

**CITY OF CUSTER PLANNING AND ZONING COMMISSION
AGENDA**

Tuesday May 22nd, 2018 at 5:00 P.M.

Custer City Hall, 622 Crook Street, Custer, SD 57730

Call to Order - Roll Call:

Approve Agenda: May 22, 2018

Approve Minutes: May 8, 2018

Declaration of Conflict of Interest:

New Business:

Zoning Variance – Setback Variance Request, Brad and Connie Torgerson

Old Business:

Discussion Items:

Revisions to the Extraterritorial Area Policy

Planning Administrator Updates:

Communications from The Public:

Adjournment:

DRAFT
MINUTES OF THE May 8th, 2018 MEETING OF THE OF THE CITY OF
CUSTER PLANNING COMMISSION

Roll Call: 5:00 pm

Members Present: Jerad Tennyson-Chairman; Joe Uhrich-Vice Chairman; John Dvorak; Jerry Stites; Rick Hudson – 3 Mile Representative.

Members Absent: Tim Behlings – Alternate.

Other Parties Present: Tim Hartmann–Planning Administrator; Mayor Herman; Larry Maciejewski-Council Representative.

Agenda: Commissioner Hudson moved, with a second by Commissioner Uhrich to approve the May 8th, 2018 agenda. Motion unanimously Carried.

Minutes: Commissioner Uhrich moved, with a second by Commissioner Dvorak to approve the April 10th, 2018 minutes. Motion unanimously carried.

Declaration of Conflict of Interest: Commissioner Dvorak stated he has a conflict of interest with the Preliminary Plat – Plat of Tract 1 & 2 Revised of Big Rock Subdivision, Schneller Tract and Brouillard Tract.

New Business:

Commissioner Dvorak left the meeting at 5:07pm.

Preliminary Plat – Plat of Tract 1 & 2 Revised of Big Rock Subdivision, Schneller Tract and Brouillard Tract. Planning Administrator and Commission reviewed the plat. After some discussion concerning the nature of the non-subdivision plat and the portions contiguous to city limits, Commissioner Uhrich moved, with a second by Commissioner Hudson to recommend approval of the plat by the City Council with a recommendation to not annex the property included in the plat. Commissioner Uhrich’s Motion also contingent upon all items presented in the red line correction plat being addressed. Motion unanimously carried.

Commissioner Dvorak returned to the meeting at 5:20pm.

Minor Plat – Plat of Lot 7R Block 6. Planning Administrator and Commission reviewed the plat. After some minor discussion, Commissioner Dvroak moved, with a second by Commissioner Stites to recommend approval of the plat by the City Council. Motion unanimously carried.

Old Business:

Block 125 – Washington Street Right of Way Vacation Request. Planning Administrator and Commission reviewed the newly presented documentation for the vacation request. Commissioner Uhrich moved, with a second by Commissioner Dvorak, to recommend approval by the Council of the street vacation as presented. Motion unanimously carried.

Discussion Items:

Zoning Discussion – Central Business Use Expansion. Planning Administrator and Commission had a discussion concerning the property uses along the main business corridors through Custer City. Planning Administrator, with the assistance of Commissioners plan to research possible new urban commercial zoning.

Planning Administrator Updates

Planning Administrator and commission members gave various updates.

Communications from The Public

No public comments were heard.

Adjournment:

Being no further business before the Commission, Commissioner Uhrich moved, with a second by Commissioner Dvorak to adjourn. Motion unanimously carried. The meeting adjourned at 5:56 pm.

Approved:

Attest:

Jerad Tennyson, Chairman

Tim Hartmann, Planning Administrator



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Custer, SD. 57730
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e-mail: timh@cityofcuster.com

Staff Report

Request: Front Setback Variance - Accessory Structure *CMC 17.12.060*
Applicant: Brad & Connie Torgerson
Fee Paid: \$150.00
Location: Lot 2, Block 3 of Bavarian Hills Estates 1st Addition, 632 Victory Lane
Date: May 16, 2018
Planning Commission Meeting: May 22, 2018
Prepared by Tim Hartmann, Planning Administrator

GENERAL

A single-family home and premanufactured carport currently exist on the property. The applicant wishes to remove the existing carport and build a 26' x 40' garage. The existing home was constructed in 2003 and is located nearly centered on the lot. The proposed structure is planned to be attached to the home on the north side and would be constructed with a setback from the front property line of no less than 10'. Side setbacks will follow current zoning regulations.

