

All City Council Meetings are recorded.

**CITY OF CUSTER CITY
COUNCIL AGENDA
September 6th, 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 – August 15th, 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. Zoning Code Violation – Boothill Residences
 - b. Custer Golf Course – Irrigation Project
 - c. Amendment to Resolution #08-15-16A – Certifying Delinquent Assessment
 - d. Resolution #09-06-16A – Certifying Delinquent Assessment
 - e. First Reading – Ordinance #777 – Appropriation Ordinance for FY 2017
 - f.
7. Old Business
 - a. Experience Work Employee
 - b.
8. New Business
 - a. Pageant Hill Use Request – Van Arp
 - b. Parade Request – Chamber of Commerce
 - c. Zoning – Saxton Subdivision
 - d. Vacation of Street Right-of-Way – Grewal Lodging
 - e. Street Lighting – West Side of City
 - f. West Dam Contract Amendment / New Contract – Banner
 - g.
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 – September 12th, 2016 4:00 P.M.

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

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

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

Public Works Committee Meeting – September 26th, 2016 5:00 P.M.

Regular City Council Meeting – October 3rd, 2016 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
August 15th, 2016**

Mayor Jared Carson called to order the second meeting of the Common Council for the month of August, 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 Nielsen, to approve the agenda. The motion unanimously carried.

MINUTES

Councilperson Schleining moved, with a second by Councilperson Blom, to approve the minutes from the August 1st regular council meeting. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

DEPARTMENT HEAD DISCUSSION

Bob Morrison, Public Works Director, gave an overview of how things went for the Custer Cruisin event from a Public Works stand point.

Elmer Claycomb, Interim Planning Administrator, mention that he has been reviewing the partial draft of the zoning ordinance changes that was provided by the Assistant City Attorney.

Laurie Woodward, Finance Officer, mentioned that July sales tax was down 1.5% from last July.

PUBLIC HEARING – REZONING – SAXTON SUBDIVISION

Interim Planning Administrator, Elmer Claycomb, presented the rezoning of Saxton Subdivision to highway commercial. The Council heard from the property owners, with no other public comments being received.

CUSTER REGIONAL HOSPITAL UPDATE – VERONICA SCHMIDT

Veronica Schmidt, President of Custer Regional Hospital & Custer Market, gave Council an update on the progress of the new hospital project.

RESOLUTION #08-15-16A – CERTIFYING DELINQUENT ASSESSMENT

Councilperson Fischer moved to adopt Resolution #08-15-16A, Certifying Delinquent Assessment. Seconded by Councilperson Schleining, the motion carried with Councilperson Maciejewski, Heinrich, Nielsen, Fischer, Blom and Schleining voting yes.

**RESOLUTION #8-15-16A
RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF CUSTER
CERTIFYING A DELINQUENT ASSESSMENT PURSUANT TO
SDCL 10-23-1.1**

The City Council of the City of Custer, State of South Dakota does hereby assess and levy on and against the several lots and parcels of land described below the respective sums of money set against each lot or parcel.

This assessment is made to defray the cost of abating a nuisance as per SDCL 34A-6-29.

The owners of said described lot or parcel have been noticed by certified mail return receipt requested and have failed to pay the amount of said described abatement.

| NAME OF OWNER | DESCRIPTION OF PROPERTY | AMOUNT |
|-------------------|---|----------|
| ROGER GEDNALSKI | LOT 2 BLOCK 103 CUSTER, SOUTH DAKOTA PARCEL #008590 | \$977.01 |
| KATHLEEN LESTER | LOT 10 BLOCK 93 CUSTER, SOUTH DAKOTA PARCEL #008550 | \$231.36 |
| COLLEEN RAE HICKS | LOT 9 BLOCK 26 CUSTER, SOUTH DAKOTA PARCEL #008216 | \$504.15 |

| | | |
|--|---|-----------|
| BANK OF AMERICA (SAFEGUARD – ECOVA) | LOTS 8-9 BLOCK 134 CUSTER, SOUTH DAKOTA PARCEL #008738 | \$949.80 |
| ROBERT DRAKE | T&K ENTERPRISES SUBD-TRK SEC 26/27 T3R4.56AC PARCEL #008919 | \$545.03 |
| LEAH SCOTT | LOT 9 BLOCK 48 CUSTER, SOUTH DAKOTA PARCEL #008354 | \$227.30 |
| | TOTAL | \$3434.56 |

The City Finance Officer is directed to file this Resolution with the Custer County Auditor's Office to certify the delinquent assessment pursuant to SDCL 10-23-1.1.

City of Custer

S/Jared Carson, Mayor

Attest: Laurie Woodward, Finance Officer

BROWN BAG REQUEST – CHAMBER OF COMMERCE – MICKELSON TRAIL TREK

Councilperson Maciejewski moved to approve the brown bag request from the Chamber of Commerce for the Mickelson Trail Trek to be held September 15th, 2016 at Harbach Park. Seconded by Councilperson Nielsen, the motion unanimously carried.

SOCIAL MEDIA CONTRACTS (WEST DAM & CUSTER CRUISIN)

Councilperson Nielsen moved to approve the social media contracts from Green Owl Media for Save West Dam (average monthly fee \$125 but not to exceed \$240 with a set fee of \$30 per hour) and Custer Cruisin (total 12 month investment of up to \$2,670 with a set fee of \$30 per hour). Seconded by Councilperson Heinrich, the motion carried with Councilperson Heinrich, Nielsen, Fischer, Blom, Schleining and Maciejewski voting yes.

WATER TREATMENT EVALUATION CONTRACT – AE2S

Councilperson Schleining moved to approve the water treatment evaluation contract with AE2S for \$66,000 contingent upon legal counsel review and approval of the contract. Seconded by Councilperson Maciejewski, the motion carried with Councilperson Nielsen, Fischer, Blom, Schleining, Maciejewski and Heinrich voting yes.

EXPERIENCE WORK EMPLOYEE

Councilperson Fischer moved to authorize the Public Works Director and Finance Officer to contact the Experience Work Office and the potential employee to start the process of a potential employee working for the City, with the final approve to be on the next Council agenda. Seconded by Councilperson Fischer, the motion unanimously carried.

CLAIMS

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

- Black Hills Power, Utilities, \$12,183.13
- BlackHills.com, Advertising, \$20.00
- Christie, John, Safety Equipment, \$106.49
- Culligan, Repair & Maintenance, \$63.50
- Custer Car Wash, Repair & Maintenance, \$35.50
- Chamber of Commerce, Sales Tax Subsidy, \$13,709.96
- Custer True Value, Supplies, Repair & Maintenance, \$1,274.16
- Don Anderson, Cruisin Professional Fees, \$300.00
- Fastenal, Supplies, \$205.86
- French Creek Supply, Supplies, \$58.42
- Golden West Technologies, Professional Fees, \$620.50
- Governmental Finance Officer Assn, Membership, \$160.00
- Gunderson, Palmer, Nelson & Ashmore, Professional Fees, \$1,050.00
- Hadlock, Cheryl, Professional Fees, \$4,166.67

Jimmy Fechner, Cruisin Professional Fees, \$300.00
Leo's Auto Repair, Repair & Maintenance, \$201.30
Mark Mowry, Cruisin Professional Fees, \$300.00
Mary Fechner (Jimmy Roy's), Cruisin Professional Fees, \$300.00
McGas, Utilities, \$1,827.18
Midcontinent Testing Labs, Professional Fees, \$511.70
Pleasant Valley Sunday, Cruisin Professional Fees, \$500.00
Karl & Katherine Prost, Refund, \$75.00
Quality Weed Control Plus, Repair & Maintenance, \$147.04
Rapid Delivery, Professional Fees, \$48.32
Sanders Sanitation, Garbage Collection Contract, \$13,136.63
SD Executive MGMT Finance Office, Utilities, \$10.91
Servall, Repair & Maintenance, \$157.84
Shanklin's, Supplies, \$116.00
USDA Loan payment, \$8,910.00
Warfel, David, Reimbursement, \$50.97
Wright Express, Supplies, \$1,055.87
YMCA, Memberships, \$76.00
Total Claims, \$61,678.95

COMMITTEE REPORTS

Various committee reports were given.

EXECUTIVE SESSION

Councilperson Schleining moved to go into and out of executive session for personnel, proposed litigation & contract negotiations per SDCL 1-25-2(1-4) at 6:14 pm, with the Attorney, Public Works Director, Interim Planning Administrator and Finance Officer present. Seconded by Councilperson Heinrich, the motion unanimously carried. Council came out of executive session at 6:48 pm, with no action taken.

2017 BUDGET WORK SESSION

Council had a work session for the 2017 budget.

