

All City Council Meetings are recorded.

**CITY OF CUSTER CITY
COUNCIL AGENDA
December 5th, 2016 – City Hall Council Chambers
5:30 P.M.**

1. Call to Order - Roll Call - Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes – November 21st, 2016 Minutes
4. Declaration of Conflict of Interest
5. Department Head Discussion
 - Public Works Director – General Discussion
 - Planning Administrator – General Discussion
 - Finance Officer – General Discussion
6. Public Presentations - Public Hearings
 - a. Second Reading – Ordinance #782 – Cemetery
 - b. Second Reading – Ordinance #783 -Saxton Subdivision Zoning
 - c. First Reading – Ordinance #784 – Supplemental Budget
 - d.
7. Old Business
 - a.
 - b.
8. New Business
 - a. Setback & Minimum Lot Size Variance – Custer County – Block 124
 - b. Setback Variance – Vanessa Bowman – Wickard Subdivision Homestead Addition
 - c. Letters to Santa Sponsor Ad – Chronicle
 - d. Planning Commission Resignation
 - e. Safety Committee Appointment
 - f.
9. Presentation of Claims –
10. Committee Reports –
11. Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2(1-4))
12. Adjournment

REMINDERS

General Government Committee Meeting – December 12th, 2016 4:00 P.M.

Planning Commission Meeting – December 13th, 2016 7:00 P.M.

Regular City Council Meeting – December 19th, 2016 5:30 P.M.

Park & Recreation Committee Meeting – December 20th, 2016 5:30 P.M.

Council End of Year Meeting – December ?????

Regular City Council Meeting – January 2nd, 2017 5:30 P.M.

ADA Compliance: The City of Custer City fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Finance Office 24 hours prior to the meeting so that appropriate services are available. This institution is an equal opportunity provider.

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
November 21st, 2016**

Mayor Jared Carson called to order the second meeting of the Common Council for the month of November, 2016 at 5:30 p.m. Present at roll call were Councilpersons Maciejewski, Heinrich, Nielsen, Fischer, Blom and Schleining. City Attorney Chris Beesley was also present. The Pledge of Allegiance was stated.

AGENDA

Councilperson Fischer moved, with a second by Councilperson Heinrich, to approve the agenda. The motion unanimously carried.

MINUTES

Councilperson Maciejewski moved, with a second by Councilperson Blom, to approve the minutes from the November 7th regular council meeting. The motion unanimously carried.

CONFLICTS OF INTEREST

Mayor Carson and Councilperson Maciejewski stated they both had a conflict of interest with the Liquor & Wine License Renewal. No other conflicts of interest were stated.

DEPARTMENT HEAD DISCUSSION

There was no department head discussion that this meeting.

PUBLIC HEARING & FIRST READING – ORDINANCE #783 – SAXTON SUBDIVISION ZONING

No public comments were received regarding the Saxton Subdivision zoning. Councilperson Fischer moved to approve the first reading of Ordinance #783, Saxton Subdivision Zoning. Seconded by Councilperson Nielsen, the motion unanimously carried

PUBLIC HEARING – RESOLUTION #11-21-16A – VACATION OF RIGHT-OF-WAY – TRACT FREEWAY

No public comments were received regarding the Vacation of Right-of-Way for Tract Freeway. Councilperson Maciejewski moved to adopt Resolution #11-21-16A, Vacation of Right-of-Way – Tract Freeway. Seconded by Councilperson Schleining, the motion unanimously carried.

RESOLUTION NO 11-21-16A

WHEREAS, the verified Petition and application of the owners of all real property adjoining the hereinafter described portion of a certain public Right-Of-Way in the City of Custer City, Custer County, South Dakota, praying that said tract be vacated as it serves no useful purpose as part of the streets and alleys in the City of Custer City, the same not being necessary for the use and location of public streets and alleys thereon, has been heretofore filed, and

WHEREAS, the Common Council of the City of Custer City, Custer County, South Dakota, has heretofore caused notice of the time and place of hearing said Petition to be published once a week for two (2) consecutive weeks, to-wit: on the 2nd day of November, 2016, and on the 9th day of November, 2016, in the Custer County Chronicle, a legal newspaper published in Custer City, Custer County, South Dakota, setting forth the 21st day of November, 2016, for the hearing thereon.

NOW THEREFORE BE IT RESOLVED that the public Right-Of-Way described as follows:

Tract Free Way of Tracts Morris and Free Way which are portions of Tract Bowden which is a portion of Tract "A" located in the SE ¼ of Section 27; T 3 S; R 4 E of the B. H. M. in Custer County, South Dakota, as recorded in Plat Book 1 at Page 139 of the Register of Deeds of Custer County, South Dakota;

be, and the same is, forever vacated, however all rights to maintain or establish utilities or subsequent easements shall be retained

Dated at Custer City, Custer County, South Dakota, this 21st day of November, 2016.

CITY OF CUSTER CITY

S/Jared Carson, Mayor

ATTEST: Laurie Woodward, Finance Officer

Mayor Carson and Councilperson Maciejewski left the meeting at 5:32 pm. The Council President presided over the meeting while the Mayor was absent.

PUBLIC HEARING – LIQUOR LICENSE RENEWAL - VFW

Councilperson Nielsen moved to approve the liquor license renewal for the Kenneth Kuper VFW Post 3442. Seconded by Councilperson Heinrich, the motion unanimously carried.

Mayor Carson and Councilperson Maciejewski rejoined the meeting at 5:33 pm.

SECOND READING – ORDINANCE #778 – WATER RATES

Councilperson Schleining moved to adopt Ordinance #778, Water Rates. Seconded by Councilperson Heinrich, the motion carried with Councilperson Maciejewski, Heinrich, Nielsen, Fischer, Blom and Schleining voting yes.

FIRST READING – ORDINANCE #782 – CEMETERY

Councilperson Heinrich moved to approve the first reading of Ordinance #782, Cemetery. Seconded by Councilperson Nielsen, the motion unanimously carried.

RESOLUTION #11-21-16B – WRITE-OFF'S

Councilperson Maciejewski moved to adopt Resolution #11-21-16B, Write-Off's. Seconded by Councilperson Fischer, the motion unanimously carried.

RESOLUTION NO. 11/21/16B

WHEREAS, Book 3, Supplemental, Chapter 9-22-4 of the South Dakota Codified Law states "every municipality may assign for collection any or all delinquent accounts receivable. After reasonable collection efforts, the governing body may determine that an account is non-collectible, and by formal action direct that the non-collectible amount be removed from the records and disclosed on that year's financial report. Evidence of the debt removed from the records by the formal action of the governing body shall be retained by the municipality to support possible subsequent collection of that debt."

WHEREAS, efforts have been made to collect these past due accounts receivable, and

WHEREAS, adequate time has elapsed to consider these accounts receivable delinquent and past due,

NOW THEREFORE BE IT RESOLVED that the following accounts be deemed non-collectible and removed from the records and disclosed on the 2016 Financial Report.

NAME:	ACCOUNT #:	AMOUNT:
Lionel Ahrendt	400831-07	\$ 121.04
Valarie Crowley	401380-02	\$ 254.90
Lynn Duff	500410-01	\$ 135.78
Brandi Kimbrough	650110-04	\$ 27.36
Steve Monnier	500420-10	\$ 24.91
	TOTAL	<u>\$ 563.99</u>

Signed this 21st day of November, 2016.

CITY OF CUSTER

S/Jared Carson, Mayor

Attest: Laurie Woodward, Finance Officer

RESOLUTION #11-21-16C – EAST CUSTER SEWER DISTRICT AGREEMENT

Councilperson Fischer moved to adopt Resolution #11-21-16C, adopting the terms of the East Custer Sewer District Agreement. Seconded by Councilperson Blom, the motion unanimously carried.

RESOLUTION #11-21-16C

SEWAGE TREATMENT AGREEMENT

This Agreement for the treatment of non-industrial sewage only, is entered into as of the 21th day of November, 2016, by and between the City of Custer City, South Dakota, hereinafter referred to as the "City" and the East Custer Sanitary Sewer and Water District, Custer, South Dakota, hereinafter referred to as the "District."

This agreement shall specifically supersede and replace that one certain sewage treatment contract originally entered into between the parties hereto, signed March 17, 1975, consisting of three pages, and any and all amendments and addendums executed thereafter.

Witnessed:

Whereas the District is organized and established under the provisions of SDCL 34A-5 and Acts amendatory thereof, for the purpose of operating, maintaining and repairing sewage collection system serving sewer users within the District, as indicated on exhibit "A" attached hereto, establishing the exterior boundaries of said district.

Whereas, the City now owns and operates a sewage treatment plant with a capacity currently capable of serving the present customers of the City's system and the estimated number of sewer users to possibly be served by the said District.

Whereas, treatment of sewage for the District in accordance with the terms set forth herein is approved, and the execution of this contract is duly authorized by Resolution hereinafter set forth, and

Whereas, by Resolution of the Board of Trustees hereinafter set forth, treatment of the District's sewage by the City is hereby approved and the execution of this contract is duly authorized;

Now therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The City Agrees:

1. (Quality and Quantity) To adequately treat the non-industrial sewage of the District, during the term of this Agreement or any renewal or extension thereof, according to the standards established by the South Dakota Department of Environmental Protection in such quantity as may be required by the District; however, not to exceed the design capacity of the City Sewage Treatment Plant.
2. (Billing Procedure) The District certifies that they are authorized by their bylaws and regulations to enter into this Agreement on behalf of their members. The District shall be responsible to charge for, bill and collect for all sewer fees or charges, or debt therefore, directly to the District's members, and to pay the appropriate amount owed by the District to the City on or before the 20th day of each month for the preceding month. The City shall apply late fees as stated in section 13.20.090 of the Custer Municipal Code. A Service reduction for those members who do not occupy their place for a period thirty days or greater, will be applied in accordance with section 13.24.060 of the Custer Municipal Code.

In the event any member becomes significantly in default on payments to the District, thereby causing the District to fall in arrears to the City on that member's portion thereof, any penalties shall accrue thereon; the City, however agrees that said arrears shall not constitute default such that the City shall declare the entire contract in default. This section shall only apply in such a situation as herein stated, and shall only apply so long as the District documents to the City that diligent and active efforts are being conducted by the District to collect such arrears from the member.