Lot 2 of Bavarian Hills Estate 1st addition is 0.25 acres. The home has a footprint of approximately 1765 square feet.

Victory Lane provides access to the area and is adjacent to the front property line. Victory Lane has access via a 50' Right-of-Way.

VARIANCE

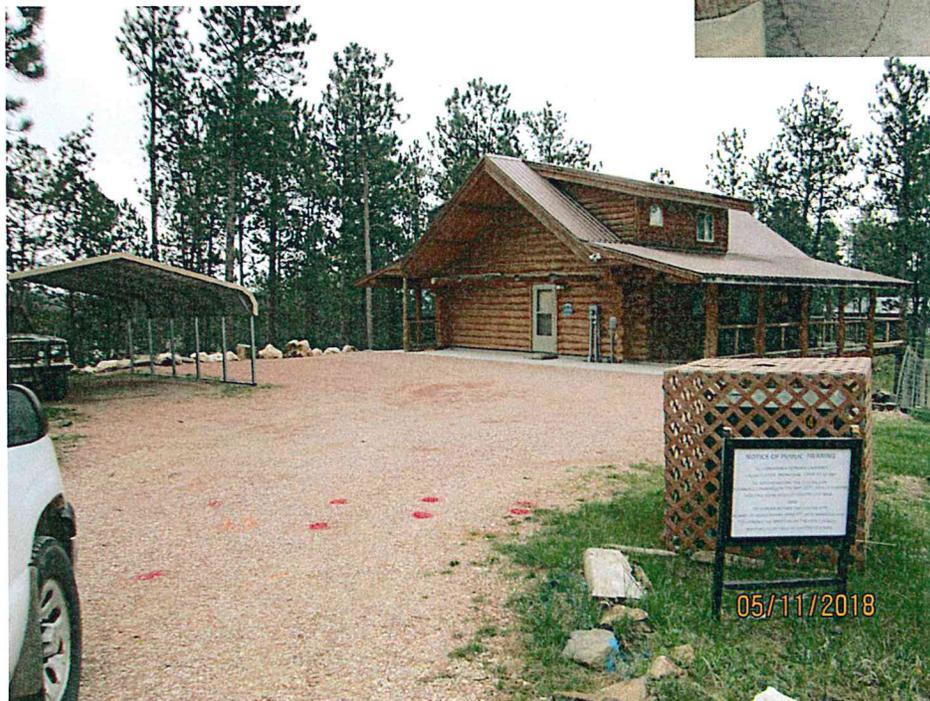
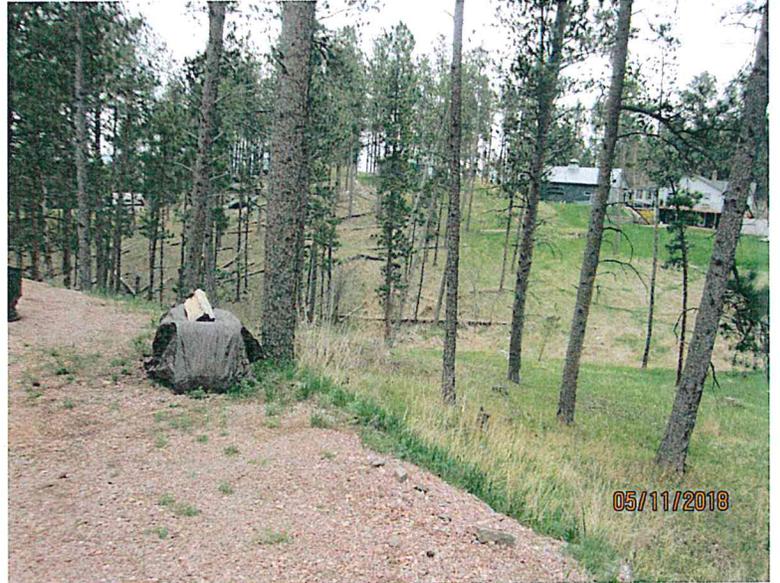
The variance request is to allow a variance from Current Custer Municipal Code 17.12.060. CMC requires a front setback of 30' for any structure. If granted the garage would be setback about 10' from the Victory Lane ROW. The 0.25-acre property may be restricted from a building standpoint due to topography, and the centered location of the home built under previous ownership. The existing home is constructed into the hillside with significant foundation walls to accommodate the grade of the parcel. A significant drainage currently exists on the south side of the property with the back approximately 55' of the property slopping significantly into the ravine. These conditions should be considered while reviewing the variance.