ADJOURNMENT

With no further business, Councilperson Blom moved to adjourn the meeting at 7:13 p.m. Seconded by Councilperson Schleining, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Jared Carson
Mayor

REQUEST TO BE ON AGENDA
CUSTER CITY COUNCIL MEETING

NAME: Steve Gardner PHONE #: 673-6789
ADDRESS: 183 Boot Hill Rd. Custer, SD 57103

MEETING DATE: Sept. 6th 2016

Council meets on the 1st and 3rd Monday of each month, however if such date follows on a holiday Council will meet the following day.

ACTION REQUESTED (Give a brief summary of the action you would like the Council to take):

Allow me to speak regarding zoning code violations at Boot Hill Ranch Estates. Request violators be ordered to cease & desist.

REASONS FOR ACTION (Give a detailed account for the reasons you feel the Council should take the above action. Please state the history behind the request and as much information supporting your request as you can. Attach additional sheets if necessary.):

Disorder, noise, lack of privacy

Have you visited with any staff or committees regarding your request, please state who (General Government Committee, Public Works Committee, Planning Commission, Community Development Director, Public Works Director, Finance Officer):

Larry Maciejewski

SIGNATURE Steve F. Gardner DATE 8/24/16

This form must be returned to the Finance Office by noon on the Wednesday preceding a regular scheduled meeting.

City of Custer City

Citizen Information & Suggestions

RECEIVED

AUG 24 2016

NAME: Steve Gardner

CITY OF CUSTER

ADDRESS: 183 Boot Hill Rd.

DATE: 8-24-16

TIME: 3:13 pm

COMPLAINT: The owners of the home at
107 Broken Spur Crt. in the Boot
Hill Ranch Estates subdivision are
operating a vacation rental business
known as "Eight Brothers Inn". They
have no conditional use permit, and
are in violation of Custer zoning
regulations.

RECEIVED BY (EMPLOYEE NAME): _____

REFERRED TO: _____

DATE: _____

NAME OF EMPLOYEE: _____

DATE RECEIVED: _____

DATE COMPLETED: _____

ACTION TAKEN / ACTIVITY ACCOMPLISHED: _____

SIGNATURE OF EMPLOYEE: _____

Complaint # _____

City of Custer City

Citizen Information & Suggestions

NAME: Tom + Sheila Martin PHONE NUMBER: 307.286.1162

ADDRESS: 112 OX YOKE COURT - Custer, SD

DATE: 8/29/16 TIME: 9:30 a.m.

COMPLAINT: The property at 107 Broken Spur Court (Boothill) is being illegally rented out as a vacation home rental in violation of the Custer zoning ordinance. See attachments.

RECEIVED BY (EMPLOYEE NAME): _____

REFERRED TO: _____ DATE: _____

NAME OF EMPLOYEE: _____

DATE RECEIVED: _____

DATE COMPLETED: _____

ACTION TAKEN / ACTIVITY ACCOMPLISHED: _____

SIGNATURE OF EMPLOYEE: _____

Please check the appropriate box that corresponds with the complaint/suggestion.

Routine Maintenance Issue

Nuisance

Public Safety/Liability

Contracting Issue

Date complaint was documented in spreadsheet: _____

September 2012

Prepared By:
Boot Hill, L.L.C.
325 Mt. Rushmore Road
Custer, SD 57730
605-673-2350

**DECLARATION
OF
PROTECTIVE COVENANTS**

This declaration of restrictive and protective covenants shall apply to and run with the following described real property, to-wit:

LOTS 1-19 OF BLOCK 12 OF BOOT HILL RANCH SUBDIVISION – PHASE III OF BOOT HILL RANCH SUBDIVISION, CONTAINING ALL OF TRACT D OF GOV'T LOT 2 AND A PORTION OF GOV'T LOT 3, ALL IN SECTION 19, T3S, R5E, BHM, AND A PORTION OF HES 326 IN SECTION 24 T3S, R4E, BHM, CITY OF CUSTER, CUSTER COUNTY, SOUTH DAKOTA.

This declaration is made this 20th day of July, 2004, by Boot Hill, L.L.C., hereinafter referred to as declarants, and the covenants hereinafter set forth shall apply to all of the owners of the property, the grantees, heirs, and assigns hereinafter subdivided of and from that property hereinabove described, and the said declarants for themselves, their successors, and assigns, do jointly and severally covenant with each and every grantee, their heirs, executors, administrators, and assigns, to bind each and every property so subdivided to the following covenants, for the joint and reciprocal benefit of the said parties and their said properties:

I.

GENERAL PURPOSE OF COVENANTS: The real property described heretofore is subject to the covenants, restrictions, conditions, reservations, liens and charges hereby declared to insure the best use and the most appropriate development and improvements of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve, so far as practical, the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure erection of attractive structures and fences thereon, with locations thereof on building sites; to prevent haphazard and inharmonious improvement of free spaces between structures, and in general to

provide adequately for a high type and quality of improvements in said property, thereby to enhance the values of investments made by purchasers of building sites therein.

II.

* **RESIDENTIAL USE:** Block 12 is hereby restricted to single family residential usage only with a maximum of one dwelling unit per lot, and in no manner may be used for any commercial purposes or for any kind or type of equipment or material storage subject only to the specific exception set forth herein below.

Home office businesses are acceptable provided that: the business has no employees onsite other than immediate family members residing in the dwelling, the business shall not involve continual visits by walk-in customers or the general public, there is no external evidence of a business operation, and there is minimal additional vehicular traffic as a result of the business.

III.

MOBILE HOMES, MODULAR HOMES, TEMPORARY OR INCOMPLETE

STRUCTURES: No mobile, manufactured or modular home shall be allowed on any lot. No trailer, camper, truck, bus, tent, basement, garage, or any temporary or incomplete structure shall be occupied or used, either temporarily or permanently. All residences must be completed on the outside in accordance with the original plans and specifications, including finishing, treating or painting of all exterior surfaces before occupancy.

IV.

SUB - DIVISIONS: No lot shall not be subdivided, conveyed or encumbered in any less than the full original dimensions as shown on the original records. This paragraph shall not be construed to prohibit the declarant from modifying any lot dimensions or boundaries as long as such adjustment does not result in additional lots

V.

NUISANCE: All lots shall at all times be kept in a neat, clean and sightly condition. No trash, rubbish, machinery, inoperable or junk vehicles, building materials or appliances shall remain exposed on any lot so as to be visible from other property or roadways. No part of any lot shall be used as a dumping ground for junk, trash, sewage, rubbish, or garbage. Machinery trailers, garden and maintenance equipment shall be kept at all times, except when in use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a sanitary container. No lumber, shrub or tree clippings, or plant waste or metals or bulk material or scraps of refuse or trash or unlicensed automobiles, parts, machinery or equipment shall be kept, stored, or allowed to accumulate on any of the sites. The Architectural Control Committee, of its own motion, or the committee's designee, may enter on a lot to remove any of the foregoing and the cost of such removal shall be chargeable to the owner of the offending lot. Any such entry shall

not be deemed a trespass. Further, the owner of any lot shall not suffer or permit any noxious, dangerous, or offensive activity to be conducted, carried on, or practiced in any dwelling, building, or on any of the lots on the aforescribed real property.

VI.

RESTRICTION AGAINST POLLUTION OF WATER: In the interest of public health and sanitation, and so that the land above described and all other land in this same locality may be benefited by a decrease hazards of stream pollution and by the protection of water supplies, recreation, wildlife, and other public uses thereof, no owner shall use, for any purpose, the aforescribed real property in such a manner that may result in the pollution of any waterway that flows through or adjacent to such property with refuse, sewage, or other material that might tend to pollute the waters of any such stream or streams or otherwise impair the ecological balance of the surrounding land.

VII.

WATER AND SEWER: All residential dwellings shall connect to the City of Custer City water supply and sewage system. No septic system or private wells shall be allowed on any lot.

VIII.

EASEMENTS: Easements for utilities and drainage are dedicated as shown or noted on the recorded plat. Nothing shall be done which would impair the use or maintenance of any easement.

IX.

LIVESTOCK AND POULTRY: No horses, cows, other animals, or poultry of any kind shall be raised, bred, or kept on any lot except for a reasonable number of domestic household pets, such as dogs or cats, may be kept, provided they are not maintained for commercial purposes, and do not make objectionable noises or become an annoyance or nuisance of any sort to the neighborhood.

X.

OIL AND MINING OPERATIONS: No oil, gas, or mineral drilling operations or mineral operations of any kind shall be permitted upon any lot.

XI.

