- B. July 03, 2019 – Staff performed a site-visit and met with the Local Contact.
 1. The amendments made to the Planned Unit Development, for Lot 43, appear to be met, with the exception of #9 and #19.
 - a. Staff spoke to the Local Contact who indicated the address for Lot 43 will be posted in accordance with County Ordinance (CO) #20 before the end of July 2019.

2. Compliance with CO #20 was not isolated to Lot 43. Other Vacation Home Rentals in PU 18-01 were also not in compliance with CO #20. Specifically, County Ordinance # 20 / Section 4 / Sub-Section B / #1,2, &3 which state:
 - a. “1. 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.
 - b. 2. If a group of homes serviced by one driveway/access way are unable to individually display their numbers in a manner that would be visible from the road due to distance or physical obstructions, all house numbers from that group of homes may be placed on one sign at the point where the primary access to those homes intersects with the main road.
 - c. 3. The above-referenced homes shall, in addition to placing their house number on a group sign where the driveway/access way intersects with the road, also display their house number on the primary addressed structure, visible from the driveway/access way.”
- C. Additionally, Building Permit and Septic concerns still exist on Lot 44 which is also in PU 18-01.
 1. As stated above, the Environmental Planning Supervisor and Onsite Wastewater Specialist will work with the Landowner to bring Lot 44 into compliance.
- D. Staff recommended a review of PU 18-01 (Lot 43) during the November 25, 2019, Planning Commission meeting to verify that the addressing, Building Permit, and septic concerns have been rectified.
 1. Staff has verified through photo’s sent by the Local Contact that the PU 18-01 is in compliance with County Ordinance #20.
 2. Staff has also verified that Lot 43 is in compliance with Building Permits and septic.
- E. Staff has also removed and consolidated existing Conditions of Approval from PU 18-01 to “clean-up” the Conditions.
- F. Staff will be recommending a review of ALL the Lots within the PUD as PU 18-01 was a review of Lot 43 for Building Permits, septic’s, and addressing.
- G. Previous Conditions of Approval, specific to Lot 43 have been removed, reworded, or remained as needed to address all the Lots in PU 18-01.

RECOMMENDATION: Staff recommends approval of Planned Unit Development PU 18-01 with the following twenty-two (22) conditions:

1. That the Planned Unit Development consist of four (4) lots with one (1) vacation home unit and accessory structure on each lot, with each structure being stick built, and one (1) picnic pavilion.
2. That the setbacks for the Planned Unit Development continue to be 25 feet from all property lines;
3. That each Unit continue to have smoke/heat detectors, fire extinguishers and two means of escape;
4. That each Unit continue to have a minimum of one (1) parking space per bedroom be provided for each Vacation Home Rental measuring at least 9 feet by 18 feet and be maintained in a dust free manner;
5. That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
6. That prior to construction or dirt work within the 100-year floodplain the applicant must obtain approval of a Floodplain Development Permit;
7. That no drainfield be located within the areas designated as 100-year floodplain;
8. That the internal roads and parking spaces continue to be maintained in a dust free manner;
9. That each Unit continue to have the address properly posted in compliance with County Ordinance #20;
10. That no additional trails shall be constructed onto National Forest Service Lands without obtaining permission from the U.S. Forest Service;
11. That for each Unit the applicants 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 current copy of said plan be kept on file at the Planning Department;
12. That all applicable Federal, State, and local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;

13. That an approved Sign Permit be obtained prior to the placement of any sign(s), per PCZO § 312;
14. That all Vacation Home Rentals in PU 18-01, be rented as one (1) Vacation Home Rental Unit (Per Lot) to one (1) family at a time and are not occupied by the property owner at the time of rental;
15. That all licenses and permits continue to be obtained and that copies of these licenses be provided to the Planning Department upon request;
16. That the applicant continue to designate the appropriate area and number of parking spaces at each Unit in such a manner that does not block or obstruct any means of ingress or egress to and from the units and that each parking space measures a minimum of 9-feet by 18-feet and surfaced with gravel, concrete, or asphalt and maintained in a dust-free manner;
17. That the residence on Lot 43 continues to remain garbage disposal free or the landowner must increase the septic tank capacity to accommodate the increase wastewater;
18. That Lot 43 continues to remain fire pit free or the landowner obtain State Burn Permits to be filed with the Planning Department;
19. That if encroachments are located on National Forest System lands the landowner of record has the responsibility to remove all personal property and real property from National Forest System lands at the landowners expense;
20. That the number of overnight guests be based on the DENR approval letter and the number of daytime guest be based on PCZO § 319;
21. That interior informational signs continue to be posted in all Units in accordance with the requirements of PCZO § 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;
22. That Major Planned Unit Development Amendment / PU 18-01 be reviewed at the September 28, 2019, Planning Commission meeting to ascertain all Conditions of Approval are being met.



Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- City Limits**
- BOX ELDER
 - ELLSWORTH AFB
 - HILL CITY
 - KEYSTONE
 - NEW UNDERWOOD
 - QUINN
 - RAPID CITY
 - WALL
 - WASTA
- PLSS
- Townships

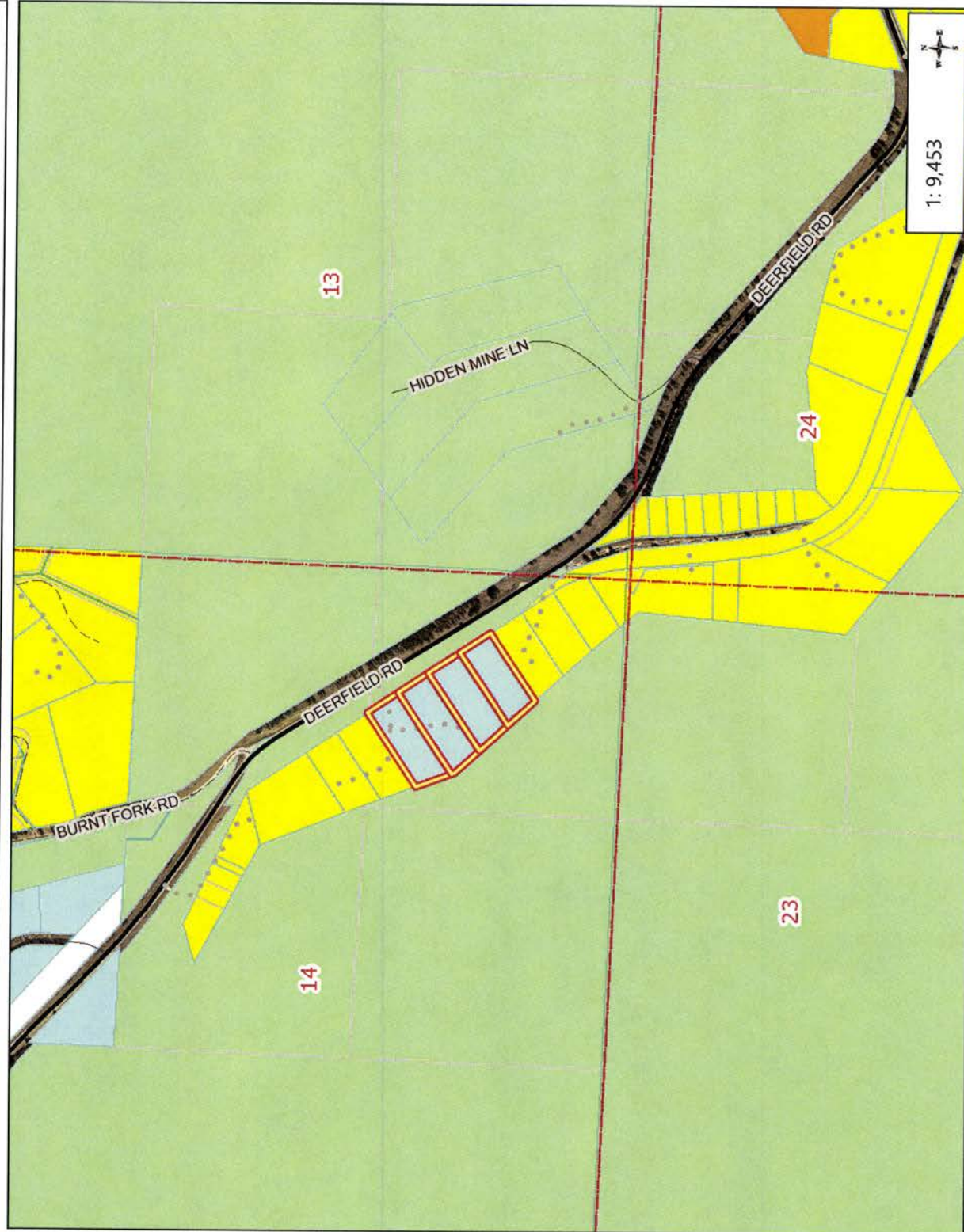
Map Notes:

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1: 9,453

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- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway
- Not yet coded

Section Lines 0-25k

Tax Parcels

Lot Lines

- <Null>
- Lot Line
- Parcel Line

Pennington County Zoning

- General Agriculture
- General Commercial
- Heavy Industrial
- Highway Services
- Limited Agriculture
- Low Density Residential
- Light Industrial
- Planned Unit Development
- Suburban Residential
- NOCODE

Map Notes:



Legend

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 - Airport Runway
 - Not yet coded
- Section Lines 0-25k**
- Tax Parcels
 - Lot Lines
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 - Lot Line
 - Parcel Line

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STAFF REPORT

GENERAL INFORMATION:

REQUEST: **MINING PERMIT / MP 19-01**: To drill and blast for production of building stone and gravel to be hauled offsite.

APPLICANT: Dakota Stone Mining & Stone Supply / James Dean

APPLICANT ADDRESS: 23863 Palmer Gulch Road, Hill City, SD 57745

OWNER: U.S. Forest Service / Hell Canyon Ranger District

OWNER ADDRESS: 1019 North 5th Street, Custer, SD 57730

LEGAL DESCRIPTION: All of Section 3, T2S, R3E, BHM, Pennington County, South Dakota.

SITE LOCATION: Bobcat Road, approximately 2.5 miles northwest of the intersection of Bobcat Road and Medicine Mountain Road.

TAX ID: 15938

SIZE: 646.01 acres

EXISTING LAND USE: Gravel / Stone Mining

ZONING REFERENCE: Sections 205 and 507(B)

CURRENT ZONING: General Agriculture District

SURROUNDING ZONING:

North	General Agriculture District
South	General Agriculture District
East	City of Rapid City / Airport
West	General Agriculture District

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: None

REPORT BY: Cody Sack

I. PROPOSED RECOMMENDATION

- A. Staff is recommending that Mining Permit / MP 19-01 be approved with eight (8) conditions.

II. GENERAL DESCRIPTION

- A. The applicant, James Dean, has requested a Mining Permit for the expansion of the Upper Spring Creek quarry, to mine for the production of building stone and gravel on National Forrest Service Land, under the South Dakota Department of Environment and Natural Resources (SDDENR) Small Scale Mining Permit #455.
 - 1. See attached site plan.

III. EXISTING CONDITIONS

- A. General Agriculture District.
 - 1. U.S Public Domain.
- B. 646.01 acres.
- C. Vacant of any structures.
- D. Existing Upper Spring Creek Quarry.
- E. No Special Flood Hazard Area.
- F. Access off of Bobcat Rd.

IV. REQUEST FOR COMMENT

- A. County Highway Department.
 - 1. Highway Department has no comments.
- B. County Professional Environmental Planner.
 - 1. No Special Flood Hazard Area on the property.
 - 2. The site will need to be reclaimed in accordance with the Operating Plan the applicant has with the Forrest Service.
- C. County Environmental Planner
 - 1. No Special Flood Hazard Area on the property.
 - 2. The site will need to be reclaimed in accordance with the Operating Plan the applicant has with the Forrest Service.
 - 3. The applicant will need to apply for a Construction Permit.
- D. County Ordinance Enforcement Officer
 - 1. No violations.
- E. County Fire Administrator, Emergency Services (9-1-1), U.S Forest Service
 - 1. No comments received.

V. ANALYSIS

- A. The mine is located on Forest Service land.
 - 1. The applicant has an Operating Plan in place from June, 2011 that includes:
 - a. Air and water quality.
 - b. Environmental and cultural protection.
 - c. Guidelines for reclamation.
- B. Mining will include drilling and blasting slate.
 - 1. Blasting will be minimal.
 - a. Approximately twice per year.
 - b. Approximately 2000 cubic yards of material to be excavated.
 - 2. The material produced will be hauled from the mine to Dakota Stone in Hill City.
 - a. The route taken depends on road conditions and logging truck traffic.
 - b. The main roads taken are:
 - i. Deerfield Rd.
 - ii. Highway 385.
 - iii. Bobcat Rd.
 - iv. Six Mile Rd.
 - v. Medicine Mountain Rd.
- C. The mine does not operate during the winter months.
- D. November 19, 2019 - Staff spoke with SDDENR who stated:
- E. November 19, 2019 - Staff spoke with the SDDENR who stated:
 - 1. Mining License #455 is current.
 - 2. The applicants are current on their annual report.
 - 3. There are no violations on the property.
 - 4. The applicants have the proper State Permits to operate the mine.
- F. No complaints have been received about the mine or the hauling of materials from the mine.
- G. Work is expected to be completed and reclamation to start by June 1, 2021.

RECOMMENDATION: Staff is recommending approval of Mining Permit / MP 19-01 with the following eight (8) conditions:

- 1. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mine License be continually met;
- 2. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;
- 3. That the applicant obtains a Pennington County Construction Permit prior to the operation of the mine expansion;

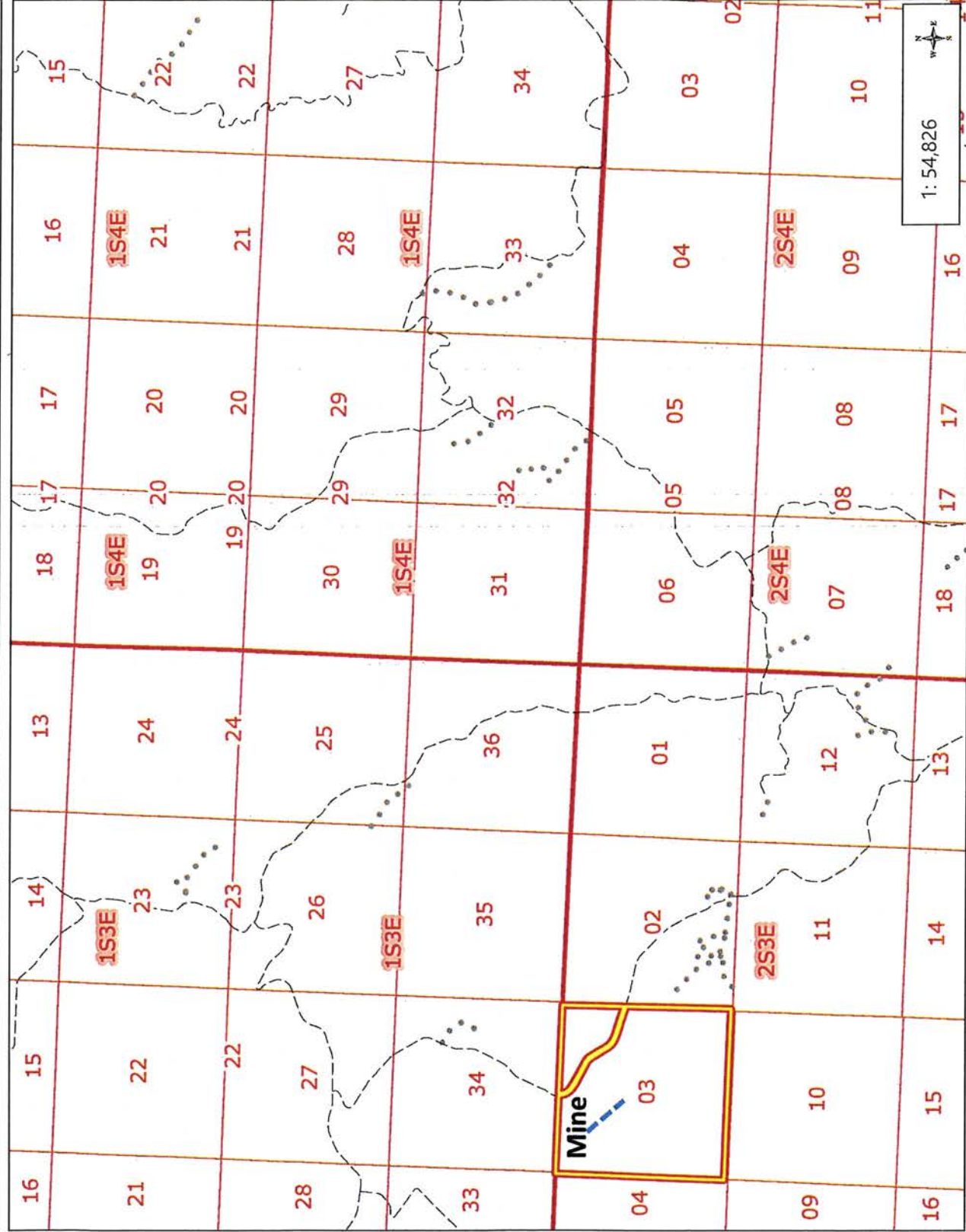
Agenda Item #7
Dakota Stone Mining and Stone Supply
November 25, 2019

4. That the applicant follows the Forest Service's Operating Plan for the Upper Spring Creek Quarry;
5. That the applicant submits a copy of the Mine License, issued by the South Dakota Department of Environment and Natural Resources, to the Planning Department and copies of any annual Mine License Reports by December 1st of each year;
6. That if there is a proposed change in operation from this Mining Permit, including but not limited to, increase in size, amount of material being extracted or type of operation, that the change be submitted to the Planning Director within thirty (30) days and the Mining Permit reviewed and approved by the Planning Commission;
7. That the applicant signs a Statement of Understanding within ten (10) business days of Mining Permit approval, which is available at the Planning Office; and,
8. That this Mining Permit be reviewed in six (6) months from approval date, and may be reviewed 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.

Legend

- Roads**
- Interstate
 - US highway
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 - Airport Runway
 - Not yet coded
- PLSS
- Townships
 - Tax Parcels
 - Lot Lines
 - <Null>
 - Lot Line
 - Parcel Line
- City Boundaries**
- BOX ELDER
 - ELLSWORTH AFB
 - HILL CITY
 - KEYSTONE
 - NEW UNDERWOOD
 - QUINN
 - RAPID CITY
 - WALL
 - WASTA

Map Notes:



1: 54,826

9,137.6 0 4,568.82 9,137.6 Feet

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Site Map SWPPP Upper Spring Creek Quarry
S3, T2N, R3E



1: 2,400



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Legend

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 - Unimproved road
 - Trail
 - Airport Runway
 - Not yet coded
- Section Lines 0-25k
- Tax Parcels
- Lot Lines
- <Null>
 - Lot Line
 - Parcel Line
- DFIRM Stream Centerline

Map Notes:

James Dean
23863 Palmer Gulch Rd.
Hill City, SD 57745
605-574-2760

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2,477.2 0 1,238.60 2,477.2 Feet

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1: 14,863



Legend

- Roads**
- Interstate
 - US highway
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- Section Lines 0-25k**
- Tax Parcels
 - Lot Lines
 - <Null>
 - Lot Line
 - Parcel Line

Map Notes:

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **MINING PERMIT / MP 19-02:** To expand an existing sand and gravel mining operation on the subject property.

APPLICANT: Pete Lien & Sons

APPLICANT ADDRESS: P.O. Box 440, Rapid City, SD 57709

OWNER: Soderquist Family Ranch

OWNER ADDRESS: 17965 Baseline Road, Wasta, SD 57791

LEGAL DESCRIPTION: All Less Right-of-Way, Section 19, T1N, R14E, BHM, Pennington County, South Dakota.

SITE LOCATION: 18151 Base Line Road, approximately 3.5 miles south of Wasta.

TAX ID: 62087

SIZE: 618.44 acres

EXISTING LAND USE: Sand / Gravel Mining

ZONING REFERENCE: Sections 205 and 507-B

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: Open prairie / rolling hills

UTILITIES: Private

REPORT BY: Cody Sack

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending approval of Mining Permit / MP 19-02 with ten (10) conditions.

II. GENERAL DESCRIPTION

- A. The applicants, Pete Lien, requested a Mining Permit to expand the existing Birdsall sand and gravel mine operation on the subject property to include restoration activities under South Dakota Department of Natural Resources (SDDENR) Mine License 83-100.
 - 1. See attached site plan.

