

Codington County Planning Commission/Board of Adjustment Minutes

July 15, 2019

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on July 15, 2019 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Charles Rossow, Mel Ries, Rodney Klatt, Bob Fox, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Jeff DeVille, Chuck Andrews, Tom Dagele, and Becky Goens.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 7:55 pm.

Motion by Johnson, second by Ries, to approve the June 17, 2019 meeting minutes. Motion passed unanimously.

Motion by Klatt, second by Rossow, to approve the agenda. Motion passed unanimously.

Motion by O'Neill, second by Rossow, to recess as the Planning Commission and convene as Board of Adjustment. Motion passed unanimously.

Motion by Johnson, second by O'Neill, to approve the Conditional Use Permit request by William D. Scepaniak, Inc. to mine gravel on property owned by Paul Johnson and located in E1/2 of SW1/4 and SW1/4 of SW1/4 less strip, Section 27-T118N-R51W. Muller read Staff Report History/Issue (attached). If approved, applicant would be required to sign a Letter of Assurance agreeing to the following conditions:

1) Effective Date:

a. Signing of the Letter of Assurance

2) General Requirements:

a. There will be no storage of junk on site.

b. A mining permit or proof thereof from the South Dakota Department of Environment and Natural Resources shall be presented to the zoning officer prior to the excavation of material from this property.

c. The applicant shall obey any Federal, State and Local law and obtain any necessary permits from the State of South Dakota. These permits may include but are not limited to Storm water drainage permit, Flood Control Permit, Water Rights Permit, etc.

d. The site is to be reclaimed according to standards established by the South Dakota Department of Environment and Natural Resources.

- e. Not more than 20 acres shall be mined at any given time. All other property shall remain unmined or reclaimed.
- f. No mining shall occur within 100' of the waterway (unnamed tributary of Willow Creek) on this property unless documentation from the corps of engineers indicates such excavation is authorized.
- g. This conditional use permit authorizes the use of this property for crushing of rock and for the applicant to screen materials.

3) Haul Road Agreements:

- a. Applicant shall provide a haul road agreement for the use of 165th Street for hauling materials prior to excavation of materials. If no agreement is required by the Codington County Highway Superintendent, documentation of such decision is required.
- b. Grantor shall provide a haul road agreement with the applicable road authority for the use of any other roadways/highways (Streets or Avenues) prior to utilizing that roadway for hauling materials or bringing empty trucks to the site on that roadway.
- c. If it is found trucks using this mine are utilizing any of these roadways prior to the above agreements being filed with the zoning office, all mining activities will be ordered to Cease and Desist until such agreements are filed.
- d. Grantor will be required to control dust generated from operation of the mine and traffic from this mine on the above haul roads.
- e. If complaints are received and substantiated by the zoning office regarding dust generated by operation of the mine and traffic from this mine on the above haul roads the Grantor will be notified and shall implement necessary actions to control dust immediately.
- f. If necessary actions are not take within twenty-four (24) hours of notification of the Grantor by the Zoning Officer, all mining activities will be required to cease and desist until such measures have been taken.

4) Violation and Penalties:

- a. Applicant is put on notice that failure to abide by the requirements of this letter of assurance will result in a hearing of the Board of Adjustment to consider revocation of the conditional use permit associated herewith.

Adjoining landowner Tom Dagele inquired about dust control on 165th Street. Traffic from West-Con, LaBolt, and South Shore travel this road. He does not feel that watering is the answer. This amount of additional traffic will significantly increase the amount of dust. Charles Andrews, representative for Scepaniak, indicates they would like to get started in September

and complete by freeze-up. Scepaniak's practice includes driving with the Highway Superintendent and videotape the roads. They will have the road bladed and then apply chloride for dust control. Public hearing closed. Motion by O'Neill, second by Johnson, to add the condition of including a haul road agreement required on 464th Avenue as well. Motion on amendment passed unanimously. Chairman Fox read the Findings of Fact. Hours of operation for rock crushing are intended to be 24 hours a day, 7 days a week, hopefully wrapping up in approximately two weeks. Motion on the Permit, with the amendment, passed unanimously.

