

**MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
August 24, 2020 @ 9:00 a.m.**

County Commissioners’ Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Kathy Johnson Travis Lasseter, Charlie Johnson, Sandra Runde, and Gary Drewes.

STAFF PRESENT: Brittney Molitor, Cody Sack, Jason Theunissen, Cullen McNeece (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE AUGUST 10, 2020, MINUTES
Moved by Drewes and seconded by Lasseter to approve the Minutes of the August 10, 2020, Planning Commission meeting. Vote: unanimous 5 to 0.

2. APPROVAL OF THE AGENDA
Moved by Runde and seconded by Lasseter to approve the Agenda of the August 24, 2020, Planning Commission meeting. Vote: unanimous 5 to 0.

Moved by Drewes and seconded by K. Johnson to approve the Consent Agenda of the August 24, 2020, Planning Commission meeting, with the removal of Item #6. Vote: unanimous 5 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 18-35: Lorrie Behl. To review a single-wide mobile home to be used as a 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 6 of Lot L of E1/2SE1/4, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 18-35 as it is no longer needed.

Vote: unanimous 5 to 0.

4. **PLANNED UNIT DEVELOPMENT REVIEW / PU 08-01:** Leslie McGourty. To review a Planned Unit Development in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 1 of Voshall Addition, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

To end Planned Unit Development / PU 08-01 as it is no longer needed.

Vote: unanimous 5 to 0.

5. **ROAD NAMING:** Richard and Lorayna Papousek. To name a 20-foot-wide Section Line road providing access to properties located in Sections 25 and 36, T1N, R16E, BHM, South Dakota, to Papousek Road.

To recommend approval of the Road Naming of Papousek Road.

Vote: unanimous 5 to 0.

7. **PRELIMINARY PLAT / PPL 20-21:** David Grover. To create Lots A, B, C, and D of Buzmar Subdivision in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 1 of Buzmar Subdivision, Section 32, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A, B, C, and D of Buzmar Subdivision, Section 32, T1S, R5E, BHM, Pennington County, South Dakota.

To recommend approval of Preliminary Plat / PPL 20-21 with the following five (5) conditions:

1. **That the applicant ensures all natural drainage ways are maintained and are not blocked;**
2. **That the Certifications on the plat be in accordance with Section 400.2 of the Pennington County Subdivision Regulations and as deemed appropriate by the Register of Deeds;**
3. **That prior to filing the plat with the Register of Deeds, all the requirements of Pennington County Subdivision Regulations are met, or approved Variances to the Subdivision Regulations be obtained waiving any of these requirements that are not met;**
4. **That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance; and,**

5. **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.**

Vote: unanimous 5 to 0.

END OF CONSENT AGENDA

6. MINING PERMIT REVIEW / MP 19-02: Pete Lien & Sons. To review the extension of 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.

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

Staff recommended approval of the extension of Mining Permit / MP 19-02 with conditions.

Discussion followed.

Moved by Drewes and seconded by Lasseter to approve the extension of the expansion of Mining Permit / MP 19-02 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 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;**
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 two (2) years 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.**

All voting aye, the Motion carried 5 to 0.

8. CONDITIONAL USE PERMIT / CU 20-19: Heather and Aaron Mills. To allow for a home occupation, a one-chair hair salon, in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 12, Block 2, Highland Hills Subdivision, Section 32, T1N, R7E, BHM, Pennington County, South Dakota.

Sack reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow a home occupation, a one-chair hair salon, in a Suburban Residential District.