III. EXISTING CONDITIONS

- A. General Agriculture District.
- B. 618.44 Acres.
- C. Access off of Baseline Rd.
- D. Special Flood Hazard Area.
 - 1. 100-year.
- E. Floodplain Development Permit / FP 19-46.
- F. SDDENR General Permit for Stormwater Discharges Associated with Industrial Activities (General Permit) SDR00A012 for Birdsall Sand and Gravel – Wasta Pit.
- G. Conditional Use Permit / CU 08-27 to allow a single-wide mobile home on the subject property.
- H. 16' x 76' single-wide mobile home with 16 square foot deck (COBP15-0191)
- I. Septic system (COSD15-0026).

IV. REQUEST FOR COMMENT

- A. County Highway Department
 - 1. Highway Department has no comments.
- B. County Professional Environmental Planner
 - 1. There is Special Flood Hazard Area on the subject property. A Floodplain Development Permit was submitted by the applicant for the proposed Mining Activity.
- C. County Environmental Planner
 - 1. The applicants have submitted a Construction Permit and a Floodplain Development Permit.
 - 2. The applicant will need to follow the Storm Water Manual.
 - 3. Would recommend a 9-1-1 address.
- D. County Ordinance Enforcement
 - 1. No violations.

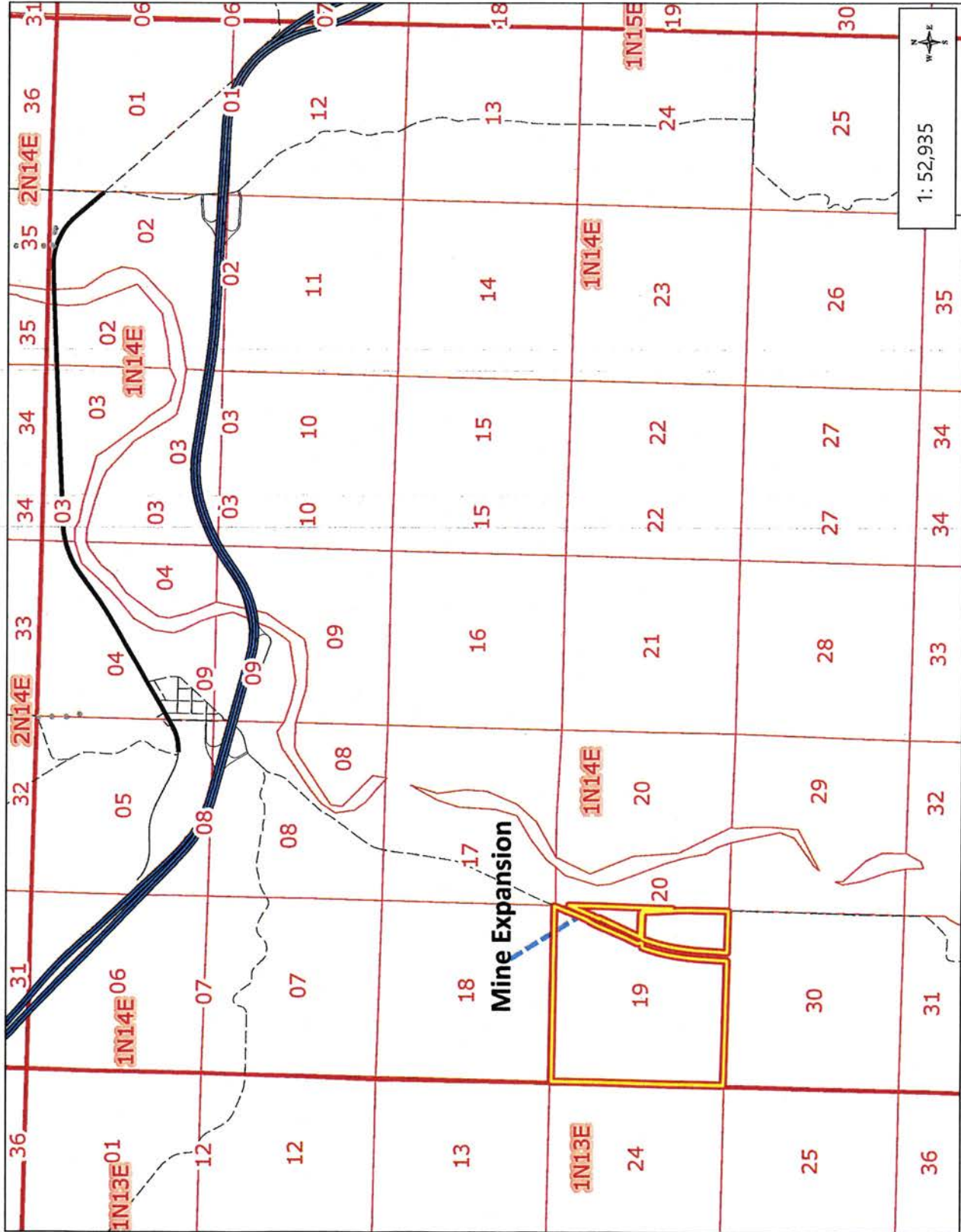
- E. County Natural Resources Director
 - 1. Recommend that applicant use an intergraded noxious weed plan for existing noxious weeds on the property. All state and locally declared noxious weeds must be treated before seed set, as per state law.
 - F. Emergency Services (9-1-1)
 - 1. No comments here.
 - G. County Fire Administration
 - 1. No comments received.
- V. ANALYSIS**
- A. October 4, 2019 the applicant applied for:
 - 1. A Mining Permit to expand the existing Birdsall Sand and Gravel – Wasta Pit.
 - 2. A Floodplain Development Permit for the work to be conducted in the floodplain.
 - B. The work will be conducted under the SDDENR Mining License 83-100.
 - C. The work is to include:
 - 1. Type of material is sand and gravel.
 - 2. Approximately 2.5 million cubic yards of material to be excavated.
 - 3. Main roads to be used are Baseline Rd. and Interstate 90.
 - D. The applicant has also applied for a Construction Permit for the expansion area.
 - E. November 19, 2019 - Staff spoke with the SDDENR who stated:
 - 1. Mining License 83-100 is current.
 - 2. The applicants are current on their annual report.
 - 3. There are no violations on the property.
 - 4. The applicants have the proper State Permits to operate the mine.
 - F. The subject property contains vegetated berms to contain the sight.
 - G. The grading and mining of the property will create detention ponds.

RECOMMENDATION: Staff is recommending that the Planning Commission Approve Mining Permit / MP 19-02 with the following ten (10) conditions:

- 1. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mine License be continually met;
- 2. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;
- 3. That the Conditions of Approval of Construction Permit / CP 19-17 are continually met;
- 4. That the applicants follow the reclamation plan that was submitted to the SDDENR to reclaim the site when work is completed;

Agenda Item #8
Pete Lien & Sons
November 25, 2019

5. That the applicant submits a copy of the Mine License, issued by the South Dakota Department of Environment and Natural Resources, to the Planning Department and copies of any annual Mine License Reports by December 1st of each year;
6. That if there is a proposed change in operation from this Mining Permit, that the change be submitted to the Planning Director within thirty (30) days and the Mining Permit reviewed and approved by the Planning Commission;
7. That if there is a change in the floodplain or the work within the floodplain, the applicant submits a new Floodplain Development Permit;
8. That the applicant signs a Statement of Understanding within ten (10) business days of Mining Permit approval, which is available at the Planning Office; and,
9. That this Mining Permit be reviewed in six (6) months from approval date, and may be reviewed 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: 52,935

8,822.6 Feet

4,411.28

0

8,822.6

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet
© City of Rapid City GIS

Legend

Roads

- Interstate
- US highway
- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway
- Not yet coded

PLSS

Townships

Tax Parcels

Lot Lines

<Null>

Lot Line

Parcel Line

City Boundaries

- BOX ELDER
- ELLSWORTH AFB
- HILL CITY
- KEYSTONE
- NEW UNDERWOOD
- QUINN
- RAPID CITY
- WALL
- WASTA

Map Notes:

Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- Section Lines 0-25k**
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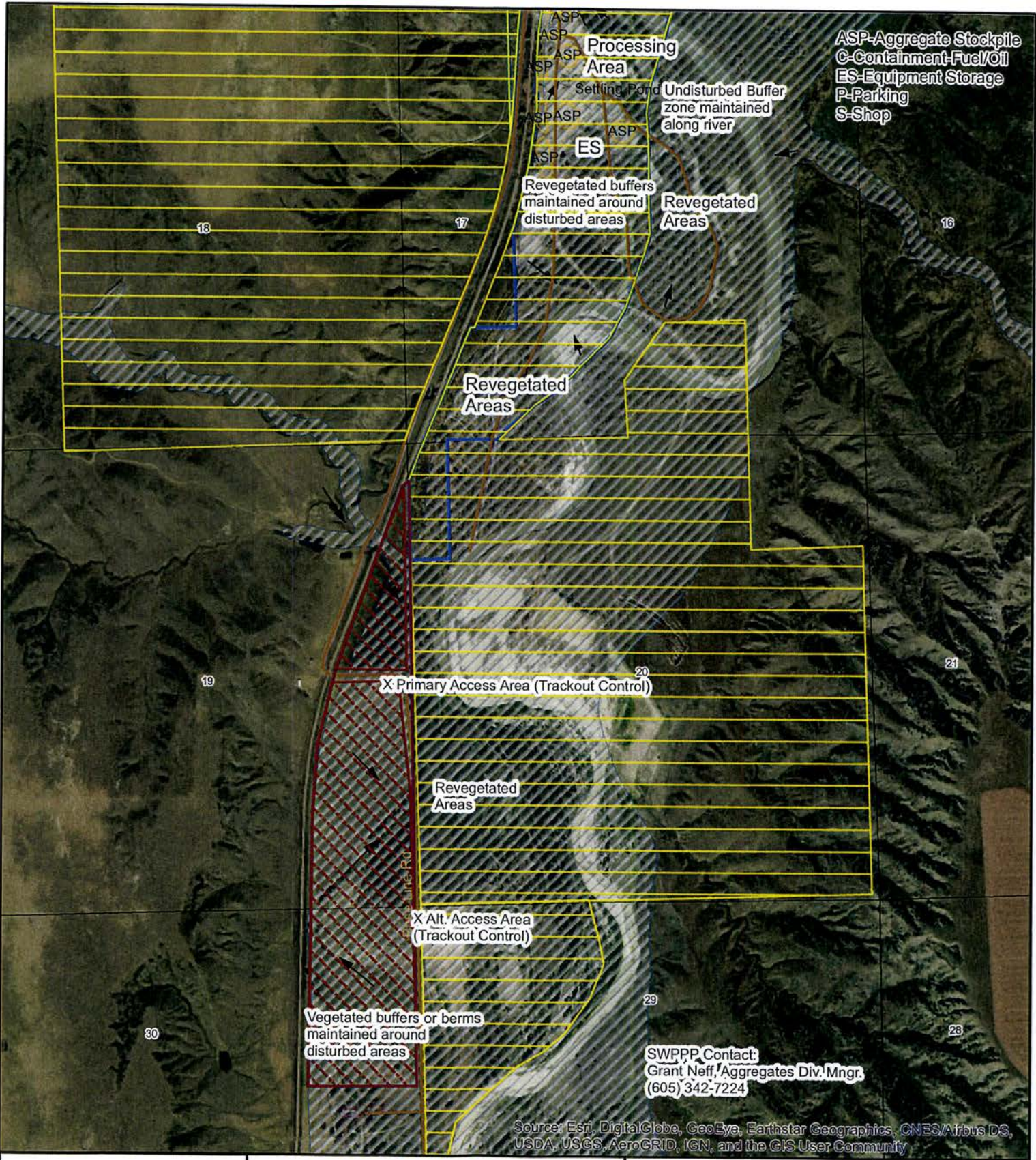


1: 18,981

Map Notes:

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THIS MAP IS NOT TO BE USED FOR NAVIGATION



ASP-Aggregate Stockpile
 C-Containment-Fuel/Oil
 ES-Equipment Storage
 P-Parking
 S-Shop

SWPPP Contact:
 Grant Neff, Aggregates Div. Mngr.
 (605) 342-7224

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

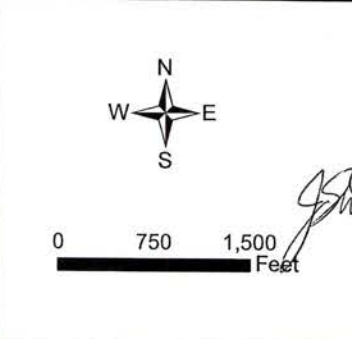
Wasta Mine Site Plan

Portions of E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 19; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Portions of SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30; T1N-R14E; Pennington County, SD

Layers: PLS

Background: Bing Maps Aerial

Legend	
Current SD DENR Mine License	100 Year Floodplain
Pennington Co. Construction Permit	Water Flow
Proposed CP Boundary	Structure
Disturbance Area Boundary	Stockpile
	Fuel/Oil
	Roads
	PLS
	SD Section Lines



PETE LIEN & Sons, Inc.

[Signature]

Last Revised: 09/17/2019
 Drawn by: CB
 Verified by: MG
 Surveyed: None

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **CONDITIONAL USE PERMIT / CU 19-01:** To allow for 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.

APPLICANT: NMMC, Inc; Terry Sayler

APPLICANT ADDRESS: 2511 E. Highway 50, Yankton, SD 57078

LOCAL CONTACT: Cody Peterka

LEGAL DESCRIPTION: Lot A, Miller Subdivision #2, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

SITE LOCATION: 22553 Smokey Ridge Road; located off of Nemo Road near Mansfield Road and Smokey Ridge Road.

SIZE: 4.74 acres

TAX ID: 63466

EXISTING LAND USE: Residential

ZONING REFERENCE: § 207, 319, and 510

CURRENT ZONING: Low Density Residential District

SURROUNDING ZONING:

North	Low Density Residential District
South	Limited Agriculture District
East	Low Density Residential District
West	General Agriculture District

PHYSICAL CHARACTERISTICS: Forested / Hills

UTILITIES: Private

REPORT BY: P.J. Conover

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending that Conditional Use Permit / CU 19-01, be denied without prejudice.

II. GENERAL DESCRIPTION

- A. The applicant, Terry Sayler, is requesting a Conditional Use Permit to allow an existing five (5) bedroom residence to be utilized as a Vacation Home Rental (VHR) on the subject property.
- B. On October 28, 2019, the Planning Commission approved the continuation of Conditional Use Permit / CU 19-01 to the November 12, 2019, Planning Commission meeting to allow the applicant additional time to address outstanding issues with the two (2) conditions listed below.
1. That prior to CU 19-01 being heard on November 12, 2019, the applicant shall:
 - a. Submit the requested pumping contract(s); and,
 - b. Pay the \$100 continuation fee in accordance with § 511(X); and,
 2. That if the applicant is unable to provide the requested pumping contract(s) and pay the \$100 continuation fee prior to November 12, 2019, that CU 19-01 be denied.
- C. CU 19-01 is also being re-advertised as the October 28, 2019, meeting did not include public comment.
1. CU 19-01 is being re-advertised for the November 25, 2019, Planning Commission meeting.

III. EXISTING CONDITIONS

- A. Zoned Low Density Residential District, minimum three (3) acre lot size.
- B. 4.74 acres.
- C. Access off of Smokey Ridge Road via a platted 40-foot-wide Access Easement (Plat Book 35, Page 187).
1. Located within the Mansfield Road District.
- D. Special Flood Hazard Area is “not studied”.
- E. Lot contains:
1. Single-family residence with attached garage and partial unfinished basement – 2010COBP0123.
 2. On-site wastewater treatment system – 2010COSD0009.
 - i. Consists of two (2) 2,500 gallon holding tanks (1 black and 1 gray with pump). Alarms are installed.
 - ii. An Operating Permit has not been issued since 2011 (2011COOP0776).



Existing Lot

IV. REQUEST FOR COMMENT

- A. County Highway Department
 - 1. Highway Department has no comments since this is in the Mansfield Road District and neither Nemo Road or drainage are impacted by this request.
- B. County Fire Administrator
 - 1. Beings we are unable to do a site visit of the property in question I am unable to give a complete review. I will attach some basic comments but a complete review still needs to be completed after a site visit (Damon Hartmann – Doty Fire Chief).
- C. County Professional Environmental Planner (Formerly Environmental Planning Supervisor)
 - 1. It appears that the holding tanks on the subject property are not meeting the requirements of PCZO §204(J), SDAR 74:53:01:26, and 40 CFR Part 503.
 - 2. Please note the following:
 - i. Section 204(J)(3)(O) states “Pumping records, maintenance records and manifests must be kept by the owner for a period of six years for review by Pennington County to ensure pumping of the holding tanks.”
 - 3. Pennington County sent a notice to the property owner of the requirements to pump and observe the holding tanks (Section 204(J)(2) of the PCZO) on April 19, 2017. The Planning Department received an Observation Form for a pumping and observation of the holding tank on July 7, 2017. Staff sent notices to the owner on August 23, 2017 and October 20, 2017 requesting copies of the pump receipts. The Planning Department has not

received pump receipts for the holding tank from a Pennington County Certified Pumper prior to the Notice sent on April 19, 2017. Staff received pump receipts after July 2017 from a Pennington County Certified Pumper.

4. On October 18, 2018 (through a consultant), Staff received a spreadsheet indicating that the owner disposed of the “black water” by hauling it to Yankton, trailer, and John’s. Staff requested further verification.
 5. On January 23, 2019, Staff received a letter from the owner to clarify the disposal locations.
 6. There is no indication that the “black water” that was transported to Yankton was land applied in accordance with 40 CFR Part 503 from the documentation submitted by the applicant to Pennington County.
 7. Section 204(J)(3)(O) states “A statement must be submitted by the owner indicating that, in the event his sewage holding tank is approved, he or she pump the tank periodically, at regular intervals or as needed, and that the wastewater contents will be disposed of in a manner and at a facility meeting approval of 40 C.F.R. Part 503.” - This statement was signed by the owner and Hills Septic Service in March 2010.
 8. Staff does not believe pumping it out of a holding tank and dumping it into an existing septic tank (system) is acceptable. The existing systems were not designed to be utilized as a dump station in addition to their current residential use. This would require that the existing systems at the “trailer” and “John’s” be upgraded to accommodate the additional load to the system.
 9. Lastly, the Vacation Home Rental request is for 14 persons per night. The current holding tank capacity is 5,000 gallons. It appears that there would not be enough holding tank capacity for 14 guests (7,350 gallons needed : 14 guests x 75 gpd per guest x 7 days).
- D. County Onsite Wastewater Specialist (Formerly Environmental Planner)
1. The applicant currently utilizes 2-2500 gallon holding tanks for their septic needs. One tank is used for black water and the other is for gray water. The gray water can be dispersed on the lawn when the tank is full. The black water requires a licensed pumper to pump when the tank is full. Typically holding tanks are not ideal for a Vacation Home Rental due to the monitoring required to determine when the tank needs to be pumped. To allow holding tanks in this situation, the applicant must provide past pumping records showing the system has been properly maintained. In the future the applicant will also need to provide receipts every time that the tank requires pumping. The applicant also needs to have a contract in place for their pumping needs and provide the county with a copy. A plan also needs to be in place explaining the procedure for how to deal with

an alarm that indicates a full tank. This must be made available for future guests.

- E. County Ordinance Enforcement
 - 1. There are currently 2 open Ordinance Violations (COVO17-0085 and COEV18-0015) pertaining to the holding tanks and pumping.
- F. County Natural Resources
 - 1. No objections.
- G. County Addressing Coordinator
 - 1. The address must be posted in accordance with Pennington County's Ordinance #20.
- H. County Sheriff's Office
 - 1. No comments received.
- I. Emergency Services (9-1-1)
 - 1. Only comment is to ensure the applicant has their house number posted in accordance with Penn. Co. Ord. #20 (where their driveway meets the named road).
- J. U.S. Forest Service
 - 1. The Forest Service will not approve a secondary access across National Forest System lands to the private property.
 - 2. Protect all posted boundary line corners, signs and bearing trees.
 - 3. Adhere to the setback requirements along the posted boundary between National Forest System lands and private property.
 - 4. Protect all known stream courses, pond and riparian areas located on National Forest System lands.
 - 5. No resource damage to occur on National Forest System lands.
 - 6. All proposed drain fields, leach lines or septic systems will need to be located on private property and no located on or drain onto National Forest System lands.
 - 7. All construction materials, supplies, trash or garbage will not be located or dumped on National Forest System lands.
 - 8. Public roads in this area of the Black Hills National Forest are classified as "Roads Open to Highway Legal Vehicles Only" and "Highways, US, State" per the latest version of the Motor Vehicle Use Map.
 - 9. No motorized trailheads or motorized trails or motorized roads are planned or scheduled for this portion of the Black Hills National Forest.
 - 10. 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).

