

## **Planning Conditions of Approval**

**Commission Meeting Date: August 16, 2022**

### **ITEMS FROM PLANNING & ZONING**

#### **BOARD OF ADJUSTMENT:**

A. VARIANCE / VA 22-17: Wood Stock Supply Inc. To reduce the side yard setback from 25 feet to 8 feet in a Heavy Industrial District in accordance with Sections 214 and 509 of the Pennington County Zoning Ordinance.

Lots A and B of Tract B of SW¼ Less Lot H3 of Said Lot B, Including Lot H2 of Tract B, Section 27, T2N, R8E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Lasseter to approve VA 22-17, as there are special conditions on the property that would excuse literal enforcement of the Pennington County Zoning Ordinance with one (1) condition. Vote: Unanimous.

1. That the applicant submits a survey stamped by a registered surveyor which shows that the building is 8 feet from the property line.

#### **CONSENT CALENDAR:**

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

C. PRELIMINARY PLAN / PPL 22-36: Dale Kjerstad. To subdivide and create Lots A and B of Kjerstad Addition in accordance with Section 500 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract A Less Lot H-2 (aka MS #433) of Reder Placer MS 07905, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A and B of Kjerstad Addition, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

Approve PPL 22-36 with four (4) conditions.

1. That at the time of Final Plan submittal the certificates be on the Plat in accordance with § 1700 of the Pennington County Subdivision Regulations;
2. That at the time of submittal for the Final Plat, the access easement be labeled "40-foot-wide Private Access Easement";
3. That the applicant ensures all-natural drainage ways are maintained and not blocked; and,
4. That at the time of submittal of the Final Plan and Plat, the Plan and Plat meet requirements of § 600.

## **CONTESTED HEARINGS:**

G. PLANNED UNIT DEVELOPMENT OVERLAY REVIEW / PU 22-06: Katie Smirnova and Brett Walfish. To review 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 Hadcock to approve the extension of PU 22-06, with an amendment to Condition #17 that the Bed and Breakfast is not operated until the road is improved and if the bed and breakfast is not to be operated, the applicants permanently stabilize the cut-outs along Klondike Road, with twenty-nine (29) conditions. Vote: The motion carried 3-1 with Rossknecht 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 to 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 § 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 the operation of 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, and if the bed and breakfast is not to be operated, the applicants permanently stabilize the cut-outs along Klondike Road;
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 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,
29. That this Planned Unit Development be reviewed in February 2023, 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.