

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
June 14, 2010 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Charlie Johnson, Jeff Hoffmann, Warren Fisk, Fred Weishaupl, Kevin Kuehn, Russell Andrews and De Glassgow.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE MAY 24, 2010, MINUTES
Moved by Weishaupl and seconded by Fisk to approve the minutes of the May 24, 2010, Planning Commission meeting. Vote: unanimous (7 to 0).

2. APPROVAL OF THE AGENDA
Moved by Andrews and seconded by Kuehn to approve the June 14, 2010, Planning Commission Agenda, including the Consent Calendar, with the removal of Items #6 and #9. Vote: unanimous (7 to 0).

CONSENT CALENDAR

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

3. **CONDITIONAL USE PERMIT AMENDMENT / CU 96-20**: Timothy Nayman. To allow a single-wide mobile home as a single-family residence Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance

Lot 8, Block 4, Green Valley Estates, Section 23, T1N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of the amendment of Conditional Use Permit / CU 96-20 with the following nine (9) conditions:

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

2. That an On-Site Wastewater Construction Permit be obtained prior to obtaining a Building Permit;
3. That the existing access off of Longview Road be utilized for the new single-family residence;
4. That the address be properly posted on both the residence and the approach from Green Drive in accordance with Pennington County's Ordinance #20;
5. That once the new single-family residence is habitable, the applicant obtains an approved Removal Permit for the existing singlewide manufactured home prior to its removal from the property;
6. That the proper setbacks of 25 feet from front and rear property lines and eight (8) feet from the side property lines be maintained for principle structure on the property;
7. That at time of Building Permit submittal, the applicant have a Construction Plan in place and timeframe of completion of the stick-built home;
8. That the applicant signs a Statement of Understanding agreeing to the above conditions; and,
9. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (7 to 0).

4. **CONDITIONAL USE PERMIT / CU 10-14:** Joyce Olson. To allow for an accessory structure, garage, without a primary structure in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 7, Block 5, Green Valley Estates, Section 23, T1N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 10-14 with the following seven (7) conditions:

1. That legal access be maintained to the proposed structure at all times and an access easement be dedicated or a new approach be constructed in compliance with an approved Approach Permit, if the subject property is ever sold separately from the adjacent property to the south;
2. That the existing septic system, which previously serviced the single-wide mobile home located on the property, be properly abandoned in accordance

with SDAR § 74:53:01:11 and inspected by the Rapid City Public Works Department prior to the initial review of this Conditional Use Permit;

- 3. That the garage and shed be used for personal use only and no commercial-type uses;**
- 4. That the property remains free of debris and junk vehicles at all times;**
- 5. That all natural drainage paths are maintained;**
- 6. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
- 7. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.**

Vote: unanimous (7 to 0).

- 5. CONDITIONAL USE PERMIT / CU 10-15: Len and Kaye Augustson. To allow for an accessory structure, a storage building/garage, without a primary structure in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.**

All of Blossom Lode, M.S. 993, Section 1, T1N, R3E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 10-15 with the following six (6) conditions:

- 1. That an address be assigned for the accessory structure and it be posted in accordance with Ordinance #20 so that it is visible from Castle Peak Road;**
- 2. That the accessory structure be used for personal use only and no commercial-type uses;**
- 3. That the property remains free of debris and junk vehicles at all times;**
- 4. That if the applicant ever desires to construct living quarters within the accessory structure, an On-Site Wastewater Construction Permit must be obtained and the Building Permit for the accessory structure must be amended to include finished living space;**
- 5. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**

6. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (7 to 0).

7. **LAYOUT PLAT / PL 10-18:** Gary Kuhl. To create Lots 1 and 2 of Tract 4 of Schacher Subdivision, in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 4, Schacher Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2, Schacher Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Layout Plat/ PL 10-18 with the following fourteen (14) conditions:

1. That prior to applying for the Minor Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Lot 2 to be reviewed by the Environmental Planner or else a Subdivision Regulations Variance be obtained waiving this requirement;
2. That prior to applying for the Minor Plat, the drainfield location on proposed Lot 2 be relocated so that it abuts the soil profile hole or a new soil profile hole be excavated at the drainfield location indicated on the site plan and inspected by the Pennington County Environmental Planner;
3. That prior to County Board approval of the Final Plat, the applicant improve the Section Line to Ordinance 14 Standards or else obtain a Subdivision Regulations Variance waiving this requirement;
4. That the access easement for proposed Lot 1 be dedicated as a separate document from the plat document and recorded at the Register of Deeds and the easement shown on the plat document reference the filing information from the Register of Deeds;
5. That prior to County Board approval of the Minor Plat, the applicant provide engineered road construction plans for any road improvements to be made or else a Subdivision Regulations Variance be obtained waiving this requirement;
6. That prior to County Board approval of the Minor Plat, the access easement be improved to Local/Collector road standards for a Low Density Residential District, including a 66-foot-wide right-of-way with a 24-foot-wide driving

surface and four (4) inches of gravel, or else a Subdivision Regulations Variance be obtained waiving this requirement;

7. That the address for the residence on proposed Lot 1 be posted at the approach onto South Rockerville Road in accordance with Pennington County's Ordinance #20 prior to Final Plat approval;
8. That the address for the residence on proposed Lot 2 be posted at the approach onto Neck Yoke Road in accordance with Pennington County's Ordinance #20 prior to Final Plat approval;
9. That prior to Minor Plat submittal, an Approach Permit for proposed Lot 2 be obtained;
10. That the minimum setback requirements be met from the existing structures and utilities to the proposed lot lines and, if applicable, a Variance be obtained from DENR for any alterations to the existing on-site wastewater system if it is determined to not be meeting the minimum separation distance to any nearby wells;
11. At the time the Minor Plat is recorded, a Well Easement Agreement, for the well located on proposed Lot 1, shall be recorded at the Register of Deeds Office for the residence on proposed Lot 2;
12. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines on the Minor Plat in accordance with Section 500.4-9-a or an approved Subdivision Regulations Variance be obtained waiving this requirement;
13. That at the time of submittal for the Minor Plat, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, including the Plat to be scaled at not more than one (1) inch equals one hundred (100) feet, and topographic information be provided of the subject property at five (5) foot contour intervals or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met; and,
14. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Vote: unanimous (7 to 0).

8. **CONDITIONAL USE PERMIT / CU 10-13:** Bituminous Paving, Inc.; Pete Lien & Sons – Owner. To allow for a portable hot mix asphalt plant in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

GL 1-4 less Part of GL 1 North of RR ROW; SE1/4NW1/4; SE1/4SW1/4, Section 16, T2S, R12E, BHM, Pennington County, South Dakota.

(Continued from the May 24, 2010, Planning Commission meeting.)

To recommend approval of Conditional Use Permit / CU 10-13 with the following ten (10) conditions:

- 1. That an address be assigned to the property and be posted at the entrance to the property in accordance with Ordinance #20;**
- 2. That an adequate amount of port-a-potties be provided on the construction site;**
- 3. That a Floodplain Development Permit be obtained for any work within the 100-year floodplain;**
- 4. That dust control measures be implemented to reduce the amount of dust pollution produced by the temporary batch plant;**
- 5. That upon completion of the project, all equipment, structures, tailings and stockpiles associated with the temporary batch plant must be removed;**
- 6. That an Air Quality Permit be obtained prior to operation of the temporary asphalt plant;**
- 7. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;**
- 8. That the applicant obtains a Haul Road Agreement prior to operation of the batch plant;**
- 9. That if cell phone service is not available at the site, a land line be installed; and,**
- 10. That this Conditional Use Permit be reviewed on September 13, 2010, or on a complaint basis.**

Vote: unanimous (7 to 0).

