


Use by Special Review Staff Report

DATE: JULY 30, 2024
TO: DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS
THROUGH: DOUGLAS J. DEBORD, COUNTY MANAGER
FROM: TERENCE T. QUINN, AICP, DIRECTOR OF COMMUNITY DEVELOPMENT 
CC: HEATHER SCOTT, AICP, PRINCIPAL PLANNER
JEANETTE BARE, AICP, PLANNING MANAGER
STEVEN E. KOSTER, AICP, ASSISTANT DIRECTOR OF PLANNING SERVICES
SUBJECT: OWENS INDUSTRIAL PARK, FILING 1, 1ST AMENDMENT, LOT 1A AND METES
AND BOUNDS, 3RD AMENDMENT – BATCH PLANT

PROJECT FILE: US2021-002

OWNER:
BRANNAN SAND AND GRAVEL COMPANY, LLC
2500 E. BRANNAN WAY
DENVER, CO 80229

REPRESENTATIVE:
JESSICA ALIZADEH
ALIZADEH LAW
1800 WAZEE STREET
DENVER, CO 80202

PLANNING COMMISSION HEARING:

JULY 15, 2024 @ 6:00 PM

BOARD OF COUNTY COMMISSIONERS HEARING:

AUGUST 13, 2024 @ 2:30 PM

I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Use by Special Review (USR) to add an asphalt batch plant to be located at 5775 and 5779 Airport Road. The USR would amend previously approved plans for portions of the facilities associated with the existing concrete batch plant located on the same property, as well as for an area previously approved for a stand-alone concrete crushing business. Crushing of concrete and asphalt material is now proposed as accessory to the asphalt batch plant operation. Operational limits for all uses on the property are proposed to be consolidated into a single USR management plan. All uses on site will be operated by Brannan Sand and Gravel Company.

The USR permit area is 29.9 acres, a portion of the overall property totaling 44.95 acres in size. The site is zoned General Industrial (GI), which permits batch plants subject to the standards and procedures in Section 21, Use by Special Review, of the *Douglas County Zoning Resolution (DCZR)*. The site is located north of Airport Road approximately one-

quarter mile west of US Highway 85. The majority of proposed improvements will be located north of the existing concrete batch plant within the bounds of the perimeter loop road.

At its public hearing on July 15, 2024, the Planning Commission recommended denial of the request by a vote for 4 to 2.

II. REQUEST

A. Request

The request is for approval of a USR for an asphalt batch plant and accessory uses. Portions of the existing concrete batch plant, specifically the concrete wash-out area location and all concrete batch plant operational details, are also amended with this USR request.

B. Process

A USR application is processed pursuant to Section 21 of the *DCZR*. Section 21 states the intent of the USR process is “to provide for uses in specific zone districts that shall require a public notice and hearing and the approval of the Board of County Commissioners subject to such conditions and safeguards as may be imposed by the Board.”

Per Section 2109.09 of the *DCZR*, the “Board shall evaluate the use by special review request, staff report, referral agency comments, applicant responses, the Planning Commission recommendation, and public comment and testimony, and shall approve, approve with conditions, continue, table for further study, remand to the Planning Commission, or deny the use by special review request. The Board's action shall be based on the evidence presented, compliance with the adopted County standards, regulations, policies, and other guideline.”

C. Location

The site is located in the northwest area of the County, approximately one-quarter mile west of the intersection of US Highway 85 and Airport Road. Please reference the vicinity, zoning, and aerial maps in the attachments to this report.

D. Project Description

The asphalt batch plant is proposed to be north of the existing concrete batch plant located on the north side of Airport Road, west of Peterson Road. The majority of the concrete batch plant improvements are within the platted portion of the property, specifically Owens Industrial Park, Filing 1, Lot 1A. The asphalt plant will be located within that portion of the property that is unplatted. The USR Permit area is approximately 30 acres in size. The remainder of the property is designated as unimproved open space. The proposed asphalt batch plant will occupy approximately 8.66 acres of the overall project site. Both the concrete and asphalt batch plants will

share the entrance and exit drives from Airport Road, internal access drives, utility services, stormwater facilities, and fire-fighting cisterns. Additional parking will be provided for the asphalt batch plant around the loop road. New and upgraded fencing and landscape screening is provided for the overall property.

The proposal will consolidate hours of operation for all uses on the site to six days a week, from 6 a.m. to 6 p.m., with the provision for extended asphalt batch plant operation during peak construction hours in the summer months. The extended hours are limited to two shifts per day, between 8 p.m. Sunday evening through 6 p.m. Thursdays, not to exceed 90 days between May and October. The site could produce up to 400 tons of asphalt an hour with an average of less than 250 tons per hour. The asphalt cement tanks, silos, baghouse and production facility will be located between the existing detention pond and concrete batch plant. The aggregate material stockpiles will be located within the loop road and will shift as supplies are delivered and used in the batching process. The stockpiles will not exceed 160,000 square feet nor exceed 20 feet in height. An additional 120,000-gallon fire cistern will be located adjacent to the existing 30,000-gallon fire cistern, adjacent to the ring road. The asphalt batch plant is proposed to add 8 employees to the overall site.

