

Codington County Planning Commission/Board of Adjustment Minutes

December 4, 2020

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on December 4, 2020 via teleconference. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Brenda Hanten, Mel Ries, Mark O'Neill, Rodney Klatt, Bob Fox, Charles Rossow, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Johnny Rider, Audrey Rider, Jason VerSteege, Lucas VanEps, Jeff DeVille, Dale Plunkett, Chris Block, and Becky Goens.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 8:37 am.

Motion by Hanten, second by Klatt, to approve the October 19, 2020 meeting minutes. Motion passed unanimously.

Motion by Johnson to approve the agenda, second by O'Neill. Motion passed unanimously.

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

Motion by Klatt, second by Ries, to approve the Conditional Use Permit request made by John C. Rider to construct up to three commercial storage building on property described as: All that part of Outlot D of Outlots to the Town of Vera, Codington County, SD according to the recorded plat thereof, lying E of Lot 6 of DeBerg Subdivision in the Town of Kampeska (Vera) located in the SW1/4 of Section 1-T116N-R54W; and All that part of Lot 2 of Codington County Railroad Land Company Addition in SW1/4 of Section 1-T116N-R54W & SE1/4 of SE1/4 of Section 2-T116N-R54W according to the recorded plat thereof, lying E of Lot 6 of DeBerg Subdivision in the Town of Kampeska (Vera) located in SW1/4 of Section 1-T116N-R54W; and All that part of DeBerg Outlot 1 in SW1/4 of Section 1-T116N-R54W according to the recorded plat thereof, lying E of Lot 6 of DeBerg Subdivision in the Town of Kampeska (Vera) located in SW1/4 of Section 1-T116N-R54W, Codington County, SD. Muller reviewed Staff Report (attached). Approval would be subject to the following conditions:

- i. Effective date, transferability, and future permits required:
 - a. The permit shall become active upon recording of this "Letter of Assurance".
 - b. The zoning officer is hereby authorized to issue building permits for commercial storage structures on this lot provided:
 - i. Not more than five commercial storage structures are constructed on the lot.

- ii. Any storage structure greater than 50' x 144' shall be considered two (2) or more of the five (5) total structures.
 - c. The Conditional Use permit for a private storage business is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
- ii. Site improvements (hard surfacing):
 - a. All driveways and areas for vehicular maneuvering shall be surfaced with a minimum of three (3) inches of crushed rock, crushed concrete, or crushed asphalt.
- iii. General Requirements
 - a. No outdoor storage is allowed.
 - b. Total maximum sign area is 80 sq ft.
 - c. Noxious weeds shall be controlled.
 - d. Construction shall be in accordance with applicable building Code per SDCL 11-10-6
 - i. Architect/Contractor is required to attest that the structure will be built according to applicable building code.
- iv. Violations and Penalties.
 - a. Complaints to the Board of Adjustment regarding outside storage of finished product and materials associated with this permit may result in a public hearing to review the outdoor storage and the need for required additional screening.
 - b. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer. Any violation substantiated by the Zoning Officer of this conditional use permit may result in a public hearing to consider the revocation of the conditional use permit.

Pictures were also displayed. Correspondence from adjoining landowner, Jane Ham, was received at the Planning Office opposing the request and stated that Rider has been filling in sloughs and wetlands and creating additional water issues on her cropland and will not accept a loss of tillable acres for this reason. Rider indicates he has filled in some land but has only owned property for four years. Muller showed a progressive map showing a time apse beginning 2006 to 2018 to view the water and drainage. Rider indicates there will not be any further construction beyond this request. Motion by Klatt, second by O'Neill, to amend the structure size from 50x154 to 50x160. Motion on the amendment passed 6-1. Motion on the Conditional Use Permit, with the amendment, passed unanimously.

Motion by Johnson, second by Hanten, to approve the variance request made by Duininck, Inc. to mine and crush gravel on property less than 1000' from an established residence. Property is owned by Julie Plunkett and located in all that part of W1/2 of Section 21-T118N-R52W, lying NW of the railroad ROW less the N960' thereof, Codington County. Muller reviewed Staff Report (attached) and displayed a map of the area.