Staff recommended approval of Conditional Use Permit / CU 20-19 with the following fourteen (14) conditions:

1. That an approved Building Permit be obtained for the new garage and 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;
2. That before a Building Permit can be applied for and prior to operation, the applicant obtain approval from SD DENR, the City of Rapid City, and the EPA, for a new Onsite Waste Water Treatment System;
3. That hours of operation be from 8:00 a.m. to 7:00 p.m. Monday through Saturday;
4. That no additional employees be allowed beyond the applicant, Heather Mills;
5. That no more than 8 clients are allowed each day;
6. That no off-premise signs be allowed;

7. That one (1) home occupation sign be allowed that does not exceed six (6) square feet in area, in accordance with Pennington County Zoning Ordinance Section 312, and that a Sign Permit be obtained prior to installation;
8. That there be a minimum of two (2) off street parking spaces available at all times;
9. That all necessary Local, State, and Federal licenses and permits be obtained prior to the operation of the home occupation and that copies of these licenses and permits be provided to the Planning Department upon request and that the applicant continually comply with all applicable Local, State, and Federal laws and regulations;
10. That the property remain free of debris and junk vehicles;
11. That an address be assigned for the garage that contains the hair salon,
12. That an address be posted on the garage, residence, and at the end of the driveway so that it is visible from Highland Hills Road, in accordance with Pennington County's Ordinance #20;
13. That if any sale or transfer of the subject property from the current owner(s) of record occur, that this CUP for a home occupation automatically end; and,
14. That Conditional Use Permit / CU 20-19 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.

Discussion followed.

Moved by K. Johnson and seconded by Drewes to approve of Conditional Use Permit / CU 20-19 with the following fourteen (14) conditions:

- 1. That an approved Building Permit be obtained for the new garage and 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;**
- 2. That before a Building Permit can be applied for and prior to operation, the applicant obtain approval from SD DENR, the City of Rapid City, and the EPA, for a new Onsite Waste Water Treatment System;**
- 3. That hours of customer appointments be from 8:00 a.m. to 6:00 p.m. Monday through Saturday;**
- 4. That no additional employees be allowed beyond the applicant, Heather Mills;**

5. That no more than four (4) work days are allowed and no more than eight (8) clients are allowed each day;
6. That no off-premise signs be allowed;
7. That one (1) home occupation sign be allowed that does not exceed six (6) square feet in area, in accordance with Pennington County Zoning Ordinance Section 312, and that a Sign Permit be obtained prior to installation;
8. That there be a minimum of two (2) off street parking spaces available at all times;
9. That all necessary Local, State, and Federal licenses and permits be obtained prior to the operation of the home occupation and that copies of these licenses and permits be provided to the Planning Department upon request and that the applicant continually comply with all applicable Local, State, and Federal laws and regulations;
10. That the property remain free of debris and junk vehicles;
11. That an address be assigned for the garage that contains the hair salon,
12. That an address be posted on the garage, residence, and at the end of the driveway so that it is visible from Highland Hills Road, in accordance with Pennington County's Ordinance #20;
13. That if any sale or transfer of the subject property from the current owner(s) of record occur, that this CUP for a home occupation automatically end; and,
14. That Conditional Use Permit / CU 20-19 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.

All voting aye, the Motion carried 5 to 0.

9. CONDITIONAL USE PERMIT / CU 20-17: Julia Rombough. To allow for a Bed and Breakfast on the subject property in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot E, Battle Creek Mountain Estates Subdivision, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow the existing residence to be used as a Bed and Breakfast.

Staff recommended approval of Conditional Use Permit / CU 20-17 with the following fourteen (14) conditions:

1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people, which includes the on-site caretakers, and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);
2. 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;
3. That the minimum required setbacks of a Low Density Residential District be continually maintained on the subject property, or approved Setback Variance(s) be obtained;
4. That the address for the residence (24381 Lost Cave Road) be posted on the primary residence / Bed and Breakfast at all times and so it is clearly visible from Lost Cave Road, in accordance with Pennington County's Ordinance #20 within 30 days of approval of this Conditional Use Permit;
5. That an On-Site Wastewater Construction Permit be obtained prior to any additional on-site wastewater treatment systems being installed on the subject property, which will also require review and approval by the South Dakota Department of Environmental and Natural Resources;
6. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance Section 310, which requires one (1) parking space per guest bedroom for the Bed and Breakfast;
7. That a Sign Permit be obtained prior to the installation of any signs on the subject property. All signs must meet the requirements of Section 312 of the Pennington County Zoning Ordinance;
8. That prior to operation of the Bed and Breakfast, the applicant obtains all necessary permits from other governing bodies for the operation of the Recreational Resort, including, but not limited to, approval from the South Dakota Department of Health and a Sales Tax License from the South Dakota Department of Revenue;
9. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
10. That the property remains free of debris and junk vehicles and all structures be well-maintained;