The multiple structures comprising the asphalt batch plant process will be colored a beige tone. Handrail and safety-rails will be painted orange.

The concrete batch plant will be subject to the consolidated operational limitations described in the notes, tables, and other management plan elements included on the USR Plan Exhibit. Stockpiles for the concrete batch plant materials will also be limited to 20 feet in height. The USR Plan Exhibit also captures the relocation of the previously approved concrete truck washout area.

All uses are subject to the environmental controls included in the USR management plan which require various types of monitoring, reporting, and mitigation of dust, noise, and truck trips. Based on the fencing and outdoor storage standards applicable to uses in the GI zone district, the USR Plan Exhibit depicts solid fencing around the permit area, with supplemental fencing and landscaping provided along road frontages and at other vantage points.

The site is located within the Sedalia Water and Sanitation District (the "District"). As the site is not located within 400 feet of existing District facilities, the District has allowed the property to utilize an existing groundwater well to meet its water demands. A septic use permit will be obtained for new onsite wastewater treatment facilities to serve employees.

The western point of access to Airport Road will be improved for internal truck circulation and provide on-site truck queuing capacity. The eastern access will serve as the principal site entrance. The additional western access point is limited to exiting

traffic only. A small detention pond will be added to the southwest corner of the site to capture stormwater runoff from the new access road.

E. Management Plan

Section 2112.02 of the *DCZR* requires a site-specific management plan for USR applications. The specific management plan elements are listed on Sheet 2 of the USR Plan Exhibit and are briefly summarized below. The application proposes to utilize a single, coordinated operational plan for both batch plants and their accessory uses to better coordinate hours of operation and compliance with other standards. The applicant is responsible for ensuring that all elements of the management plan are met. A single set of limits should aid in the effectiveness of ongoing enforcement and annual site inspections by the County:

1. Truck trips are limited to 200 concrete trucks per day and 808 asphalt truck trips per day with a not to exceed threshold of 1008 truck trips per day. Trucks are checked in and out of the site to ensure compliance with trip limits.
2. Operating hours are Monday through Saturday, 6 a.m. to 6 p.m. Crushing operations may not operate after business hours. The asphalt batch plant may have extended hours, limited to two shifts per day, between 8 p.m. Sunday evening to 6 p.m. Thursday, not to exceed 90 days between May and October.
3. A maximum of 44 full-time employees divided between the two-batch plants and accessory operations.
4. Outdoor storage for the asphalt batch plant will not exceed 160,000 square feet nor exceed 20 feet in height. The concrete batch plant has 10,000 square feet of outdoor storage and the overall height will be reduced to not exceed 20 feet.
5. Processing recycled asphalt paving material and concrete rubble will be an accessory use to include receiving, crushing, and stockpiling of material to be used in the asphalt production process.
6. Routing Plan is established to control the flow of traffic onsite and provide stacking area for trucks to stay on property during right-of-way interruptions such as train crossings. Commercial trucks are prohibited from traveling through Louviers Village and other residential roads to the northeast.
7. Noise mitigation techniques including use of silo gate mufflers, white noise backup alarms, noise dampening cabinets, and electrical power (verses generators); not allowing truck idling; and limiting crushing to the daytime only, are required. Daily noise assessments will be required, and quarterly reports will be available on request. Anomalies will be corrected, or operations will cease until all anomalies can be corrected.
8. A dust management plan has been developed, and site operations must comply with the national ambient air quality standards.
9. Additional state and federal permits, which are listed in the management plan, must be obtained.

10. Lighting shall comply with night sky requirements per Douglas County Regulations. OSHA will require safety lighting around equipment and these lights are identified on the Lighting plan on sheets 18-20 of the USR.
11. Fire Protection for the asphalt batch plant will be from fire hydrants onsite fed from a proposed 120,000-gallon cistern in addition to the 30,000-gallon cistern currently onsite for the concrete batch plant. The ring road will provide the required 20-foot-wide drive isle for South Metro Fire Rescue (“SMFR”).
12. Proposed landscaping, meeting the county regulations, is identified on the management plan, and further defined on sheets 13-17 of the USR Plan Exhibit.
13. The applicant will maintain a complaint and suggestion line to be attended and answered during operational hours to improve community relations.
14. The existing concrete plant use, approved with US2014-009, is included with this application to consolidate site operational limits and mitigation measures.

III. CONTEXT

A. Background

There have been several land use applications approved for this site, beginning with the initial approval of a concrete batch plant on the site in 1981. A subdivision plat, Owens Industrial Center Filing 1, was approved on the southern portion of the site later in that decade. The concrete batch plant was expanded with approval of a Site Improvement Plan (SIP) Revision in 1996 and another major revision approved in 2005. At that time, concrete crushing was added to the project as an accessory use.