PUBLIC HEARING

A Public Hearing will also be held at the June 4th, 2018 Board of Adjustment meeting.

RECOMMENDED ACTION BY PLANNING COMMISSION

Primarily due to the topography of the parcel, and in considering the location of the existing home staff feels granting the variance would be appropriate. The proposed garage carport would not encroach into the public Right of Way. It would provide adequate distance from the traveled way (Victory Lane) to assure no traffic hazards are created as vehicles enter and exit the property. Staff supports a recommendation to the Board of Adjustment to approve the variance.



BRAD BERGERSON GARAGE

1sq approx 3 feet

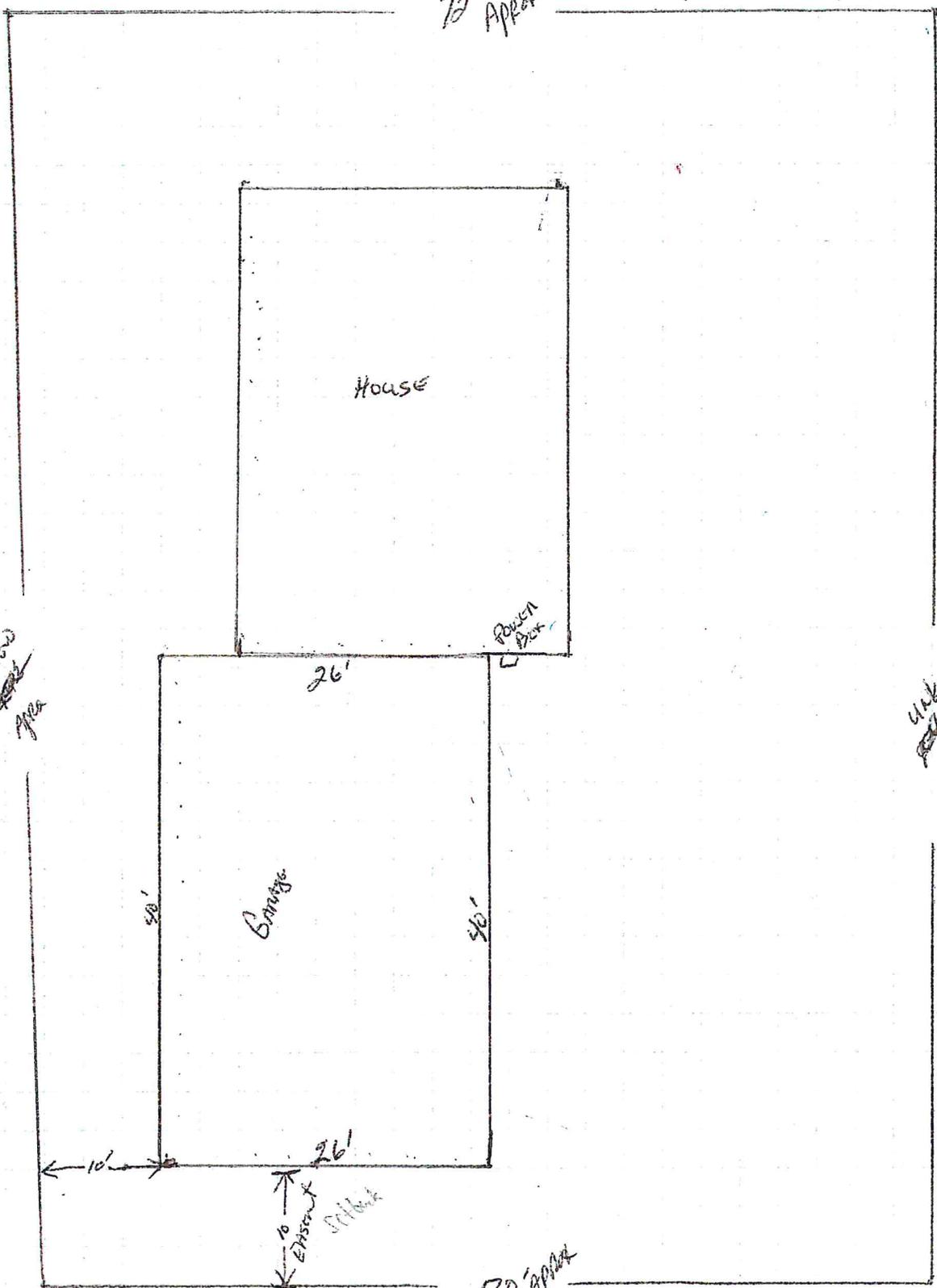
73.25'
73' approx

LOT

unknown
area

unknown
area
approx

152.45



70' approx

73.73'

N

*EXTRATERRITORIAL AREA
POLICY AGREEMENT*

Between

CUSTER COUNTY, SOUTH DAKOTA

And the

CITY OF CUSTER, SOUTH DAKOTA

Preliminary Draft for Review
_____, 2018

CUSTER COUNTY, SOUTH DAKOTA
RESOLUTION _____

A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS TO SIGN AND THE COUNTY AUDITOR TO ATTEST TO AN AGREEMENT BETWEEN CUSTER COUNTY, SOUTH DAKOTA AND THE CITY OF CUSTER, SOUTH DAKOTA ESTABLISHING POLICIES FOR DEVELOPMENT OF LAND WITHIN THE EXTRATERRITORIAL AREA OF CITY OF CUSTER IN CUSTER COUNTY.

