

**Appeal:** The Appellant requests the following four (4) Variances to accommodate the establishment of a permanent Asphalt Batch Plant and a Disposal Use, specifically an Asphalt and Concrete Pavement Recycling use:

1. Increase the maximum height in the “HI” Heavy Industrial Zone from 45 feet to 75 feet to accommodate asphalt batch plant silos;
2. To allow reclaimed asphalt product, hard surfaces and curbs to be established within the first year of operation of the asphalt batch plant rather than upon commencement of the use *(please note that this request has been revised by the Appellant to complete the stated improvements by the end of the 2020 construction season)*;
3. To allow the use of reclaimed asphalt product instead of hard surfacing and to eliminate curbs in the proposed production area of the site; and,
4. To eliminate parking lot landscaping within the proposed gravel and reclaimed asphalt product area parking lot.

Refer to Attachment ‘A’ to view the complete submittal including the Variance application, narrative and concept plan.

### **Background**

The Appellant, InRoads, LLC, is requesting four (4) Variances, which are directly related to two (2) Conditional Use Permits that are also requested. The requested Conditional Use Permits would allow the Appellant to establish a permanent Asphalt Batch Plant and a Disposal Use, specifically an Asphalt and Concrete Pavement Recycling use at the subject property. The proposed conceptual plan and narrative submitted by the Appellant is attached as *Attachment ‘A’*.

The development of the site is proposed to be in two (2) phases. The first phase will include the Asphalt Batch Plant, two (2) hard surface entrances, reclaimed asphalt drives and parking areas, establishment of aggregate and asphalt stockpiles, landscaping adjacent to Interstate 80/35, a Temporary Asphalt Batch Plant area and stormwater improvements. The second phase, which the Appellant has identified will occur when their current lease expires, in approximately three (3) years, at their existing location, 4224 Hubbell Avenue, Des Moines, and when the first phase is operational and economically viable, will include additional site improvements and an office and shop. The second phase improvements are proposed on the southern portion of the property. The initial phase will include four (4) to seven (7) employees, which will depend upon the amount of material needed that day. It is anticipated that the second phase will include an additional 40 employees.

The subject property is located at 4756 NE 20<sup>th</sup> Lane, Des Moines, and totals approximately 17.32 acres. The property was recently approved through a subdivision process as Lot 1 in D & M Development Plat 1, within Section 13 of Saylor Township. The Appellants are requesting the Variances as prospective buyers with permission from the property owner, D & M Partners, LLC.

The site is provided access from two public streets, NE 20<sup>th</sup> Lane and NE 21<sup>st</sup> Court. NE 20<sup>th</sup> Lane connects to NE 46<sup>th</sup> (Broadway) Avenue to the south and NE 22<sup>nd</sup> Street to the east. The site also has significant frontage onto Interstate 80/35 along the northern property line. The first phase of the proposed development will access an existing private drive extension of NE 21<sup>st</sup> Court.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 6 Bulk and Use Standards, Division 5 Non-Residential Bulk Standards, Table 6.9: Nonresidential Bulk Standards*, allows a maximum building height of 45 feet. The Appellant requests a Variance to allow the Asphalt Batch Plant equipment, specifically the silos, to be 75 feet in height.

The Polk County Zoning Ordinance, *Article 20 Issuance of Permits and Licenses, Division 2 Certificate of Occupancy*, requires compliance with the Zoning Ordinance prior to issuance of a Certificate of Occupancy. The Appellant has modified their request from one (1) year to the end of the 2020 construction season, to be allowed to operate the use without completing the reclaimed asphalt product, hard surfaces and curbs.

The Polk County Zoning Ordinance, *Article 15 Construction Standard*, requires the site approach, drive and parking areas to be paved to current SUDUS standards and curbs are required in paved areas. The Appellant proposes to utilize reclaimed asphalt product within the production area and to eliminate curbs in this area.

The Polk County Zoning Ordinance, *Article 10 Landscaping, Division 3 Landscaping Calculations, Section 1. Parking Lot Landscaping Calculations*, requires landscaping in parking lots. The Appellant proposes to eliminate the parking lot landscaping within the production area that is proposed as reclaimed asphalt product.

