

EDGERTON PLANNING COMMISSION AGENDA
SPECIAL SESSION
Edgerton City Hall
August 18, 2015
7:00 PM

1. Call meeting to order
2. Pledge of Allegiance
3. Roll Call

A. Members:

Chuck Davis, Chair	Present / Absent
Ron Conus, Vice-Chair	Present / Absent
Maria O'Neill, Secretary	Present / Absent
Missy Drinkard	Present / Absent
Bob O'Neill	Present/ Absent
Andrea Lucero	Present/ Absent
Cliff Withrow	Present/ Absent
Randal Gifford	Present/ Absent
Bill Braun	Present/ Absent

4. Guests Present
 - A.
 - B.

5. Communications from Staff
6. New Business

CONDITIONAL USE PERMIT - PUBLIC HEARING

- A. Consideration of opening a public hearing in regards to Conditional Use Permit Case No. CU2015-001, requesting a change in paving materials for property located at 32355 W. 191st Street, part of the northwest ¼ of Section 3, Township 15, Range 22. Owner/Applicant: CY Edgerton, LLC/Arrowhead Intermodal Services LLC. Engineer: Roger L. Cassity, Renaissance Infrastructure Consulting.

Action requested: Open the public hearing, receive comments, and consider motion to close or table the hearing. Consider motion to recommend approval or denial.

7. Future Meeting – Regular meeting – September 8, 2015
8. Commissioners Comments
9. Adjournment:

STAFF REPORT

August 14, 2015

To: Edgerton Planning Commission
Fr: Kenneth A. Cook, Community Development Director
Re: Application CU2015-001 for Amendment to Conditional Use Permit (CU-11-15-2013)
Request for Deviation from Standard Paving Requirement

APPLICATION INFORMATION

Applicant/Property Owner: Arrowhead Intermodal Services, Inc

Requested Action: Conditional Use Permit – Amend existing Conditional Use (CU-11-15-2013) to allow Deviation for the Use of Asphalt Millings for Paving.

Legal Description: Part of Section 3, Township 15, Range 22

Site Address/Location: 32355 W 191st Street. South side of 191st Street 650 feet East of Homestead Lane

Site Size: Approximately 31 acres

Existing Improvements: Vacant House & Accessory Structures

Zoning and Land Uses:

	ZONING	LAND USE	USER/OWNER
SITE	LP, Logistics Park District	Industrial*	C Y Edgerton LLC
NORTH	I-H, Heavy Industrial District	Agricultural	Export Ag Company, LLC
SOUTH	RUR, Rural Residential District (County)	Agricultural	Prairie Tree, LLC
EAST	RUR, Rural Residential District (County)	Agricultural	Prairie Tree, LLC
WEST	A-G, Agricultural District	Agricultural	Holtgraver, Omar J. Rev Trust Holtgraver, India L. Rev Trust

* Cargo Container Facility operating with temporary approval for operations while making improvements

BACKGROUND:

The Planning Commission most recently heard a request by the applicant for approval of an amended final site plan (FS2015-03) based on a previously approved final site plan (S-11-15-2013) and L-P, Logistics Park District zoning requirements. The previous final site plan was originally approved by the Planning Commission on December 10, 2013. The original Conditional Use for the operation of a Cargo Container facility on this property was recommended for approval on February 11, 2014 and was approved by the City Council on

February 27, 2014. Since this time three extensions have been granted by the Planning Commission to allow for the completion of all planning requirements and for the paving of the site. The current extension will expire on December 1, 2015. The property was originally under a different ownership when the original Conditional Use Permit was approved and is now being developed by a new company. Staff has included copies of the previously approved Conditional Use for reference.

PROJECT DESCRIPTION

The applicant is currently requesting to amend the existing Conditional Use Permit which is in effect for the subject property. The specific request is for the Governing Body to consider granting a deviation from the requirement that all paving be concrete or asphalt. The first condition listed in Ordinance 967, the ordinance approving the original request includes:

The property owner shall continuously comply with all performance criteria in Article 7 pertaining to Cargo Container Storage Facilities and Cargo Repair and Maintenance Facilities, including, but not limited to, noise maximums and cargo container and chassis stacking height requirements, paving requirements, etc.

In regards to "paving requirements" Section 7.2D.2.a)5. of the City of Edgerton Unified Development Code specifies that:

Paving: All interior driveways, parking, loading, and storage areas shall be paved and dust-free. For purpose of this stipulation:

- i. Paving shall mean concrete or asphalt; and*
- ii. Dust-free shall mean that all interior driveways and storage area surfaces shall be kept free of dust, dirt or other materials to prevent the migration of dust off-site.*

The above requirements were expressly discussed with the previous property owner and also in a meeting (prior to their purchase of the property) with the current property owner.

REVIEW

The question of the applicant proposing to use millings was not included on the original plans which were submitted with the application and were used for staff's original review of the request. This set of drawings showed three different pavement sections which were being proposed and which included 8" Asphalt, 6" Asphalt and 8" Concrete. The first plan which started to show the asphalt millings option appears to have been submitted on May 10, 2015. Staff was unable to perform a full review on these drawings prior to the Planning Commission's May 12, 2015 meeting on which this Final Development Plan was originally considered.

As staff continued a more detailed review of the documents following the Planning Commission meeting, it was noted that the rear portion of the site (behind the main building) had been changed to include 4" Asphalt Millings. The site plan further changed on updated drawings that were submitted on June 5, 2015. These drawings were submitted as part of a request by the applicant to be granted approval of an Alternative Landscape Plan and waivers to standards for fencing and the material used for the exterior of the building. The first comment that staff can find in regards to discussions on asphalt millings is in an e-mail on May 29, 2015 from Mr. Williams and which referred to discussions which he had with staff the day before and which he specifies that what they are proposing is not what staff understood but was instead Recycled Asphalt Pavement (RAP). The description provided was that it was

placed in the same manner as asphalt and is injected with oil and tar to create "new" asphalt. In response to this e-mail I specified I was familiar with RAP as my previous employer had converted their asphalt plant to use RAP and that we would simply need their mix design for our engineer to review.

The applicant submitted their official request for an extension of time, Alternative Landscape Plan (ALP) and waivers for the building façade material and fencing on June 5, 2015. Staff reviewed the request and brought it before the Planning Commission for the June 9, 2015 meeting. Along with considering these requests, the applicant also brought a sample of the material that they were proposing to use for paving. While the Planning Commission reviewed and granted the applicants request for an extension of time, ALP and waivers for the building façade material and fencing based upon the increased screening that was being proposed, the Planning Commission decided to table to paving request until the July meeting and for additional information be provided, including for the City Engineer to provide a review and recommendation of the proposed surfacing material.

On July 7, 2015, the City Engineer and I visited the project site. The applicants had prepared an example of the proposed material. I should be noted that the site where they prepared the example did not appear to have been prepared in a manner in which the plans would have called for (compacted subgrade and placement of stone base), was compacted only by driving vehicles over it and the ground was also significantly wet. Staff requested that the applicant drive a lift over the sample material and noted significant rutting of the material. The City Engineer also prepared a memo (attached) and which he recommends "denial of the use of asphalt millings as an equivalent substitute for the use of HMA or portland cement concrete." It was also stated in the memo that "RAP is not considered to be permanent pavement surface."

At the July 14, 2015 Planning Commission meeting staff made a recommendation to the Planning Commission that the request be denied. Staff further specified that in reviewing the request that the requirement for the use of concrete or asphalt for surfacing was officially a requirement of the Conditional Use Permit and standards listed in the UDC for cargo container facilities as part of the Conditional Use process. This means that the requirement could not be waived through the Final Site Plan process and would require the property owner to make application to amend their Conditional Use Permit and to request a deviation as allowed by the Conditional Use regulations. As part of the applicant's presentation, they requested that the Planning Commission consider their request due to the increased cost that was be associated with the standards surfacing material, concerns with ability to perform maintenance, and in their opinion, that the industry standard is to allow the use of millings as a surfacing material.

STAFF RESEARCH

Staff has performed some additional research in regards to the standards that are specified by other communities. First, the City of Gardner, Kansas has adopted cargo container regulations which are similar to our standards and require the use of concrete or asphalt. I was also able find a community, Riverview, Michigan, in which their cargo contain regulations require impervious services. Their off-street parking regulations go on to specify that *"All off-street parking area, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material."* It also had the same requirement for all loading areas. Wilmington, Illinois specifies that *"the paving must consist of asphalt,*

concrete, or other materials found to be acceptable to the governmental units. Gravel, grindings, or tar and ship surfaces are not allowed." While the a large number of regulations that I was able to find that had specific standards for cargo container storage facilities did allow for other types of material (such as millings & gravel), some also required paving only in drive areas.