11. That portable fire extinguishers be placed on each floor level of the Bed and Breakfast so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
12. That quiet hours for the Bed and Breakfast be between 10 p.m. and 8 a.m.;
13. That the applicant comply with SDCL 34-18-9.4 which regulates Bed and Breakfast establishments and requires a guest list to be maintained; and,
14. 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.

Discussion followed.

Moved by Lasseter and seconded by Runde to approve of Conditional Use Permit / CU 20-17 with the following fourteen (14) conditions:

- 1. That the maximum overnight occupancy, based on SD DENR approval, be limited to six (6) people, which includes the on-site caretakers, and the maximum daytime occupancy be limited to twelve (12) people, per Pennington County Zoning Ordinance (PCZO) Section 319(F)(13);**
- 2. 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;**
- 3. That the minimum required setbacks of a Low Density Residential District be continually maintained on the subject property, or approved Setback Variance(s) be obtained;**
- 4. That the address for the residence (24381 Lost Cave Road) be posted on the primary residence / Bed and Breakfast at all times and so it is clearly visible from Lost Cave Road, in accordance with Pennington County's Ordinance #20 within 30 days of approval of this Conditional Use Permit;**
- 5. That an On-Site Wastewater Construction Permit be obtained prior to any additional on-site wastewater treatment systems being installed on the subject property, which will also require review and approval by the South Dakota Department of Environmental and Natural Resources;**
- 6. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance Section 310, which requires one (1) parking space per guest bedroom for the Bed and Breakfast;**
- 7. That a Sign Permit be obtained prior to the installation of any signs on the subject property. All signs must meet the requirements of Section 312 of the Pennington County Zoning Ordinance;**

8. That prior to operation of the Bed and Breakfast, the applicant obtains all necessary permits from other governing bodies for the operation of the Recreational Resort, including, but not limited to, approval from the South Dakota Department of Health and a Sales Tax License from the South Dakota Department of Revenue;
9. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
10. That the property remains free of debris and junk vehicles and all structures be well-maintained;
11. That portable fire extinguishers be placed on each floor level of the Bed and Breakfast so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
12. That quiet hours for the Bed and Breakfast be between 10 p.m. and 8 a.m.;
13. That the applicant comply with SDCL 34-18-9.4 which regulates Bed and Breakfast establishments and requires a guest list to be maintained; and,
14. 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.

All voting aye, the Motion carried 5 to 0.

10. LAYOUT PLAN / LPL 20-23: Link SD Ranches, LLC; Dwight Gubbrud - Agent. To create Tract A, Tract B, Tract C, Tract D, and Tract E of Denke Ranch Addition in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: PT NW1/4SW1/4 Lying S and E of Hwy ROW; PT NE1/4NW1/4 Lying S and W of Hwy ROW; S1/2SW1/4; PT SE1/4 Lying S and W of HWY ROW and PT SW1/4 Lying S and W of Hwy ROW, Sections 21 and 22, T5N, R16E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract A, Tract B, Tract C, Tract D, and Tract E of Denke Ranch Addition, Sections 21 and 22, T5N, R16E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied for a Layout Plan to create Tract A, Tract B, Tract C, Tract D, and Tract E of Denke Ranch Addition.