TANKS: No elevated tanks of any kind shall be permitted upon any lot. All tanks for storage of gas, fuel oil, or gasoline shall be buried or hidden from view by means of a solid type fence or wall of design and finish similar to the exterior of the dwelling.

XII.

FENCES: No fence, wall or hedge higher than six (6) feet shall be erected or maintained on any lot within the aforescribed real property, unless approved by the Architectural Control Committee. All fences at the property boundary lines will be of wood construction except wire fences shall be allowed at the rear lot line of those lots comprising the parameter boundary of Boot Hill Ranch Subdivision.

XIII.

EXCAVATION AND GRADING: No excavation for stone, gravel or earth shall be made on any lot except for walls, basements, or cellars of dwellings unless approved by the Architectural Control Committee.

XIV.

HEIGHT AND GRADE: No grantee or owner or any person or persons claiming under him shall or will at any time raise the grade of any lot or lots within the afore-described real property, above the grade established at the time of initial transfer by the Grantor unless approved by the Architectural Control Committee.

XV.

SIGNS: No signs for advertisements of any kind shall be displayed on any lot to the public view except as follows:

- a. One sign of not more than three square feet bearing the name of the occupant.
- b. One sign of not more than six square feet advertising the property for sale or rent.
- c. Necessary street number or other identification numbered signs.
- d. Signs used by a builder, developer, or subdivider to advertise the property during the construction, development and sales period.
- e. One professional sign of not more than three square feet.

XVI.

TREES AND SHRUBBERY: Natural beauty, wherever possible, shall remain. In no case shall trees be harvested for commercial purposes; however, timber stands may be thinned according to National Forest standards for better growth and water absorption. Trees within 20 feet of any chimney shall be removed as a fire hazard. Trees within 60 feet of a dwelling may be removed at the owner's sole discretion.

XVII.

ARCHITECTURAL CONTROL COMMITTEE: There shall be formed an architectural control committee initially composed of Michael E. Tennyson, Patrick Tlustos, and Bonnie L. Tennyson, of Custer County, South Dakota. The aforesaid committee shall be composed of three members who shall act on and make decisions as hereinafter set forth in the following covenants. The powers of said committee shall be restricted to only those powers as hereinafter set forth.

A majority of the committee may designate a representative to act for it. In the event of the death of or resignation of any member of the committee, remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the record owners of a majority of the lots in the aforescribed real property shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or to restore to the committee any of its powers and duties.

XVIII.

PROCEDURE OF ARCHITECTURAL CONTROL COMMITTEE: The committee approval or disapproval, as required in these covenants, shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after the site plan, building plan, and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval shall not be required and related covenants shall be deemed to have been fully complied with.

XIX.

ARCHITECTURAL CONTROL: All plans for the construction of private roads, driveways, and all building plans for any buildings, fences, walls, bridges or other structures to be erected, constructed, or placed on any portion of said property, and the proposed location thereof upon the building site, and any changes after approval thereof, and remodeling, reconstruction, alteration or addition to any building, road, driveway, or other structure, or any portion of the said property, shall require the approval in writing of the Architectural Control Committee, as to the quality material, workmanship, and harmonious design with the site and existing structures.

Before beginning the construction of any road, driveway, building, or remodeling, reconstruction or altering such road, driveway, or structure upon any portion of the said properties, the person or persons desiring to erect, construct, or modify the same shall submit to the Architectural Control Committee two complete sets of plans showing the locations, course and width of same, or two complete sets of building plans, including site plan and specification including exterior colors of the building, fence, wall, coping, or other structure as is applicable, so desired to be erected, constructed or modified, not less than (30) days prior to the date of start of construction.

No structure of any kind, the plans, elevations, and specifications of which have not received the written approval of the Architectural Control Committee and which do not comply fully with such approved plans and specifications, shall be erected, constructed, placed or maintained on any portion of the said property. Approval of such plans and specifications shall be evidenced by written endorsement of such plans and specifications, one copy of which shall be delivered to the owners of the building or site on which the respective building, road, driveway, bridge, or structure contemplated prior to the beginning of such construction and the copy so approved must be presented to and kept in the office of Declarant.

The Architectural Control Committee shall not be responsible for any structural defects or designs in any plans or specifications or in any building or structure erected in accordance with such plans and specifications.

XX.

CONSTRUCTION All residences must meet all plumbing, electrical, building, fire safety and health codes of the City of Custer City and the State of South Dakota. A building permit must be obtained prior to commencing construction. Once construction has begun on any structure or improvement, construction must be pursued to completion with all due diligence, and completed within nine (9) months. Completion shall include all exterior painting and landscaping and the complete cleaning of construction materials on the site. All excess construction materials will either be stored out of sight of the street or other lots or if unusable, will be transported to the nearest disposal site. Further, all exterior siding finishes shall be only of stone, stone veneer, brick, brick veneer, synthetic stucco, logs, wood siding, concrete plank siding, hardboard siding or log siding. No steel siding, imitation brick or stone siding, vinyl siding, aluminum siding, tar paper, asbestos shingles or concrete blocks will be allowed as exterior siding finishes. Roofs must remain in natural appearance and if treated or painted, must be of a natural, colorless material. A built – up or single ply type of roof may be permitted if the approval of the Architectural Control Committee is secured in writing. Concrete, fiberglass and asphalt shingles may be used if they are of an earthtone color. Cedar shakes or shingles are acceptable. Metal standing seam roofs are acceptable.

Living areas for each single family detached dwellings shall not be less than 1,400 square feet for a single story residence. For a two-story residence, there shall be no less than 1,000 square feet on the first floor, exclusive of attached garages, open porches or patios. Only new construction will be allowed; no older buildings may be moved onto any site.

XXI.

STRUCTURAL HEIGHT: No dwelling shall be more than two stories in height exclusive of the basement, and no private garages shall be larger than is necessary for four cars.

XXII.

LOCATION: All buildings shall have a minimum front set back of not less than thirty (30) feet from any front boundary line(s), and fifteen (15) feet from any side lot lines and 30 feet from any rear lot boundary line(s). The Architectural Control Committee must approve location of any structure or any improvements on any site in writing.

XXIII.

DRIVEWAYS: All driveways shall be located so as to allow minimum water run - off and erosion. Where any driveway intersects with a street the owner shall provide a six foot concrete or asphalt apron the width of the driveway. A culvert of at least 15 inches in diameter shall be installed wherever driveways cross the road ditch line or drainage way. The requirement for a culvert may be waived by the Architectural Control Committee, at its sole discretion, if conditions allow for the same.

XXIV.

COLOR: The Architectural Control Committee thereof must approve all exterior colors and changes in writing. Only earthtone colors shall be acceptable.

XXV.

EXTERIOR DAMAGE TO BUILDING: In the event of fire, windstorm or other damage, no building shall be permitted to stand with its exterior in a damaged or unsightly condition for longer than six (6) months.

XXVI.

CHANGE IN COVENANTS: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, after which time these covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of Seventy Five percent (75%) of the lots has been recorded agreeing to change or eliminate these covenants in whole or in part.

XXVII.

ENFORCEMENT: In case of any violation of the provisions hereof, the owners of any lot may, in addition to other remedies at law, or in equity, including an action for damages, have such violation enjoined, or in the case of the erection or maintenance of any building, structure, or thing in violation of any of the provisions hereof, may have such building, structure, or thing removed by proper legal procedure. Any violation of the provisions, conditions or restrictions contained herein shall warrant application by the owner or owners of any lots, or the

Printer Friendly

43-4-44. Property condition disclosure statement. The following form shall be used for the property condition disclosure statement:

SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

(This disclosure shall be completed by the seller. This is a disclosure required by law. If you do not understand this form, seek legal advice.)

Seller

Property Address

This Disclosure Statement concerns the real property identified above situated in the City of _____ County of _____, State of South Dakota.

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH § 43-4-38. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR ANY AGENT REPRESENTING ANY PARTY IN THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PARTIES MAY WISH TO OBTAIN. Seller hereby authorizes any agent representing any party in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

IF ANY MATERIAL FACT CHANGES BEFORE CONVEYANCE OF TITLE TO THIS PROPERTY, THE SELLER MUST DISCLOSE SUCH MATERIAL FACT WITH A WRITTEN AMENDMENT TO THIS DISCLOSURE STATEMENT.

I. LOT OR TITLE INFORMATION

1. When did you purchase or build the home?

If the answer is yes to any of the following, please explain under additional comments or on an attached separate sheet.