V. ANALYSIS

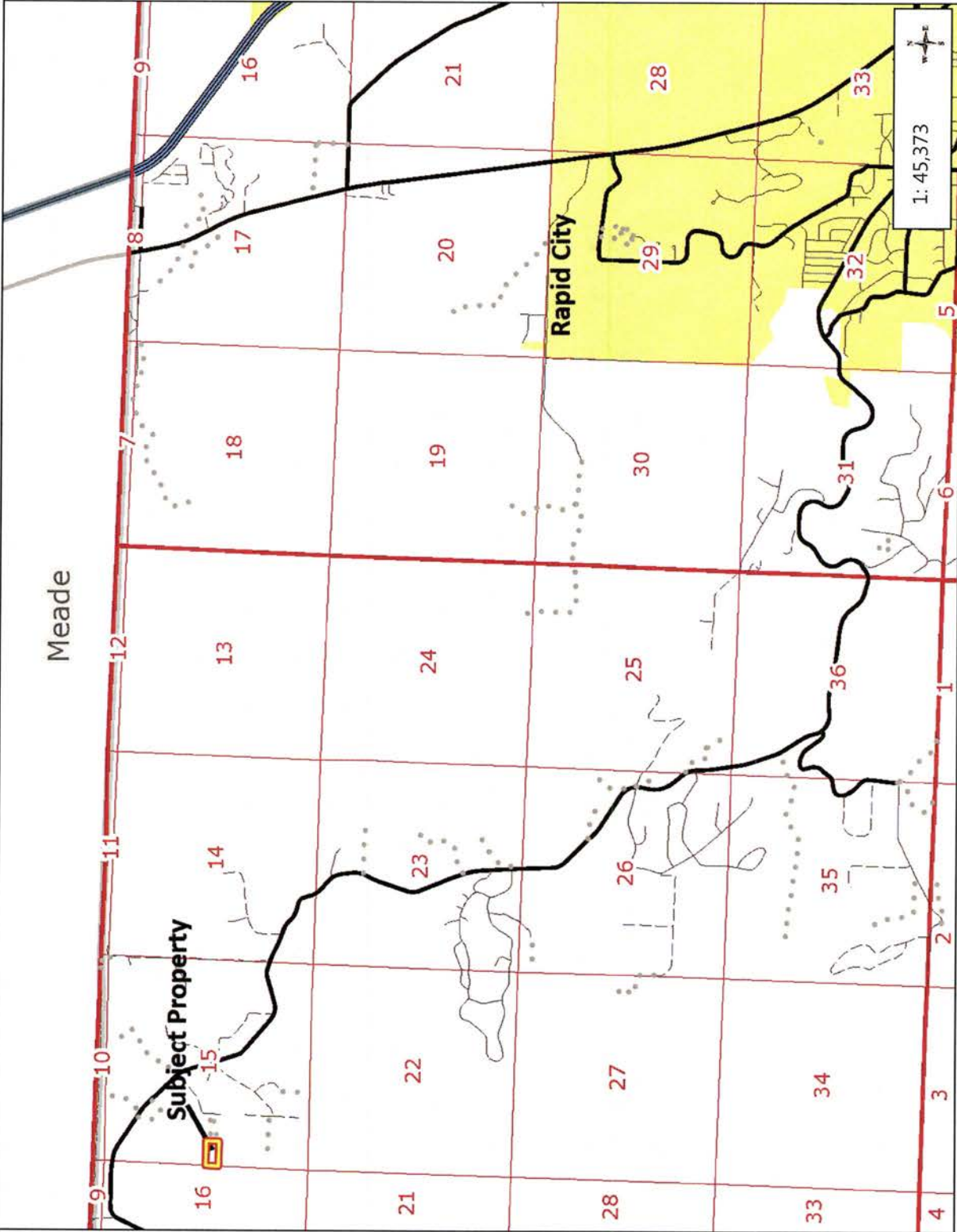
- A. January 23, 2019 – The applicant applied for Conditional Use Permit / CU 19-01 to allow the existing five (5) bedroom residence to be utilized as a Vacation Home Rental.
- B. Upon review of the subject property and submittal documents, Staff has identified the following issues that must be addressed by the applicant:
 1. The Building Permit (2010COBP0123) that was approved for the existing single-family residence indicates the house to be a three (3) bedroom with a partial unfinished basement. In submittal documents, the applicant stated that the house is a five (5) bedroom.
 - i. It appears the basement may have been fully finished without an approved Building Permit.
 - ii. If the basement is completely finished, the applicant will need to obtain a Building Permit with all applicable fees paid.
 2. The basement floor plan included in the applicant's submittal documents is unclear and does not have the rooms labeled. An updated floor plan of the basement, with all rooms labeled, is required.
 3. During this time, the applicant had not obtained approval from the South Dakota Department of Environment and Natural Resources (SD DENR) for the Vacation Home Rental.
 - i. The applicant must obtain this approval from SD DENR, as they will determine the maximum overnight occupancy based on the septic system and its sizing.
 4. The applicant has not provided the white slips to verify the Notice of Hearing letters were mailed in accordance with § 510(A)(2) of the Pennington County Zoning Ordinance (PCZO), which requires the notices to be sent 10 days prior to the Planning Commission meeting. (The white slips have since been received.)
- C. In addition, based on comments received from the County Onsite Wastewater Specialist and County Environmental Planning Supervisor, the following items must also be addressed:
 1. The applicant must increase the holding tank capacity, if the wish is to have 14 occupants in the VHR and SD DENR must approve 14 occupants.
 2. Per the County Environmental Professional Planner, in order to obtain a current Operating Permit, the applicant must provide at least two (2) years of pump receipts beginning July 7, 2017, which is the first date of record that the holding tanks were pumped by a Pennington County Certified Pumper. If those requirements are met, the applicant will be eligible to obtain an Operating Permit.
 3. The applicant must provide a pumping contract with a Pennington County Certified Pumper, in accordance with § 204(J)(3)(O), and comply with § 204(J)(2) of the PCZO with regard to providing pump receipts.

4. The applicant must provide a plan outlining the procedure for how to deal with an alarm that indicates a full tank. This plan must be provided to all future guests, if CU 19-01 is approved and the VHR is allowed to operate.
- D. Until the above-mentioned issues have been addressed and resolved, Conditional Use Permit / CU 19-01 cannot move forward.
- E. February 19, 2019 – Staff sent an email to the applicant, Terry Sayler, outlining the issues that need to be addressed.
- F. February 20, 2019 – Staff received an email in opposition of the Conditional Use Permit from a neighboring property owner.
- G. February 25, 2019 – Planning Commission continued Conditional Use Permit / CU 19-01 to the July 22, 2019, Planning Commission meeting to allow the applicant time to address outstanding issues, with the following one (1) condition:
 1. That if additional continuations are required beyond July 22, 2019, due to lack of action by the applicant, the applicant shall pay a \$100 fee for each continuation, in accordance with § 511(X).
- H. June 17, 2019 – Staff received an email from Carmen Steffen, who stated she has Power of Attorney for the applicant.
 1. Ms. Steffen was inquiring about what must be done to move forward with CU 19-01.
- I. June 18, 2019 – Staff replied to Ms. Steffen’s email advising of the issues that must be addressed.
- J. June 19, 2019 – Ms. Steffen replied to Staff’s email stating, “I will get this information to you as soon as possible, thank you so much for your help.”
- K. Between June 19, 2019 and October 23, 2019, Staff had not heard from Ms. Steffen.
 1. On October 17, 2019 (12:04 p.m.), Staff emailed Ms. Steffen reminding her of items needed to move CU 19-01 forward. Those items are:
 - a. Approval Letter from DENR for VHR; and,
 - b. Pumping contract from a certified company to pump the holding tanks.
- L. October 23, 2019, Staff received an email from Ms. Steffen’s with an attachment that contained the necessary information from DENR (allowing ten (10) persons per night). However, a pumping contract, which has been requested since February 2019, was not submitted.
 1. Per Ms. Bolstad’s email on October 17, 2019, Ms. Steffen had until October 22, 2019, to submit the contract paperwork.
 2. Due to the deadlines for the completion of this Staff Report, Ms. Steffen was given additional time until 3:00 p.m. on October 23, 2019 to submit the necessary paperwork and avoid a continuation.
 3. The paperwork, as of this Staff Report, has not been submitted.

Agenda Item #9
NMMC, Inc; Terry Saylor
November 25, 2019

- M. October 23, 2019, Staff sent a thank you email to Ms. Steffen regarding the DENR information she sent and reminded her that additional information was still needed – a pump contract from Hill’s Septic.
- N. October 24, 2019, Ms. Steffen replied to the above-mentioned October 23, 2019 email, *“I will do that, thank you.”*
- O. CU 19-01 has yet to be approved and a Vacation Home Rental has not been approved for the subject property.
- P. Staff will be recommending CU 19-01 be denied without prejudice per PCZO §513.
 - 1. The applicant has yet to provide a copy of a pumping contract.
- Q. November 19 and 20, Staff followed up with the Local Contact, via email, informing her that Staff will not be recommending approval of CU 19-01 and will be recommending denial without prejudice. Staff also informed the Local Contact what a denial without prejudice meant and what the applicant requirements would be if the Planning Commission approved Staff’s recommendation
 - 1. The Local Contact replied to Staff’s November 19, 2019, with the following message, *“Thank you PJ. Please let me know how it goes.”*
- R. Prior to a new hearing, the applicant will also be required to pay for all outstanding fee’s per Pennington County Zoning Ordinance §511.

RECOMMENDATION: Staff recommends Conditional Use Permit / CU 19-01 be denied without prejudice.



1: 45,373

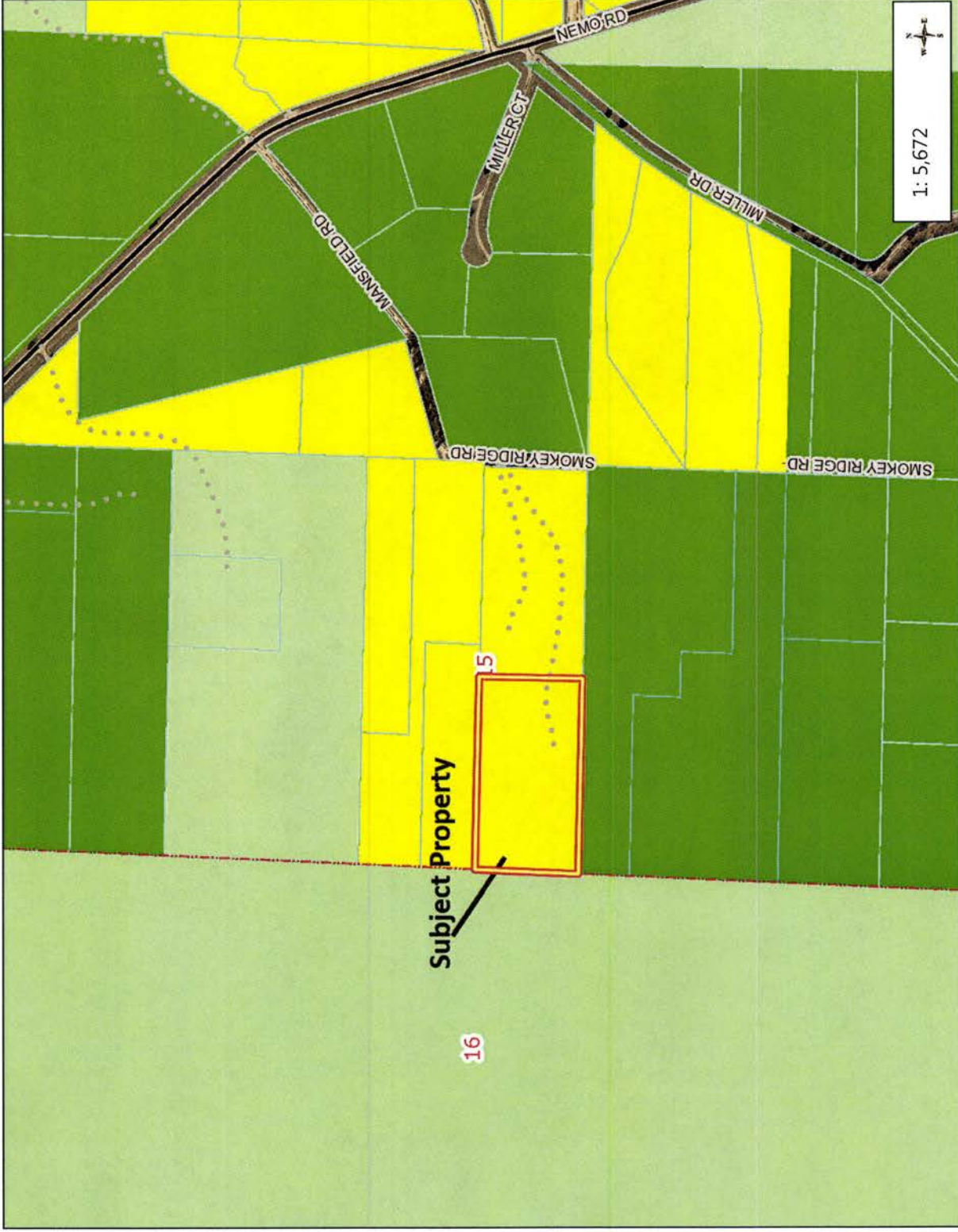
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7,562.2
 0 3,781.09 7,562.2 Feet
 NAD_1983_2011_StatePlane_South_Dakota_South_FIPS_4002_Ft_US
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Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- PLSS
- Townships**
- City Limits**
- BOX ELDER
 - ELLSWORTH AFB
 - HILL CITY
 - KEYSTONE
 - NEW UNDERWOOD
 - QUINN
 - RAPID CITY
 - WALL
 - WASTA

Map Notes:



1: 5,672



Legend

Roads

- Interstate
- US highway
- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway
- Not yet coded

Section Lines 0-25k

- 0
- 7

Tax Parcels

Lot Lines

- <Null>
- Lot Line
- Parcel Line

Pennington County Zoning

- General Agriculture
- General Commercial
- Heavy Industrial
- Highway Services
- Limited Agriculture
- Low Density Residential
- Light Industrial
- Planned Unit Development

Map Notes:

945.3 0 472.64 945.3 Feet

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NAD_1983_2011_StatePlane_South_Dakota_FIPS_4002_Ft_US
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **CONDITIONAL USE PERMIT / CU 19-29:** To utilize an existing structure for the storage of equipment, materials, and supplies used in conjunction with a contractor's business to allow a contractor's equipment storage yard on the subject property in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

APPLICANT: Chad and Nancy Reber / Reber Sanitation

APPLICANT ADDRESS: P.O. Box 1066, Rapid City, SD 57709
4400 N. Elk Vale Road, Rapid City, SD 57701

LEGAL DESCRIPTION: Lot 1 of W1/2SW1/4 Less Tract A of Lot 1, Less Blaseg Subdivision and Less Right-of-Way, Section 15, T2N, R8E, BHM, Pennington County, South Dakota.

SITE LOCATION: 4400 N. Elk Vale Road; near the intersection of Country Road and N. Elk Vale Road.

SIZE: 11.23 acres

TAX ID: 57392

EXISTING LAND USE: Residential

ZONING REFERENCE: §§ 206 and 510

CURRENT ZONING: Limited Agriculture District

SURROUNDING ZONING:

North	Low Density Residential District
South	General Agriculture District
East	Limited Agriculture District
	Low Density Residential District
West	General Agriculture District

PHYSICAL CHARACTERISTICS: Flat

UTILITIES: Private
PREPARED BY: Kristina Proietti

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending approval of Conditional Use Permit / CU 19-29 with ten (10) conditions.

II. GENERAL DESCRIPTION

- A. The applicant, Reber Sanitation, has requested a Conditional Use Permit to allow for a Contractor's Equipment Storage Yard in an existing pole barn on the subject property to be utilized for the "storage of equipment, material, and supplies used in conjunction with a contractor's business," (see attached PowerPoint documents from applicant).
- B. The subject property is zoned Limited Agriculture District totaling 11.23 acres.
- C. Section 206(C)(22) – Limited Agriculture District – states "that a Contractor's Equipment Storage Yard is a permitted use upon approval of a Conditional Use Permit."
- D. Section 103 – Definitions – Defines a Contractor's Equipment Storage Yard to be a "facility for the storage of equipment, material, and supplies used in conjunction with a contractor's business."



November 2019 - Subject Property showing proposed Contractor's Equipment Storage Yard.

III. EXISTING CONDITIONS

- A. Zoned Limited Agriculture District.
- B. 11.23 acres.
- C. Access exists off of N. Elk Vale Road.
- D. Special Flood Hazard Area on subject property (see Image 1).
- E. Floodplain Development Permit for chicken coop structure / FP10-06.
- F. Onsite Wastewater Treatment System maintained by the City of Rapid City
 - 1. City of Rapid City Operating Permit / CIOSW15-0622.

G. Lot contains:

1. Single-family residence, County Building Permit (COBP) / 2012COBP0008.
2. Barn, approximately 30' x 30' / COBP13-0354.
3. Pole barn with bathroom, approximately 60' x 150' / COBP16-0557.
4. Chicken coop approximately 15' x 19' / COBP17-0163.



Special Flood Hazard Area on the subject property.

IV. REQUEST FOR COMMENT

- A. County Highway Department
 - 1. Highway Department has no comments
- B. County Fire Administrator
 - 1. No comments received.
- C. County Professional Environmental Planner
 - 1. There is Special Flood Hazard Area on the subject property. Any disturbance or development in the SFHA requires a Floodplain Development Permit prior to any activity.
- D. Emergency Services (9-1-1)
 - 1. No concerns here. Assume both buildings on the lot will have separate addresses? Or are you thinking just one physical address for that business on that lot?
 - a. *Staff will address this in the Conditions of Approval.*
- E. Rapid City Public Works
 - 1. Conditions for approval on the septic that was installed in 2017 for the shop are:
 - a. No living quarters allowed.
 - b. No shower allowed.
 - c. RV hook up/Dump not allowed.
- F. County Addressing Coordinator
 - 1. An address will need to be assigned to the pole barn. Once assigned, the address must be posted in accordance with Pennington County Ordinance #20.
- G. County Ordinance Officer
 - 1. One complaint was received by a neighbor near by stating that loud vehicles start up at 0330 hours with lights on that shine from the building into their residence causing it to be difficult for the children to sleep.
 - 2. No violations other than the one that the CUP would take care of.
- H. West River Electric
 - 1. West River Electric has no comments regarding the 11.8.19 – Conditional Use Permit – Reber that is attached.

V. CONSIDERATIONS FOR CONDITIONAL USE PERMIT REQUEST

- A. The Zoning Ordinance lists five (5) factors that the Planning Commission may consider in their review of Conditional Use Permit applications. They are as follows:
 - 1. **The effect upon the use and enjoyment of the other property in the immediate vicinity for the uses already permitted, and upon property values within the immediate vicinity.**
 - a. The effect upon the use and enjoyment of other property in the immediate vicinity may be affected if CU 19-29 is approved.

- i. September 24, 2019, Staff received a complaint letter stating that, loud vehicles start up very early in the morning with bright lights on causing children to lose sleep on a regular basis.
 - b. Implementing quiet hours and ensuring that the equipment is properly stored inside of the pole barn structure may help mitigate some of these concerns.
 - c. Staff cannot predict the impact the use may have on property values in the surrounding area.
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
 - a. It appears that by allowing this Conditional Use Permit, the use should not affect the normal, orderly development or improvement of any surrounding vacant property in the area.
3. **That utilities, access roads, drainage, and/or other necessary facilities are provided.**
 - a. The proposed continued use of the Contractor's Equipment Storage Yard should not require any additional utilities or facilities that are not already in place.
 - b. Access is to be provided off of N. Elk Vale Rd.
 - c. Staff has no drainage concerns relating specifically to the applicant's request at this time.
4. **That the off-street parking and loading requirements of these Zoning Ordinances are met.**
 - a. Pennington County Zoning Ordinance § 310(A)(t) – Minimum Off-Street Parking Requirements - requires parking or storage for all vehicles used directly in the conduct of such industrial use, plus one parking space for every three employees on the premise at maximum employment on a single shift.
 - b. November 21, 2019, Staff confirmed with Nancy Reber via phone call that on average there are four (4) garbage trucks and one (1) roll-off truck leaving the premise daily.
 - c. Assuming two crew members for each truck, Reber Sanitation would need 4 parking spaces for their employees.
 - d. Staff confirms that there is adequate parking for employees located at the pole barn structure

5. **That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**
 - a. It appears that current measures are not being taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of the aforementioned items will constitute a nuisance.
 - b. The applicant should take measures to ensure that the surrounding neighbors are not affected by any of the above-listed elements in amounts that would constitute a nuisance.

