

COUNCIL ACTION FORM

SUBJECT: ZONING ORDINANCE TEXT AMENDMENT TO ALLOW CONCRETE BATCH PLANTS THROUGH A SPECIAL USE PERMIT FROM THE ZONING BOARD OF ADJUSTMENT

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 violation of the zoning ordinances due to their use of that site as a concrete batch plant. A concrete batch plant is currently allowed only in the GI-General Industrial district. The ordinance makes no provisions for temporary uses. 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. The operation of the plant continues as this amendment moves forward—enforcement of the use violation is on hold pending resolution of the request for a text amendment and, if successful, action on a Special Use Permit.

Staff presented a report to the City Council on May 24 that outlined a number of alternatives for the Council to consider. These included allowing the use through a special use permit approved by the Zoning Board of Adjustment; administrative approval by the Planning and Housing Director; allowing it as a permitted use in certain districts (in addition to the industrial zone); and retaining the status quo which limits such a use to only the General Industrial zone.

The City Council authorized submittal of an application for a text amendment allowing concrete and asphalt batch plants in all zones subject to approval of a Special Use Permit by the Zoning Board of Adjustment. An application was then submitted by Manatts, and staff prepared a text amendment reflecting the applicant's request. The proposed amendment is included in Attachment 1. Manatts' application for a text amendment provides responses to five factors on the application form. Attachment 2 is a list of the five factors and Manatts' responses to each.

In the report to the Planning and Zoning Commission, staff asked the Commission to consider whether narrowing down the allowable zoning districts would be appropriate in protecting residential neighborhoods from the adverse impacts of a temporary concrete batch plant. The Commission responded by making a recommendation to limit these uses to the HOC-Highway-Oriented Commercial and A-Agriculture districts.

Reflecting the recommendation of the Commission, staff has prepared a draft amendment to the zoning ordinance that allows concrete and asphalt batch plants to be

established on a temporary basis in the HOC-Highway-Oriented Commercial and A-Agriculture districts upon issuance of a Special Use Permit from the Zoning Board of Adjustment. The City Council should remember that batch plants are currently allowed on a permanent basis in the GI (General Industrial) zone without the requirement of a Special Use Permit. The proposed change would therefore be *in addition to* the current GI allowance.

Although the proposed amendment would allow temporary batch plants in the HOC and Ag zones, the language specifies that they would have to be at least 500 feet from a residential use. In addition, while they would be allowed in an HOC zone, the language specified that they would have to be at least 250 feet from a developed parcel. Any structures or storage on the site must respect the setbacks of the underlying district. The use cannot be established for more than six months, initially, and can be extended by the Board for an additional three months. The Board can impose any further conditions that may be necessary to ameliorate expected impacts of the site.

Since batch plant operations support large construction projects that may not now even be identified and may be located anywhere within the metropolitan Ames area, an approach that allows some flexibility to locate would be beneficial to the contractor. The authority to apply conditions of approval would help protect the health, welfare, and safety of the community.

Recommendation of the Planning & Zoning Commission. At its meeting of August 3, 2011, with a vote of 4-0, the Planning and Zoning Commission recommended that the City Council amend the Ames Municipal Code to allow concrete and asphalt batch plants as a temporary use with a Special Use Permit in Agricultural and Highway-Oriented Commercial Zones only (and continue to be allowed as permitted uses in General Industrial zones). In its recommendation to restrict these to the HOC and A zones, the Commission reasoned that the proposed use would likely be adjacent to an arterial road, allowing for efficient delivery of product to a construction site. The Commission felt that the separation requirements would keep the proposed use a considerable distance away from other residential and commercial development. In the case of the A zone, these few districts are a considerable distance from other uses that might be impacted by the batch plant, although access might be a problem.

Mr. Jason Spooner, representing the applicant, addressed the Commission. No one else spoke in favor of or in opposition to the proposed amendment.

ALTERNATIVES:

1. The City Council can amend the Ames *Municipal Code* as shown in the attachment to allow concrete and asphalt batch plants as a temporary use in the HOC-Highway-Oriented Commercial and A-Agriculture districts with a Special Use Permit.

2. The City Council can direct staff to prepare other amendments to allow concrete and asphalt batch plants under other circumstances or in other zoning districts.
3. The City Council can deny the requested amendment.

MANAGER’S RECOMMENDED ACTION:

Locally, there have been few instances of a project large enough to require the establishment of a temporary concrete or asphalt batch plant. The most recent instance was in 2000 for the South Dakota Avenue/US 30 interchange. The expense of establishing such a use is, itself, a very limiting factor for contractors to undertake. But when such a use is needed, it will have a large impact as evidenced by the current use that is now in place at 1811 South Dayton Place. A mechanism to allow such a use and a method to control the location and remediate the undesirable impacts are needed. The proposed amendments offer these.

