TO:	Zoning Board of Adjustment
FROM:	Community Development Department
DATE:	August 9, 2017
RE:	**CASE #CU-16-004(M)**
REQUEST:	A modification of an existing conditional use permit, approved on February 16, 2016, to allow the expansion of a 'contractor yard' in an I-2/Industrial District.
APPLICABLE CODE SECTIONS:	§15.02.020 - Zoning Board of Adjustment The Zoning Board shall have the following powers: b. To make final decisions on applications for conditional uses. §15.21.030 – Conditional uses in an I-2/General Industrial District 01. 'Contractor yard' §15.23.020 – General Provisions 06. All off-street parking lots and areas, sales lots and loading and unloading spaces, including entrances, exits and driveway approaches shall be constructed of hard surface concrete, brick, or asphalt to prevent mud, dust, or loose material. Asphalt grindings and seal coats are not acceptable surfaces. Paving standards contained in this section should be considered minimum standards.
LEGAL DESCRIPTION:	Part of the SW1/4 SW1/4 of Section 34-75-44 and being more particularly described as beginning 365.44 feet East of the southwest corner of said Section 34-75-44, thence North 736 feet, thence East 363 feet, thence South 354.49, thence West 10 feet, thence South 350 feet, thence East 10 feet; thence South 40.03 feet; and thence West 363 feet to the point of beginning, City of Council Bluffs, Pottawattamie County, Iowa.
LOCATION:	3250 16th Avenue, Council Bluffs, Iowa 51503
APPLICANT:	Matt Fatka Highway Signage Inc. 947 250th Street Avoca, IA 51521
OWNER:	F M Leasing, LLC c/o Randy Miller 1237 Eagle Creek Boulevard Altoona, IA 50009

BACKGROUND INFORMATION – Highway Signage Inc. is a service company that provides traffic controls, barricading and line striping for road construction projects in Iowa, Nebraska and Kansas. On February 16, 2016, the Council Bluffs Zoning Board of Adjustment approved their conditional use permit request (Case #CU-16-004) to allow a 'contractor yard' in an I-2/Industrial District on property located at 3250 16th Avenue, as legally described above (see Attachment A). The approved permit also allowed the applicant to use crushed limestone gravel for their 'contractor yard' pavement surface, as opposed asphalt and/or concrete cement, as required per Section 15.23.020, *Off-Street Parking, Loading and Unloading, General Provisions* of the Council Bluffs Zoning Ordinance. The applicant requests approval to expand their

'contractor yard' from 37,865 square feet to 73,745 square feet and to use crushed limestone gravel for the pavement surface in the expanded area (see Attachments B through D). The purpose of the expansion is to allow the applicant to store all of their company equipment and materials outdoors on the subject property. The 'contractor yard' area will be surrounded by a minimum 10 foot-wide green space buffer strip and will be enclosed with a six-foot tall chain-link fence with vinyl inserts, as per the approved conditional use permit #CU-16-004.

The following attachments are included with this report for reference purposes:
Attachment A: Notice of approval for Case #CU-16-004, dated February 16, 2016.
Attachment B: Letter of intent
Attachment C: Plan of operation
Attachment D: Site plan showing the approved and proposed 'contractor yard' on the subject property.
Attachment E: Location/zoning map

CURRENT ZONING AND LAND USE – The subject property is zoned I-2/Industrial District and surrounded on all sides by like zoning (see Attachment 'E'). The applicant has constructed a 'contractor yard' and shop building on the subject property. Surrounding land uses included a City Parks Department storage facility to the east, a mixture of transportation and manufacturing uses to the south, undeveloped land to the west and a Union Pacific Railroad warehouse/storage facility to the north. The property located at 3236 Nebraska Avenue (immediately southeast of the subject property) was granted a conditional use permit for a telecommunication tower by the Zoning Board of Adjustment in the years 2004 and 2005 (see Cases #CU-02-004 & #CU-05-002). All surrounding land uses are industrial in nature and are compatible with the proposed 'contractor yard' use.

The future land use plan of the Bluffs Tomorrow: 2030 Plan identifies the property as 'heavy industrial'. The proposed contractor yard use is consistent with the 'heavy industrial' land use plan designation.

Exhibit A: 2017 (Google) aerial image of the subject property and surrounding area.

CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the proposed conditional use permit request. The following comments were received:

Public Works Department
No comments/concerns for the proposed modification request.

Council Bluffs Water Works
No comments/concerns for the proposed modification request.