2. Were there any title problems when you purchased the property?

Yes ___ No ___

3. Are there any recorded liens or financial instruments against the property, other than a first mortgage?

Yes ___ No ___

4. Are there any unrecorded liens or financial instruments

(11) "Rental unit," any room, cabin, or other quarters that may be rented to a guest for sleeping accommodations;

(12) "Secretary," the secretary of the Department of Health;

(13) "Specialty resort," any bed and breakfast establishment, lodge, dude ranch, resort, building, or buildings used to provide accommodations or recreation for a charge to the public, with no more than ten rental units for up to an average of twenty guests per night and in which meals are provided to only the guests staying at the specialty resort;

(14) "State Fair," the fair at Huron, South Dakota, operated by the Department of Agriculture;

(15) "Temporary food service establishment," any food service establishment which operates at a fixed location for a temporary period of time, not to exceed two weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering;

(16) "Transient guest," any person who resides in a lodging establishment less than four consecutive calendar weeks;

(17) "Vacation home establishment," any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than fourteen days in a calendar year and is not occupied by an owner or manager during the time of rental. This term does not include a bed and breakfast establishment as defined in subdivision 34-18-9.1(1);

(18) "Water recreational facility," any artificial basin of water located at a facility licensed pursuant to chapter 34-18 constructed, installed, modified, or improved for the purpose of swimming, wading, diving, or recreation, including swimming pools, spas, hot tubs, and water slides.

Source: SDC 1939, §§ 27.1702 to 27.1705; SL 1963, ch 158, § 2; SL 1970, ch 199, § 1; SL 1994, ch 351, § 60; SL 1996, ch 213, §§ 6, 7; SL 2008, ch 53, § 5; SL 2008, ch 172, § 1; SL 2009, ch 165, § 1; SL 2014, ch 164, § 1.

[^ Back to Top](#)

[Printer Friendly](#)

43-12-2. Classification of covenants running with land. The only covenants which run with the land are:

- (1) Those made for the direct benefit of the property or some part of it, then in existence;
- (2) Covenants of warranty for quiet enjoyment or for further assurance, on the part of the grantor;
- (3) Covenants for the payment of rent or of taxes or assessments upon the land, on the part of a grantee; and
- (4) All covenants incidental to any of the foregoing covenants.

Source: CivC 1877, §§ 820 to 822; CL 1887, §§ 3444 to 3446; RCivC 1903, §§ 1137 to 1139; RC 1919, §§ 744 to 746; SDC 1939, § 51.0424.

[Chapter 43-12](#)

[Printer Friendly](#)

10-02. Covenants, conditions & restrictions are generally deemed to run with the land. Covenants contained in conveyances of real property are appurtenant and pass with them to the successor in interest and run with the land.

[Chapter 43-30S-10](#)

[Printer Friendly](#)

43-26-2. Agreement by seller of real property to give usual covenants--Delivery and form of warranty deed. An agreement on the part of a seller of real property to give the usual covenants, binds him to deliver a warranty deed in the form prescribed by 43-25-5 or to insert in the grant covenants of seizin, quiet enjoyment, further assurance, general warranty, and against encumbrances.

Source: CivC 1877, § 989; CL 1887, § 3613; RCivC 1903, § 1307; RC 1919, § 928; SDC 1939, § 51.1419.

[Chapter 43-26](#)

VHR PERFORMANCE REQUIREMENTS:

1. The maximum occupancy allowed in a VHR shall be no greater than two (2) persons per bedroom, plus four (4) additional persons, but may be fewer based on the capacity of the wastewater system. Children age 5 and under are not counted as occupants.
2. VHRs are limited to a maximum of five (5) bedrooms.
3. The number of on-site parking spaces as determined in accordance with Section 310 (one per bedroom).
4. The Owner shall ensure that occupants and/or guests of the VHR do not create a Nuisance, per Pennington County Ordinance 106. It is not intended that the Owner or Local Contact act as a peace officer or be placed in harm's way through implementation of this directive.
5. Where the Owner does not reside full-time within 50 miles driving distance of the VHR, a Local Contact shall be designated. The Local Contact shall reside within 50 miles driving distance of the VHR. The Owner or Local Contact shall be responsible for responding in a reasonable time to complaints about the VHR. The name, address, and telephone contact number of the Owner and/or Local Contact shall be kept on file at the Planning Department. The Notice of Hearing Letter shall also contain the name and phone number of the Local Contact.
6. The wastewater system utilized by the VHR must be approved by the South Dakota DENR and/or must comply with Section 204-J.
7. The Owner shall keep records as required per SDCL 34-18-21. The report shall be provided to the Planning Department upon request.
8. Any lights used for exterior illumination shall direct light away from adjoining properties. Lighting shall be pointed/shielded downward to minimize upward glare.
9. Occupancy of recreational vehicles (RVs), camper trailers and tents shall not be allowed. Children under the age of 13 are allowed to "camp out" in a tent on the premises, but count toward the maximum occupancy.
10. The minimum age allowed for the principal renter of a VHR is 21 years of age.
11. Quiet hours shall be from 10 p.m. until 7 a.m. No outside activities shall be allowed after 10 p.m.
12. The use of open fires, fire pits, fireworks, charcoal-burning grills or other devices (as applicable) shall be the responsibility of the Owner or Local Contact. All authorized open fires shall be extinguished by 10 p.m. (refer to Section 319-G-1-e.).
13. The maximum number of day guests allowed shall be 50 percent of the maximum occupancy of the VHR.
14. In granting or denying a Conditional Use Permit for a Vacation Home Rental, the Planning Commission and/or Board of Commissioners shall uphold any restrictive covenants applicable to the property.
15. The Owner must obtain a South Dakota Sales Tax License from the South Dakota Department of Revenue. A copy of the License must be provided to the Planning Department prior to operation.

VHR SIGN AND NOTIFICATION REQUIREMENTS:

Interior Informational Sign. Each VHR shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:

- a. The name of the Local Contact or Owner of the unit, and a telephone number at which that party may be reached on a 24-hour basis;
- b. The maximum number of occupants permitted to stay in the unit;
- c. The maximum number of day guests permitted to visit the unit;
- d. The number and location of on-site parking spaces;
- e. A statement that: "The use of open fires, fire pits, fireworks, charcoal-burning grills, or other devices (as applicable) shall not be allowed without permission from the Local Contact or Owner to ensure compliance with all federal, state and county laws and regulations;"
- f. The rules/regulations for pets and applicable leash laws;
- g. The quiet hours;
- h. The trash pick-up day and location of trash disposal;
- i. Notification that the renter and occupants are responsible for the creation of any disturbances or for violating any other provisions of this Section;
- j. Notification that failure to conform to the parking and occupancy regulations of the VHR unit is a Violation of County Ordinance;
- k. A statement that: "Guests are expected to be courteous to all neighbors and to respect property boundaries;"
- l. Local emergency and law enforcement contact information; and,
- m. The property address.

Chapter 17.04

GENERAL PROVISIONS

Sections:

- 17.04.010 General.
- 17.04.020 Zoning affects every building and use.
- 17.04.030 Performance standards.
- 17.04.040 Open space or off-street parking or loading space.
- 17.04.050 Yard and lot reducing prohibited.
- 17.04.060 Subdivision regulation.
- 17.04.070 Provisions of title declared to be minimum requirements.
- 17.04.080 Nonconforming land use.

17.04.010 General.

The zoning regulations set forth by this title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided. (Ord. 763 (part), 2015: Ord. 432 (part), 1995)

17.04.020 Zoning affects every building and use.

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located. (Ord. 763 (part), 2015: Ord. 432 (part), 1995)



17.04.030 Performance standards.

No building or other structure shall hereafter be erected or altered:

- A. To exceed the height or bulk;
- B. To accommodate or house a greater number of families;
- C. To occupy a greater percentage of lot area;
- D. To have narrower or smaller rear yards, front yards, side yards or other open spaces;

than herein required; or

E. In any other manner contrary to the provisions of this title. (Ord. 763 (part), 2015: Ord. 432 (part), 1995)

17.04.040 Open space or off-street parking or loading space.

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this title shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building. (Ord. 763 (part), 2015: Ord. 432 (part), 1995)

17.04.050 Yard and lot reducing prohibited.

No yard or lot existing at the time of passage of the ordinance codified in this title shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of said ordinance shall meet at least the minimum requirements established by this title. (Ord. 763 (part), 2015: Ord. 432 (part), 1995)

Chapter 17.12
RESIDENTIAL DISTRICT (R)

Sections:

- 17.12.010 Intent.
- 17.12.020 Permitted principal uses and structures.
- 17.12.030 Permitted accessory uses and structures.
- 17.12.040 Permitted conditional uses.
- 17.12.050 Prohibited uses and structures.
- 17.12.060 Restrictions and requirements.

