

**Town of Lyons, Colorado
Board of Trustees
Agenda Cover Sheet
Agenda Item No: IV. 1.
Meeting Date: 07/19/22**

TO: Mayor Rogin and Members of the Board of Trustees
FROM: Victoria Simonsen, Town Administrator
ITEM: CEMEX Dowe Flats Mining and Reclamation Extension Referral

ORDINANCE
 MOTION / RESOLUTION
 INFORMATION

I. REQUEST OR ISSUE:

At the June 6, 2022, BOT meeting, the Board directed staff to formally request from the Boulder County Planning Division an extension on the CEMEX Referral until October 31, 2022.

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, however, any changes would be driven by the current Comprehensive Plan Update process. The PCDC and/or a subcommittee of Commissioners was willing to assist the Board as necessary and requested specific direction from the Board on items to address in the referral review.

On July 5, 2022, the Town was informed by Boulder County that we would receive a brief extension to provide a Town of Lyons perspective to the Boulder County Planning Commission's hearing on CEMEX's proposal to extend mining operations at the Dowe Flats mine, as well as the appurtenant cement manufacturing operations and land use on CEMEX properties both north and south of SH 66. The brevity of this extension forced the hands of the Town to ask all of its volunteer boards and commissions – including the BOT – to hold special public meetings and garner public / board / commission feedback within the span of two weeks in order to file a formal response in time for the Boulder County Planning Commission's ("PC") August hearing on the topic (response due date: July 22nd).

Following the PC hearing for the Special Use/Site Specific Development Plan review to amend an existing Special Use approval for open mining/quarrying located at the Dowe Flats Quarry on August 17th, the Board of County Commissioners will be the ultimate arbiter at an as-yet unscheduled public hearing.

II. RECOMMENDED ACTION / NEXT STEP:

Staff is requesting direction on how the Board of Trustees would like to proceed on this issue. There are several options below.

III. FISCAL IMPACTS:

There are fiscal impacts to the County and Cemex. The fiscal impacts on the town are unknown at this time.

BACKGROUND INFORMATION:

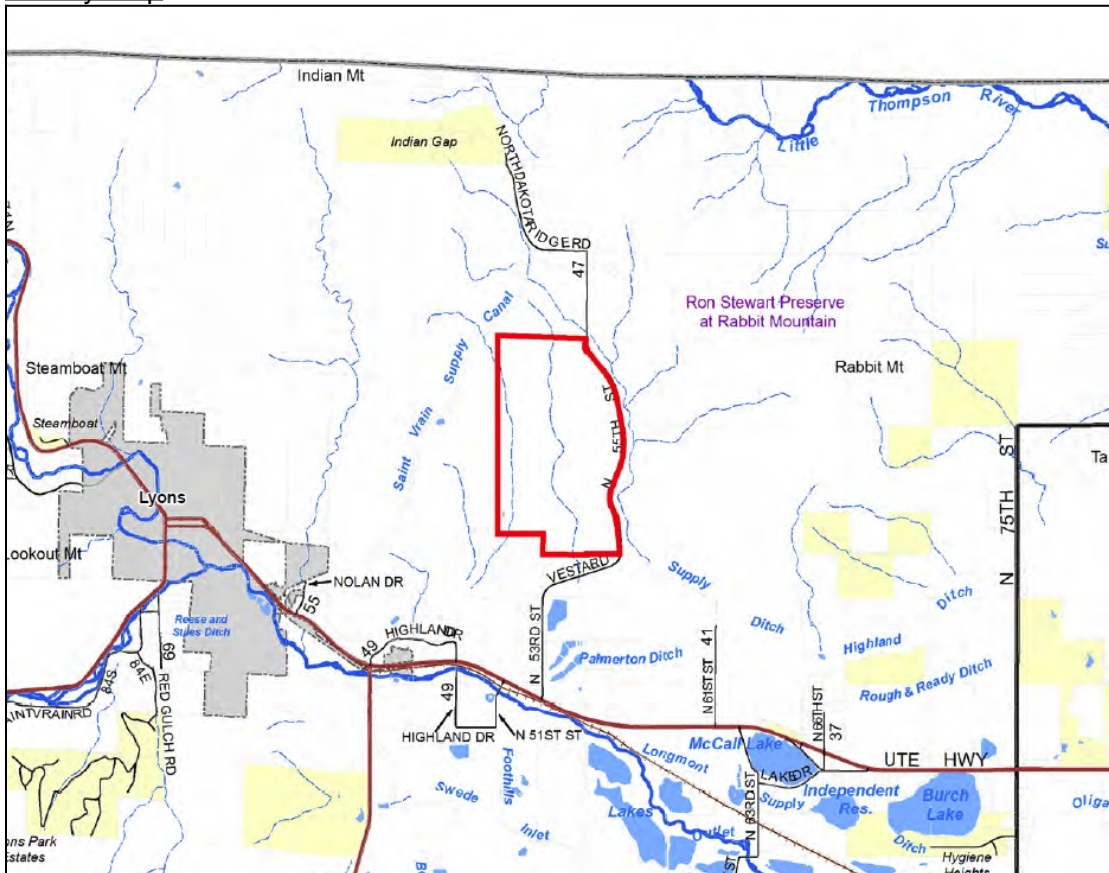
Location: 13301 55th Street, Parcel #120316000050, located approximately 0.5 miles north of the intersection of N. 53rd Street and Highway 66