Staff recommended approval of Layout Plan / LPL 20-23 with the following eight (8) conditions:

1. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;
3. That prior to the Plat being recorded with the Register of Deeds, the Notary Certificate for the Acknowledgement of Owner be corrected;
4. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of the requirements that are not met. A Variance request for the Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;
5. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
6. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
7. 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; and,
8. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by K. Johnson and seconded by Drewes to approve of Layout Plan / LPL 20-23 with the following eight (8) conditions:

- 1. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage Easements to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 2. That at the time of the Minor Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;**
- 3. That prior to the Plat being recorded with the Register of Deeds, the Notary Certificate for the Acknowledgement of Owner be corrected;**

4. That prior to the Plat being recorded with the Register of Deeds, the plat meets all requirements of Pennington County Subdivision Regulations, or approved Subdivision Regulations Variance(s) be obtained waiving any of the requirements that are not met. A Variance request for the Subdivision Regulations shall be submitted per Section 700 of Pennington County Subdivision Regulations;
5. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
6. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
7. 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; and,
8. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

All voting aye, the Motion carried 5 to 0.

11. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 20-04: All American Sales / Doug Bellinger. To amend an existing Planned Unit Development to allow for the sale of retail and wholesale seasonal fireworks on the subject property in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 1R of Lot B, Block 16, Trailwood Village Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant applied to amend the existing Planned Unit Development to allow for the sale of retail and wholesale seasonal fireworks on the subject property.

Staff recommended approval of Minor Planned Unit Development Amendment / PU 20-04 with the following sixteen (16) conditions:

1. That the Conditions of Approval of Planned Unit Development / PU 05-19 be continually adhered to;
2. That prior to operation, the applicant submit all necessary permits/licenses from other governing bodies for operation of the Class C Fireworks, including, but not limited to: written approval from the South Dakota State Fire Marshal's office and a Sales Tax License from the South Dakota Department of Revenue;

3. That an address be assigned to the property and that it be posted on the structure or tent where fireworks are being sold, in accordance with Pennington County Ordinance #20;
4. That the uses allowed on Lot 1R of Lot B of Trailwood Village be limited to: seasonal retail and wholesale sales of Class C fireworks, in accordance with South Dakota Codified Laws;
5. That the sale of fireworks be limited to the hours of 7 a.m. to 12 a.m.;
6. 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;
7. That prior to approval of a Building Permit for a commercial structure on Lot 1R of Lot B of Trailwood Village, the applicant have an engineering study performed to determine the need for storm water detention and the study be submitted to the Planning Department and Highway Drainage Engineer for review;
8. 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;
9. That a minimum of twenty-five (25) parking spaces be provided on-site, each parking space must be a minimum of 9 feet x 18 feet and be maintained in a dust free manner;
10. That a minimum of one (1) port-a-potty be available to the public during fireworks sales and be accessible for pumping and/or removal when necessary;
11. That the applicant ensures the safety of the customers by providing adequate security, fire protection, and a phone available to the public in case of an emergency;
12. That no parking be allowed along the frontage roads;
13. That the applicant obtains approved Sign Permits prior to any signs being placed on the property, in accordance with Section 312 of the Pennington County Zoning Ordinance (PCZO);
14. That temporary structures (which may require temporary Building Permits), such as tents, only be erected when needed and not on a permanent basis;
15. That no fireworks be stored on the subject property outside of the Retail and/or Wholesale selling seasons, as defined by South Dakota Codified Law; and,
16. That this Minor Planned Unit Development Amendment be reviewed in June 2021, 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.

Discussion followed.

