

Planning Conditions of Approval
Commission Meeting Date: June 10, 2022

ITEMS FROM PLANNING & ZONING
BOARD OF ADJUSTMENT:

A. VARIANCE / VA 22-09: Tube Air Racing, LLC / Larry Teuber; Renner Associates - Agent.

To exceed more than 40 dwelling units on a dead-end road system in a Rural Residential District in accordance with Sections 204-F, 207, and 509 of the Pennington County Zoning Ordinance.

Lots 4 and 5, Block 5, Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by Lasseter to approve VA 22-09 with two (2) conditions because (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship" and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done. Vote: Unanimous.

1. That prior to filing the mylar with the Register of Deeds, the applicant obtains an approved Operating Permit for the single-family residence on proposed Lot 4R.
2. That within 30 days of filing the Plat with the Register of Deeds, the applicant provides a Fire Mitigation Plan for County approval.

B. VARIANCE / VA 22-10: Tube Air Racing, LLC / Larry Teuber; Renner Associates - Agent.

To exceed more than 40 dwelling units on a dead-end road system in a Rural Residential District in accordance with Sections 204-F, 207, and 509 of the Pennington County Zoning Ordinance.

MOVED by LaCroix and seconded by Rossknecht to approve VA 22-10 with two (2) conditions because (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship" and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done. Vote: Unanimous.

Lot 1 Revised (also located in Section 5), Block 5, Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota.

1. That prior to filing the mylar with the Register of Deeds, the applicant obtains an approved Operating Permit for the single-family residence on proposed Lot 1RB.
2. That within 30 days of filing the Plat with the Register of Deeds, the applicant provides a Fire Mitigation Plan for County approval.

- C. **VARIANCE / VA 22-11: Susan Murray; KTM Design Solutions, Inc. - Agent.** To exceed more than 40 dwelling units on a dead-end road system in a Suburban Residential District in accordance with Sections 204-F, 209, and 509 of the Pennington County Zoning Ordinance.

Lot B, Murray Subdivision No. 2, Section 31, T1N, R7E, BHM, Pennington County, South Dakota.

MOVED by LaCroix and seconded by Rossknecht to approve VA 22-11 with one (1) condition because (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done. Vote: Unanimous.

1. That prior to Building Permit application submittal, the applicant provides a Fire Mitigation Plan for County approval.

- D. **VARIANCE / VA 22-12: Michael and Kathryn Cruse.** To reduce the rear yard setback (Section Line) add an addition to the single-family residence in a Suburban Residential District in accordance with Sections 209 and 509 of the Pennington County Zoning Ordinance.

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

MOVED by Drewes and seconded by Rossknecht to approve VA 22-12 with two (2) conditions because (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship" and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done. Vote: Unanimous.

1. That the applicant submits a survey stamped by a registered surveyor which shows that the proposed residential addition will be at least 33 feet from the center of the Section Line.
2. That the applicant has a surveyor stake the property line and the proposed addition to verify that the proposed addition will meet the 33-foot setback.

CONSENT AGENDA:

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

- I. **MINOR PLAT / MPL 22-22: Larry and Nancy Van Overschelde.** To reconfigure lot lines to create Lot 10R and Lot 11R of Bears Den Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 10 and 11, Bears Den Subdivision, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 10R and 11R, Bears Den Subdivision, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

1. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with § 400.3.1(n) of the Pennington County Subdivision Regulations;
2. That prior to filing the mylar at Register of Deeds, the applicant obtain approval for 20 lots on a dead-end road system,
3. 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;
4. That prior to the mylar being filed at Register of Deeds, an Approach Permit be obtained for the existing approach;
5. That prior to the mylar being filed at Register of Deeds, an approved Variance for two approaches on Lot 10 must be obtained;
6. That the applicant ensures all-natural drainage ways are maintained and are not blocked; and,
7. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director.