### **Public Testimony**

Staff created a combined public notice which included the two (2) Conditional Use Permits and the four (4) requested Variances. The notice was mailed to 14 property owners within 500 feet of the subject property. To-date staff has not received testimony in favor of, or in opposition to, this proposal.

The Applicants hosted a neighborhood meeting prior to submittal of the Conditional Use Permit and Variance Appeals to Polk County. The meeting was held on Tuesday, January 14, 2020 and notice was sent to an area that exceeds the minimum required public notification for this Conditional Use Permit, which is 500 feet. The neighborhood meeting notice has been attached to this staff report as *Attachment 'B'*. The Applicants' representative verbally stated that two interested neighbors attended the meeting and were given an overview of the site development proposal.

### **Natural Resources**

The property is located within Zone X, Area of Minimal Flood Hazard, on the current adopted FEMA Flood Insurance Rate Map (FIRM) for Polk County. The site topography includes a few low berms and generally is at an elevation in the upper 930's to low 940's in the north, falling to approximately 919 to the south of the lot. No significant natural features or resources were

identified through the recent platting process.

### **Roads & Utilities**

The property has accessible frontage onto NE 20<sup>th</sup> Lane and NE 21<sup>st</sup> Court. The first phase of this development has proposed two (2) entrances onto the paved private drive extension of NE 21<sup>st</sup> Court. The future entrance for the future phase will access the public street, NE 21<sup>st</sup> Court, directly. Prior to approval of a future Major Site Plan, the property owner will need to extend public water and sanitary sewer to the northern extent of the private street extension. An eight (8) inch Des Moines Water Works water main and an eight (8) inch Polk County sanitary sewer are available in NE 20<sup>th</sup> Lane. Prior to approval of a Major Site Plan, the public utilities will be required to be extended northward in NE 21<sup>st</sup> Court and the private drive to serve the proposed development and future development to the north and east of this site.

### **Recommendation**

The following are each of the four (4) requested Variance Appeals with the Variance criteria listed for each item and conditions of approval for each item, as applicable.

- ***Variance Appeal: Increase the maximum height in the “HI” Heavy Industrial Zone from 45 feet to 75 feet to accommodate asphalt batch plant silos.***

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?  
  
Yes. The type of equipment needed for the asphalt batch plant require silos that are 75 feet in height. The asphalt batch plant is an allowed use within the “HI” Heavy Industrial District zone subject to approval of a Conditional Use Permit, and is dependent upon this specific equipment for this use. The type of equipment needed for this use which requires the 75-foot silos is a special condition which only applies to this property, with this type of use.
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)  
  
Yes. An Asphalt Batch Plant and a Disposal Use are allowed within the “HI” Heavy Industrial District zone subject to approval of a Conditional Use Permit. The 75-foot silos are necessary equipment for the proposed asphalt batch plant.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  
  
Yes. The proposed Asphalt Batch Plant is centrally located on the property. The height of the silos is expected with this type of use and will not lie adjacent to the

surrounding properties.

- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The 75-foot silos are an industry standard, not a result from an action by the Appellant.

- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The Appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. No environmentally sensitive areas of the property are anticipated to be impacted by this proposal.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends **APPROVAL** of the requested variance, Increase the maximum height in the “HI” Heavy Industrial Zone from 45 feet to 75 feet to accommodate asphalt batch plant silos.

- ***Variance Appeal: To allow reclaimed asphalt product, hard surfaces and curbs to be established within the first year of operation of the asphalt batch plant rather than upon commencement of the use (please note that this request has been revised by the Appellant to be complete by the end of the 2020 construction season).***

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?

Yes. The Appellant proposes to produce the reclaimed asphalt product and the hot mix asphalt (HMA) to be utilized on the property. The use of product from the site to improve the site is a special condition that is unique to this property and the type of use. The adjustment in the timeframe to the end of the 2020 construction season is referenced as a condition of approval.

- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

Yes. An Asphalt Batch Plant and a Disposal Use are allowed within the “HI” Heavy Industrial District zone subject to approval of a Conditional Use Permit.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. The Appellant has altered their Variance request to shorten the timeframe so that

these improvements need to be complete by the end of the 2020 construction season, rather than within the first year of operation. Further, the Appellant is proposing to establish concrete entrances to the site to minimize the dirt and debris onto adjacent roadways, refer to the proposed conditions of approval.

- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The ability to create the reclaimed asphalt product and the hot mix asphalt (HMA) product is a special condition that requires that the permanent Asphalt Batch Plant be in operation.

- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The Appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. No environmentally sensitive areas of the property are anticipated to be impacted by this proposal.

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends **APPROVAL** of the requested Variance to allow reclaimed asphalt product, hard surfaces and curbs to be established by the end of the 2020 construction season subject to the following conditions:

1. If approved, the Appellant shall establish the reclaimed asphalt product, hard surfaces and curbs by the end of the 2020 construction season.
2. The two entrances shall be improved with 8-inches of concrete at or before the first day of site operation.

- ***Variance Appeal: To allow the use of reclaimed asphalt product instead of hard surfacing and to eliminate curbs in the proposed production area of the site.***

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?

Yes. The property is zoned "HI" Heavy Industrial District and it is common to utilize properties within the "HI" zone for product storage and movement. The nature of the operation requires that the equipment and trucks utilize the reclaimed asphalt product areas without being hindered with curbs and pavement. The intent of the requirement for pavement and curbs is for uses with frequent public access and/or high traffic counts. The Appellant proposes to provide curbs adjacent to all hot mix asphalt (HMA) areas, including the plant employee parking area as shown on the concept plan (Attachment 'A'). This partial improvement in areas that may be customer and vehicular in nature help to meet the intent of this

standard.

- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)  

Yes. An Asphalt Batch Plant and Disposal uses are permitted within the subject zoning district, "HI" Heavy Industrial District, subject to approval of a Conditional Use Permit. Other Asphalt Batch Plan and Disposal uses with similar equipment and site production would have the same site improvements needs.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  

Yes. The vehicular traffic that accesses this site, maneuvers throughout the site and parks on this site will enjoy the hard surfacing and curbs. Only the large trucks and equipment that are specifically designed for moving product will utilize the granular surfaces. Further, a condition of approval has been added to confirm that Polk County Air Quality Division rules are met regarding dust suppression for the non-paved surfaces and that all adjacent roadways be kept clear of dirt and other material from the site.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  

Yes. The improvement of the site with an asphalt batch plant and a disposal use are allowed within the "HI" Heavy Industrial District zone subject to approval of a Conditional Use Permit. Further, the vehicular traffic generated by customers and employees at this site will be provided with compliant hard surfaces and curbs.
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?  

Yes. The Appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. No environmentally sensitive areas of the property are anticipated to be impacted by this proposal.

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends **APPROVAL** of the requested Variance to allow the use of reclaimed asphalt product instead of hard surfacing and to eliminate curbs in the proposed production area of the site subject to the following condition:

1. Polk County Air Quality Division rules shall be met regarding dust suppression for the non-paved surfaces utilized at this site, and all adjacent roadways shall be kept clear of dirt and other material from the site.
- ***To eliminate parking lot landscaping within the proposed gravel and reclaimed asphalt product area parking lot.***

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed.

