

All Board of Adjustment Meetings are recorded.

**CITY OF CUSTER CITY**  
**BOARD OF ADJUSTMENT AGENDA**  
June 3<sup>rd</sup>, 2019 – 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: June 3<sup>rd</sup>, 2019
3. Approve Minutes: May 20<sup>th</sup>, 2019
4. Declaration of Conflict of Interest:
5. Public Hearings:
  - a. Appeal of denied Conditional Use Permit Request, 257 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

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.



CITY OF CUSTER CITY  
BOARD OF ADJUSTMENT MEETING  
May 20<sup>th</sup>, 2019

Mayor Corbin Herman called to order the Board of Adjustment Meeting at 6:42 p.m. Present at roll call were Board Member Blom, Whittaker, Nielsen, Fischer, Moore and Arseneault. City Attorney Chris Beesley was present.

**AGENDA**

Board Member Fischer moved, with a second by Board Member Nielsen, to approve the agenda. The motion unanimously carried.

**CONFLICTS OF INTEREST**

No conflicts of interest were stated.

**SETBACK VARIANCE REQUEST – CUSTER COUNTY – 1039 MONTGOMERY STREET (TRACT CLINIC)**

The Board and Planning Administrator discussed information pertaining to the setback variance. Discussion included but was not limited to the proposed building plan, topography of the parcel, and the adjacent Montgomery Street Right of Way. After the discussion, Board Member Blom moved to approve the setback variance request. Second by Board Member Whittaker, motion carried unanimously.

**ADJOURNMENT**

With no further business, Board Member Whittaker moved to adjourn the meeting at 6:46 p.m. Seconded by Board Member Moore, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward  
Finance Officer

Corbin Herman  
Mayor



Board of Adjustment

Within this packet you will find the following supporting information pertaining to the Appeal of denied Conditional Use Permit Request, 257 Desperado Lane – Short Term Rental.

- Ordinance 805 – Conditional Use Permits
- Appeal Letter from Desperado Retreat LLC, Dated May 8,2019
- Information presented within the Planning Commission Packet at their April 23<sup>rd</sup> meeting. (from staff report to affidavit)
- Minutes of the April 23<sup>rd</sup>, 2019 meeting of the Planning Commission.

## ORDINANCE NO - 805

An Ordinance entitled an Ordinance Adding Chapter 17.52 Conditional Use Permits to the City of Custer City Municipal Code, as follows, to wit:

BE IT ORDAINED by the Common Council of the City of Custer City that Chapter 17.52 Conditional Use Permits be added as follows:

### Chapter 17.52

### Conditional Use Permits

#### Sections

17.52.010 Purpose

17.52.020 Conditional Use Application and Fees

17.52.030 Procedure for Review of an Application

17.52.040 Considerations for Approval or Denial

17.52.050 Appeals of a Decision of the Planning Commission

17.52.060 Amendments to a Conditional Use Permit

17.52.070 Reapplication after a Denial

17.52.080 Conditional Use Permit to be Non-Transferable

17.52.090 Expiration of a Conditional Use Permit

17.52.100 Annual Review of Conditional Use Permits

17.52.110 Suspension or Revocation of Conditional Use Permits

#### 17.52.010 Purpose

Within each zoning district, there are certain uses that are permitted as a conditional use. These listed conditional uses under each district are illustrative of those, which the Planning Commission may approve temporarily, permanently or approve for a specific time interval. Additionally, other conditional uses may be allowed, which are not listed, provided they are not contrary to the overall intent of the Chapter 17 of the Custer Municipal Code.

