

Staff Report

TEMPORARY CONSTRUCTION SITES

May 24, 2011

BACKGROUND:

On May 10, the City Council referred to staff a letter from Manatts, Inc. concerning their use of the former Cyclone Truck Stop at 1811 South Dayton Place. Manatts had been given a notice of violations of the flood plain and zoning ordinances due to their use of that site as a concrete batch plant. The plant was set up for the US Highway 30 reconstruction project in Story and Boone Counties.

The letter from Manatts asked the City Council to offer alternative solutions to allow the use to remain on a temporary basis to complete the US 30 project. In the City Manager's memo that accompanied the letter, next steps were outlined if the City Council were to refer the letter to staff. The memo stated that staff would prepare options for City Council to consider. This report is intended to outline possible options for the City Council to consider allowing the concrete batch plant to remain on a temporary basis. These would all require an ordinance change and each offers distinct advantages and disadvantages. Staff is asking the City Council to select a preference from among the alternative approaches described below.

ALTERNATIVE APPROACHES

Special Use Permit

This option is used most frequently by communities. It authorizes specific uses in districts that don't normally allow them following a public hearing in front of the zoning board of adjustment. If applied to this instance, the ordinance could be written to allow concrete and asphalt batch plants in any zone, subject to the approval of the zoning board of adjustment. The board would conduct a public hearing after notification and could apply conditions to the approval that would mitigate any adverse impacts which the use may cause. The ordinance could be written with a mandated time limit, or the time limit could be a condition of approval of the board.

This option allows for broad public notification and input prior to the public hearing. It allows the board to place any further conditions on the use, such as length of time, hours of operation, etc. A violation of the conditions would allow the board to revoke the special use permit. This process, however, usually takes three to four weeks to submit an application, prepare a staff report, provide notifications, and conduct a public hearing. Such a timeframe should not be too great a burden on such projects, though.

Administrative Approval

This approach requires an ordinance change to designate an individual or department who can provide discretionary approval of such uses on a temporary basis. Under this option, the Director of Planning and Housing may be the person best suited to authorize the temporary construction site because this is a land use issue pertaining to development on private property. The Planning and Housing Department would be most knowledgeable of other land use issues that may be applicable to a site, such as the requirement for a flood plain development permit, or any existing site improvements that must be retained or other improvements that may be required under a previously approved permit.

This approach does not allow for much public notification or input. The ordinance authorizing staff to give approval could include locational criteria or other conditions. In addition, the individual who is authorized to approve the use could also place any further conditions he or she deemed appropriate. The timeframe for such approval would likely be shorter than through a public hearing in front of the zoning board of approval.

Permitted Uses

Another option is to consider a temporary concrete or asphalt batch plant as a permitted use and with conditions. This approach would designate certain zones in which this use could be established on a temporary basis. As a permitted use, no public notification or hearing would be required. Neither could additional conditions be imposed.

This approach, like the administrative approval approach, would require no public notification or input. It would impose no conditions unique to the site other than the conditions written into the code. Its approval process would, like the administrative approval approach, require little time.

Retain the Status Quo

This approach retains the language which does not allow for this type of use in other than a GI General Industrial zoning district. It would require Manatts, if their appeal is denied by the zoning board of adjustment, to cease operations at this site and seek another site.

STAFF COMMENTS:

Manatts and City staff have discussed the reasoning behind selecting this site and its advantages. As noted in a previous memo to the City Council, the criteria that best serves the needs of the US 30 project is having a site close to the project with primary access to an arterial road. The City prefers a site that is paved so as to reduce storm water quality issues. The site should also be in a location to minimize interaction between the estimated 850 heavy trucks that will enter and exit this site daily and local traffic.

If the City Council wishes to create a mechanism to accommodate this and future needs that will inevitably arise, the status quo is not an option. Of the alternative approaches

described above, the special use permit process allows for the greatest public notification and input. It is this input that will allow the zoning board of adjustment to apply any conditions that it believes will ameliorate identified adverse impacts. Although the time frame for approval is the longest of the approaches, in projects of this scale, such a time frame would not be a burden to contractors.

Staff has discussed other sites and identified serious limitations with them. If the status quo is retained and Manatts relocates, possible options may include, for example, their existing location on Dayton Avenue, about two miles north of this site. The concern of Manatts and of the staff is the number of heavy trucks that would be going up and down Dayton Avenue and the impact of these vehicles on the roads and the local traffic. Manatts also indicated that the site is not large enough to accommodate the extra demand for their services and still accommodate their normal business. Another site discussed was the Hallett's quarry site just to the southeast of 1811 South Dayton Avenue. Although the site is large, the amount of space able to be used to set up the batch plant, sand and aggregate stockpiles, refueling, and truck maneuvering is limited. In addition, neither the access to this site nor the site itself is hard-surfaced which would raise concerns about storm water quality as trucks track mud onto city streets and the state highway.

NEXT STEPS:

Before staff prepares any specific language for a zoning text amendment, the City Council is asked to give direction as to which approach they prefer. The City Council could also describe any parameters they would like to see within the preferred approach.

With direction from the City Council on a preferred approach, staff will prepare a zoning ordinance text amendment and staff report for a recommendation from the Planning and Zoning Commission. The amendment then will be brought to the City Council for its action. If approved, staff will then implement and apply it to the Manatts use.

ENFORCEMENT UPDATE:

The outstanding zoning and flood plain violations remain. Staff met with Manatts and toured the site. This tour resulted in specific requirements for Manatts to follow in order to bring the site into compliance with the flood plain regulations. Much of their equipment and fixtures may remain on site, although they will need to be anchored, elevated, or placed on trailers to become mobile. Manatts is preparing an action plan that will describe how mobile items will be removed in the event of a flood warning. The stockpiles of sand and aggregate as well as the batch plant will be able to remain on the site. Manatts has assured staff that the site will meet the flood plain regulations by May 31, the deadline given in the original notice of violation.

The deadline to be compliant with the zoning ordinance is also May 31. However, Manatts has filed an appeal of the zoning administrator's decision. This appeal stops

further enforcement until the appeal is decided by the zoning board of adjustment, in accordance with Code of Iowa Section 414.11. This appeal is tentatively scheduled for consideration by the board on June 8. However, if the City Council directs staff to proceed with a text amendment at the May 24 meeting, the board will be asked to table action on this appeal until the legislative action has run its course. But if the City Council does not direct staff to seek a text amendment at the May 24 City Council meeting, this item will be on the June 8 board agenda. If the board upholds staff determination, enforcement action, including issuance of a municipal infraction, will follow.