Community Development Department:

1. The approved conditional use permit (Case #CU-16-004) did not specify the maximum amount of square footage that the 'contractor yard' can occupy on the subject property. City staff approved the existing 'contractor yard' on the basis that size and location of the yard area were generally consistent with the plans approved by the Zoning Board of Adjustment. The applicant is requesting to double the size of their 'contractor yard' and to use crushed limestone gravel for the parking surface in said expansion area. The applicant's proposals results in a significant modification to the approved conditional use permit which requires Board approval.

2. The Board approved the applicant's previous request to use crushed limestone gravel for their 'contractor yard' pavement surface, as opposed to asphalt and/or concrete cement, as required per Section 15.23.020, *Off-Street Parking, Loading and Unloading, General Provisions* of the Council Bluffs Zoning Ordinance, which states:

   15.23.020 – General Provisions

   06. All off-street parking lots and areas, sales lots and loading and unloading spaces, including entrances, exits and driveway approaches shall be constructed of hard surface concrete, brick, or asphalt to prevent mud, dust, or loose material. Asphalt grindings and seal coats are not acceptable surfaces. Paving standards contained in this section should be considered minimum standards.

3. In general, the conceptual site plan (Attachment D) indicates that the expanded 'contractor yard' area will comply the standards approved by the Zoning Board of Adjustment for Case #CU-16-004, as follows:
   a. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.
   b. The conditional use shall comply with all site development regulations pertaining to the I-2/General Industrial District.
   c. The hours of operations shall be as presented in the application.
   d. All exterior lighting shall comply with the standards stated in Section 15.24.050, *Lighting Controls*, of the Council Bluffs Zoning Ordinance.
   e. All signage shall comply with the standards in Chapter 15.33, *Signs,* of the Council Bluffs Zoning Ordinance.
   f. All required off-street parking spaces, driveways and drive aisles shall be hard-surfaced and designed to comply with the standards stated in Section 15.23, *Off-Street Parking, Loading and Unloading* of the Council Bluffs Zoning Ordinance.
   g. The gravel storage lot as shown on the submitted site plan shall be surrounded with a 10-foot wide green space buffer and the entire area shall be fenced.
   h. The applicant shall contact the Council Bluffs Public Works Department to develop plans for stormwater management and ingress/egress onto the 16th Avenue for the proposed project.

Mid-American Energy Company has no objections to the modification request.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet were notified of the conditional use permit request. No comments were received as of the date of this report.

COMMENTS

§15.02.090 Conditional Uses: The development and execution of the Ordinance (Title 15) is based upon the division of the City into districts. Within each district the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are specific uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such uses may be either public or private, and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

The Zoning Board of Adjustment shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the applicable standards in Section 15.02.090.E (Findings of Fact).

The Zoning Board of Adjustment may impose such conditions and restrictions upon the location, construction, design and use of the property benefited by a conditional use as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the conditional use. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact. No conditional use shall be approved unless the Zoning Board of Adjustment makes findings of fact based directly on the standards and conditions imposed by this section. The findings of fact are presented below *in italics*:

1. The proposed conditional use will comply with all applicable regulations of this Ordinance, including lot requirements, bulk regulations, use limitations and all other standards or conditions contained in the provisions authorizing such use. *The subject property is comprised of 5.72 acres of land and is being developed with a 'contractor yard' and shop building. The size of the property is adequate to allow the existing 'contractor yard' to be enlarged from 37,865 square feet to 73,745 square feet.*

2. Adequate utility, drainage and other necessary facilities or improvements have been or will be provided. *The applicant installed all of the required utilities when they constructed the existing 'contractor yard' and shop building on the subject property. No utility service extensions and/or infrastructure upgrades are necessary to allow the existing 'contractor yard' to be enlarged from 37,865 square feet to 73,745 square feet.*

3. Adequate access roads or entrance and exit drives will be designed and built to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys. *The subject property abuts 14th and 16th Avenues. The applicant installed a paved, two-way driveway to directly access 16th Avenue when the existing 'contractor yard' and shop building were constructed. No additional access improvements are needed to allow the existing 'contractor yard' to be enlarged from 37,865 square feet to 73,745 square feet.*

4. All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly appears that such permits are obtainable for the proposed conditional use on the subject property. *The applicant shall obtain all required City permits prior to enlarging the 'contractor yard' area. Any proposed exterior signage shall be permitted separately prior to installation.*

5. All exterior lighting shall be shaded as necessary to direct the light away from neighboring residential properties. The subject property is not adjacent to any residential property. *Any proposed exterior lights shall comply with Section 15.24.050, Lighting Controls, of the Council Bluffs Zoning Ordinance.*

6. The location and size of the conditional use, the nature and intensity of the activities to be conducted in connection with it, the size of the site, and the relationship of the site to adjacent roadways shall be considered to assure the use is in harmony with the appropriate and orderly development of the district and the neighborhood in which it is located. *The subject property is zoned I-2 General Industrial District and exceeds the minimum the lot size requirements for said zoning district. Surrounding land uses are all industrial in nature. The site does not directly abut any residential zoning districts and/or established residential uses. The proposed 'contractor yard' modification request is not anticipated to have any negative impacts on existing and/or future land uses in the surrounding area if developed in accordance with adopted City standards and the requirements stated in the conditional use permit (Case #CU-16-004).*

7. The location, nature and height of buildings, structures, walls and fences on the site, and the nature and extent of landscaping and screening on the site shall be designed so that the use will not reasonably hinder or discourage the appropriate development, use and enjoyment of the adjacent land, buildings and structures. *The applicant is required to surround the 'contractor yard' with a 10 foot-wide green space buffer strip and to screen the area with a fence, as per the approved conditional use permit (Case #CU-16-004). The conceptual site plan shows the enlarged 'contractor yard' will comply with the 10 foot buffer strip standards and will be screened from view by a six foot-tall chain link fence with vinyl inserts. The Zoning Board of Adjustment previously approved the applicant to use gravel limestone as a pavement material for the 'contractor yard'. The proposed modification request, including the use of gravel limestone for the enlarged 'contractor yard', is not anticipated to discourage the development and/or enjoyment of adjacent properties if developed in accordance with adopted City standards and the requirements stated in the conditional use permit (Case #CU-16-004).*

8. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public. *It is not anticipated that the proposed modification request will adversely impact the surrounding properties.*

RECOMMENDATION

The Community Development Department recommends approval of the request to modify an approved conditional use permit (Case #CU-16-004) in order to expand the size of a 'contractor yard' from 37,865 square feet to 73,745 square feet in an I-2/Industrial District on property legally described as being part of the SW1/4 SW1/4 of Section 34-75-44 and being more particularly described as beginning 365.44 feet East of the southwest corner of said Section 34-75-44, thence North 736 feet, thence East 363 feet, thence South 354.49, thence West 10 feet, thence South 350 feet, thence East 10 feet; thence South 40.03 feet; and thence West 363 feet to the point of beginning, City of Council Bluffs, Pottawattamie County, Iowa, subject to the following conditions:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.
2. The conditional use shall comply with all site development regulations pertaining to the I-2/General Industrial District.
3. The hours of operations shall be as presented in the application.
4. All exterior lighting shall comply with the standards stated in *Section 15.24.050, Lighting Controls,* of the Council Bluffs Zoning Ordinance.
5. All signage shall comply with the standards in Chapter 15.33, *Signs*, of the Council Bluffs Zoning Ordinance.
6. All required off-street parking spaces, driveways and drive aisles shall be hard-surfaced and designed to comply with the standards stated in Section 15.23, *Off-Street Parking, Loading and Unloading* of the Council Bluffs Zoning Ordinance.
7. The 'contractor yard' area shall not exceed 73,745 square feet in size and shall be surrounded with a 10 foot-wide greenspace buffer strip and screened from view by a minimum six foot-tall fence. Any future enlargement of the 'contractor yard' shall require approval by the Zoning Board of Adjustment.

8. Crushed limestone gravel shall be allowed as a pavement material for the 'contractor yard' area only.

Rose E. Brown, AICP
Planning Coordinator

Christopher Gibbons, AICP
Planner

Attachment A: Notice of approval for Case #CU-16-004, dated February 16, 2016.
Attachment B: Letter of intent
Attachment C: Plan of operation
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Attachment E: Location/zoning map

COMMUNITY DEVELOPMENT
(712) 328-4629

NOTICE OF APPROVAL
Case #CU-16-004
Council Bluffs Zoning Board of Adjustment
Date: February 17, 2016

Matt Fatka
Highway Signage, Inc.
947 – 250th Street
Avoca, IA 51521

Dear Mr. Fatka:

You are hereby officially notified that the Council Bluffs Zoning Board of Adjustment has **approved your request for a conditional use permit to allow a contractor yard in an I-2/General Industrial District on vacant property located East of 3346 16th Avenue and North of 3220 Nebraska Avenue, being part of the SW1/4 SW1/4 of Section 34-75-44 described as beginning at a point 365.44 feet East and 40 feet North of the SW Corner of said SW1/4 SW1/4; thence North 696 feet, East 363 feet, South 354.4 feet, West 10 feet, South 350 feet and West 353 feet to the Point of Beginning, subject to the following conditions:**

1. **The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.**
2. **The conditional use shall comply with all site development regulations pertaining to the I-2/General Industrial District.**
3. **The hours of operations shall be as presented in the application.**
4. **All exterior lighting shall comply with the standards stated in *Section 15.24.050, Lighting Controls,* of the Council Bluffs Zoning Ordinance.**
5. **All signage shall comply with the standards in Chapter 15.33, *Signs*, of the Council Bluffs Zoning Ordinance.**
6. **All required off-street parking spaces, driveways and drive aisles shall be hard-surfaced and designed to comply with the standards stated in Section 15.23, *Off-Street Parking, Loading and Unloading* of the Council Bluffs Zoning Ordinance.**
7. **The gravel storage lot as shown on the submitted site plan shall be surrounded with a 10-foot wide green space buffer and the entire area shall be fenced.**
8. **The applicant shall contact the Council Bluffs Public Works Department to develop plans for stormwater management and ingress/egress onto the 16th Avenue for the proposed project.**

The Board has filed its written decision in the matter in the office of the Board in the City's Community Development Department at 209 Pearl Street in Council Bluffs, Iowa on the **16th day of February, 2016.**

You are hereby advised that any one who objects to the Board's decision (including the City's Community Development Department, if its representatives recommended against your request) may appeal such decision by filing with the District Court a Petition for Certiorari within 30 days after the filing of the Board's decision.

CASE #CU-16-004 ATTACHMENT A

You are hereby advised that if such appeal is taken, you may intervene in the appeal to present your position. In the event of an appeal, you should consult an attorney for advice on your legal rights.

You are hereby advised that if you, in reliance upon the Board's approval of your request, proceed with any construction plans and/or expend any money within 30 days of the filing of the Board's decision, you will be doing so **at your own risk,** because if someone appeals the Board's decision in that time and is ultimately successful with the appeal, then it will be as if the Board had never approved your request; you should do nothing in reliance upon the Board's decision until the 30 days has expired.

There may be public or private easements, covenants and/or deed restrictions which may limit the use of this property.

Jared Olson, Chair
Council Bluffs Zoning Board of Adjustment

cc: John Kriener

Statement of the Reason(s) why the conditional use or variance should be granted:

When the original site plan was submitted and approved, the building and paving wasn't completed. Once the building and paving was completed, the property showed that there was so much area that we could utilize and help us be more efficient. In order to expand and grow, we would like to be proactive and have this area available to us with the committee's approval.

It just isn't feasible for any small business to pave more than what has already been done. We are asking for this approval of additional rocked area for the now and future of our small business.

This property is on low maintenance (part gravel) dead end road that leads to timber and old city dump. Our neighboring property owners consist of agriculture, timber and other similar businesses that also have rock storage areas. There is no through traffic through in this area and with the blackout fence; there will be no neighboring properties able to see the rocked portion of our yard.

When the site plan was developed on the original plan, the retainage pond was calculated for the entire property and not just the rocked area. This way, the water run off that does occur will be able to be held by the retainage pond. We are keeping the 10-20' green buffer space along the fence and 50'+ of landscaping along the front of the building. The area to the north of the fence has already been seeded to grass.

Plan of Operation

FM Leasing LLC
3250 16th Ave
Council Bluffs, Ia 51501

Description of Activity-
This property will be used as a place of business for Highway Signing. At this location, there will be offices, shop and outside storage of equipment. Highway Signing is a barricade and line striping company that provides services to local municipalities and Department of Transportation's. The property will be fenced and blackout to the public (per city code).

Hours of Operation-
On average, our hours of operation are from 7am to 5pm. There will be times that we are there before 7am and after 5pm.
There will not be any consistent loud noises and shining lights.

Number of persons employed-
The number of persons employed varies from time of year. On average, we have approximately 16 employees at this time (July 2017). During the winter, there is on average 6 employees.

Number of persons expected at maximum capacity-
At maximum capacity, there may be 25 employees.

Parking Access-
There are currently 11 parking stalls in front of the building. There is also access to the rocked areas for parking.

Signage & Lighting-
There is currently no signage on the property to identify any company occupants. There is lighting all around the building. We have also installed 10 security cameras due to the high theft rate during the building process.