END OF CONSENT CALENDAR

6. MINOR PLAT / PL 10-20 AND SUBDIVISION REGULATIONS VARIANCE / SV 10-06: Tom Farnsworth. To create Tracts A and B of Farnsworth Subdivision and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All of HES No. 632 of Section 22 and Lot 9 less RTY of Section 27, all located in T1S, R1E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tracts A and B of Farnsworth Subdivision, Sections 22 and 27, T1S, R1E, BHM, Pennington County, South Dakota.

Commissioner Weishaupl asked to have this item removed from the Consent Calendar to discuss Condition #7 – percolation tests, Condition #1 – Six Mile Road as dedicated right-of-way, and Condition #5 – to remove the metes and bounds description on the plat prior to filing it.

Zeller explained that percolation tests are being waived for the platting process, but the applicant will be required to provide percolation tests prior to applying for a Building Permit to install an on-site wastewater treatment system and commented that Six Mile Road is 66-feet-wide, but needs to be dedicated on the plat as “right-of-way.” She further stated that metes and bounds descriptions are not required on plat documents in South Dakota and the Register of Deeds asked to have that removed prior to filing of the plat.

Moved by Weishaupl and seconded by Fisk to recommend denial of the portion of Subdivision Regulations Variance 10-06 to waive the requirement for the limits of the 100-year floodplain to be shown on the plat in accordance with current FEMA maps and approval of a portion of Subdivision Regulations Variance 10-06 to waive the following platting requirements: 1. Road improvements to be conducted to General Agriculture District Local/Collector Road Standards; 2. Section Line Improvements in accordance with Ordinance 14 Standards; 3. Engineered road construction plans to be submitted; 4. The scale of the plat to be no greater than one (1) inch equals 100 feet (the prepared plat is drawn at a one (1) inch equals 400 feet); 5. Percolation test results and soil profile information to be provided for proposed Tract B; and, 6. An as-built site plan to be submitted and approval of Minor Plat 10-20 with the following ten (10) conditions:

1. That Six Mile Road be shown as 66-feet of dedicated right-of-way on the plat;
2. That eight (8) foot utility and drainage easements be dedicated along the interior of all lot lines;
3. That the proper Street Authority Certificate and Water Protection Statement be included on the final plat in accordance with Section 400.3-1-n-7 and -9 of the Pennington County Subdivision Regulations;

4. That the Governing Board Resolution be altered and shown as Certification on Plat by County Auditor in accordance with Section 400.3-1-n-3(a) of the Pennington County Subdivision Regulations;
5. That all corrections to the plat be made in conformance with the Highway Department's, Register of Deeds', and Department of Equalization's comments and the metes and bounds descriptions of the proposed lots be removed from the plat document;
6. That the limits of the 100-year floodplain be shown on the plat in accordance with current FEMA maps and a Floodplain Statement be included on the plat;
7. That percolation test results and soil profile hole information be provided and an On-Site Wastewater Construction Permit be obtained prior to installation of an on-site wastewater treatment system on proposed Tract B;
8. That original, signed and notarized applications by both property owners for both the Minor Plat and Subdivision Regulations Variance are submitted prior to approval of the Minor Plat by County Board;
9. That an approved Floodplain Development Permit be obtained prior to any work that is to be done within the boundaries of the 100-year floodplain; and,
10. That an approved Approach Permit from the County Highway Department be obtained prior to the alteration of any existing or construction of any new approaches providing access to the proposed lots.

All voting aye, the Motion carried 7 to 0.

9. CONDITIONAL USE PERMIT / CU 10-16: Power Plus Electric. Brian and Margie Gross – Owners. To allow a 5kW wind turbine with a total height of 55 feet to be constructed in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Sudbury Ranch, Section 21, T1S, R7E, BHM, Pennington County, South Dakota.

Commissioner Weishaupl asked to have this item removed from the Consent Calendar to discuss if staff received any comments from the neighbors for the proposed wind turbine.

Jennissen stated no.

Moved by Weishaupl and seconded by Hoffmann to approve of Conditional Use Permit 10-16 with the following seven (7) conditions:

1. **That this Conditional Use Permit allow for one (1) wind turbine not exceed 55 feet in overall height;**
2. **That prior to the installation of the wind turbine and after completion of the project, the applicant contact BHEC and request an inspection of the wind turbine's electrical connections and a meter to be installed;**
3. **That the applicant take any reasonable measures to control the amount of noise generated from the wind turbine so as to not constitute a nuisance to surrounding property owners;**
4. **That a Building Permit be obtained for any structure exceeding 144 square feet and located on a permanent foundation, which include necessary site plans to be reviewed and approved by the Planning Director;**
5. **That any future additions of equipment to the site or tower require this Conditional Use Permit to be reviewed by the Pennington County Planning Department;**
6. **That this Conditional Use Permit not be valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
7. **That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to verify that all conditions of approval are being met.**

All voting aye, the Motion carried 7 to 0.

10. ROAD NAME: Turkey Hill Trail. Pennington County. Proposed road naming for the 40-foot-wide and 66-foot-wide private access easement which provides access to properties located in Section 31, T2N, R7E and Section 6, T1N, R7E, all in BHM, Pennington County, South Dakota.

(Continued from May 10, 2010, Planning Commission meeting.)

Zeller reviewed that this item had been continued from the May 10, 2010, Planning Commission meeting in order for one of the affected property owners, Brett Lawlor, to propose a different road name and to gather the signatures of all the property owners affected by the road name change. Mr. Lawlor has not yet submitted a complete petition to change the proposed road name to "Blue Sky Trail," but he stated he will submit it as soon as possible. If staff has not received the petition by the June 28, 2010, Planning Commission meeting, staff will proceed with the recommendation to name the road "Turkey Hill Trail."

Staff recommended to continue the road name of Turkey Hill Trail to the June 28, 2010, Planning Commission meeting.

Commissioner Johnson asked staff if they were comfortable with the possible change of the road name to Blue Sky Trail.

Zeller responded that if the petitioner provides the signed documentation from all the affected property owners to name the road name to “Blue Sky Trail,” staff is agreeable with the change.

Moved by Hoffmann and seconded by Fisk to continue the road name of Turkey Hill Trail to the June 28, 2010, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

11. CONDITIONAL USE PERMIT REVIEW / CU 01-18: Randy and June Guliuzza, Aaron Guliuzza – Agent. To review a Bed and Breakfast as a home occupation in a Low Density Residential District in accordance with Section 207-C-1 of the Pennington County Zoning Ordinance.

Tract 2 of Shelter in the Hills Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

(Continued from May 24, 2010, Planning Commission meeting.)

Zeller reviewed that this item had been continued numerous times in order for staff to contact the applicants prior to recommending revocation of the Conditional Use Permit. Staff received a response from the applicants stating they have been unable to operate the Bed and Breakfast due to health and job reasons and they are still wanting to extend their Conditional Use Permit.