#### 17.52.020 Conditional Use Application and Fees

A. Applications: any person, firm, or corporation may apply for a Conditional Use Permit. If such person, firm, or corporation is acting as an authorized agent, written authorization consenting to the application shall be provided by the property owner. An application shall be provided by the City and returned to the Planning Administrator. The completed application along with all supporting documentation shall be submitted to the Planning Administrator at least twenty (20) days prior to the next regularly scheduled Planning Commission meeting and shall illustrate:

1. A written request pertaining to the proposed use;

2. a complete legal description of the property, maps identifying the property, any diagrams of the property; and
3. a site plan that shall include the following information:
  - a. The proposed land uses and any specific services to be offered;
  - b. all property lines and dimensions of the lot(s);
  - c. the adjacent land use;
  - d. the existing and proposed structures, dimensions, and location of all facilities (i.e. pump stations, gas tanks, etc.);
  - e. the proposed and existing improvements, including septic systems, drain fields, wells, cistern systems, parking and roads;
  - f. the proposed and existing signs and their locations;
  - g. the relationship of the proposed development to the surrounding area.

B. Fees: Upon filing any application for a Conditional Use Permit, the applicant shall pay Custer City the appropriate fee(s) as set forth by the Fee Schedule adopted annually by resolution.

#### 17.52.030 Procedure for Review of an Application

The following shall be the procedures used after an application for a conditional use and the required fees have been submitted to the City:

- A. The Planning Administrator shall review the completed conditional use application and determine if granting the conditional use would be contrary to the criteria set forth in section 17.52.040 of this code. Additionally, any application not containing and/or addressing all the information required in 17.52.020, shall be rejected, and returned to the applicant with the reasons for rejection.
- B. If the Planning Administrator finds the application complies with the application requirements, the Planning Administrator shall present the application along with his/her recommendation concerning the granting of a Conditional Use Permit. The application and recommendation shall be presented in a public hearing at the next regularly scheduled Planning Commission meeting. At the meeting, any interested person shall be given a full, fair, and complete opportunity to be heard.
  - a. After the application is added to the Planning Commission agenda, notice of the application shall be given by sign, mail, and newspaper.
    - i. Sign: A sign will be furnished by the Planning Administration and posted by the Planning Administration. The sign must be posted in plain public view at the property where the conditional use is requested and must be posted no less than ten (10) days prior to the date of the Planning Commission meeting and must remain posted until final action by the

Planning Commission is completed. The sign shall comply with SDCL 11-4-4.4.

- ii. Mail: A minimum of ten (10) days prior to the public hearing, the applicant shall notify all property owners within two hundred fifty (250) feet, exclusive of rights of way and any properties under the same ownership, from any part of the property being considered for a Conditional Use Permit. Mail notification shall be given by Certified Mail or hand-delivered with a receipt signed by the recipient. The Planning Administration shall provide the applicant a list of landowners to be notified and a "Notice of Hearing" form for this purpose. The applicant shall sign an affidavit certifying that the required mailing or delivery was completed and provide the signed affidavit to the Planning Administrator at least five (5) working days prior to the public hearing.
- iii. The Planning Administrator will publish legal notice in the local newspaper at least ten (10) days prior to the Planning Commission's meeting.

C. The Planning Commission shall approve or deny the application following a review of the application in accordance with the requirements set forth in section 17.52.040 of this code. The findings of the Planning Commission shall be documented in a written statement that includes the following;

- a. An explanation of whether the criteria listed in section 17.52.040 of this code has or has not been met. If certain criteria do not apply, an explanation of why it does not comply shall also be provided.
- b. A voting record of the Planning Commission and the date of the Planning Commission's action. This information may be included within the regular meeting minutes of the Planning Commission.
- c. If the action is to deny the application, the reasons for such action shall be stated in the minutes of the meeting and a specific reference shall be made to the requirements not met.

#### **17.52.040 Considerations for Approval or Denial**

Generally, the granting of any Conditional Use shall be 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 be in conflict with the comprehensive plan for development. The following are considerations the Planning Commission may use in determining the approval or denial of a Conditional Use Permit, and supporting documentation may be requested:

- A. that adequate utilities, public safety, water supply, sewage disposal, surface drainage, flood control, soil conservation, access roads, drainage and other necessary facilities have been considered and/or are being provided;