Following approval of the 2005 SIP Revision, the County amended its zoning resolution to allow batch plants subject to the Use by Special Review, rather than SIP, process considering the potential impacts of such facilities and to provide for public input and hearings before the Planning Commission and Board. As a result, an application in 2014 reappraised and amended the concrete batch plant as a USR. In 2016, the lot on which the concrete batch plant was located was expanded from 6 to 11.6 acres in size (Lot 1A).

In 2018, an application was submitted and approved to convert the accessory crushing use to a stand-alone concrete crushing facility. As an industrial use operating separately from the concrete batch plant, the use was considered an industrial use and approved through the administrative SIP process. In 2021, an application to modify elements of the concrete crushing facility SIP was approved by the County. Abutting neighbors appealed the approval of the application to the Board of Adjustment, which upheld the administrative decision. A subsequent appeal by the neighbors to the District Court resulted in the approval being overturned in June of 2023. The Court cited a lack of sufficient evidence of compliance with the outdoor storage standards for the GI zone district. In 2024, the County approved amendments to the *DCZR* to clarify its fencing and outdoor storage standards.

A USR application for an asphalt batch plant was submitted in 2018. The applicant withdrew the application after the Board remanded the request back to the Planning Commission for its reconsideration based on additional information submitted by the applicant. The current USR application was submitted in 2021 and has been the subject to several rounds of referral agency and public review. The USR Plan Exhibit was resubmitted in April 2024 and was sent out for a final round of referral agency and public review. The version of the USR Plan Exhibit attached to the staff report reflects the applicant’s response to staff and referral agency comments.

B. Adjacent Land Uses and Zoning

The following table reflects those zone districts and land uses surrounding the site.

	ZONING	LAND USE
NORTH	Agricultural One (A-1)	Agricultural activities including a large horse arena.
SOUTH	General Industrial (GI) Agricultural One (A-1)	Industrial uses.
EAST	General Industrial (GI), Agricultural One (A-1), and Residential	Railroad tracks, industrial uses, and nonconforming single family residential uses.
WEST	Agricultural One (A-1)	Agricultural and open space use. Single family residential use further west on the other side of the Plum Creek riparian corridor.

IV. PHYSICAL SITE CHARACTERISTICS

A. Site Characteristics and Constraints

The site is approximately 44.95 acres in size and lies northwest of the intersection of Airport Road and US Highway 85. The site maintains a consistent grade east to west with a drop along the western side of the detention pond. There is an existing concrete batch plant located in the southeast portion of the site which was initially constructed in 1981 and subsequently expanded. The concrete batch plant utilizes 7.83 acres and remains fully operational today.

There is a floodplain that traverses the site east to west just north of the concrete batch plant and a bridge was constructed in the 1980’s to traverse the floodplain. No construction nor disturbance will be allowed within the floodplain. The proposed permit area for the asphalt batch plant is within an existing loop road that currently has stockpiles of spent concrete. A detention pond was constructed in 2020, along with a fire cistern, on the exterior of the existing loop road.

The remaining portion of the site is undisturbed land which slopes westerly and northerly. There is an unpaved ranch road that leads north to Main Street. This access will not be improved nor utilized in any site business.

B. Access

Access to the property is from two existing access points to Airport Road. The western access is proposed to be improved to accommodate the one-way flow of trucks within the site. The improved western-most access will be for truck exiting only. The western access drive provides for onsite truck queuing during times of interrupted highway access and when a stopped train or other prolonged closure of rail crossings on Airport Road exist. Construction plans for the access improvements and associated stormwater facility have been reviewed and approved by Public Works Engineering (Engineering).

Engineering has reviewed and accepted the applicant's updated traffic impact report. Airport Road has been recently widened. Additional improvements to the Airport Road and US Highway 85 interchange are the responsibility of the Colorado Department of Transportation. In the interim, the County has plans to add an east-bound right turn lane on Airport Road to provide for added capacity at both the Peterson Road and US Highway 85 intersections. No further improvements to the public road, other than pavement striping, is required with this USR application. Site accesses and nearby intersections are expected to operate at acceptable Levels of Service at the build-out time frame of the proposed project.

C. Soils and Geology

The Geotechnical Study indicates thick, relatively low density, low strength soils. Test samples were taken from multiple locations of the proposed asphalt batch plant and the results indicate the site soils are both hydrocompactive (exhibiting collapse under loading and wetting) and compressible (exhibiting compression under approximate foundation loads). The geotechnical engineer provided several foundation alternatives for the 60-foot diameter asphalt cement tank. CGS requested written verification that the geotechnical engineer's settlement calculations include the approximately 4.8% pre-wetting consolidation data point. The geotechnical engineer provided the necessary calculations and CGS confirmed that the calculations satisfactorily address the soil requirements for the asphalt plant and that CGS had no further geological or geotechnical concerns.