WHEREAS, two (2) or more local governments enabled under Section 1-24-3 of the South Dakota Codified Law to enter into agreements to cooperate for the mutual advantage of the governments involved; and

WHEREAS, Custer County deems a land use policy agreement with the City of Custer for orderly growth and development within the extraterritorial jurisdiction of the City of Custer within Custer County, to be to the mutual advantage of the City of Custer and Custer County.

NOW THEREFORE BE IT RESOLVED, that the Board of County Commissioner of Custer County hereby authorizes the Chair of the Board of County Commissioners to sign and the County Auditor to attest to the attached Agreement between Custer County and the City of Custer establishing land use policies for the extraterritorial jurisdiction of the City of Custer in Custer County.

Passed and approved this _____ day of _____, 2017.

Board of County Commissioners Chair

ATTEST:

County Auditor

CITY OF CUSTER, SOUTH DAKOTA
RESOLUTION _____

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AND THE FINANCE OFFICER TO ATTEST TO AN AGREEMENT BETWEEN CUSTER COUNTY, SOUTH DAKOTA AND THE CITY OF CUSTER, SOUTH DAKOTA ESTABLISHING POLICIES FOR DEVELOPMENT OF LAND WITHIN THE EXTRATERRITORIAL AREA OF THE CITY OF CUSTER THAT IS LOCATED WITHIN CUSTER COUNTY.