- B. that the Conditional Use is consistent with the surrounding area in terms of character and density;
- C. that the Conditional Use conforms with and is a compatible use within the Comprehensive Plan;
- D. The proposed use shall be in compliance with all other ordinances.
- E. The proposed use shall comply with all specific restrictions and requirements of the zone district.
- F. The proposed use shall be eligible for a Conditional Use Permit based on the Zoning District.
- G. Lighting shall be designed so that it presents a minimal impact to adjacent property. All exterior light sources must be shielded and directed downward.
- H. The proposed use shall have adequate vehicular access and parking to serve the proposed use.
- I. The proposed use shall comply with all applicable state licensing requirements and/or regulations.
- J. The proposed use shall maintain appropriate commercial liability insurance.
- K. that the Planning Commission may impose reasonable conditions in granting a Conditional Use on the condition that the individual accepting those conditions is bound by them; and that the Commission may consider any public comments and comments from public officials.

**17.52.050 Appeals of a Decision of the Planning Commission**

The Planning Commission's action taken on a conditional use permit may be appealed to the Board of Adjustment by any person aggrieved by the decision. The appeal shall be completed using the procedure set forth in section 17.56 of this code.

**17.52.060 Amendments to a Conditional Use Permit**

Amendments to a Conditional Use Permit shall be processed in the same manner as required for a standard Conditional Use Permit.

**17.52.070 Reapplication after a Denial**

No applicant requesting a Conditional Use Permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Planning Commission shall reapply again before the expiration date of six (6) months from the date of the final action on the petition. The reapplication for a Conditional Use Permit shall be processed in the same manner as a new application.

**17.52.080 Conditional Use Permit to be Non-Transferable**

A Conditional Use Permit which has been approved by the Planning Commission is non-transferable and shall be considered valid for only the property and permitted conditional use in which the Permit was approved upon.

#### 17.52.090 Expiration of a Conditional Use Permit

A Conditional Use Permit which has been approved by the Planning Commission shall expire by limitation and become null and void if;

- A. A transfer of ownership occurs with the property in which the Conditional Use Permit has been granted.
- B. The building, work, or use authorized by such permit is not commenced within one year from the date of the approval. Upon written request to the Planning Administrator and prior to the Conditional Use Permit's expiration date, a one-year time extension for the permit may be granted by the Planning Administrator, subject to the following conditions:
  - a. There was no public objection presented during the public hearing process for the original permit; and
  - b. The land uses for the surrounding properties have not significantly been altered since the original approval date for the permit.

#### 17.52.100 Annual Review of Conditional Use Permits

The Planning Commission may, at their discretion, require the person requesting a Conditional Use Permit provide the commission a written annual report, onsite review, or that the person requesting the permit attend a Planning Commission meeting, or all the above, on each anniversary date of the approval of the Conditional Use Permit. The annual report, onsite review, or attendee at a commission meeting shall update the commission on the permit holder's compliance with the terms, requirements, and conditions stipulated in the approval of the permit.

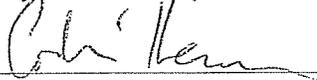
#### 17.52.110 Suspension or Revocation of Conditional Use Permits

If the Planning Administrator finds that at any time that the terms, conditions, or requirements of the Conditional Use Permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, the Planning Administrator shall report this fact to the permittee, landowner, and/or operator, and the Board of Adjustment. The Board of Adjustment may, after conducting a public hearing, of which the permittee, landowner, and/or operator shall be notified, revoke the permit for failure to comply with the terms, conditions, or requirements of the permit.

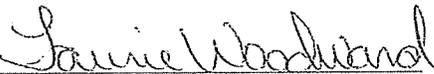
NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance. This Ordinance shall be effective upon passage and publication hereof, as it is necessary for support of the municipal government and its existing public institutions.

Dated this 2<sup>nd</sup> day of July 2018.