Motion by O'Neill, second by Ries, to approve the Conditional Use Permit request by William D. Scepaniak, Inc. to mine sand and gravel on property owned by Becky Campbell and located in NW1/4, Section 1-T119N-R51W. Muller read Staff Report History/Issue (attached). If approved, applicant would be required to sign a Letter of Assurance agreeing to the following conditions:

1) Effective Date:

- a. Signing of the Letter of Assurance

2) General Requirements:

- b. There will be no storage of junk on site.
- c. A mining permit or proof thereof from the South Dakota Department of Environment and Natural Resources shall be presented to the zoning officer prior to the excavation of material from this property.
- d. The applicant shall obey any Federal, State and Local law and obtain any necessary permits from the State of South Dakota. These permits may include but are not limited to Storm water drainage permit, Flood Control Permit, Water Rights Permit, etc.
- e. The site is to be reclaimed according to standards established by the South Dakota Department of Environment and Natural Resources.
- f. Not more than 20 acres shall be mined at any given time. All other property shall remain unmined or reclaimed.
- g. This conditional use permit authorizes the use of this property for crushing of rock and for the applicant to screen materials.

3) Haul Road Agreements:

- a. Applicant shall provide a haul road agreement for the use of 155th Street for hauling materials prior to excavation of materials. If no agreement is required by the Codington County Highway Superintendent, documentation of such decision is required.

- b. Grantor shall provide a haul road agreement with the applicable road authority for the use of any other roadways/highways (Streets or Avenues) prior to utilizing that roadway for hauling materials or bringing empty trucks to the site on that roadway.
- c. If it is found trucks using this mine are utilizing any of these roadways prior to the above agreements being filed with the zoning office, all mining activities will be ordered to Cease and Desist until such agreements are filed.
- d. Grantor will be required to control dust generated from operation of the mine and traffic from this mine on the above haul roads.
- e. If complaints are received and substantiated by the zoning office regarding dust generated by operation of the mine and traffic from this mine on the above haul roads the Grantor will be notified and shall implement necessary actions to control dust immediately.
- f. If necessary actions are not take within twenty-four (24) hours of notification of the Grantor by the Zoning Officer, all mining activities will be required to cease and desist until such measures have been taken.

4) Violation and Penalties:

- a. Applicant is put on notice that failure to abide by the requirements of this letter of assurance will result in a hearing of the Board of Adjustment to consider revocation of the conditional use permit associated herewith.

Per Mr. Andrews, the time frame for mining gravel is estimated to be the same as Johnson's. Motion passed unanimously.

Motion by Klatt, second by Ries, to adjourn the Board of Adjustment. Motion passed unanimously.

Chairman Fox reconvened the Planning Commission.

Motion by O'Neill, second by Ries, to recommend approval to the Board of County Commissioners the Plat of Tract 1 of Chapin Addition in the W1/2 of SW1/4, Section 11-T119N-R51W. A farmstead exemption was granted to this property at the June 17, 2019 meeting. Motion passed unanimously.

Luke will be speaking at an Ag United meeting this week at Lake Area Technical Institute. He will be speaking on our ordinance update and the process.

Due to scheduling conflicts, the September 16 meeting was moved to September 23, 2019 at 7:30 pm.

Motion to adjourn by O'Neill, second by Johnson. Motion passed unanimously. Meeting adjourned at 8:55 pm.

Respectfully Submitted,

Becky Goens, Secretary

**JULY 2019
CODINGTON COUNTY PLANNING COMMISSION/BOARD OF ADJUSTMENT
STAFF REPORT**

MONDAY – JULY 15, 2019 – 7:30 p.m.

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE PERMIT

Applicant: William Scepaniak, Inc. / Property Owner: Paul Johnson

Property Description: E1/2 SW1/4 and SW1/4 SW1/4 less strip, Section 27-T118N-R51 West of the 5th P.M., Codington County, South Dakota. (Waverly Township)

Zoning Designation: A – Agricultural; Zone B – Aquifer Protection District

Request: William Scepaniak, Inc requests to operate a gravel pit with rock crusher and screener.

History/Issue(s):

Specifics of Request:

1. The applicant has an agreement with the Johnson's to mine gravel on the above described parcel.
2. The gravel will be used for construction/maintenance of roads in conjunction with Crowned Ridge Wind Project(s).
3. The current proposal is to mine approximately 20 acres, but to leave the permit active if they intend to mine more of the property in the future.
4. All mining activities are proposed greater than 65' from the right-of-way and more than 25' from any property line.
5. The property accesses a gravel county road (165th Street). Truck traffic will travel east or west ½ mile to continue on the county roads.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Comprehensive Land Use Plan lists considerations for Gravel Pits on page 63.
2. No new structures, monitoring wells, or shelterbelts are proposed.
3. No haul road agreement with Codington County has been provided (at the time of this report). The applicant's contractor is expected to obtain one from the County prior to excavation.
4. Reclamation for this project is scheduled to occur upon completion of mining activities, at which time the topsoil will be returned with the intent to use the property for agricultural use/grassland. The topsoil will at that time be seeded with crops or grass.
5. The applicant has a bond with the state for reclamation of the site. Staff has become aware that counties no longer have the authority to require bonds for reclamation of gravel pits (state law).
6. The gravel pit is greater than 1,000 feet from the nearest off-site residence. The nearest residence is approximately ½ mile northeast of the proposed site.
7. All mining is proposed to be greater than 65' from any right of way.
8. Land Use plan states that: "Drainage patterns... require a case by case consideration of stormwater/pollution control measures." AND "Appropriate extraction setbacks will be imposed".

9. With recent permits the Board has specified an amount of acres which may remain unclaimed until completion of the mining. ("Reclaim as you go.")

Staff Summary and Recommendation:

The applicant, along with information available to the Board through the zoning office, has provided required information for a permit application and proposes to meet specified requirements of the ordinance. Since it is not anticipated that more than 20 acres will be mined in this pit in the near future, it is recommended that a maximum of 20 acres be open at any time.

Conditional Use Permit – **Gravel Pits...** The Board may postpone the request, deny the request or approve the request. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- 2) Effective Date:
 - h. Signing of the Letter of Assurance

- 5) General Requirements:
 - a. There will be no storage of junk on site.
 - b. A mining permit or proof thereof from the South Dakota Department of Environment and Natural Resources shall be presented to the zoning officer prior to the excavation of material from this property.
 - c. The applicant shall obey any Federal, State and Local law and obtain any necessary permits from the State of South Dakota. These permits may include but are not limited to Storm water drainage permit, Flood Control Permit, Water Rights Permit, etc.
 - d. The site is to be reclaimed according to standards established by the South Dakota Department of Environment and Natural Resources.
 - e. Not more than 20 acres shall be mined at any given time. All other property shall remain unmined or reclaimed.
 - f. No mining shall occur within 100' of the waterway (unnamed tributary of Willow Creek) on this property unless documentation from the corps of engineers indicates such excavation is authorized.
 - g. This conditional use permit authorizes the use of this property for crushing of rock and for the applicant to screen materials.

- 6) Haul Road Agreements:
 - g. Applicant shall provide a haul road agreement for the use of 165th Street for hauling materials prior to excavation of materials. If no agreement is required by the Codington County Highway Superintendent, documentation of such decision is required.
 - h. Grantor shall provide a haul road agreement with the applicable road authority for the use of any other roadways/highways (Streets or Avenues) prior to utilizing that roadway for hauling materials or bringing empty trucks to the site on that roadway.
 - i. If it is found trucks using this mine are utilizing any of these roadways prior to the above agreements being filed with the zoning office, all mining activities will be ordered to Cease and Desist until such agreements are filed.
 - j. Grantor will be required to control dust generated from operation of the mine and traffic from this mine on the above haul roads.
 - k. If complaints are received and substantiated by the zoning office regarding dust generated by operation of the mine and traffic from this mine on the

above haul roads the Grantor will be notified and shall implement necessary actions to control dust immediately.

- I. If necessary actions are not take within twenty-four (24) hours of notification of the Grantor by the Zoning Officer, all mining activities will be required to cease and desist until such measures have been taken.

7) Violation and Penalties:

- b. Applicant is put on notice that failure to abide by the requirements of this letter of assurance will result in a hearing of the Board of Adjustment to consider revocation of the conditional use permit associated herewith.

ITEM #2 CONDITIONAL USE PERMIT

Applicant: William Scepaniak, Inc. / Property Owner: Becky Campbell

Property Description: NW1/4 of Section 1-T119N-R51 West of the 5th P.M., Codington County, South Dakota. (Leola Township)

Zoning Designation: A – Agricultural; Zone B – Aquifer Protection District

Request: William Scepaniak, Inc requests to operate a gravel pit with rock crusher and screener.