Jeff DeVille spoke regarding the shallow Aquifer and is opposed to an asphalt plant, in it's entirety, due to the risk of contaminating the drinking water. A spill from this type of operation cannot be easily cleaned from drinking water. He is opposed to the gravel pit at this site. Public hearing closed. Johnson does not like the idea of a gravel pit operation over this aquifer. He is also not in favor of an asphalt plant. Motion on the variance passed unanimously.

Motion by Hanten, second by Klatt, to approve the Conditional Use Permit request by Duininck, Inc. to mine, process, and stockpile gravel materials on property owned by Julie Plunkett and located in all that part of W1/2 of Section 21-T118N-R52, lying NW of the railroad ROW less the N960' thereof, Codington County. Approval would be subject to the applicant signing a Letter of Assurance agreeing to the following conditions:

1) Effective Date:

- a. Signing of the Letter of Assurance
- b. Site preparation, grading of berms, planting of trees, or mining activities in either of the above described parcels shall constitute the commencement of work referenced in Section 4.05.01.9 to consider each conditional use permit "active."

2) General Requirements:

- a. There shall be no discharge of industrial processed water on the site
- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
- c. All fuel and petroleum storage shall be situated with secondary containment in a location and manner to be reviewed by Watertown Municipal Utilities and approved by the Codington County Zoning Officer.
- d. There will be no storage of oil or oil by-products on site. This is to include fueling sites.
- e. There will be no storage of junk on site.

- f. 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.
- g. 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.
- h. The site is to be reclaimed according to standards established by the South Dakota Department of Environment and Natural Resources.
- i. Not more than 10 acres shall be mined at any given time. All other property shall remain unmined or reclaimed.
 - i. Area used for staging and storage/piles of mined materials are considered unmined for the purposes of this section.*
- j. No mining shall occur within 25' of the railroad right-of-way.
- k. Any mining within 65' of the railroad right-of-way shall maintain a slope of no steeper than 4:1.
- l. Tree Planting:
 - i. No mining activities shall occur until all trees described herein are planted.
 - ii. The applicant shall plant three ~~eight (8)~~ rows of ~~varying types of~~ trees, **two of which are coniferous,** with the westernmost row not less than 133' from the centerline of 456th avenue starting in the SW corner of the SW1/4 of the NW1/4 of Section 21-T118N-R52 West running parallel to 456th Avenue until meeting the creek in the NW corner of the property. Trees will then approximately follow the creek with a separation distance as recommended by the Codington County Conservation District.
 - iii. At least two rows of trees shall be a minimum of five (5) feet in height at the commencement of mining activities on the above described property.
 - iv. The location and type of trees shall be reviewed and approved by the Zoning Officer prior to planting.
- m. The applicant is only allowed to crush gravel ~~sixty thirty (3060)~~ days per year. Notice shall be provided to the County Zoning Officer at least five (5) days before crushing activities are to begin. A log noting the days of crushing activities shall be kept by the applicant and available to Codington County Zoning Officer upon request. Hours of operation (including crushing) shall

only be allowed to operate Monday through **Thursday, 6 a.m. to 9 p.m.;**
Friday, **86** a.m. to 5 p.m.; **Saturday 6 a.m. to 12 pm.**

~~n. Hours of operation Monday through Friday: 7a.m. to 6 p.m., Saturday 8 a.m. to 12 pm.~~ **Weeds shall be controlled on site.**

- o. **Neither** concrete **nor asphalt** batch plants are **not** allowed without a separate permit granted by the Board of Adjustment.
- p. All berms proposed shall be graded and completed prior to commencement of mining activities on said property.
- q. Grantor shall control dust associated with operation of the plant and upon designated haul route.
- r. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.

s. Minimum berm height of 5' berm.

3) Haul Road Agreements:

- a. Grantor shall provide a haul road agreement with Rauville Township for the use of 454th Avenue prior to any mining activities on the above described property.
- b. No trucks associated with this operation shall utilize 163rd Street west of the above described property.

4) Violation and Penalties:

Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.

- a. The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all feeder operations within forty-five days (45) of notice of revocation.
- b. The applicant may make appeal from the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment to the Codington County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall

forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.

- c. Failure to comply with the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment may be deemed a separate violation.

Muller reviewed what has been allowed with previous gravel pit requests. Motion by Ries, second by Rossow, to amend the required tree planting from eight to three rows with a minimum 5' height to be planted prior to mining. Two rows will be coniferous trees. Motion on the amendment passed unanimously.

Motion by Johnson, second by Hanten, to set the height of the berms to 5'. Motion passed unanimously.

Motion by Johnson, second by O'Neill, to amend the conditions item "o" to read: Neither concrete nor asphalt batch plants are allowed without a separate permit granted by the Board of Adjustment. Motion passed unanimously.

Motion by Hanten, second by Klatt, to amend conditions in item "m" to include: Hours of operation (including crushing) shall only be allowed to operate Monday through Thursday, 6 a.m. to 9 p.m.; Friday, 6 a.m. to 5 p.m.; Saturday 6 a.m. to 12 pm. Motion passed unanimously.

Fox read the Findings of Fact. There were no objections or questions.

Muller brought up dust control. Duininck does have a dust control plan outlined in the application. It is commonly their number one complaint and therefore have resolutions to the issue.

Motion by Ries, second by Johnson, to amend condition item "n" to read: Weeds shall be controlled on site. Motion passed unanimously.

Motion on the Conditional Use Permit, with the amendments, passed 6-1.

Myron Johnson was excused at 11:40 am due to a prior commitment.

Motion by Hanten, second by Klatt, to recess the Board of Adjustment and reconvene as the Planning Commission. Motion passed unanimously.

Motion by Klatt, second by Ries, to recommend approval to the Board of County Commissioners the Plat of Prairie Vibe Addition in NE1/4, Section 13-T118N-R52W, Codington County, SD. Motion passed unanimously.

Motion by O'Neill, second by Klatt, to recommend approval to the Board of County Commissioners the Plat of Schwinger Second Addition in E1/2 of NE1/4 and E1/2 of SE1/4 of Section -T119N-R52W, Sisseton Wahpeton Indian Reservation, Codington County, SD. Motion passed unanimously.

Motion by Klatt, second by Ries, to recommend approval to the Board of County Commissioners the Plat of Brooklyn First Addition in SE1/4 of Section 4-T116N-R53W, Codington County, SD. Motion passed unanimously.

Motion by Ries, second by Klatt, to recommend approval to the Board of County Commissioners the Plat of Hopper Second Addition in government Lot 3 and the N1/2 of NW1/4 of Section 9-T116N-R53W, Codington County, SD. Motion passed unanimously.

Klatt left the meeting.

Motion by Hanten, second by Ries, to reconvene jointly. Motion passed unanimously.

Muller discussed shop house and definitions of dwellings and is asking for direction from Board members. Requests are becoming more frequent. Muller will have a proposal at the January meeting.

Town Districts in the county were discussed.

Muller provided a presentation of the year-end report.

Muller also provided an update on Mike Alama's west site, Koustrup's clean up, Barseness clean up, and some complaint issues at the CHS site.

Motion to adjourn by Hanten, second by Klatt. Motion passed unanimously. Meeting adjourned at 12:22 pm.

