

Codington County Planning Commission/Board of Adjustment Minutes

March 16, 2020

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on March 16, 2020 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Charles Rossow, Mel Ries, Mark O'Neill, Rodney Klatt, Bob Fox, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Chuck Andrews, Greg Moes, Julie Moes, Jim Moes, and Becky Goens.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 12:41 pm.

Motion by Johnson, second by Ries, to approve the February 24, 2020 meeting minutes. Motion passed unanimously.

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

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

Motion by Johnson, second by Ries, to approve the Conditional Use Permit request by applicant William D. Scepaniak, Inc. on property owned by MoDak Dairy, Inc. and located in W1/2, NW1/4 less 7 acres, Section 36-T117N-R51W. This request is to operate a gravel pit with rock crusher. Muller reviewed Staff Report (attached). Not more than ten acres shall be mined at a time; however, this does not include property that was being mined prior to 3/16/2020. Chairman Fox read the Findings of Fact. There were no questions or comments. Motion passed unanimously.

Muller provided an update on state legislature and how it will change our bi-laws.

With the short turnaround between meetings, staff was unable to prepare draft ordinance language consistent with the February meeting comments by the Planning Commission.

Motion to adjourn by Ries, second by Johnson. Motion passed unanimously. Meeting adjourned at 1:43 pm.

Respectfully Submitted,

Becky Goens, Secretary

**MARCH 2020
CODINGTON COUNTY
PLANNING COMMISSION/BOARD OF ADJUSTMENT STAFF REPORT**

ITEM #1 CONDITIONAL USE PERMIT

Applicant: William Scepaniak, Inc. / Property Owner: Modak Dairy Inc.

Property Description: W1/2, NW1/4 less 7 acres, Section 36-T117N-R51 West of the 5th P.M., Codington County, South Dakota. (Kranzburg Township)

Zoning Designation: A – Agricultural

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

History/Issue(s):

Specifics of Request:

1. The applicant has an agreement with Modak Dairy Inc. to mine gravel on the above described parcel.
2. The current proposal is to mine approximately 10 acres, but to leave the permit active if they intend to mine more of the property in the future.
3. All mining activities are proposed greater than 65' from the right-of-way.
4. The property accesses a gravel Kranzburg Township road (171th Street). The haul route map provided by Nextera/Crowned Ridge indicates traffic will travel east/west on 171st Street and north/south traffic will utilize 463rd Ave (County Road) and 466th Ave (*shared* Township Road.).

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Comprehensive Land Use Plan lists considerations for Gravel Pits on page 63.
2. The applicant did not submit some details at the time of this report, so this report is compiled on the basis of past applications for the mining of gravel at other sites associated with this project. Most information not provided is publicly available.
3. No new structures, monitoring wells, or shelterbelts are proposed.
4. The applicant did not provide haul road agreements for this site with Codington County, Kranzburg Township, or Rome Township (Deuel County). In previous instances agreements for construction of wind towers have included maintenance during mining as well. Applicant will be required to demonstrate haul road agreement with applicable road authorities, or documentation by the road authority that such agreement has been made prior to commencement of mining.
5. 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.
6. The applicant will have 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).
7. The gravel pit is greater than 1,000 feet from the nearest off-site residence. The nearest residences are owned by the owner of the property to be mined.
8. All mining is proposed to be greater than 65' from any right of way, including the unimproved 465th Avenue right-of-way.

9. 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".
10. With recent permits the Board has specified an amount of acres which may remain unclaimed until completion of the mining. This mine proposes to disturb only 10 acres. It would be appropriate to specify that not more than 10 acres could be left unreclaimed given the plan to not disturb more than 10 acres. ("Reclaim as you go.")

Staff Summary and Recommendation:

Approval of this permit constitutes acknowledgement by the board that the applicant has provided adequate information along with information available to the Board through the zoning office, has provided required information for a permit application and that the applicant proposes to meet specified requirements of the ordinance.

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):

- 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 of 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 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 171st Street for hauling materials prior to excavation of materials. If no agreement is required by the Kranzburg Township Board, documentation of such decision is required.
 - b. Applicant shall provide a haul road agreement for the use of 463rd Avenue 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.
 - c. Applicant shall provide a haul road agreement for the use of 466th Avenue for hauling materials prior to excavation of materials. If no agreement is required by the road authority, documentation of such decision is required.

- d. Grantor shall provide a haul road agreement with the applicable road authority for the use of Kranzburg Avenue or any other roadways/highways (Streets or Avenues) not described herein prior to utilizing that roadway for hauling materials or bringing empty trucks to the site on that roadway.
- e. 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.
- f. Grantor will be required to control dust generated from operation of the mine and traffic from this mine on the above haul roads.
- g. 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.
- h. If necessary, actions are not taken 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.

ISSUE #2 OPEN/ADMINISTRATIVE REPORT

- With the short turnaround between meetings, staff was unable to prepare draft ordinance language consistent with the February meeting comments by the Planning Commission. Expect a discussion at the April Meeting.
- Staff will update the Board on the status of SB 157.