

All Board of Adjustment Meetings are recorded.

**CITY OF CUSTER CITY**  
**BOARD OF ADJUSTMENT AGENDA**  
**April 20<sup>th</sup>, 2020 - City Hall Council Chambers**  
**Immediately following the meeting of the City Council**  
(City Council Meeting to begin at 5:30pm)

- 1. Call to Order - Roll Call:**
- 2. Approve Agenda:** April 20<sup>th</sup>, 2020
- 3. Approve Minutes:** None
- 4. Declaration of Conflict of Interest:**
- 5. Public Hearings:**
  - a. Appeal of denied Conditional Use Permit Request, 265 Desperado Lane – Short Term Rental
  - b.
- 6. Old Business**
  - a.—
- 7. ~~New Business:~~**
  - a.—
- 8. ~~Discussion Items:~~**
  - a.
- 9. Public Comments (3-minute max. per person, with total communication period to not exceed 15 minutes):**
- 10. Adjournment**

City Staff will open the meeting at approximately 6:00pm. Such will remain on mute until adjournment of the Custer City Council meeting.

Custer City Board of Adjustment - 4/20/20  
Mon, Apr 20, 2020 6:00 PM - 8:00 PM (MDT)

Please join my meeting from your computer, tablet or smartphone.

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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.

Board of Adjustment

Within this packet you will find the following supporting information pertaining to the appeal of denied Conditional Use Permit Request, 265 Desperado Lane – Short Term Rental

- Appeal Letter from Kevin Houtwed, Dated March 3, 2020
- Information presented to the Planning Commission at their February 11<sup>th</sup> Meeting (from staff report to 3<sup>rd</sup> written comment)
- Minutes of the February 11<sup>th</sup>, 2020 meeting. Note Public Hearings (a).

March 3, 2020

City Of Custer  
Planning Department  
622 Crook Street  
Custer, SD 57730  
Att. Tim Hartmann

Dear Tim,

I am writing you this letter of appeal as to the hearing that was in your city offices concerning my denial of conditional use permit at 265 Desperado Lane in Custer South Dakota.

It was my understanding when I filled out the original application for the conditional use permit with everything that was required that the permit would be attainable through the planning committee. I filled it out, purchased extra insurance and to the best of my knowledge and it all in place before the hearing as asked by you the committee.

As we both know it did not pass the committee with the 3 people there that voted at the hearing. There was 2 individuals that stood and were concerned and brought up things that were so out of text that I could not respond to. The developer himself admitted that there was nothing in the covenants about rentals when he stood and spoke. As to when I purchased the property absolutely nothing was said about if I could rent it or not from my realtor.

To this day I do not know of one incident at my home were there was or ever has been a problem. There has never been a report to the local authorities of trouble, only people that have stayed like the 3 different people that later came up in the area and purchased property after they were introduced to the area through my home. I know, like ourselves most of the visitors go into town and spend a lot of money at local restaurants and many other like businesses.

I have great contact with my renters at all times while they are staying, regularly helping them find different locations or destinations that fit their needs.

As of now I have 8 different vacationers that have already booked and paid up front before January 1st 2020 or before the meeting we had in February for this coming summer. I would like to appeal this decision your planning committee made in the 1st hearing to get the permit required to rent for this summer and not uproot the vacationers plans that have already staged their vacations for the year.

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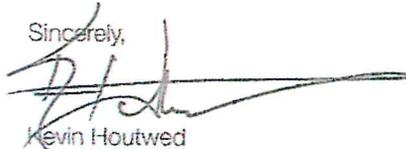
It is very disappointing that I went up there 13 years ago when that hillside could not hardly be given away and purchased a property that Lyle Reindl was building that he was afraid he would not get paid for and now I am told by people that have been there a few years to leave town.

When I go to purchase something in an area I am new to I will ask around the area and make sure this is the right place for me. I would not go in there and bully my way around after the fact because something was not exactly the way I thought it should be. I wonder how those people would feel I told them to leave town because I did not want them walking down the street or stopping to talk to each other along the road. Lets get real, the street is public domain for every one to use.

I have always been very good about trailers on my property, as I personally have been up there with trailers and always try to find a location away from there to park it as to not be a problem or go against ordinance.

For all the right reasons and the fact I have never caused one problem at that location I want to appeal the decision to not give me the permit I need to rent and try to have it reinstated at this time if it is for as long as I own the property or just through this summer to help the people as stated above.

Sincerely,



Kevin Houtwed

P.O. Box 1712

Grand Island, Ne. 68802

308-391-1813

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Planning Department  
622 Crook Street  
Custer, SD. 57730  
Phone: 673-4824 Fax: 673-2411  
e-mail: [timh@cityofcuster.com](mailto:timh@cityofcuster.com)

### Staff Report

Request: 265 Desperado Ln - Conditional Use Permit, Short Term Rental  
Applicant: Kevin & Karen Houtwed  
Fee Paid: \$200.00  
Location: Boot Hill Ranch Subdivision Phase 1 - Lot x of Lot 1 of Block 4, on the NW corner of intersection Desperado Lane and Boot Hill Rd.  
Date: January 21, 2020  
Planning Commission Meeting: February 11, 2020  
Prepared by Tim Hartmann, Planning Administrator

### **GENERAL**

The City has received application for a Conditional Use Permit review of the above referenced property to consider a request to continue the existing use of a short-term rental. As specified in the application, the applicant utilizes the structure as a short-term rental in the summer and as a vacation home for the family throughout the year. The property owner desires to continue such use. Per Custer Municipal Code 17.12.050 short term rentals are a permitted conditional use.

### **SURROUNDING AREA**

The immediate area surrounding 265 Desperado is composed mainly of other residential uses.

The adjacent properties to the North, East, South, and West are within the Residential Zone. To staff's knowledge, all adjacent properties currently exist as residential uses. An existing short-term rental with an approved CUP is active 4 properties to the West and there is commercially zoned property to the south across Desperado Lane and Boot Hill Road.

### **VEHICULAR ACCESS AND PARKING**

Staff has viewed the property from an access and parking standpoint in correlation with the proposed use, size, and parking provided. The applicant has specified a two-car garage with parking on one side available of guests and an approach/driveway leading up to the garage capable of supporting an additional 2 cars. Staff believes this site is capable of supporting parking for the two bed, two bath unit.

### **OTHER ORDINANCE CONCERNS**

Staff conducted an in-office review and a windshield survey of the property on January 21, 2020. No ordinance violations were found.

### **SUMMARY & RECOMMENDED ACTION BY PLANNING COMMISSION**

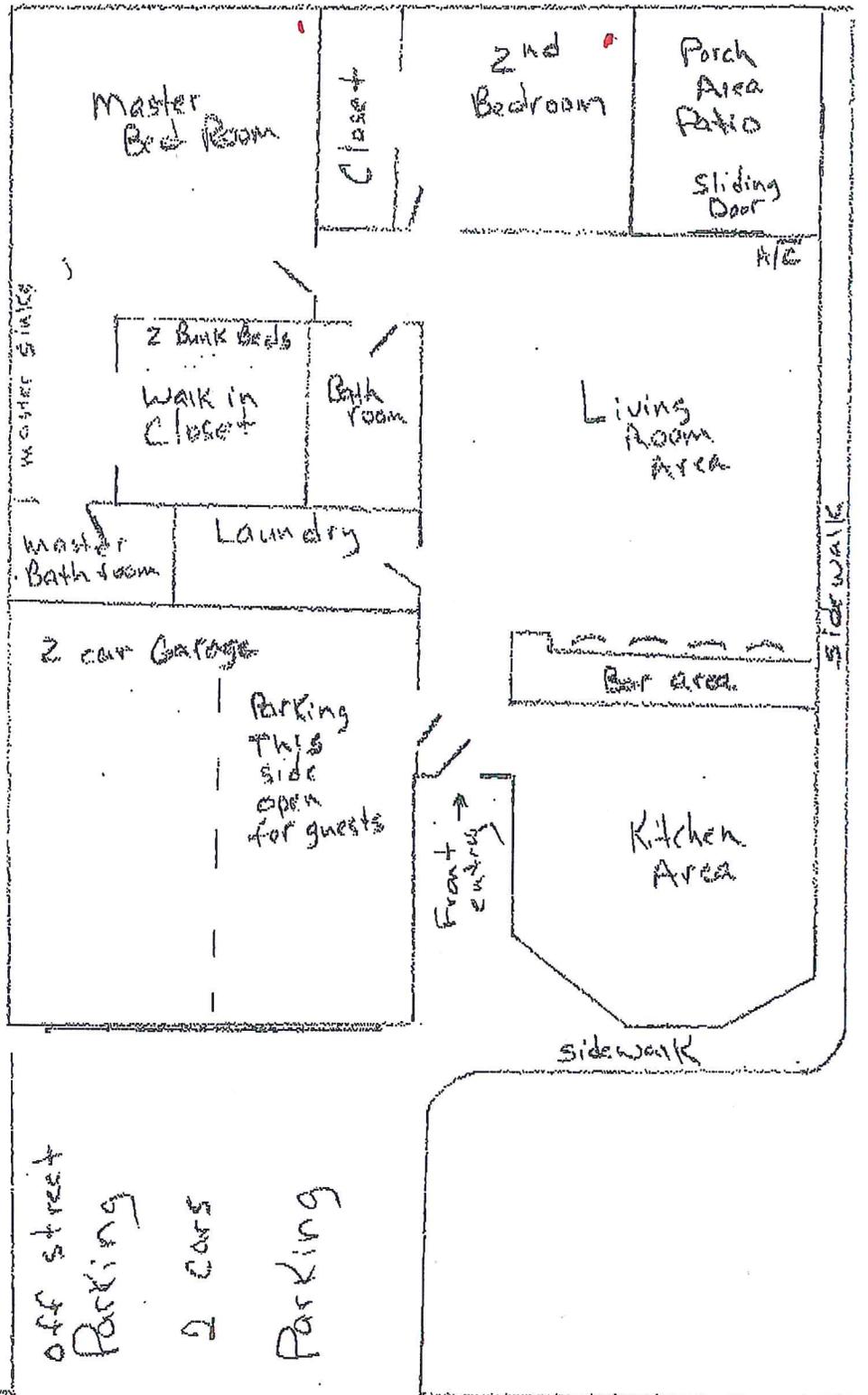
All applicable public notification has been completed. Per our residential zoning ordinance, a townhome although connected to another unit, is treated like a residential structure. Upon review of the CUP review criteria staff feels the criteria are satisfied. Staff supports approval of the Conditional Use Permit by the Planning Commission.