History/Issue(s):

Specifics of Request:

1. The applicant has an agreement with the Campbell's to mine gravel on the above described parcel.
2. This is an existing gravel pit in the county, which has been licensed by the State of South Dakota, but no county permit has been issued to the site.
3. The gravel will be used for construction/maintenance of roads in conjunction with Crowned Ridge Wind Project(s).
4. The current proposal is to mine approximately 20 acres, but to leave the permit active if they intend to mine more of the property in the future.
5. All mining activities are proposed greater than 65' from the right-of-way.
6. The property accesses a gravel county road (155th Street). Truck traffic will travel east or west ½ mile to continue on the county roads.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Comprehensive Land Use Plan lists considerations for Gravel Pits on page 63.
2. No new structures, monitoring wells, or shelterbelts are proposed.
3. No haul road agreement with Codington County has been provided (at the time of this report). The applicant's contractor is expected to obtain one from the County prior to excavation.
4. Reclamation for this project is scheduled to occur upon completion of mining activities, at which time the topsoil will be returned with the intent to use the property for agricultural use/grassland. The topsoil will at that time be seeded with crops or grass.
5. The applicant has a bond with the state for reclamation of the site. Staff has become aware that counties no longer have the authority to require bonds for reclamation of gravel pits (state law).

6. The gravel pit is greater than 1,000 feet from the nearest off-site residence. The nearest residence in this county is approximately 1 mile southeast of the proposed site.
7. All mining is proposed to be greater than 65' from any right of way.
8. Land Use plan states that: "Drainage patterns... require a case by case consideration of stormwater/pollution control measures." AND "Appropriate extraction setbacks will be imposed".
9. With recent permits the Board has specified an amount of acres which may remain unclaimed until completion of the mining. ("Reclaim as you go.")

Staff Summary and Recommendation:

The applicant, along with information available to the Board through the zoning office, has provided required information for a permit application and proposes to meet specified requirements of the ordinance. Since it is not anticipated that more than 20 acres will be mined in this pit in the near future, it is recommended that a maximum of 20 acres be open at any time.

Conditional Use Permit – **Gravel Pits...** The Board may postpone the request, deny the request or approve the request. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- 5) Effective Date:
 - a. Signing of the Letter of Assurance
- 6) General Requirements:
 - b. There will be no storage of junk on site.
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 - d. The applicant shall obey any Federal, State and Local law and obtain any necessary permits from the State of South Dakota. These permits may include but are not limited to Storm water drainage permit, Flood Control Permit, Water Rights Permit, etc.
 - e. The site is to be reclaimed according to standards established by the South Dakota Department of Environment and Natural Resources.
 - f. Not more than 20 acres shall be mined at any given time. All other property shall remain unmined or reclaimed.
 - g. This conditional use permit authorizes the use of this property for crushing of rock and for the applicant to screen materials.
- 7) Haul Road Agreements:
 - g. Applicant shall provide a haul road agreement for the use of 155th Street for hauling materials prior to excavation of materials. If no agreement is required by the Codington County Highway Superintendent, documentation of such decision is required.
 - h. Grantor shall provide a haul road agreement with the applicable road authority for the use of any other roadways/highways (Streets or Avenues) prior to utilizing that roadway for hauling materials or bringing empty trucks to the site on that roadway.
 - i. If it is found trucks using this mine are utilizing any of these roadways prior to the above agreements being filed with the zoning office, all mining activities will be ordered to Cease and Desist until such agreements are filed.
 - j. Grantor will be required to control dust generated from operation of the mine and traffic from this mine on the above haul roads.

- k. If complaints are received and substantiated by the zoning office regarding dust generated by operation of the mine and traffic from this mine on the above haul roads the Grantor will be notified and shall implement necessary actions to control dust immediately.
 - l. If necessary actions are not take within twenty-four (24) hours of notification of the Grantor by the Zoning Officer, all mining activities will be required to cease and desist until such measures have been taken.
- 8) Violation and Penalties:
- b. Applicant is put on notice that failure to abide by the requirements of this letter of assurance will result in a hearing of the Board of Adjustment to consider revocation of the conditional use permit associated herewith.

CODINGTON COUNTY PLANNING COMMISSION

ISSUE #1 PLAT

Applicant/Property Owners: Dewey Chapin

Property Description: Plat of Tract 1 of Chapin Addition in the West Half of the Southwest Quarter of Section 11-T119N-R51W of the 5th P.M., Codington County, South Dakota (Leola Township)

Zoning Designation: A-Agricultural District

Request: Plat a minimum 5 acre lot as condition of receiving existing farmstead exemption.

ISSUE #2 OPEN/ADMINISTRATIVE REPORT

- September Meeting
- Ag United/LATI Presentation