WHEREAS, two (2) or more local governments enabled under Section 1-24-3 of the South Dakota Codified Law to enter into agreements to cooperate for the mutual advantage of the governments involved; and

WHEREAS, the City of Custer deems a land use policy agreement with Custer County for orderly growth and development within the extraterritorial jurisdiction of the City of Custer within Custer County, to be to the mutual advantage of the City of Custer and Custer County.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Custer hereby authorizes the Mayor to sign and the Finance Officer to attest to the attached Agreement between Custer County and the City of Custer establishing land use policies for the extraterritorial jurisdiction of the City of Custer in Custer County.

Passed and approved this _____ day of _____, 2017.

Mayor

ATTEST:

Finance Officer

**EXTRATERRITORIAL AREA POLICY AGREEMENT
BETWEEN CUSTER COUNTY AND THE CITY OF CUSTER, SOUTH DAKOTA**

THIS AGREEMENT is entered into pursuant to Section 1-24-3 of the South Dakota Codified Law by and between Custer County, South Dakota, a local government in the state of South Dakota, and the City of Custer South Dakota, a local government in the state of South Dakota, to wit:

WHEREAS, the CUSTER County Board of Commissioners support the preparation and adoption of development plans and agreements between County and the City regarding the municipality and its environs; and

WHEREAS, the City of Custer Comprehensive Plan outlines the extent of urban development expected in the future and projects annexation of extraterritorial areas; and

WHEREAS, it is in the interest of Custer County and the City of Custer to establish policies for the orderly growth and development within the extraterritorial jurisdiction of the City within Custer County; and

WHEREAS, CUSTER County and the City of Custer mutually agree that such policies are necessary to more effectively and economically provide services for future growth and development.

NOW THEREFORE, the parties hereto agree for themselves and their respective successors as follows:

I. INTENT, DEVELOPMENT AREA ESTABLISHMENT, AND IMPLEMENTATION MEASURES.

The parties accept and agree to the following development policies and implementation measures regarding annexation, zoning, and subdivision platting review of areas located within the extraterritorial jurisdiction of the City of Custer in Custer County.

A. Statement of Intent.

In order to facilitate the purposes of Chapter 11-2, 11-3, 11-4, and 11-6 of the South Dakota Codified Law (SDCL) and to further the policy of this State to provide for accurate, clear, and concise legal descriptions of real estate in order to prevent, whenever possible, land boundary disputes or real estate title problems; to provide for a balance between land use rights of individual landowners and the economic, social, and environmental concerns of the public when a city or county is developing or enforcing land use regulations; to provide for statewide, uniform procedures and standards for the platting of land while allowing the widest possible latitude for cities and counties to establish and enforce ordinances regulating the division and use of land; to encourage orderly community development and provide for the regulation and control of the extension of public improvements, public services, and utilities, the improvement of land, and the design of subdivisions consistent with approved community plans.

This Agreement was developed in the interest of providing for orderly and effective development patterns in those areas of Custer County within the extraterritorial jurisdiction of the City of Custer. It also hopes to define how services will be provided for such development at the least cost to all the citizens of Custer County. The City of Custer and Custer County agree, as provided in Chapter 11 of the SDCL, to the following development policies and implementation measures regarding annexation, zoning, and subdivision review for various designated areas outlined herein.

This Agreement, authorized in 1-24-3 of the SDCL, between Custer County and the City of Custer will pertain to the extraterritorial jurisdictional area of the City of Custer located within Custer County, as shown in Exhibit A.

B. Development Areas.

Area #1. Adjacent and Contiguous.

Development type:

Developments that are intended to be served by municipal utilities and are to be constructed to City subdivision and design standards. It is probable that development in this area is in conjunction with annexation and reclassified into the appropriate City zoning district.

Policy:

Primary Land Use:..... Residential and Highway Commercial.

Sewer:..... City Subdivision and Design Standards are Required.

Water:..... City Subdivision and Design Standards are Required.

Streets:..... City Subdivision and Design Standards are Required.

~~Public Road to Subdivision:..... Asphalt.~~

Land Use/Zoning:..... County with city zoning implemented should annexation occur.

Construction Permitting/Code:.....County, transfer to city should annexation occur.