VI. ANALYSIS

- A. Reber Sanitation has a main office located at 390 Creek Drive, Rapid City, where day to day business is conducted.
 1. The subject property is to be used as a satellite storage yard for the main office.
- B. October 21, 2016, the applicants applied for a Residential Building Permit for a pole barn structure to be placed on a residential lot. There was no mention of a business being conducted on the subject property, if Staff had been informed about commercial use at that time, a Commercial Building Permit and Conditional Use Permit would have been required.
- C. November 2, 2016, the applicants received an approved Building Permit for pole barn structure with a bathroom COBP16-0557 with the knowledge that it was to be used for residential purposes.
- D. September 2019, County Ordinance Enforcement received a letter of complaint from a nearby neighbor stating that, loud vehicles start up very early in the morning with bright lights on causing children to lose sleep on a regular basis.
- E. Contractor's Equipment Storage Yards are allowed in the following zoning districts:
 1. Light Industrial Districts Use by Right.
 2. Heavy industrial Districts if it meets the intent of heavy industrial.
 3. Conditional Use Permits allow for such use in General Agriculture and Limited Agriculture Districts.
- F. Staff has found there to be other properties within ¼ mile of the subject property that have or had active Conditional Use Permits allowing business to be conducted on their lots. In 2017 there was an approved Conditional Use Permit for a business to utilize a Contractor's Equipment Storage Yard just north of the subject property within ¼ mile that held landscaping equipment.
- G. As of this Staff Report, Staff would not support a rezone of the subject property to an Industrial Zoning District, the applicants request for the Conditional Use Permit will maintain the Agricultural Zoning.

RECOMMENDATION: Staff recommends approval of Conditional Use Permit / CU 19-29 with the following ten (10) conditions:

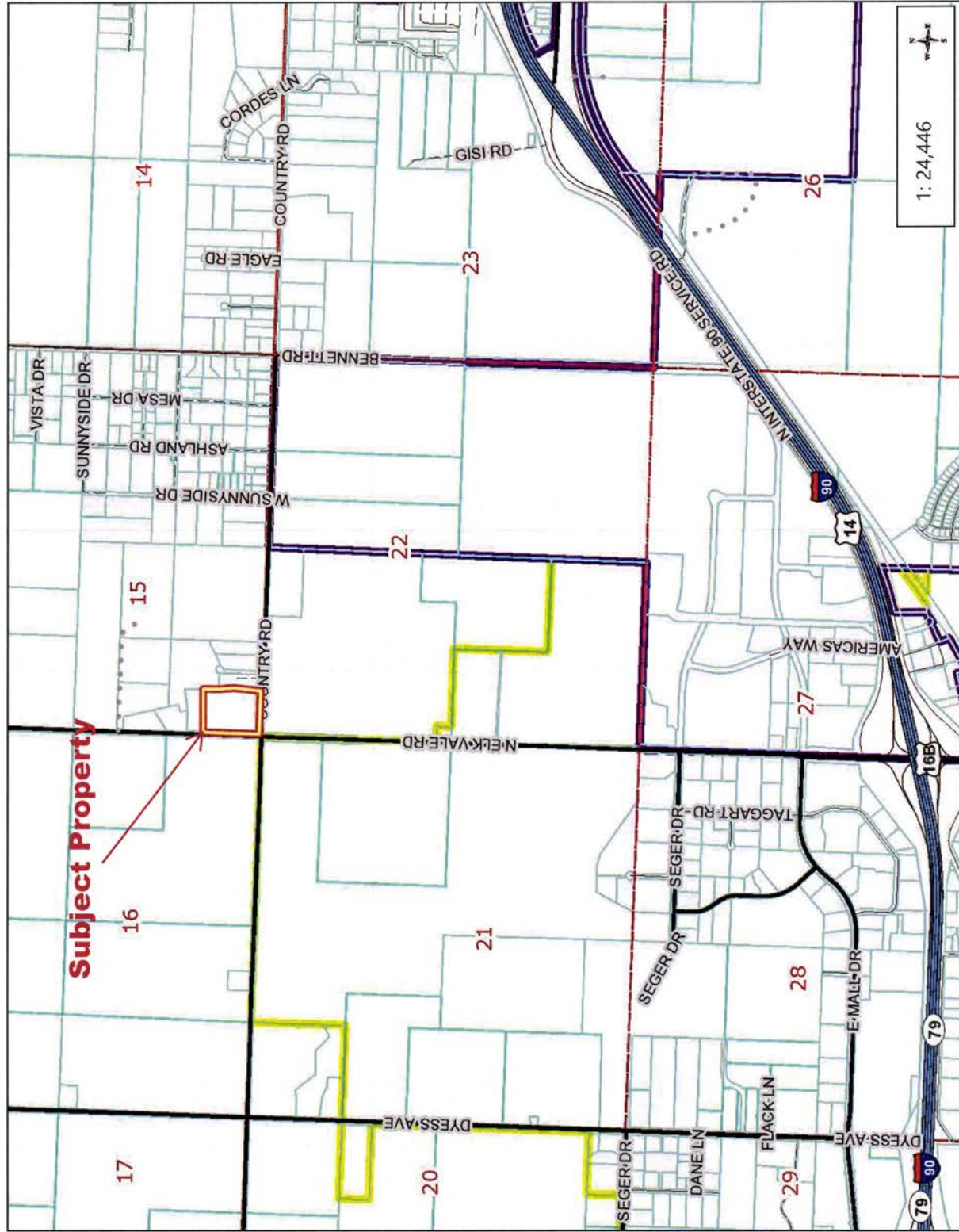
1. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors, so as not to cause a nuisance;
2. That the addresses for both the Contractor's Equipment Storage Yard and the single-family residence be posted at all times in accordance with Pennington County's Ordinance #20;
3. That the minimum number of required parking spaces shall be provided in accordance with Pennington County Zoning Ordinance § 310(A)(t), which requires parking or storage for all vehicles used directly in the conduct of such industrial use, plus one parking space for every three employees on the premise at maximum employment on a single shift.
4. 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;
5. That the conditions for approval for the installation of the Onsite Wastewater Treatment System through the City of Rapid City be maintained;
6. That prior to any work being conducted within the boundaries of the Special Flood Hazard Area, at a minimum an approved Floodplain Development Permit be obtained;
7. That quiet hours be established;
8. That the storage of materials, equipment, and supplies for Reber Sanitation be contained to the pole barn structure and its parking area only, see image 2 below;



9. That the property remains free of debris and junk vehicles and all structures be well-maintained; and,
10. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- Section Lines 0-25k**
- Tax Parcels
 - Lot Lines
 - <Null>
 - Lot Line
 - Parcel Line
- OtherCitieslargerscale**



1: 24,446

Map Notes:

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

4,074.3

2,037.15

0

4,074.3 Feet



1: 3,056



This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Legend

Roads

- Interstate
- US highway
- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway
- Not yet coded

Address Points

Section Lines 0-25k

Tax Parcels

Lot Lines

- <Null>
- Lot Line
- Parcel Line

Pennington County Zoning

- General Agriculture
- General Commercial
- Heavy Industrial
- Highway Services
- Limited Agriculture
- Low Density Residential
- Light Industrial
- Planned Unit Development
- Suburban Residential

Map Notes:



1: 3,056

509.3 0 254.64 509.3 Feet

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet
 © City of Rapid City GIS

Map Notes:

Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- Address Points**
- Section Lines 0-25k
 - Tax Parcels
 - Lot Lines
 - <Null>
 - Lot Line
 - Parcel Line



1: 1,701



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Legend

- Roads**
- Interstate
- US highway
- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway
- Not yet coded
- Address Points
- Section Lines 0-25k
- Tax Parcels
- Lot Lines
- <Null>
- Lot Line
- Parcel Line
- Floodway
- Flood Hazard Area
- 100 Year
- 500 Year
- 500 Year - Protected by levee
- Out
- Not Studied

Map Notes:

10-30-2010

[Handwritten signature]

Reber Sanitation Presentation to: Planning & Zoning

Chad & Nancy Reber- owners of 4400 North Elk Vale Rd. are registered with Planning and zoning as stated in SECTION 206 as LIMITED AGRICULTURE DISTRICT

Based on the definition in Section 103, as seen below, their property and facility qualifies as a storage yard for Reber Sanitation.

Section 103 Defines - CONTRACTOR'S EQUIPMENT STORAGE YARD as:

A facility for the storage of equipment, material, and supplies used in conjunction with a contractor's business.

Chad & Nancy Reber, also owners of Reber Sanitation, store equipment such as 5 garbage trucks, garbage totes, roll-offs and a roll-off truck and trailer, miscellaneous materials and supplies needed for the jobs that they contract through verbal and written agreements with residential and commercial accounts.

Chad and Nancy also live at this address as their primary residency. With that being said, we DO NOT want to look at a "junky" looking property, any more than their neighbors do. We have pride and respect for our neighbor hood!

Let us tell you about Reber Sanitation so that you get to know more about us and our business.

Nancy Reber Introduce Reber Sanitation

When Chad Reber, my husband, was a little boy he wanted to be a garbage man. As an adult he worked at the Rapid City Landfill for 11 years gaining knowledge and experience in waste management. The previous garbage companies that used to be locally owned are now owned by big companies out of state. Chad & I wanted to make his childhood dream come true and invest into our community. April 2010 Chad and myself, Nancy, invested in a garbage truck and residential totes. Chad continued working four 10-hour days at the land fill. He spent his days off offering waste collection in his neighborhood. We basically started with just family and friends. Once people found out that a local family had quality service, cheap, and competitive rates the word spread. Before long, requests for service were coming from surrounding areas. We expanded our superior service and low prices, so our community didn't have to pay big corporate rates. Reber Sanitation is now servicing Rapid Valley, Box Elder, Caputa, Black Hawk, and Piedmont. We have expanded services to include commercial business and roll-off services as well.

Reber Sanitation has lots of help from family, currently, we have 8 family members that are apart of Reber Sanitation. We are proud of the hardworking dedicated employees that we are blessed with. Everyone that is a part of Reber Sanitation has pride in the business and treats the business and customers as if they owned it themselves. Our drivers take care of their equipment to ensure it is maintained so you can trust that they are dependable.

Chad's parent have 10 acres that we rented as the storage yard for all the equipment, materials and supplies for the business. In 2017 Chad's Dad passed away. For family reasons, June 2019 we felt it was time to move our family business to our own 11.23 acres of land. Because it is zoned Limited Agriculture we believe it is a good option.

Reber Sanitation Operations

Residential Services

Residents call and verbally contract us to remove their garbage on a weekly basis. 95-gallon totes are available with no additional rental or delivery fee. We service in Rapid Valley, Box Elder, Caputa, Black Hawk and Piedmont. Our customers garbage is picked up on time by our rear-load pickup service. We use Rear Load Trucks because they are lighter weight than front load trucks. This helps protect our local streets.

We ask our customers to help us keep neighborhood clean by bagging Bag their garbage. Our totes are picked up by hand – we never use “one-armed bandits” to mechanically empty the totes to offer personalized service. We also make sure if any trash or debris falls in the process of being dumped, it is cleaned up to avoid litter. Totes are returned and secured the way we found them. Occasionally customers forget to put out their garbage, as a small family owned and operated business, we encourage our guys to go the extra mile and get it.

Our Nationally owned competitor, Keiffer Sanitation, does not offer this kind of personalized service. Our rates range from \$20-\$27. Their rates, based on calls that we receive from their customers that are switching, are paying \$30-\$45 for the same monthly service. Our \$20 St. Rate has never changed since we started business. We offer payment plans based on our customers needs. They can pay monthly, quarterly or yearly. If they pay the year up front, they get a month free. In most businesses the local guy doesn't offer the lower price, WE DO!

Residential Garbage Trucks are picked up from the storage yard between 5-5:30 am. We start in residential areas approximately 6am. They are returned to the storage yard between 10:30 am and 2:30 pm depending on the day. Monday – Thursday. The trucks are backed in each day so that they do not need to back up in the morning causing the beepers to go off or create any loud noises in the mornings. We do this out of common courtesy to our neighbors. We wish other businesses in our area did this.

As a way to give back and say thank you for doing business with our small local business, we draw the name of one lucky customer at the beginning of each year to receive a year of FREE service.

Reber Sanitation Operations

Commercial Services

Reber Sanitation provides Rear-Loading dumpsters ranging from 2 yards to 6 yards. We use Rear Load Trucks because they are lighter weight than front load trucks. This helps protect our local streets and our customers parking lots and property. We understand the need to keep operating expenses down. Replacing driveways and roads can be costly. We educate our customers that investing in a commercial waste collection company like Reber Sanitation, that has rear loads, is of great benefit to their bottom line. Our trucks are maintained regularly to ensure trusted quality, on time service with no oil mess left behind on public streets and in our customers driveways. As business owners ourselves, we offer the type of service that we would want. After we dump, we clean up any garbage that falls out or is around the dumpster. Sadly not all companies do.

Our Garbage Hauling Services Includes:

- Dumpsters – supplied with no additional rental fee
 - Customized pickup days based on individual needs may be available
 - Affordable Monthly Payments
 - Verbal or written Contracts or agreements
- Additional pickups may be available for a small fee

We have 1 Commercial Garbage Truck that is picked up from the storage yard between 4-4:30 am. Monday – Thursday and 2 trucks on Friday. They are returned to the storage yard between 10:30 am and 2:30 pm depending on the day. Monday – Thursday and 8am on Friday. Commercial trucks need to be out before the alleys get delivery trucks and the public streets get busy preventing our trucks from getting in and out of business parking lots. The trucks are backed in each day so that they do not need to back up in the morning causing the beepers to go off or create any loud noises in the mornings.

We do this out of common courtesy to our neighbors. We wish other businesses in our area did this.

Reber Sanitation Operations

Roll Off Containers

When it's time for big project homeowners, business owners and various commercial contractors contact and make verbal and written Contracts with Reber Sanitation to provide roll-offs. One of our benefits is that our roll-off containers are "Driveway Friendly", just what we would want at our home or business.

Reber Sanitation offers waste solution with convenient, dependable and reliable roll-off delivery service. We will personally bring a roll-off to the location of your choice. When customers are done, we remove their roll-off and dump their unwanted debris and junk so that they have no hassles. All of this for one flat fee. People don't like to be nicked and dined and either do we so we prefer to offer a flat fee so that our customers can budget and save money. Other companies charge to bring it, charge to remove it and charge per tonnage to dispose of it.

Customer service is extremely important, so customers let us know what their needs are, and we do what we can to make their experience with us a good one!

10 yard Length 13 1/2 ft x 8ft width x 3 ft tall	\$275 for 2 weeks or per dump then \$25 per extra week.
20 yard Length 13 1/2 ft x 8ft width x 5'3" tall	\$375 for 2 weeks or per dump then \$25 per extra week.

Roll-offs are usually picked up from the storage yard between 7am and 3:30pm Monday -Thursday and 7am-noon on Friday.

What do
Reber Sanitation
Customers
have to say about us
on Facebook?
5 out of 5 Rating
Based on 39 People!

Sheryl A Uthe reviewed Reber Sanitation — 5 star

Like many of others have stated they are awesome. They have also come and got our dumpster when we have forgotten to get it to the curb. The other service I used would never dream of doing that!. I love that I can do auto pay and the rate is great. Highly recommend anyone looking to switch Trash pick up to definitely consider Reber, You will not be disappointed!!

Rita Huffman recommends Reber Sanitation

Reber Sanitation is wonderful! They show up on time on pickup days and after getting nothing but a snotty lady and no results from Green Moving and Storage in Rapid City my husband called Reber and asked if they could come out and pick up all the moving boxes and bags of packing paper from our recent move to South Dakota. For a very nominal fee, they came out already this afternoon and it's all gone. Best waste management company we've ever had service with.

Michaela McCaskell recommends Reber Sanitation

We are first time customers who had just moved into our home. I was fast asleep when I heated the garbage truck, in a panic I threw on my clothes and ran outside to find the driver already wheeling my trash can down to the truck. He was so kind and humble, he welcomed us to the neighborhood and made the start to my day a great one, through this simple act of kindness! This is the private owned difference, experienced from day 1!

Katie McCormick reviewed Reber Sanitation — 5 star

Switching to Reber has been the best decision we made. When they came to drop of our bin, they were so friendly. The week before Christmas we forgot to bring our bin down to the curb, but the guys saw it up by our garage. They dumped it and returned it to its normal spot. This week we had extra trash due to Christmas, so we had a box sitting next to our trash bin, unsure if they'd take it. They sure did! Keep doing what you're doing.

Amanda Heidelberger reviewed Reber Sanitation — 5 star

Was saddened today when I called to end my service with Reber due to moving. They have always been great and never had an issue. Only made 2 calls and both were great. One was to get service and one to end service. I have to admit that I have forgotten to bring my trash to the curb, our guy was amazing enough to come and get it from by the house (he must have noticed it was full!!)
Thank you to everyone at Reber!!

Reber Sanitation Conclusion to: Planning & Zoning

4400 North Elk Vale Rd. is registered as Limited Agriculture.

In accordance to the Zoning Ordinance booklet provided by the Pennington County Planning & Zoning Department

- Section 206 - Limited Agriculture
- Section #23. Contractor's equipment storage yard.
- Section 103 Defines - CONTRACTOR'S EQUIPMENT STORAGE YARD as:

A facility for the storage of equipment, material, and supplies used in conjunction with a contractor's business.

We feel we have proven that we qualify for Section 510 – Conditional Use permit for Reber Sanitation. We need to continue storing equipment such as 5 garbage trucks, garbage totes, roll-offs and a roll-off truck and trailer, miscellaneous materials and supplies needed for the jobs that we contract through verbal and written agreements with residential and commercial accounts.

Support a Family owned and Operated Business! Show that it pays off for Local Family Businesses' to do Business here!

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **LAYOUT PLAN / LPL 19-41:** To reconfigure lot lines to create Lot 4R and Lot 5R of Bromegrass Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

APPLICANT: Gordon Howie

APPLICANT ADDRESS: 15372 Antelope Creek Rd., Rapid City, SD 57703

OTHER LANDOWNER: Diana Foster

ADDRESS: 15375 Antelope Creek Rd., Rapid City, SD 57703

SURVEYOR: Longbranch Civil Engineering

SURVEYOR ADDRESS: 821 Columbus Street, Ste. 1, Rapid City, SD 57701

LEGAL DESCRIPTION: EXISTING LEGAL: Lot 4 and Lot 5, Bromegrass; Section 2, T1S, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 4R and Lot 5R, Bromegrass; Section 2, T1S, R9E, BHM, Pennington County, South Dakota.

SITE LOCATION: 15372 & 15575 Antelope Creek Road.

SIZE: 6.05 acres

TAX ID: 68884 / 68885

EXISTING LAND USE: Residential

SUBDIVISION REGULATIONS REFERENCE: § 400.1

CURRENT ZONING: Low Density Residential District

Agenda Item #11
Gordon Howie
November 25, 2019

SURROUNDING ZONING:

North	Low Density Residential District
South	General Agriculture District
East	Limited Agriculture District
West	Limited Agriculture District

PHYSICAL CHARACTERISTICS: Prairie

UTILITIES: Private

REPORT BY: Jason Theunissen

I. PROPOSED RECOMMENDATION

- A. Staff will be recommending approval of Layout Plan / LPL 19-37 with six (6) conditions.

II. GENERAL DESCRIPTION

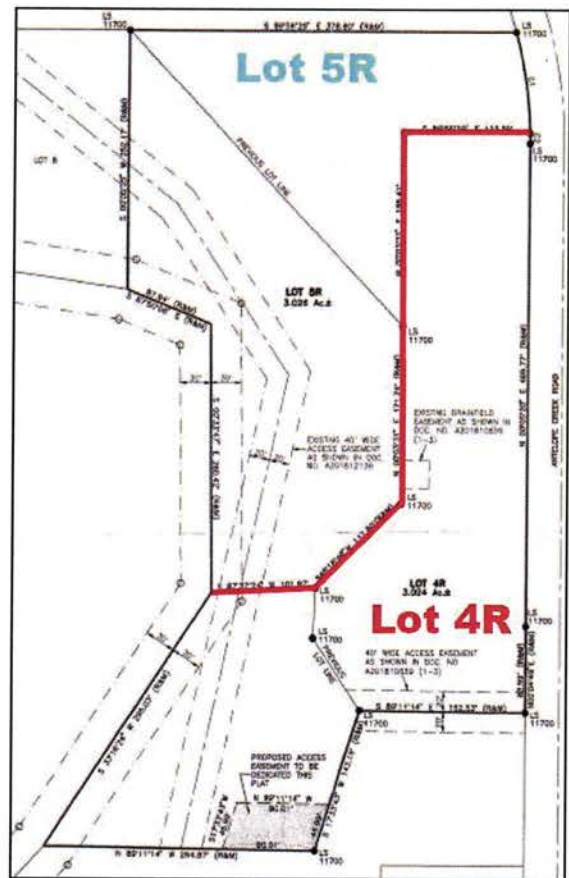
- A. The applicant, Gordon Howie, has applied for a Layout Plan / LPL 19-41 to reconfigure interior lot lines of the existing subject properties.