Staff recommended approval of the extension of Conditional Use Permit 01-18 with the following eleven (11) conditions:

1. That a maximum of six people, including both guests and residences, be allowed to stay at the bed and breakfast establishment;
2. That the business be conducted by members of the family residing on the premises and no more than one additional person;
3. That AC and battery operated smoke detectors be installed in all sleeping rooms and common hallways and tested semi-annually as requested by the Pennington County Fire Coordinator;
4. That a 2-ABC dry chemical fire extinguisher be accessible to all guests at all times as requested by the Pennington County Fire Coordinator;
5. That a minimum of six (6) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, nor less

than nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use;

6. That prior to operation, the bed and breakfast be registered with the South Dakota Department of Health;
7. That the applicant obtains a Sales Tax License as required by the South Dakota Department of Revenue;
8. That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed four (4) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located closer than seventeen feet to the nearest street right-of-way line;
9. That an address be posted on the residence in accordance with Ordinance #20;
10. That prior to operation of the Bed and Breakfast, this Conditional Use Permit be reviewed and the applicant's notify the surrounding property owners in accordance with Section 510 of the Pennington County Zoning Ordinance; and,
11. That this Conditional Use Permit be reviewed in three (3) years or on a complaint-basis.

Commissioner Weishaupl questioned how staff will know when the applicants operate the Bed and Breakfast.

Zeller explained that Condition #10 requires the applicants to notify the office prior to the operation of the Bed and Breakfast and the applicants will also have to renotify the surrounding property owners by certified mail.

Commissioner Weishaupl commented that with a review period in three years, the applicants may be operating the Bed and Breakfast without any notification and suggested the extension of the Conditional Use Permit be denied without prejudice so that the applicants will be required to notify staff and the surrounding property owners.

Zeller responded that staff is not opposed to this suggestion.

Commissioner Johnson commented that he is not opposed to extending the Conditional Use Permit with a review period in three years.

Commissioner Andrews asked staff if the applicants have a license from the State Department of Health to operate the Bed and Breakfast.

Zeller stated she is unaware if the applicants have their State license, but does not believe so since the Bed and Breakfast is not yet in operation.

Commissioner Weishaupl suggested the review period be changed to one year instead of three years.

Commissioner Johnson discussed review timeframes under Conditional Use Permits with the Planning Commission and staff.

Discussion followed.

Commissioner Hoffmann stated that by changing the review period to one year, this would burden staff's workload and he is not opposed to the review period in three years.

Moved by Hoffmann and seconded by Kuehn to approve of the extension of Conditional Use Permit 01-18.

Commissioner Weishaupl stated he is opposed to the motion because their job as Planning Commission members is to do what is best for the residents of Pennington County and not what is least burdensome to staff.

Moved by Hoffmann and seconded by Kuehn to approve of the extension of Conditional Use Permit #01-18 with the following eleven (11) conditions:

- 1. That a maximum of six people, including both guests and residences, be allowed to stay at the bed and breakfast establishment;**
- 2. That the business be conducted by members of the family residing on the premises and no more than one additional person;**
- 3. That AC and battery operated smoke detectors be installed in all sleeping rooms and common hallways and tested semi-annually as requested by the Pennington County Fire Coordinator;**
- 4. That a 2-ABC dry chemical fire extinguisher be accessible to all guests at all times as requested by the Pennington County Fire Coordinator;**
- 5. That a minimum of six (6) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use;**
- 6. That prior to operation, the bed and breakfast be registered with the South Dakota Department of Health;**
- 7. That the applicant obtains a Sales Tax License as required by the South Dakota Department of Revenue;**

8. **That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed four (4) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located closer than seventeen feet to the nearest street right-of-way line;**
9. **The an address be posted on the residence in accordance with Ordinance #20;**
10. **That prior to operation of the Bed and Breakfast, this Conditional Use Permit be reviewed and the applicant's notify the surrounding property owners in accordance with Section 510 of the Pennington County Zoning Ordinance; and,**
11. **That this Conditional Use Permit be reviewed in three (3) years or on a complaint-basis.**

All voting, the Motion carried 6 to 1. Commissioner Weishaupl voted no.

12. CONDITIONAL USE PERMIT / CU 10-18: Tom Bodensteiner. To allow for a golf driving range in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 1R, Beaird Subdivision, Section 21, T2N, R8E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report indicating the applicant has submitted a Conditional Use Permit request to allow for a golf driving range in a Limited Agriculture District. Specifically, another applicant is requesting to lease 13 acres of the subject property for a driving range, which is to include a 24 foot by 24 foot outbuilding, port-a-potties, gravel parking area and a mowed grassy area.

Staff recommended approval of Conditional Use Permit/ CU 10-18 with the following thirteen (13) conditions:

1. That the Conditional Use Permit be limited to a golf driving range only; any expansion beyond this will require the Conditional Use Permit to be reviewed;
2. That the daily hours of operation be from 5:00 a.m. to 8:00 p.m.;
3. That the lot address be clearly posted at the entrance off of Country Road to the golf driving range so it is visible from both directions along in accordance with Pennington County's Ordinance #20;

4. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
5. That a Floodplain Development Permit shall be submitted for review and approval prior to any work or placement of any structure within the boundaries of the 100-year floodplain;
6. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
7. That the applicant have the existing approach off of Country Road reviewed by the Pennington County Highway Department for the change in use and that a copy of the amended Approach Permit be provided to the Pennington County Planning Office prior to operation of the golf driving range;
8. That prior to the operation of the golf driving range, the use of the port-o-potties for the means of wastewater disposal shall be reviewed and approved by the City of Rapid City;
9. That a copy of the approved permit from the City of Rapid City for the use of port-a-potties, as a means of wastewater disposal, shall be provided to the Pennington County Planning Department prior to the operation of the golf driving range;
10. That a minimum of one (1) off-street parking spaces be provided per every five (5) customers. Each parking space shall measure at least nine (9) feet by 18 feet and shall be kept in a dust free manner;
11. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;
12. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
13. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to ensure that all conditions are being met.

Commissioner Johnson suggested changing Condition #2 to state: “That the daily hours of operation be during daylight hours.”

Schmierer responded that staff is not opposed to this change.

Commissioner Johnson also spoke of Condition #6 and allowing lighting for a golf driving range. He expressed concern that if the property were sold, the new property owners would be able to allow lighting on the property.

Schmierer explained that the lighting applies to a future building the applicant intends to build for the golf driving range. The lighting would be for the exterior lighting of the building.

Commissioner Hoffmann stated that Condition #6 could be reworded to add “building” after the word exterior in order to reflect that the lighting would be for the building only.

Mr. Tom Bodensteiner, applicant, appeared and commented that he is not opposed to the wording change in Conditions #2 and #6.

Commissioner Weishaupl asked staff if they received any comments from the neighbors.

Schmierer stated no.

Moved by Hoffmann and seconded by Kuehn to approve of Conditional Use Permit 10-18 with the wording change in Conditions #2 and #6.

Commissioner Andrews questioned if the proposed building for the driving range would be located in the floodplain on the property.

Jennissen stated that parts of the subject property are in the floodplain and added that the applicant will need a Floodplain Development Permit if work is performed in the floodplain.