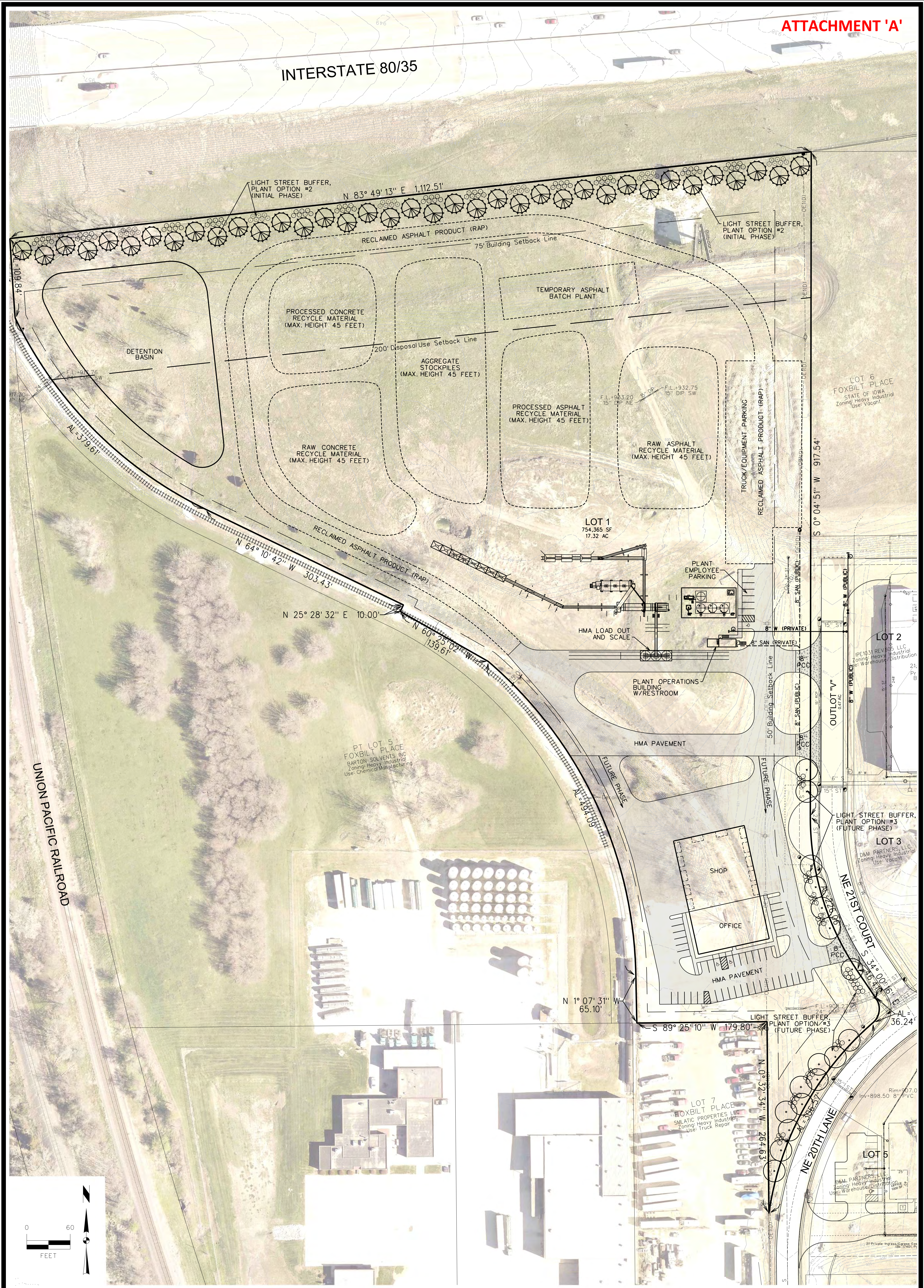
- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?  
Yes. The type of heavy equipment and trucks, and use of that equipment and trucks throughout the parking, stockpile and production areas of the site create a unique circumstance that would not provide the necessary room and care for parking lot landscaping to survive.
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)  
Yes. An Asphalt Batch Plant and Disposal uses are permitted within the subject zoning district, "HI" Heavy Industrial District, subject to approval of a Conditional Use Permit. Other Asphalt Batch Plant and Disposal uses with similar equipment and site production would have the same site improvement needs.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  
Yes. The truck/equipment parking area is internal to the site and does not lie adjacent to a developed site. Further, the Appellant proposes to plant a light bufferyard adjacent to the Interstate 80/35 frontage when the plant becomes operational.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  
Yes. The improvement of the site with an asphalt batch plant and a disposal use are allowed within the "HI" Heavy Industrial District zone subject to approval of a Conditional Use Permit. All other landscaping will be required through the Major Site Plan process and the Appellant has stated that the light bufferyard adjacent to the Interstate 80/35 frontage will be planted when the plant becomes operational.
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?  
Yes. The Appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. No environmentally sensitive areas of the property are anticipated to be impacted by this proposal.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends **APPROVAL** of the requested Variance to eliminate parking lot landscaping within the proposed gravel and reclaimed asphalt product area

parking lot, subject to the following condition:

1. A light bufferyard adjacent to the Interstate 80/35 site frontage shall be planted prior to the plant becoming operational.