III. EXISTING LOTS

- A. Zoned Low Density Residential.
- B. Special Flood Hazard Area (100-year).
- C. Lot 4:
 - 1. 3.02 acres.
 - 2. Platted drainfield easement.
 - a. Document # A201810659.
 - 3. Access is off Antelope Creek via 40-foot wide platted access easement.
 - a. Document # A201810659.
- D. Lot 5:
 - 1. 3.03 acres.
 - 2. Platted access easement.
 - a. Document # A201812139.
 - 3. Access is off Antelope Creek via 40-foot wide platted access easement.
 - a. Document # A201810659.



Existing Lots and Special Flood Hazard Area



Proposed Lots 4R and 5R, Longbranch
 Civil Engineering, 10.23.19

IV. PROPOSED LOTS 4R & 5R

- A. Zoned Low Density Residential.
- B. Special Flood Hazard Area (100-year).
- C. Lot 4R:
 - 1. 3.024 acres.
 - 2. Platted drainfield easement.
 - a. Document # A201810659.
 - 3. 40-foot wide platted access easement.
 - a. Document # A201812139.
 - 4. 40-foot wide platted access easement.
 - a. Document # A201810659.
 - b. As drawn, this easement does not support current and desired access to proposed Lot 5R.
- D. Lot 5R:
 - 1. 3.026 acres.
 - 2. 40-foot wide platted access easement.
 - a. Document # A201812139.
 - 3. Proposed 47' x 91' access easement to be created with this plat.

V. REQUEST FOR COMMENT

- A. County Highway Department
 - 1. Floodplain limits, topography and buildings are not shown as required by subdivision Regulations 400.1.
 - 2. Approach permits are required and driveways need to be shared.
 - a. *Staff Comment: A site plan was submitted with the application and included the topography and buildings in Comment #1 above.*
 - b. *Staff Comment: Floodplain limit requirements will be addressed as a condition of approval.*
- B. County Fire Administrator
 - 1. No comments received.
- C. County Professional Environmental Planner
 - 1. No comments received.
- D. County On-site Wastewater Specialist
 - 1. No comments received.
- E. County Ordinance Enforcement
 - 1. No known violations.
- F. County Addressing Coordinator
 - 1. No addressing concerns at this time.
- G. Register of Deeds
 - 1. Plat heading is acceptable.
 - 2. Certificates appear to be the required certificates per state statute.
- H. Department of Equalization
 - 1. Looks good to me!
- I. Emergency Services (9-1-1)
 - 1. No comments here.
- J. West River Electric
 - 1. West River Electric has no comments regarding the Layout Plan – Howie as shown.

VI. ANALYSIS

- A. October 23, 2019 – The applicant applied for Layout Plan / LP 19-41 to reconfigure interior lot lines on the subject properties.
- B. November 20, 2019 – Staff spoke with Longbranch Civil Engineering and confirmed that Lot 5R will continue to utilize the existing 40-foot wide access easement between Lot 4 and Lot 7. The Layout Plan does not appear to allow continued shared access to Lot 5.
 - 1. This will be addressed as a condition of approval.
- C. The proposed access easement on proposed Lot 4R will allow the residents of Lot 7 to access a barn structure.
- D. The subject properties are zoned Low Density Residential District and require a 3-acre minimum lot size. The applicant's request to reconfigure the interior lot line does not appear to reduce the size of either property below 3 acres.

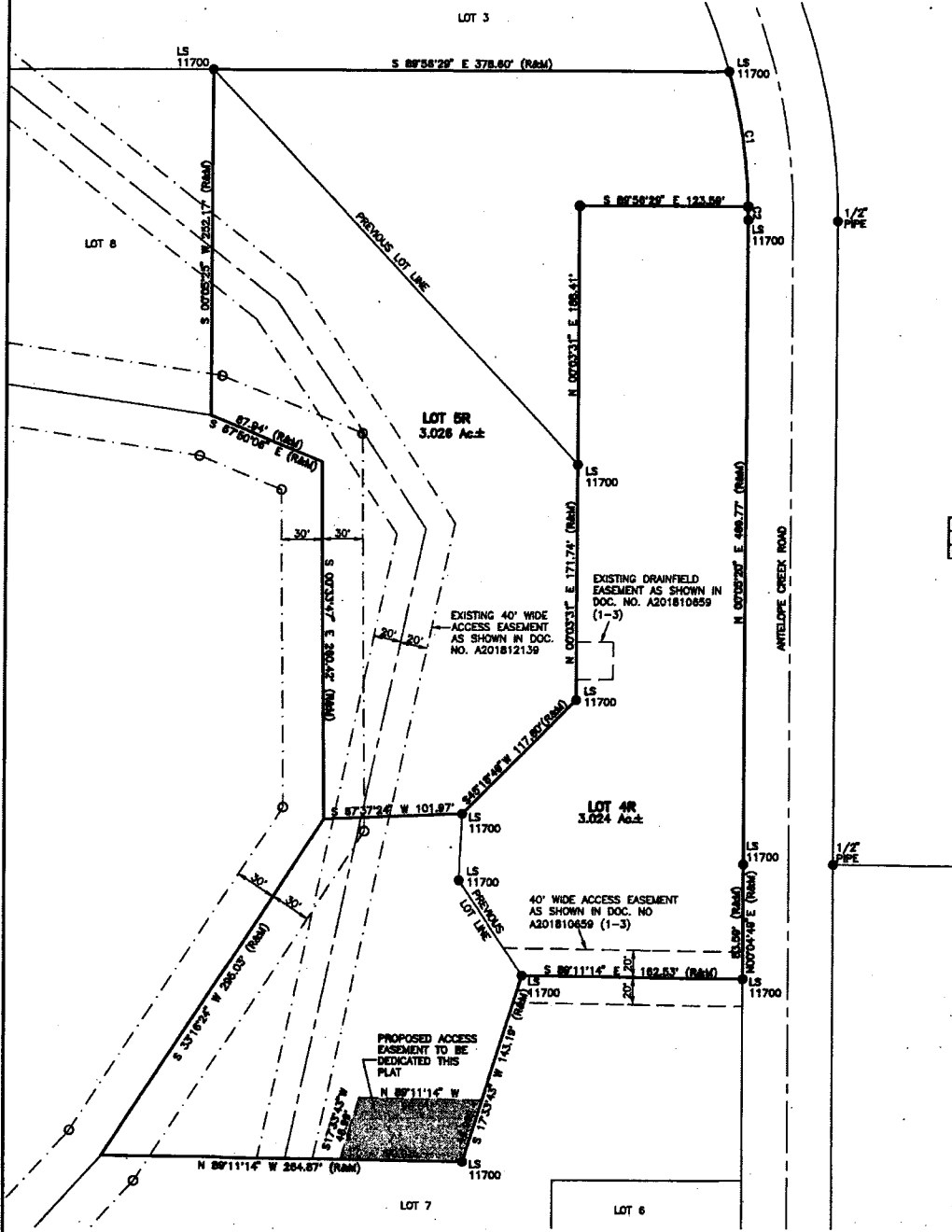
- E. For the purposes of a Layout Plan, staff finds no significant issues with the applicant's request as it appears to be in harmony with existing lots and current land uses in the area.
1. A Layout Plan is an informal preliminary review of the proposed subdivision for general scope and conditions, which might affect the plat.

RECOMMENDATION: Staff recommends approval of Layout Plan / LPL 19-41 with the following six (6) conditions:

1. That at the time of Minor Plat submittal, the Plat contain one hundred (100) year floodplain limits in accordance with current FEMA maps;
2. That at the time of Minor Plat submittal, the Plat contain an access easement between Lot 4R and Lot 7 that would not restrict current access from Antelope Creek Road to Lot 5R;
3. That at the time of Minor Plat submittal, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Variance(s) to Subdivision Regulations be obtained waiving any of these requirements that are not met. Subdivision Regulations Variances shall be submitted per § 700 of Pennington County Subdivision Regulations;
4. That the applicant ensures all natural drainage ways are maintained and are not blocked;
5. 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; and,
6. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

PLAT OF
LOT 4R AND LOT 5R
BROMEGRASS SUBDIVISION,
 (formerly Lot 4 and Lot 5 of Bromegrass Subdivision)
 LOCATED IN THE E 1/2
 SECTION 2, T1S, R9E, B.H.M.,
 PENNINGTON COUNTY, SOUTH DAKOTA

LOT 3



CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	98.74'	404.48'	14°07'30"	S 89°21'36" E	98.48'
C2	8.79'	404.48'	01°23'12"	S 69°28'11" E	8.79'

SEPTEMBER 3, 2019
 SCALE 1" = 80'



NOTES:

- denotes set 5/8" rebar with survey cap marked "Inch LS 11700"
- denotes Found Survey Monument as noted
- denotes set 5/8" rebar with survey cap marked "Inch LS 11700" Witness Cap.
- 00 denotes Recorded in previous plat or description.
- CG denotes Measured this survey.
- CS denotes Chord Bearing
- CS denotes Chord Distance

State of South Dakota North determined by Global Positioning System (GPS) using the North American Datum of 1983 (NAD 83) as the datum for all bearings and distances unless otherwise noted.

Any water drainage easement shown herein shall be kept free of all obstructions including but not limited to buildings, walls, fences, bridges, trees and shrubs. These easements grant to all public authorities the right to construct, operate, maintain, inspect and repair such easements and structures as it deems expedient to facilitate drainage from any source.

SHEET 1 OF 2

PLAT OF
LOT 4R AND LOT 5R
BROMEGRASS SUBDIVISION,
 (formerly Lot 4 and Lot 5 of Bromegrass Subdivision)
 LOCATED IN THE E 1/4
 SECTION 2, T1S, R9E, B.H.M.,
 PENNINGTON COUNTY, SOUTH DAKOTA

CERTIFICATE OF OWNER
 State of South Dakota
 County of Pennington s.s.

I, the undersigned, do hereby certify that I am the owner of the land shown and described herein, and that the survey was done at my request for the purposes indicated herein, and that I do hereby approve the survey and within plot of said land and that the development of this land shall conform to all existing applicable zoning, subdivision, and easement and easement control regulations.

Any land shown on the within plot as dedicated to public right of way is hereby dedicated to public use and public utility use as such, however, but such dedication shall not be construed to be a donation of the fee of such land.

In witness whereof, I have set my hand and seal.

Owner _____
 Name Foster

On the _____ day of _____, 20____, before me, a Notary Public, personally appeared Name Foster known to me to be the person(s) described in the foregoing instrument and acknowledged to me that he signed the same.

Notary Public _____
 My Commission Expires _____

CERTIFICATE OF OWNER
 State of South Dakota
 County of Pennington s.s.

We, the undersigned, do hereby certify that we are the owners of the land shown and described herein, and that the survey was done at our request for the purposes indicated herein, and that we do hereby approve the survey and within plot of said land and that the development of this land shall conform to all existing applicable zoning, subdivision, and easement and easement control regulations.

Any land shown on the within plot as dedicated to public right of way is hereby dedicated to public use and public utility use as such, however, but such dedication shall not be construed to be a donation of the fee of such land.

In witness whereof, we have set our hand and seal.

Owner _____
 Gordon Heide

Owner _____
 Donnie Heide

On the _____ day of _____, 20____, before me, a Notary Public, personally appeared Gordon & Donnie Heide, known to me to be the person(s) described in the foregoing instrument and acknowledged to me that they signed the same.

Notary Public _____
 My Commission Expires _____

CERTIFICATE BY COUNTY AUDITOR
 State of South Dakota
 County of Pennington s.s.

I, Auditor of Pennington County, do hereby certify that the Pennington County Planning Director has reviewed and approved this Final Plat as shown herein.

Dated this _____ day of _____, 20____.

 Pennington County Auditor/Deputy

CERTIFICATE OF SUPERVISOR OF EMBLEMIZATION

I, Director of Emblemization of Pennington County, do hereby certify that I have on record, in my office, a copy of the within described plat.

Dated this _____ day of _____, 20____.

 Director of Emblemization of Pennington County



CERTIFICATE OF SURVEYOR
 State of South Dakota
 County of Pennington s.s.

I, Jeffrey L. Joris, Registered Land Surveyor No. 11730 in the State of South Dakota, do hereby certify that at the request of the owner(s) listed herein, I have surveyed the tract of land shown, and to the best of my knowledge and belief, the within plat is a representation of said survey. Easements or restrictions of miscellaneous record or private agreements that are not known to me are not shown herein.

In witness whereof, I have hereunto set my hand and seal.

Jeffrey L. Joris, Registered Land Surveyor _____ Date _____

FLOODPLAIN STATEMENT
 Floodplain Statement

The 100-year floodplain, as shown herein, is based on the elevation identified in the Flood Insurance Rate Map Number 48183C012604, Effective Date June 1, 2013, or as graphically depicted on said map in unshaded areas. The floodplain information shown herein serves as constructive notice that certain flood hazards exist on portions of the subject property. The location of the floodplain, as shown herein, may be subject to change.

WATER PROTECTION EQUIPMENT
 Water Protection Statement

Pursuant to SDCL 11-3-3.1 and 11-3-2, the developer of the property described within this plat shall be responsible for protection any waters of the state, including groundwater, located adjacent to or within such platted area from pollution from sewage from such subdivision and shall in prosecution of such prohibitions conform to and follow all regulations of the South Dakota Department of Environment and Natural Resources relating to the same.

CERTIFICATE OF SURETY AUTHORITY

The location of the proposed property lines abutting the County or State Highway, or the County Road, as shown herein, is hereby approved. Any change in the location of the proposed access shall require additional approval.

Approved _____ Date _____

CERTIFICATE OF COUNTY TREASURER

I, Treasurer of Pennington County, do hereby certify that all taxes, which are here upon the within described lands, are fully paid, according to the records of my office.

Dated this _____ day of _____, 20____.

 Treasurer of Pennington County

CERTIFICATE OF MEMBER OF BUREAU
 State of South Dakota
 County of Pennington s.s.

Plat this _____ day of _____, 20____, at _____ o'clock _____ M.

In Document No. _____

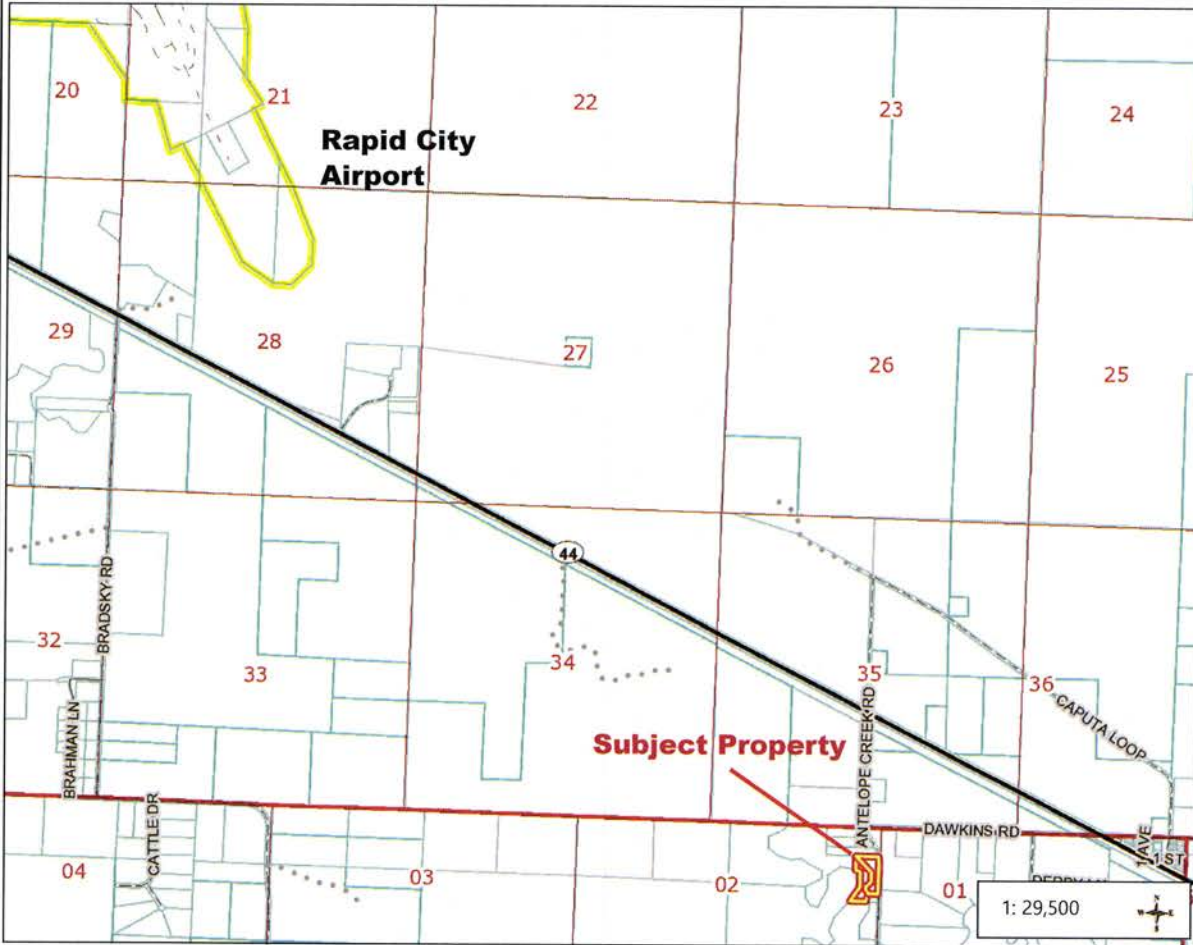
 Register of Deeds _____
 Fee \$ _____

Legend

Roads

- Interstate
- US highway
- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- - - Trail
- - - Driveway
- - - Alley
- - - Unimproved road
- Airport Runway
- Not yet coded

- PLSS
 - Townships
 - Tax Parcels
- Lot Lines**
- - - <Null>
 - - - Lot Line
 - Parcel Line



Map Notes:

4,916.7 0 2,458.33 4,916.7 Feet

NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet
© City of Rapid City GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



Legend

Roads

- Interstate
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- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway
- Not yet coded
- ▲ Address Points
- ▭ Section Lines 0-25k
- Tax Parcels
- Lot Lines**
- <Null>
- Lot Line
- Parcel Line

Map Notes:

346.6 0 173.30 346.6 Feet

NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet
© City of Rapid City GIS

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Legend

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- SD highway
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- ▲ Address Points
- ▭ Section Lines 0-25k
- Tax Parcels

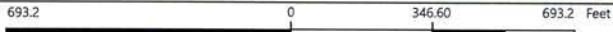
Lot Lines

- <Null>
- Lot Line
- Parcel Line

Pennington County Zoning

- General Agriculture
- General Commercial
- Heavy Industrial
- Highway Services
- Limited Agriculture
- Low Density Residential
- Light Industrial
- Planned Unit Development
- Suburban Residential

Map Notes:



NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet
 © City of Rapid City GIS

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 4,159

STAFF REPORT

GENERAL INFORMATION:

REQUEST: ORDINANCE AMENDMENT / OA 19-02: To amend Section 205 “General Agriculture District” and Section 212 “Heavy Industrial District” to renumber paragraphs and reclassify aggregate mining as a Conditional Use; to amend Section 511 “Fees” to set fees regarding Mining Permits; and to add Section 320 “Mining Operation” to regulate aggregate mining [to supercede Section 507-B “Mining Permits”] of the Pennington County Zoning Ordinance.

REPORT BY: Brittny Molitor

GENERAL DESCRIPTION: To regulate aggregate mining as a Conditional Use.

PROPOSED AMENDMENT TO SECTION 205 - A-1 GENERAL AGRICULTURE DISTRICT - striking paragraph 205-B-17 and renumbering and amending 205-C to include aggregate mining as a Conditional Use.

B. Permitted Uses:

.....

14 13. Sawmills.

15 14. Business and Community signs.

17. ~~Mining provided a Construction Permit is obtained in accordance with these Zoning Ordinances.~~

18. 15. Family Daycare Home.

19. 16. Isolated cabins and recreation residences, including groups of residences on National Forest Land.

20. 17. Home Offices.

21. 18. Telecommunication Facilities in accordance with Section 316.

22. 19. Distributed Wind Energy System in accordance with Section 317 and Section 317-B-4.