D. Drainage and Erosion

A Phase III Drainage Report; a Grading, Erosion, Sediment Control (GESC) Plan; and construction plans were reviewed and accepted by Engineering. The stormwater facility, approved in 2018 and constructed in 2020, was sized to handle the drainage needs for the asphalt batch plant use. An additional detention and water quality pond to accommodate stormwater runoff from the proposed western access drive has been reviewed and approved by Engineering.

E. Floodplain

This property is impacted by a mapped floodplain, the “Daniels Park Drain” tributary which leads to Plum Creek, west of this site. All construction and site activity will stay out of the floodplain.

F. Wildlife

The *2040 Douglas County Comprehensive Master Plan (CMP)* Wildlife Resources map identifies the site with moderate habitat value, and an overland connection corridor is present through this site, west to Plum Creek and ultimately to the hogback to the west. Division of Open Space and Natural Resources (“OSNR”) reviewed the application and identified this site as a Tier 1 wildlife resource according to the CMP. They stated dust/air quality, light, noise, and hours of operation “have the potential to impact the quality and functionality of the riparian area beside the parcel as a wildlife corridor.” OSNR commends the applicant for proposing numerous mitigation measures including limiting the hours of operation, reduction of hours during winter months, limiting security lighting, and providing a dust mitigation plan.

G. Historic Preservation

This site is located in one of several industrial nodes of the Louviers Rural Community as identified in the *CMP*. The Douglas County Curator indicated that the project site is within 0.6 miles from the Louviers Village Historic District and asked that the efforts to minimize the potential effects of the proposed use, as defined in the applicant’s narrative, should be considered in order to reduce the impacts to the historic community of Louviers.

H. Noise

The applicant submitted a noise report to assess predicted batch plant noise levels. Per *DCZR* Section 1401, uses within the GI zone district “may emit more noise and vibration than permitted in the light industrial district. Commercial uses are exempt from County and State regulation. The noise study assumed a maximum noise standard for industrial use of 80 dB(A) between 7:00 a.m. and 7:00 p.m. and 75 dB(A) between 7:00 p.m. and 7:00 a.m., similar to the County’s permissible noise limits for construction activities. The noise study factored ambient noise from US Highway 85, Airport Road, and the train tracks. The predicted noise levels from the batch plants did not exceed these daytime and nighttime noise levels. Furthermore, the predicted noise levels in the Louviers Village area and nonconforming residences located northeast of the site were not significant impacts. Predicted noise levels in these areas were in the range of 50 and 55 dB(A). The noise study was reviewed by the County’s noise consultant, DL Adams, who suggested various clarifications to the final report. DL Adams concurs with the findings of the applicant’s report.

Per the applicant’s narrative and management plan, noise mitigation techniques, including use of silo gate mufflers, white noise backup alarms, noise dampening

cabinets, and electrical power (verses generators); not allowing truck idling; and limiting crushing to the daytime only, are required. Daily noise assessments will be required, and quarterly reports will be available on request. The management plan requires that anomalies will be corrected, or operations will cease until all anomalies can be corrected.

V. PROVISION OF SERVICES

A. Schools

The proposed use will not generate additional students for the Douglas County School District.

B. Fire Protection

The South Metro Fire Protection District (SMFR) provides fire protection services in the area. The addition of the asphalt batch plant will require an additional 120,000-gallon fire cistern, fire hydrants, two separate addresses, and a paved, 20-foot-wide drivable surface around the proposed batch plant. SMFR has reviewed the revised documents and has no objection to the proposed uses within this USR application.

C. Sheriff Services

The Douglas County Sheriff's Office (DCSO) provides police protection to the property and did not response to the referral request.

D. Water

This site is located in the Sedalia Water and Sanitation District. Staff received a referral letter from Entitlement and Engineering Solutions, "EES" on behalf of Sedalia Water and Sanitation District on February 9, 2019, stating their ability and willingness to serve this site. The District's lines are not within 400 feet of the site and the District has approved of the use of the onsite well to service the use along with a certain amount of imported water hauled in by water truck.

EES acknowledges the proposed improvements will increase the water usage. "Per existing well permit number 63898, filed with the Office of the State Engineer-Colorado Division of Water Resources, the average annual amount of ground water to be appropriated shall not exceed 50.32-acre feet."

The permit states "the use of ground water from this well is limited to commercial and industrial use in a concrete production facility and sanitary facility for onsite staff." The batch plant improvements fall within those guidelines and still fall under commercial and industrial use. The well and associated infrastructure connecting to Ready-Mixed property make it physically and economically feasible for the District to continue service to the proposed development.