17.12.010 Intent.

The intent of the residential district (R) is to provide for residential uses of varying types and other compatible land uses in a pleasant and stable environment. (Ord. 432 (part), 1995)

17.12.020 Permitted principal uses and structures.

The following principal uses and structures shall be permitted in residential districts (R):
Single-family dwellings. (Ord. 432 (part), 1995)

17.12.030 Permitted accessory uses and structures.

The following accessory uses and structures shall be permitted in residential districts (R):

Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district. (Ord. 432 (part), 1995)

17.12.040 Permitted conditional uses.

After the provisions of this title relating to permitted conditional uses have been fulfilled, the city council may permit as permitted conditional uses in residential districts (R):

- A. Boardinghouses and lodginghouses;
- B. Cemeteries;
- C. Churches, synagogues and temples;
- D. Colleges and universities;
- E. Convalescent, nursing and rest homes;
- F. Golf courses and country clubs;
- G. Governmental services;
- H. Home occupations and professional services:

1. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to a person's normal senses while upon the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises,

See state statute on vacation home rental in attachments

AMENDED RESOLUTION #8-15-16A
 RESOLUTION OF THE CITY COUNCIL
 OF THE CITY OF CUSTER
 CERTIFYING A DELINQUENT ASSESSMENT PURSUANT TO
 SDCL 10-23-1.1

The City Council of the City of Custer, State of South Dakota does hereby assess and levy on and against the several lots and parcels of land described below the respective sums of money set against each lot or parcel.

This assessment is made to defray the cost of abating a nuisance as per SDCL 34A-6-29.

The owners of said described lot or parcel have been noticed by certified mail return receipt requested and have failed to pay the amount of said described abatement.

| NAME OF OWNER | DESCRIPTION OF PROPERTY | AMOUNT |
|--|---|-----------|
| ROGER GEDNALSKI | LOT 2 BLOCK 103 CUSTER, SOUTH DAKOTA PARCEL #008590 | \$977.01 |
| KATHLEEN LESTER | LOT 10 BLOCK 93 CUSTER, SOUTH DAKOTA PARCEL #008550 | \$231.36 |
| COLLEEN RAE HICKS | LOT 9 BLOCK 26 CUSTER, SOUTH DAKOTA PARCEL #008216 | \$504.15 |
| BANK OF AMERICA (SAFEGUARD – ECOVA) | LOTS 8-9 BLOCK 134 CUSTER, SOUTH DAKOTA PARCEL #008738 | \$949.80 |
| ROBERT DRAKE | T&K ENTERPRISES SUBD-TRK SEC 26/27 T3R4.56AC PARCEL #008919 | \$545.03 |
| TOTAL | | \$3207.26 |

The City Finance Officer is directed to file this Resolution with the Custer County Auditor's Office to certify the delinquent assessment pursuant to SDCL 10-23-1.1.

Attest:

CITY OF CUSTER

Laurie Woodward
Finance Officer

Jared Carson
Mayor

(SEAL)

Adopted: September 6, 2016

RESOLUTION #9-06-16A
RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF CUSTER
CERTIFYING A DELINQUENT ASSESSMENT PURSUANT TO
SDCL 10-23-1.1

The City Council of the City of Custer, State of South Dakota does hereby assess and levy on and against the several lots and parcels of land described below the respective sums of money set against each lot or parcel.

This assessment is made to defray the cost of abating a nuisance as per SDCL 21-10-6.

The owners of said described lot or parcel have been noticed by certified mail return receipt requested and have failed to pay the amount of said described abatement.

| NAME OF OWNER | DESCRIPTION OF PROPERTY | AMOUNT |
|---------------|---|----------|
| ROBERT DRAKE | 631 W MT RUSHMORE ROAD T & K ENTERPRISES SUBD – TR K SEC 26/27 T3 R4 .56 AC CUSTER, SOUTH DAKOTA PARCEL #008919 | \$590.00 |
| | TOAL | \$590.00 |

The City Finance Officer is directed to file this Resolution with the Custer County Auditor's Office to certify the delinquent assessment pursuant to SDCL 10-23-1.1.

Attest:

CITY OF CUSTER

Laurie Woodward
Finance Officer

Jared Carson
Mayor

(SEAL)

Adopted: September 6, 2016

APPROPRIATION ORDINANCE NO. 777

FISCAL YEAR 2017

CUSTER CITY, SOUTH DAKOTA

AN ORDINANCE MAKING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2017, AND ENDING DECEMBER 31, 2017, AND LEVYING THE PROPERTY TAX IN THE YEAR 2017.

Section I: BE IT ORDAINED BY THE COMMON COUNCIL OF CUSTER CITY, SOUTH DAKOTA that the following sums are appropriated to meet the obligations of the municipality.

| | General Fund | BID Fund | Debt Service TIF Fund | Promotion Fund | Cemetery Fund |
|---|---------------------|---------------------|--------------------------------------|---------------------------|--------------------------|
| Governmental Funds | | | | | |
| 410 General Government | | | | | |
| 411 Legislative | 96,450 | | | | |
| 411.5 Contingency | 30,000 | | | | |
| 413 Election | 1,200 | | | | |
| 414 Financial Administration (Finance & Attorney) | 165,105 | | | | |
| 419 Other (Public Bldgs, Planner) | 427,740 | | | | |
| Total General Government | <u>720,495</u> | | | | |
| 420 Public Safety | 431,800 | | | | |
| 430 Public Works | | | | | |
| 431 Highway & Streets (Engineering, Public Works, Streets) | 981,530 | | | | |
| 437 Cemetery | 29,310 | | | | |
| Total Public Works | <u>1,010,840</u> | | | | |
| 440 Health & Welfare | | | | | |
| 444 Humane Society | 10,610 | | | | |
| 447 Hospital | 347,000 | | | | |
| Total Health & Welfare | <u>357,610</u> | | | | |
| 450 Culture & Recreation | | | | | |
| 451 Recreation (Cruisin, Swimming) | 57,500 | | | | |
| 452 Parks | 167,525 | | | | |
| Total Culture & Recreation | <u>225,025</u> | | | | |
| 465 Economic Development (Promoting the City) | 90,000 | 160,000 | | 247,150 | |

| | | | | |
|--|------------------|----------------|----------------|----------------|
| 470 Debt Service | | | 292,000 | |
| TOTAL 2017 APPROPRIATIONS | 2,835,770 | 160,000 | 292,000 | 247,150 |
| Committed for Capital Replacement Ordinance #722 | - | | | |
| TOTAL APPROPRIATIONS & ACCUMULATIONS | 2,835,770 | 160,000 | 292,000 | 247,150 |

The following designates the fund or funds that money derived from the following sources is applied to.

| | General Fund | BID Fund | Debt Service TIF Fund | Promotion Fund | |
|------------------------------------|---------------------|-----------------|------------------------------|-----------------------|--------------|
| Governmental Funds | | | | | |
| Unassigned Fund Balance | - | - | - | - | - |
| 310 Taxes | 2,446,505 | 160,000 | 292,000 | 247,000 | |
| 320 Licenses and Permits | 55,400 | | | | |
| 330 Intergovernmental Revenue | 5,500 | | | | |
| 335 State Shared Revenue | 88,500 | | | | |
| 340 Charges for Goods and Services | 9,100 | | | | |
| 345 Health (Animal Control) | 750 | | | | |
| 346 Culture & Recreation (Cruisin) | 13,500 | | | | |
| 348 Cemetery | 3,000 | | | | 2,400 |
| 350 Fines and Forfeits | 200 | | | | |
| 360 Miscellaneous Revenue | 23,800 | | | 150 | 250 |
| 368 Liquor Operating Agreement | 200,000 | | | | |
| 390 Other Sources | 12,000 | | | | |
| TOTAL MEANS OF FINANCE | 2,858,255 | 160,000 | 292,000 | 247,150 | 2,650 |

| | Water Fund | Sewer Fund | Solid Waste Fund |
|--------------------------------------|----------------|------------------|------------------------|
| Proprietary Funds | | | |
| Beginning Unrestricted Cash | 938,168 | 450,892 | 108,777 |
| Estimated Revenue | 634,400 | 585,500 | 196,175 |
| Total Available | 1,572,568 | 1,036,392 | 304,952 |
| Less Appropriations (Expenses) | 1,337,758 | 1,252,188 | 184,000 |
| Less Facility Replacement per ORD | - | 58,360 | - |
| ESTIMATED SURPLUS | <u>234,810</u> | <u>(274,156)</u> | <u>120,952</u> |

Section II: Summary of 2017 Appropriations

| | |
|---------------------------|--------------------|
| Enterprise Funds | 2,773,946 |
| Governmental Funds | 3,534,920 |
| Total 2017 Appropriations | <u>\$6,308,866</u> |

Section III: That there is hereby levied upon all taxable property within the said City of Custer for the purpose of providing funds to meet the expenses and liabilities of said City, as hereinbefore set forth for the fiscal year of 2017 a tax sufficient to raise the following amounts, to wit:

| | |
|----------------------|------------------|
| For the General Fund | <u>\$847,000</u> |
| TOTAL LEVY | \$847,000 |

Section IV: The City Finance Officer is hereby authorized and directed to certify said tax levy to the County Auditor of Custer County, State of South Dakota, to the end that the same may be spread and assessed as provided by law.