3. (Rates) The City shall charge each member of the District on a monthly basis at a rate of 1.15 times the rate as stated in section 13.20.130 of the Custer Municipal Code in accordance with section 13.20.140 of the Custer Municipal Code, as the same may be amended. In addition, the District shall pay thirty percent of the City Sewer Bond Redemption Fee times 1.15 for each member of the District on a monthly basis, for the assessment on aerator upgrades at the Wastewater Treatment Plant. **Each residential member shall be charged a standard 4,000 gallons' usage per month.**

B. The District Agrees:

1. (Board of Trustees) The District shall maintain their Board of Trustees who shall be responsible for and govern all activities of the District, and the Board shall be the point of contact for the City. The Board shall provide annually by December 31st each year a list of current members, board members, and contact information, including current mailing addresses for all members and the District, and appear at the First Council meeting the following year with an annual update to Council for the preceding year. In addition, the Board of Trustees shall provide yearly the name and contact information for their certified operator.
2. (Maintenance) District hereby agrees to be responsible for and provide all costs, repairs, maintenance and replacement of the system, including but not limited to meters, pipes, manholes, lift stations, etc to the point of entry to the City's Sewer Main, as displayed in "Exhibit B" (whether that portion of the system is located on District or City land), attached hereto and incorporated herein by this reference as though set forth in full.

All commercial member's properties must be metered. The District shall be responsible for reading and reporting all meters within the District on a monthly basis, and ensuring that said meters are working accurately. The parties agree, however, that the City retains the right to independently monitor and verify such meter readings, and that City's employees may enter onto District's property to conduct independent readings of any meters to verify that the same are working accurately, at City's discretion.

3. (Outstanding Bills and Debt) The District shall be responsible for all outstanding bills or debt accruing to or from the District prior to execution of this agreement, and paying for or collection

of such. The District shall be responsible for all debt repayment and any reporting requirements in accordance with such debt.

C. It is Further Mutually Agreed Between the City and District:

1. (Term of Agreement) That this Agreement shall extend for a term of five years from the date of execution of this Agreement/Resolution. This Agreement may be extended for an additional five-year period upon agreement of the parties. Written notice of intent to renew shall be provided at least 90 days prior to termination of this Agreement to the other party by certified mail, return receipt requested.
2. (Treatment of Sewage) That the City will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to treat the District's sewage. Temporary or partial failure to treat sewage shall be remedied with all possible dispatch.
3. (Type of Sewage) That the District will discharge only domestic sewage and will allow no storm water, ground water, or grease or oil to enter its collection system. This Agreement does not allow for any treatment of industrial waste. If any industrial waste is intended to be discharged by the District, a separate agreement will be made to provide for its monitoring and treatment, prior to any such discharge.
4. (Modification of Agreement) The provisions of this Agreement may be modified or altered only by mutual written agreement executed by both parties. The parties further agree that this Sewage Treatment Agreement contains the entire agreement of the Parties, and there are no other terms or conditions, oral or written, not contained herein.
5. (Regulatory Agencies) That this Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in this state, and the City and District will collaborate in obtaining such permits, certifications, or the like, as may be required to comply therewith.
6. (Miscellaneous) That the construction/operation of the sewage collection system by the District is being financed by a loan made or insured by, and/or grant from, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture, and the provisions hereof pertaining to the undertaking of the District are conditioned upon the approval, in writing, of the State Director of the Farmers Home Administration.
7. (Priority of City's Use) That the City shall have first priority in the use of the said treatment plant.
8. (Annexation) That annexation of District by the City shall nullify this Agreement, unless only a portion of District shall be so annexed. In that case, the portion so annexed shall be excluded from this Agreement.
9. (Municipal Code Reference) The parties agree that any reference to the Custer Municipal Code herein shall incorporate all terms of the referred to code section as though set forth in full, and shall apply to any future amendments thereof.
10. (Unenforceability) In the event any portion of this Agreement is determined invalid, illegal, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.
11. (Successor to the District) That in the event of any occurrence rendering the District incapable of performing under this Agreement, any successor of the District, whether through result of legal process, assignment, or otherwise shall succeed to the rights of the District hereunder.
12. (Default) Failure by either Party to comply with any term or condition contained in this Agreement shall constitute default; in such an event, the non defaulting Party shall provide written notice to the other Party, advising them they have thirty days to correct such default, and that in the event such default is not satisfactorily resolved within said thirty-day period, the Party claiming default may proceed in accordance with any remedies available to them pursuant to South Dakota law.
13. (Indemnification and Liability Insurance) (a) District shall indemnify, hold harmless and defend City from and against any and all costs, expenses (including reasonable attorney's fees), liabilities, losses, damages, suits, actions, fines, penalties, claims or demands of any kind asserted by or on behalf of any person, entity or governmental authority, arising out of or in any way connected with operation of the District, and City shall not be liable to District on account of, (i) any failure by District to perform any of the terms, covenants or conditions of

this Agreement required to be performed by District, (ii) any failure by District to comply with any statutes, ordinances, regulations or orders of any governmental authority, or (iii) any accident, death or personal injury, or damage to or loss or theft of property, which shall occur in or about the District's premises except as the same may be caused by the gross negligence of City, its employees or agents.

(b) During the term of this Agreement or any renewal thereof, District shall maintain and promptly pay all premiums for general public liability insurance against claims for personal injury, death or property damage occurring upon, in or about the District, such insurance to afford protection in an amount of not less than \$1,000,000 with respect to injury or death to a single person and an amount of not less than \$2,000,000 with respect to any one occurrence, and for damage to property in an amount of not less than \$1,000,000 made by, or on behalf of, any person or entity, firm or corporation arising from, related to or connected with the District's premises, arising from any one occurrence, with such insurance company or companies as shall be satisfactory to City from time to time, and all such policies and renewals thereof shall name the City and the District as insured. On or before the commencement date of the term of this Agreement and thereafter not less than thirty (30) days prior to the expiration dates of said policy or policies, District shall provide copies of policies or certificates of insurance evidencing coverage required by this Agreement; these policies shall name the City as additional named insured party.

14. (Notice) Any notice required or permitted under this Agreement shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to City to: City of Custer
622 Crook Street
Custer, SD 57730

If to District to: ECSD
PO Box 6046
Custer, SD 57730

In Witness Whereof the acting Mayor of the City of Custer City, South Dakota, and the President of the Board of Trustees of the East Custer Sanitary Sewer and Water District, have hereunto subscribed their names on the date and year hereinbefore mentioned.

Be It Resolved that the Agreement herein written is duly authorized and the terms and conditions thereof are hereby approved.

City of Custer
S/Jared Carson, Mayor

ATTEST: Laurie Woodward, Finance Officer

CHRISTMAS PARADE ROUTE EXTENSION – CHAMBER OF COMMERCE

Councilperson Maciejewski moved to approve the Chamber of Commerce request to extend the Christmas Parade route on December 3rd, extending end of the parade route from Fourth Street to Second Street. Seconded by Councilperson Heinrich, the motion unanimously carried.

FOURTH OF JULY CELEBRATION REQUEST – CHAMBER OF COMMERCE

Councilperson Schleining moved to approve the Chamber of Commerce request for the Old Time Country Fourth of July Celebration with the 2017 dates of July 2nd -4th which included: use of way park for July 3rd-4th, use of the Showmobile for July 3rd-4th with it being placed on Fourth Street next to Way Park, parade to be held July 4th with it starting at Eighth Street and proceeding west down Mt Rushmore Road until Second Street with the line to be on Washington Street, holding a flag-lowering (July 3rd) and flag-raising (July 4th) ceremony at the Veteran's Memorial site flag pole and use of the City's 3 large tents, trash cans, picnic tables, traffic barriers and water key. Seconded by Councilperson Heinrich, the motion unanimously carried.

CUSTER CRUISIN COMMITTEE APPOINTMENT

Councilperson Maciejewski moved to approve the appointment of Roxanne Horkey to the Custer Cruisin Committee. Seconded by Councilperson Blom, the motion unanimously carried.

CLAIMS

Councilperson Schleining moved, with a second by Councilperson Nielsen, to approve the following claims. The motion unanimously carried.

Ace Recycling, Supplies, \$24.32
Boggs, Adam, Trees, \$606.12
AE2S, Professional Fees, \$1,960.00
Beesley Law Office, Professional Fees, \$3,047.50
Ben Meadows, Trees, \$146.94
Black Hills Energy, Utilities, \$6,928.42
BPRO Inc, Advertising, \$32.50
Culligan, Repair & Maintenance, \$18.50
Chamber of Commerce, Sales Tax Subsidy, \$20,673.08
Custer True Value, Supplies, Repair & Maintenance, \$926.25
Fastenal, Supplies, \$131.57
Garland Goff, Professional Fees, \$1,281.25
G & R Controls, Repair & Maintenance, \$222.19
Golden West Technologies, Professional Fees, \$620.50
HD Supply, Supplies, \$2,077.53
Huber Technology, Supplies, \$365.00
Jenner Equipment, Supplies, Repair & Maintenance, \$174.25
Hewitt, Jeri, Safety Equipment, \$104.99
Kimball Midwest, Supplies, \$86.26
KLJ, Professional Fees, \$13,800.76
Lynn's Dakotamart, Supplies, \$121.48
McClellan, Bill, Reimbursement, \$75.73
Michael Todd & Company, Safety, \$393.11
Midcontinent Testing Lab, Professional Fees, \$554.00
Nelson's Oil, Supplies, \$862.69
Petty Cash, Travel, \$102.00
Rebel Enterprises, Advertising, \$400.00
S & B Motors, Supplies, \$75.41
Sander Sanitation, Garbage Collection Contract, \$13,136.63
SD Dept of Revenue, License, \$75.00
SD Dept of Transportation, Supplies, \$5,214.00
SD DCI, License, \$43.75
SD Executive Management Finance, Utilities, \$18.91
USDA Loan Payment, \$8,910.00
US Department of Treasury, Deductions, \$142.55
Walker, Gaile, Safety, \$124.70
Wesdak Welding, Repair & Maintenance, \$1,523.46
Wright Express, Supplies, \$861.00
YMCA, Membership, \$38.00
Anderson, Tracy, Utility Deposit Refund, \$32.72
Mork, Kathy, Utility Deposit Refund, \$9.42
Total Claims \$85,942.49

COMMITTEE REPORTS

Various committee reports were given.