1-15-20

Kevin Houtwed  
265 Desperado Lane  
Custer, S.D. 57730  
308.391.1813

Open Lot

ATT.  
Tim Hartmann  
605-673-2411 Fax



265 Desperado

Street

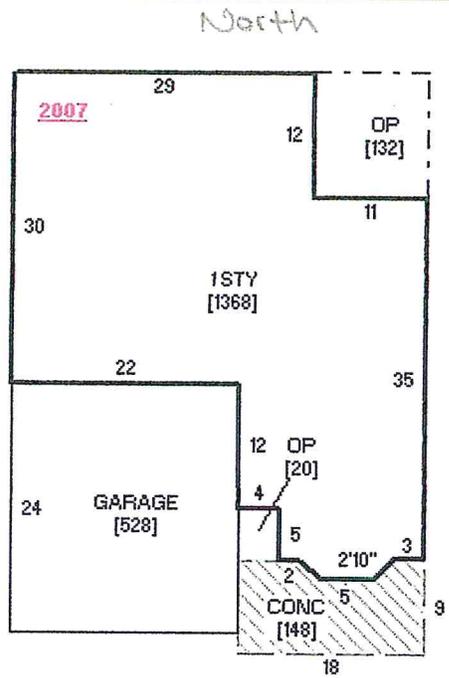
From: **Kim Conwell** kim@cityofcuster.com  
Subject: Sent from Snipping Tool  
Date: January 6, 2020 at 4:23 PM  
To: kevin@hotwoods.com

Open Lot



Kevin Houtwed  
265 Desperado Lane  
Custer, S.D. 57730

West



East  
Street

CONC 22 X 24 = 528 SQFT

Sketch by www.camavision.com

South  
Street

Tim Hartmann

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**From:** Richard Kotrous <richlkot@gpcom.net>  
**Sent:** Tuesday, February 4, 2020 10:24 AM  
**To:** Tim Hartmann  
**Subject:** Conditional Use Permit

Dear Sir:

Yes, its OK with me that Kevin Houtwed have a Conditional Use Permit for for the property located at 265 Desperado Lane. Kevin Houtwed is a very responsible person, I know he screens applicants. I think most of them are his business associates.

Weather permitting, I plan on attending the hearing so I can voice in favor of the Conditional Use Permit. I'm sure the business places in Custer appreciates the extra income that they leave behind.