Moved by Runde and seconded by Lasseter to approve of Minor Planned Unit Development Amendment / PU 20-04 with the following sixteen (16) conditions:

- 1. That the Conditions of Approval of Planned Unit Development / PU 05-19 be continually adhered to;**
- 2. That prior to operation, the applicant submit all necessary permits/licenses from other governing bodies for operation of the Class C Fireworks, including, but not limited to: written approval from the South Dakota State Fire Marshal's office and a Sales Tax License from the South Dakota Department of Revenue;**
- 3. That an address be assigned to the property and that it be posted on the structure or tent where fireworks are being sold, in accordance with Pennington County Ordinance #20;**
- 4. That the uses allowed on Lot 1R of Lot B of Trailwood Village be limited to: seasonal retail and wholesale sales of Class C fireworks, in accordance with South Dakota Codified Laws;**
- 5. That the sale of fireworks be limited to the hours of 7 a.m. to 12 a.m.;**
- 6. 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;**
- 7. That prior to approval of a Building Permit for a commercial structure on Lot 1R of Lot B of Trailwood Village, the applicant have an engineering study performed to determine the need for storm water detention and the study be submitted to the Planning Department and Highway Drainage Engineer for review;**
- 8. 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;**
- 9. That a minimum of twenty-five (25) parking spaces be provided on-site, each parking space must be a minimum of 9 feet x 18 feet and be maintained in a dust free manner;**
- 10. That a minimum of one (1) port-a-potty be available to the public during fireworks sales and be accessible for pumping and/or removal when necessary;**

11. **That the applicant ensures the safety of the customers by providing adequate security, fire protection, and a phone available to the public in case of an emergency;**
12. **That no parking be allowed along the frontage roads;**
13. **That the applicant obtains approved Sign Permits prior to any signs being placed on the property, in accordance with Section 312 of the Pennington County Zoning Ordinance (PCZO);**
14. **That temporary structures (which may require temporary Building Permits), such as tents, only be erected when needed and not on a permanent basis;**
15. **That no fireworks be stored on the subject property outside of the Retail and/or Wholesale selling seasons, as defined by South Dakota Codified Law; and,**
16. **That this Minor Planned Unit Development Amendment be reviewed in June 2021, 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.**

All voting aye, the Motion carried 5 to 0.

12. LAYOUT PLAN / LPL 20-22: David and Kari Kelting; Fisk Land Surveying – Agent. To subdivide and create Lots 4A and 4B of Tract 3 of Tigerville Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 4 of Tract 3, Tigerville Subdivision, Section 9, T1S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 4A and 4B of Tract 3 of Tigerville Subdivision, Section 9, T1S, R4E, BHM, Pennington County, South Dakota.

Theunissen reviewed the Staff Report indicating the applicant has applied for a Layout Plan to subdivide and create Lots 4A and 4B of Tract 3 of Tigerville Subdivision.

Staff recommended approval of Layout Plan / LPL 20-22 with the following nine (9) conditions:

1. That the applicants obtain approved Approach Permits from the Tigerville Road District prior to installation of any approaches off of Tigerville Road;
2. That prior to Minor Plat submittal, the applicant improve Tigerville Road to Pennington County Road Standards or obtain an approved Subdivision Regulations Variance to waive these requirements;

3. That prior to Minor Plat submittal, the applicant provide percolation tests and soil profile hole information or obtain an approved Subdivision Regulations Variance to waive these requirements;
4. That the applicant ensures all natural drainage ways are maintained and not blocked;
5. That prior to Minor Plat submittal, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
6. That at the time of Minor Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
7. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
8. That following platting of the proposed lot, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit; and,
9. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by Runde and seconded by K. Johnson approve of Layout Plan / LPL 20-22 with the following nine (9) conditions:

- 1. That the applicants obtain approved Approach Permits from the Tigerville Road District prior to installation of any approaches off of Tigerville Road;**
- 2. That prior to Minor Plat submittal, the applicant improve Tigerville Road to Pennington County Road Standards or obtain an approved Subdivision Regulations Variance to waive these requirements;**
- 3. That prior to Minor Plat submittal, the applicant provide percolation tests and soil profile hole information or obtain an approved Subdivision Regulations Variance to waive these requirements;**
- 4. That the applicant ensures all natural drainage ways are maintained and not blocked;**

5. That prior to Minor Plat submittal, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
6. That at the time of Minor Plat submittal, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
7. That at the time of Minor Plat submittal, eight (8) foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
8. That following platting of the proposed lot, any on-site wastewater treatment system(s) be subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit; and,
9. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

All voting aye, the Motion carried 5 to 0.