E. Sanitation

This site is located in the Sedalia Water and Sanitation District. Staff received a referral letter stating their ability and willingness to serve this site. Section 1406 of the DCZR requires central sanitary facilities in the GI zone district however the District's lines are not within 400 feet of the site and the District has approved the use of a restroom trailer that will be connected to an on-site wastewater treatment system. Douglas County Health Department (DCHD) will require a septic design be received and approved prior to the issuance of an "install permit" that will serve as a favorable recommendation for the proposed method of sanitary disposal on site

F. Utilities

Referral requests were sent to AT&T, CenturyLink, Comcast, CORE electric cooperative and Xcel. AT&T and Comcast did not respond to the referral request and Xcel had no comments. CenturyLink and CORE had no objections on the application as long as any easements were protected and maintained.

VI. PUBLIC NOTICE AND INPUT

Courtesy notices of an application in process were sent to adjacent property owners during the 21-day referral period. Numerous comments and phone calls were received from adjacent property owners or other members of the public during or after three separate referral periods. All public correspondence is attached to this staff report. Concerns raised were related to the asphalt chemical process itself; health impacts to the community; the overall intensity of additional uses on this site; excessive noise, dust, lighting, and traffic; and the mismanagement of the current site. The applicant's response to the citizen comments is also included in the attachments to the staff report. The applicant has provided a summary of their public outreach efforts and will further discuss it efforts as part of its presentation to the Planning Commission.

Three separate referral response requests were sent to required referral agencies on June 29, 2022, April 12, 2023, and April 9, 2024. The Cherokee Ridge Estates HOA and Metro District, and the Louviers Conservation Partnership expressed health and general welfare concerns related to series health risks, lack of studies conducted on existing issues, overall intensity of additional uses on this site and nonconformance to the DCZR and the 2040 CMP. All referral responses are provided in the referral response report, also attached to the staff report. The applicant has provided a written response to the latest round of referral comments. Mailed, published, and posted notices of the public hearings are required in compliance with Section 2113 of the DCZR for the USR.

VII. PLANNING COMMISSION HEARING

The Planning Commission heard the proposal at a public hearing on July 15, 2024. There were 17 citizens who testified against the USR based on the asphalt chemical process itself; health impacts to the community; the overall intensity of additional uses on this

site; excessive noise, dust, lighting, and traffic; and zoning violations on the current site. There were four people in support of the application citing the need for this type of product and the economic value this business brings to the community. Commissioners asked the applicant if they would accept a recommendation to table or continue to allow for further discussion with the community on impact mitigation and other means of ensuring compatibility. The applicant indicated they were not willing to accept this motion given the length of time they have been working on the plan. All Commissioners noted the lack of communication between the applicant and neighborhood.

A motion to recommend approval of the USR request was made with an additional condition offered by the applicant to remove the concrete rubble prior to construction of the new plant. This motion failed by a vote of 2 in favor and 4 against the motion. A second motion was made, with the same additional condition, to recommend denial of the USR and was passed 4 in favor and 2 opposed. Those Commissioners voting to recommend denial of the USR cited noncompliance with approval standards 2102.04: *will be in harmony and compatible with the character of the surrounding areas and neighborhood*, 2102.05: *will be consistent with the Douglas County Comprehensive Master Plan*, and 2102.12: *will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of the County*.

VIII. **STAFF ANALYSIS**

USR Approval Criteria

Per Section 2102 of the DCZR, a USR may be approved upon the finding by the Board of County Commissioners that the following standards have been met:

2102.01: Complies with the minimum zoning requirements of the zone district in which the special use is to be located, as set forth in this Resolution.

Staff Comment: Section 14, General Industrial District, of the DCZR permits batch plants in the GI zone district subject to the requirements of Section 21, Use by Special Review. The request complies with all other criteria for development within the GI district as found in Section 14 of the DCZR. Section 1416.01 requires outdoor storage, including but not limited to raw materials, supplies, finished or semi-finished products, or equipment, to be screened from view from abutting properties and public streets or trails bordering the site by a solid fence, wall, or hedge that is a minimum of six (6) feet in height. The applicant has provided a solid wood 6-foot privacy fence around the stockpiles along the north and west portion of the site. The applicant will add screening slats to the existing chain-link fence along the eastern boundary. The frontage along Airport Road will have a solid 6-foot wood fence and landscaping for screening. Additional landscaping is also proposed along the east, north, and west sides of the permit area.

2102.02: Complies with the requirements of this Section 21.

Staff Comment: The application was processed in accordance with the procedural provisions in Section 21.

2102.03: Complies with the Douglas County Subdivision Resolution.

Staff Comment: This site contains two parcels: one is platted as Lot 1A in the Owens Industrial Park and the other is not platted. Lot 1A was created in 1988 and altered through multiple platting processes, and no further subdivision is required for this application.

2102.04: Will be in harmony and compatible with the character of the surrounding areas and neighborhood.

Staff Comment: The proposed asphalt batch plant will be located north of the existing concrete batch plant; the land use is consistent with other industrial uses to the south and east. Agricultural and open space uses buffer the industrial node from residential uses in the Louviers community. The applicant has proposed various mitigation measures to minimize impacts to residents in Louviers and to the north of the site including solid fencing, landscaping, noise mitigation, odor mitigation, dust mitigation, and truck routing. Material stockpiles are limited to 20 feet in height throughout the site. The management plan specifically restricts commercial truck trips from travelling through Louviers Village or through the local roads associated with the nonconforming residential uses to the northeast of the property. Ongoing monitoring, reporting, and adjustments are included within the management plan to ensure effective mitigation occurs.

