

Planning Conditions of Approval

Commission Meeting Date: June 21, 2022

ITEMS FROM PLANNING & ZONING

CONSENT AGENDA:

MOVED by LaCroix and seconded by Lasseter to approve the Planning and Zoning consent agenda with the removal of item E. Vote: Unanimous.

- D. **PRELIMINARY PLAN / PPL 22-25: Russell and Kimberly Johnson; Martin Kost – Surveyor.** To subdivide and create Lots 3, 4, and 5 of Storm Hill Subdivision No. 2 in accordance with Section 500 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 7R, Storm Hill Subdivision; Bal of GL 4; and That Pt of Snowbird Lode MS #526 Lying in NE1/4SW1/4 Less Storm Hill Subdivision, Snowbird Lode MS 526; all of Section 28, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 3, 4, and 5, Storm Hill Subdivision No. 2, Section 28, T1S, R5E, 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 Final 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 the applicant ensures all-natural drainage ways are maintained and are not blocked and all necessary drainage ways are noted on the plat;
6. That prior to the filing of the Final Plat, the applicant obtain approval of Building Permits for the residence and the detached garage and pay all applicable fees.
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.

E. Removed for separate consideration.

F. **MINOR PLAT / MPL 22-30: Isaac Almanza; Renner Associates – Agent.** To subdivide and create Lot 1 of JV Subdivision and Lot 2R of HES #563 in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 2 Less Lots H2 and H3 (also in Section 14) of HES #563, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1 of JV Subdivision and Lot 2R of HES #563, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

1. 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 Variance be obtained, waiving this requirement;
2. 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;
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 the applicant ensures all-natural drainage ways are maintained and are not blocked; and,
5. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director.

E. **PRELIMINARY PLAN / PPL 22-24: Joanie McVey; Jim Peterson - Agent.** To subdivide and create Lots 1, 2, 3, 4, and 5 of McVey Valley Subdivision in accordance with Section 500 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All Less Kayter Subdivision and Less Swampy Lane Subdivision, HES #636, Section 36, T1N, R3E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, 3, 4, and 5, McVey Valley Subdivision, Section 36, T1N, R3E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Rossknecht to approve PPL 22-24 with six (6) conditions.
Vote: Unanimous.

1. That prior to the mylar being filed at Register of Deeds, the applicant either obtains an approved Rezone for proposed Lots 1, 2, 3, 4, and 5 of McVey Valley Subdivision or an approved Lot Size Variance;
2. That at the time of submittal of the Final Plan, approach easements off McVey Road must be staked out to ensure sight distance can be met;
3. That at the time of submittal of the Final Plan, the structures in the right-of-way must be removed, subsequently, the remaining structures will be removed within six (6) months;
4. That at the time of submittal of the Final Plan, any Erosion and Grading plans involving flood plain disturbance need to be stamped by an engineer;
5. That at the time of submittal of the Final Plan, the Plat must meet requirements of § 602; and,
6. That approval of this Preliminary Plat does not constitute approval of any further applications to be submitted for the above-described property.

CONTESTED HEARINGS:

- N. **CONDITIONAL USE PERMIT / CU 22-16: Dawn and Troy Richter.** To allow a Recreational Vehicle Park on the subject property in an Agriculture District in accordance with Sections 205, 306, and 510 of the Pennington County Zoning Ordinance.

NE1/4, NE1/4NW1/4, Section 8, T1S, R17E, BHM, Pennington County, South Dakota.

MOVED by LaCroix and seconded by Lasseter to approve CU 22-16 with eighteen (18) conditions. Vote: Unanimous.

1. That the Recreational Vehicle (RV) Park shall consist of no more than 5 RV sites;
2. That the RV park only be operated after the approved OSWTS has been installed;
3. That all RVs dispose of waste through the approved OSWTS;
4. That any alterations or additions to the OSWTS be reviewed and approved by the Pennington County Environmental Planner and/or South Dakota Department of Agriculture and Natural Resources (SD DANR);
5. That the address be properly posted in accordance with Pennington County Ordinance #20, so it is clearly visible from both directions of travel along Highway 14;
6. That each RV site has a lot number clearly posted;
7. That a minimum 10-foot separation be maintained between each RV site;
8. That the RV Park conforms to all regulations in Pennington County Zoning Ordinance (PCZO) § 306 prior to operation;
9. That the minimum setback requirements in an Agriculture District be maintained on the subject property, or approved Setback Variance(s) be obtained;
10. That the minimum 58-foot Section Line setback be maintained on the property;

11. That an approved Approach Permit be obtained from the County Highway Department prior to operation of the RV park;
12. That the applicant improves the access road to Ordinance #14 Standards or obtain waivers prior to operation;
13. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored, which requires a site plan to be reviewed and approved by the Planning Director;
14. That the subject property remains free of debris and junk vehicles;
15. That the applicant adheres to PCZO § 510;
16. That no outside fires be allowed on the subject property;
17. That upon sale or transfer of the subject property, this Conditional Use Permit shall end; and,
18. That this Conditional Use Permit be reviewed in 1 (year), on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

- O. **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 Lasseter and seconded by Rossknecht to approve PU 22-06 with thirty (30) conditions with conditions #4, #15, #26 & #27 amended as requested by legal staff. Vote: The motion carried 4-1 with Hadcock 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 no more than one performance/showcase event per year with attendance limited to 50 individuals 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 from a single family;

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 and that the existing turn outs and work be stabilized and replanted to prevent continued erosion, soil movement and damage to the surrounding property and the road;
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 requested uses;
27. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Any “significant change”, including but not limited to, the use or impacts on adjacent land or access road, the increase in the number of guests permitted to stay at the bed and breakfast, an increase in the number of attendees or the frequency of music camps or performances/showcases, the increase in the number of structures, and/or as required by PCZO § 216, shall require an amendment to this Planned Unit Development Overlay;
28. That the Bed and Breakfast is not operated prior to the August 16, 2022, Board of Commissioners meeting;
29. That the Board of Commissioners are able to restrict the uses in this Planned Unit Development Overlay and that this Planned Unit Development Overlay is reviewed annually; and,
30. 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.