The Planning Commission recessed at 10:00 a.m.

The Planning Commission reconvened at 10:10 a.m.

13. CONDITIONAL USE PERMIT / CU 20-18: Wild Springs Solar, LLC / Melissa Schmit. To allow for a utility-scale solar energy system in a General Agriculture District and Limited Agriculture District in accordance with Sections 205, 206, 317, and 510 of the Pennington County Zoning Ordinance.

That PT of NE1/4 S of Chicago Northwestern RR; SE1/4 of Section 36, T2N, R10E; GL3-4; E1/2SW1/4, Less ROW of Section 31, T2N, R11E; GL 1-4; S1/2NE1/4; S1/2NW1/4, Less ROW of Section 1, T1N, R10E; GL 6-7; E1/2SW1/4, W1/2SE1/4; E1/2SE1/4 of Section 6, T1N, R11E; E1/2NE1/4; W1/2NE1/4, E1/2NW1/4; GL 1-4; NE1/4SW1/4, N1/2SE1/4, SE1/4SE1/4, Less ROW of Section 7, T1N, R11E; W1/2SW1/4; E1/2SW1/4 of Section 5, T1N, R11E; N1/2NE1/4, SE1/4NE1/4, S1/2SW1/4, E1/2SE1/4, SW1/4SE1/4, NW1/4, Less ROW of Section 9, T1N, R11E, BHM, Pennington County, South Dakota.

Ms. Melissa Schmit, Geronimo Energy, appeared and provided a presentation for Wild Springs Solar, LLC to allow for the utility-scale solar energy system.

Molitor reviewed the Staff Report indicating the applicant applied for a Conditional Use Permit to allow for a utility-scale solar energy system in a General Agriculture District and Limited Agriculture District and further stated that another condition will be added to

the Conditionals of Approval to address a Letter of Credit or cash surety/bond be submitted for the decommissioning of the project.

Staff recommended approval of Conditional Use Permit / CU 20-18 with the following twenty-six (26) conditions:

1. That Building Permits are obtained for all solar modules prior to construction;
2. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the Project area;
3. That the address of all operational structures (i.e. O&M building) be posted in accordance with Ordinance #20 following completion of the structure;
4. That setbacks from the property lines and all utilities be maintained for all structures located on the property, or an approved Setback Variance(s) be obtained;
5. That an approved Approach Permit(s) be obtained, if necessary, from the approving Street Authority and that a copy of the approved Approach Permit be sent to the Pennington County Planning Director with a note identifying the Permit for CU 20-18;
6. That an approved Floodplain Development Permit is obtained prior to any disturbance or placement of structures in the designated Special Flood Hazard Area;
7. That a Storm Water Permit is obtained prior to any land disturbance;
8. That the applicant sign the Noxious Weed Plan and it be followed at all times;
9. That the design of the solar energy system must conform to applicable local, state and national solar codes and standards at all times;
10. That a Conditional Use Permit is obtained for the temporary contractor's equipment storage yard prior to construction of all solar modules;
11. That no junk material, vehicles, or debris is stored on the site at any given time;
12. That any natural drainage ways and paths be continually maintained;
13. That all exterior lights must use hoods and lens that cast light downward;
14. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;