Dated this 20th day of September 2016.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer
(SEAL)

Jared Carson, Mayor

First Reading: September 6th, 2016
Second Reading: September 20th, 2016
Publication: September 28th, 2016

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

REQUEST TO BE ON AGENDA
CUSTER CITY COUNCIL MEETING

NAME: Van Arp PHONE #: 873-4090

ADDRESS: 25574 Veterans Trail

RECEIVED

MEETING DATE: 9/6/16

AUG 31 2016

CITY OF CUSTER

Council meets on the 1st and 3rd Monday of each month, however if such date follows on a holiday Council will meet the following day.

ACTION REQUESTED (Give a brief summary of the action you would like the Council to take):

Use of Pageant Hill for Music Concert
June 1, 2, 3, 4 2017

REASONS FOR ACTION (Give a detailed account for the reasons you feel the Council should take the above action. Please state the history behind the request and as much information supporting your request as you can. Attach additional sheets if necessary.):

Bring revenue to Custer

Have you visited with any staff or committees regarding your request, please state who (General Government Committee, Public Works Committee, Planning Commission, Community Development Director, Public Works Director, Finance Officer):

SIGNATURE [Signature] DATE 8/31/16

This form must be returned to the Finance Office by noon on the Wednesday preceding a regular scheduled meeting.



August 15, 2016

Custer City Council
346 North 7th Street
Custer, SD 57730

The Custer Area Chamber of Commerce requests permission to hold the Annual Custer Christmas Parade on Dec. 3, 2016 at 5:30 pm. The parade entries will line up on Washington Street; the parade will start on 8th Street by Lynn's Dakotamart, then proceed west on Mt. Rushmore Road to Way Park. The parade will be followed by the Memorial Tree Lighting and parade awards at Way Park.

Thank you.

Sincerely,

Dolsee Davenport
Office Manager

CUSTER AREA CHAMBER OF COMMERCE

PO Box 5018 ♦ Custer, South Dakota 57730 ♦ (605) 673-2244 ♦ 800-992-9818

www.custersd.com ♦ info@custersd.com ♦ Fax: (605) 673-3726



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

Staff Report

Request: Zoning - SAXTON SUBD - REVISED TR B2 OF TR B2 & TR B IN A PT OF E2NE4 SEC 27 T3 R4 and 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

Applicant: Paradise Land Company, LLC

Location: North of intersection of HWY. 16 and Little Teton Road

Legal Desc.: SAXTON SUBD - REVISED TR B2 OF TR B2 & TR B IN A PT OF E2NE4 SEC 27 T3 R4 and 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

Date: August 25, 2016

City Council Meeting: September 6, 2016

Prepared by Elmer Claycomb, P.E., Interim Planning Director

GENERAL

These parcels were annexed into the city in 2005. No zoning was established at the time of annexation. The applicant now wishes to have the property zoned as Highway Commercial. The intended use of the property is for about 7 resort cabins on Revised Tract B2. At some time in the future a single family residence may be added on the Tract. No specific plans exist for uses on Lot B2.

Revised Tract B2 is bordered by county property on the north and west. The east side of the Tract borders Forest Service land that is annexed into the City.

COMPREHENSIVE PLAN

A copy of a portion of the Land Use Study exhibit from the 2031 Comprehensive Plan is attached. It shows Revised Tract B2 as Suburban Residential. Lot B2 is split, showing the north portion as Suburban Residential and the south portion as Suburban Commercial. These land uses generally coincide with the City's Residential and Highway Commercial Zones.

DEVELOPMENT PLAN

A copy of a Site Plan submitted by the applicant in support of a Building Permit Application is attached. It shows the proposed location of 7 cabins, ranging in size from 384 square feet to 600 square feet in size. Motels and hotels are a permitted principal use in the Highway Commercial Zone. The type of cabins proposed would appear to be a legitimate Conditional Use in a Residential Zone, as boarding houses and lodging houses are a Permitted Conditional Use in a Residential Zone.

ACCESS

Access to Revised Tract B2 is via a 40' wide private driveway access and utility easement across Lot A of Revised Tract Stoddard. Access to Lot B2 is via an access, parking and utility easement across Lot C of Revised Tract Stoddard.

CONSIDERATIONS

The requested zoning for Revised Tract B2 would deviate from the Comprehensive Plan, but the intended use could be permitted as a conditional use if it is zoned Residential. However, once it is zoned Highway Commercial, all of the other Permitted Principal Uses for the Tract would exist. The consideration would seem to be whether to zone the property so the intended use is a Permitted Principal Use or deal with Conditional Uses.

The location of the dividing line between Residential and Highway Commercial on Lot B2 is ambiguous on the Comprehensive Plan map. Zoning the entire lot as Highway Commercial would be consistent with the land use to the south (U Haul site).

ACTION BY PLANNING COMMISSION

The Planning Commission recommended approval of the zoning of the property to Highway Commercial on August 23, 2016.

2031 COMPREHENSIVE PLAN

Not in City

French Cr
Supply

Revised
Tr. B2

40' Easement

Lot
B2
Uhaul

Access Easement

Legend

| | |
|----------|-------------------------|
| [Symbol] | City Limits |
| [Symbol] | County Parcels |
| [Symbol] | PUBLIC |
| [Symbol] | URBAN_COMMERCIAL |
| [Symbol] | SUBURBAN_COMMERCIAL |
| [Symbol] | INDUSTRIAL |
| [Symbol] | SUBURBAN_RESIDENTIAL |
| [Symbol] | COUNTRYSIDE_RESIDENTIAL |
| [Symbol] | FOREST_AGRICULTURE |
| [Symbol] | RURAL_RESIDENTIAL |



Planning Department
622 Crook Street
Custer, SD. 57730

Phone: 673-4824

Fax: 673-2411

Staff Report

Request: Vacation of Street Right-of-Way
Applicant: Grewal Lodging Inc.
Location: 150 feet of alley extending south from Gordon Street, $\frac{1}{2}$ block west of First Street, between Lots 9 & 10, Block 140, Custer City.
Date: August 25, 2016
City Council Meeting: Sept. 6, 2016
Prepared by Elmer Claycomb, P.E., Interim Planning Director

GENERAL

The applicant is asking that the full width of the alley between Lots 9 & 10, Block 140, be vacated. The applicant owns the property on both sides of the alley. There are no street improvements or city utilities within the alley.

I have discussed the proposed vacation with Bob Morrison. He does not see any potential use of the alley for street purposes. Belair Drive occupies the alley ROW south from Canal Street.

The City normally retains a utility easement when an alley is vacated.

ROUTING SHEET COMMENTS

The following comments were received:

Custer County Planning Department – We do not feel that this alley should be vacated. There is a possibility that in the future the alley may be needed as a utility corridor. If the City were to reserve a 20' utility corridor for future use, there would not be enough remaining alley to serve any good purpose for the adjacent landowner.

Black Hills Electric Cooperative – Black Hills Electric Cooperative has no issues with the Grewal ROW vacation.

LAND SURVEY OF TRACT

The Record of Survey shows no encroachments.