EXECUTIVE SESSION

Councilperson Fischer moved to go into and out of executive session for personnel, proposed litigation and contract negotiations per SDCL 1-25-2(1-4) at 6:05 pm, with the Attorney and Finance Officer present. Seconded by Councilperson Schleining, the motion unanimously carried. Council came out of executive session at 6:51 pm, with no action taken.

ADJOURNMENT

With no further business, Councilperson Blom moved to adjourn the meeting at 6:52 p.m. Seconded by Councilperson Maciejewski, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Jared Carson
Mayor

ORDINANCE NO. 782

An Ordinance entitled An Ordinance Amending Title 12 Streets, Sidewalks and Public Places, Chapter 12.12 Cemetery of the City of Custer City Municipal Code and amending, replacing, and superseding all prior ordinances or amendments, by which amending and superseding said Ordinance as follows, to wit:

BE IT ORDAINED by the Common Council of the City of Custer City that Chapter 12.12 be amended as follows:

**Chapter 12.12
CITY CEMETERY**

Sections:

- 12.12.010 Name**
- 12.12.020 Supervision**
- 12.12.030 Powers and authority**
- 12.12.035 Records**
- 12.12.040 Purchaser to agree**
- 12.12.050 Execution of conveyances**
- 12.12.060 Monuments**
- 12.12.070 Burial vaults**
- 12.12.080 Hours—Alcoholic beverages prohibited**
- 12.12.090 Reclaiming and resale of lots by city**
- 12.12.095 Restrictions on Resale of Lots**
- 12.12.100 Planting of trees, shrubs, flowers or plants**
- 12.12.110 Concrete borders and Crushed Rock or Quartz**
- 12.12.120 Items placed on graves**
- 12.12.130 Burial process**
- 12.12.140 Disinterment**
- 12.12.150 Inadvertent burial or damage**
- 12.12.160 Grave Spaces**

12.12.010 Name

The cemetery owned and operated by the city and known as the Custer City Cemetery shall be governed, managed and operated under the provisions of this chapter.

12.12.020 Supervision

The Custer City Finance Office shall supervise the Custer City Cemetery; make rules and regulations, which shall be subject to the approval of the Common Council; and see that the provisions of this chapter, rules and regulations of the council governing the cemetery are complied with in every way. The Finance Office shall keep all records of the cemetery and shall procure suitable books, blank forms or other records, written and electronic for the purpose. A map of the cemetery shall be kept in the Finance Office. The Finance Officer shall designate an employee to sell all lots and sign the permit for disposition of dead human remains.

12.12.030 Powers and authority

- A. The Custer City Common Council shall establish rates for the sale of cemetery lots and perpetual care maintenance within the Custer City Cemetery and shall periodically make adjustments to those fees. See the Fee Schedule set by resolution for the rates. The Custer City Finance Office shall receive, receipt for, and deposit moneys from the sale of lots into the general fund for care and maintenance; and the perpetual care fees shall be deposited into the service fund, known as the Custer City Cemetery Perpetual Care Fund. The Perpetual Care Fund balance shall continue to increase to an amount so as the interest earned thereon may provide for all or a portion of the care of the cemetery. The interest shall be receipted into the general fund for care and maintenance. Perpetual care consists of mowing, trimming, raking, refilling as necessary, reseeding as needed, and all care necessary to maintain the property to the best of the ability of the City.
- B. Further, the Custer City Common Council shall have the power to contract with the owners or the families of decedents owning lots within the said Custer City Cemetery for the care of their lots within the cemetery. Further, the Custer City Common Council shall have the power to hire or contract with firms, or individuals for the care, maintenance and improvement of the Custer City Cemetery.
- C. No burials shall be made upon a lot for which the city has not received payment. Should there be an interment on a cemetery space for which full payment has not been made, the City reserves the right to disinter the remains and remove the burial, together with any monument or other structure thereon, to some other portion of the cemetery.
- D. All cemetery lots or grave spaces shall be used for burial purposes only and shall not be resold without the consent of the designated city employee(s).
- E. Cemetery lots or grave spaces shall not be used for any other purpose than as a place for burial of the dead. No interment of remains other than that of a human being shall be made in such cemetery.
- F. No burial other than known members of the family of the lot owner except lots in the county section, will be allowed except written request is made to the Finance Office. Permission, if granted, shall be filed in the Finance Office.
- G. No lot owner shall be allowed to sell or transfer any lot, or portion of such lot for a remuneration or consideration without the approval of the Finance Office.

12.12.035 Records

In addition to all of the records required to be kept by the laws of the State of South Dakota relating to cemeteries, burials and removal of dead, etc., the following records shall be kept by the City Finance Officer or his or her appointee.

- A. A complete plat or map of the Cemetery, showing the exact location of said Cemetery, and describing or indicating all blocks, lots, interments, etc., of said Cemetery, and all other information as may be required by law or ordinance;
- B. A complete record of all lots that have been sold, all Deeds issued, all fees paid, and the names and address of all purchasers;
- C. A complete record of all burial permits; A complete record of all disinterment's made and fees paid therefore;

- D. Any book, or electronic document owned and maintained by the City Finance Office known as Burial Record Book or Document, in which shall be recorded the deceased age and date of death, and number of the lot and block of the burial, copies of burial or removal permits, and all other information which may be required by law or ordinance, or which the City Finance Officer deems important; and
- E. Any other records which the Finance Officer shall deem important or necessary.

12.12.040 Purchaser to agree

The purchaser of any lot does by his/her purchase agree to abide by all provisions of all laws and ordinances of this State and City in force at any time relating to the Cemetery, including all amendments hereafter adopted, and all rules and regulations adopted in connection with said Cemetery. Any purchaser of any lot does by his/her purchase agree that no sale or transfer shall be made of said lot, or any part thereof, to any other person without the approval of the City Finance Office.

12.12.050 Execution of conveyances

The Custer City Finance Office shall execute all conveyances of lots upon the payment of purchase price thereof. Each conveyance shall be signed by two officers of the City. The filing fee will be charged over and above the sale of the lots and perpetual care fees.

12.12.060 Monuments or Grave Markers

No monuments, stone, marker or structure of permanent nature shall be set in the cemetery without permission from the Custer City Finance Office. See the Fee Schedule set by resolution for the fee. Failure to obtain a monument permit could result in a penalty fee not to exceed fifty dollars (\$50.00).

- A. One (1) upright monument or marker shall be allowed per grave space. Additional markers and footstones shall be placed at the foot of the grave and be flat. The location of markers on all graves shall be determined by, and at the discretion of the Finance Office staff.
- B. When one (1) central or family monument or marker is placed on a family plot (four grave spaces in the same lot), the monument or memorial should be centered and set three (3) inches from the west line of the plot. Accompanying monuments or markers in the same plot should be placed three (3) inches from the east line of the plot within the parameters of each grave space, and be flat markers or footstones.
- C. If corner markers are used to mark a plot they must be set at ground level and no larger than four (4) square inches in surface area.
- D. All monuments and markers referred to in this chapter shall not exceed the boundaries of the owners' deeded grave spaces; four feet in width for a single grave space and eight feet in width for a double grave space, and must be set on a poured concrete or granite foundation not less than four inches deep and with a four-inch minimum on all sides flush with the ground level. Monuments and markers placed after the passage of the ordinance shall also be restricted to four (4) feet in height.

- E. Mausoleums or tombs either wholly or partially above ground shall be constructed only upon approval of the governing body and only in those lots approved by the governing body. All plans and materials shall be approved by the governing body.
- F. All monuments, markers and mausoleums shall be of the first quality granite, marble, other natural rocks and stone or memorial grade bronze metal.
- G. Vases shall be allowed to be placed in front of, on the side, or on the base of the monument.
- H. Monuments and markers are not City property. Maintenance and vandalism are the responsibility of the deed holder or personal representative of the estate.

12.12.070 Burial vaults and urns

No remains shall be placed in any grave space in the Custer City Cemetery without the approval of the Custer City Finance Office. All remains must be placed in a burial vault or urn. No surface vaults are allowed. When the ashes of a cremated body are to be interred in the cemetery, the ashes must be in a durable urn or in a strong metal or concrete case. Such container for cremated remains shall be no larger than one (1) foot by one (1) foot. No person shall scatter cremated remains within the cemetery. Vault covers shall not be permitted in the Custer City Cemetery. Old or damaged vault covers shall be removed at the expense of the next of kin.

12.12.080 Hours—alcoholic beverages prohibited

- A. The municipal cemetery shall be open from dawn until dusk or five a.m. to nine p.m., whichever is earlier. There shall be no drinking or alcoholic beverages in the cemetery. Signs specifying the hours and rules shall be placed and maintained in a conspicuous place at each entrance to the cemetery.
- B. Any person who enters the cemetery outside of the posted times will be guilty of a violation of this section and shall pay a fine of twenty-five dollars (\$25.00) to the city. Special exceptions shall be made for religious or sentimental reasons if they are related to the visitation by a friend or relative of a particular person who is buried in the cemetery, if prior approval is given by the Custer City Finance Office.

12.12.090 Reclaiming and resale of lots by city

In addition to the power granted the city in SDCL 9-32-21 & 47-29-9, relating to the reselling of cemetery lots, the city shall have the right to discontinue all rights granted to a purchaser of any lot after a period of thirty (30) years from the date of sale thereof, should the Custer City Finance Officer upon investigation determine that the purchaser or owner thereof has not used said lot, or any part thereof, that such owner is deceased and that such lot will not likely be used as a burial place for the owner or purchaser or any members of his family. In the event that any such lot is to be reclaimed, inquiry shall be made to ascertain the names and addresses of such heirs or any of them, which can be obtained by the making of reasonable inquiry, and notice shall be given to such heirs, by mail, of the intention of the city to reclaim said property, and of the fact that said money will be deposited as hereinafter provided in this section. Notice and transfer shall be in accordance with SDCL. Whether any heirs of such deceased owner or purchaser are located or not, the original cost of said lot, as paid by said owner or purchaser, shall be held in trust by the city until such time as proof satisfactory to the city is made by the heirs of such deceased owner of the right to such proceeds. In case no heir of said deceased owner is located, notice of the reclaiming of such lot and the deposit of said money shall be published once a week

for three (3) successive weeks in the official newspaper in the city. It is the responsibility of the owner, purchaser or any members of their family to maintain updated contact information with the City of Custer City.