23. 20. Distributed Solar Energy System in accordance with Section 317 and Section 317-A-5.

24. 21. Meteorological tower, as part of a wind farm, in accordance with Section 317.

C. Conditional Uses:

31. Aggregate mining provided a Mining Permit is obtained in accordance with Section 320.

PROPOSED AMENDMENT TO SECTION 212 - HI HEAVY INDUSTRIAL DISTRICT -
striking paragraph 212-B-12 and renumbering and amending 212-C to include aggregate mining as a Conditional Use.

B. Property and buildings may include, but are not limited to the following purposes:

.....

~~12. Rock, sand, gravel, or earth excavation, crushing or distribution.~~

~~13.~~ 12. Slaughter of animals, including poultry killing or dressing.

~~14.~~ 13. Processing of junk, waste, discarded or salvaged materials, machinery or equipment, including automobile wrecking or dismantling.

~~15.~~ 14. Outdoor advertising and community signs (as regulated in Section 312 - Signs, Billboards and Other Advertising Structures).

~~16.~~ 15. Accessory uses and structures on the same premises which are clearly incidental to the permitted use, including sleeping facilities required by a caretaker or night watchman.

~~17.~~ 16. Concrete batch plant, transit mix plant, or asphalt plant.

~~18.~~ 17. Concrete block, precast concrete and prestressed concrete fabrication and storage.

~~19.~~ 18. Structural and reinforcing steel fabrication, welding and storage.

~~20.~~ 19. A retail or service use only when it directly serves or is incidental to the needs of the industrial plants and the employees thereof.

~~21.~~ 20. Grain elevators.

~~22.~~ 21. Auction houses not for the sale of livestock.

~~23.~~ 22. Telecommunication Facilities in accordance with Section 316.

~~24.~~ 23. Distributed Wind Energy System in accordance with Section 317 and Section 317-B-4.

~~25.~~ 24. Distributed Solar Energy System in accordance with Section 317 and Section 317-A-5.

C. Conditional Uses:

4. Aggregate mining provided a Mining Permit is obtained in accordance with Section 320.

PROPOSED AMENDMENT TO ADD SECTION 320 – MINING OPERATION

An operator shall obtain a Mining Permit from Pennington County to extract any of the following:

- Sand, gravel, or rock to be crushed and used in construction
- Pegmatite minerals
- Limestone, iron ore, sand, gypsum, shale, pozzolan, or other materials used in the process of making cement or lime

A. Applicability.

Section 320 applies to the extraction of aggregate in excess or equal to 100 cubic yards of material. Section 320 does not apply to the extraction of aggregate by an individual for personal use. However, a Storm Water or Grading Permit may be required under Section 507 for mining for personal use. All mining operations must comply with all local, state, and federal law, rules or regulations.

The mining of aggregate is a conditional use subject to the requirements of Section 320 and allowed only in the following Zoning Districts with an approved Pennington County Mining Permit:

- A-1 General Agriculture District (required minimum lot size of 40 acres)
- HI Heavy Industrial
- Future Land Use Designations of Forest Service Lands / Public Lands (prior approval of mining activity from appropriate authority or agency required)

B. Purpose.

The purpose of Section 320 is to promote the health, safety, and general welfare of the County; permit the development and utilization of natural resources in a manner compatible with neighboring land uses; prevent the degradation of private and public water supplies; minimize adverse environmental effects through use of Best Management Practices; and guide the development of Pennington County consistent with the Comprehensive Plan.

C. Authority.

For the purpose of promoting the health, safety, or general welfare of the County the Board may adopt a Zoning Ordinance to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of the yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, flood plain, or other purposes. SDCL 11-2-13.

D. Definitions.

ABANDONED PROPERTY: As defined in Pennington County Ordinance 106 and amendments thereto.

ABANDONMENT: An intentional and absolute relinquishment and cessation of a use for any period of time without intention to resume said use or the voluntary discontinuance of a use for a continuous period of one year without reference to intent.

AFFECTED PERSON: A person owning property, residing, or owning or operating a business within one-half (0.5) mile of the proposed Permit limit.

AGGREGATE: Particulate material used in construction, including sand, gravel, or rock to be crushed and used in construction; or pegmatite minerals; or limestone, iron ore, sand, gypsum, shale, pozzolan, or other materials used in the process of making cement or lime.

AGGRIEVED PERSON: An aggrieved person is a person who is suffering or likely will suffer a personal or pecuniary loss not suffered by taxpayers in general, falling upon the person in his or her individual capacity.

AIR BLAST: A jet of air produced mechanically.

“AND,” use of: As used in Section 320, a conjunction connecting words or phrases expressing the idea that the latter is to be added or taken with the first. Added to; together with; as well as; including.

BASELINE TESTING: Initial testing that measures data that serves as a basis for comparison with subsequently acquired data.

BERM: An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

COMMERCIAL: A land use or other activity involving the sale of goods or services for financial gain.

DELAY (blasting): Interval of time between blasts or explosive charges.

EXCAVATION: The process of moving earth, rock or other materials with tools, machinery or explosives. Excavation activities include earthwork performed for purpose of removal of aggregate deposits, but excludes exploratory activities.

FLYROCK: Rocks propelled from the blast area by the force of an explosion.

HABITABLE: Suitable and fit for a person to live in; free of defects that endanger the health or safety of occupants.

HABITABLE STRUCTURE: Any building or structure used, or intended for use, on a day-to-day basis by people for residential purposes, or for purposes of conducting a commercial or industrial business, or for purposes of a similar nature.

JUNK MATERIAL: Any scrap, waste, worn out, discarded material or debris collected or stored for destruction, disposal or some other use.

MINING OPERATION: The development or extraction of a natural resource from its natural occurrences.

NEIGHBORHOOD: An area of a community with characteristics that distinguish it from other community areas and that may include schools, social clubs, or boundaries defined by physical barriers, such as major highways and railroads, or natural features such as rivers.

OPERATIONAL MEASURES: Measures of operation to prevent, limit or reduce impact of mining activities.

“OR,” use of: As used in Section 320, a conjunction creating a multiple or an alternative obligation.

OVERBURDEN: All of the earth and other materials which are disturbed or removed, in their original state, or as they exist after removal from their natural state.

PARCEL: Any legally described piece of land designated by the owner or developer as land to be used or developed as a unit, or that has been developed as a unit.

PERMIT LIMIT: The area of an operation as legally described in a mining application or approved Mining Permit.

PERSON: Includes natural persons, partnerships, associations, cooperative corporations, limited liability companies, and corporations.

PERSONAL USE: Extraction and use by property owner for non-commercial purpose.

PUBLIC NUISANCE: As defined in Pennington County Ordinance 106 and amendments thereto.

START WORK ORDER: An administrative order that allows the resumption of work and commercial activities.

STOP WORK ORDER: An administrative order that requires immediate suspension of work and commercial activities.

SUBSTANTIAL STEP: Action which demonstrates reasonable effort to commence mining operation, including, but not limited to, state licensing, surveying, geological studies, drilling or excavation.

SUBSTANTIVE COMPLAINT: Relating to matters of major or practical importance to the health, safety, or general welfare of the County.

E. Mining Permit Process and Public Notice Requirements.

1. Application and Notice of Hearings

Upon submittal of a complete application and payment of application fee, the Planning Department shall provide the applicant a sign for the purpose of informing the public of the Mining Permit application. The applicant shall place the sign on the property that is the subject of the application and in a location with the greatest visibility to the public. The applicant shall post the sign on the property at least 30 days prior to public hearing on the application before the Planning Commission.

The applicant shall notify all property owners (including recorded Contract for Deed buyers) of land located within one-half (0.5) mile, inclusive of any right-of-way, of the outer boundaries of the subject property of the pending Mining Permit application. Based upon Department of Equalization records, the Planning Department will determine and provide a list of property owners within one-half (0.5) mile. Notice shall be by registered or certified mail at least 30 days prior to the public hearing on the application before the Planning Commission. The applicant shall use "Application and Notice of Hearing" letters provided by the Planning Department. The applicant shall also notify by registered or certified mail the Tribal Historical Preservation Officer (THPO) for each tribe listed on the Black Hills National Forest Tribal/THPO current mailing list.

2. Public Hearings

The Planning Commission shall hold a public hearing on the application and the application must be complete prior to consideration. Notice of time and place of hearing shall be given at least 10 days in advance by publication in the legal newspapers of the County. The decision of the Planning Commission shall be a

recommendation to the Board. The Planning Commission may recommend approval, approval with conditions or denial of the application.

After receiving the recommendation of the Planning Commission, the Board shall hold a public hearing on the application. Notice of time and place of hearing shall be given at least 10 days in advance by publication in the legal newspapers of the County. The Board may approve, approve with conditions or deny the application.

3. Mining Permit Application Review

The Planning Commission and Board may consider all relevant information in deciding on a Mining Permit application, including, but not limited to:

- a. The effect of the proposed operation upon existing neighboring land uses.
- b. The effect of the proposed operation upon private or public water quality or availability.
- c. The effect of the proposed operation on the health, safety, or general welfare of the County.
- d. The effect and location of the proposed operation in Special Flood Hazard Areas or drainage paths.
- e. Staff recommendations regarding permit conditions to prevent, limit or reduce negative impact of the proposed operation.

F. Appeal of Conditional Use.

Aggregate mining is a conditional use subject to the requirements of Section 320. The Board is the approving authority. The Board's decision on a Mining Permit application is subject to review pursuant to SDCL 11-2-61.1 and amendments thereto.

G. Mining Permit Application.

1. All applications for a proposed mining operation shall include the following contact information:
 - a. The name, mailing address, e-mail address, and telephone number of the applicant.
 - b. The name, mailing address, e-mail address, and telephone number of the property owner and operator, if different from the applicant.

- c. If the applicant is a corporation, partnership, limited liability company, or limited liability partnership: 1) the exact name of the business entity; 2) the date of incorporation, registration, or organization; 3) the state or nation in which the entity is incorporated, as well as the nations and states in which the entity is registered or organized; and 4) the name, mailing address, email address, and telephone number of a designated contact person for the applicant.
 - d. The name, mailing address, e-mail address, and telephone number of an individual who will be responsible for the daily operation and maintenance of the site and who will serve as the primary contact person for the County.
2. The applicant shall also submit the following documents with the Mining Permit application:
- a. Signed Statement. A signed statement by the applicant or operator, if different from the applicant, acknowledging review of and compliance with the provisions of Section 320, including responsibility to pay required fees and penalties for any violation.
 - b. Agency Comments. All comments received from any federal (i.e., NEPA), state (*see* SDCL chapter 45-6) and tribal agency in response to an application for a South Dakota Mining License concerning the property that is the subject of the application.
 - c. Site Plan. A site plan, drawn at a scale that is clearly legible and includes all of the following:
 - i. North point, scale, and date.
 - ii. Property boundaries of land that is the subject of the application.
 - iii. Location and boundaries of the permit limit, including area to be excavated, related storage, stockpiling and processing areas, paving, and areas where mining by-products will be deposited.
 - iv. Location of all access points, roads, rights-of-way, and utility easements on or abutting the property.
 - v. Location of all structures within 300 feet of the permit limit.
 - vi. Location and direction of flow of surface water on or within 300 feet of the permit limit.
 - vii. Location of registered wells onsite and within 1,500 feet of the property boundaries.
 - viii. Benchmarks, if needed, for contour maps.
 - ix. A topographic map, with a contour interval of not more than 10 feet, of the proposed permit limit and area within 300 feet of the permit limit. The site plan shall specify the reference elevation, such as

mean sea level, an on-site benchmark or other commonly accepted reference.

- x. Areas to be used for drainage and erosion control management or sedimentation ponds, if any.
- xi. Location of proposed parking areas, signs and fencing, and a description of proposed fencing.
- xii. Proposed berm locations.
- xiii. Special Flood Hazard Area.

The Planning Director may require submission of additional information as part of the site plan.

- d. Operation Plan. An operation plan that includes a description of the methods and procedures to be used in the proposed mining operation. The operation plan shall include all of the following:
 - i. The approximate date of the commencement of the operation.
 - ii. Type of mining, processing, and transportation equipment to be used.
 - iii. Estimated type and amount of materials to be extracted.
 - iv. Estimated number of trucks per day and approximate weight of material per truckload.
 - v. Operational measures to limit or reduce noise, dust, air contaminants, and vibrations (must comply with all local, state, and federal law, rules or regulations).
 - vi. Operational measures to prevent groundwater and surface water degradation (must comply with all local, state, and federal law, rules or regulations).
 - vii. Measured or estimated depth to groundwater. If excavations below the water table will occur, operational measures to prevent entry of contaminants into the groundwater.
 - viii. Operational measures to stabilize topsoil and other material stockpiles.
 - ix. Operational measures to ensure no wetland is disturbed without written approval from the U.S. Army Corps of Engineers and the South Dakota Department of Environment and Natural Resources (SD DENR).
 - x. Reclamation Plan. The reclamation plan shall demonstrate that the site will be reclaimed to restore natural features, or for use as an agricultural site with soils that are comparable to pre-mining soils or neighboring fields with adequate drainage to support plant and animal life. Any exception to the reclamation plan must be approved by the Board and consistent with future land use as identified in the Comprehensive Plan. The mining operation shall comply with all

local, state, and federal law, rules or regulations regarding reclamation activities.

3. Drainage and Erosion Control Permits

- a. All mining operations shall comply with the South Dakota Water Pollution Control Act and Administrative Rules of South Dakota (ARSD) chapters 74:52:01 through 74:52:11 regulating erosion control measures, water drainage, and discharge. Prior to the start of mining operations, the applicant must obtain and provide a copy of a Storm Water Permit issued by SD DENR.
- b. The applicant must submit copies of all other required local, state and federal erosion control and runoff management permits.
- c. All mining operations must meet the requirements set forth in Section 507 of the Zoning Ordinance, which may require a Pennington County Storm Water Permit or Grading Permit.

4. The Board may require, as a condition of approval of the Mining Permit, an applicant post a surety or cash bond in the form of a cashier's check for control measures, stabilization, reclamation or other work identified in the applicant's Operation Plan or Storm Water Pollution Prevention Plan. The applicant shall submit an itemized cost estimate for purpose of determining surety or bond amount. The Board shall determine the amount of the surety or bond based upon industry standards.

5. Additional Information

Submission of additional information may be required to determine the scope of the proposed mining operation or reclamation and effect on the surrounding area. This information may include, but is not limited to, proof of surety or cash bond and applicable access easements or agreements.

H. General Requirements for Mining Operations.

1. Hours of Operation

The hours of mining operation may be restricted to address special circumstances or demonstrated problems. Restriction of hours of operation must be noticed in writing prior to effective date of change.

2. Dust Control

The operator shall comply with the provisions of SDCL chapter 34A-1. The operator shall use industry Best Management Practices in an effort to control and minimize fugitive dust, including at least one of the following: vegetated earthen berms, paved entrance roadways, standard methods of water spray, dust covers on transfer points, or sweeping.

3. Noise Control

The operator shall comply with all applicable noise regulations and industry recommendations (provided such recommendations are allowed by the Mine Safety and Health Administration).

4. Lighting

All lights shall use hoods and lens that cast light downward.

5. Vibration and Blasting

The mining operation and activities shall comply with all local, state, and federal law, rules or regulations regarding blasting activities. Upon request by the Planning Director, the operator shall provide access to the blasting logs.

Blasting may occur Monday through Friday from 7:00 a.m. to 5:00 p.m. Blasting is not allowed on Saturdays, Sundays, or Holidays listed in SDCL 1-5-1.

a. Log Details. An accurate blasting log shall be prepared and maintained for each blast fired. Each blasting log shall include the following information:

- i. Name of the blaster in charge of the blast.
- ii. Blast location references (latitude/longitude).
- iii. Date and time of blast.
- iv. Weather conditions at time of blast.
- v. Diagram of blast hole layout.
- vi. Number of blast holes.
- vii. Blast hole depth and diameter.
- viii. Spacing and burden of blast holes.
- ix. Maximum holes per delay.
- x. Maximum pounds of explosives per delay.
- xi. Depth and type of stemming used.
- xii. Total pounds of explosives used, including primers and initiating cord.
- xiii. Distance to nearest habitable structure not belonging to the mine owner or operator.

b. Control of Adverse Effects. Blasting shall be conducted in a manner designed to prevent injury to persons or damage to property outside the permit area.

i. Flyrock. Flyrock shall be contained within the permit area.

ii. Air Blast. Air Blast shall not exceed a maximum limit of 133 peak dB at the location of any dwelling or habitable structure outside the permit area. The blaster shall conduct monitoring of every blast to ensure compliance with the air blast limit.

In lieu of monitoring, the calculated Scaled Distance must be 1,000 feet or greater. The Scaled Distance (for air blast) shall be calculated using the following equation:

$$SDA = D / CW^{1/3}$$

SDA = Scale Distance (Air Blast).

D = Distance from blast to nearest dwelling or habitable structure outside the permit area.

CW = Charge Weight per delay.

iii. Ground Vibration.

aa. Peak Velocity. The maximum ground vibration at the location of any dwelling or habitable structure outside the controlled blasting site area shall not exceed the limits set forth in Table 1 below.

Table 1. Maximum Allowable Peak Velocity for Ground Vibration.

Distance (D) From The Blasting Site (feet)	Maximum Allowable Peak Particle Velocity (Vmax) For Ground Vibration (in/sec)	Scaled-Distance (Ds)_a Factor To Be Applied Without Seismic Monitoring (feet)
0 to 300	1.25	50
301 to 5,000	1.00	55
5,001 and Beyond	0.75	65

(a.) $D_s = D / (\text{square root of } W)$; W = max weight in lbs. of explosives per delay.

bb. How Measured. The blaster shall use the ground vibration limits specified in Table 1 above to determine the maximum allowable ground vibration. Ground vibration shall be

measured as the peak particle velocity. Particle velocity shall be recorded in three mutual perpendicular directions.

- cc. Record. The blaster shall maintain a seismograph record, including both particle velocity and vibration frequency levels for each blast.
- dd. Monitoring. Seismic monitoring shall be completed at the nearest dwelling or habitable structure located outside of the permit area. If unable to obtain permission to conduct monitoring from the property owner, the blaster may monitor at another location approximately the same distance or closer from the blast site.

In lieu of performing seismographic monitoring, the maximum pounds of explosive per eight millisecond delay shall be calculated using Table 1 above and the equation provided. The distance used for the calculation shall be measured from the blast to the nearest dwelling or habitable structure located outside of the permit area.

- ee. Exceptions.

The maximum ground vibrations and air blast standards shall not apply to property belonging to the mine owner or operator.

6. Spill Prevention

The applicant shall comply with all local, state, and federal law, rules or regulations regarding chemical storage, handling, and spill response. This includes, but is not limited to, regulations promulgated by the Mine Safety and Health Administration (MSHA), the Environmental Protection Agency (EPA), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

7. Junk Material

The owner or operator of a mining operation shall store junk material so as not to create a public nuisance.

8. Screening and Berms

A screening plan shall be developed by the applicant appropriate to the site. Berms shall meet all of the following requirements:

- a. Berms shall be constructed within 14 days of stripped overburden and topsoil becoming available from the quarry site or from suitable outside sources. Berms may be constructed in phases as material becomes available.
- b. Only clean overburden shall be used.
- c. Safety berms shall be half the height of the largest wheel of equipment used in the mining operation, but in no case less than the height required by the Mine Safety and Health Administration. However, where a berm is adjacent to a public road, the berm shall be at least 10 feet above the surface of the center of the road.
- d. The outward-facing slopes of said berm shall not be steeper than two horizontal units to one vertical unit. The inner-facing slopes may be steeper, but must be stabilized and maintained to ensure continued stability.
- e. Berms shall be constructed to prevent flooding, concentrated runoff, inadequate drainage, and excessive erosion or sedimentation.
- f. Berms shall be kept free of noxious weeds, trash, and debris.

9. Roads and Approaches

Roads to be used off site, including all points of ingress and egress (approaches) and all primary routes for transportation of material to state or federal highways, must be approved by the governing street authority.

I. Additional Requirements for Mining Operation.

1. Setbacks

Setback requirements shall apply to all mining operations including, but not limited to, stockpiling and the storage of waste materials, inventory, and equipment. These are minimum setback requirements and greater setbacks may be required by the Board. These setback requirements are not applicable to roads, berms, and other landscaping.

- a. No mining operation shall be conducted within 50 feet of exterior lot lines, unless written permission is obtained from the abutting property owner. Adjoining mining operations are not subject to this setback requirement for a shared lot line if agreed to by the abutting landowner.
- b. No mining operation shall be conducted within 100 feet of a public road centerline or 25 feet of a public road right-of-way, whichever is greater.

