

Planning Conditions of Approval
Commission Meeting Date: May 16, 2023

ITEMS FROM PLANNING & ZONING

Board of Adjustment

- a. SUBDIVISION REGULATIONS VARIANCE / SV 23-01: Argyle Properties, LLC; Anita Lee. To waive the requirement to construct the road to Ordinance 14 Road Standards in accordance with the Pennington County Subdivision Regulations.

Lot 5, Baumgartner Subdivision, Section 25, T1S, R6E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by Drewes to approve SV 23-01 with two (2) conditions because of the topography.

Substitute motion: MOVED by Lasseter and seconded by Hadcock to approve SV 23-01 with two (2) modified conditions because of topography. List conditions. The motion failed 3-2 on a roll call vote Hadcock – yes, Rossknecht – no, Drewes – no, Lasseter – yes, LaCroix – yes.

Substitute motion: MOVED by Drewes and seconded by Lasseter to deny without prejudice SV 23-01. Vote: Unanimous.

If the Board of Adjustment disagrees and approves the request, Staff recommended the following two (2) conditions be included:

1. That ditches and culverts be constructed to Ordinance 14 Standards;
2. The road be widened to the 18-foot for the entire length of the subject property.

- c. SUBDIVISION REGULATIONS VARIANCE / SV 23-04: Par Properties, LLC; Paul Zwiefel. To waive the requirement to construct the road to Ordinance 14 Road Standards in accordance with the Pennington County Subdivision Regulations.

SE1/4SW1/4NE1/4, Section 27, T2N, R3E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Drewes to approve SV 23-07 with two (2) conditions because this has been done in the past: Vote: Unanimous.

1. Ditches and culverts to be constructed to Ordinance 14 standards,
2. the road to be widen to 18 feet for the entire length of the subject property.

Contested Hearings

- i. PUBLIC HEARING OF MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 23-05: ANCO Developments, LLC. To amend an existing Planned Unit Development to allow a Telecommunications Tower in the Planned Unit Development in accordance with the Pennington County Zoning Ordinance.

Lot 7, Walker Placer MS 551, Section 12, T2S, R4E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by Drewes to approve PU 23-05 with six (6) conditions.
Vote: Unanimous.

1. 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 impact on adjacent land uses as determined by the Planning Director shall require an amendment to this Planned Unit Development;
2. That each cabin site have a minimum of (2) two off-street parking spaces, each measuring at least 9 feet by 18 feet and that they are kept in a dust free manner;
3. That prior to County Board approval, the existing and proposed use of the sewage system shall be reviewed and approved by the South Dakota Department of Environment and Natural Resources. If the existing system will not support the increased use, the system must be upgraded as necessary. Plan and specifications for any work on sewage lagoons must be submitted to the South Dakota Department of Environment and Natural Resources for review and approval prior to approval by this office;
4. That the minimum setback of twenty-five (25) feet from any property line be provided for all new cabins; and,
5. That one (1) Telecommunications Tower be allowed in the Planned Unit Development.
6. That this Major Planned Unit Development Amendment be reviewed in one 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.

- j. PUBLIC HEARING OF MAJOR PLANNED UNIT DEVELOPMENT OVERLAY AMENDMENT / PU 23-02: Katie Smirnova and Brett Walfish. To amend an existing Planned Unit Development Overlay to allow a single-family residence to be used as a music school and a Bed and Breakfast, to include accessory structures in accordance with the Pennington County Zoning Ordinance.

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

MOVED by Hadcock and seconded by Lasseter to approve PU 23-02 with thirty (30) conditions.

Vote: Unanimous. Vote: The motion carried 3-2

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 10 practice cabins;
3. That there be no more than two music camps per calendar year not to exceed 30 people including the residents;
4. That there be no more than 10 events per calendar year and that:
 - a. no more than one event occurs per month;
 - b. no more than two fundraiser performances/showcase events occur per year with attendance limited to 100 individuals; and,
 - c. no more than eight performance/showcase events per year with attendance limited to 50 individuals.
5. That the number of guests staying in the Bed and Breakfast is not to exceed 20 guests from no more than three separate groups;
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 accessory structures (practice cabins) will be removed from the property prior to closing;
8. That the unit numbers be assigned to each individual practice cabin and 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 § 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 prior to a second music camp, performances, or the operation of the Bed and Breakfast, the road improvements to widen Klondike Road to 18-feet wide be completed and verified by the applicant's engineer that it was constructed in accordance to the engineered design;
18. That all exterior lighting must be of low-level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That smoke detectors 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 unless otherwise determined by a court;
27. That 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 this Planned Unit Development Overlay is reviewed annually; and,
29. That this Planned Unit Development be reviewed in 6 months, 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.
30. That the library only be uses by the owners and the participants of Rushmore Music Festival.