J. **PRELIMINARY PLAT / PPL 22-20: Rockerville Gold Town, LLC; D.C. Scott Surveyors -**

Agent. To reconfigure lot lines to create Tract 1, Tract 2, Tract 3 and Tract 4 of Rockerville Gold Town Subdivision in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: That part of the SE1/4 SE1/4 of Section 14, T1S, R6E, BHM lying South of the U.S. Highway 16 Westbound R.O.W., Less Lot 1 thereof and less highway R.O.W.; Common Lot B, Lots 6-15, Lot 17, and Tract B-1 and Tract B-2 all of Rockerville Ghost Town Subdivision, Section 13, T1S, R6E; and Lot A of Lot H-2 (aka Lot H2) in the SW1/4 SW1/4 of Section 13, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract 1, Tract 2, Tract 3 and Tract 4 of Rockerville Gold Town Subdivision, Sections 13 and 14, T1S, R6E, BHM, Pennington County, South Dakota.

1. That the Certifications on the plat be in accordance with § 1700 of the Pennington County Subdivision Regulations;
2. That drainage improvements be made to address post development storm water flows prior to issuance of any further Building Permits;
3. That prior to submittal of a Final Plat, 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.);
4. That the signage for the development 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;
5. That the Plat be prepared by a Registered Land Surveyor;
6. That at the time of Final Plat submittal, the water system serving Rockerville Gold Town Planned Unit Development be approved by the South Dakota Department of Agriculture and Natural Resources (SD DANR);
7. That at the time of Final Plat submittal, the wastewater system serving Rockerville Gold Town Planned Unit Development be approved by the SD DANR;
8. That the applicant ensures all natural drainage ways are maintained and are not blocked and all necessary drainage ways are noted on the plat;
9. That following the mylar being filed at Register of Deeds, the Planned Unit Development is reviewed to account for the new legal descriptions;
10. 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,
11. That the roads within the development must be built to Ordinance 14 Standards.

- K. **PRELIMINARY PLAT / PPL 22-21: Dale and Jillian Siemonsma.** To subdivide and create Lots 1, 2, 3, and 4 of Oak Draw Subdivision in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: NE1/4SW1/4 Less Brockett Sub and Less ROW; NE1/4NE1/4 SE1/4SW1/4; SW1/4SE1/4 except the NE1/4NE1/4 SW1/4SE1/4 and Less HWY 16 ROW; NE1/4NE1/4 SW1/4SE1/4; and Lot 5 of Pankratz Subdivision, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, 3, and 4, Oak Draw Subdivision, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

1. That at the time of submittal of the Final Plat, 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;
2. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of the Pennington County Subdivision Regulations, or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met;
3. That at the time of submittal for the Final Plat, the access easement be labeled "Private access easement";
4. That at the time of submittal of the Final Plat, the proposed Plat be prepared by a Registered Land Surveyor;
5. That at the time of submittal for the Final Plat, the acreage size for Lot 2 be fixed;
6. That the applicant ensures all-natural drainage ways are maintained and are not blocked and all necessary drainage ways are noted on the plat;
7. That the applicant obtains an approved Rezone and a Comprehensive Plan Amendment prior to filing the Final Plat at Register of Deeds;
8. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
9. That approval of this Preliminary Plat does not constitute approval of any further applications to be submitted for the above-described property.

CONTESTED HEARINGS:

- V. **ROAD CONSTRUCTION WITHIN A SECTION LINE RIGHT-OF-WAY / CS 22-03: Skyview Ranchettes, LLC; Jack Corr.** To construct 66 feet of road within the Section Line Right-of-Way between Sections 10 and 11, T2S, R8E to provide access to property located in Section 11, T2S, R8E, BHM, Pennington County, South Dakota.

MOVED by Lassetter and seconded by LaCroix to approve CS 22-03 with nine (9) conditions. Vote: Unanimous.

1. That the roadway located within the Section Line Right-of-Way be improved to meet all requirements of Pennington County Ordinance #14 (which includes submittal of engineered road construction plans) or a request to waive these requirements be approved by the Board of Commissioners;
2. That all road plans be approved by the Pennington County Highway Department;
3. That if the amount of disturbed area exceeds one (1) acre, a Department of Agriculture and Natural Resource's Storm Water Construction Permit be obtained;
4. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
5. That dust control measures be implemented to prevent dust from leaving the site and impacting the adjacent properties;
6. That if culverts are installed, the design is submitted to the County Drainage Engineer for review prior to installation;
7. That any disturbed areas shall be stabilized and re-vegetated as required in § 507(A) of the Pennington County Zoning Ordinance;
8. That any monuments establishing property boundaries be replaced as necessary, if disturbed by construction of the road; and,
9. That this Construction in a Section Line be reviewed in six (6) months to verify that the site has been stabilized.