2102.05: Will be consistent with the Douglas County Comprehensive Master Plan, as amended.

Staff Comment: The site lies within an identified "Industrial Development Node" within the Louviers Rural Community subarea as identified in the Douglas County 2040 Comprehensive Master Plan (the "2040 CMP"). The Louviers Rural Community is characterized by a mix of urban and rural land uses. Land use review within the Louviers Rural Community is also subject to the Urban Land Use and Nonurban Land Use sections of the CMP. This site is between industrial zoned land to the northeast, east, and south and residential and agricultural land to the west and northeast.

The 2040 CMP states that while approval criteria for land use applications require a finding of compliance with the 2040 CMP, "...the competing values of the Plan must be balanced through the public review process to achieve the larger vision of the community." As such, the 2040 CMP acknowledges its own competing values, and that implementation can only be achieved through the balancing of community values during the review process. Several goals, objectives and policies may be considered when assessing this approval standard.

Urban Land Use Goals, Objectives, and Policies:

Policies support the build out of existing urban areas with available community facilities, services, and infrastructure and/or provide appropriate mitigation to services and infrastructure. (Policies 2-1A.2; 2-9A.2; Policy 2-7A.3). Design and intensity should consider potential environmental and visual impacts and compatibility with adjacent uses (Policy 2-1C.2, Objective 2-6B). Community

separators, open space, landscaping, and other design techniques should be used to achieve compatibility between residential and non-residential uses (Objective 2-6B.3, Objective 2-6B). Goal 2-7 encourages a balanced community and robust economy and Objective 2-7C promoted economic development and employment opportunities.

Comment:

The site is located in a designated industrial node clustered in and around the intersection of Airport Road and US Highway 85. A batch plant has been located on this property since 1981. Existing services are available to serve the expanded batch plant use including water, sewer, utilities, drainage, fire, and access. The traffic impact study has been accepted by Engineering. Capacity exists within the public roadway system and the applicant has committed to on-site traffic management. Environmental and visual impacts have been evaluated through various reports including a noise impact study, visual assessment, drainage report, and geotechnical investigation. A comprehensive dust control plan has been developed. The USR Management Plan includes specific limitations on truck trips and routing and the scale of accessory uses. Ongoing monitoring, reporting, and correction is intended to facilitate compliance. Solid fencing and screening are provided in accordance with the County's adopted standards and the height of material stockpiles is limited to 20 feet. All required state air-quality permits will be obtained to address particulate emissions and odors. The asphalt plant will be able to more efficiently supply both private and public customers within the County.

Nonurban Land Use Goals, Objectives, and Policies:

Goal 4-2 calls for the preservation and protection of the historic and unique character of the Louviers Rural Community. This goal also calls for balancing development, infrastructure, open space, and recreational needs, while recognizing constraints and opportunities. Other policies call for establishing community separators around the Louviers village area and minimizing light pollution and visual impacts associated with development (Objective 4-2A, Policies 4-2D.2, 4-D2.3, 8-4A.4). Policy 4-2E.4 supports the siting of industrial and commercial uses in designated nodes rather than a continuous strip along US Highway 85 in order to facilitate wildlife movement and limit visual impacts. Other policies related to US Highway 85 call for development to focus on infrastructure improvement and infill redevelopment and that existing industrial uses be upgraded to meet current standards (Objective 4-2E and Policy 4-2E.1). Policy 4-2E.4 also calls for improvements to access and traffic safety along the highway utilizing state and federal financial resources.

Comment:

The site is located in a designated industrial node along US Highway 85 as shown on the Louviers Rural Community plan. The site is located next to other industrial uses and a railroad line. The proposed asphalt plant is located within a portion of the property that includes existing improvements. Open space has been established through previously granted conservation easements which provide a buffer between this site and residential uses in the Louviers village area (approximately 2,225 feet to the west). An undeveloped agricultural area exists between the designated USR Permit area and nonconforming residential uses in the GI zone to the northeast of the site. While the site is located in the overland connection area on the Wildlife Resources map and identified as a Tier1: County / Regional habitat area, the permit area is not located within a designated wildlife crossing area or floodplain per the Louviers Rural Community map. No historic resources are present on the property. Visual impacts have been assessed with screening proposed.

Airport Road and US Highway 85 have been recently improved with additional projects slated in the future. The traffic impact study and traffic management measures should help minimize traffic impacts and promote safe operations both entering and existing the site.

Other environmental policies within the CMP call for limiting noise and dust with development and other activities, using Colorado Department of Public Health and Environment (CDPHE) air quality and Environmental Protection Agency (EPA) standards to improve air quality, and requiring noise impact studies. (Objective 8-4A, Policy 8-4A.1, Policy 8-4A.4, Objective 8-6A, and Policies 8-6A.1 and 8-6A.2).

