TO: City Council
FROM: Community Development Department

DATE: April 10, 2023

RE: **CASE #TU-23-003**
REQUEST: A temporary use permit for a concrete batch plant

APPLICABLE CODE SECTIONS: §15.02.110—Temporary Use Permit

A. Purpose. A temporary use permit is required for limited term activities or events, which occur on private property within the City that may potentially create off-site impacts to surrounding properties and the neighborhood in which it will occur.

C. Procedure.

1. The zoning administrator shall grant temporary use permits for those uses listed in paragraph E (Permitted Temporary Uses) below, so long as they comply with the requirements of this section, including paragraph D (Standards for Temporary Uses) and this ordinance. Unless expressly provided in this section, every temporary use shall comply with the bulk requirements applicable in the district in which the temporary use is located.

E. Permitted Temporary Uses

1. Batch Plants (Temporary)

LEGAL DESCRIPTION: Part of Lots 1, 2, and 3, Auditor's Subdivision of the SW1/4 SW1/4 of Section 23-75-44, City of Council Bluffs, Pottawattamie County, Iowa.

LOCATION: 8.43 acres of undeveloped land lying immediately east of property addressed as 2445 N 25th Street.

APPLICANT: Cedar Valley Corporation, 2637 Wagner Road, Waterloo, IA 50703

OWNERS: City of Council Bluffs (for the use-benefit of Board of Water Works Trustees), 209 Pearl Street, Council Bluffs, IA 51503

BACKGROUND INFORMATION –The Community Development Department has received an application from Cedar Valley Corporation for a temporary use permit to allow a temporary batch plant on 8.43 acres of industrial land on property legally described above. Attachment 'A' contains a location/zoning map.

The applicant is subcontracted with Ames Construction to produce concrete for the I-29/I-480 interchange reconstruction project currently underway by the Iowa Department of Transportation. According to their letter of intent (Attachment 'B'), the applicant intends to temporarily use the

subject property for a batch plant. The applicant previously received City Council approval for a temporary use permit to operate a batch plant on the subject property from April 1, 2022, through October 1, 2022 (Resolution No. 21-345). The applicant has requested another temporary use permit to allow an identical temporary batch plant to operate on the subject property from April 11, 2023, through October 11, 2023. The applicant's site plan and truck routing plan have been included as Attachment 'C' and Attachment 'D,' respectively.

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 weekend 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, Cedar Valley Corporation will strip the top layer of soil and pile it into a berm, then lay rock and compact it to withstand the truck traffic and weight of materials on site.
F. Cedar Valley Corporation will keep all disturbed 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. Cedar Valley Corporation will coordinate with the Iowa Department of Natural Resources to develop a stormwater plan.
I. The applicant does not plan to put gravel down on truck parking areas on site.

The following attachments are included with the case staff report:

- Attachment A: Letter of Intent
- Attachment B: Site Plan
- Attachment C: Truck Route Plan
- Attachment D: Location/Zoning Map
- Attachment E: Map of Distance from Residences

APPLICABLE CODE SECTIONS - Council Bluffs Municipal Code (Zoning Ordinance) Section 15.02.110 Temporary Use Permit, provides for the issuance of temporary use permit(s) '*for limited term activities or events, which occur on private property within the City that may potentially create off-site impacts to surrounding properties and the neighborhood in which it will occur.*' The code further defines eight (8) specific uses, which are eligible for issuance of a temporary use permit administratively. A batch plant is a use that may be administratively permitted, but the Community Development Department is bringing this case before City Council due to the need for a waiver from typical requirements for batch plants to be located at least 1,000 feet from recreational areas, schools, and residences.

Per Council Bluffs Municipal Code Section 15.02.110 *Temporary Use Permit*, all temporary uses shall comply with all the standards listed below.