Therefore, it is the recommendation of the City Manager that the City Council act in accordance with Alternative #1, which is to amend the *Ames Municipal Code* as shown in Attachment 1 to allow concrete and asphalt batch plants as a temporary use in the HOC-Highway-Oriented Commercial and A-Agriculture districts with a Special Use Permit.

ATTACHMENT 1

Amend the Use Tables for Agriculture (A) zone (Table 29.600(2)) and Highway Oriented Commercial (HOC) zone (Table 29.804(2)) to include a line under Miscellaneous Uses.

MISCELLANEOUS USES	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
...
<ul style="list-style-type: none"> • Temporary Concrete and Asphalt Batch Plants See Sections 29.1311 and 29.1503 	Y	ZBA	SP
...

Amend Article 13 Additional Requirements for Specific Uses to include a new Section 29.1311

Sec 29.1311. Temporary Concrete and Asphalt Batch Plants

- (1) It is recognized that certain large private and public projects require the establishment of temporary facilities for the preparation of Portland cement concrete or asphaltic cement concrete. These facilities have been constructed rarely within or near the City and it is anticipated that they will continue to be a rare occurrence. However, it is necessary to accommodate them on a temporary basis and in a manner that will reduce their expected impacts on surrounding properties.

- (2) The Zoning Board of Adjustment can authorize a Special Use Permit for a temporary concrete or asphalt batch plant only after a public hearing in accordance with the submittal and approval procedures set out in Section 29.1503.

- (3) The Special Use Permit shall not be granted:
 - a. If the tract, parcel or lot on which the proposed use is located is less than 500 feet from a tract, parcel or lot containing a residential use.
 - b. If the tract, parcel or lot on which the proposed use is located is less than 250 feet from a tract, parcel or lot containing a commercial use.
 - c. For more than six months although an approved use can receive a single extension of up to an additional three months by the Board provided the initial approval has not expired.

- (4) Additional Requirements
 - a. All temporary principle and accessory structures and storage of materials shall meet the setbacks of the zone in which it is located.
 - b. The temporary establishment of such a use is exempt from the General Development Standards of Article 4 of the Zoning Ordinance. However, the Board may apply such standards, or any other appropriate standard, as a condition of approval as it seems necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed.

ATTACHMENT 2

Manatts' application for a text amendment asks for responses to five factors. Below are the five factors and Manatts' responses to each (shown in italics).

- A written explanation of the ***reasons for the zoning text amendment.***

The proposed amendment will make allowances for temporary uses that are not addressed in the ordinance. It would allow the zoning board of adjustment to examine the merits of such a use on a case by case basis and apply any conditions if needed.

- A **general description of the property(ies), zones, and/or areas** that will be affected by the zoning text amendment

The text is still being developed. At the least, it should allow a concrete batch plant in HOC district with a conditional use permit. Other districts should be reviewed if needed.

- A written explanation of the ***consistency of this zoning text amendment with the Land Use Policy Plan.***

There are no specific policy statements that provide guidance on this request.

- Existing ordinance*** language for consideration.

None.

- Proposed ordinance*** language for consideration.

Yet to be developed.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING TABLE 29.600(2) AND TABLE 29.804(2), ENACTING A NEW TABLE 29.600(2) AND TABLE 29.804(2) AND ENACTING A NEW SUBSECTION 29.1311 THEREOF, FOR THE PURPOSE OF ALLOWING CONCRETE BATCH PLANTS THROUGH A SPECIAL USE PERMIT; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Table 29.600(2), Table 29.804(2) and Subsection 29.1311 as follows:

“Sec. 29.600. "A" AGRICULTURAL.

Table 29.600(2)
Agricultural (A) Zone Uses

USE CATEGORIES	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
RESIDENTIAL USES			
Single Family Dwelling	Y	ZP	ZEO
Two Family Dwelling	N	--	--
Single Family Attached Dwelling	N	--	--
Apartment Dwelling (6 units and over)	N	--	--
Family Home	Y	SP	ZBA
Household Living Accessory Uses			
Accessory Apartment	N	--	--
Home Office	Y	HO	ZBA/Staff
Home Business	Y	HO	ZBA/Staff
Group Living	N	--	--
Short-term Lodging	N	--	--
OFFICE USES	N	--	--
TRADE USES			
Retail Sales and Services			
Plants and Produce	Y	ZP	ZEO
Wholesale Trade			
Agricultural & Farm Equipment	N	--	--
INDUSTRIAL USES	N	--	--
INSTITUTIONAL USES			
Colleges & Universities	Y	SP	ZBA
Community Facilities	Y	SP	ZBA
Child Day Care Facilities	Y	HO or SP (Depending on size)	ZBA/Staff
Medical Centers	N	--	--
Religious Institutions	Y	SP	ZBA
Schools	Y	SP	ZBA
Social Service Providers	Y	SP	ZBA
Personal Wireless Communication Facilities	Y	SP	ZBA
TRANSPORTATION, COMMUNICATIONS & UTILITY USES			
Basic Utilities	Y	SDP Major	City Council
Essential Public Services	Y	SP	ZBA