Comment: The site, its batch plants and crushing equipment, require Air Pollutant Emissions Notice (APEN) permits from CDPHE. A comprehensive dust management plan has been developed by the applicant with key mitigation and compliance measures identified in the management plan. A noise impact study was prepared which demonstrates that the use will not have significant noise impacts on area residences. Noise dampening material and other mitigation measures are included in the management plan. Ongoing testing of noise and air quality is proposed with reports to be made available to the County.

2102.06: Will not result in an over-intensive use of land.

Staff Comment: The GI zone district was established to allow manufacturing operations; heavy equipment, construction, and fuel yards; major transportation terminals; and other basic industrial activities required in a modern economy. The addition of a second batch plant facility on the property will intensify the use of the property. The applicant has proposed to eliminate the stand-alone concrete crushing operation on the site, a use which has been of significant concern to the community. The applicant has also proposed to make all uses on the property subject to a single USR management plan. Mitigation measures are identified to minimize noise, dust, and traffic impacts to the community. The site is large enough to contain the use including the batch plant structures, material storage, parking, drive aisles, and all other proposed facilities. Internal access drives provide for onsite truck queuing as necessary. Existing improvements on the northern portion of the property include a detention pond and looped access drive. All asphalt plant improvements are proposed to be located within the bounds of these existing improvements.

While standard hours of operation are from 6 a.m. to 6 p.m., extended and overnight hours are allowed between May 1 and October 31 if needed to accommodate public projects as verified by written contract. The applicant must provide advance notice to the County and surrounding property owners and residents of start and stop times. No crushing operations may occur outside of regular business hours.

2102.07: Will provide roadway capacity necessary to maintain the adopted roadway level-of-service for the proposed development concurrently with the impacts of such development.

Staff Comment: Trips associated with the asphalt batch plant and other USR changes to the site can be accommodated by the existing roadway network. The existing level of service will not be significantly reduced by the additional trips. Traffic Impacts were analyzed as part of an updated Traffic Impact Study that has been reviewed and accepted by Engineering. CDOT and Douglas County have plans for future improvements to the US Highway 85 interchange and Airport Road. No additional roadway improvements beyond signage and pavement striping at the site accesses are required of the applicant at this time.

The concrete batch plant currently generates up to 200 truck trips a day. The asphalt batch plant is projected to generate up to 808 truck trips a day. Total truck trips are restricted by the limits established in USR Management Plan and will be monitored through a ticketing software system. The management plan restricts trucks exiting the site to use of the western-most access, the access which is furthest away from the Peterson Road and US Highway 85 intersections.

All trucks must queue onsite to avoid further impacts to Airport Road when a train is crossing or when other traffic interruptions are present on Airport Road and US Highway 85. All trucks must exit the western access to reduce impacts to the Peterson Road and US Highway 85 intersections.

2102.08: Will provide public facilities and services necessary to accommodate the proposed development concurrently with the impacts of such development.

Staff Comment: All such services are available to the site.

2102.09: Will not cause significant air, water, or noise pollution.

Staff Comment: The DCZR recognizes certain uses “may emit more noise and vibration than permitted in the light industrial district.” The GI zone district goes on to state that “all such impacts shall be mitigated in accordance with applicable County, State, and federal regulations.” The management plan identifies various permits and approvals required from regulatory agencies related to air and water quality.

Air quality is regulated by the Colorado Department of Public Health and Environment (CDPHE). CDPHE tasked with permitting the equipment used in each batch plant and crushing operation. The applicant is required to obtain various Air Pollutant Emission Notice or “APEN” permits for this site and is required to comply with Colorado Air Quality Control Commission (AQCC) regulations. The management plan also requires that the applicant meet odor rules established by the AQCC and utilize various technologies onsite to capture odors from asphalt storage tanks and asphalt production and transport.

Site operations will comply with the national air quality standards for particulate emissions. To minimize dust impacts associated with operations on the site, the applicant prepared the Comprehensive Dust Control Plan which is to be implemented by the site operator. Key provisions of the plan are listed in the management plan. The management

plan requires that a qualified third party perform air quality monitoring at the site on a quarterly basis. If necessary, the operator will install additional control measures to bring the site into compliance.

Water quality is not anticipated to be impacted as a result of this request. Engineering has reviewed and approved the existing and proposed stormwater facilities which include a water quality component that complies with adopted County and State standards. The Douglas County Health Department has reviewed the project and will require a septic system design and use permit in accordance with its regulation.

A noise study was submitted and found to be acceptable by the County's noise consultant. While the County's Noise Overlay Zone does not restrict noise levels for commercial use, noise associated with the concrete and asphalt batch plant operations, and accessory uses, are not anticipated to have significant impacts on surrounding residential properties. The applicant has proposed a variety of noise mitigation measures to limit the noise associated with its vehicles and equipment that are detailed in the USR management plan. The plant operator is required to monitor noise daily and provide quarterly records for County review if requested.

