

**October 13, 2026 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Tuesday – October 13, 2026 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 – CONDITIONAL USE PERMIT

Applicants: Flowing Well Wind, LLC

Owners: Robert & Darla Storm

Property Description: South Half (S½) Section 2, Township 117 North, Range 48 West (Parcel #2624), Lowe Township, Deuel County, South Dakota.

Action Items: • Conditional Use Permit: (Section 1101.04 – Agricultural District Conditional Uses) – Temporary Meteorological (MET) Tower

Zoning Designation: AG – Agricultural

Request:

The applicant requests approval to install and operate a temporary 60-meter (197-foot) meteorological (MET) tower for wind measurement and data collection purposes associated with future wind energy development. The MET tower will be guyed, include standard instrumentation for wind speed and direction, and will be removed once data collection is complete.

History / Issue(s)

Property Overview:

The 320-acre agricultural parcel is owned by Robert and Darla Storm and currently used for standard agricultural operations. It is surrounded entirely by agricultural land. The site is suitable for temporary MET tower installation due to terrain, access, and surrounding land use.

Applicant's Project Details:

- Tower type: NRG Systems 60m XHD MET Tower
- Confirmed structure height: 197'

The engineering drawings show 197 feet as the erected height. The 232-foot dimension shown in the footprint drawings is the radius to guy anchors, not tower height.

- Tower will include typical instrumentation: anemometers, wind vanes, and data loggers.
- Tower is temporary and will be fully removed after the wind study is complete.
- Access will be via existing farm field approaches or low-impact temporary access routes.
- A KMZ file and detailed site map were submitted showing setbacks, anchor locations, and topography.

Site Control:

A recorded Wind Energy Lease and Easement Memorandum between Flowing Well Wind, LLC and the Storms provides legal authorization for the applicant to construct and operate the MET tower on the property.

Specifics of Request:

Setbacks & Siting:

- Tower location and guy anchors meet required agricultural district setback standards.
- Adjacent land uses are agricultural with no nearby residences affected.
- MET Towers are not required to meet full Wind Energy System (WES) setbacks because they are temporary and non-generating structures.

Construction & Installation:

- All engineering drawings and stamped tower design documents were submitted.
- Structure is non-illuminated unless FAA requires lighting. No lighting is proposed at this time.
- No grading or permanent ground disturbance is expected beyond minimal anchor and base installation.

Additional Considerations:

- No aquifer protection conflicts.
- No drainage or erosion concerns for temporary installation.
- Extremely low traffic generation (installation crew only).
- No noise, dust, odor, or ongoing disturbance is expected.

Zoning Ordinance Review**Conditional Use – Agricultural District (Section 1101.04)**

MET towers are allowed as a conditional use in the Agricultural District.

The proposed tower meets required standards, including:

- Safe and adequate access
- Compatibility with surrounding agricultural uses
- Temporary installation
- FAA/state compliance (Section 1215.02)
- No negative impact on neighboring properties

Comprehensive Plan Considerations

- Temporary MET tower aligns with county energy-resource evaluation goals
- Minimal footprint within cropland
- No impact on public infrastructure or surrounding landowners

Staff Recommendation – Conditional Use Permit & Building Permit

The application may be **approved**, **postponed**, or **denied**.

Staff Recommendation:

Staff recommends approval of the Conditional Use Permit based on the applicant meeting the requirements of the Deuel County Zoning Ordinance for a MET tower in the Agricultural District. The request is consistent with the Comprehensive Land Use Plan and will not adversely affect neighboring properties.

If approved, staff recommends the following conditions be included in a Letter of Assurance signed by the applicant and kept on file in the Zoning Office:

1. The MET tower is a temporary structure and shall be removed when wind data collection is complete or when the tower is no longer in use.
2. Tower height shall not exceed 197 feet, consistent with the stamped engineering drawings provided.
3. Applicant shall comply with all FAA and South Dakota Aeronautics Commission requirements. Any required tower lighting or marking shall follow FAA standards.
4. All guy anchors and tower components shall remain within the permitted parcel as shown on the submitted site map.
5. Any damage to roads, field approaches, or utilities caused during installation or removal shall be repaired by the applicant.
6. All disturbed ground shall be restored to pre-installation condition once the tower is removed.
7. The expected duration of the MET tower installation is 3–5 years, as stated by the applicant.
8. This Letter of Assurance shall remain in the zoning file as part of the approved permit documentation.

ITEM #2 CONDITIONAL USE PERMIT

Applicant/Owner: SK Investment Trust – Scott D. Stevens

Property Description: Lot 2, Block 1, Moe Addition in Gov't Lot 4, Section 7, Township 116 North, Range 48 West, Lake Alice, Altamont Township, Deuel County, South Dakota. Parcel Number: 2025 Split.

Action Items – CONDITIONAL USE – (1103.05.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road)

Zoning Designation: LP – Lake Park

Request: The applicant requests a Conditional Use Permit to construct a 60' x 80' accessory storage building on property separated from the principal residence by Lake Alice Drive.

History/Issue(s):**Specifics of Request:**

1. **Ownership:** SK Investment Trust (Scott D. Stevens) owns both the subject lot (Lot 2, Block 1, Moe Addition) and the principal residence located directly across Lake Alice Drive on Lot 10, Lake Alice Shores.
2. **Proposed Structure:** The applicant proposes to construct a 60' x 80' (4,800 sq. ft.) cold-storage building with 14-foot sidewalls, a concrete foundation, and two-tone metal siding and metal roofing, consistent with the attached manufacturer specifications.
3. **Location:** The accessory structure will be located directly across Lake Alice Drive from the primary residence at 1020 Lake Alice Drive on Lot 10 Lake Alice Shores.
4. **Ordinance Requirement:** Under Section 1103.05.8 of the Deuel County Zoning Ordinance, accessory structures on lots adjacent to the principal use—but separated by a public or private roadway—require Conditional Use Permit approval in the Lake Park (LP) District.
5. **Use of Structure:** The structure will be used for residential-related storage (boat, trailer, equipment, etc.). No living quarters or plumbing are proposed. The building permit explicitly states “NO Bathroom – Cold Storage” per phone call on 9-21-26
6. **Utilities:**
 - Water: None proposed
 - Sewer: None proposed
 - Electric: H-D Electric Cooperative (available but not yet connected)
 - Trash – take home
7. **Association Approval:** The Lake Alice Association voted on August 31, 2025 to approve construction of the storage shed on Lot 2 with the condition of no living quarters. This approval satisfies the requirement in the recorded Letter of Assurance, which was filed with the final plat of Lots 1 and 2, Block 1, Moe Addition, requiring Association approval prior to any building on either lot.

Ordinance and Comprehensive Land Use Plan regarding this request:

a) Access & Circulation: Access to the proposed structure will be provided from Lake Alice Drive, a platted private drive serving the Lake Alice Shores area.

b) Parking: Adequate off-street parking space is available on the lot. No parking within the roadway is anticipated.

c) Utilities:

- Water: None proposed
- Sewer: None proposed
- Electric: H-D Electric Cooperative
- Trash: – take home

d) Screening and Buffering: The surrounding vegetation and the non-commercial nature of the request assist in meeting applicable screening expectations within the LP District.

e) Signage: No signage is proposed.

f) Setbacks: The proposed building meets and exceeds all LP District setback requirements:

- Front yard: More than 30 feet from road
- Side yard: More than 10 feet
- Rear yard: More than 25 feet

Staff Summary**Conditional Use Permit – Accessory Structure**

The applicant seeks approval of a Conditional Use Permit for an accessory structure located on a lot adjacent to—but separated from—the principal residence by a public roadway, as allowed under Section 1103.05.8 of the Deuel County Zoning Ordinance.

The Board may approve, approve with conditions, continue, or deny the application.

Staff Recommendation

Staff recommends approval of the Conditional Use Permit to allow construction of the accessory storage building on Lot 2, Block 1, Moe Addition, subject to compliance with all applicable LP District regulations and the Deuel County Zoning Ordinance.

If the Board finds that the request meets the criteria of Section 1103.05.8 and does not adversely impact the public interest, the Board may approve the permit. Proposed Findings of Fact and Conclusions of Law have been provided for the Board's consideration.

ITEM #3 CONDITIONAL USE PERMIT

Applicant: Rogge Excavating Inc.

Property Owner: Lawrence Rogge & Austin Rogge

(Todd & Jody Jongeling were the owners at the time of the February 2026 CUP; land was sold on May 7, 2026.)

Property Description: SW1/4 Less OLS 1–2 & Less Thompson Air Strip, Section 18-113-50, Grange Township, Deuel County, South Dakota.

Zoning District: A – Agricultural

Aquifer Overlay: Zone B (Shallow Aquifer) and a mapped portion of Zone A (Wellhead Protection Area)

Action Item: Conditional Use Permit – Section 1101.04.04

To allow a portable asphalt or concrete mixing plant on the above-described property, provided all requirements of Section 1219 are met.

Request:

Rogge Excavating Inc. requests approval to operate a portable asphalt or concrete mixing plant at the existing permitted gravel pit/mining site. The original mining CUP approved in February 2026 specifically **excluded** asphalt and concrete batch plants; therefore, a new Conditional Use Permit is required.

The applicant states that:

1. The mixing plant will be portable, not permanent.
2. Portable crushers will not be used with the mixing plant; crushing is covered under the existing CUP.
3. Fuel storage for the plant will be temporary, utilizing a double-wall tank located outside the wellhead protection area.
4. No junk or waste materials will be stored on site.
5. Hours of operation will be 5:00 a.m. to 8:00 p.m., Monday–Saturday, with occasional extended hours depending on project needs.
6. Materials stored may include asphalt millings for reuse in mixing.
7. The project site has an existing haul road agreement with Grange Township for mining/crushing operations.
8. A Stormwater Permit (SDR00C299) is active.
9. A valid Mine License (#20-1068) has been provided.
10. A map showing the proposed mixing plant location was submitted. The plant would be located outside the wellhead protection Zone A.

History / Issue(s):

1. The mining and rock-crushing CUP/variance were approved on February 9, 2026, expressly excluding asphalt and concrete batch plants.
2. The applicant now seeks a *separate* CUP allowing a portable mixing plant.
3. On May 7, 2026, Lawrence Rogge and Austin Rogge purchased the property from Todd and Jody Ann Jongeling and became the current owners of the parcel.
4. The mixing plant will rely on the existing mining operation roadway, berms, site access, and stormwater coverage.
5. No additional variance is required for this CUP because the proposed location of the portable asphalt or concrete mixing plant is outside the 1,000-foot setback from any residence.
6. The plant must comply with all applicable aquifer protection standards under Sections 1101, 1105, and 1219.
7. Fuel storage will remain outside Zone A and be limited to temporary double-wall tanks.
8. During the February 9 and March 9, 2026 meetings, the Board requested soil borings and groundwater data before considering any asphalt or concrete mixing activity. Rogge Excavating later submitted borings showing 25–35 feet of gravel underlain by clay with no groundwater encountered. These results support placing the portable mixing plant in the northern portion of the property, fully outside the Zone A wellhead protection area.

Applicant Communication / Clarification

On September 24, 2026, the Zoning Office received an email from Coleen Rogge regarding this CUP request. Coleen clarified the intent of the request:

“We do not own a mixing plant. If we do in the future, we will get a permit. The permit is to allow this type of operation for future use.” — Coleen Rogge

On September 26, 2026, the Zoning Officer also spoke by phone with Lawrence Rogge to clarify that Conditional Use Permits are not open-ended and expire after one (1) year unless the use has begun or an extension has been granted under Section 504. The applicant acknowledged this requirement, expressed understanding, and confirmed they still wish to proceed with the CUP request.

This communication supports staff's recommendation to use the standard one-year commencement requirement and not a custom timeframe.

Ordinance / Comprehensive Plan Review:

1. **Section 1101.04.04** allows asphalt and concrete mixing plants as conditional uses in the Agricultural District, provided all standards in **Section 1219** are met.
2. The property lies within **Zone B** (Shallow Aquifer) and partially mapped **Zone A** (Wellhead). Staff must ensure all fuel, equipment maintenance, and mixing operations occur **outside Zone A**.
3. No permanent mixing plants or fuel storage are permitted **in Zone A**.
4. The proposed portable mixing plant location is shown **outside Zone A**.
5. The mixing plant must comply with all stormwater requirements under the existing permit SDR00C299.

Conditional Use Permit Expiration:

Section 504 of the Deuel County Zoning Ordinance states that a Conditional Use Permit expires after one (1) year if construction or commencement of the use has not begun, unless otherwise specified by the Board of Adjustment.

Because the applicant does not currently own a mixing plant and seeks approval for future potential use, the standard one-year commencement requirement is appropriate. The applicant understands this requirement based on phone communication on September 26, 2026

Recommended Expiration Specification

The CUP shall remain valid for one (1) year from the effective date. If construction or operation of the mixing plant has not commenced within one year:

- **The CUP shall expire automatically.**
- **The applicant may request an extension, but approval is not guaranteed.**
- **If no extension is granted, the applicant must reapply for a future mixing plant request.**

Staff Summary & Recommendation

The application contains sufficient information for consideration. The proposed operations can be permitted under Sections 1101.04.04 and 1219, provided aquifer protection and operational safeguards are applied.

Staff recommends approval of the Conditional Use Permit for a portable asphalt/concrete mixing plant with the following conditions included in the Letter of Assurance:

1. Effective Date & Duration

- a. Approval becomes effective upon signing the Letter of Assurance.
- b. The existing haul road agreement shall remain in effect; updates must be provided if operations change.
- c. The Conditional Use Permit shall expire one (1) year from the effective date unless construction or operation of the portable mixing plant has commenced. An extension may be requested but is not guaranteed.

2. General Requirements

- a. No storage of junk, debris, demolition material, waste, or unrelated equipment.
- b. No discharge of industrial processed water on site.
- c. All mixing plant operations, fuel storage, fueling, and maintenance shall occur outside Zone A.
- d. Fuel storage shall be **temporary** and located in a double-wall tank.
- e. All federal, state, and local permits (including DANR stormwater coverage) must be maintained during operation.
- f. Only portable asphalt or concrete mixing plants are authorized. Any **permanent** plant would require a separate CUP.
- g. Hours of operation shall be 5:00 a.m. to 8:00 p.m., Monday–Saturday, with occasional extended hours allowed if nuisance impacts are controlled.
- h. No mining or crushing operations beyond those allowed in the existing CUP shall be conducted under this permit.
- i. Temporary stockpile areas shall be managed to control dust, runoff, and tracking.

3. Violation & Penalties

Violations will be enforced consistent with Section 504 and Section 1307 of the ordinance. Multiple or repeated violations may result in modification or revocation of the CUP.

ITEM #4 – PLAT

Applicants/Owners: Warren & Holly Lunden

Property Description: Lots 1 and 2, Lunden Addition, located in the SW $\frac{1}{4}$ of Section 22, Township 113 North, Range 49 West, Blom Township, Deuel County, South Dakota.

Zoning Designation: AG – Agriculture District

Request: The applicants propose to plat two lots within the SW $\frac{1}{4}$ of Section 22. Lot 1 will consist of approximately 51.4 acres, and Lot 2 will consist of approximately 101.8 acres. The purpose of the plat is to formally establish distinct boundaries to separate portions of the farmland for future estate-planning purposes.

Staff Recommendation: Staff recommends approval of the Plat of Lots 1 and 2, Lunden Addition, as submitted. Upon approval by the Planning Commission, the plat will be forwarded to the Deuel County Board of Commissioners for final consideration.