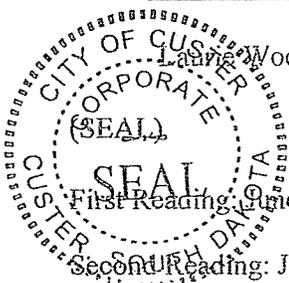
City of Custer City



Corbin Herman, Mayor

Attest 

Laurie Woodward, Finance Officer



First Reading: June 4, 2018

Second Reading: June 18, 2018

July 2, 2018

Publication: July 11, 2018

Vote:

Arseneault: Yes

Maciejewski: Yes

Heinrich: Yes

Nielsen: Yes

Fischer: Yes

Blom: Yes

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DESPERADO RETREAT LLC  
204 HARNEY ST  
CUSTER, SD 57730  
605-673-1244

May 8, 2019

Board of Adjustments  
City of Custer, SD

Dear Sirs,

I am writing to appeal the decision to deny our application for a conditional use permit regarding our property on Desperado Lane. This is a replacement for the letter delivered to the City Planner on April 25, 2019. We need to request, at least, an extension through November to operate our business regardless of the outcome of our appeal so we can honor our long-standing commitment to our guests. Of course, our first choice is that the decision is reversed, and the matter can be resolved.

We are concerned that our personal and business reputation will be damaged if we are not allowed to complete this year's reservations. We share Jorgensen Log Homes name and phone number as a contact with all guests inquiring about our property. Our personal names and phone numbers are also shared. We have other short-term rentals outside the city limits.

We do not feel we should be treated differently than anyone else in town. I have been involved with the process from the time the city decided to regulate this business. We feel we have more than met, and proved up on, all requirements defined in the City ordinance. We would like written confirmation of the basis for the denial before the applicable Board of Adjustment meeting.

We have been operating this property as a short-term rental since 2016. The home is fully furnished and decorated. We have a 3-day minimum stay requirement. We charge upwards of \$230.00 per night. We have cleaning staff that is regularly on site. Many of the visitors have been from Europe and all have been fine guests.

Both adjacent neighbors purchased their property in the past year, long after we began using it as a short-term rental. This knowledge did not prevent them from purchasing the property. One of the adjacent neighbors rented the property the entire time it was a short-term rental and NEVER expressed any concerns to us about its use.

The townhouse complex is not and has never been designated a "retirement" community. There are no restrictions on who can live in the townhouses. Families with children have lived there in the past. The townhouse meets all size requirements in the City ordinance including yard space.

In regard to this property we have had 0 complaints from neighbors in this time frame. We have had 0 problems in these 3 years. There has been NO property damage or theft.

This will be the fourth season of operation and we have many reservations already made for 2019 through Airbnb as well as repeat Guests.

We have formed an LLC to operate this property.

We have always been licensed.

We have always been inspected by the State Health Inspector.

We have always paid all Taxes required.

On a personal note I would like to mention that we have been in the rental business for 35 years. We also own Gold Camp Cabins, as well as 4 rental homes and a downtown apartment building. We have never had a problem with the short-term properties, i.e. Desperado Retreat LLC and Gold Camp Cabins. I wish I could say the same for our long-term rentals.

It seems the concerns at the meeting were 'What Ifs!' and paranoia. I think there would be much greater concern with a long-term renter or owner, (see the Sexual Predator Registry), than any short-term guests on vacation. Short-term problems are obviously very temporary. Additionally, our rental company runs a check on all guests (See the attachment). We email and personally talk to all guests on the phone before we provide access to our property. Everyone has been polite, friendly and respectful. Our guests seem to be off property all day and respect our quiet time request at night. I was previously told that unfounded complaining was not a reason for denial.

In regard to the issue of common wall, (which previously was not a requirement), I would like to point out that all Hotels, Motels, and most vacation destinations have common walls or in many cases are similar to townhouses. We have never had a complaint. We should not be treated any differently than any other request in a residential area.

As you know we have made a considerable investment in this property as well as recent costs required by the City to continue to operate this business. Additional costs will be incurred if we are forced to cancel any existing reservations.

Both my sister and I hope to have this property available for us if needed as we are all getting a little older. We look at the short-term rental as a way to keep the property in excellent condition and increasing in value until we may need it.