Commissioner Glasgow left the meeting at 9:31

Moved by Hoffmann and seconded by Kuehn to approve of Conditional Use Permit 10-18 with the following thirteen (13) conditions:

- 1. That the Conditional Use Permit be limited to a golf driving range only; any expansion beyond this will require the Conditional Use Permit to be reviewed;**
- 2. That the daily hours of operation be during daylight hours;**
- 3. That the lot address be clearly posted at the entrance off of Country Road to the golf driving range so it is visible from both directions along in accordance with Pennington County’s Ordinance #20;**
- 4. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;**
- 5. That a Floodplain Development Permit shall be submitted for review and approval prior to any work or placement of any structure within the boundaries of the 100-year floodplain;**

6. **That all exterior building lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;**
7. **That the applicant have the existing approach off of Country Road reviewed by the Pennington County Highway Department for the change in use and that a copy of the amended Approach Permit be provided to the Pennington County Planning Office prior to operation of the golf driving range;**
8. **That prior to the operation of the golf driving range, the use of the port-o-potties for the means of wastewater disposal shall be reviewed and approved by the City of Rapid City;**
9. **That a copy of the approved permit from the City of Rapid City for the use of port-a-potties, as a means of wastewater disposal, shall be provided to the Pennington County Planning Department prior to the operation of the golf driving range;**
10. **That a minimum of one (1) off-street parking spaces be provided per every five (5) customers. Each parking space shall measure at least nine (9) feet by 18 feet and shall be kept in a dust free manner;**
11. **That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;**
12. **That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
13. **That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to ensure that all conditions are being met.**

All voting aye, the Motion carried 6 to 0.

13. CONDITIONAL USE PERMIT / CU 10-18: Tom Bodensteiner. To allow for an additional residence on the subject property as “housing for hired help” in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 1R, Beaird Subdivision, Section 21, T2N, R8E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report explaining that the applicant is requesting a Conditional Use Permit to allow an additional residence on the subject property as “housing for hired help” in a Limited Agriculture District. Specifically, the applicant is requesting to restore and remodel an existing outbuilding located on the property into a

residence for the applicant's son, who is employed by Bodensteiner Family Enterprises and his family.

Schmierer stated that staff has several concerns with the proposed request. First, the issuance of the CUP will allow for two residences to be located on one lot. Although the applicant indicated that both residences will be occupied by members of the family who are employed and part owners of Bodensteiner Beamworks, there is the potential for both of the residences to be rented out to people who are not associated with the business. Typically, when CUPs are issued for "hired help" and/or a caretaker's residence, the residence is required to be a modular home for the purposes that the home can be removed when the care is no longer needed or the property is required to be platted so that there is one home on each lot. Secondly, at the time the applicant's CUP for the Sawmill was reviewed, the applicant indicated a majority of the work for the Sawmill was performed off-site and the shop would be used only one to two times per month. With that understanding, staff feels the second residence on the property for "hired help" for a business, which primarily occurs off-premises, is not necessary and/or warranted. Lastly, the zoning is in place for the applicant to subdivide the subject property into two lots. After reviewing the proposed application, staff does not support the request and believes to ensure the intent of the Zoning Ordinance is being met, the applicant should subdivide the property to alleviate two permanent residential structures from being located on one lot.

Staff recommended denial of Conditional Use Permit 10-19 to allow an additional residence on the subject property as "housing for hired help."

Schmierer further added that the applicant did speak with her prior to today's meeting and indicated the hired help would be used for the agricultural uses being performed on the property.

Commissioner Glassgow returned to the meeting at 9:38 a.m.

Commissioner Kuehn discussed the zoning district of the subject property.

Jennissen added that if the applicant were to subdivide the property, they would need to work with the City of Rapid City.

Commissioner Johnson discussed residences used as guest houses and indicated a family member is not considered a guest.

Discussed followed on garages used as residences and guest houses.

Commissioner Hoffmann spoke of the agricultural operation on the property and questioned if chickens define an ag operation.

Schmierer responded that the applicant has chickens and his wife hopes to run a Farmers Market on the property in the future.

Commissioner Hoffmann expressed concern the applicant has the potential to rent out the proposed residence in the future, as well as the current modular residence located on the property.

Mr. Bodensteiner, applicant, appeared and discussed the proposed application. He provided a brief background on the Bodensteiner Family Enterprise and Bodensteiner Beamworks business and stated his three sons, daughter-in-law and wife are all involved in the family business. He stated the “hired help” application is for his son to live on the property in the proposed permanent second residence. Because he and one of his sons travel a lot with their business, Mr. Bodensteiner added that his wife needs help on the property taking care of the vegetable gardens, chickens, goats, wheat, and horses. He further addressed that with the Conditional Use Permit being reviewed every few years, the residence(s) would not be rented out and further believes that he doesn’t need a Conditional Use Permit because on their zoning and family living on the property. He also spoke of being surrounded by the City of Rapid City and platting the property into half acre lots would defeat their purpose for agriculture.

Commissioner Weishaupt commented he would not support staff’s recommendation to deny and would like to see it approved.

Commissioner Johnson asked Mr. Bodensteiner if he needs the kitchen in the residence.

Mr. Bodensteiner stated yes.

Commissioner Johnson also asked Mr. Bodensteiner if he intends to rent the residence out.

Mr. Bodensteiner stated no.

Commissioner Hoffmann indicated that he would sustain staff’s recommendation to deny because of the multiple uses on the property.

Discussion followed on the City of Rapid City’s Comprehensive Plan, family members residing in the proposed permanent second residence, commercial-type uses of rental property and not adding a range in a second residence so that it would not constitute a second residence.

Commissioner Weishaupt asked Mr. Bodensteiner if the proposed second residence would be a permanent residence.

Mr. Bodensteiner stated yes.

Jennissen further added that even though the applicant may not add a kitchen to the proposed second residence, the second residence located on the property is meant to be permanent living quarters.

Commissioner Hoffmann suggested the item be continued for two weeks in order to further discuss the proposed application.

Mr. Bodensteiner stated he would remove the manufactured home on the property and use the proposed structure as the permanent residence in the future, if needed.

Schmierer explained that the manufactured home already located on the property is located on a permanent foundation, too.

Commissioner Kuehn asked Mr. Bodensteiner if the second residence would be occupied on a yearly basis.

Mr. Bodensteiner stated yes.

Moved by Hoffmann and seconded by Andrews to continue Conditional Use Permit 10-19 to the July 12, 2010, Planning Commission meeting.

Commissioner Weishaupl asked Mr. Bodensteiner if he will continue to remodel and work on the building.

Mr. Bodensteiner responded that they would work on the interior and the exterior remodel of the building.

Commissioner Weishaupl suggested the item be moved to the June 28th Planning Commission meeting because of two new members starting in July.

SUBSTITUTE MOTION: Moved by Weishaupl and seconded by Andrews to continue Conditional Use Permit 10-19 to the June 28, 2010, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

14. CONDITIONAL USE PERMIT REVIEW / CU 08-48: Spring Creek Premier Property/Cody Schad. To review accessory structures (garage and pump house) without a primary structure in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 2, Bighorn Sheep Preserve, Section 7, T1S, R7E, BHM, Pennington County, South Dakota.

(Continued from the April 12, 2010, Planning Commission meeting.)

Schmierer stated this item had been continued from the April 12, 2010, Planning Commission meeting to allow the applicant time to address the pending violations on the property. It was also recommended that if the violations were not cleared prior to today's

date, staff would recommend revocation of this Conditional Use Permit and the accessory structure be removed from the property.

To date, the applicant is working on correcting the violations and obtained a Construction Permit (CP #10-02) to widen the first 1,500 feet of the existing trail from Twisted Pines Trail. The applicant is aware that a site survey of the work performed on-site, as well as a Reclamation Plan, must be submitted prior to the issuance of any further Construction Permits. However, at this time, the survey has not been submitted and the remaining violations are still pending.

Staff believes the applicant has had ample time to correct the violations and was aware two months ago that revocation of this CUP would be recommended by staff if the pending issues were not resolved.

Staff is looking for direction from the Planning Commission on how to proceed with the review of Conditional Use Permit 08-48.

Commissioner Johnson questioned if the applicant has violated any of the Conditions of Approval for CU 08-48.

Schmierer responded that staff has not performed a site visit because there was no need and is not able to respond if the conditions are in violation.

Commissioner Weishaupl asked staff what the pump house structure is being used as.

Schmierer stated it is used for storage for snow removal equipment.

Commissioner Kuehn wanted to know what the pending violations are.

Schmierer added that the applicant built a road/trail on the property and staff is not sure where it started and ended up. There was work performed in the Section Line right-of-way, on the adjoining property, and extending to another lot that was not approved with the Construction Permit.

Mr. Pat Hall, agent, appeared and stated the garage/pump house was built on property that he owns and the other violations do not exist on the property in question. He stated the road is deteriorating in the area and a road/trail was constructed to maintain the roads to lots that have not been built upon and to also maintain the well. He feels that since Mr. Schad is in violation on other properties, he is being penalized. He would like to have this item continued in order to meet with staff and review the violations.

Moved by Weishaupl and seconded by Kuehn to continue to the review of Conditional Use Permit 08-48 to the June 28, 2010, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

15. PLANNED UNIT DEVELOPMENT AMENDMENT / PU 10-01: Tammy Brodie-Gusmano; Leon Brodie – Owner. To amend a Planned Unit Development to allow for additional uses to occur on the property, such as Sunday Brunches, tea parties, a patio area for BBQs, and other special events to be hosted on the property. The applicant is also requesting an on-premise lighted sign and to allow the Rushmore Soccer Club to train once a week with no more than 20 players at a time in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 6 of Tract A, Knights Acres Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

(Continued from the May 24, 2010, Planning Commission meeting.)

Schmierer reviewed that this item had been continued from the May 24, 2010, Planning Commission meeting in order for the applicant to resend the Notice of Public Hearing letters by certified mail to the surrounding property owners for the item to be heard at today's Planning Commission meeting. Schmierer added that she did speak with the applicant last week, so the applicant did know that her item would be heard today.

Commissioner Johnson suggested that since the applicant was not at the meeting, the item be continued to the June 28th meeting. If the applicant does not appear at the June 28th meeting, the item will move forward to the next scheduled Board of Commissioners' meeting.

Moved by Hoffmann and seconded by Andrews to continue Planned Unit Development Amendment 10-01 to the June 28, 2010, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

16. PLANNED UNIT DEVELOPMENT REVIEW / PU 02-03: James Buchanan. To review a Planned Unit Development to allow 29 residential lots and a day-use retreat center in accordance with Section 213 of the Pennington County Zoning Ordinance.

S1/2S1/2NE1/4, E1/2SE1/4, E1/2NW1/4SE1/4, Section 8 and the S1/2SW1/4NW1/4, SE1/4NW1/4, and the balance of NE1/4SW1/4, W1/2SW1/4 and Lot A of the NE1/4 SW1/4, Section 9, T1S, R6E, BHM, Pennington County, South Dakota.

(Continued from the November 23, 2009, Planning Commission meeting.)

Jennissen stated this item had been continued from the November 23, 2009, Planning Commission meeting in order for staff to work with the property owners in an attempt to rezone the subject property since the Planned Unit Development has not been in use. Staff attempted to work with applicant to rezone this property, however, staff has been unable to convince the Buchanans to rezone the property. The Buchanans have stated they have no intention of developing the property at this time, but would like to have the

option in the future. Staff believes leaving the PUD has little to no affect on the surrounding properties. If the applicant were to proceed with developing the property in accordance with the PUD, the property must be platted and brought before the Planning Commission and County Board for their review and approval.

Staff recommends approval of the extension of Planned Unit Development 02-30 with the following seventeen (17) conditions:

1. That a maximum of twenty-eight (28) residential lots on the 320 acre parcel be allowed;
2. That only one single-family residence is allowed on each lot, with the exception of the existing residence that was constructed in 1996 which may also be used as a day-retreat center;
3. The day-retreat center shall maintain a minimum of six (6) off-street parking spaces for use by guests and shall have no more than three (3) employees other than family members residing on the premise;
4. That the minimum setback for all structures shall be twenty-five (25) feet from any property line and fifty-eight (58) feet from any Section Line;
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 a drainfield reserve area be provided for each residential lot. This reserve area shall be shown on the plat of the lot;
7. Each residential lot shall be provided with a minimum 1,500 gallon septic tank;
8. That the Planned Unit Development follows the Special Animal Keeping Regulations, as outlined in Section 204 of the Zoning Ordinance, in determining the number of allowable animals;
9. That a dry hydrant be installed in the community pond to provide fire protection to the area;
10. That the community park be maintained by a Homeowner's Association made up of the lots within the Baker Park development;
11. That prior to issuing any Building Permits, all subdivision roads providing access to five (5) or more lots, Boulder Hill Road and Baker Park Road, be constructed to Local Road Standards, with engineered road plans to be submitted with the Preliminary Plat;

12. That all subdivision roads providing access to less than five (5) lots shall be constructed to meet Minor Local Road Standards, with engineered road plans to be submitted with the Preliminary Plat;
13. That a Homeowner's Association maintains all subdivision roads;
14. That prior to issuing any Building Permits and County Board approval of the Planned Unit Development, the applicant shall provide the U.S. Forest Service a transportation plan and utility plan for review and approval;
15. That prior to County Board approval the owner provides documentation of permission to utilize Forest Service Roads and/or easements;
16. That the existing farm house be allowed to remain during the construction of a new single-family residence and once the new residence is habitable, the existing farm house will either need to be demolished or converted into a storage building or studio; and,
17. That this Planned Unit Development be reviewed in two (2) years or upon a complaint basis to determine that all conditions of approval are being met.

Commissioner Johnson discussed the present zoning of the property and suggested staff work with the applicants during the review period to see if the applicants want to change the zoning at that time.

Commissioner Weishaupl questioned if the property has been zoned a PUD since 1996.

Jennissen explained that, in 1996, the property was rezoned from General Agriculture District to a Planned Unit Development. In 2002, the applicants applied to amend the Planned Unit Development with a detailed action plan. The PUD has been reviewed since that time.

Commissioner Hoffmann asked staff what the process would be if the Planning Commission revoked the Planned Unit Development Amendment.

Jennissen responded that staff cannot revoke a PUD.

Mr. Pat Hall, agent, appeared and stated the owners do not want to change the zoning of the property at this time.

Discussion followed.

Moved by Hoffmann and seconded by Kuehn to approve of the Planned Unit Development 02-30 with the following seventeen (17) conditions:

1. That a maximum of twenty-eight (28) residential lots on the 320 acre parcel be allowed;
2. That only one single-family residence is allowed on each lot, with the exception of the existing residence that was constructed in 1996 which may also be used as a day-retreat center;
3. The day-retreat center shall maintain a minimum of six (6) off-street parking spaces for use by guests and shall have no more than three (3) employees other than family members residing on the premise;
4. That the minimum setback for all structures shall be twenty-five (25) feet from any property line and fifty-eight (58) feet from any Section Line;
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 a drainfield reserve area be provided for each residential lot. This reserve area shall be shown on the plat of the lot;
7. Each residential lot shall be provided with a minimum 1,500 gallon septic tank;
8. That the Planned Unit Development follows the Special Animal Keeping Regulations, as outlined in Section 204 of the Zoning Ordinance, in determining the number of allowable animals;
9. That a dry hydrant be installed in the community pond to provide fire protection to the area;
10. That the community park be maintained by a Homeowner's Association made up of the lots within the Baker Park development;
11. That prior to issuing any Building Permits, all subdivision roads providing access to five (5) or more lots, Boulder Hill Road and Baker Park Road, be constructed to Local Road Standards, with engineered road plans to be submitted with the Preliminary Plat;
12. That all subdivision roads providing access to less than five (5) lots shall be constructed to meet Minor Local Road Standards, with engineered road plans to be submitted with the Preliminary Plat;
13. That a Homeowner's Association maintains all subdivision roads;

14. That prior to issuing any Building Permits and County Board approval of the Planned Unit Development, the applicant shall provide the U.S. Forest Service a transportation plan and utility plan for review and approval;
15. That prior to County Board approval the owner provides documentation of permission to utilize Forest Service Roads and/or easements;
16. That the existing farm house be allowed to remain during the construction of a new single-family residence and once the new residence is habitable, the existing farm house will either need to be demolished or converted into a storage building or studio; and,
17. That this Planned Unit Development be reviewed in two (2) years or upon a complaint basis to determine that all conditions of approval are being met.

All voting aye, the Motion carried 7 to 0.

17. LAYOUT PLAT / PL 10-19: Keith and Lona Lau; D.C. Scott Surveyors - Agent. To create Lots 1, 2, 3, 4, and 5 of Lau Subdivision, in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 1 of Tract D in SW1/4NE1/4 and Tract 4R of Tract D located in the S1/2NW1/4 & W1/2NE1/4 less Tract 1, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, 3, 4, and 5, Lau Subdivision, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant has submitted a Layout Plat to subdivide Tract 1 of Tract D and Tract 4R of Tract D into Lots 1-5 of Lau Subdivision. Tract 4R is 8.08 acres and Tract 1 is .57 acres. The property is currently zoned Limited Agriculture District. Proposed lot sizes range from 4.13 acres to .70 acre. Both existing lots have residences on the property. Six outbuildings are scattered throughout the two lots. The proposed subdivision is located at the intersection of Hisega Road and Wheaton Road. Both roads are paved, however, Wheaton Road is a 14 to 16 foot-wide paved road located within a 33 foot private access easement and does not meet Local Road Standards outlined in the Pennington County Subdivision Regulations.

Staff recommended approval of Layout Plat 10-19 with the following fifteen (15) conditions:

1. That at the time of Preliminary Plat submittal, engineered road construction plans be submitted for Wheaton Road and Hisega Road or a Subdivision Regulations Variance be obtained waiving this requirement;

2. That prior to Final Plat approval, both Hisega Road and Wheaton Road be improved to Local Road Standards, which include a 66-foot public right-of-way, 24-foot paved road with curb and sidewalks, submit a surety for the improvements or obtain approval of a Subdivision Regulations Variance waiving this requirement;
3. That prior to Preliminary Plat submittal, the applicant submits percolation tests and soil profile information for the proposed Lots to be reviewed and approved by the Environmental Planner or obtain approval of a Subdivision Regulations Variance waiving this requirement;
4. That an easement be created for the power lines traversing through the property acceptable to Black Hills Electric Cooperative;
5. That the shared driveway be improved to Local Road Standards, which includes a 66-foot public right-of-way, 24-foot paved road with curb and sidewalks, submit a surety for the improvements or obtain approval of a Subdivision Regulations Variance waiving this requirement;
6. That a turn around be constructed at the end of the shared driveway or obtain approval of a Subdivision Regulations Variance waiving this requirement;
7. That at the time of submittal of the Preliminary Plat, the applicant submits topography at 5 foot contour intervals or obtain approval of a Subdivision Regulations Variance waiving this requirement;
8. That at the time of submittal of the Preliminary Plat, the applicant must submit information in regards to water supply or letter from the Community Water System allowing hookup for all of the proposed lots;
9. That an Approach Permit be obtained for the proposed driveways off of both Hisega Road and Wheaton Road;
10. That the five remaining outbuildings be removed or a Conditional Use Permit is obtained allowing an accessory structure prior to a principle;
11. That all accessory structures maintain an eight (8) foot setback from the side and rear property lines and 25 feet from the front property line;
12. That the principle structures maintain a 25-foot setback from front and rear property lines and eight (8) feet from the side property lines once the property is rezoned to Suburban Residential District. If the properties remain Limited Agriculture District or Low Density Residential District, all structures must maintain a setback of 25 feet from all property lines;
13. That the easement located under the south residence be vacated or relocated;

14. That prior to Final Plat approval, a signature block be created for the Planning Director; and,
15. That prior to Final Plat approval, a signature block be created for Jeff Lau (1/3 owner of the property).

Commissioner Weishaupl discussed Conditions #4, #8 and #9 with staff.

Jennissen responded to Condition #4 stating the applicants would be creating an easement and the Subdivision Regulations does require an easement to be improved to a certain standard, but the applicant does have the option of applying for a Variance to waive this requirement. Jennissen added that Condition #8 requires the applicant to obtain an Approach Permit because they would be creating another driveway and further addressed Condition #9 indicating the applicant would need to remove the outbuildings or obtain a Conditional Use Permit.

Commissioner Johnson discussed Hisega Road and the number of homes located on it with no turnaround at the end.

Jennissen added that a secondary means of ingress/egress is provided by Heritage Lane and Pioneer Avenue back out to W. Highway 44.

Discussion followed.