- c. No mining operation shall be conducted within 300 feet of any existing dwelling, other than a dwelling belonging to the mine owner or operator, unless written permission has been obtained from the homeowner.

2. Groundwater Monitoring

- a. Based on site conditions, the Board may, as a condition of approval of the Mining Permit, require the applicant to perform baseline testing of up to three wells located within 1,500 feet of the proposed perimeter of the mining extraction area. If there are no existing wells within 1,500 feet, baseline testing may be required of the nearest located wells. Priority will be given to wells located on abutting land where the property owners have requested testing, in writing, and granted permission for access to their property. Baseline testing shall establish, at a minimum, bacteria and turbidity levels, and potential groundwater drawdown due to pumping within the Permit Limit.
- b. Testing must be completed and results obtained prior to commencing any mining activity.
- c. Drawdown tests of the original baseline wells shall be conducted when requested in writing by a well owner who demonstrates quantity of water in the well has been impacted by mining activities.
- d. All tests shall be performed by a qualified third-party professional.
- f. Test results shall be provided to the Planning Director upon completion.

J. Review, Transfer and Expansion.

1. Review of Mining Permit

Mining Permits may be reviewed by the Board to verify that conditions of approval are met. Mining Permits may be reviewed:

- a. As a condition of the Mining Permit.
- b. As directed by the Board.
- c. Upon receipt of a substantive complaint.

2. Transfer of Permit

Upon transfer of interest in a mining operation, the prior owner or operator shall be released of responsibilities under the Mining Permit, **only** if all of the following conditions are met:

- a. Written notice of the transfer is given to the Planning Department.
- b. The operation is in compliance with the requirements of Section 320 and the conditions of operation under its existing Mining Permit.
- c. The new owner or operator assumes responsibility for the reclamation of the entire Permit Limit by written, signed, and notarized document and provides financial assurance for such reclamation in the form of a surety or cash bond.

3. Permit Limit Expansion

Any proposed expansion of a Permit Limit shall be considered as a new application under Section 320. All provisions of Section 320 shall apply to the proposed expansion.

K. Complaints.

The Planning Department may inspect a mining operation based on a Substantive Complaint or as directed by the Board. Record of complaints received and inspections shall be maintained by the Planning Department. Complaints will be handled and considered as follows:

1. On receipt of a complaint, the Planning Department shall investigate the complaint and substantiate the facts and circumstances alleged.
2. Any necessary corrective action as determined by the Planning Department shall be submitted to the owner and operator in writing.
3. The Planning Department will set a reasonable time for the mining operation to comply with and complete the required corrective action.
4. If the mining operator fails to perform required corrective action or fails to comply with the requirements of Section 320, the Planning Director may schedule a public hearing before the Board regarding revocation of the Mining Permit pursuant to Section 320(L).

L. Revocation of Mining Permit.

The Planning Director may schedule a public hearing before the Board upon the occurrence of any of the following:

1. The owner or operator has failed repeatedly to comply with the conditions of the current Mining Permit.
2. The owner or operator has failed repeatedly to comply with the Operation Plan as detailed in the Mining Permit application.
3. The mining operation is not in compliance with Section 320.
4. The owner or operator failed to perform and complete requested corrective action.
5. The continued operation of the mine is a threat to the public health, safety, or general welfare.

Notice of time and place of the hearing shall be given, in writing, to the permit holder at least 30 days in advance of hearing. Surrounding property owners and THPOs shall also be given written notice of the hearing as provided under Section 320(E)(1). In addition, notice of time and place of the hearing shall be published at least 10 days in advance of hearing in the legal newspapers of the County.

Upon hearing, the Board may revoke the Mining Permit or order remedial action to be taken by the owner or operator. The Board's decision revoking a Mining Permit is subject to review pursuant to SDCL 11-2-61.1 and amendments thereto.

M. Failure to Commence Mining Operation.

Failure of an owner or operator to take Substantial Steps to commence mining operation within five years of issuance of the initial Mining Permit, shall terminate the Mining Permit. A new Mining Permit application shall be required for any future mining operation.

N. Abandonment of Mining Operations.

If mining operations are abandoned, resumed mining activity shall require a new application and Mining Permit. Temporary cessation of mining activity approved by the SD DENR does not constitute abandonment of mining operations.

O. Limits of Operation.

All mining operations shall be limited to, and conducted within, the Permit Limit as approved by the Board.

P. Legal Nonconforming Use.

1. Excavation activities ongoing prior to the enactment of Section 320 are allowed as a legal nonconforming use when all of the following conditions are met:
 - a. Excavation activities were actively pursued under a state mining license at the time Section 320 became effective.
 - b. Area to be excavated was clearly intended to be excavated, as measured by objective manifestations and not by subjective intent (objective manifestations include, but are not limited to, previously issued County Construction or Mining Permit or State Mining License, or geological or engineering studies, fencing or signage of current and future areas to be excavated).
 - c. Continued operations do not, or will not, have a substantially different and adverse impact on the neighborhood. A claim that continued operations will have a substantially different and adverse impact on the neighborhood must be proven by clear and convincing evidence.

Excavation activities that are a legal nonconforming use do not require a permit under Section 320. However, legal nonconforming use may not be expanded beyond the boundaries of the parcel on which the use was initiated at the time of enactment of Section 320 without a Mining Permit.

All legal nonconforming uses must be registered with the Pennington County Planning Department within 180 days of the effective date of Section 320.

Registration shall be through a standardized form created by the Planning Department and shall require all of the following information:

- i. Name and contact information of the property owner and operator, if different from the owner.
- ii. Description of the operations, including site plan with disturbance boundary.
- iii. Legal description of the property subject to the nonconforming use.
- iv. Date nonconforming use was first established on the property and supporting documentation.

Further information and supporting documentation may be required by the Planning Director.

2. Review Process

- a. Registration of legal nonconforming use shall be submitted to the Planning Department within 180 days of the effective date of Section 320.
- b. A registration fee of \$300.00 (non-refundable) is required.
- c. A registration will not be complete or considered for approval until all information or supporting documentation requested by the Planning Director is submitted.
- d. The Planning Commission shall hold a public hearing to determine the legal nonconforming use of the property. Written notice of time and place of hearing shall be given to surrounding property owners and THPOs as provided under Section 320(E)(1). In addition, notice of time and place of the hearing shall be published at least 10 days in advance of hearing in the legal newspapers of the County.

3. Appeal of Legal Nonconforming Use

- a. The owner or operator or any person aggrieved or affected as defined in Section 320 by a determination of the Planning Commission on a legal nonconforming use may appeal the decision to the Board.

4. Regulation of Legal Nonconforming Use

Excavation activities conducted as a legal nonconforming use must comply with the General Requirements for Mining Operations set forth in Section 320(H) and permit requirements set forth in Section 507 of the Zoning Ordinance, submit a Reclamation Plan, and post a surety or cash bond if required by the Planning Commission in its discretion.

Q. Enforcement.

An owner or operator who fails to comply with the requirements of Section 320 or conditions of an approved Mining Permit is in violation of the Pennington County Zoning Ordinance and subject to fees and penalties set forth in Sections 511 and 514 of the Zoning Ordinance.

In addition, the following enforcement actions may be taken:

1. Stop Work Order

The Planning Director may issue a Stop Work Order under the following circumstances:

- a. A site is being operated or maintained in a manner which violates Section 320.
- b. A site is being operated or maintained in a manner contrary to the conditions of the Mining Permit.
- c. Mining operations are occurring without a required permit under Section 320 or in violation of other local, state, or federal law, rules or regulations.
- d. A site is being operated or maintained in a manner that endangers public health, safety, or general welfare.

The Planning Director may consult with outside Public Safety Officials and Mining Professionals for information and recommendation.

A Stop Work Order shall be issued in writing and delivered, via certified mail or hand-delivered, to the person responsible for daily operation and maintenance of the site, or his or her employee or agent. All mining operations and site development shall cease upon delivery of a Stop Work Order, except work necessary to stabilize or secure the site as allowed or required by the Planning Director. Mining operations and site development may resume only when the Stop Work Order is lifted by the Planning Director via a Start Work Order.

Any person who fails to comply with a Stop Work Order issued by the Planning Director is in violation of the Pennington County Zoning Ordinance and subject to the penalties set forth in Section 514 of the Zoning Ordinance.

2. Injunction

In addition to all other legal remedies, the County may seek injunctive relief pursuant to SDCL 21-8 against a property owner or operator conducting mining activity in violation of Section 320 or conditions of an approved Mining Permit. The injunctive relief may include reparative action to abate a nuisance.

3. Nuisance

Violations of Section 320 that constitute a public nuisance as defined under SDCL chapter 21-10 or Pennington County Ordinance 106 may be abated without civil action by the County.

4. Reclamation Work

If an owner or operator cannot or will not complete requested reclamation work, the Board may authorize the Planning Director to complete reclamation work

specified in the Operation Plan or Pennington County Storm Water Pollution Prevention Plan. The Planning Director will give written notice to the owner or operator and any Surety of intent to complete reclamation work. The owner or operator and any Surety will be liable for costs incurred by the County in completing reclamation work. The County will apply any posted bond to costs incurred by the County.

5. Inspection Warrant

Pursuant to SDCL chapter 34-43, the Planning Director or a Pennington County certified law enforcement officer may obtain an inspection warrant to conduct an inspection of the Mining Operation.

6. Conflicting Ordinances

In the event provisions of Section 320 are in conflict with local, state, or federal law, rules or regulations in effect within the jurisdictional boundaries of the County, the higher standard or more stringent requirement shall control.

7. Severability

If any section, subsection, paragraph, sentence, clause or phrase of Section 320 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

8. Effective Date

This ordinance shall become effective on the twentieth day after its completed publication.

REQUEST TO STRIKE SECTION 507(B) MINING PERMITS – Section 507(B) to be stricken and superseded by Section 320.

B. Mining Permits (Revised 07-10-19)

~~No extraction of any mineral or substance exceeding 100 cubic yards from the earth shall be conducted without a Mining Permit issued by the Commission. No Mining Permit shall be issued except in conformity with the provisions of this Zoning Ordinance unless he/she receives a written order from the Board of Adjustment in the form of an Administrative Review, Conditional Use, or Variance, as provided in this Zoning Ordinance. In addition to an application, all Mining Permits will require a site plan to be submitted for review. Detailed information, including a transportation plan, the location, amount, and type of material to be extracted shall be shown on a site plan. A written statement shall be submitted indicating the~~

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~~scope, duration of the mining activity, and plan outlining reclamation to be done at the conclusion of extraction. Mining Permits shall not be required for work in the A-1 General Agriculture District for construction, which is agriculturally related.~~

Section 507-B. Superseded by PCZO Section 320.

PROPOSED AMENDMENT TO SECTION 511 FEES –

SECTION 511: Fees shall be amended to include and read as follows:

- D. Mining Permit: \$250.00
1. New Application: \$2,500.00
If applicant is a unit of state or local government, no fee shall be required.
 2. Transfer of Mining Permit, prior to expiration: \$1,000.00
If applicant is a unit of state or local government, no fee shall be required.
 3. Review Fee: \$500.00
If applicant is a unit of state or local government, no fee shall be required.
- U. Sign Deposit: A \$100.00 refundable deposit is required for signs obtained from the Planning Department for Variance, Conditional Use Permits, **Mining Permits**, Rezoning, Planned Unit Developments, and Comprehensive Plan Amendment applications. The \$100.00 deposit is refunded when the sign is returned within six (6) months of County Board action.

RECOMMENDATION: Staff recommends approval of Ordinance Amendment / OA 19-02.

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **CONSTRUCTION PERMIT / CP 19-17:** To grade land associated with the expansion of the sand and gravel mining operation on the subject property.

APPLICANT: Pete Lien & Sons

APPLICANT ADDRESS: P.O. Box 440, Rapid City, SD 57709

OWNER: Soderquist Family Ranch

OWNER ADDRESS: 17965 Baseline Road, Wasta, SD 57791

LEGAL DESCRIPTION: All Less Right-of-Way, Section 19, T1N, R14E, BHM, Pennington County, South Dakota.

SITE LOCATION: 18151 Base Line Road, approximately 3.5 miles south of Wasta.

TAX ID: 62087

SIZE: 618.44 acres

EXISTING LAND USE: Sand / Gravel Mining

ZONING REFERENCE: Sections 205 and 507-A

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: Open prairie / rolling hills

UTILITIES: Private

REPORT: Cody Sack

****Staff is requesting public input on this request. The Planning Director will consider public input from private citizens, the applicant and the Planning Commission, in addition to information provided within this Staff Report, when rendering a decision on Construction Permit / CP 19-17.****

I. PROPOSED RECOMMENDATION

- A. Staff is recommending that the Planning Director approve Construction Permit / CP 19-17 with ten (10) conditions.

II. GENERAL DESCRIPTION

- A. The applicant, Pete Lien, requested a Construction to Permit to preform construction activities associated with mining.
- B. To grade land associated with the expansion of expand the existing Birdsall sand and gravel mine operation on the subject property to include restoration activities under South Dakota Department of Natural Resources (SDDENR) Mine License 83-100.
 - 1. See attached site plan.

III. EXISTING CONDITIONS

- A. General Agriculture District.
- B. 618.44 Acres.
- C. Access off of Baseline Rd.
- D. Special Flood Hazard Area.
- E. 100-year.
- F. Floodplain Development Permit / FP 19-46.
- G. SDDENR General Permit for Stormwater Discharges Associated with Industrial Activities (General Permit) SDR00A012 for Birdsall Sand and Gravel – Wasta Pit.
- H. Conditional Use Permit / CU 08-27 to allow a single-wide mobile home on the subject property.
- I. 16' x 76' single-wide mobile home with 16 square foot deck (COBP19-0191)
- J. Septic system (COSD15-0026).

IV. REQUEST FOR COMMENT

- A. County Highway Department
 - 1. Highway Department has no Comments.
- B. County Professional Environmental Planner
 - 1. There is no Special Flood Hazard Area on the property.
 - 2. Must follow the Storm Water Manual for implementation of Best Management Practices.
 - 3. Site must be revegetated in accordance with Section 507 of the PCZO.

- C. County Environmental Planner
 - 1. The applicants have submitted a Mining Permit and a Floodplain Development Permit.
 - 2. The applicant will need to follow the Storm Water Manual.
 - 3. Site must be revegetated in accordance with Section 507 of the PCZO.
- D. County Ordinance Enforcement
 - 1. No violations.
- E. County Natural Resources Director
 - 1. Recommend that applicant use an intergraded noxious weed plan for existing noxious weeds on the property. All state and locally declared noxious weeds must be treated before seed set, as per state law.
- F. Emergency Services (9-1-1)
 - 1. No comments here.
- G. County Fire Administration
 - 1. No comments received.

V. ANALYSIS

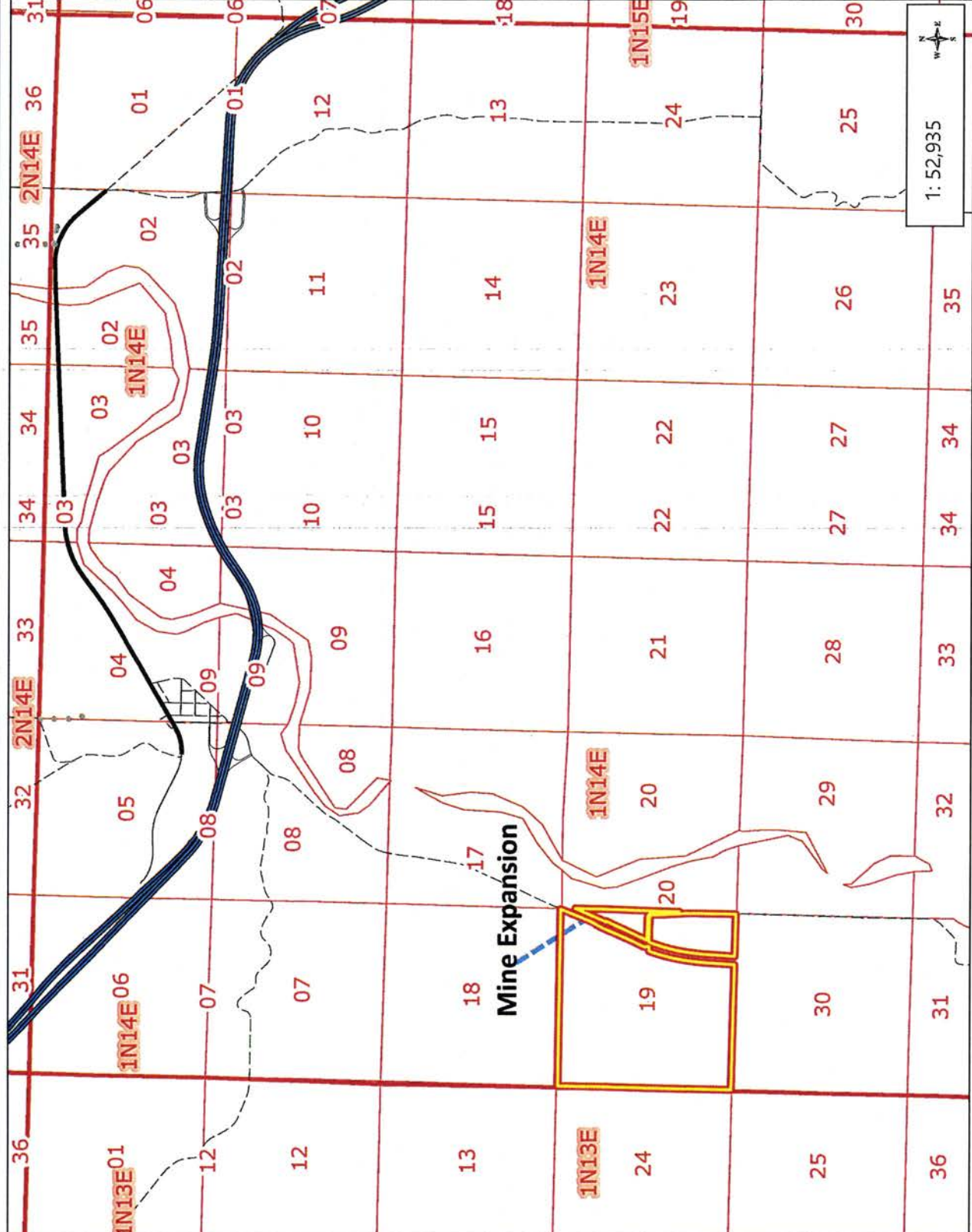
- A. October 4, 2019 the applicant applied for:
 - 1. A Mining Permit to expand the existing Birdsall Sand and Gravel – Wasta Pit.
 - 2. A Floodplain Development Permit for the work to be conducted in the floodplain.
- B. The work will be conducted under the SDDENR Mining License 83-100.
- C. November 19, 2019 - Staff spoke with the SDDENR who stated:
 - 1. Mining License 83-100 is current.
 - 2. The applicants are current on their annual report.
 - 3. There are no violations on the Property.
 - 4. The applicants have the proper permits to operate the mine.
- D. The subject property contains vegetated berms to contain the sight.
- E. The grading and mining of the property will create detention ponds.