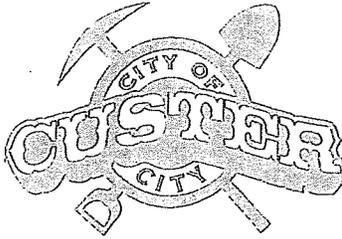
Thank you for considering overturning the decision of the planning commission.

Sincerely,



Carol Jorgensen  
Charlotte Strutton

Desperado Retreat LLC.



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

#### Staff Report

Request: 257 Desperado Lane - Conditional Use Permit, Short Term Rental  
Applicant: Carol Jorgensen  
Fee Paid: \$100.00 CC 2/4/19  
Location: Desperado Lane, Boot Hill Ranch Sub, Phase 1  
Date: March 29, 2019  
Planning Commission meeting: April 23, 2019  
Prepared by Tim Hartmann, Planning Administrator

#### **GENERAL**

The City has received application for a Conditional Use Permit review of the above referenced property, in conjunction with the Residential Conditional Use Permit Group Review. The property has previously been used as a short-term rental and 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 257 Desperado Lane 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, with commercially zoned property beginning 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 owner has specified 4 available parking areas for the property. A 2-car garage and 2 additional parking spots in the driveway. Staff feels these 4 spaces are adequate for the 1370 square foot, 2 bed, 2 bath home.

#### **OTHER ORDINANCE CONCERNS**

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

#### **LEGAL REVIEW**

City legal has reviewed the application and has no concerns with the insurance information provided.

#### **RECOMMENDED ACTION BY PLANNING COMMISSION**

All applicable public notification has been completed. Upon review of CUP review staff feels the criteria are satisfied. Staff supports approval of the Conditional Use Permit by the Planning Commission.

622 Crook Street  
Custer, SD 57730

# Planning Department

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

## Conditional Use Permit Application

**Applicant Information**

Applicant Carol T. Jorgensen  
 Address 204 Harney St.  
Custer, SD 57730  
 City State Zip  
 Phone 605-673-1244  
 E-mail: jorgensen@gwtc.net

**(Owner of property if different than applicant)**

Owner Desperado Retreat LLC  
 Address 257 Desperado Lane  
Custer, SD 57730  
 City State Zip  
 Phone \_\_\_\_\_  
 E-mail: \_\_\_\_\_

**Proposed Conditional Use 24/7 Contact**

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 City State Zip  
 Phone \_\_\_\_\_  
 E-mail: \_\_\_\_\_

**Please Note**

- If applicant is not the owner, written authorization of such application from the owner will be required.
- The applicant shall be responsible for mail notification of such application.
- Planning Commission meets the 2<sup>nd</sup> Tuesday of each month. Application and supporting documents must be provided to the Planning Administrator 20 days prior to the meeting.

Property Address 257 Desperado Lane  
 Legal Description Attached  
 Lot T Block 1 Subdivision Boot Hill Ranch Subl  
 Size 6383 (acres)(square feet) Property Zoning District Residential  
59 ft.  
 Water Services City Sewer Services City  
 Describe Current Use Vacation<sup>Rental</sup> by Owner - in operation  
for past 4 years  
 Describe Proposed Use (Include Site Plan) Vacation<sup>Rental</sup> by Owner

I hereby confirm that I have completed and possess all applicable South Dakota State licensing requirements.

ctj  
Initial

I hereby confirm that the proposed use will maintain appropriate Commercial Liability Insurance.

ctj  
Initial

Please Include the Following Information as Required at least 20 days prior to the Planning Commission meeting.

- Site Plan and or Floor Plan as Needed – A Site Plan is mapped or drawn to scale information to show buildings, parking and new or existing features that implement the CUP.
- Certificate of appropriate commercial liability insurance.
- Written authorization from the property owner. (if applicant is not the property owner.)
- Conditional Use Permit Criteria narrative
- Conditional Use Permit Fee Payment

Owner/Applicant Signature: Carol T. Jorgensen Date: 2/28/19  
J. member

Conditional Use Permit Application

Conditional Use Permit Criteria Narrative

(Applicant shall complete)

The following are considerations, per CMC 17.52.040, that the Planning Commission shall use in determining the approval or denial of a Conditional Use Permit. Please provide comment on the below criteria.