12.12.95 Restrictions on Resale of Lots

If the owner or purchaser of any lot, on which no burial has taken place, desires to sell the same, he or she shall inform the City Finance Officer of his/her desire to sell, whereupon the City shall have an option for 30 days thereafter to purchase said property on the basis of the regular selling price by the City of lots in the same section or block. If such option is not exercised by the City, said owner or purchaser may then sell to any other person, however, no lot shall be sold for a price greater than that originally paid to the City for said lot. No transfer or assignment of any lot, or interest therein, shall be valid without the consent of the City Finance Officer. No person shall buy or sell any lot within the Cemetery for purposes of speculation. In the event any lot is purchased by the City, pursuant to the option mentioned in this section, the City Finance Officer shall ascertain that the owner has clear right to the same before such purchase is made.

12.12.100 Planting of trees, shrubs, flowers or plants

- A. The planting of trees, shrubs, flowers or plants shall be prohibited at the cemetery. As existing plantings located on graves or in alleyways die, they shall not be replaced.
- B. Trees growing on any lot shall not be pruned, cut down, or removed without the consent of the City Finance Office, and if any tree or shrub situated on any lot shall, by means of its roots, branches, or otherwise, become detrimental to the adjacent lots, walkways or roadways; or unsightly or inconvenient, the City Finance Office shall have the right to enter upon such lot and remove such trees and shrubs, or such part of such trees or shrubs as deemed necessary.

12.12.110 Concrete borders and Crushed Rock or Quartz

- A. Concrete borders around grave spaces are prohibited. If any previously installed concrete border becomes unsightly, the family will be responsible for repairs. If contact is unable to be made after a reasonable attempt, the City may remove the concrete border and replace the area with grass. Corner markers, if desired, may be placed at the property owner's expense, and shall be flush with the ground and no larger than four (4) square inches in surface area.
- B. No crushed rock, quartz or any other landscaping rock not used as a monument at the head of the grave shall be placed on any lot.

12.12.120 Items placed on graves

- A. City employees or contractors shall not be held responsible for articles left on any lot or grave under any circumstances. City employees or contractors shall reserve the right to remove articles from any lot or grave if they are deemed unsightly or objectionable.
- B. Floral arrangements shall be permitted on any lot or grave from May 1st through October 31st and on Easter, Thanksgiving, Christmas, the decedent's birthday and date of passing.
- C. No glass containers or items of any type will be permitted in the cemetery. Any glass located in the cemetery will be removed and disposed of immediately.

- D. No chairs or benches are permitted on lots, however, stone benches placed at the head of the grave space may be used in place of monuments upon approval from the Finance Office.
- E. Papers, decayed flowers, empty bottles or cans and other rubbish shall not be permitted in any lot, grave space, roadway or cemetery ground.

12.12.130 Burial process

- A. Interments are subject to the laws of South Dakota, and nothing in this section shall conflict with said laws, and such regulations herein provided are in addition to, and supplementary or included in the said laws of the State of South Dakota. No interment of any body shall be permitted in any lot until full compliance is made with all laws and ordinances regarding burials then in force.
- B. All interments in lots shall be restricted to members of the immediate family, or relatives of the deed holder thereof, unless a notarized, written document from the lot owner or their heirs stating their wishes to the contrary is filed with the City Finance Officer.
- C. A designated city employee within the finance department shall approve the burial setting forth the grave, lot and block number upon which the burial is to be made. After the burial location is approved and sufficient information received on the deceased, the city will stake and inspect the grave space. Double vault burials will be allowed only in spaces previously approved. Temporary grave markers must be used by all mortuaries. The city will not be held responsible for any temporary markers. Under normal circumstances, the city will not be responsible for actual digging of the graves.
- D. The digging of all graves shall only be done by the City's approved contractors, and all surplus earth shall be removed from the lots at the expense of the lot owner. The only exception to this may be for the placements of cremains, in which case the family may dig the space for cremains placement once approval has been received from the Finance Office.
- E. The cost of digging all grave spaces shall be the expense of the lot owner or deceased's family.
- F. Up to two cremains are allowed for each permitted space. If a space already holds a normal burial remains, two cremains may also be placed in the space, if such space does not already contain a cement cover or full grave monument.
- G. No cremains shall be placed between two grave spaces or cement covers.

12.12.140 Disinterment

No disinterment in a lot or grave space will be permitted without documentation as prescribed by South Dakota State law in writing by the surviving husband, wife or next of kin of the person whose body is to be disinterred, and written permit, order for the disinterment from the owner of the lot, or his or her lawful representative.

12.12.150 Inadvertent burial or damage

Any person who purchases any cemetery lot shall, by such purchase, be deemed to have agreed, on behalf of himself and his heirs and assigns, to hold the city harmless for any damages

resulting from an inadvertent burial on the wrong lot or for any damage to any stone, marker or other improvement placed on the lot so purchased.

12.12.160 Lot Sizes

The size of all lots shall be five feet wide by ten feet long.

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 5th day of December, 2016

City of Custer City

Attest _____

Laurie Woodward, Finance Officer

Jared Carson, Mayor

(SEAL)

First Reading: November 21st, 2016
Seconding Reading: December 5th, 2016
Publication: December 14th, 2016

Vote:
Schleining: Fischer:
Heinrich: Blom:
Nielsen: Maciejewski:

ORDINANCE NO. 783

AN ORDINANCE ENTITLED "AN ORDINANCE AMENDING CUSTER CITY MUNICIPAL CODE, TITLE 17 ZONING BY REZONING CERTAIN PROPERTIES TO HIGHWAY COMMERCIAL ZONING DISTRICT."

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CUSTER CITY, SOUTH DAKOTA THAT Title 17 Chapter 17.20 Highway Commercial District of the Custer Municipal Code be amended by Rezoning the following property from Unzoned to Highway Commercial Zoning District, and the same shall be subject to the provision of Chapter 17.20:

SAXTON SUBD - REVISED TR B2 OF TR B2 & TR B IN A PT OF E2NE4 SEC 27 T3 R4 and
THAT PORTION OF SAXTON SUBD - LOT B2 OF LOT B OF REVISED TR STODDARD OF TR B2 & TR STODDARD OF TR B IN E2NE4 SEC 27 T3 R4 NOT PREVIOUSLY ZONED HIGHWAY COMMERCIAL BY ORDINANCE 644

Dated this 5th day of December 2016, at the City of Custer City, South Dakota.

CITY OF CUSTER CITY

ATTEST:

Jared Carson, Mayor

Laurie Woodward
Finance Officer

(SEAL)

First Reading: November 21st, 2016
Seconding Reading: December 5th, 2016
Publication: December 14th, 2016

Vote:
Schleining: Fischer:
Heinrich: Blom:
Nielsen: Maciejewski:

ORDINANCE NO. 784
SUPPLEMENTAL APPROPRIATION

An Ordinance Entitled Ordinance No. 784, a Supplemental Appropriation
for the City of Custer City, South Dakota, for the Fiscal Year 2016.

WHEREAS, the budget adoption process was already completed when the additional budget items were implemented, it is necessary to make, approve, and adopt a supplemental appropriation ordinance for the fiscal year commencing January 1, 2016, to supplement certain funds established by the Appropriation Ordinance No. 765 for the fiscal year 2016:

THEREFORE, BE IT ORDAINED by the Common Council of the City of Custer City:

SECTION I: That in addition to the sums of money appropriated by said Appropriation Ordinance No. 765, the following sums shall be appropriated, to-wit:

FUNDS DERIVED FROM GENERAL FUND:	
Reserve Funds	\$1,500
BID FUND:	
Revenue	\$5,000
DEBT SERVICE FUND:	
Revenue	\$12,000
PROMOTION FUND:	
Revenue	\$30,000
TOTAL SUPPLEMENTAL FUNDING	\$48,500
FUNDS EXPENDED THROUGH GENERAL FUND:	
Custer Cruisin	\$1,500
BID FUND:	
Advertising	\$5,000
DEBT SERVICE FUND:	
TIF#2 Taxes	\$12,000
PROMOTION FUND:	
Chamber Sales Tax Subsidy	\$30,000
TOTAL SUPPLEMENTAL APPROPRIATION	\$48,500

SECTION II: that no levy shall be made for any part of said \$48,500 from the 2016 funds here-
in-above stated.

SECTION III: that all ordinances and parts of ordinances in conflict with this ordinance are hereby
repealed.

SECTION IV: that this ordinance, being an ordinance for the support of the municipal government and
its existing public institutions, shall be in full force and effect immediately upon its passage and publication as
provided by law.

SECTION V: that should any section or sections of this ordinance be declared invalid or
unconstitutional by a Court of the last resort, the same shall not invalidate the remaining sections of this
ordinance.

Dated this 19th day of December 2016.

CITY OF CUSTER CITY

ATTEST:

Jared Carson, Mayor

Laurie Woodward
Finance Officer

(SEAL)

First Reading: December 5, 2016
Second Reading: December 19, 2016
Publication: December 28, 2016

Vote: Fischer:
Schleining:
Blom:

Nielsen:
Heinrich:
Maciejewski:



Planning Department
622 Crook Street
Custer, SD. 57730
Phone: 673-4824 Fax: 673-2411
e-mail: elmerc@cityofcuster.com

Staff Report

Request: Setback and Minimum Lot Size Variance
Applicant: Custer County
Legal Desc.: Lot 9, Block 124, Original City Plat
Date Prepared: November 29, 2016
City Council Meeting: December 5, 2016
Prepared by Elmer Claycomb, P.E., Interim Planning Director

GENERAL

Custer County wishes to construct a building with 1152 square feet of enclosed storage area and 2600 square feet of covered parking. The entire building is in the 1% return probability floodplain of French Creek. Approximately the south 40% of the building, which would be covered parking, is in the Floodway.

COMPREHENSIVE PLAN

The Comprehensive Plan identifies this area for Suburban Residential development. The current zoning is Industrial.

FLOODPLAIN ISSUE

The proposed construction will comply with the Floodplain Ordinance by placing the enclosed storage in the Floodway Fringe area and supporting the covered parking with columns. A building existed within the Floodway on the property for many years, being demolished sometime after 2007. That building represented an existing obstruction to the Floodway. The proposed construction will create less obstruction, thus an analysis by an engineer showing that the building will not increase the Base Flood Elevation (BFE) will not be required.