## Variance Appeal Application

### Board of Adjustment Authority

The Polk County Board of Adjustment is empowered by Iowa law and by the Zoning Ordinance of Polk County to hear requests and to make decisions on variance appeals to the Zoning Ordinance for individual properties where provisions of the Ordinance impose a unique and unnecessary hardship on the property owner and where the granting of a variance is not contrary to the intent of the Zoning Ordinance or to the public interest.



Each variance appeal is only a request to have a hearing before the Board of Adjustment. Notice of the hearing will be provided to all property owners located within 250 feet from the subject property. The Board of Adjustment will make a determination at a public hearing whether or not to approve or deny the request based on a staff report, applicant presentation, as well as public input. All appeals that are denied shall not come back to the Board of Adjustment for one year. Refunds will not be made once notice has been sent out to adjacent property owners.

Please complete the entire application and review the Variance Regulations on page 3.

1. The undersigned applicant requests that the Board of Adjustment consider this application for a variance appeal for the following general purpose. (Describe briefly the request)

Variance Appeals associated with a Conditional Use Permit for an Asphalt Batch Plant including Paving Material Recycling.

(time stamp)  
Official Use Only

2. Subject Property Address: 4756 NE 20th Lane

3. Subject Property Zoning District: Heavy Industrial District

4. District and Parcel Number: 270/00901-000-001

5. Subject Property Legal Description (attach if necessary):

Lot 1 of D & M Development Plat 1, an official plat filed in Book 17336, Page 896 of the Polk County Recorder's Office, Polk County, Iowa, and containing 17.32 acres (754,365 S.F.), more or less.

Property Subject to any and all easements of record.

6. Filing Fee: \$315 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Joe Manatt, President, InRoads, LLC  
Applicant (Print Name)

Signature

1/22/2020  
date

Perspective Buyer  
Interest in Property (owner, renter, prospective buyer, etc.)

joe@inroadspaving.com  
Email

4224 Hubbell Avenue, Suite 1, Des Moines, Iowa 50317  
Address, City, State and Zip

515-348-8141  
Phone

515-266-0998  
Fax

8. Applicant(s) Representative:

If the appeal is going to be represented by someone other than the applicant please provide that information below

Bill Rosener, Vice President  
Applicant Representative (Print Name)

InRoads, LLC  
Firm or Business Name

4224 Hubbell Avenue, Suite 1, Des Moines, Iowa 50317  
Address, City, State and Zip

bill@inroadspaving.com  
Email

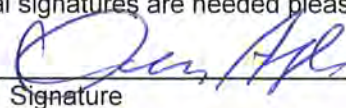
515-450-0100  
Phone

515-266-0998  
Fax

## 9. Property Owner Consent

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (if additional signatures are needed please attach)

Dennis Albaugh, D&M Partners, LLC  
(Print Name)

  
Signature

1/22/2020  
date

Mick Albaugh, D&M Partners, LLC  
(Print Name)

  
Signature

1/22/2020  
date

(Print Name)

Signature

date

(Print Name)

Signature

date

10. State the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance. Specifically explain the nature of the appeal.

Please See Attached Variance Appeals Narrative

**A completed application with site drawing and filing fee are required for a submittal.  
Incomplete submittals will not be processed and returned to the Applicant.**

Return completed forms to: Polk County Public Works, Planning Division 5885 NE 14<sup>th</sup> Street, Des Moines, IA 50313  
Phone (515) 286-3705 • Fax (515) 286-3437

Forms and calendar available online <http://www.polkcountyiowa.gov/PublicWorks/>

OFFICIAL USE ONLY			
Received by		Docket Number	
Date Received		Reviewed by	
BOA meeting date		BOA Approved	Y / N

## **D & M Development Plat 1, Lot 1 Variance Appeals Narrative**

With the application for the Conditional Use Permit for the Asphalt Batch Plant including Paving Material Recycling use, the following items are being requested as part of the Variance Appeals application:

- **Maximum Building Height**

In accordance with *Article 6. Bulk and Use Standards, Division 5. Non-Residential Bulk Standards, Table 6.9*, the maximum building height within the Heavy Industrial Zoning District is 45-feet. Because of the configuration of the Asphalt Batch Plant, the equipment and specifically the silos associated with the manufacturing of asphalt extends beyond the 45-foot restriction. It is the request of this Variance Appeal that the Board grant a 75-foot maximum allowable height for the Asphalt Batch Plant.