- A. that adequate utilities, public safety, water supply, sewage disposal, surface drainage, flood control, soil conservation, access roads, drainage and other necessary facilities have been considered and/or are being provided; *Subdivision is within the city limits. Utilities + infrastructure meet all standard requirements.*
- B. that the Conditional Use is consistent with the surrounding area in terms of character and density; *The property is half of a duplex. It is 2 bedroom/1 bath. VRBO use is limited to 6 people.*
- C. that the Conditional Use conforms with and is a compatible use within the Comprehensive Plan; *no pets*
- D. The proposed use shall be in compliance with all other ordinances.
- E. The proposed use shall comply with all specific restrictions and requirements of the zone district.
- F. The proposed use shall be eligible for a Conditional Use Permit based on the Zoning District.
- G. Lighting shall be designed so that it presents a minimal impact to adjacent property. All exterior light sources must be shielded and directed downward. *Normal residential lighting. Porch lights front + back*
- H. The proposed use shall have adequate vehicular access and parking to serve the proposed use. *Clean 2 car garage available for parking. Concrete driveway will also accommodate*
- I. The proposed use shall comply with all applicable state licensing requirements and/or *2 cars* regulations. *SD Dept of Health Lodging License - attached Annual Health Inspection. SD Dept of Revenue Sales Tax License - attached*
- J. The proposed use shall maintain appropriate commercial liability insurance. *American National Policy*

622 Crook Street  
Custer, SD 57730

# Planning Department

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

## Conditional Use Permit Application

- K. that the Planning Commission may impose reasonable conditions in granting a Conditional Use on the condition that the individual accepting those conditions is bound by them; and that the Commission may consider any public comments and comments from public officials.

<u>Official Use Only</u>	
Date Filed <u>2-28-19</u>	Permit Fee <u>100<sup>00</sup>.</u>
Permit/Receipt Number <u>46052</u>	Parcel ID # <u>13001</u>
Planning Commission/Public Hearing Date _____	
Received By _____	

**WRITINGS IN LIEU OF FIRST MEETING  
OF MEMBERS OF  
DESPERADO RETREAT, L.L.C.**

The undersigned, being the Organizer and all of the Members of DESPERADO RETREAT, L.L.C., a South Dakota Limited Liability Company, being entitled to notice of the First Meeting of Members, hereby waive all requirements of notice of such meeting of Members and consent to the adoption of this writing in lieu of the First Meeting of Members of said Limited Liability Company.

The actions set forth below are hereby adopted and shall be of the same affect as if adopted at the First Meeting of Members of said limited liability company duly called and held for the purpose of taking such actions. This writing is hereby ordered filed with the Minutes of Members.

**RESOLVED**, that the provisions herein regarding the LLC shall be considered effective April 1, 2018, and that a partnership tax return be filed for the year beginning from said date.

**RESOLVED**, that no managers shall be appointed at this time.

**RESOLVED**, that either CAROL A. JORGENSEN or CHARLOTTE E. STRUTTON is authorized for the signing of tax forms and signing contracts unless written notice is otherwise directed to the third party by the other member.

**RESOLVED**, that the proposed form of Membership Certificate be adopted as the Membership Certificate of the Limited Liability Company.

**RESOLVED**, that the Articles of Organization of the Limited Liability Company be accepted by all members as currently filed.

**RESOLVED**, that the Operating Agreement of the Limited Liability Company to be effective April 1, 2018, be adopted by each member signing said agreement.

**Description:**

LOT T OF LOT 1 OF BLOCK 4 OF BOOT HILL RANCH SUBDIVISION PHASE 1, LOCATED IN TRACT A OF THE NE 1/4SW1/4 OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST OF THE BLACK HILLS MERIDIAN, CUSTER COUNTY, SOUTH DAKOTA, AS SHOWN ON PLAT FILED IN BOOK 12 OF PLATS, PAGE 319.