1. *No temporary use shall be permitted that causes, or threatens to cause, an on-site threat to the public health, safety and general welfare.*
2. *Every temporary use shall be operated in accordance with any restrictions and conditions as other departments may require. If required by the City, the operator of the temporary use must employ appropriate security personnel.*
3. *No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such use would have undue detrimental effects on surrounding streets and uses.*
4. *No temporary use shall be authorized that would unreasonably reduce the amount of required parking. The Zoning Administrator may make an assessment of the total number of parking spaces that will be reasonably required in connection with a proposed temporary use, on the basis of the particular use, its intensity and the availability of other parking facilities in the area. The Zoning Administrator shall approve such temporary use only if such parking spaces are provided.*
5. *No temporary use shall be permitted if such use would conflict with another previously authorized temporary use.*
6. *Signs shall be permitted only in accordance with this Ordinance.*

In addition, temporary batch plants are subject to the following standards:

1. *Temporary batch plants are valid only for the duration of the project, not to exceed six months. However, at the end of the six month period, the zoning administrator may renew the permit for another six months or to the conclusion of the project, whichever comes first. At the end of such a project, the contractor must restore the area to its original condition.*
2. *Temporary batch plants shall be located at least one thousand (1,000) feet from any recreational area, school, or residence.*
3. *Temporary batch plants shall be located and designed to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses, and drain inlets.*
4. *As part of the permit application process, the contractor shall submit a routing of trucks to and from the proposed plant as a condition to be approved prior to granting application approval. A temporary batch plant shall only be allowed access via arterial or collector roads and highways. Access via local residential and/or collector roads serving residential areas is prohibited.*

CURRENT ZONING AND LAND USE –The subject property is zoned I-2/General Industrial District, as are the adjacent properties on all sides of the subject property. A Drake-Williams Steel, Inc., steel coatings plant is located directly to the west of the subject property, and undeveloped land borders the subject property to the north and south. Interstate 29 is located to the east and south, and the properties located on the other side of the interstate are residential in nature.

CITY DEPARTMENTS AND UTILITIES – The request was routed to all local utility providers and City Departments. The following comments were received:

Council Bluffs Community Development Department provided the following comments:

A. 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 is a significant barrier that would insulate residences from negative impacts (e.g. noise, dust, etc.) associated with the proposed batch plant. Additionally, the applicant's truck traffic plan shows that trucks will not utilize residential streets, and the Community Development Department has no record of any complaints about the identical batch plant that operated on the subject property in 2022. For these reasons, the City Council would be justified in granting Cedar Valley Corporation a waiver from the 1,000-foot distance requirement for the duration of the temporary use permit.
B. 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.
C. 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.

The Fire Department stated they have no comments.

Council Bluffs Water Works stated they have no objections.

Black Hills Energy stated they have no concerns.

The Iowa Department of Transportation stated they have no conflicts.

RECOMMENDATION – The Community Development Department recommends approval of the request for a temporary use permit to allow a concrete batch plant operation to occur on the property legally described as part of Lots 1, 2, and 3, Auditor's Subdivision, in the SW1/4 SW1/4 of Section 23-75-44, Pottawattamie County, Iowa, in relation to the I-29/I-480 reconstruction project from April 11, 2023, to October 11, 2023, subject to the following conditions:

A. Approval of the temporary use permit shall include 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." As a condition of said waiver, no portion of the temporary batch plant shall be located less than 600 feet from the closest recreational area, school, or residence.
B. Approval of the temporary use permit shall include 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," based on reasons stated above.
C. 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.

D. 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.
E. The hours of operation for the batch plant shall be limited to Monday through Sunday 7:00 AM-7:00 PM.
F. All materials, vehicles, and structures brought on-site shall be limited to use for the I-29/I-480 reconstruction project. Any expansion of the batch plant's footprint beyond what is shown on the applicant's site plan shall be reviewed and granted approval by the City prior to the expansion occurring.
G. The requested temporary use permit shall commence on April 11, 2023, and approval shall expire on October 11, 2023. 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. The applicant shall apply for any desired extension prior to the expiration date of the permit.
H. Prior to expiration of the permit, all materials, debris, and equipment related to the batch plant 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. 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, dirt, and/or mud, the contractor shall lay gravel for all parking areas or use other measures to adequately control dust and mud. All gravel poured shall be removed at the end of the temporary batch plant operation as part of site cleanup.
J. All materials used at the batch plant shall be routinely processed, and no aggregate piles shall exceed twenty-five (25) feet in height.
K. The applicant shall not alter any existing tree lines that help shield the batch plant from view from the interstate.

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