PREVIOUS ACTION

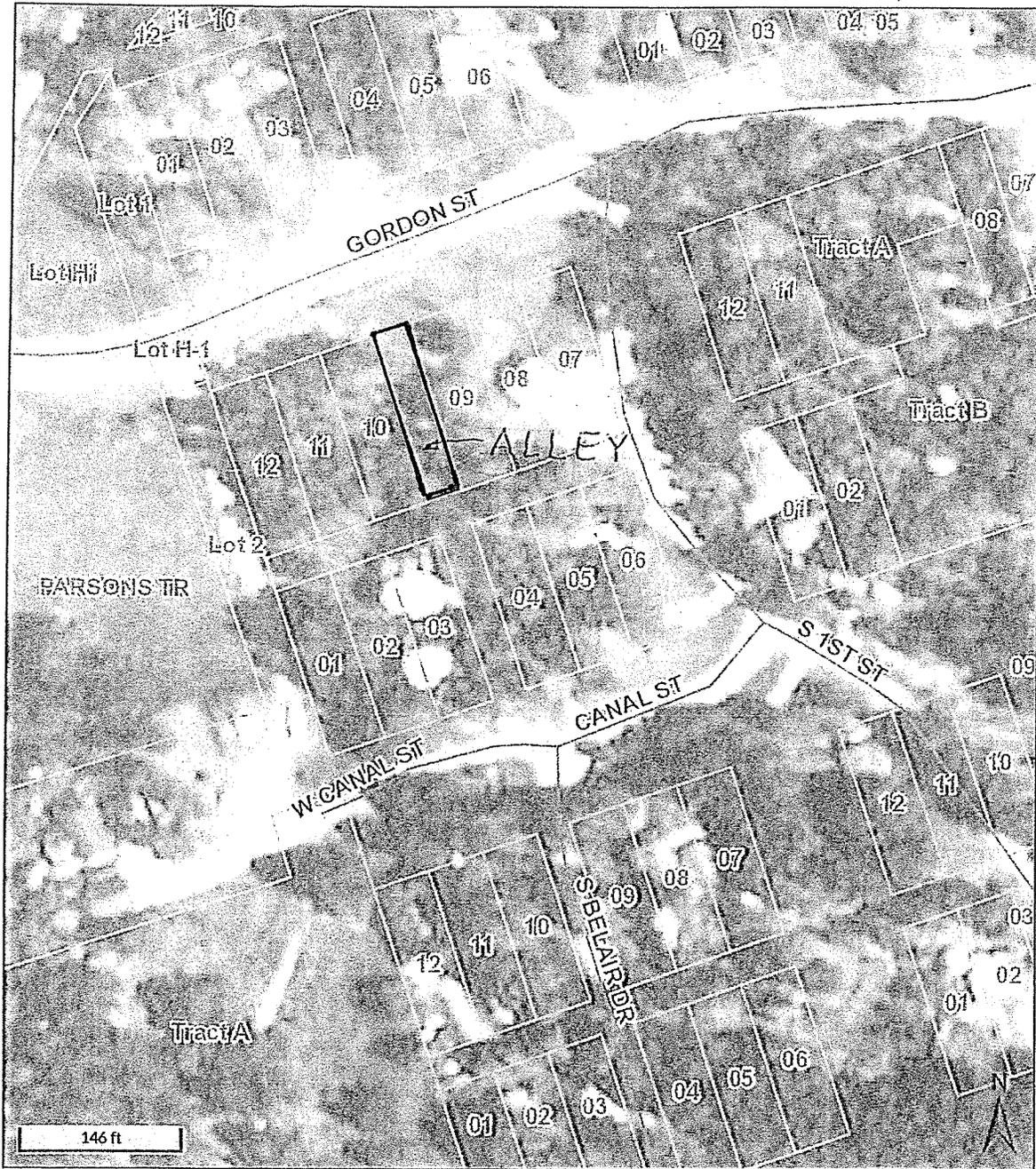
The Notice of Public Hearing at the 7/18/16 Council Meeting was published on June 29th and July 6th, 2016.

The Planning Commission recommended approval of the vacation request. The approval specifically did not recommend that the City retain a utility easement within the vacated alley. The thought is that it will be necessary for the Lots and vacated alley to be replatted into a single lot prior to building on the parcel to eliminate the setback requirements along the existing side lot lines. Utility easements would then be included along the periphery of the new lot.

ACTION BY COUNCIL

Approve, disapprove or approve the vacation with conditions.

Beacon™ Custer County, SD



Overview



Legend

- Townships
- Roads
- Lots

Date created: 7/7/2016

 Developed by
The Schneider Corporation

RECEIVED

622 Crook Street
Custer, SD 57730

Planning Department
E-Mail: cityplan@gwtc.net

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

CITY OF CUSTER

VACATION OF RIGHT-OF-WAY APPLICATION

Applicant: Grewal Lodging Inc
Address: 208 W. Mt. Rushmore Rd
Custer SD 57730
City State Zip
Phone: 605-673-4699, 605-517-1412
Fax: 605-673-4126
Signature: [Signature]
Date 4-1-2016

(Owner of property if different than applicant)

Owner: _____
Address: _____
City State Zip
Phone: _____
Signature: _____
Date _____

Agent: _____
Address: _____
City State Zip
Phone: _____
Fax: _____

Shan Grewal

Attach copies of the vacation petition and exhibit.

Surveyor/Engineer: Andersen Engineers / Keith E. Andersene
Registration Number: 2842
Phone: 605-662-5500

Legal Description: _____
Lot(s) 9, 10, 11, 12 - see attached ← Alley between lots 9 & 10, 11 & 140
Block 146 Section _____
Subdivision _____ Township _____
Range _____

Reason for the Request: We own the property on each bordering side, the reason for vacation is to utilize the additional space.

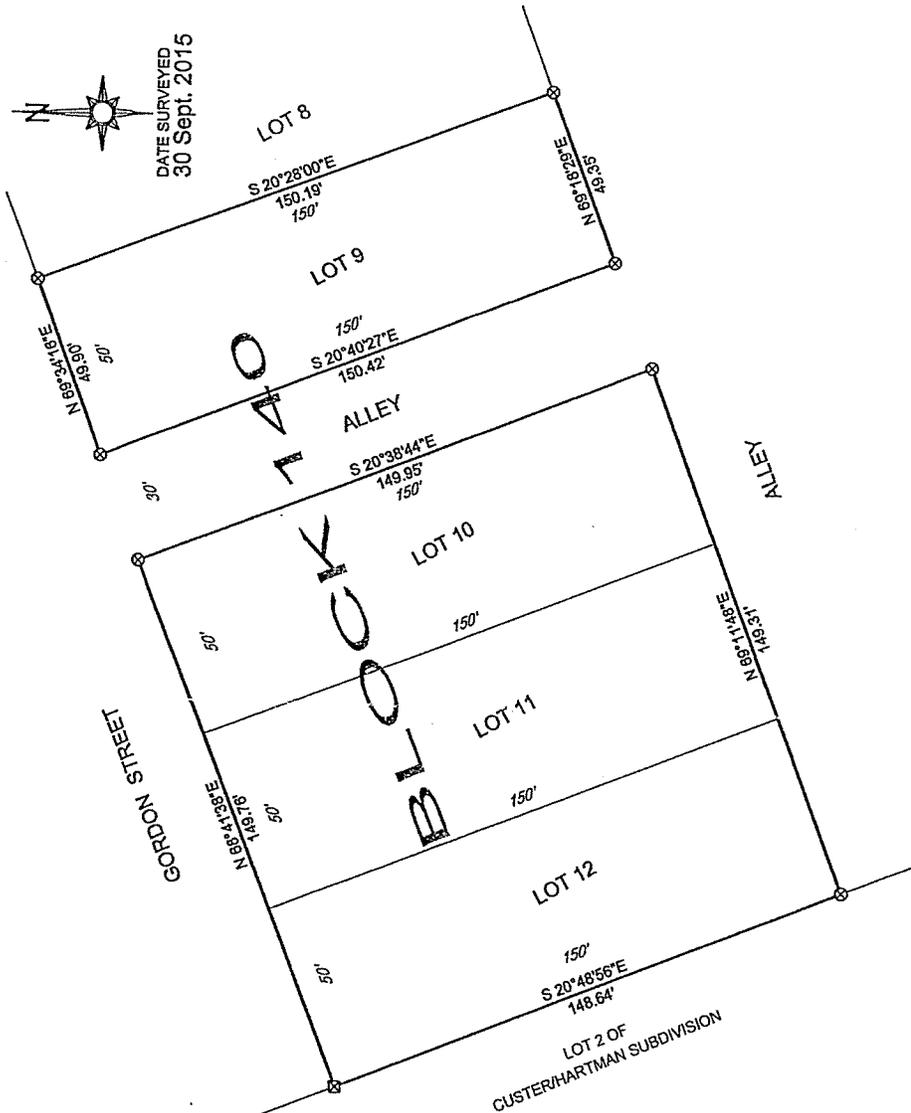
Office Use Only

Date Received 6/16/16
Received By: E. Grayson
Filing Fee: \$400
Receipt: 40279

Application #: _____
Tax ID #: _____
Planning Commission Date and Time: _____
City Council Date and Time: _____