RECOMMENDATION: Staff is recommending that the Planning Director approve Construction Permit / CP 19-17 with the following ten (10) conditions:

- 1. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water Discharges Associated with Industrial Activities be continually met;
- 2. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit be continually met;

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Pete Lien & Sons
November 25, 2019

3. That the Conditions of Approval of Mining Permit / MP 19-02 are continually met;
4. That any natural drainage ways and paths be continually maintained;
5. The requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
6. That the site shall be re-vegetated as required under § 507(A)(5)(c);
7. That inspection reports are available upon request of the Planning Director;
8. That if there is a change in the floodplain or the work within the floodplain, the applicant updates their Floodplain Development Permit;
9. That the applicant signs a Statement of Understanding within ten (10) business days of Mining Permit approval, which is available at the Planning Office; and,
10. That this Construction Permit be reviewed in six (6) months from approval date, and may be reviewed 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: 52,935

8,822.6 Feet

4,411.28

0

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- PLSS**
- Townships
 - Tax Parcels
 - Lot Lines
 - <Null>
 - Lot Line
 - Parcel Line
- City Boundaries**
- BOX ELDER
 - ELLSWORTH AFB
 - HILL CITY
 - KEYSTONE
 - NEW UNDERWOOD
 - QUINN
 - RAPID CITY
 - WALL
 - WASTA

Map Notes:



1: 18,981



3,163.6 0 1,581.78 3,163.6 Feet



NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet

© City of Rapid City GIS

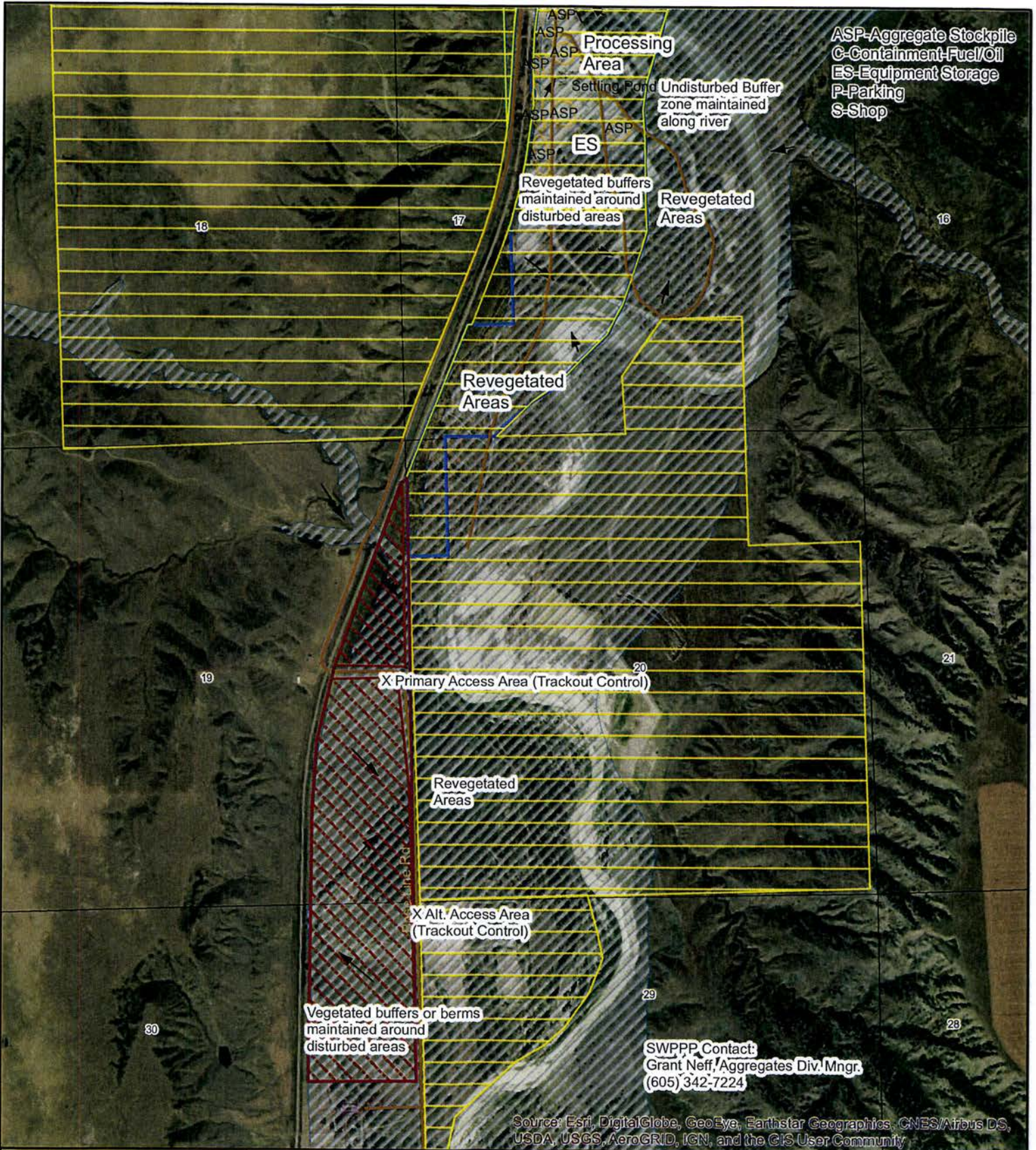
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 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- Section Lines 0-25k**
- Tax Parcels
 - Lot Lines
 - <Null>
 - Lot Line
 - Parcel Line

Map Notes:

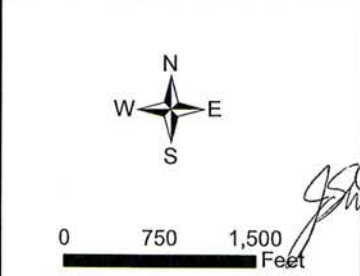


ASP-Aggregate Stockpile
 C-Containment-Fuel/Oil
 ES-Equipment Storage
 P-Parking
 S-Shop

Wasta Mine Site Plan
 Portions of E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 19; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Portions of SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30; T1N-R14E; Pennington County, SD

Layers: PLS
 Background: Bing Maps Aerial

- Legend**
- Current SD DENR Mine License
 - 100 Year Floodplain
 - Pennington Co. Construction Permit
 - Water Flow
 - Proposed CP Boundary
 - Structure
 - Disturbance Area Boundary
 - Stockpile
 - Fuel/Oil
 - Roads
 - PLS
 - SD Section Lines



PETE LIEN & Sons, Inc.

Grant Neff

Last Revised: 09/17/2019
 Drawn by: CB
 Verified by: MG
 Surveyed: None

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

SWPPP Contact:
 Grant Neff, Aggregates Div. Mngr.
 (605) 342-7224

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **CONSTRUCTION PERMIT / CP 19-18:** To build a road, to grade and level for a building site, and to remove gypsum to be hauled off site.

APPLICANT: Cody Schad

APPLICANT ADDRESS: 2801 Skyline Drive, Rapid City, SD 57701

OWNER: Robert Van Houten

OWNER ADDRESS: 9400 Sturgis Road, Summerset, SD 57718

LEGAL DESCRIPTION: Lot 3R, Marvin Subdivision, Section 16, T2N, R7E, BHM, Pennington County, South Dakota.

SITE LOCATION: 3800 Marvin Road; east of the intersection of Universal Drive and Marvin Road.

TAX ID: 49053

SIZE: 40.00 acres

EXISTING LAND USE: Residential

ZONING REFERENCE: Sections 206 and 507

CURRENT ZONING: Limited Agriculture District

SURROUNDING ZONING:

North	General Agriculture District Limited Agriculture District
South	Limited Agriculture District
East	City Limits of Rapid City
West	Limited Agriculture District

PHYSICAL CHARACTERISTICS: Rolling hills

UTILITIES: Private

REPORT BY: Brittney Molitor

I. PROPOSED RECOMMENDATION

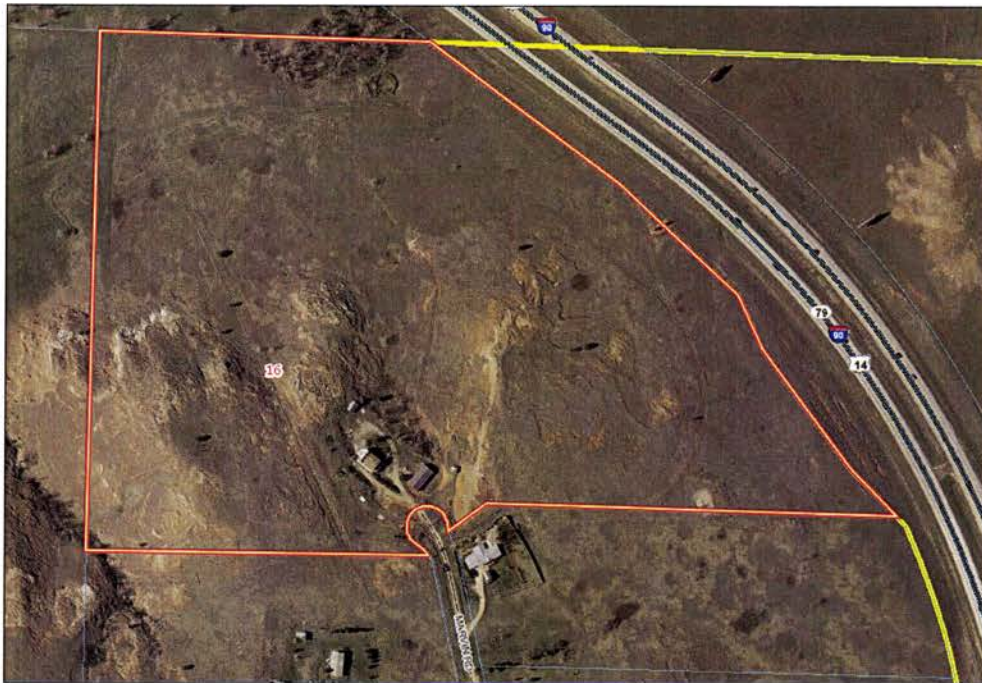
- A. Staff will be recommending that the Planning Director approve Construction Permit / CP 19-18 with ten (10) conditions.

II. GENERAL DESCRIPTION

- A. The applicant, Cody Schad, is requesting a Construction Permit to:
1. Build access roads to the rear of the property.
 2. Excavate and haul off large amounts of gypsum.
 3. Grade and level areas for construction of shop buildings.

III. EXISTING CONDITIONS

- A. Lot 3R of Marvin Subdivision
1. Zoned Limited Agriculture District
 2. 40 acres.
 3. There are easements on the property for gas lines and power lines.
 4. Lot contains:
 - a. Single-family residence – built in 1982 per Department of Equalization (DOE) Records.
 - i. Onsite wastewater treatment system – CIOSW17-0206.
 - b. Tool shed (400 ft²)– built in 1982 per DOE records.
 - c. Tool shed (144 ft²)– built in 1982 per DOE records.
 - d. Shop building – (1,800 ft²)– built in 2002.
 - i. 2002COBP0669.
- B. Access is off of Marvin Road.
1. Marvin Road is platted as “Right-of-Way”.
 - a. Staff confirmed with County Highway that it is not maintained by the County.
 - b. There is no Road District for this subdivision.



IV. REQUEST FOR COMMENT

- A. County Highway
 - 1. They describe a berm overflow through a brush pile. Silt fence is needed at the overflow to prevent eroded soils from leaving the site. Anywhere the berm fails to prevent erosion from leaving the site, a silt fence should be required.
 - 2. An approach permit is required since none was applied for or approved for this lot.
- B. County Addressing Coordinator
 - 1. No addressing concerns at this time. Future addresses will be assigned during the Building Permit application process. Once assigned, addresses must be posted in accordance with Pennington County Ordinance #20.
- C. County Ordinance Enforcement
 - 1. No known violations.
- D. County Natural Resource Director
 - 1. No objections.
- E. County Environmental Planner
 - 1. The disturbed area will need to be revegetated.
 - 2. Inspection reports will need to be submitted weekly.
 - 3. Erosion and Sediment controls need to be installed prior to any disturbance.
- F. County Professional Environmental Planner
 - 1. There is no Special Flood Hazard Area on the property.

2. Must follow the Storm Water Manual for implementation of Best Management Practices.
3. Site Must be revegetated in accordance with Section 507 of the PCZO.

G. Rapid City Onsite Coordinator

1. Doesn't seem to disturb or add to the septic so I am good with it.

H. Rapid City Public Works

1. A "haul route" needs to be identified and verify that the haul route will not create traffic concerns or cause excessive roadway degradation.
2. Being a mining operation there will be a lot of traffic in and out of the site, verify that the ingress/egress does not cause traffic concerns, sight triangle obstructions, sight distance line obstructions or track out onto haul route streets.
3. If the haul route does not include City streets then the City has no concerns regarding this submittal.

I. Rapid City Community Development

1. The City's Major Street Plan identifies two collector streets extending through the property as shown below:

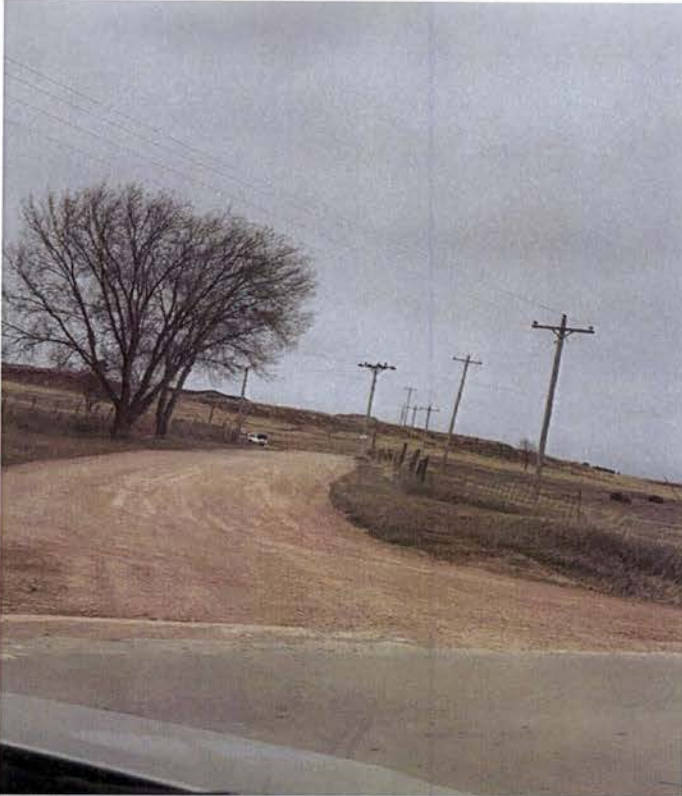


2. Any development of the property should be designed to ensure that it does not conflict with the location of the future collector streets. Any future platting of the property will require that the right-of-way be dedicated for the collector streets and constructed as per the Infrastructure Design Criteria Manual.

3. The City's Future Land Use plan identifies the appropriate use of the property as Rural Residential which supports large lot single-family residential development.
4. Marvin Road serves as access to the property and is identified as a lane place street as per the Infrastructure Design Criteria Manual.

V. ANALYSIS

- A. November 20, 2019 - Staff performed a site visit and found the following:
 1. Work has commenced.
 - a. Staff indicated to the applicant that no more disturbance could occur. However, he could berm and stabilize the site and implement erosion and sediment control measures.
 - b. Penalty fees apply and must be paid by the applicant prior to approval of the Permit by the Planning Director.
 2. The applicant stated:
 - a. That there will be significant grading and removal of gypsum at the site.
 - b. The gypsum will be stockpiled and removed.
 - c. Berms will be constructed and vegetated with grasses and trees.
 - d. The area will be leveled for future construction of a shop building.
 - e. The existing single-family residence is not occupied.
 - f. The hauling route will be down Marvin Road to Universal Drive to Deadwood Avenue.
 - i. The City of Rapid City indicated that a haul road agreement may be required for use of the road within the City Limits for this project.
- B. November 21, 2019 – The applicant paid the penalty fee for the Construction Permit.
- C. The applicant indicated that he is working with the City of Rapid City regarding the need for a haul road agreement.



Entrance onto Marvin Road
from Universal Drive.

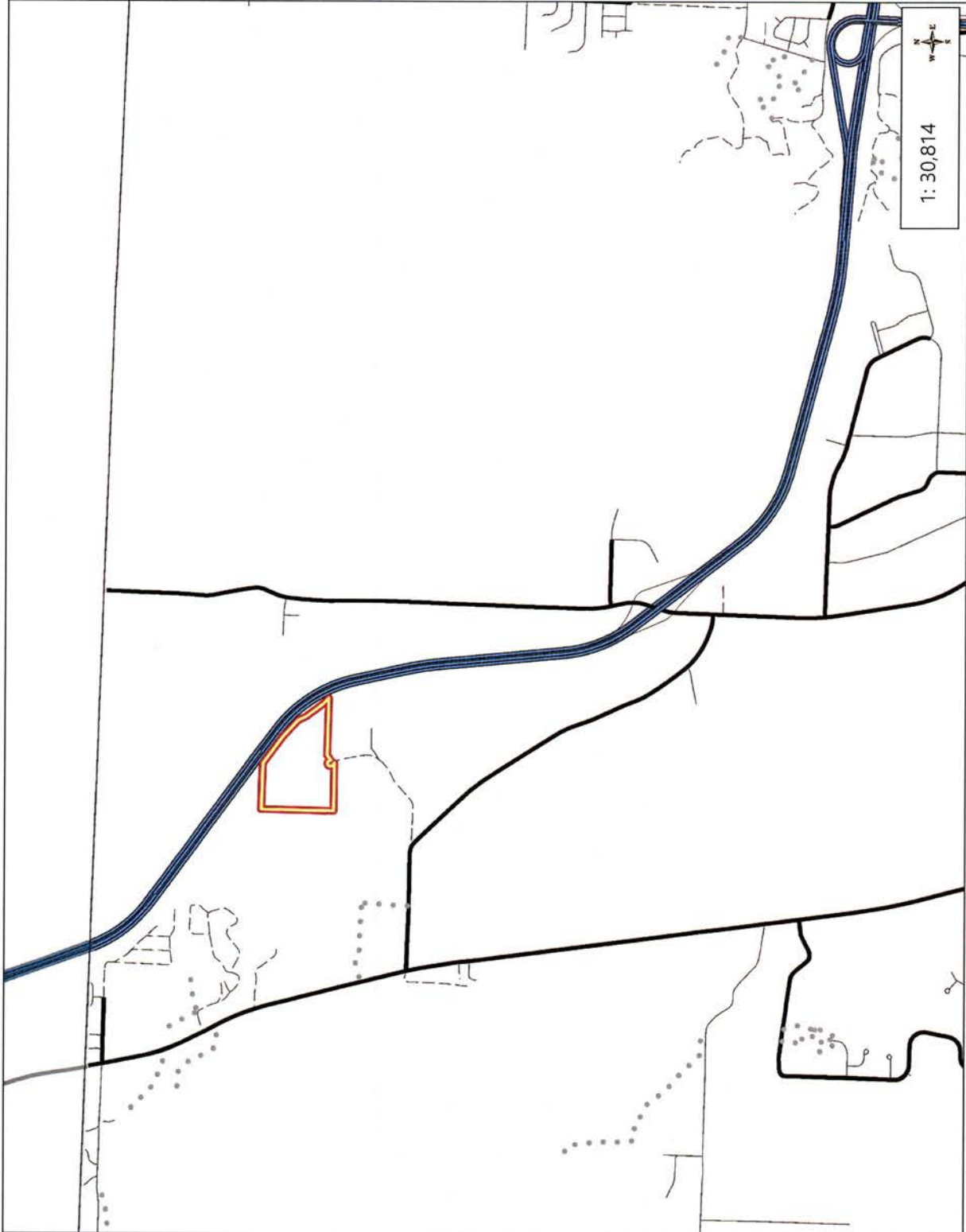


Existing dirtwork and
disturbance area.

1. Section 507-B of the Pennington County Zoning Ordinance states, "No extraction of any mineral or substance exceeding 100 cubic yards from the earth shall be conducted without a Mining Permit issued by the Commission"
 - a. The applicant has submitted a Mining Permit application for removal of gypsum from the site.
 - b. The Mining Permit Application will be heard at a later Planning Commission meeting.

RECOMMENDATION: Staff is recommending that the Planning Director approve Construction Permit / CP 19-18 with the following ten (10) conditions:

1. That the applicant submits a Notice of Intent to the South Dakota Department of Environment and Natural Resources for a General Permit for Storm Water Discharges Associated with Industrial Activities and the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water Discharges Associated with Industrial Activities be continually met;
2. That the applicant works with the City of Rapid City regarding the requirement for a haul road agreement on roads within the city limits;
3. That any natural drainage ways and paths be continually maintained;
4. The requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
5. That the site shall be re-vegetated as required under § 507(A)(5)(c);
6. That inspection reports are available upon request of the Planning Director;
7. That an Approach Permit is obtained from the Pennington County Highway Department within 30 days of approval of this Construction Permit;
8. That any excavation in the gas line or power line easements are approved by the appropriate utility company;
9. That the applicant signs a Statement of Understanding within ten (10) business days of Mining Permit approval, which is available at the Planning Office; and,
10. That this Construction Permit be reviewed in three (3) months from approval date, and may be reviewed 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: 30,814



5,135.6 0 2,567.82 5,135.6 Feet



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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Legend

- Roads**
- Interstate
 - US highway
 - SD highway
 - County highway
 - Main road
 - Minor arterial
 - Collector
 - Ramp
 - Paved road
 - Unpaved road
 - Trail
 - Driveway
 - Alley
 - Unimproved road
 - Airport Runway
 - Not yet coded
- Section Lines 0-25k
- Section Labels 0-25k
- Tax Parcels
- Lot Lines
- <Null>
 - Lot Line
 - Parcel Line
- City Boundaries**
- BOX ELDER
 - ELLSWORTH AFB
 - HILL CITY
 - KEYSTONE
 - NEW UNDERWOOD
 - QUINN
 - RAPID CITY
 - WALL
 - WASTA

Map Notes:



1: 14,738

2,456.3
0 1,228.17 2,456.3 Feet

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NAD_1983_StatePlane_South_Dakota_South_FIPS_4002_Feet
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Legend

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Map Notes:

