

Planning Conditions of Approval

Commission Meeting Date: February 1, 2022

ITEMS FROM PLANNING & ZONING

- A. **VARIANCE / VA 21-37: Michael and Angela Holmberg; Renner Associates - Agent.** To reduce the front yard setback from 25 feet to a zero (0) foot setback for an existing barn on the subject property in an Agriculture District in accordance with Sections 205 and 509 of the Pennington County Zoning Ordinance.

MOVED by Hadcock and seconded by Lasseter to approve VA 21-37 with one (1) condition because (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist to wit: the barn has been in place since the 1970's, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship," to wit: the barn was already there, and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done.

1. That this Variance applies only for a 0-foot setback to the existing 40' x 100' barn. All other structures must meet the minimum setback requirements or obtain separate Variance(s).

Substitute motion: MOVED by LaCroix and seconded by Rossknecht to continue this item until the Feb. 15, 2022 meeting. Vote: The motion failed 3-2 with Hadcock and Lasseter voting no.

Vote on the original motion: failed 3-2 with Drewes and LaCroix voting no.

MOVED by Lasseter and seconded by Rossknecht to table this item. Vote: Unanimous.

MOVED by Rossknecht and seconded by Lasseter to take item 23A off of the table. Vote: Unanimous.

A. **VARIANCE / VA 21-37: Michael and Angela Holmberg; Renner Associates - Agent.** Upon further review from the State's Attorney's office, the Substitute 3-2 motion carried with the 3-2 vote with Hadcock and Lasseter voting no.

PLANNING & ZONING CONSENT AGENDA ITEMS

MOVED by Lasseter and seconded by LaCroix to approve the Planning and Zoning consent agenda as presented. Vote: Unanimous.

- D. **LAYOUT PLAN / LPL 21-79: Marjorie Helgeson Trustee / Davis Engineering.** To reconfigure lot lines to create Lot 3 Revised of SE1/4SW1/4, NE1/4NW1/4 (also in Section 10) in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

1. That at the time of Minor Plat submittal, the plat be prepared by a South Dakota Registered Land Surveyor;

2. That at the time of Minor Plat submittal, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
3. That at the time of Minor Plat submittal, the 100-year Floodplain limits be identified on the plat, in accordance with FEMA maps;
4. 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;
5. That at the time of Minor Plat submittal, 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;
6. That at the time of Minor Plat submittal, a 40-foot-wide access easement be created to ensure a landlocked parcel is not created between Tract A of Alma Subdivision and Lot 3 Revised;
7. That prior to the mylar being filed at Register of Deeds, the entire 66 feet of Section Line rights-of-way be dedicated and improved by the developer or a Subdivision Regulations Variance be obtained, waiving this requirement;
8. That prior to the mylar being filed at Register of Deeds, the applicant obtains an approved Rezone for proposed Lot 3 Revised;
9. That the applicant ensures all natural drainage ways are maintained and not blocked; and,
10. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

E. **LAYOUT PLAN / LPL 21-89: Diamond Spur Lodge, LLC; Andy Edsen.** To combine three lots to create Lot 9R of The Forks at Remmington Ranch in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

1. That at the time of Minor Plat submittal, the Plat be prepared by a South Dakota Registered Land Surveyor;
2. That prior to Minor Plat submittal, the Certifications on the Minor Plat be in accordance with § 400.3.1(n) of the Pennington County Subdivision Regulations;
3. That at the time of Minor Plat submittal, the plat meets the requirements of §§ 400.3 and 500.4 of the Pennington County Subdivision Regulations or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
4. 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;
5. That the applicant ensures all-natural drainage ways are maintained and not blocked;

6. That a Storm Water Permit is obtained from the Planning Department prior to any grading or land disturbance exceeding 10,000 square feet;
7. That prior to the mylar being filed at Register of Deeds, the applicant provides percolation tests and soil profile hole information for proposed Lot 9R or an approved Subdivision Regulations Variance be obtained, waiving these requirements;
8. That prior to a Building Permit submittal, an approved Approach Permit from the Highway Department be obtained and a drainage plan be submitted to the Highway Department;
9. 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,
10. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

F. **MINOR PLAT / MPL 21-90: Southern Black Hills Water Systems.** To subdivide and create Lot JR and Lot W of Phase 3 of Rushmore Ranch Estates Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

1. That prior to filing the mylar with the Register of Deeds, the Certifications on the plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
2. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
3. That prior to filing the mylar with the Register of Deeds, Section Line(s) be shown on the plat;
4. That prior to filing the mylar with the Register of Deeds, 8-foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines;
5. That the applicant ensures all-natural drainage ways are maintained and not blocked;
6. That approval of this Minor Plat does not constitute approval of any further applications to be submitted for the above described properties, and,
7. 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.

G. **MINOR PLAT / MPL 21-92: Laura Henney and Erik Karlson; KTM Design Solutions-Agent.** To combine two lots to create Lot 13R in Block A of Edelweiss Mountain Development in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

1. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
2. That prior to filing the mylar with the Register of Deeds the plat meets the requirements of §§ 400.3 and 500.5 of the Pennington County Subdivision Regulations or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
3. That prior to filing the mylar with the Register of Deeds, 8-foot Minor Drainage and Utility Easements be dedicated on the interior sides of all lot lines;
4. That the applicant ensures all-natural drainage ways are maintained and not blocked;
5. 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,
6. That approval of this Minor Plat does not constitute approval of any further applications to be submitted for the above-described property.

UNCONTESTED HEARINGS:

H. **TO CONSIDER MOTION TO AMEND PRELIMINARY PLAT / PPL 21-56 - APPROVAL ADOPTED ON SEPTEMBER 21, 2021: Casey Skyberg /Sudbury Ranch Land Holding, LLC.** To subdivide and create Lots 2R and Lots 3 through Lot 11 of Sudbury Ranch Subdivision in accordance with Section 400.2 of the Pennington Subdivision Regulations.

MOVED by Rossknecht and seconded by LaCroix to approve PPL 21-56 with eighteen (18) conditions. Vote: Unanimous.

1. That a Storm Water Permit is obtained from the Planning Department prior to any grading or land disturbance exceeding 10,000 square feet;
2. That any construction involving disturbance of more than one acre requires the applicant to obtain all necessary permits from the Department of Agriculture and Natural Resources;
3. That the signage for the subdivision must include speed limits that reflect the designed speed of the roads, intersection control and other warning signs as necessary. All signage must meet the sign standards of the Pennington County Highway Department. All signs must be installed by the applicant or surety posted;

4. That the applicant ensures all natural drainage ways are maintained and not blocked;
5. That at the time of Final Plat submittal, surety must be posted for the construction of roads within the Subdivision, or obtain a Subdivision Regulation Variance waiving this surety requirement;
6. That at the time of Final Plat submittal, surety must be posted for installation of all utilities (including, but not limited to water system distribution lines, wastewater system collection lines, electrical service, lift stations, hydrants, etc.);
7. That at the time of Final Plat submittal, the applicant modify the engineered road plans and construction plans, per County Highway's comments in this report and provide them to the Planning staff as required in § 400.2.2.q and § 400.2.2.s;
8. That at the time of Final Plat submittal, the duplicate Register of Deeds certificate be removed from the Plat;
9. That at the time of Final Plat submittal, the Plat heading contain formerly language that provides the legal descriptions that the new lots are being created from;
10. That at the time of Final Plat submittal, the right-of-way labeled Sudbury Ranch Court be relabeled Sky View Court, as approved by the Emergency Services Communication Center/9-1- 1;
11. That at the time of the Final Plat submittal, the proposed Plat be prepared by a Registered Land Surveyor;
12. That at the time of Final Plat submittal, the Certifications on the Final Plat be in accordance with § 400.3.1(n) of the Pennington County Subdivision Regulations;
13. That at the time of Final Plat submittal, the plat meets the requirements of § 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
14. That at the time of Final Plat submittal, the applicant either provide information to the Fire Coordinator for review on the proposed water system, including the source of water, storage capacity of any above ground or below ground tanks, appropriate elevation of above ground tanks, gallons per minute flow, and proposed location of fire hydrants as required in § 400.2.2.e of the Subdivision Regulations or obtain a Subdivision Regulations Variance waiving this requirement;
15. That at the time of Final 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;

16. That prior to the mylar being filed at Register of Deeds, the Section Line Right-of-Ways must either be improved to Local Road standards or a Subdivision Regulations Variance obtained to waiving this requirement;
17. That prior to the mylar being filed at the Register of Deeds, the applicant obtains an approved Rezone and Comprehensive Plan Amendment for proposed Lot 3 or an approved Lot Size Variance be obtained waiving these requirements; and,
18. That prior to the mylar being filed at Register of Deeds, the applicant provides percolation tests and soil profile hole information for all proposed lots or an approved Subdivision Regulations Variance be obtained, waiving these requirements.

I. **MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 21-19: Quality Five, LLC (Robins Roost Cabins); Matt and Beth Kenaston.** To amend an existing Planned Unit Development to allow for seasonal and long-term rentals, motel unit(s), multi-family unit(s) for seasonal and long-term rental, Vacation Home Rental(s), caretaker's/ manager's residence, and accessory structures in accordance with Section 216 of the Pennington County Zoning Ordinance.

MOVED by LaCroix and seconded by Rossknecht to approve PU 21-19 with nineteen (19) conditions. Vote: Unanimous.

1. That the permitted uses be for) seasonal rental cabins, long term rental cabins, combination office and three (3) bedroom rental unit, seasonal/long term rental structures, multi-family rentals, hotel/motel, Vacation Home Rentals and any accessory structures directly supporting the operation of the approved use;
2. 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;
3. That the required setbacks for any structure be a minimum of twenty-five (25) feet from the front property line and a minimum of ten (10) feet from the side and rear property lines. However, if the side or rear property lines abut a residential district or street, the minimum required setback will be thirty (30) feet;
4. That daily operations be conducted by the owners, on-site manager, and staff as necessary;
5. That all natural drainage paths be continually maintained;
6. That the applicant obtains an approved Sign Permit prior to the placement of any on- or off-premise sign;
7. That all addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;
8. That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;

9. That a detailed site plan be submitted with each Building Permit, to include a detailed parking plan depicting adequate parking as specified in Section 310 of the Pennington County Zoning Ordinance;
10. That quiet hours in the Planned Unit Development be from 11:00 p.m. to 7:00 a.m.;
11. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors or obstruct the vision of motor vehicle operators on Robbins Roost;
12. That a smoke detector be placed in each sleeping room utilized for a hotel / motel, rental cabin, multi-family rental, or vacation home rental, to include 1 smoke detector per floor;
13. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of a hotel / motel, cabin, multifamily rental, or vacation home rental so it accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
14. That the maximum number of people staying at any cabin, rental, hotel / motel, or vacation home rental be in compliance with the South Dakota Lodging Establishments Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
15. That the physical address of each structure be posted in each guest room utilized as a hotel / motel, cabin, multi-family rental and vacation home rental;
16. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must be in compliance with Pennington County Zoning Ordinance (PCZO) § 204-J and South Dakota Administrative Rules 74:53:01;
17. That any Vacation Home Rentals must comply with PCZO §319;
18. 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, as determined by the Planning Director, shall require an amendment to this Planned Unit Development; and,
19. That this Planned Unit Development be reviewed in two (2) years, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

K. **VACATION OF RIGHT-OF-WAY / VR 21-01: Elbert and Marian Johnson.** To vacate 170 feet of public right-of-way adjoining Lot H of Lot 1 and Lot 1 of Lot 1 of Boland Placer Subdivision in accordance with the Pennington County Zoning Ordinance.

MOVED by LaCroix and seconded by Lasseter to approve VR 21-01 with one (1) condition. Vote: Unanimous.

1. That all necessary resolutions and exhibits vacating the public Right-of-Way be recorded by the applicant at the Register of Deeds Office.

L. **PUBLIC HEARING OF PLANNED UNIT DEVELOPMENT OVERLAY / PU 21-21: American Buffalo Resort, LLC; Peter Sorensen - Agent.** To allow a Planned Unit Development Overlay to allow a Recreational Resort in accordance with Section 216 of the Pennington County Zoning Ordinance.

MOVED by Rossknecht and seconded by LaCroix to approve PU 21-21 with twenty-four (24) conditions. Vote: Unanimous.

1. That the approved uses of the Recreational Resort include: cabin rentals (vacation home rentals), bath houses, laundry facilities, caretaker residence, staff offices, maintenance shop, concession stands, stage/amphitheater, recreational vehicle sites, tent sites, mini golf course, hot tub, and swimming pool;
2. 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;
3. That daily and event operations be conducted by owners, on-site manager, and local contact as necessary;
4. That all natural drainage paths be continually maintained;
5. That the applicant obtains an approved Sign Permit prior to the placement of any on or off-premise sign;
6. That all assigned addresses be properly and continually posted in accordance with Pennington County's Ordinance #20;
7. That prior to operation, addresses be assigned to the caretaker residence and maintenance shop and that both be properly and continually posted in accordance with Pennington County's Ordinance #20;
8. That prior to operation, the applicant obtains County Fire approval of the numbering plan for the Recreational Resort and a final copy be kept on file with the Planning Department;
9. That the applicant maintains an Emergency Plan and provides copies to all overnight guests in case there is a need to evacuate guests from the property and that a copy of said plan be kept on file at the Planning Department;
10. That a minimum of 145 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 the Pennington County Zoning Ordinance (PCZO) § 310;
11. That quiet hours in the Recreational Resort be from 11:00 p.m. to 7:00 a.m.;
12. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;

13. That any Vacation Home Rental within the Recreational Resort obtain all necessary permits from other governing bodies including, but not limited to, approval from the South Dakota Department of Health and South Dakota Department of Revenue;
14. That a smoke detector be placed in each sleeping room utilized for a Vacation Home Rental, with a minimum of at least 1 smoke detector per floor;
15. That the proper permits be obtained from South Dakota Wildland Fire prior to utilizing fire pits on the property and any applicable fire restrictions or bans be adhered to at all times;
16. That a portable fire extinguisher with a minimum 2 A-BC rating be placed on each floor level of a Vacation Home Rental so it accessible to guests at all times and that the fire extinguisher be inspected and tagged annually;
17. That the maximum number of people staying at any Vacation Home Rental adhere to the South Dakota Lodging Establishment's Health and Safety Manual and South Dakota Department of Agriculture and Natural Resources requirements;
18. That the applicants comply with South Dakota Codified Law 34-18;
19. That all on-site wastewater treatment systems (OSWTS) require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Agriculture and Natural Resources and must adhere to PCZO § 204-J and South Dakota Administrative Rules 74:53:01;
20. That any Vacation Home Rentals must comply with PCZO §319;
21. That any Recreation Vehicle Park / Site must comply with PCZO § 306;
22. That setbacks for all structures shall comply with those required in a Highway Service District;
23. That significant changes in the use or impacts on the subject property, as determined by the Planning Director, shall require an amendment to this Planned Unit Development Overlay; and,
24. That this Planned Unit Development Overlay be reviewed in 1 year, on a complaint basis, or as deemed necessary by either the Planning Commission or Board of Commissioners to verify all Conditions of Approval are being met.

N. **PUBLIC HEARING OF PLANNED UNIT DEVELOPMENT OVERLAY / PU 21-20: Chace and Leslie Larsen.** To allow a Planned Unit Development Overlay to allow a Specialty Resort to include five rental cabins, a shop building, an office/laundry facility, and the existing single-family residence to be used as the caretaker's/manager's residence in accordance with Section 216 of the Pennington County Zoning Ordinance.

MOVED by Rossknecht and seconded by LaCroix of PU 21-20 with nineteen (19) conditions.
Vote: Unanimous.

1. That the approved uses of the Specialty Resort include: five (5) seasonal rental cabins, a shop building, an office/laundry facility, and the existing single-family residence to be used as the caretaker/manager's residence;
2. That the rental cabins operate from May through August of each year;
3. That the unit number assigned to each individual cabin be posted on the cabin, inside the cabin, and so they are visible from the interior road way, in accordance with Pennington County's Ordinance #20;
4. That the address for the main house (23935 Pink Cabin Road) continue to be posted on the residence and so that it is visible from both directions of travel on Pink Cabin Road, in accordance to Pennington County's Ordinance #20;
5. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance (PCZO) § 310, which requires one (1) parking space per guest bedroom for each cabin;
6. That a Sign Permit be obtained prior to the installation of any signs on the subject property. All signs must meet the requirements of § 312 of the PCZO;
7. That the applicant maintains all necessary permits from other governing bodies for the operation of the Recreation 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;
8. 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 continue to be kept on file at the Planning Department;
9. That the property remains free of debris and junk vehicles and all structures be well-maintained;
10. That all existing drainage ways be maintained and that erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water per PCZO § 507(A). This includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures;
11. 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;
12. That the interior access roads leading to the cabins consist of a 16-foot-wide graveled driving surface, at a minimum, to accommodate two-way traffic;
13. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
14. That all U.S. Forest Service comments be adhered to, including the protection of all National Forest System (NFS) lands boundaries, with no access, utilities, or parking allowed on NFS lands;

15. That no trespassing signs continue to be posted along the west property line boundary to notify any guests to not cross into the neighbors' adjoining property;
16. That a smoke detector be placed in each sleeping room, with a minimum of at least one (1) smoke detector per floor;
17. That portable fire extinguishers be placed on each floor level of each cabin so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
18. That quiet hours for the Recreation Resort be between 10 p.m. and 8 a.m.; and,
19. That this Planned Unit Development Overlay 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.