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48.75'

outside  
porch

2 Bedroom  
2 Bath

130.95'

Double  
garage

Entry

Concrete  
walkway

Driveway

Lawn

Desperado Lane

Tim Hartmann

---

**From:** Richard Kotrous <richlkot@gpcom.net>  
**Sent:** Tuesday, April 16, 2019 4:30 PM  
**To:** Tim Hartmann  
**Subject:** Short-term rental

Yes, its OK with me that they can have a Conditional Use Permit for the property located at 257 Desperado Lane. I'm sure the business places in Custer appreciate the extra income that they leave behind.  
I do want to thank you for contacting me for my input.

Richard L Kotrous  
PO Box 272  
Verdigre, NE 68783-0272 263 Desperado LN

Kim Conwell

---

From: Tim Hartmann  
Sent: Friday, April 12, 2019 2:58 PM  
To: Kim Conwell  
Subject: FW: Conditional Use Permit for Carol T. Jorgensen

Please print and file.

From: raymondjprince@aol.com <raymondjprince@aol.com>  
Sent: Friday, April 12, 2019 10:27 AM  
To: Tim Hartmann <timh@cityofcuster.com>  
Subject: Conditional Use Permit for Carol T. Jorgensen

Greetings Mr. Hartmann:

Thank you for the Notice of Public Hearing regarding Conditional Use Permit for 257 Desperado Lane, Custer, SD.

I will be unable to attend the meeting since I have to be in Washington, DC that day for a deposition.

After living in Pennsylvania, New Jersey, as well as traveling to every state in the USA and 10 other countries what a pleasure it is to live in Custer. You already know all the good points about Custer so I will not list them. But I have to point out -- I do love Burger and Bun!

Boot Hill is a great area. I sold my large home three miles up on Upper French Creek about 1.5 years ago to move into Boot Hill. Upper French Creek although beautiful, the heavy traffic, dust, noise in the summer from vacation rentals did not make it a great place to retire. The noise of groups of 10 ATV's going buy and other vacation recreational vehicles did not make it pleasant. Boot Hill was the answer for me. We have great neighbors and a quiet street.

I am opposed to turning this area into a vacation rental area. If I wanted to live in one I would have purchased one in Florida.

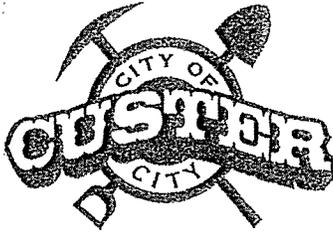
I do not wish to move.

Raymond J. Prince  
Printing Consultant  
Boot Hill  
249 Desperado Lane  
Custer, SD 57730

605-941-1492 (cell)  
605-673-5065 (home)

[raymondjprince@aol.com](mailto:raymondjprince@aol.com)

"My position is that there is no place for divisiveness when it comes to gender and diversity. We are all people worthy of respect and mutual support. There are some issues, perhaps most, where there is no such thing as gender ownership." - Dr. Harvey Levenson



Affidavit of Certification for Neighboring Property Owner Notification

I hereby state that to the best of my knowledge all property owners within 250 feet, exclusive of rights of way and any properties under the same ownership, of my property have been notified by Certified Mail or Hand Delivered at least 10 days prior to the upcoming public hearing.

Dated this the 17 day of April, 2019.

Carol Jorgensen  
Signed

Carol T. Jorgensen  
Name Printed

STATE OF SOUTH DAKOTA

COUNTY OF Custer

Subscribed and sworn before me this the 17 day of April, 2019.

Sydney M. Gramkow  
Notary Signature

Sydney M. Gramkow  
Notary Name Printed

June 7<sup>th</sup> 2024  
Commission Expires



MINUTES OF THE April 23<sup>rd</sup>, 2019 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 (voting in place of Commissioner Maciejewski).

Members Absent: Larry Maciejewski; Fred Mills – Alternate.

Other Parties Present: Tim Hartmann-Planning Administrator; Public Attendees (sign in sheet on file with Planning Administrator)

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

Minutes: Commissioner Moore moved, with a second by Commissioner Hudson to approve the <sup>April 9<sup>th</sup> Tim H</sup> ~~April 23<sup>rd</sup>~~, 2019 minutes. Motion unanimously carried.