AA. **PUBLIC HEARING OF PLANNED UNIT DEVELOPMENT OVERLAY / PU 22-06: Katie Smirnova and Brett Walfish.** To allow a Planned Unit Development Overlay to allow a single-family residence to be used as a summer/winter educational music camp, to allow off-season musical performance concerts each year, to allow shed/cabins to be used for classes and rehearsals, and a Bed and Breakfast on the subject property in accordance with Section 216 of the Pennington County Zoning Ordinance.

Lot C2, Brassfield Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

MOVED by Lassetter and seconded by LaCroix to approve PU 22-06 with twenty-eight (28) conditions with condition #26 amended as requested by legal staff.

Substitute motion: MOVED by Drewes and seconded by Rossknecht to continue this item until the June 21, 2022, meeting. Vote: The motion carried 3-1 with Lassetter voting no.

1. That the approved uses include: practice cabins to be used for daily practices, music rehearsals and music coaching, an educational music school/camp, a single-family residence to also be used as a Bed and Breakfast or lodging facility for music camp attendees and performance/showcase events for the Rushmore Music Festival Board of Directors;
2. That there be no more than 4 practice cabins;
3. That there be no more than one music camp per calendar year not to exceed 30 people including the residents;
4. That there be one performance/showcase event per year for the Rushmore Music Festival Board of Directors;
5. That the number of guests staying in the Bed and Breakfast is not exceed 6 guests;
6. That at the time of sale or transfer of the property, the PUD would only transfer to the current applicant, their heirs, or the Rushmore Music Festival, with Rushmore Music Festival being the only organization allowed to use the property through the PUD. Otherwise, the PUD will automatically end;
7. That if the Rushmore Music Festival ceases the property's use and the PUD is ended, all temporary sheds (used for lessons & practicing) will be removed from the property prior to closing;
8. That the unit numbers be assigned to each individual rehearsal cabin, be posted on the cabin and inside the cabin;
9. That the address for the main house continue to be posted on the residence, so that it is visible from both directions of travel on Klondike Road, in accordance with Pennington County's Ordinance #20;
10. That the Bed and Breakfast meet section § 323 (PCZO);
11. That the minimum number of required parking spaces be provided in accordance with Pennington County Zoning Ordinance (PCZO) § 310 and that a parking plan is submitted to the Planning Department prior to operation of the music camp or Bed and Breakfast;
12. That the applicant maintains all necessary permits from other governing bodies for the operation of the Bed and Breakfast, 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;
13. That the applicant maintains an Evacuation (Emergency) Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be provided to the Planning Department;
14. That the property remains free of debris and junk vehicles and all structures be well-maintained;

15. That all existing drainage ways be maintained and 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;
16. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
17. That any increase in the number of people staying at the Bed and Breakfast or any increase in the number of music camps per year, will require Klondike Road to be improved to a minimum of 18-foot wide south/southeast of the bridge to the driveway of the single- family residence;
18. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That a smoke detector be placed in each sleeping room, with a minimum of at least one (1) smoke detector per floor;
20. That portable fire extinguishers be placed on each floor level so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
21. That quiet hours be between 10 p.m. and 8 a.m.;
22. That daily operations be conducted by the owners, on-site manager, and staff of the Rushmore Music Festival or their heirs or subsidiaries;
23. That the applicants comply with South Dakota Codified Law 34-18;
24. 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 comply with Pennington County Zoning Ordinance (PCZO) § 204-J and South Dakota Administrative Rules 74:53:01;
25. That setbacks for all structures shall be a minimum of 25 feet from exterior lot lines;
26. That there is legal access to the property for the proposed use. The County will assume there is legal access unless otherwise determined by a court of competent jurisdiction.
27. 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 Overlay; and,
28. That this Planned Unit Development be reviewed at the August 8, 2022, Planning Commission meeting, 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.