CONSISTENCY OF PROPOSED USE WITH ZONE DISTRICT

The Industrial District does not define any specific Permitted Principal Uses and Structures. Instead, it allows any industrial use that meet performance standards listed in the Chapter. The proposed use and building appear to meet those standards.

VARIANCE REQUESTED

The minimum lot size requirement within the Industrial District is 10,000 square feet with a minimum lot width of 80 feet. Lot 9 is 7,500 square feet with a width of 50'. The Industrial District requires a front yard setback of 25', side yards of 10' and rear yard of 20' unless the lot is adjacent to Residential District, in which case the side and rear setbacks from the Residential District would be 25'.

The County is requesting a variance from the minimum lot area and width requirements, a front yard setback of 5', and a side yard setback of 6' on the east side.

PREVIOUS ACTION

The Planning Commission discussed this request at the October 18th meeting. The issue addressed was the procedure for processing the request since a process is not included in the Zoning Ordinance. The decision was to utilize the procedure that was developed by Scott Simianer in 2015. This procedure had been provided to the County when an informal discussion of a similar variance request was presented in 2015. A copy of that procedure is attached. The request as discussed at the October 18th meeting did not meet the requirements set forth in the procedure.

The Variance Request was rescheduled for the November 22, 2016 Planning Commission meeting. The legal notice for the variance hearing had been published in the newspaper. The surrounding property owners had not been contacted by mail nor had the property been posted as required the variance procedure.

The Planning Commission discussed the Variance Request at length at the November 22nd meeting but failed to reach a decision on recommending approval or denial of the Request. A motion was made, seconded and carried, to forward the Request to City Council without a recommendation.

NECESSARY ACTION BY CITY COUNCIL

Lacking a recommendation from the Planning Commission, the Council needs to evaluate the Request. The City Attorney has provided the following list that may be used in determining the approval or denial of a variance:

- A. If the particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the ordinance were to be carried out;
- B. that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, structures, or buildings in the same district;
- C. that a mere loss in value shall not justify a variance, there must be a deprivation of beneficial use of land if the strict letter of the regulations were to be carried out;
- D. that the conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification or other property substantially similar in use;
- E. that variances shall not be granted to allow uses, nor conditional uses otherwise excluded from the particular district in which;
- F. that the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located;
- G. that the proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property, increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or diminish or impair property values within the area;

- H. that because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- I. that the variance, if authorized, will represent the minimum variance that will afford reasonable relief and will represent the least modification desirable of the zoning ordinances; and
- J. that the City Council may impose reasonable conditions in granting a variance on the condition that the one accepting those conditions is bound by them.

VARIANCE PROCEDURE PREPARED BY SCOTT SIMIANER IN 2015

Variations. The purpose of the variance is to modify the strict application of the specific requirements of the zoning ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his lot as the zoning ordinance intended.

A. Application procedure.

1. A property owner may make application for a variance using forms available from the Planning Administrator. The application fee shall accompany the application.
2. The applicant shall, by First Class mail, notify all property owners within two hundred-fifty feet (250') of the subject property as to the nature of the variance request and the time and date and location at which the request will be considered by the Planning Commission and public hearing of the City Council. A list of those property owners and their mailing addresses shall be provided to the City Finance Officer prior to the first public hearing on the matter.
3. Upon making application for a variance, the Applicant shall place a minimum twenty-four inch wide by eighteen inch high sign on the property in clear view of the street informing the public about the application and the hearing. The sign shall be placed not less than ten (10) days prior to the public hearing on the matter and shall remain until a decision on the request has been made.
4. Upon receipt of the application, legal notice shall be

published in the City's official newspaper of the date, time and place of the public hearing at least ten (10) days prior to the hearing.

5. The request shall be considered by the Planning Commission at a regularly scheduled meeting. Upon receiving recommendation from the Planning Commission the City Council shall issue its decision within thirty (30) days of the hearing, except that the applicant may request a continuance.

B. Standards for Variances.

1. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography, or siting) do not apply generally in the district.

2. Variances shall not be granted to allow a use that is otherwise excluded from the particular district in which requested.

3. The circumstances or conditions that would deprive the applicants of any reasonable use of their land shall be recorded on the variance application.

4. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.

5. The granting of any variance is in harmony with the general purposes and intent of the zoning ordinance and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.

622 Crook Street
Custer, SD 57730

Planning Department
E-Mail: scotts@cityofcuster.com

Phone: (605) 673-4824
Fax: (605) 673-2411

VARIANCE APPLICATION

Applicant: Custer County Phone: 605-673-8174
Owner: Custer County Fax: 605-673-8150
Address: 420 Mount Rushmore Road E-mail: jkor@custercountysd.com
Custer, SD 57730 Date: _____
City State Zip

Signature: James R Kor Date 9/29/16

Legal Description:
Lot(s) Lot 9 Section 26
Block Block 124 Township 3
Subdivision Custer City Range 4

Describe Variance Request: (include site plat of request) We are requesting a variance from the required 10,000 sq ft lot to a 7,500 sq ft lot. The County does not own the adjacent lots. We are also requesting a variance from the east side of the lot to a 6' setback and from the front yard set back from the required 30' set back to 5'. Ingress/egress from the building would be from the west side utilizing the alleys to west and south sides of the building. The County will not need to submit a no rise certificate, there was previously a building on this site so we will be substituting our building for the old one.

James R Kor
Signature of Owner/Applicant

9/29/16
Date of Application

Office Use Only

Date Received _____ Application #: _____
Received By: _____ Tax ID #: _____
Filing Fee: _____ Planning Commission Date and Time: _____
Receipt: _____ City Council Date and Time: _____

CUSTER CITY SET-BACK REQUIREMENTS

RESIDENTIAL DISTRICTS:

All set-backs are measured from property lines (not street or center of street); Except as provided Covered and enclosed porches, decks and steps are considered 'additions' by building code Minimum 7500 sq/ft lot area required for single family dwellings (water & sewer required). Minimum 7500 sq/ft lot area for the first dwelling unit and 3750 sq/ft required for each additional dwelling unit for multi-family dwellings (water & sewer required) The height of all structures shall not exceed thirty-five feet in height (avg roof height).

PRIMARY STRUCTURE SET-BACKS

Front Yard - 30 foot set-back from property line(s) abutting a street or street right-of-way.
Back Yard - 25 foot set-back from interior property lines.
Each Side Yard 6 foot set-back from interior property lines. (Interior property lines not adjacent to a street or alley).
Corner Lots - 15 foot set-back from side streets.

GARAGE AND ACCESSORY BUILDING SET-BACKS (DETACHED)

Attached garaged are considered part of the primary structure.
6 foot separation between detached accessor structures is required.
30 foot set-back from property line(s) abutting a street or street right of way.
25 foot set-back from rear property line (abutting an alley).
6 foot set-back from interior property lines.

REQUIRED INSPECTIONS	FOR OFFICIAL USE ONLY	
	VALUATION	Notes
<input type="checkbox"/> SITE	MAINTENANCE FUND	
<input type="checkbox"/> FOOTING REBAR	WATER TAP FEE (\$360.00)	
<input type="checkbox"/> STEM WALL REBAR	SEWER TAP FEE (\$300.00)	
<input type="checkbox"/> FRAMING	WATER METER (\$465.00)	
<input type="checkbox"/> FINAL INSPECTION	SALES TAX 6%	
<input type="checkbox"/> CERTIFICATE OF OCCUPANCY	TOTAL FEE	
	DATE PERMIT ISSUED	
	ISSUED BY	

*This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced.
*It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection.
*No building permit shall be issued until a site plan is filed with the Planning Department Administrator.

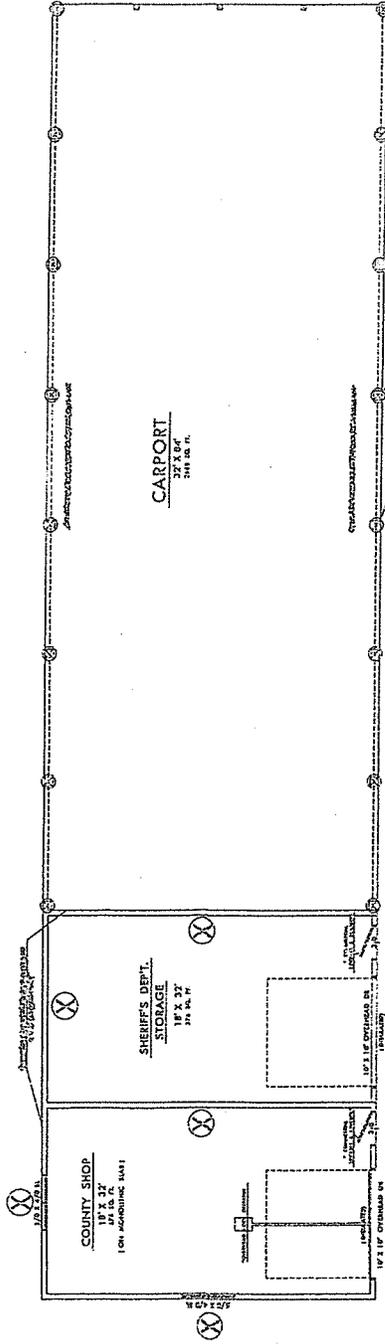
I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulation construction or the performance of construction.

X Signature of Project Owner James R Kor Date 9/29/16
X Signature of General Contractor _____ Date _____

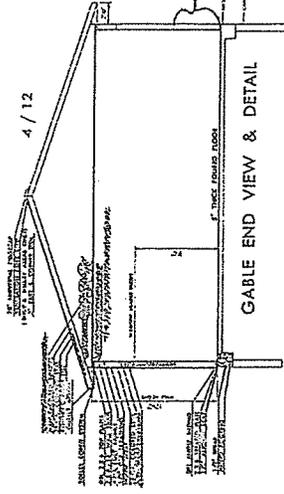
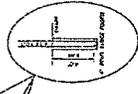
BUILDING PERMIT APPLICATION

Revised 5/02/2016

CITY OF CUSTER CITY 622 CROOK STREET • CUSTER, SD 57730 (605) 673-4824		RECEIPT # _____	DATE _____
BUILDING PERMIT # _____		PROPERTY INFORMATION	
PROJECT ADDRESS	Lot 7 Block 24		
LEGAL DESCRIPTION	8682		
PARCEL I. D.	Custer County SD		
OWNER'S NAME	420 Mount Rushmore Road		
OWNER'S ADDRESS	Custer, SD 57730		
OWNER'S PHONE #	605 673-8174		
DESCRIPTION OF WORK		Official Use Only Do Not Write In This Place	
S.F. RESIDENCE	REMODELING	<input type="checkbox"/>	ZONING
DUPLEX (S.F.)	ALTERATIONS	<input type="checkbox"/>	Residential <input type="checkbox"/>
MULTI-FAMILY RES.	DEMOLITION	<input type="checkbox"/>	Central Business <input type="checkbox"/>
CHURCH	GRADING	<input type="checkbox"/>	Highway Commercial <input type="checkbox"/>
SCHOOL	DECK	<input type="checkbox"/>	Industrial <input type="checkbox"/>
COMMERCIAL	PORCH	<input type="checkbox"/>	Parks <input type="checkbox"/>
MANUFACTURED H.	GARAGE att.	<input type="checkbox"/>	Medical <input type="checkbox"/>
	GARAGE unatt.	<input checked="" type="checkbox"/>	Located in fire district? <input type="checkbox"/>
Materials Only Valuation: \$ 50,000		Located in flood plain? <input type="checkbox"/>	
Total Project Valuation: \$ 80,000		Flood plain app submitted? <input type="checkbox"/>	
1ST FLOOR	SQFT	FINISHED	UNFINISHED
2ND FLOOR	SQFT	FINISHED	UNFINISHED
BASEMENT	SQFT	FINISHED	UNFINISHED
DECK	SQFT	FINISHED	UNFINISHED
PORCH	SQFT	FINISHED	UNFINISHED
GARAGE	SQFT	FINISHED	UNFINISHED
APPLICANT: CONTRACTOR			
NAME _____			
ADDRESS _____			
COMPANY NAME _____			
PHONE NO. _____			
CONTRACTOR'S LICENSE # _____			
INSURANCE EXP. DATE _____			
EXCISE TAX NUMBER _____			
NOTES ON PROJECT: The bids for the building will be opened October 5, 2016			



(X) = FLOOD VENTS 10" S
RATED AT 400 SQ. FT. EACH



8" Thick Concrete or
Block Walls, Base All Sides

333

WASHINGTON ST

Custer County Washington Street carport and shop

Min height of 20'00"
20'00" height

50'

5' offset

Garage 18'X32'

Secure storage
18'X32'



6' offset to east
property line
10' per Code

150'

12' offset to west
property line

Car port
32'X84'

Lot 9 Block 24
Original City

**Custer County
Washington Street
Carport & Shop**

Drawn By JRK	Designed By JRK
Date 9/29/2016	Approved By JRK

25' offset



CUSTER COUNTY

RECEIVED

SEP 21 2016

CITY OF CUSTER

September 15, 2016

Custer City
Att'n; Elmer Claycomb
622 Crook Street
Custer, SD 57730

Re: Washington St. Carport

Dear Elmer:

The County is again interested in building the carport and small shop on our Washington Street property. I think you are aware of most of the things I am going to present, but in case I did not share something with you, I thought I would go through everything again. I presented the idea to a City Planning Commission on July 14, 2015 that had no quorum so no votes were taken. They were however, receptive to the ideas and supportive of the variance requests. The variances requested were setbacks from the property lines and the lot size for industrial zoning. All were tentatively approved unofficially. The elements of the flood plain were discussed, but with the exception of a no-rise certificate, no other requirements were necessary. The enclosed portion of the development would be out of the floodway and be vented in accordance with FEMA requirements. There was no discussion about access, but closing access to Washington Street may not be acceptable. After all, these lots fronted Washington Street long before the Railroad or the Mickelson Trail came into existence. There was no discussion about zoning since the site had been utilized as Industrial as long as anybody can recall. Pacer had been there for 40 years or more. There had been two bulk petroleum companies, with one on the County Parcel since I was in high school. There was also no discussion on fees as the government agencies have always been exempt from fees. The City did not charge a fee for the Courthouse development nor did they charge the School District fees for the school construction projects. The County would like to fast-track this project so it is imperative we get these items worked out quickly if at all possible. We are looking forward to working with the City on this project which we believe will be another step toward cleaning up and utilizing the area.

Sincerely,

Rex Harris

Cc: Mayor Jerad Carson

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of Custer City, South Dakota shall hold a public hearing on the 22nd day of November, 2016, at 7:00 p.m. at a special meeting of the Planning Commission to be held in the Council Chambers at City Hall, 622 Crook Street, on the following;

A request by owner to consider an application for variances from the Zoning Ordinance of the Custer Municipal Code as applied to the minimum lot area, minimum width of lot and setbacks for a building proposed on Lot 9, Block 124, Custer City, South Dakota.

If someone is unable to attend the Public Hearing, written comments will be taken. Please send your comments to Custer City, 622 Crook Street, Custer, SD 57730

Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the City Finance Office no less than 24 hours prior to the meeting to make necessary arrangements.

Dated this 27th day of October, 2016.

/s/ Elmer Claycomb
Planning Director

Please publish on November 2, 2016



Planning Department
622 Crook Street
Custer, SD. 57730
Phone: 673-4824 Fax: 673-2411
e-mail: elmerc@cityofcuster.com

Staff Report

Request: Setback Variance
Applicant: Craig Hindle Construction for Vanessa Bowman
Location: 912 Summit St.
Legal Desc.: Lot 25A of Lot 25, Wickard Subdivision and balance of Tract Green of Homestead Addition
Date Prepared: November 29, 2016
City Council Meeting: December 5, 2016
Prepared by Elmer Claycomb, P.E., Interim Planning Director

GENERAL

Beatty Street was originally platted as a 15 feet wide ROW in the Wickard Subdivision in 1950 (See Exhibit A). The plat that was prepared when Homestead Addition was annexed to the City in 1989 showed a 66 feet wide "Public ROW" as if it were an easement since it did not change the lot lines (See Exhibit B). Buckhorn Surveying is currently working on a proposed replat of Homestead Addition that shows a 30 feet ROW for Beatty Street (See Exhibit C).

A single family home and a detached single car garage currently are on the Lot. The garage is 5 to 6 feet from the originally platted 15' ROW (See Exhibit D), 16.85 feet within the 66 feet ROW (See Exhibit E), and 1.20 feet from the proposed 30 feet ROW (See Exhibit E).

COMPREHENSIVE PLAN

The Comprehensive Plan identifies this area for Suburban Residential development. The current zoning is Residential.

VARIANCE

The Variance Request is to allow an addition to an existing garage to be approximately 4 feet from the existing platted ROW of Beatty Street (See Exhibit D). If granted the garage would be about 17 feet inside the 66 feet ROW and about 0.2 feet from the proposed 30 feet ROW.

PREVIOUS ACTION

The Planning Commission considered this request at the November 22, 2016 Meeting. The legal notice for the variance hearing has been published in the newspaper, the property has been posted and surrounding property owners have been contacted by letter.

The Planning Commission recommended approval of the Variance request.

RECOMMENDED ACTION BY CITY COUNCIL

Approval of the Variance should take into consideration the following:

- A. If the particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the ordinance were to be carried out;
- B. that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, structures, or buildings in the same district;
- C. that a mere loss in value shall not justify a variance, there must be a deprivation of beneficial use of land if the strict letter of the regulations were to be carried out;
- D. that the conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification or other property substantially similar in use;
- E. that variances shall not be granted to allow uses, nor conditional uses otherwise excluded from the particular district in which;
- F. that the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located;
- G. that the proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property, increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or diminish or impair property values within the area;
- H. that because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- I. that the variance, if authorized, will represent the minimum variance that will afford reasonable relief and will represent the least modification desirable of the zoning ordinances; and
- J. that the City Council may impose reasonable conditions in granting a variance on the condition that the one accepting those conditions is bound by them.

LOTS
25A, 25B and 25C
of
LOT 25
WICKARD SUBDIVISION
of
H. E. S. 95

I, Gardner Gantz, a Registered Professional Engineer and Lead Surveyor, do hereby certify, that being so authorized by the owner, I made the survey and this accompanying plat of LOTS 25A, 25B and 25C which are portions of Lot 25 of the Wickard Subdivision of H. E. S. 95, located in Section 24, T38; R45; of the B. R. W. in Custer County, South Dakota.

Gardner Gantz
Surveyor

STATE OF SOUTH DAKOTA
County of Custer

I, Stanley G. Hester, the County Treasurer of Custer County, South Dakota, hereby certify that all taxes which are liens upon the land included in the within plat, as shown by the records of this office, have been fully paid.

Stanley G. Hester
COUNTY TREASURER

ACKNOWLEDGEMENT:

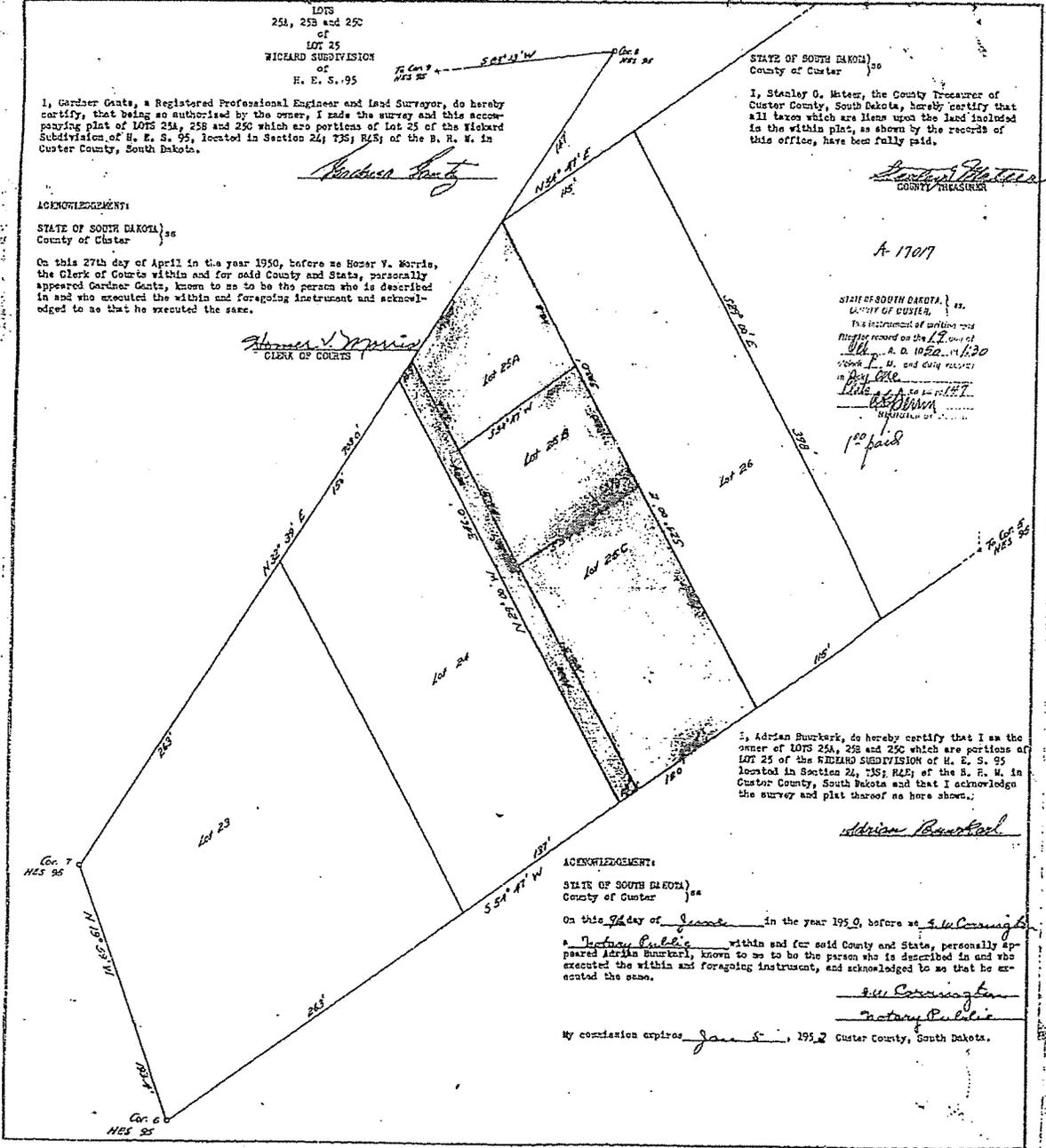
STATE OF SOUTH DAKOTA
County of Custer

On this 27th day of April in the year 1950, before me Homer V. Morris, the Clerk of Courts within and for said County and State, personally appeared Gardner Gantz, known to me to be the person who is described in and who executed the within and foregoing instrument and acknowledged to me that he executed the same.

Homer V. Morris
CLERK OF COURTS

STATE OF SOUTH DAKOTA
COUNTY OF CUSTER
This instrument of writing was
filed for record on the 17th day of
April A. D. 1950 at 10:30
o'clock A. M. and duly recorded
in Book 188
Page 100
Witness my hand and seal of office
this 17th day of April
1950
[Signature]
REGISTRAR

A-1707



I, Adrian Baurtark, do hereby certify that I am the owner of LOTS 25A, 25B and 25C which are portions of LOT 25 of the WICKARD SUBDIVISION of H. E. S. 95 located in Section 24, T38; R45; of the B. R. W. in Custer County, South Dakota and that I acknowledge the survey and plat thereof as here shown.

Adrian Baurtark

ACKNOWLEDGEMENT:

STATE OF SOUTH DAKOTA
County of Custer

On this 27th day of June in the year 1950, before me J. W. Cunningham, a Notary Public within and for said County and State, personally appeared Adrian Baurtark, known to me to be the person who is described in and who executed the within and foregoing instrument, and acknowledged to me that he executed the same.

J. W. Cunningham
Notary Public

My commission expires June 5, 1952 Custer County, South Dakota.