Jurisdiction: Boulder County

Owner: Cemex Inc.

Request: Special Use/Site Specific Development Plan review to amend an existing Special Use approval for open mining/quarrying located at the Dowe Flats Quarry to add 15 years. The original permit area of 1,911 acres to be reduced to 709 acres. The cement plant operations at a separate facility south of Highway 66 will conclude within the same 15 years concurrent with the reclamation of wildlife habitat.

Vicinity Map



Staff Comments

The Town of Lyons was not involved in the negotiations of this agreement. The Boulder County Referral Memo regarding CEMEX's proposal presents two options regarding 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.

The Town of Lyons was not invited to participate in the negotiations despite having an IGA with Boulder County regarding the south parcel. Boulder County has repeatedly expressed that the north side has no direct impact on the south side; however, staff and others disagree with this assessment.

While Dowe Flats is not within the Lyons Planning Area, it is within our State-mandated Three-Mile Planning perimeter. If CEMEX's mining permit is extended, it could impact the Town of Lyons in several ways, including the following:

- The cement plant manufacturing facility to the south is within 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 / East St. Vrain Planning Area, timeline and uses may impact the development of this area.
- Continuation of high levels of carbon emissions would continue for another 15 years.
- 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 within the Lyons Planning Area.
- 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.

IV. LEGAL ISSUES:

Unknown.

V. CONFLICTS OR ENVIRONMENTAL ISSUES:

See the Dowe Flats Quarry Site Description and Future Mining Impact Report in Attachment 1. In addition, the operation of the plant for 15 years (or indefinitely) will preclude the county from meeting its carbon reduction goals.

VI. SUMMARY AND ALTERNATIVES:

In addition to crafting a response to the Boulder County Planning Commission prior to the July 22nd deadline for submittal which will incorporate the recommendations of boards and commissions as well as Lyons citizens, the following alternatives are recommended by staff:

1. If an extension to the mining permit is awarded, get input from every applicable Board and Commission and combine those responses into a comprehensive response from the Trustees.
2. If an extension to the mining permit is awarded, gather input from the Comprehensive Plan Growth Area Workshops to better understand the development and growth potential of the Eastern Corridor / East St. Vrain Planning Area.

3. If an extension to the mining permit is awarded, the Board of Trustees could assign a subcommittee of Board and Commission representatives to develop a comprehensive response.
4. Request a temporary extension of the Dowe Flats mining permit to December 31, 2022.
5. Ask for a meeting with the Boulder County Commissioners to give our input directly to them prior to a decision being made.
6. Present more than the two scenarios proposed in the aforementioned Referral Memo.

VII. ATTACHMENTS:

1. Boulder County Referral Memo
2. Lyons CEMEX Area Comprehensive Development Plan IGA