Declaration of Conflict of Interest: None stated.

New Business:

Public Hearings - Conditional Use Permit Request

- a. 832 Lincoln Street – Short Term Rental  
Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Moore to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Uhrichs motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.
- b. 126 N 8<sup>th</sup> Street – Short Term Rental  
Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Moore to approve the Conditional Use Permit with a specific stipulation noted that the parking areas in front of the property fronting 8<sup>th</sup> Street be made available for tenants of the short-term rental. A brief discussion was held, and public input was gathered. Uhrichs motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.
- c. 503 N 3<sup>rd</sup> Street – Short Term Rental  
Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Moore to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Uhrichs motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.
- d. 239 Gordon Street – Short Term Rental  
Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Moore to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Uhrichs motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.
- e. 257 Desperado Lane – Short Term Rental  
Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Olson to Approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Uhrichs motion failed with Commissioners Uhrich, Johnson, Olson, and Moore all voting No. Planning Commissioner specifically noted a concern with review criteria B, the town home being a small lot, with a small yard, and an inconsistent character to the neighborhood.
- f. 241 N 4<sup>th</sup> Street – Short Term Rental  
Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Moore to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Uhrichs motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.
- g. 951 Homestead Drive – Short Term Rental  
Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Moore to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Uhrichs motion failed with Commissioners Uhrich, Johnson, Olson, and Moore all voting No. Planning

Commissioner specifically noted a concern with review criteria g, with more information needed pertaining to the possibility of the structure also being used as a Multiple Family Dwelling and assuring compliance of such uses.

h. 35 Mountain Avenue – Short Term Rental

Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Moore to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Uhrichs motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.

i. 1193 Homestead Drive – Family Day Care

Planning Administrator provided a staff review of the property. Commissioner Johnson moved, with a second by Commissioner Olson to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Johnsons motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.

j. 111 Crook Street – Short Term Rental

Planning Administrator provided a staff review of the property. Commissioner Moore moved, with a second by Commissioner Uhrich to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Moores motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.

k. 1027 Pine Street – Home Occupation

Planning Administrator provided a staff review of the property. Commissioner Uhrich moved, with a second by Commissioner Johnson to table the Conditional Use Permit application until the May 14<sup>th</sup>, 2019 meeting to allow for additional time for mail notification recipients to consider the application. A brief discussion was held, and public input was gathered. Uhrichs motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.

l. 248 N 2<sup>nd</sup> Street – Short Term Rental

Planning Administrator provided a staff review of the property. Commissioner Moore moved, with a second by Commissioner Uhrich to approve the Conditional Use Permit. A brief discussion was held, and public input was gathered. Moores motion carried unanimously with Commissioners Uhrich, Johnson, Olson, and Moore all voting Yes.

Public Hearing – Variance Request

a. Custer County – Setback Variance Request, 1039 Montgomery, Tract Clinic

Planning Administrator and Planning Commissioners discussed the variance request. Discussion included but was not limited to the adjacent Montgomery Street Right of Way, the proposed structure and use, and some topography of the parcel. After the discussion, Commissioner Johnson moved, with a second by Commissioner Uhrich to recommend approval of the variance request by the Board of Adjustment. Motion unanimously carried.

Old Business:

Discussion Items:

Planning Administrator Updates

Planning Administrator and commission members gave various updates.

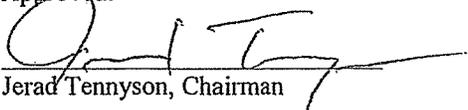
Communications from The Public

No communications from the public were heard.

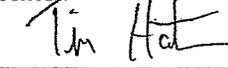
Adjournment:

Being no further business before the Commission, Commissioner Moore moved, with a second by Commissioner Olson to adjourn. Motion unanimously carried. The meeting adjourned at 7:01 pm.

Approved:

  
Jerad Tenneyson, Chairman

Attest:

  
Tim Hartmann, Planning Administrator