Richard L Kotrous

PO Box 272

Verdigre, NE 68783-272      263 Desperado LN      Custer, SD 57730      PH: 402-616-7182

**Tim Hartmann**

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**From:** Faith Lewis <faithlewis@kw.com>  
**Sent:** Monday, February 3, 2020 2:55 PM  
**To:** Tim Hartmann  
**Subject:** Re: conditional use permit boot hill

I am in favor of letting Kevin J. Houtwed get a special use permit to short term rent his home at 265 Desperado Lane.

thank you ~

*Faith Lewis*  
605-863-0725 [faithlewis@kw.com](mailto:faithlewis@kw.com)  
Keller Williams/Lewis Realty



**You Gotta Have Faith!**  
If you are lucky enough to live in the Black Hills,  
you are lucky enough!



**FAITH LEWIS** PO Box 97 - Custer, SD 57730  
605-863-0725  
[faithlewis@kw.com](mailto:faithlewis@kw.com) [www.lewisrealtyblackhills.com](http://www.lewisrealtyblackhills.com)

Tim Hartmann

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Item  
5(a)

**From:** Judy Lacey <ronjudy67@gmail.com>  
**Sent:** Monday, February 10, 2020 3:26 PM  
**To:** Tim Hartmann  
**Subject:** Conditional Use Permit Application

Dear Tim,

The purpose of this email is to express our support for the approval of a Conditional Use Permit for the property owned by Kevin Houtwed at 265 Desperado Lane.

Based on our experience, the short term rental that Kevin owns is well run and we have no complaints whatsoever regarding the operation of his business.

Since we live 2 doors west, we have had opportunities to meet many of his renters and find them to be responsible and respectful folks. We find it enjoyable to make recommendations for places to eat and things to do while they are in the area.

If an issue with any of Kevin's tenants should arise, we wouldn't hesitate to contact him and work out a solution in a neighborly way.

Best Regards,  
Ron and Judy Lacey  
261 Desperado Lane

MINUTES OF THE February 11<sup>th</sup>, 2020 MEETING OF THE OF THE CITY OF CUSTER  
PLANNING COMMISSION

Roll Call: 5:00 pm

Members Present: Jerad Tennyson-Chairman; Joe Uhrich-Vice Chairman; Kathy Johnson; Scott Olson; Rick Hudson; Marc Moore – Alternate.

Members Absent: Larry Maciejewski; Fred Mills – Alternate.

Other Parties Present: Tim Hartmann-Planning Administrator; Public Attendees.

Agenda: Commissioner Uhrich moved, with a second by Commissioner Hudson to approve the agenda. Motion unanimously carried.

Minutes: Commissioner Uhrich moved, with a second by Commissioner Moore to approve the December 10<sup>th</sup>, 2020 minutes. Motion unanimously carried.

Declaration of Conflict of Interest: Commissioner Tennyson stated a conflict with agenda item 5(c). Commissioner Moore stated a conflict with agenda item 5(a).

Public Hearings:

- a. Conditional Use Permit Request Short Term Rental – 265 Desperado Lane.  
Planning Commission reviewed the request. Public comments were taken. Commissioner Uhrich moved, with a second by Commissioner Olson to approve the short-term rental conditional use permit. The applicant was present. Uhrich's motion failed with Commissioners Uhrich and Johnson voting no and Commissioner Olson voting yes. The Planning Commission specifically noted a failure to meet review Criteria 17.52.040(B).
- b. Conditional Use Permit Request Convalescent, Nursing/Rest Home and Family Day Care – 722 Crook Street  
Planning Commission reviewed the request. Public comments were taken but none were heard. Commissioner Uhrich moved, with a second by Commissioner Moore to table the Conditional Use Permit until all public notification can be completed. Uhrich's motion carried with Commissioners Uhrich, Johnson Olson all voting yes.
- c. Variance Request Maximum Allowable Sign Area – 245 Centennial Drive  
Planning Administrator provided a summary of the variance request. Public comments were taken. Commissioner Olson moved, with a second by Commissioner Moore to recommend approval of the variance request as presented. The applicant's representative was present. A discussion was held mainly concerning the planned location of the signs, existing signage, and size of proposed signs. Commissioner Olson's motion carried with Commissioners Olson, Uhrich, and Johnson all voting yes.

Old Business:

- a.

New Business:

- a.

Discussion Items:

- a. Rewrite of Custer City's Comprehensive Plan  
Planning Administrator explained that Lysann is finalizing the draft and plans to present it at the next meeting. The Commission reviewed and discussed the updated schedule for finishing the plan.

Public Comments:

Public comments were heard by the Commission.

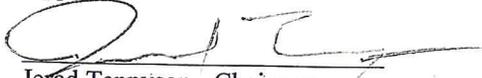
Planning Administrator Updates

Planning Administrator and commission members gave various updates and discussed scheduling.

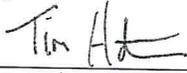
**Adjournment:**

Being no further business before the Commission, Commissioner Hudson moved, with a second by Commissioner Moore to adjourn. Motion unanimously carried. The meeting adjourned at 6:25 pm.

Approved:

  
Jerad Tennyson - Chairman

Attest:

  
Tim Hartmann, Planning Administrator