- **Paved Drives, Parking, Loading and Display Areas**

In accordance with *Article 13. Off-Street Parking and Loading, Division 2. Parking Lot Design, Section 3. Part 3*, in all zoning districts the sites are required to pave drives, parking, loading and display areas. The very nature of the asphalt batch plant requires that a portion of the site remain open with drives and parking constructed of reclaimed asphalt product (RAP) to manage the type and heavy loading placed upon these areas. RAP will be used in areas indicated on the site plan to control dust and act as a stable surface material to move vehicles in a repetitive fashion. Gravel will be used in the large areas with the product stockpiles and reclaimed paving material. These areas are in constant flux with materials being dumped, moved and processed on a daily basis.

The areas identified as HMA on the plan shall be hard surface paved but it is being requested by the applicant able to self-perform installing the HMA and RAP areas by the end of the first full year of operation. The drives, parking, loading, and display areas, upon opening for operations will have the areas surfaced with gravel. Because this applicant is an asphalt manufacturer, the asphalt and RAP product will be readily available once operations have been established and running after the first full year of operation.

- **Curbs and/or Wheel Stops are Required in Parking Areas and Curbs are Required in Paved Drive Areas**

In accordance with *Article 13. Off-Street Parking and Loading, Division 2. Parking Lot Design. Section 3. Part 3*, in all zoning districts sites are required to install curbs and/or wheel stops in parking areas and paved drive areas. Because of the very nature of this operation, equipment and trucks must flow freely throughout the production areas of the site identified for plant production, product stockpile and paving product reclamation. It is the intent to curb the areas identified for HMA paving when the HMA is installed at the end of the first full year of operation. These curbs may either be a full 6-inch standard curb or may be a rolled curb variant.

- **Parking Lot Landscaping Calculations**

In accordance with *Article 10. Landscaping, Division 3. Landscaping Calculations. Section 1*, states that areas not required to be paved are also not required to provide any landscape within the unpaved parking area. For the unpaved areas of the site, RAP and gravel areas, are requested that these areas are not required to be landscaped. A landscape buffer will be provided along the north lot line of the Interstate 80/35 frontage and along the NE 20<sup>th</sup> Lane and NE 21<sup>st</sup> Court frontages.



December 31, 2019

RECEIVED  
20 JAN -2 PM 1:31  
POLK CO.  
PUBLIC WORKS

**RE: INVITATION TO A NEIGHBORHOOD MEETING  
D&M Partners, LLC Property located in D & M Development Plat 1**

Date/Time: Tuesday, January 14, 2020  
2:00 p.m.-3:30 p.m.

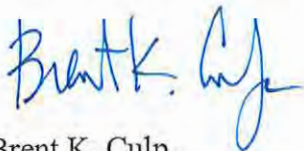
Location: Albaugh Corporate Board Room  
DRA Properties Building  
1515 NE 36<sup>th</sup> Street  
Ankeny, Iowa 50021

D&M Partners, LLC, as owner, and InRoads, LLC, as applicant, has scheduled a neighborhood meeting for those businesses within the general proximity of the D & M Development Plat 1 industrial park that has recently been developed by the partnership of Dennis and Mick Albaugh. Business owners interested in discussing the conditional use permit being applied for through Polk County for Lot 1, located at 4756 NE 20<sup>th</sup> Lane, should attend the meeting. Lot 1 is located on the north side of the development along Interstate 80/35.

The purpose of this discussion is to inform the general neighborhood of the conditional use permit application and to ask questions of representatives from D&M Partners, LLC, InRoads, LLC, and Snyder and Associates, Inc. If you would like to attend, please join us on Tuesday, January 14<sup>th</sup> at 2:00 p.m. at the Albaugh Corporate Board Room in the DRA Properties Building.

Sincerely,

SNYDER & ASSOCIATES, INC.



Brent K. Culp