Parks & Open Areas	Y	SDP Minor	Staff
Radio & TV Broadcast Facilities	Y	SP	ZBA
Rail Lines & Utility Corridor	Y	SP	ZBA
MISCELLANEOUS USES			
Agricultural & Farm-Related Activities	Y	ZP	ZEO
Stables	Y	SP	ZBA
Temporary Concrete and Asphalt Batch Plants See Sections 29.1311 and 29.1503	Y	ZBA	SP

Y	=	Yes: permitted as indicated by required approval.
N	=	No: prohibited
SP	=	Special Use Permit required: See Section 29.1503
ZP	=	Building/Zoning Permit required: See Section 29.1501
SDP Minor	=	Site Development Plan Minor: See Section 29.1502(3)
SDP Major	=	Site Development Plan Major: See Section 29.1502(4)
HO	=	Home Occupation
ZBA	=	Zoning Board of Adjustment
ZEO	=	Zoning Enforcement Officer

Sec. 29.804. "HOC" HIGHWAY-ORIENTED COMMERCIAL.

**Table 29.804(2)
Highway-Oriented Commercial (HOC) Zone Uses**

USE CATEGORY	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
RESIDENTIAL USES			
Group Living	N, except Transitional Living Facility	--	--
Household Living	N, except mini-storage warehouse facility (see Sec. 29.1308)	SP	ZBA
Short-term Lodgings	Y	SDP Minor	Staff
OFFICE USES	Y	SDP Minor	Staff
TRADE USES			
Retail Sales and Services - General (including printing, publishing, commercial art and reproduction)	Y	SDP Minor	Staff
Retail Trade - Automotive, etc.	Y	SDP Minor	Staff
Entertainment, Restaurant and Recreation Trade	Y	SDP Minor	Staff
Wholesale Trade	Y	SDP Minor	Staff
INDUSTRIAL USES			
Industrial Service	N, except mini-storage warehouse facility (see Sec. 29.1308(8)(a)(v))	SP	ZBA
INSTITUTIONAL USES			
Colleges and Universities	Y	SP	ZBA
Community Facilities	Y	SDP Minor	Staff
Social Service Providers	Y	SP	ZBA
Medical Centers	Y	SP	ZBA
Parks and Open Space	Y	SP	ZBA
Religious Institutions	Y	SP	ZBA
Schools	N	--	--
Funeral Facilities	Y	SP	ZBA
TRANSPORTATION, COMMUNICATIONS AND UTILITY USES			
Passenger Terminals	Y	SDP Minor	Staff
Basic Utilities	Y	SDP Major	City Council

USE CATEGORY	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
Commercial Parking	Y	SDP Minor	Staff
Radio and TV Broadcast Facilities	Y	SDP Minor	Staff
Personal Wireless Communication Facilities	Y	SP	ZBA
Rail Line and Utility Corridors	Y	SP	ZBA
Railroad Yards	N	--	--
MISCELLANEOUS USES			
Commercial Outdoor Recreation	Y	SDP Minor	Staff
Child Day Care Facilities	Y	SDP Minor	Staff
Detention Facilities	Y	SDP Minor	Staff
Major Event Entertainment	Y	SDP Minor	Staff
Vehicle Service Facilities	Y	SDP Minor	Staff
Adult Entertainment Business	Y	SDP Minor	Staff
Sports Practice Facility	Y	SDP Minor	Staff
Temporary Concrete and Asphalt Batch Plants - See Sections 29.1311 and 29.1503	Y	ZBA	SP

- Y = Yes: permitted as indicated by required approval.
- N = No: prohibited
- SP = Special Use Permit required: See Section 29.1503
- SDP Minor = Site Development Plan Minor: See Section 29.1502(3)
- SDP Major = Site Development Plan Major: See Section 29.1502(4)
- ZBA = Zoning Board of Adjustment

(Ord. No. 3591, 10-10-00; Ord. No. 3610, 4-10-01; Ord. No. 3794, 08-24-04; Ord. No. 3922, 06-12-07; Ord. No. 3993, 06-16-09)

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Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor