



TO: Town Boards and Commissions
FROM: Alexander Painter, Planner II and David Kimmett, Planner II
DATE: July 7, 2022

The Board of Trustees is seeking your input regarding an application submitted by Cemex to Boulder County to extend their mining permit on Dowe Flats (north side of Hwy 66). The town has an Intergovernmental Agreement with Boulder County regarding the Cemex parcel on the south side of Hwy 66 that the trustees feel has a direct correlation to the north side. The application and the IGA are both attached as well as a staff memo outlining the issues.

The Board is requesting that you review the application and its potential implications for the Lyons area from the perspective of your Board/Commission. They will combine the comments into a comprehensive Referral Response and submit it to the county by the July 22, 2022, deadline.

Docket SU-22-0003: CEMEX Dowe Flats Mining and Reclamation Extension

Request: Special Use/Site Specific Development Plan review to amend an existing Special Use approval (SU-93-14) for limestone/shale open mining/quarrying located at the Dowe Flats Quarry, extending approved mining activities for an additional 15 years; the original permit area of 1,911 acres to be reduced to 709 acres; the concluding of cement plant operations at the facility located south of Highway 66 within the same 15-year timeframe; with concurrent reclamation of wildlife habitat.

Location: 13301 55th Street, Parcel #120316000050, located approximately 0.5 mile north of the intersection of N. 53rd Street and state Highway 66, in Sections 9, 10, 15, and 16, Township 3N, Range 70W.

Zoning: Agricultural (A)

Applicant/Owner: Cemex Inc., c/o John Heffernan

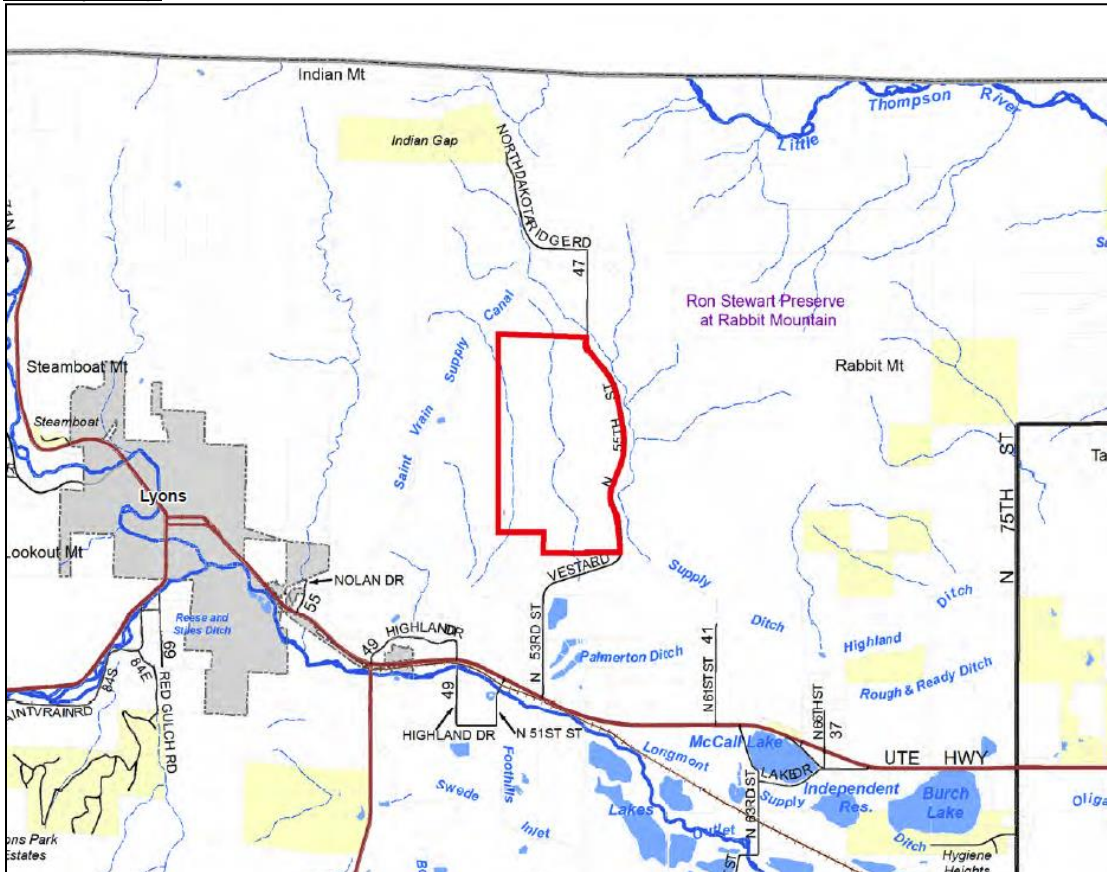
Agent: Pam Hora, Tetra Tech Inc.

Special Use Review / Site Specific Development Plan is required for uses that may have greater impacts on services, neighborhoods, or the environment than those allowed with only Building Permit Review. This process will review compatibility, services, environmental impacts, and the proposed site plan.

This process includes public hearings before the Boulder County Planning Commission and the Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements, or other rights in the subject property are notified of these hearings.



Vicinity Map



Without an understanding of the negotiation details between Boulder County and Cemex, it appears two options were discussed for CEMEX's future operations: Not extending the permit for mining operations and an indefinite operation of the cement plant OR extending the mining operations permit 15 years along with a commitment from CEMEX to permanently conclude the cement plant operations at the same time.

While Dowe Flats is not within the Lyons Planning Area, this permit extension could impact the Town of Lyons in the following ways:

- The cement plant operation facility to the south is in the Lyons Planning Area, so any timeline changes and operations on the property will impact Lyons' IGA and our potential plans for the site.
- With the proximity of the Eastern Corridor, timeline and uses may impact the development of the area.



- The dedication of a permanent, non-exclusive recreational trail easement to Boulder County along the south bank of the St. Vrain River is proposed, which is in the Lyons Planning Area.
- the operation of the plant for 15 years (or indefinitely) will preclude the county from meeting its carbon reduction goals.
- An option for Boulder County to purchase CEMEX property surrounding the cement plant, including property in the CEMEX Municipal Facilities Area per the 2012 CEMEX Area IGA Map, which is included in the Lyons Planning Area.

The PCDC reviewed the referral at a workshop on June 23, 2022 and felt there was not adequate time to develop a response for the Board of Trustees and discussed the potential modification of the Town Planning Area, and any changes should be driven by the current Comprehensive Plan Update process. The Board of Trustees requested an extension until October 31, 2022, to get this community input; however, the deadline was extended only until July 22, 2022.

The Board of Trustees will hold a special meeting on July 19th, 2022, at 5:00 pm for public input, and at 7:00 pm the Board meeting. If there are any questions or concerns, please reach out to our Planning staff: apainter@townoflyons.com or dkimmett@townoflyons.com.

The Town of Lyons and the Planning staff value comments from individuals and referral agencies. We have added a comment sheet at the bottom of this memo and would appreciate it if you could delineate three primary concerns of your board or commission in regard to the extension of the CEMEX Dowe Flats Mining and Reclamation Extension. Please have your comments sent back by 8:00 am on Friday, July 15, 2022, to mdavis@townoflyons.com

We realize this is an abridged period of comment time under which we have all been placed by Boulder County. We would like boards/commissions to share not only your concerns with the CEMEX application but what are some alternatives to it? For example, a 5-year lease option instead of 15 years (merely an example).

Potential additional commitments of CEMEX include the following items:

- A reduction of the purchase prices for Boulder County's existing options to acquire real property north of Hwy. 66 to zero dollars plus title and closing costs, resulting in savings to the County of approximately \$6.6M;
- The grant of an additional option to Boulder County for the benefit of Boulder County Parks & Open Space for its potential future purchase (when mining at Dowe Flats is completed) of four additional parcels totaling approximately 200 acres around the perimeter of the Dowe Flats mine, at a purchase price of zero dollars plus title and closing costs;



- An increase in the required rental payments by CEMEX to Boulder County pursuant to the existing buffer lease for properties around the Dowe Flats mine from the current amount of \$1,000/year to an increased amount of \$400,000/year, equating to a total value of \$6.0M for 15 years;
- The dedication of a permanent, non-exclusive recreational trail easement to Boulder County for the benefit of Boulder County Parks & Open Space along the south bank of the St. Vrain River or another mutually agreed to location;
- A commitment by CEMEX to permanently conclude ongoing cement plant operations at its facility south of Hwy. 66 within the same 15-year timeframe for completion of mining operations (plus reclamation) at Dowe Flats instead of continuing to operate the cement plant indefinitely as has been contemplated; and
- The grant of an additional option to Boulder County for the benefit of Boulder County Parks & Open Space for the potential future purchase of up to approximately 830 acres of CEMEX property surrounding CEMEX's cement plant south of Hwy. 66 at a current price of \$17,000 per acre with a 2.0% annual escalator, upon condition that the Town of Lyons provide consent to Boulder County's acquisition of any lands within the CEMEX Municipal Facilities Area per the 2012 CEMEX Area IGA Map, and provided that CEMEX would reserve an access and utility corridor to/from Hwy. 66 for the benefit of its retained properties.

These terms would be set forth in additional future agreements between the County and CEMEX and all such terms are and will remain subject to final approval of the enclosed land use application with conditions consistent with the above terms and otherwise acceptable to CEMEX at its discretion.



Comment Form

Please return to mdavis@townoflyons.com no later than the morning of July 15th.

Board or Commission: _____

No Comment

Top Three Concerns from Board and Commission Perspective:

#1. _____

#2. _____

#3. _____

Suggestions or Conditions that Board and Commission would like to offer:

#1. _____

#2. _____

#3. _____

Please feel free to use additional space for your comments. Thank you for your input!