**RESOLUTION NO. 21-345**

**A RESOLUTION GRANTING APPROVAL OF A TEMPORARY USE PERMIT TO ALLOW A CONCRETE BATCH PLANT FROM APRIL 1, 2022, UNTIL OCTOBER 1, 2022, ON INDUSTRIAL PROPERTY DESCRIBED AS PART OF LOTS 1, 2, AND 3, AUDITOR'S SUBDIVISION, SW1/4 SW1/4, SECTION 23-75-44, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.**

**WHEREAS,** The applicant, Cedar Valley Corporation, has been subcontracted by Ames Construction for production of concrete in relation to the Iowa DOT Interstate 29 reconstruction project and is requesting a temporary use permit to use this property for concrete production; and

**WHEREAS,** The temporary use permit will commence on April 1, 2022, and extend through October 1, 2022; and

**WHEREAS,** The applicant has provided the following additional information regarding the request:

A. The site will be used solely for the production of concrete and storage of vehicles when not in use. No crushing or recycling of concrete will occur on the subject property.

B. Operating hours on the subject property will be daylight hours, approximately 7:00 a.m. to 7:00 p.m. The batch plant will primarily operate on weekdays, with weekends operations as needed.

C. The batch plant will operate with approximately 20 employees at any given time during active hours. Of those, about half would drive trucks to and from the work site.

D. Cedar Valley Corporation plans to mitigate dust by using a water truck to intermittently wet the soil around the plant site.

E. Cedar Valley Corporation will prepare the site for use as a batch plant by creating a sturdy base for operations. If the ground is not already prepared, they will strip the top layer of soil and pile it into a berm. Rock would then be laid and compacted to withstand the truck traffic and weight of materials on site.

F. Cedar Valley Corporation will keep all removed topsoil on the subject property and replace it once the batch plant operation has concluded.

G. Cedar Valley Corporation does not plan to remove any trees as part of this operation, but they may remove smaller vegetation if needed.

H. When the batch plant is moved to the subject property, Cedar Valley Corporation will notify the Iowa Department of Natural Resources and develop a stormwater plan.

I. The applicant does not plan to put gravel down on truck parking areas on site; and

**WHEREAS,** The request was routed to all local utility providers and City Departments. The following comments were received:

A. <u>Council Bluffs Public Works Department</u> provided the following comments:

1. Avenue "Q" is a low maintenance local road that will require maintenance to handle the proposed traffic loading. The contractor will be responsible for the maintenance of this road throughout the duration of the proposed use of the adjacent property as a concrete batch plant.
2. Dust control from the batch plant and traffic may require more than a water truck. If dust complaints arise it will be the contractor's responsibility to control the fugitive dust through additional means and methods.
3. Stormwater management for the site is required including water quality. All contaminants shall be handled on site by the contractor.
4. Site shall be restored at time of termination of the temporary use to current or better condition than day one of temporary use commencing.

B. Council Bluffs Community Development Department provided the following comments:

1. CBMC §15.02.110 states that "temporary batch plants shall be located at least one thousand (1,000) feet from any recreational area, school, or residence. The proposed batch plant would be located less than 1,000 feet from multiple residences, the closest of which is approximately 600 feet from the batch plant site (see Attachment E). However, all residences within this 1,000-foot radius of the proposed batch plant are located on the other side of Interstate 29. The Interstate would act as a barrier, mostly or wholly insulating residences from negative impacts (e.g. noise, dust, etc.) of the proposed batch plant. For this reason, the City Council could be justified in granting Cedar Valley Corporation a waiver from the aforementioned requirement for the duration of the temporary use permit.
2. Because Avenue "Q" is a local road, the applicant would need a waiver from City Council to use Avenue "Q" to access the site. Avenue "Q" experiences very low traffic volumes and is not connected to any residential streets, so such a waiver would be justified for the duration of the permit.
3. The proposed batch plant is shown to be located in the southerly portion of the subject property according to the applicant's site plan. The applicant shall not extend the batch plant operations into any neighboring properties, and any expansion of the footprint of the batch plant on the subject property shall be reviewed and granted approval by the City prior to expansion; and

**WHEREAS,** The Community Development Department recommends approval of the request for a temporary use permit to allow a batch plant operation to occur on the property legally described as part of Lots 1, 2, and 3, Auditor's Subdivision, SW1/4 SW1/4 Section 23-75-44, Pottawattamie County, Iowa, in relation to the Interstate 29 construction project from April 1, 2022, to October 1, 2022, subject to the comments stated above and the following conditions:

A. Approval of the temporary use permit shall only occur if City Council grants a waiver from the requirement in CBMC §15.02.110 that "temporary batch plants shall be located at least one thousand (1,000) feet from any recreational area, school, or residence."

B. Approval of the temporary use permit shall only occur if City Council grants a waiver from the requirement in CBMC §15.02.110 that "a temporary batch plant shall only be allowed access via arterial or collector roads and highways."

C. Cedar Valley Corporation shall provide a stormwater management plan to and obtain approval from the Public Works Department prior to commencement of batch plant activity on the subject property.

D. Dust and other byproducts shall be minimized at all times. All dust control measures outlined in the submitted application shall be followed and improved if needed to control airborne dust.

E. The operator shall maintain and remain in compliance with all applicable Federal, State, and local permits and regulations, including, but not limited to: the Iowa DNR NPDES General Permit #3, Stormwater Pollution Prevention Plan, and Spill Prevention Plan.

F. The hours of operation for the crushing operation shall be limited to Monday through Sunday 7:00 AM-7:00 PM.

G. All materials, vehicles, and structures brought on-site shall be limited to use for the Interstate 29 Iowa DOT Project. Any expansion of the footprint of the batch plant beyond what is shown on the applicant's site plan shall be reviewed and granted approval by the City prior to expansion occurring.

H. Upon completion of the project, all materials, debris, and equipment related to the operation shall be removed from site and the site shall be restored to predevelopment conditions. The contractor shall request a site inspection to ensure that the site has been restored to predevelopment conditions.

I. The requested temporary use permit shall commence on April 1, 2022, and approval shall expire on October 1, 2022. The City may administratively grant a six-month extension of time for the temporary use permit if the batch plant complies with all of the conditions of the temporary use permit and there are no nuisances or other city code enforcement actions on record for the operation.

J. The requested temporary use permit shall be valid from April 1, 2022, until October 1, 2022. However, should the applicant complete work related to the identified Interstate 29 project prior to this end date, the site shall be restored to predevelopment conditions and the contractor shall request a site inspection to ensure that the site has been restored to predevelopment conditions prior to October 1, 2022.

K. Due to the temporary nature of the request, the applicant shall not be required to pave parking areas on site. However, if unpaved parking areas become problematic in terms of dust and/or mud, the contractor shall lay gravel for all parking areas or use other measures to adequately control dust and mud.

L. All materials used in the batch plant shall be routinely processed, and all aggregate piles shall not exceed twenty-five (25) feet in height.

M. The applicant shall not alter any existing tree lines that help shield the batch plant from view from the interstate.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the temporary use permit allowing a temporary batch plant from April 1, 2022, until October 1, 2022, on industrial property comprised of 8.43 acres legally described as part of Lots 1, 2, and 3, Auditor's Subdivision, SW1/4 SW1/4, Section 23-75-44, City of Council Bluffs, Pottawattamie County, Iowa, is hereby approved subject to the comments and conditions set forth above.

ADOPTED
AND
APPROVED: November 22, 2021.

_____
Matthew J. Walsh Mayor

ATTEST: _____
Jodi Quakenbush City Clerk