Moved by Weishaupl and seconded by Fisk to approve of Layout Plat 10-19 with the following fifteen (15) conditions:

- 1. That at the time of Preliminary Plat submittal, engineered road construction plans be submitted for Wheaton Road and Hisega Road or a Subdivision Regulations Variance be obtained waiving this requirement;**
- 2. That prior to Final Plat approval, both Hisega Road and Wheaton Road be improved to Local Road Standards, which include a 66-foot public right-of-way, 24-foot paved road with curb and sidewalks, submit a surety for the improvements or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
- 3. That prior to Preliminary Plat submittal, the applicant submits percolation tests and soil profile information for the proposed Lots to be reviewed and approved by the Environmental Planner or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
- 4. That an easement be created for the power lines traversing through the property acceptable to Black Hills Electric Cooperative;**

5. That the shared driveway be improved to Local Road Standards, which includes a 66-foot public right-of-way, 24-foot paved road with curb and sidewalks, submit a surety for the improvements or obtain approval of a Subdivision Regulations Variance waiving this requirement;
6. That a turn around be constructed at the end of the shared driveway or obtain approval of a Subdivision Regulations Variance waiving this requirement;
7. That at the time of submittal of the Preliminary Plat, the applicant submits topography at 5 foot contour intervals or obtain approval of a Subdivision Regulations Variance waiving this requirement;
8. That at the time of submittal of the Preliminary Plat, the applicant must submit information in regards to water supply or letter from the Community Water System allowing hookup for all of the proposed lots;
9. That an Approach Permit be obtained for the proposed driveways off of both Hisega Road and Wheaton Road;
10. That the five remaining outbuildings be removed or a Conditional Use Permit is obtained allowing an accessory structure prior to a principle;
11. That all accessory structures maintain an eight (8) foot setback from the side and rear property lines and 25 feet from the front property line;
12. That the principle structures maintain a 25-foot setback from front and rear property lines and eight (8) feet from the side property lines once the property is rezoned to Suburban Residential District. If the properties remain Limited Agriculture District or Low Density Residential District, all structures must maintain a setback of 25 feet from all property lines;
13. That the easement located under the south residence be vacated or relocated;
14. That prior to Final Plat approval, a signature block be created for the Planning Director; and,
15. That prior to Final Plat approval, a signature block be created for Jeff Lau (1/3 owner of the property).

All voting aye, the Motion carried 7 to 0.

18. CONDITIONAL USE PERMIT / CU 10-17: Dan and Nancy Evangelisto. To allow for a Recreational Resort to include a Bed and Breakfast, up to 10 rental units and special events to include: weddings, wine tasting, rehearsal dinners, and family reunions in a

General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lots 3, 4, 10, and 11, Custer Trails Subdivision #1, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

Jenness reviewed the Staff Report indicating the applicants are requesting a Conditional Use Permit to allow a Recreational Resort which will include a Bed and Breakfast for ten rental units and special events. The special events are to include weddings, wine tasting, rehearsal dinners, and family reunions for up to 170 people. The Bed and Breakfast will be located on Lots 3, 4, 10, and 11 of Custer Trails Subdivision. These lots were created on October 7, 1961, and combined together they create a 1.6 acre tract of land. The lots are zoned General Agriculture District and do not meet the minimum lot size requirements in a General Agriculture District. Since the lots were platted prior to April 28, 1982, they are legal, nonconforming. The lots will be considered developmental lots, which allow the applicants to combine the four lots and ignore the interior lots lines. However, the setbacks on exterior lot lines remain twenty-five (25) feet.

On March 8, 2010, Planning Commission reviewed CU 08-12 to verify the applicants were meeting the Conditions of Approval. Staff discovered the Bed and Breakfast consisted of ten rooms that could be rented out. The applicant indicated they were only renting to ten people at one time. Staff indicated that the ten rooms does not meet the Conditions of Approval of CU 08-12 and recommended the applicant apply for a new Conditional Use Permit to allow for the ten rooms to bring the property into compliance. The applicants are also requesting they be allowed to hold special events on the property, which would include weddings, rehearsal dinners and family reunions. This CUP is for the Recreational Resort which would allow for the additional events.

Staff recommended approval of Conditional Use Permit 10-17 with the following twenty-eight (28) conditions:

1. That the Specialty Resort be for a Bed and Breakfast up to ten rooms and events, such as: weddings, receptions, company picnics, family reunions, church functions, bridal and baby showers, Christmas parties and other types of small gatherings similar in nature up to a maximum of 100 guests;
2. That a Building Permit 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;
3. That the applicants ensure the residential character of the property is maintained;
4. That the specialty resort be conducted by members of the family residing on the premises and no more than one (1) additional person;
5. That all natural drainage paths are maintained;

6. That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed four (4) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located in any public right-of-ways;
7. That the applicants obtain approval from the South Dakota Department of Environment and Natural Resources for the means of wastewater disposal servicing the residence prior to operation of the Bed and Breakfast and that the wastewater disposal system meet the required ten foot minimum setback from any property line;
8. That the address be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;
9. That the applicant maintain an 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 a minimum of 34 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
11. That the driveways consist of a 24-foot-wide, graveled driving surface to accommodate two-way traffic;
12. That all music being provided for outdoor activities be shut down by 10:00 p.m.;
13. That the applicant posts a stop sign at the intersection of the Summer Creek Road and Taylor Ranch Road during events;
14. That temporary structures, such as tents and port-a-potties only be erected when needed and not on a permanent basis;
15. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
16. That the applicant obtain all necessary permits from other governing bodies for operation of the Specialty Resort including, but not limited to, approval from the South Dakota Department of Health for the Bed & Breakfast and Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue;

17. That a smoke detector be placed in each sleeping room utilized for the Bed and Breakfast with a minimum of at least one (1) smoke detector per floor;
18. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed on each floor level of the Bed and Breakfast so it accessible to all guests at all times and the fire extinguisher shall be inspected and tagged annually;
19. That the maximum number of people staying at the Bed and Breakfast establishment at one time be in compliance with the South Dakota Lodging Establishments Health and Safety Manual;
20. That the applicants comply with South Dakota Codified Law 34-18-9.4, which regulates Bed and Breakfast establishments and requires a guest list to be maintained;
21. That the physical address for the residence be posted in each guest room utilized for the Bed and Breakfast;
22. That port-a-potties may be utilized by the guests of the events for wastewater disposal at a ratio of one port-a-potty per 50 guests. Any other means of wastewater disposal will require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Environment and Natural Resources;
23. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
24. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Conditional Use Permit;
25. That Summer Creek Drive have a minimum of 4-inches of gravel to the applicants' driveway and maintained in a dust free manner;
26. That a barrier be placed along Summer Creek Road and the parking spaces, prohibiting people from backing directly into the right-of-way of Summer Creek Drive;
27. That the applicant sign a new Statement of Understanding, which is available at the Planning Office; and,
28. That the Conditional Use Permit be reviewed in one (1) year or on a complaint basis.

Commissioner Hoffmann expressed concern and clarified that the applicants built a residence with ten rooms for a Bed and Breakfast initially for their Conditional Use Permit 08-12, even though the applicants stated they would only rent to a maximum of ten guests at one time and are now in violation because they are not meeting the Conditions of Approval for the Bed and Breakfast.

Jennissen responded yes and further explained that by the applicants amending their Conditional Use Permit for a Recreational Resort, this would remove the violations and bring the property into compliance.

Mr. Dan Evangelisto, applicant, and Mr. Kent Hagg, the applicants' attorney, appeared and Mr. Evangelisto stated he and his wife only rented five rooms at a time and their intent at the time the Conditional Use Permit was originally approved was to only allow the rental of the five rooms.

Commissioner Hoffmann asked the applicant if he would have a problem if they were limited to only the ten guests allowed.

Mr. Evangelisto stated this would not benefit them financially and they did not want to be limited to only ten guests.

Mr. Haag added that the applicants' property is their primary residence and that no more than five rooms were rented out, but the structure was built with ten rooms as it was more feasible to do at that time.

Mr. Evangelisto further added that they would only like to rent out nine rooms instead of ten.

Commissioner Glassgow left the meeting at 11:03 a.m.

