TO: City Council
FROM: Community Development Department

DATE: November 22, 2021

RE: **CASE #TU-21-007**
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 in the SW1/4 SW1/4 of Section 23-75-44, 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 (see Attachment 'A').

The applicant, Cedar Valley Corporation, has been subcontracted by Ames Construction for production of concrete in relation to the I-29 Iowa DOT Project and intends to use the subject property for their batch plant location. The applicant's site plan is included as Attachment 'B'. The submitted plan for truck routing is included as Attachment 'C'. The applicant has requested a

permit to allow a temporary batch plant to commence operations on April 1, 2022, and extend until October 1, 2022.

The applicant has provided the following additional information regarding the request:

1. 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.
2. 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.
3. 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.
4. Cedar Valley Corporation plans to mitigate dust by using a water truck to intermittently wet the soil around the plant site.
5. 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.
6. Cedar Valley Corporation will keep all removed topsoil on the subject property and replace it once the batch plant operation has concluded.
7. Cedar Valley Corporation does not plan to remove any trees as part of this operation, but they may remove smaller vegetation if needed.
8. 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.
9. 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. Interstate 29 is located nearby to the east and south, and the properties located on the other side of the interstate are zoned R-3/Low Density Multifamily Residential District. The subject property is bounded on the west by Abstract Painting (an industrial painting company) and by undeveloped land to the south, east, and north (various owners).

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

Council Bluffs Public Works Department 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.

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.

RECOMMENDATION – 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, in the SW1/4 SW1/4 of 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:

1. 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." 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.
2. 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."

3. 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.
4. 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.
5. 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.
6. The hours of operation for the crushing operation shall be limited to Monday through Sunday 7:00 AM-7:00 PM.
7. 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 the expansion occurring.
8. 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.
9. 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.
10. 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.
11. 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.
12. All materials used at the batch plant shall be routinely processed, and no aggregate piles shall exceed twenty-five (25) feet in height.
13. The applicant shall not alter any existing tree lines that help shield the batch plant from view from the interstate.

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