Design Standards:..... City.

Subdivision Standards:..... City.

Annexation:..... Shall be considered at the Time of Subdivision and Extension of Municipal Services.

Plat Reviewed by:..... City, recommendation from City Planning Commission to City Council for final review~~Final Approval~~. County comments requested (Routing).

Implementation:

- Land Use/Zoning requests shall be submitted and approved by the City. The City shall provide the County with the opportunity to comment and make recommendations on all requests for conformance with the policies established for this development area,
- City subdivision regulations and design standards will be applied to regulate development. The City will provide the County with the opportunity to comment and make recommendations on all requests for conformance with the policies established for this development area.
- Annexation of, or within, this area is ~~required~~ shall be considered by the City Council if the City provides services during the term of this Agreement, and shall be concurrent with individual subdivision activity and with the extension of utility systems.

Geographic areas:

See Exhibit A, which is attached and made part of this Agreement.

Area #2. Non-Contiguous Within One Mile.

Development type:

Development served either by a common water system, individual private wells, common sewage treatment facility, and/or individual septic system. Smaller lots may be permitted if either a common water system or a common sewage treatment facility is required. The location of these properties is such that they are not beyond a reasonable expectation of future annexation by the City.

Policy:

- Primary Land Use:..... Rural Residential.
- Sewer:..... Septic System and/or Common Sewer Collection and Treatment Facilities that are consistent with South Dakota Department of Environment and Natural Resources (DENR) and County standards.
- Water:..... Private Wells and/or Common Water Distribution and Treatment Facilities that are consistent with DENR and County standards.
- Streets:..... Custer County Ordinance #2 and Road Design Criteria Combined Subdivision and Design Standards are Required.
- Land Use/Zoning:..... County with city zoning implemented should annexation occur.
- Construction Permitting:..... County, transfer to city should annexation occur.
- Design Standards:..... County.
- Subdivision Standards:..... Rural Subdivision standards as required in Section 16.18 of the Custer Municipal Code—County/City Combined.
- Annexation:..... Not Required.
- Plat Reviewed by:..... City, recommendation from City Planning Commission to City Council for final review~~Final Approval~~. County comments requested (Routing).

Implementation:

- ~~Land Use/Zoning requests shall be submitted and approved by the County. The County shall provide the City with the opportunity to comment on all requests for conformance with the policies established for this development area.~~
- ~~Plat review shall be conducted with review as outlined in the Policy section of Area 2. Both the County and the City subdivision and design standards shall be applied to evaluate and regulate development.~~ The City County shall provide the County-City with the opportunity to comment on all requests for conformance with the policies established for this development,
- Annexation of significant portions of this area is not anticipated during the term of this Agreement. However, in the event of annexation within this area, municipal design standards will be applied to facilitate municipal services.

Geographic areas:

See Exhibit A, which is attached and made part of this Agreement.

Area #3. Exceeding One Mile, Within Three Mile Jurisdiction.

Development type:

Development is predominantly served by individual private wells and individual septic systems. The location of these properties is such that they are beyond a reasonable expectation of future annexation by the City.

Policy:

Primary Land Use:..... Agricultural, Rural Residential
Sewer:..... Septic System and/or Common Sewer Collection and Treatment Facilities that are consistent with South Dakota Department of Environment and Natural Resources (DENR) and County standards.
Water:..... Private Wells and/or Common Water Distribution and Treatment Facilities that are consistent with DENR and County standards.
Streets:..... County Subdivision and Design Standards are Required.
Land Use/Zoning:..... County.
Construction Permitting:..... County.
Design Standards:..... County.
Subdivision Standards:..... County.
Annexation:..... Not Required.
Plat Reviewed by:..... City, recommendation from City Planning Commission to City Council for final review—City, with comment and recommendation to County for Final County comments requested (Routing).

Implementation:

~~• Land Use/Zoning requests shall be submitted and approved by the County. The County shall provide the City with the opportunity to comment on all requests for conformance with the policies established for this area.~~

- County subdivision and design standards shall be applied to regulate development. The ~~City~~County shall provide the ~~County~~City with the opportunity to comment on all requests for conformance with the policies established for this area.
- Annexation of any portions of this area is not anticipated during the term of this Agreement.

Geographic areas:

See Exhibit A, which is attached and made part of this Agreement.

II. ADMINISTRATIVE POLICIES.

Custer County, referred to as the County, and the City of Custer, referred to as the City, accept and agree to the following Administrative Policies, which will be used to implement this Agreement:

Zoning regulation, as a rule, is the County's prerogative while subdivision regulation in these areas comes under the County and City's authority. Annexation is under exclusive rule of the City. Each of these activities, however, affects both jurisdictions and has produced a clear and pressing need for coordination and joint administration. To that end, the County and the City agree to the following procedures for administration of land use regulations.

A. Zoning Regulation:

Zoning regulation for all the unincorporated areas of Custer County shall remain under the authority of the Custer County Land Use Ordinance and the provisions of Chapters 11-2 of the SDCL, as amended.

Each request for zoning property within areas specified in this Agreement shall be forwarded to the City for comment prior to the public hearing before the County Planning Commission. Any zoning change will conform to the policies identified for the area in which the requested change is located.

B. Subdivision Regulations:

Subdivision of land within the extraterritorial jurisdiction of the City of Custer within Custer County shall be required to conform to either the subdivision and design standards of the County or City in accordance with the area policies and implementation measures specified in this Agreement. Persons wishing to subdivide land within Area #1, as specified in this Agreement, shall be required to file a subdivision application with the City. Although the City design standards are required for subdivision in Area #1, each request will be forwarded to the County for review, comment and recommendation prior to the public hearing of the City Planning and Zoning Commission. Persons wishing to subdivide land within Area #2, as specified in this Agreement, shall also be required to file a subdivision application with the City. Both the City and the County design standards will be applied for subdivision in Area #2, each request will be forwarded to the County for review and comment prior to the public hearing before the City Planning and Zoning Commission. Persons wishing to subdivide land within Area #3, as specified in this Agreement, shall be required to file a subdivision application with the County. Although County design standards are required for subdivision in Area #3, each request will be forwarded to the City for review and comment prior to the public hearing before the County Planning Commission. For the purposes of this Agreement, property line adjustments and parcel splits shall be considered a subdivision action.

C. Annexation:

The City of Custer will annex territory only in accordance with the policy statements and implementation measures specified in this Agreement and consistent with State law.

Requests for annexation, within the areas covered under this Agreement, will be forwarded to the County, for comment, prior to consideration by the City Planning and Zoning Commission or City Council.

D. Development in Several Areas:

If a subdivision is in two (2) different development areas, the policy and procedures of the most restrictive shall apply. For the purposes of this Agreement, Area #1 shall be considered the most restrictive and Area #2 shall be considered the less restrictive, and Area #3 shall be considered least restrictive.

III. REVIEW AND AMENDMENT.

The Chair of the Custer County Board of Commissioners and the Mayor of the City of Custer emit initiate a review of the area development policies, implementation measures, and administrative policies each year during the term of this Agreement. Either party to this Agreement shall consider amendments to this Agreement in a manner similar to its initial adoption.

IV. EFFECTIVE DATE AND RECORDING.

This Agreement shall become effective upon acceptance and execution of the parties, and shall be in effect for a period of five (5) years. This Agreement may be modified and extended by the written mutual consent of the parties.

This Agreement shall be filed with the Secretary of the State of South Dakota, and with the Custer County Register of Deeds in accordance with Chapter 1-24-6 of the SDCL, as amended.

CUSTER COUNTY, SOUTH DAKOTA

BY: _____
Board of County Commission Chair

ATTEST: _____
County Auditor

Dated this _____ day of _____, 2017.

CUSTER, SOUTH DAKOTA

BY: _____
Mayor

ATTEST: _____
Finance Officer

Dated this _____ day of _____, 2017.