Mr. Hagg reviewed Conditions #10, #1, #6, and #4 with the Planning Commission and staff. He stated the applicants are now able to provide 39 parking spaces, which would increase the number of guests allowed under Condition #1 from 100 to 156. He asked that the business sign be allowed to be six square feet in area and not four square feet in area in Condition #6 and, with Condition #4, the applicants would like this changed to four employees instead of one employee.

Commissioner Weishaupl asked the applicant if employees would be residing on the premises.

Mr. Evangelisto stated no.

Jennissen explained that four employees are allowed under a General Agriculture Zoning District.

Commissioner Weishaupl suggested changing the wording in Condition #6 “home occupation” to a “Specialty Resort.”

Mr. Hagg further discussed Condition #13 about placing stop signs at the intersection of Summer Creek Road and Taylor Ranch Road. He would like the County to place the stop sign instead of the applicant.

Commissioner Johnson responded that Summer Creek Road is not a County maintained road and, therefore, the applicants will need to place the stop sign during events.

Commissioner Weishaupl asked if the applicant is opposed to Condition #26.

Mr. Evangelisto stated no.

Jennissen also added that Condition #13 needs to be amended to include that streets signs need to be placed at the intersection of Summer Creek Road and Taylor Ranch Road for emergency vehicles.

Commissioner Hoffmann spoke of Condition #10 and wanted to know where the extra cars will be parking and if they will be parking along Summer Creek Drive.

Mr. Evangelisto stated he does have additional property where the cars could park and would discourage parking along Summer Creek Drive.

Jennissen spoke of the applicant providing an overflow parking area and it has to be located within a certain distance from the proposed use and the applicant would have to amend the proposed Conditional Use Permit to include an adjoining lot.

Commissioner Johnson discussed adding another condition for the applicant to provide an overflow parking lot.

Jennissen stated he does not have a problem with that, as long as the applicant meets the requirements in the Zoning Ordinance.

Commissioner Johnson questioned why the applicant did not adhere to the original Conditions of Approval from the Conditional Use Permit in 2008 and why they differed from those, even though they signed a Statement of Understanding.

Mr. Evangelisto stated the residence was built with the possibility of expanding the business.

Commissioner Kuehn wanted to know if the neighbors were notified of the proposed Recreational Resort.

Jennissen stated yes.

Commissioner Hoffmann discussed additional vehicles visiting the property to drop off food, flowers, etc. and wanted to know where those vehicles would be parking and also spoke of the maximum number of guests at 150 people, with staff working with the applicant to verify if the overflow parking area is sufficient.

Discussion followed on the review period to see if the maximum guests allowed at 156 is compatible to the area, as well as if sufficient parking spaces are available.

Moved by Hoffmann and seconded by Fisk to approve of Conditional Use Permit 10-17 and to amend Conditions #1, #6, #10, and #13.

Mr. Hagg spoke of Condition #4 and the allowance of more than one additional person.

Commissioner Andrews stated Condition #4 could include the word “also” and asked if the applicant is agreeable to this wording.

Mr. Evangeliso stated yes.

Moved by Hoffmann and seconded by Fisk to approve of Conditional Use Permit 10-17 with the following twenty-eight (28) conditions:

- 1. That the Specialty Resort be for a Bed and Breakfast up to ten rooms and events, such as: weddings, receptions, company picnics, family reunions, church functions, bridal and baby showers, Christmas parties and other types of small gatherings similar in nature up to a maximum of 150 guests;**
- 2. That a Building Permit 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;**
- 3. That the applicants ensure the residential character of the property is maintained;**
- 4. That the specialty resort be conducted by members of the family residing on the premises and, also, no more than one (1) additional person;**
- 5. That all natural drainage paths are maintained;**
- 6. That a business sign, which directs attention to the Specialty Resort, shall be allowed with an approved Sign Permit. Such sign shall not exceed six (6) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located in any public right-of-ways;**
- 7. That the applicants obtain approval from the South Dakota Department of Environment and Natural Resources for the means of wastewater disposal**

servicing the residence prior to operation of the Bed and Breakfast and that the wastewater disposal system meet the required ten foot minimum setback from any property line;

- 8. That the address be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;**
- 9. That the applicant maintain an 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 a minimum of 39 parking spaces be provided on-site and the applicants are to identify the overflow parking spaces for 15 additional parking spaces, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;**
- 11. That the driveways consist of a 24-foot-wide, graveled driving surface to accommodate two-way traffic;**
- 12. That all music being provided for outdoor activities be shut down by 10:00 p.m.;**
- 13. That the applicants posts a stop sign at the intersection of Summer Creek Road and Taylor Ranch Road during events and the applicants are to post a street sign for Summer Creek Road at Taylor Ranch Road;**
- 14. That temporary structures, such as tents and port-a-potties only be erected when needed and not on a permanent basis;**
- 15. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;**
- 16. That the applicant obtain all necessary permits from other governing bodies for operation of the Specialty Resort including, but not limited to, approval from the South Dakota Department of Health for the Bed & Breakfast and Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue;**
- 17. That a smoke detector be placed in each sleeping room utilized for the Bed and Breakfast with a minimum of at least one (1) smoke detector per floor;**
- 18. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed on each floor level of the Bed and Breakfast so it accessible to all**

guests at all times and the fire extinguisher shall be inspected and tagged annually;

19. That the maximum number of people staying at the Bed and Breakfast establishment at one time be in compliance with the South Dakota Lodging Establishments Health and Safety Manual;
20. That the applicants comply with South Dakota Codified Law 34-18-9.4, which regulates Bed and Breakfast establishments and requires a guest list to be maintained;
21. That the physical address for the residence be posted in each guest room utilized for the Bed and Breakfast;
22. That port-a-potties may be utilized by the guests of the events for wastewater disposal at a ratio of one port-a-potty per 50 guests. Any other means of wastewater disposal will require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Environment and Natural Resources;
23. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
24. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Conditional Use Permit;
25. That Summer Creek Drive have a minimum of 4-inches of gravel to the applicants' driveway and maintained in a dust free manner;
26. That a barrier be placed along Summer Creek Road and the parking spaces, prohibiting people from backing directly into the right-of-way of Summer Creek Drive;
27. That the applicant sign a new Statement of Understanding, which is available at the Planning Office; and,
28. That the Conditional Use Permit be reviewed in one (1) year or on a complaint basis.

All voting aye, the Motion carried 6 to 0.

19. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the May 24, 2010, Planning Commission meeting.

20. ITEMS FROM THE PUBLIC

There were no items from the public.

21. ITEMS FROM THE STAFF

A. Building Permit Report. Jennissen reviewed the Building Permit Report for May 2010.

B. Conditional Use Permits – Adult Foster Care. Jennissen discussed Adult Foster Care under Conditional Use Permits.

C. On-Site Wastewater Treatment System Ordinance. Jennissen informed the Planning Commission that the Board of Commissioners will hear the First Reading and Public Hearing of the On-Site Wastewater Treatment System Ordinance on Tuesday, June 22nd at 9 a.m. in the Commissioners' Meeting Room.

22. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

23. DISCUSSION ITEMS

There were no discussion items.

24. ADJOURNMENT

Moved by Hoffmann and seconded by Fisk to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at **12:01 p.m.**

Charlie Johnson, Chairperson