Section 2104 of the DCZR states "each use by special review is subject to yearly review, or as often as the Board deems appropriate, to ensure compliance with the approval standards and conditions of approval". The USR, management plan and supporting reports identify mitigation tools that will be used to minimize impacts to neighbors through appropriate operations management onsite. The management plan provides for ongoing monitoring of dust, noise, and traffic to ensure compliance and allow for necessary corrective measures to be taken. Reports shall be made available to the County upon request.

2102.10: Will be adequately landscaped, buffered, and screened.

Staff Comment: *The G1 zone district requires outdoor storage, including but not limited to raw materials, supplies, finished or semi-finished products, or equipment, be screened from view from abutting properties and public streets or trails bordering the site by a solid fence, wall, or hedge that is a minimum of six (6) feet in height. The site plan identifies a 6-foot fence around the permitted area which includes adding screening slats to the existing chain-link fence along the east side and the addition of new 6-foot-tall cedar fencing along the north and western sides and along the southwestern street frontage.*

In addition to the fencing, the applicant proposes 30% landscaping and 15% open space, surpassing the minimum 15% landscape requirements. Landscaping is proposed along the street frontage and where the topography is such that the solid fence will not prevent viewing the outdoor storage, specifically along the west and northeast portions of the site.

2102.11 Complies with Section 18A, Water Supply Overlay District, of the Zoning Resolution:

1803A.01 The applicant has demonstrated that the water rights can be used for the proposed use(s).

Staff comment: The applicant has provided a will serve letter from the Sedalia Water and Sanitation District. "The applicant is included within the District under the Order Approving Sedalia Water and Sanitation District's Motion for Order for inclusion dated October 23, 2006, and recorded on January 16, 2007, at Reception number 2007004713." The district stated "the maximum estimated water demand for the Ready-Mixed site of 50.0 acre-feet per year falls below the permitted allocation of 50.32 acre-feet per year. Therefore, the existing well is capable of serving the subject property for the demands they request."

The Louviers Water and Sanitation district commented that "the district understands the property owner has the right to withdraw Arapahoe Aquifer groundwater under its property. Additional demand of Arapahoe Aquifer groundwater in close proximity of Louviers Water and Sanitation District may impact long term Louviers water supply and is requested to be minimized." The applicant stated they "submitted a water budget that is tailored to existing well rights and proposes no expansion of withdrawals beyond the existing well permit."

1803A.02 The reliability of a renewable right has been analyzed and is deemed sufficient by the County based on its priority date within the Colorado System of Water Rights Administration.

Staff comment: Renewable water supplies are not proposed for this Use by Special Review application.

1803A.03 The Water Plan is deemed adequate and feasible by the County to ensure that water supply shortages will not occur due to variations in the hydrologic cycle.

Staff comment: The proposed water supply is provided through the use of an individual Arapahoe Aquifer groundwater well. The District reviewed the application and stated the estimated water demand for the composite of all uses is 50 acre-feet which can be supplied by the existing well. The district noted that recent annual water usage at the facility varies between 21.8 and 39.6 acre-feet per year.

1803A.04 The Water Plan is sufficient to meet the demand applicable to the project based on the minimum water demand standards in Section 1805A herein.

Staff comment: Industrial land uses must have a minimum of 0.75 acre-feet/year per 6,695 square feet of building space. The Sedalia Water and

Sanitation District indicates the maximum estimated annual water demands are 43.2 acre-feet for concrete operations, 5.0 acre-feet for asphalt operations, and 1.8 acre-feet for recycling operations. Adequate water supplies exist and are available for withdrawal of this amount via the existing well on the property.

2102.12 Will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of the County.

Staff Comment: The management plan commitments are established to allow for ongoing reporting, monitoring, correction, and enforcement of various standards designed to protect public health and safety. Annual inspections by the County’s Zoning Compliance officials are required.

IX. STAFF ASSESSMENT

Staff has evaluated the USR request in accordance with Section 2102 of the DCZR. The applicant is required to adhere to the USR plan exhibit and operational limits of the management plan. Per Section 21, all approved USRs are subject to annual inspection to ensure compliance with the approved USR. Should the Board of County Commissioners find that the approval standards for the USR are met, the following proposed conditions should be considered for inclusion in its motion:

1. Prior to final approval of the record copy of the USR Plan Exhibit, any necessary technical corrections shall be made to the satisfaction of Douglas County.
2. Prior to final approval of the record copy of the USR Plan Exhibit, the applicant shall complete septic design as requested by the Douglas County Health Department.
3. All commitments and promises made by the applicant or the applicant’s representative during the public hearing and/or agreed to in writing and included in the public record have been relied upon by the Board of County Commissioners in approving the application; therefore, such approval is conditioned upon the applicant’s full satisfaction of all such commitments and promises.

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