15. The requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
16. That the Planning Department is provided with the safety/access information in case of an emergency;
17. That the proposed structure(s) maintain the 35-foot height requirement, with the exception of utility poles as exempted in Section 204(E) of the PCZO, or an approved Variance(s) be obtained;
18. That the solar panels be non-reflective and unobtrusive at all times;
19. That temporary fencing is installed during construction to ensure livestock are protected;
20. That a Haul Road Agreement, if required, is in place with the County Highway Department prior to construction of the Project;
21. That all design and installation work shall comply with all applicable provisions in the National Electric Code, International Building Code, the International Residential Code, International Commercial Building Code, and state fire code;
22. That no advertising signage shall be placed on any portion of the solar facility;
23. That any on-site wastewater treatment system(s) are subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance;
24. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line;
25. That a Letter of Credit or cash surety/bond in the amount of \$2.323 million be submitted for the decommissioning of the solar modules. If a Letter of Credit is submitted, it be reviewed on a yearly basis; and,
26. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission.

Discussion followed.

Moved by Lasseter and seconded by Runde to approve of Conditional Use Permit / CU 20-18 with the following twenty-six (26) conditions:

- 1. That Building Permits are obtained for all solar modules prior to construction;**
- 2. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the Project area;**

3. That the address of all operational structures (i.e. O&M building) be posted in accordance with Ordinance #20 following completion of the structure;
4. That setbacks from the property lines and all utilities be maintained for all structures located on the property, or an approved Setback Variance(s) be obtained;
5. That an approved Approach Permit(s) be obtained, if necessary, from the approving Street Authority and that a copy of the approved Approach Permit be sent to the Pennington County Planning Director with a note identifying the Permit for CU 20-18;
6. That an approved Floodplain Development Permit is obtained prior to any disturbance or placement of structures in the designated Special Flood Hazard Area;
7. That a Storm Water Permit is obtained to prior to any land disturbance;
8. That the applicant sign the Noxious Weed Plan and it be followed at all times;
9. That the design of the solar energy system must conform to applicable local, state and national solar codes and standards at all times;
10. That a Conditional Use Permit is obtained for the temporary contractor's equipment storage yard prior to construction of all solar modules;
11. That no junk material, vehicles, or debris is stored on the site at any given time;
12. That any natural drainage ways and paths be continually maintained;
13. That all exterior lights must use hoods and lens that cast light downward;
14. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
15. The requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual shall be followed;
16. That the Planning Department is provided with the safety/access information in case of an emergency;
17. That the proposed structure(s) maintain the 35-foot height requirement, with the exception of utility poles as exempted in Section 204(E) of the PCZO, or an approved Variance(s) be obtained;

18. That the solar panels be non-reflective and unobtrusive at all times;
19. That temporary fencing is installed during construction to ensure livestock are protected;
20. That a Haul Road Agreement, if required, is in place with the County Highway Department prior to construction of the Project;
21. That all design and installation work shall comply with all applicable provisions in the National Electric Code, International Building Code, the International Residential Code, International Commercial Building Code, and state fire code;
22. That no advertising signage shall be placed on any portion of the solar facility;
23. That any on-site wastewater treatment system(s) are subject to the requirements of Section 204(J) of the Pennington County Zoning Ordinance;
24. That the solar facility, at no time, shall exceed 55 dBA as measured at the closest property line;
25. That a Letter of Credit or cash surety/bond, in the amount of \$2.323 million, be submitted for the decommissioning of the solar modules. If a Letter of Credit is submitted, it be reviewed on a yearly basis, and the decommissioning cost estimate be submitted after ten years of operation and if the cost estimate for the decommissioning is more than \$2.323 million, the surety/bond estimate must meet the most current estimate; and,
26. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission.

All voting aye, the Motion carried 5 to 0.

14. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the August 10, 2020, Planning Commission meeting.

15. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

16. ITEMS FROM THE STAFF

There were no items from staff.

17. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

18. ADJOURNMENT

Moved by Lasseter and seconded by K. Johnson to adjourn.

All voting aye, the Motion carried 5 to 0.

The meeting adjourned at 11:10 a.m.

Charlie Johnson, Second Chairperson