LOT 21

TRACT 5 OF LOT A
TRACT 6

WALKER TRACT
OF LOTS 28&29

SUMMIT STREET

TRACT A
N 1/2 ACRE
LOT 27

S 1/2 ACRE PORTION
LOT 28 LOT 29

LOT 25A

LOT 25B

TRACT B
S 1 ACRE
LOT 27

LOT 24B

LOT 25C

DAKOTA LANE
NURSING HOME 2

TRACT C
LOT 27

TRACT GREEN

TRACT SCOTT
LOT 23

TRACT D
LOT 24A

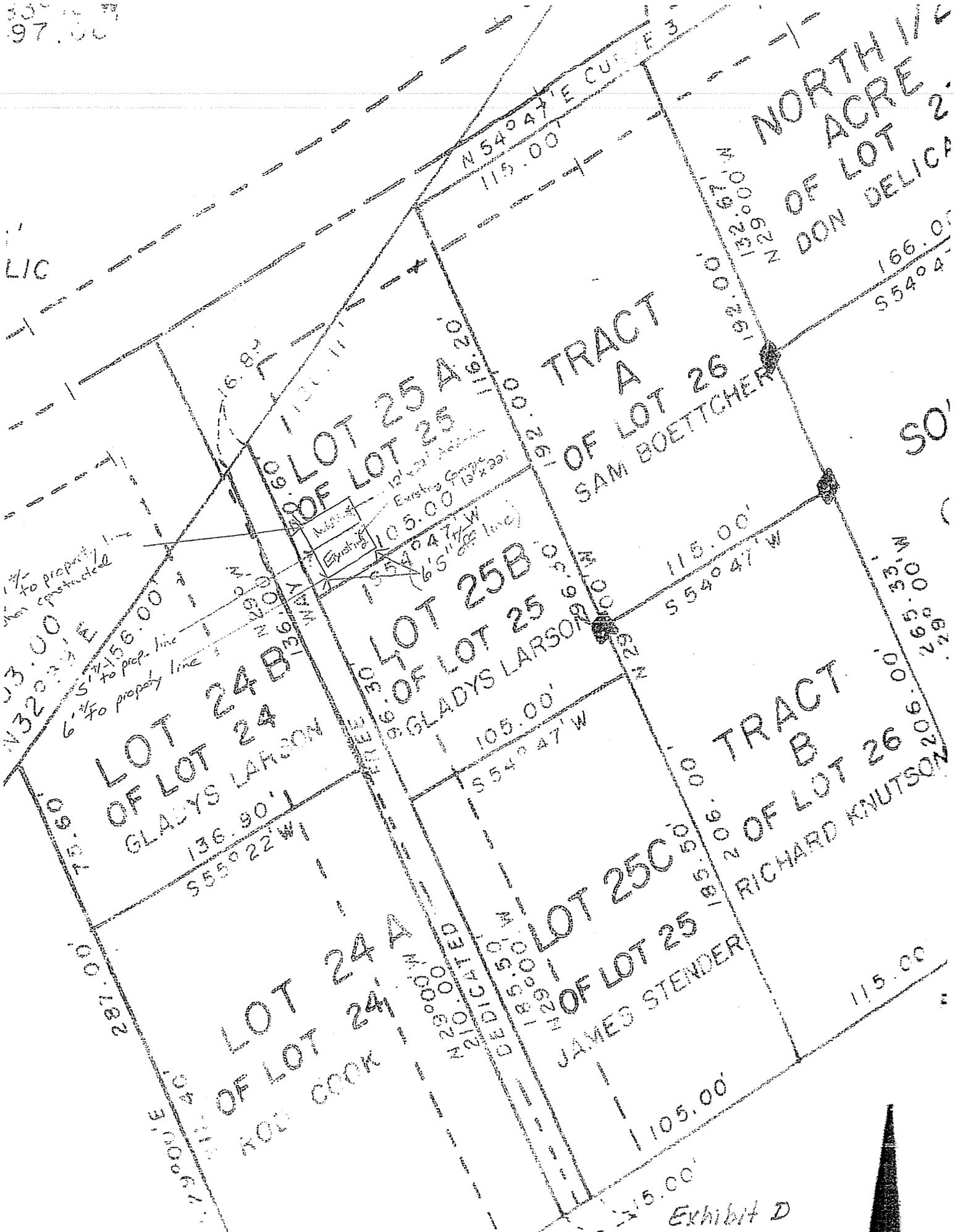
DAKOTA LANE

NURSING HOME

Exhibit C

30' 15" 37
97.50

LIC

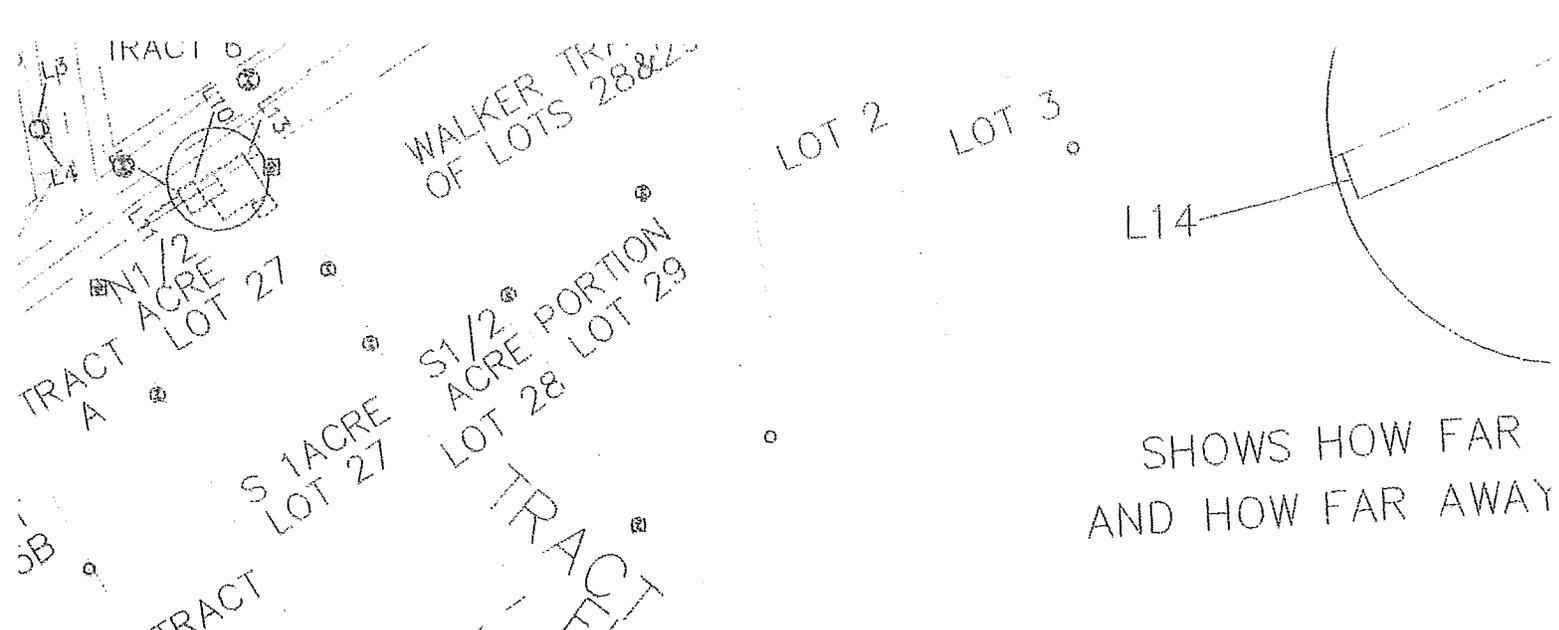


NORTH 1/4
OF ACRE
DON DELICA

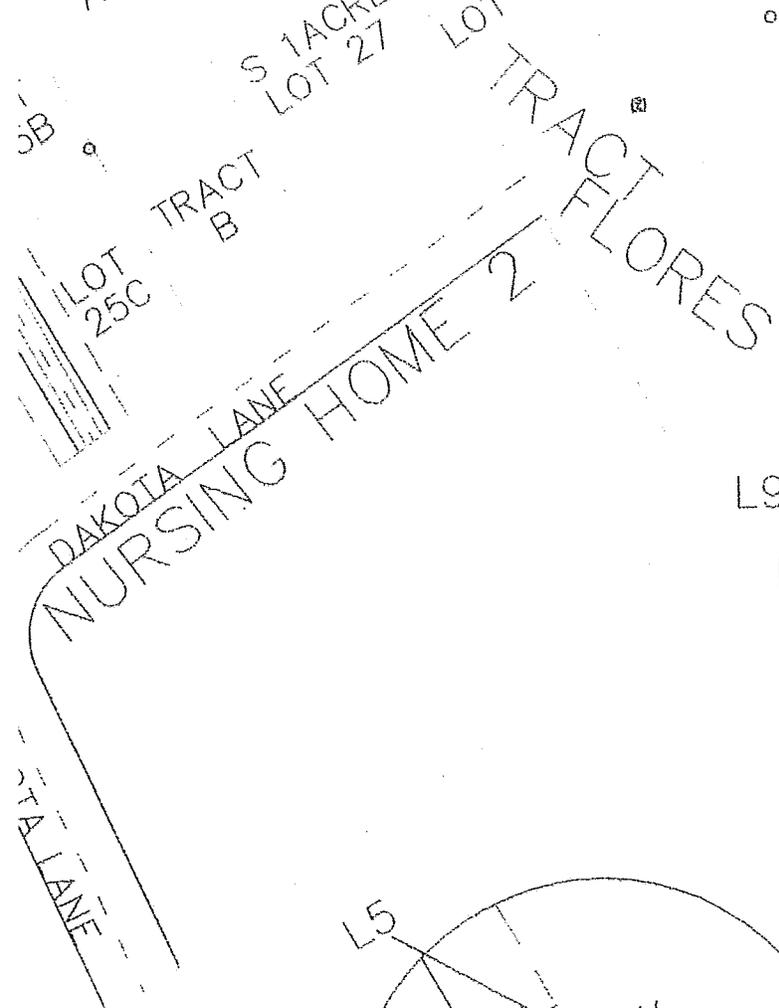
50'

Exhibit D





SHOWS HOW FAR AND HOW FAR AWAY

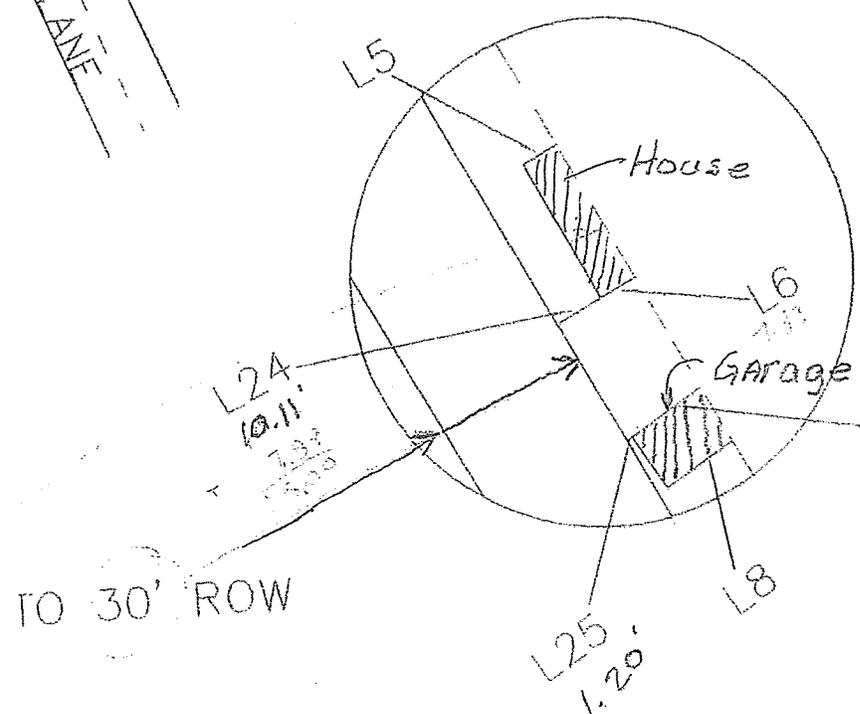


N 1/2 ACRE LOT 27

SHOWS HOW FAR THE HC SET INTO AND AWAY FROM

LOT 25A

HOW FAR THE HOUSE, GARAGE, AND SHED SET INTO THE 66' ROW



TO 30' ROW

Exhibit E

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of Custer City, South Dakota shall hold a public hearing on the 22nd day of November, 2016, at 7:00 p.m. at a special meeting of the Planning Commission to be held in the Council Chambers at City Hall, 622 Crook Street, on the following;

A request by owner to consider an application for a variance from the Zoning Ordinance of the Custer Municipal Code as applied to the minimum setback for a building proposed on Lot 25A of Lot 25, Wickard Subdivision, 912 Summit Street, Custer City, South Dakota.

If someone is unable to attend the Public Hearing, written comments will be taken. Please send your comments to Custer City, 622 Crook Street, Custer, SD 57730

Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the City Finance Office no less than 24 hours prior to the meeting to make necessary arrangements.

Dated this 27th day of October, 2016.
/s/ Elmer Claycomb
Planning Director

Please publish on November 2, 2016

Laurie Woodward

From: Chronicle Writer <chroniclewriter2@gmail.com>
Sent: Wednesday, November 23, 2016 2:17 PM
To: Laurie Woodward; jared@greenrealestateandinvestments.com
Subject: wanna do a holiday thank you ad?

Hey Jared & Laurie,

Hi Boyers,

Every year, we run special sections in both the Custer Chronicle & Hill City Prevailier newspapers with "Letters to Santa" written by local kids and thank you/holiday ads from our local businesses and supporters. The most popular size seems to be a 2x5 (actual size 3.25" x 5") in color. In the Chronicle alone, it's \$90; in both the Chronicle & Prevailier, it's \$160. We're happy, as always, to build one for you! This year's section will be in the December 21st papers, so we're quite a ways out from deadline, obviously, but because we have so many folks to contact and so many ads to build, we start early!

If there's anything else I can do to help, let me know!

Thanks much and hope you're well,
Kate

--

Katherine Najacht
Southern Hills Publishing

D.B.A Custer County Chronicle, Hill City Prevailier-News, Western Trader, Down Country Roads and more
522 Mt. Rushmore Rd.
605-673-2217 (phone) / 605-673-3321 (fax)
chroniclewriter2@gmail.com

RESOLUTION NO. 02-21-12A
SAFETY AND RISK MANAGEMENT
LOSS CONTROL PROGRAM

WHEREAS, the City of Custer City is exposed to various liability risks and safety issues associated with providing services to our citizens;

WHEREAS, these risks and safety issues are most evident when incidents occur involving damage to property and injuries to personnel and our citizens; and

WHEREAS, the objective of our Safety and Risk Management Loss Control Program is to protect people and to preserve assets and revenues, the following policy has been prepared with this in mind:

1. We will identify sources of loss to our property, our employees and the general public.
2. We will evaluate the impact of loss in terms of frequency and severity.
3. We will make every effort to control the causes of loss by and through a specific written Action Plan prepared by each department responsible for actual day to day activities.
4. We will eliminate sources of loss by corrective action or through the transfer of risk.
5. Where possible, we will obtain coverage in such amounts and in such areas as will provide protection against catastrophic loss.

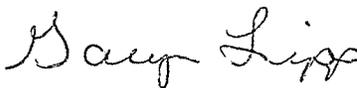
WHEREAS, it is the joint responsibility of the Safety and Risk Management Committee to see that the Safety and Risk Management Program is implemented in accordance with this Resolution; the Safety and Risk Management Committee shall be comprised of the Mayor, one municipal elected official, the risk management coordinator and four municipal employees as noted below, all of whom are appointed by the Mayor every four years or as needed; and

NOW THEREFORE BE IT RESOLVED that the Safety and Risk Management Committee, consisting of the following initial representatives will meet quarterly and shall be responsible for development of a Safety and Risk Analysis and Loss Control Program for all departments of the City of Custer City, following the Guidelines for a Program of Safety and Risk Management and Loss Control and the Safety Manual and all recommendations by the workman's compensation, liability and property insurance:

Mayor
Appointed Councilperson
Risk Management Coordinator
Community Development/Public Works Technician
Public Works Inter-Departmental Operator
Public Works Inter-Departmental Operator
Deputy Finance Officer

NOW THEREFORE BE IT FURTHER RESOLVED that the Safety and Risk Management Loss Control Program is hereby enacted, and the Safety and Risk Management Committee is hereby appointed this 21st day of February, 2012.

CITY OF CUSTER CITY


Gary Lipp, Mayor

ATTEST:



