

**March 24, 2025 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Monday – March 24, 2025 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE PERMITS

Applicant: Central Specialties Inc

Property Owner: Charles & Pam Atyeo

Property Description: Gov Lots 3-4 & E1/2 SW1/4 in Section 18-115-48, Clear Lake Township, Deuel County, South Dakota

Action Items – Conditional Uses Permit – (Section 1101.04.04 Sand, gravel or quarry operation, Mineral exploration and extraction, rock crushers, concrete and asphalt mixing plants provided they they meet requirements of Section 1219)

Zoning Designation: A – Agricultural; Zone A and B – Aquifer Protection Overlay District (Well protection area- Zone A, Shallow Aquifer- Zone B)

Request: Central Specialties Inc requests to operation, mineral exploration and extraction, rock crusher, concrete and asphalt mixing plants on the above property located within 1,000 of a residence.

History/Issue(s):

Specifics of Request:

1. Central Specialties Inc proposes to use the above property to expand the existing gravel pit and extract aggregate materials and process them with a rock crushing plant followed by the operation of an asphalt plant using the materials presses. The asphalt products will be used on road construction jobs on SD 15, Brookings County Hwy 25 as well as various highways in Yellow Medicine County Mn. This site site may be used in the future for other nearby road construction projects as well.
2. The operation is anticipated to periodically utilize a rock crusher and batch plant.
3. No mining will occur less than 100' from the road right-of-way and they will be 25' from the adjoining property lines, and any excavation will maintain a 3:1 slope.
4. Charles & Pam Atyeo's residence is more than 1,000' from the property line of this project. However, some of the portions of the extraction operation may fall within this setback depending on the extent of the gravel deposit.
5. Charles & Pam Atyeo has signed a waiver to allow mining in the matter described. (Variance is still required)
6. Central Specialties Inc has been in contact with Deuel County and Clear Lake Township concerning the haul road agreements. As of 3-24-25 the Deuel County Zoning Office has not received a copy of the haul road agreements. They would do road the haul road agreements after April. The proposed haul routes will be southbound to State Highway 22 via 478th Ave, 181 St, and 478th Ave again.
7. The reclamation of the property will be done to the standards of the South Dakota Department of Agriculture and Natural Resources

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 has been obtained from the resident residence is more than 1,000' from the property line of this project. However, some of the portions of the extraction operation may fall within this setback depending on the extent of the gravel deposit.
2. The property is located over Zone A & B of the Aquifer Protection District.
3. Gravel Pits are an allowable use in Zone A & B provided performance standards are met.
4. 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.

- a. Many of the CDI'S tanks are doubled walled and provide secondary containment. Any tanks that are not double walled shall have a landfill grade plastic installed beneath them with a 3-foot beam along the perimeters of the tanks as secondary containment.
5. The applicant does not intend to discharge of industrial processed water on the site.
6. The zoning ordinance lists numerous requirements of mining operations.
7. The site will be permitted by South Dakota Department of Agriculture and Natural Resources to verify it meets the department's requirements for mining.
8. A site plan was provided including or providing the ability to ascertain information required for the permit. Many of those items were addressed above.
9. As mentioned, the applicant will obtain a haul road agreement with Clear Lake Township and Deuel County Hwy Department.
10. The applicant will 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. As of 3-20-25 the Deuel County Office has not received a storm water pollution prevention plan as approved by SDDANR. Central Specialties Inc will provide the verification letter document once it is received.
11. The applicant will use baghouse on the asphalt (HMA plant). The baghouse uses filter socks to remove pollute from the exhaust stream.
12. The site is to be reclaimed according to standards established by the South Dakota Department of Agriculture and Natural Resources.
13. On March 18, 2025, Jay Gilbertson, representing the East Dakota Water Development District, met with the Deuel County Zoning Officer in her office and gave her a letter for the Board to review. During this meeting, Mr. Gilbertson expressed concerns regarding the location of an asphalt mixing plant situated over a Zone A (Wellhead) Aquifer Protection District. Specifically, Mr. Gilbertson referenced Section 1105.07, which outlines prohibited uses within Zone A, including the following provision: "All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality."
Given that an asphalt mixing plant could potentially involve processes or materials that might adversely affect groundwater quality, Mr. Gilbertson raised concerns about the appropriateness of locating such a facility within this designated protection zone.
14. On March 19, 2025, Reed Andries, general manager for Brookings-Deuel Rural Water System, met with the Deuel County Zoning Officer in her office and gave her a letter for the Board to review. During this meeting, Mr. Gilbertson expressed concerns regarding the location of an asphalt mixing plant situated over a Zone A (Wellhead) Aquifer Protection District. Specifically, Mr. Gilbertson referenced Section 1105.07, which outlines prohibited uses within Zone A, including the following provision: "All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality."
Given that an asphalt mixing plant could potentially involve processes or materials that might adversely affect groundwater quality, Mr. Andrie raised concerns about the appropriateness of locating such a facility within this designated protection zone.

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.

The Board must also consider whether the proposed asphalt mixing plant is consistent with the restrictions outlined in Section 1105.07 of the ordinance, which prohibits certain uses within Zone A (Wellhead Aquifer Protection District). Specifically, Section 1105.07 (13) prohibits the establishment of facilities involving the collection, handling, manufacture,

use, storage, transfer, or disposal of materials that may harm groundwater quality. The Board must determine if the asphalt mixing plant falls under this prohibition or not.

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
- b. Site preparation, grading, or mining activities in either of the above described parcels shall constitute the commencement of work referenced in Section 1219 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.
 - i. If there is storage of oil or oil by-products on site it would be in tanks are double walled and provide secondary containment. Any tanks that are not double walled shall have a landfill grade plastic installed beneath them with a 3-foot beam along the perimeters of the tanks as secondary containment.
 - ii. All fuel and petroleum handling, manufacture, use, storage, transfer need to be double walled and shall have a landfill grade plastic installed beneath them with a 3-foot beam along the perimeters of the area as secondary containment.
- c. There will be no storage of junk on site.
- d. A mining permit or proof thereof from the South Dakota Department of Agriculture and Natural Resources shall be presented to the zoning officer prior to the excavation of material from this property.
- e. 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.
- f. The site is to be reclaimed according to standards established by the South Dakota Department of Agriculture and Natural Resources.
- g. No mining shall occur within 100' road right-of-way and 25' from the adjoining property lines.
- h. Any mining shall maintain a slope by property lines and roads any steeper than 3:1.
- i. Hours of operation (including crushing) shall only be allowed to operate Monday through Saturday, 5:00 a.m. to 8:00 p.m.
- j. All berms proposed shall be graded and completed prior to commencement of mining activities on said property.
- k. 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.

3) Haul Road Agreements:

- a. Grantor shall provide a haul road agreement with Clear Lake Township and Deuel County Hwy Department prior to any mining activities on the above described property.

4) Violation and Penalties:

Violation of the terms of this conditional use permit will be determined by the Deuel 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 Deuel County Board of Adjustment to the Deuel 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 Deuel County Board of Adjustment may be deemed a separate violation.

ITEM #2 PLAINVIEW DAIRY SITE PLAN

Plainview Dairy would like to discuss with the Board about a change in the site plan that was given to the Zoning Officer August 9, 2024. Per Paul Tschetter, Plainview's Attorney, stated in a letter to the Zoning Officer on 3-19-2025 that as construction got underway, it became clear that an adjustment to the Dairy's site plan was necessary. After consultation with engineers and other professionals, it became evident that moving the manure storage ponds east was necessary.

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