RECORD OF SURVEY

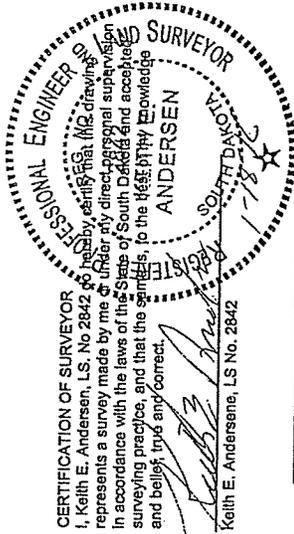
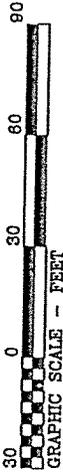
LOTS 9 THRU 12, BLOCK 140, CUSTER CITY, CUSTER COUNTY, SOUTH DAKOTA



LEGEND

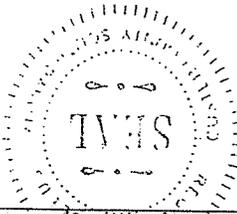
- ⊗ Found rebar w/aluminum cap marked "BRYANT LS 2196"
- ⊗ Set rebar w/aluminum cap marked "ANDERSEN LS 2842"
- ⊗ Slant lettering denotes record calls

BASIS OF BEARING - GPS OBSERVATION
taken N 88°09'00"W 485.68' from the NW corner of LOT 12,
BLOCK 140.



| | | | |
|--|--------------------|---|--------------------|
| Prepared by ANDERSEN ENGINEERS <i>Land Surveyors, Professional Engineering, & Environmental Consultants</i> | | P.O. Box 446 Edgemont, SD 57735 (605)-662-5500 andersenengineers@gwetc.net | |
| Drawn by DR | Date 11/20/2015 | Approved by McB | Date 11/20/2015 |
| Scale 1"=30' | Sheet 1 of 1 | File Name: B140_CLUSTER | |

Doc #69119 Recording Fee \$30.00
CUSTER COUNTY REGISTER OF DEEDS
Recorded 3/29/2016 at 10:47 AM, Book 45 MISC 987
Dennis Zellmer, Register of Deeds



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of Custer City, South Dakota shall hold a public hearing on the 18th day of July, 2016, at 5:30 p.m. at the regular meeting of the City Council to be held in the Council Chambers at City Hall on the following;

A request by owner to consider an application for vacation of the alley between Lots 9 and 10, Block 140, of the original town plat of Custer City, SD.

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 23rd day of June, 2016.
/s/ Elmer Claycomb
Planning Director

Please publish on June 29 and July 6, 2016



SOUTH DAKOTA ELECTRIC RATE BOOK

STREET LIGHTING
RATE DESIGNATION - SL
Page 2 of 3

Section No. 3
Sixteenth Revised Sheet No. 22
Replaces Fifteenth Revised Sheet No. 22

STREET LIGHTING

NET MONTHLY BILL

- Rate
a. For fixtures only supported by distribution type wood poles and served aerially within 150 feet of existing secondary distribution:

| Lamp Type & Nominal Rating | Customer Owned | | Company Owned | |
|-------------------------------------|-----------------|--------------------------------|-------------------------------|-----|
| | Energy Service | Energy and Maintenance Service | Total Street Lighting Service | |
| <u>Mercury Vapor</u> | | | | |
| 20,000 Lumen (400 Watt) | \$ 9.06 | | | (R) |
| <u>High-Pressure Sodium Vapor*</u> | | | | |
| 2,200 Lumen (35 Watt) | \$ 1.76 | | | (R) |
| 4,000 Lumen (50 Watt) | 1.82 | | | (R) |
| 5,500 Lumen (70 Watt) | 2.10 | | | (R) |
| 9,500 Lumen (100 Watt) | 2.95 | \$ 5.99 | \$11.55 | (R) |
| 14,000 Lumen (150 Watt) | 4.03 | | 14.62 | (R) |
| 27,500 Lumen (250 Watt) | 5.52 | 10.27 | 16.35 | (R) |
| 50,000 Lumen (400 Watt) | 9.06 | 14.21 | 26.16 | (R) |
| 127,000 Lumen (1,000 Watt) | 20.06 | | | (R) |
| <u>Metal Halide</u> | | | | |
| 11,000 Lumen (100 Watt) | \$ 2.94 | | | (R) |
| 16,000 Lumen (150 Watt) | 4.03 | | | (R) |
| 18,500 Lumen (175 Watt) | 4.11 | | | (R) |
| 22,000 Lumen (250 Watt) | 5.52 | | | (R) |
| 35,500 Lumen (400 Watt) | 9.06 | | | (R) |
| 40,000 Lumen (450 Watt) | 10.12 | | | (R) |

*The Company Owned Total Street Lighting rates are not available for new mercury vapor or 150 watt high-pressure sodium vapor street lighting installations.

- b. For special installations involving material and equipment not included in (a) above, the charge per month shall be as follows:
Charge for luminaries and fixtures same as (a) above plus 1.25 percent of the difference between Company's actual investment in such installations and the investment cost of an overhead street lighting installation supported by distribution type wood poles and served aerially within 150 feet of existing secondary distribution.

Google earth

feet
meters
1000
500



Jared,

I have a few follow up items that I would like to visit with you and Bob on, part of it with hat in hand.

Back in July during our Pierre trip/meeting, I mentioned to you and Bob that I thought we had hours in the contract left to do the Army Corps Wetlands Permit Application for the overall Project, including the wetlands delineation mapping work in support of that. I had stated that the Corps was recommending we move forward now with an ACOE permit since mitigation efforts and trade-offs between Ph. 1 and 2 excavation work will likely be necessary. The ACOE representative in Pierre informed me this summer that a standard "nationwide" 404 Permit (minor effort type of permit) would not be sufficient.

However, I was mistaken on the point of having extra hours and budget available. As Bob is aware of, we started on the survey and delineation efforts in early August. However, as of last week I needed to put further efforts on hold until we could visit with the City further. After I got a full accounting picture update from our comptroller, I was able to back track and find out how I had missed that Banner had slightly over-run on our effort hours, compared to our overall contract limit as of the end of June (for the reason stated below). Note: attached "invoice" status email from Laurie confirming that she shredded the small Banner invoice at my request, accidentally sent by Banner a couple weeks ago.

We would like to propose the following:

- We propose to do the Wetlands Permitting work for an amount not to exceed \$6000.00 (includes survey and mapping work already completed, and report/application yet to go to the ACOE Pierre Office).
- If amenable, we'd like to request from the City an additional \$3417.75 for services performed to insert the lake wall retaining wall designs into the plans and specs., which was not originally in our contract scope. We went ahead and performed this extra work at the suggestion of the Task Force back in March, if you remember, to move forward sooner and include in our plans as part of Ph. 1 project, vs. waiting til Ph. 2 Plan efforts, when the Lake would already have water in it making it harder to construct the wall. (The summary from our accountant documenting the \$3417.75 amount previously unbilled, is attached.)
- Also, we believe there may be benefit to writing a brief memo to Elmer Claycomb's attention, with a copy to you, regarding what we do and don't know about the FEMA BFE (Base Flood Elev.) impacts from the proposed project. As you know, our contract scope did not include a re-mapping of the 100 year floodplain at or downstream of the dam for FEMA purposes, but only a limited survey to determine downstream affects and inundation areas if a dam break were to occur (State Law Requirement, not Federal). We believe this Memo would provide some closure for this phase of the project to identify what we know regarding the FEMA BFE impacts at this point in time. Since earlier FEMA work was done on a different datum using an older program, it is difficult to correlate the work done to the newer datum as we have done with our modeling. We think this summary of info. from our Certified Flood Plain Engineer to the City's would be helpful to the City if FEMA questions arise. We proposed to put this in memo form and provide it to the City for an amount not to exceed \$500.00.
- Lastly, if you'd like me to budget a few hours of my time for a meeting this fall sometime with you and Bob to discuss the earthwork phasing/sequencing plan sheets (Primarily Sheets 1.4, 2.1 to 2.13), and the possible implications of those on your interim plans for the next year or two. Part of that, if you remember, has to do with how and what to do with staged materials

from lake bottom or embankment excavated areas, if removed prior to the larger contract efforts for building the new dam and Fairway 9 fill in work, etc. I would be happy to join you and your staff for a brief meeting, and provide a follow-up note summary of our discussions. Maybe only a half day of effort would suffice? If this would help in the City's Planning efforts, we would be glad to add a small amount into the scope of additional services for this.

With your concurrence, I can put any or all of the above items into a letter proposal for additional services, to be completed by Oct. 31st, with an amendment to our existing contract for Council review/approval. Please call me to discuss further, and/or otherwise let me know your thoughts. I'll be out Thurs. and Fri. this week, but back all of next week, fyi.

Regards,

David LaFrance, PE | Senior Project Manager
Banner Associates, Inc. | Rapid City, SD
Toll Free | 1.855.323.6342
www.bannerassociates.com