Respectfully Submitted,

Becky Goens, Secretary

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

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE PERMIT

Applicant/Owner: John C. Rider

Property Description: All that part of Outlot D of Outlots to the Town of Vera, Codington County, South Dakota, according to the recorded plat thereof, lying east of Lot 6 of DeBerg Subdivision in the Town of Kampeska (Vera) located in SW1/4 of Section 1-T116N-R54W; and All that part of Lot 2 of Codington County Railroad Land Company Addition in SW1/4 of Section 1-T116N-R54W & SE1/4 of SE1/4 of Section 2-T116N-R54W in the town of Vera, Codington County, South Dakota, according to the recorded plat thereof, lying E of Lot 6 of DeBerg Subdivision in the Town of Kampeska (Vera) located in SW1/4 of Section 1-T116N-R54W; and All that part of DeBerg Outlot 1 in SW1/4 of Section 1-T116N-R54W, Codington County, South Dakota, according to the recorded plat thereof, lying E of Lot 6 of DeBerg Subdivision in the Town of Kampeska (Vera) located in SW1/4 of Section 1-T116N-R54 West of the 5th P.M., Codington County, South Dakota. (Kampeska Township)

Zoning Designation: TD – Town District

Action Items: Conditional Use – Other uses (Private storage business)

Request: Mr. Rider requests to construct up to five commercial storage buildings at a site he was previously (07/17/17) permitted to construct three

History/Issue(s):

Specifics of Request:

1. Mr. Rider owns the above described 4.8 acre property.
2. On July 17, 2017 Mr. Rider was granted conditional use permit to construct up to three commercial storage buildings. Each building was to be 50 x 144.
 - a. First one constructed with permit #3934 (issued 07/31/2017)
 - b. In 2019, he constructed a 144' addition onto the previously permitted shed. The zoning officer determined the addition constituted the "second" of the three sheds initially permitted by the Board.
3. Mr. Rider was informed by the Corps, there is no need for Corps of Engineers permitting in this area of wet land.
4. Mr. Rider intends to cover the driveway with crushed asphalt or crushed concrete.
5. Currently the applicant intends to construct up to three (3) additional 50 x 144 sheds for storage. At final "build-out" up to four (4) (because two sheds were combined into one in 2019) total storage sheds could be on the lot.
6. There is still no intent to store any items outside.
7. The buildings are intended to be used for "cold storage" with no need for a septic tank.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. "The Board of Adjustment may permit other uses which in its opinion are not detrimental to other uses."
 - a. It should be noted that "warehouse" is a listed conditional use in the Town District.
2. No specific requirements are listed for this use in the Town District. Lot size and yard requirements are subject to needs for off-street parking needs; impact of adjoining land use and need for screening or buffering from residential areas; availability of water and sewage disposal facilities; type of manufacturing or storage facilities; type of manufacturing or storage facilities.
3. The building(s) are proposed to be greater than the setbacks listed in the Town District.
4. On site signage would be limited to a total of 80 square feet.
5. Staff has prepared recommended conditions based upon the previously issued permit. This site was the only similar permit Town District.

Staff Summary and Recommendation

Staff Summary: The applicant seeks only to allow more buildings than was originally permitted. The Board does not have the option to revoke the permit to operate the business at this meeting, merely to determine whether to allow two (2) more buildings than were originally proposed. Keep in mind that will mean a total of up to four (4) buildings because two previously planned buildings were combined into a single building.

Conditional Use Permit – **"Other Uses"/Private Storage Business:** The application may be approved, tabled, or denied. If approved staff recommends the following conditions be agreed to in the form of a letter of assurance to be recorded with the property:

- v. Effective date, transferability, and future permits required:
 - a. The permit shall become active upon recording of this "Letter of Assurance".
 - b. The zoning officer is hereby authorized to issue building permits for commercial storage structures on this lot provided:
 - i. Not more than five commercial storage structures are constructed on the lot.
 - ii. Any storage structure greater than 50' x 144' shall be considered two (2) or more of the five (5) total structures.
 - c. The Conditional Use permit for a private storage business is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
- vi. Site improvements (hard surfacing):
 - a. All driveways and areas for vehicular maneuvering shall be surfaced with a minimum of three (3) inches of crushed rock, crushed concrete, or crushed asphalt.
- vii. General Requirements
 - a. No outdoor storage is allowed.
 - b. Total maximum sign area is 80 sq ft.
 - c. Noxious weeds shall be controlled.
 - d. Construction shall be in accordance with applicable building Code per SDCL 11-10-6
 - i. Architect/Contractor is required to attest that the structure will be built according to applicable building code.
- viii. Violations and Penalties.
 - c. Complaints to the Board of Adjustment regarding outside storage of finished product and materials associated with this permit may result in a public hearing to review the outdoor storage and the need to required additional screening.
 - d. Violation of the terms of this conditional use permit will be determined by the Codrington County Zoning Officer. Any violation substantiated by the Zoning Officer

of this conditional use permit may result in a public hearing to consider the revocation of the conditional use permit.

ITEM #4 CONDITIONAL USE PERMITS AND VARIANCE

Applicant: Duininck

Property Owner: Julie Plunkett

Property Description: All that part of the West Half of Section 21-T118N-R52 West of the 5th P.M., Codington County, South Dakota lying northwest of the railroad right-of-way, less the north 960' thereof. (Rauville Township)

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

Request: Duininck, Inc. requests to start mining gravel, crush rock, and temporary batch plant on the above property located within 1,000' of a residence.

History/Issue(s):

Specifics of Request:

1. Duininck proposes to purchase the above property to mine and crush gravel.
2. It is expected mining activities will continue for up to 30 years over the two properties.
3. The operation is anticipated to periodically utilize a rock crusher and batch plant.
4. Berms are proposed west of the area to be mined but greater than 65' from the right-of-way
5. No mining will occur less than 25' from the railroad right-of-way, and any excavation will maintain a 4:1 slope.
6. 8 rows of trees are proposed to screen the property to the west. The trees will start at the "quarter-line" and run north until the creek then diagonal along the creek. The westernmost row will be 133' from the center of the 456th Avenue Right-of-way.
7. Mr. Boeder's residence is less than 1,000' from the property line of this project, however no mining is proposed within 1,000' of his residence.
8. Mr. Boeder has signed a waiver to allow mining in the matter described. (Variance is still required)
9. A creek, regulated by the Corps of Engineers runs through the site. Con-Agg agrees to meet regulations of the Corps of Engineers with regard to the site activities, primarily be not disturbing the stream area.
10. The haul road for the proposed mining activity will be 456th Avenue (Rauville Township) traveling south to 164th Street (approximately 5/8 mile). A haul road agreement has been provided.
11. The reclamation of the property will return the property to crop ground/grass land consistent with DENR regulations. The property will be mined in 10-acre phases.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Regarding the Variance: The ordinance requires the property to be used for gravel mining, rock crushers and other related operations to be located at least 1,000' from an existing residence. The Board has granted variances where waivers have been obtained from affected landowners. In this case, a waiver have been obtained from any resident located within 1,000' of the area to be mined.
2. The Comprehensive Land Use Plan lists considerations for Gravel Pits on page 63.
 - a. It should be noted that a commercially zoned property is near this site, however no setbacks are listed in ordinance and no policies limiting mining near the sites of commercial uses in the county are listed.

3. The property is located over Zone A of the Aquifer Protection District.
4. Gravel Pits are an allowable use in Zone A provided performance standards are met.
5. The applicant proposes to meet the requirement that storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
6. The applicant does not intend to discharge of industrial processed water on the site.
7. The zoning ordinance lists numerous requirements of mining operations.
8. The site will be permitted by SDDENR to verify it meets the department's requirements for mining.
9. A site plan was provided including or providing the ability to ascertain information required for the permit. Many of those items were addressed above.
10. As mentioned the applicant has obtained a haul road agreement with Rauville Township to for 456th Avenue.
11. The applicant has provided information regarding how air, water, and noise pollution will be minimized through hours of operation, berms, dust control, and avoiding mining in wetland areas and streams. Further, a storm water pollution prevention plan as approved by SDDENR was provided.
12. A reclamation plan was provided addressing revegetation and regrading of property, and including proposed timeline for completion, and including a tentative operation schedule.
13. In reference to the ability of the county to require a bond for reclamation, the applicant has posted a \$20,000 bond for the reclamation of the property with the State.
14. Multiple gravel pits are operated in close proximity to this site. Con-Agg operates gravel pits in Sections 20, 17 (both permitted by the Board in 2017) and Section 16 (conditions applied in 2017); Gravel Creek operates a mine in Section 17 and was permitted in 2006.
 - a. Conditions recommended by staff are intended to be similar to those placed on the most recently granted neighboring gravel pits (Section 17 and 20 to Con-Agg.)
15. ... require a case by case consideration of stormwater/pollution control measures." AND "Appropriate extraction setbacks will be imposed".
16. With recent permits the Board has specified an amount of acres which may remain unclaimed until completion of the mining. ("Reclaim as you go.")
 - a. The neighboring Con-Agg site was limited to not more than 10 acres being mined at any time without being either un-mined or reclaimed.

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. Conditions recommended by staff were based off of conditions applied to previously approved Mining Operations.

Variance #1 – 1000' setback from residence: The Board may table the request, deny the request or approve the request. If approved, staff recommends approval be based upon the submittal of a waiver to the setback requirement by the affected landowner.

Conditional Use Permit – **Gravel Pits [with rock crushing]...** The Board may table 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

- b. Site preparation, grading of berms, planting of trees, or mining activities in either of the above described parcels shall constitute the commencement of work referenced in Section 4.05.01.9 to consider each conditional use permit “active.”

6) General Requirements:

- a. There shall be no discharge of industrial processed water on the site
- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
- c. All fuel and petroleum storage shall be situated with secondary containment in a location and manner to be reviewed by Watertown Municipal Utilities and approved by the Codington County Zoning Officer.
- d. There will be no storage of oil or oil by-products on site. This is to include fueling sites.
- e. There will be no storage of junk on site.
- f. 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.
- g. 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.
- h. The site is to be reclaimed according to standards established by the South Dakota Department of Environment and Natural Resources.
- i. Not more than 10 acres shall be mined at any given time. All other property shall remain unmined or reclaimed.
 - i. *Area used for staging and storage/piles of mined materials are considered unmined for the purposes of this section.*
- j. No mining shall occur within 25’ of the railroad right-of-way.
- k. Any mining within 65’ of the railroad right-of-way shall maintain a slope of no steeper than 4:1.
- l. Tree Planting:
 - i. No mining activities shall occur until all trees described herein are planted.
 - ii. The applicant shall plant three ~~eight (8)~~ rows of ~~varying types of~~ trees, **two of which are coniferous,** with the westernmost row not less than 133’ from the centerline of 456th avenue starting in the SW corner of the SW1/4 of the NW1/4 of Section 21-T118N-R52 West running parallel to 456th Avenue until meeting the creek in the NW corner of the property. Trees will then approximately follow the creek with a separation distance as recommended by the Codington County Conservation District.
 - iii. At least two rows of trees shall be a minimum of five (5) feet in height at the commencement of mining activities on the above described property.
 - iv. The location and type of trees shall be reviewed and approved by the Zoning Officer prior to planting.
- m. The applicant is only allowed to crush gravel ~~sixty thirty (3060)~~ days per year. Notice shall be provided to the County Zoning Officer at least five (5) days before crushing activities are to begin. A log noting the days of crushing activities shall be kept by the applicant and available to Codington County Zoning Officer upon request. Hours of operation (including crushing) shall

- only be allowed to operate Monday through **Thursday, 6 a.m. to 9 p.m.;**
 Friday, ~~8~~**6** a.m. to 5 p.m.; **Saturday 6 a.m. to 12 pm.**
~~n. Hours of operation Monday through Friday: 7a.m. to 6 p.m., Saturday 8 a.m. to 12 pm.~~ **Weeds shall be controlled on site.**
- o. **Neither** concrete **nor asphalt** batch plants are ~~not~~ allowed without a separate permit granted by the Board of Adjustment.
 - p. All berms proposed shall be graded and completed prior to commencement of mining activities on said property.
 - q. Grantor shall control dust associated with operation of the plant and upon designated haul route.
 - r. Grantor shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.
 - s. Minimum berm height of 5' berm.**

7) Haul Road Agreements:

- c. Grantor shall provide a haul road agreement with Rauville Township for the use of 454th Avenue prior to any mining activities on the above described property.
- d. No trucks associated with this operation shall utilize 163rd Street west of the above described property.

8) Violation and Penalties:

Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.

- d. The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all feeder operations within forty-five days (45) of notice of revocation.
- e. The applicant may make appeal from the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment to the Codington County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
- f. Failure to comply with the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment may be deemed a separate violation.

CODINGTON COUNTY PLANNING COMMISSION

ITEM #1 PLAT

Applicant/Owner: Melissa and Patrick Lynch

Property Description: Plat of Prairie Vibe Addition in NE1/4 in Section 13-T118N-R52W, Codington County, South Dakota. (Rauville Township)

Action Items – Plat approval.

Zoning Designation: Agricultural

Request: Plat a minimum 5 acre-lot in accordance with the order of the Board of Adjustment.

ITEM #2 PLAT

Applicant/Owner: Kenneth and Shirley Revocable Trust

Property Description: Plat of Schwinger Second Addition in the East One Half of the Northeast Quarter and the East One Half of the Southeast Quarter of Section 7-T119N-R52W, Sisseton and Whapeton Indian Reservation, Codington County, South Dakota. (Dexter Township)

Action Items – Plat approval.

Zoning Designation: Agricultural

Request: Plat a 63-acre parcel running north of Schwinger First Addition (5 acre parcel). This lot runs the remainder of the mile north and is 833' wide at its widest point (on the north end.)

ITEM #3 PLAT

Applicant/Owner: Steve Horning

Property Description: Plat of Brooklyn First Addition in Southeast Quarter of Section 4-T116N-R53W, Codington County, South Dakota. (Pelican Township)

Action Items – Plat approval.

Zoning Designation: Lake Park

Request:

- Plat 4 lots for residential purposes:
 - 2 acres
 - 150' x 594'
- Shared Access
 - 20' access easement on south edge of property
 - Easement has one point of access onto 173rd Street
 - Access approved by Pelican Township
- Septic tanks are planned for each lot
- Minimum lot area and width are met for the Lake Park District
- Plat is within City of Watertown Plat Jurisdiction
 - Approved by City of Watertown (administrative approval)

Staff Recommendation:

Staff recommends approval subject to establishment of access agreement outlining responsibility for construction, snow removal, maintenance, and replacement of access

easement to be recorded with the plat.

ITEM #4 PLAT

Applicant/Owner: Jesse and Ellen Hopper; and McFarland Family Trust

Property Description: Plat of Hopper Second Addition in Government Lot 3 and the North half of the Northwest Quarter of Section 9-T116N-R53W, Codington County, South Dakota. (Pelican Township)

Action Items – Plat approval.

Zoning Designation: Agricultural and Lake Park Districts

Request: Plat 26 acre portion of farmland (adjacent to residential lot). This plat replaces an 8 acre parcel for which access was utilized across a neighboring parcel. This lot now abuts a right-of-way, therefore the agreement for access can expire with the previous 8-acre lot unless Pelican Township denies access to this lot. The portion of this lot in the Lake Park District is buildable, however that is not currently the intent.

ITEM #5 ORDINANCE DISCUSSION

- TOWN DISTRICT
- SHOP HOUSES/DEFINITION OF DWELLINGS

ISSUE #6 OPEN/ADMINISTRATIVE REPORT

- Update on Enforcement/Complaint Matters
 - Koustrup
 - Barsness
 - Alama
 - CHS
- Structures in county accessory to houses in city limits