It should be noted that the vast majority of regulations that I have looked through did not contain specific standards for cargo container facilities or give a specific requirement that these types of surfaces are required to be paved with concrete or asphalt. As I am somewhat familiar with the City of Romeoville, Illinois, I called and talked with a planner to see what type of standards that they had in regards to these type of facilities. They explained that the one cargo container facility that is located in their community is a grandfathered facility and that their current regulations do not permit cargo contain facilities. While they do not currently allow these type of facilities, it was their opinion that if one was ever approved, they would also require all surfaces to be paved as that is their typical standard for all development. I believe that there are most likely a large number of communities that have similar standards in that they may not have a specific standards dealing with cargo container facilities, but that they require all surfaces to be paved with concrete or asphalt. I was also able to find additional communities, such as Shorewood, Illinois, where cargo container facilities are specifically prohibited in all zoning districts. Other communities, while allowing such facilities, had significantly increased development standards including some of the following:

- Fully screened from ROW or adjacent property
- Setback at least 200 feet from any residential district or use.
- No storage of cargo containers within 1000' of a property zoned/used for residential
- Stored in groups no greater than 200 feet by 80 feet.
- Maximum stacking of up to two containers high.
- Plan showing method of securing units to meet a windload standard of 100 mph.
- 50 foot vegetative landscape screen provided around perimeter of the site with.
- 10 foot height Opaque fencing with a required vegetative screening between the fence and the property line.
- No side by side grouping shall exceed 20 containers and not end-to-end grouping shall exceed 2 containers.
- Screening shall be provided within a landscape easement, a minimum width of 100-feet, adjacent to public ROW and non-industrial districts. Screening shall be a combination of fencing, berming, natural vegetation and landscaping. A berm shall contain a 3:1 slope and a minimum height of 15 feet with additional landscaping being required around the entire perimeter of the facility.
- Containers may be stored on more than 30% of the buildable area of the site.

INFRASTRUCTURE AND SERVICES:

- a. Homestead Lane and 191st Street are paved and designed to accommodate intermodal and logistic park truck traffic. Driveway and street connections will need to comply with city requirements regarding location and design.
- b. The property is located within the Big Bull Creek watershed, which flows south from 167th Street to the southern edge of the county at Homestead Lane.
- c. About four acres of the south part of the property is located within the flood plain of a tributary of Bull Creek. The site plan will need to avoid development within the

floodplain. The floodplain area is ideal for a streamway corridor/park/public access use area.

- d. The property has sanitary sewer service via the Homestead Lane lift station located to the West. The applicant has proposed to extend the sewer main to provide service to the site.
- e. The property is located within the service area of Rural Water District No. 7. A 12-inch water main is located along the 191st Street property frontage.
- f. Police protection is provided by the Johnson County Sheriff's Department under contract with the City of Edgerton. Fire protection is provided by Johnson County Fire District No. 1. A fire station is located in the City of Edgerton, approximately 3 miles to the southwest.

STAFF ANALYSIS

The UDC allows cargo container storage, maintenance, and repair facilities in the L-P Zoning District if a Conditional Use Permit is first approved. As has been stated above, the property currently has a Conditional Use Permit which has already been approved and the applicant is making a request to amend the previous approval and for the Planning Commission and Governing Body to consider the approval of a deviation to allow for the use of asphalt millings for some of the paving areas on the site. In general, as part of a request to amend an existing Conditional Use, the only item that is considered by the Planning Commission and City Council is the item which is being requested. Staff is suggesting that this is the proper way to consider this request. This does not mean that other conditions which have been previously approved on the request could not be changed, but that it would be appropriate to make sure such changes are somehow related or designed to mitigate impact from the change being requested. From this perspective, staff's review is being limited to the request currently at hand.

The Planning Commission, in accordance with the procedures and standards of the UDC, may authorize buildings, structures, and uses as conditional uses in the specific instances and particular districts set forth provided that the location is appropriate, consistent with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article specified as a condition of approval. No conditional use shall be authorized unless the Planning Commission finds that the establishment, maintenance, or operation of the Conditional Use meets the standards set forth in the UDC. The burden of proof is on the applicant to bring forth the evidence and the burden of persuasion on all questions of fact that are determined by the Planning Commission.

Section 7.2D.14. specifies the following in regards to requests for deviations from the performance standards listed for cargo container storage facilities and cargo repair and maintenance facilities:

Deviations: In the event that an applicant desires to deviate from the above performance standards and provisions for certain Conditional Uses, the applicant shall submit written information to the Governing Body indicating the circumstances which are believed to necessitate the need for a deviation(s), and the applicant shall provide a list of alternative materials, designs or methods that are equivalent to the performance standards and provisions for the L-P Zoning District, Section 5.4, Sections G through Q in the regulations. The application may only be approved if findings are made by the Governing Body that 1)

due to the circumstances of the application, it would be unnecessary to impose the standards(s) and equivalent alternatives should be allowed, b) that the spirit and intent of the regulations are being met, c) that granting the deviation shall not adversely affect adjacent or nearby property, and d) the application shall otherwise comply with all building code(w) and safety requirements. (Ord. 915, 2012)

GENERAL CRITERIA

- a. The extent to which there is a need in the community for the proposed use. The applicant is requesting to be allowed to use asphalt millings for paving on their site while the standard currently requires the use of concrete or asphalt. The community currently has two existing facilities which have been developed to include the use of concrete or asphalt for paving and a third business has expressed their intent to move forward with the use of concrete. While there is definitely a need in the community for this use, other uses which are the same by the UDC have installed, or are in the process of installing, concrete or asphalt for their paving. While staff understands that this is a significant cost, it would appear that other developments have been able to comply with the standard that is specified in the UDC. Staff determination: **Negative**
- b. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space. The character of the neighborhood is currently in transition. The BNSF Intermodal Facility is across 191st to the north. 192 acres of land, zoned L-P District in 2012, lies across 191st to the north. Additional property which has also been zoned L-P District is located to the east and Southeast (approximately 1 mile) adjacent to Waverly Road and also to the West of Homestead Lane. There is one residence located just to the east on 191st. Farming and vacant land lie to the east, west and south. Additional logistics park development is expected to continue to develop in this area, and which a significant amount can be anticipated to be some type of warehousing or manufacturing.

With rapidly progressing intermodal development, new road improvements, and the new I-35 interchange nearby, the character of the area is changing significantly from rural to industrial. The regional parks and floodplain areas will generally remain undeveloped, acting as open space, which will help to retain some of the existing rural character of the area. While the use itself was previously determined as being appropriate, it is staffs determination that the use of asphalt millings does not match the character of the neighborhood and could have a negative impact. Staff determination: **Negative**

- c. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures, walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering and screening. Facilities such as the one proposed here provide for the storage, staging, and maintenance of cargo containers, semi-trailers, and chassis. The conditional use permit performance criteria require that this activity be conducted in a manner that minimizes the noise, dust, traffic congestion, aesthetic blight and other adverse environmental impacts of such a use on surrounding property. To ensure that the cargo container, semi-trailers, and maintenance facilities are operated in a safe manner, the permitted height of stacking of such containers, the cargo within the containers, the location and surface used, methods of securing the containers so as to prevent safety hazards, and accessibility for

emergency and maintenance equipment are all factors addressed by the regulations. Adequate visual screening and landscaping of cargo containers from the public right-of-ways and adjacent properties is also required. The site must also be of sufficient size to accommodate the clean, safe and orderly storage and maintenance of cargo containers, semi-trailers, and chassis with adequate lighting and signage.

While most of the foregoing factors appear to have been addressed by the Final Development Plan that has been submitted, it is staff's determination that the use of millings could create compatibility issues with uses which are currently located in the area or which might occur in the future. Specifically, staff would suggest that the proposed deviation does not meet the requirement that such alternative materials be equivalent to the performance standards in the L-P District. Staff determination: **Negative**

- d. Suitability of the uses of the property without the proposed conditional use permit. The property is no longer in agricultural use. With the construction of the intermodal freight terminal and the logistics park adjacent to the north, the best use of this property has become industrial. While the use of cargo container facilities is a necessity as part of the operation of the park, the subject properties zoning as L-P still leave it open to other uses which would be considered as suitable, such as additional warehouse or industrial development. Staff determination: **Inconclusive**
- e. Length of time the subject property has remained vacant without the proposed conditional use permit. Before annexation, the property was in agricultural use in unincorporated Johnson County for at least the previous 60-plus years for which information (aerial photography) is available. Staff determination: **Positive**
- f. The extent to which the proposed use may detrimentally affect nearby property. The properties that will likely be most affected by this proposed zoning are the few parcels in residential use to the east. The nearest proposed trailer storage pad is about 300 feet from the nearest home. As the area transitions to industrial uses, the residential uses are short term in nature. No long term detrimental effects are expected for the use of the property. The use of millings has the ability to create increased dust and as is specified by the City Engineer, is not considered to be a permanent pavement surface. Staff determination: **Negative**
- g. The adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions. As noted in the Site Plan review, adequate ingress, egress, parking, and loading has been provided after suggested modifications. The stream and floodplain areas will be undeveloped and as such, they provide adequate open space. Staff determination: **Positive**
- h. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services. Please also see the Infrastructure and Services review above.
- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems

in the vicinity of the property. 191st Street and Homestead Lane are improved to a standard that can accommodate industrial/truck traffic in the area. On-street parking will not be allowed and adequate parking is provided for this project. Staff determination:

Positive

- j. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm. The City will follow NPDES (stormwater management requirements) guidelines that require the developer to address runoff and water pollution mitigation measures as part of the development of the property. Mitigation of pollution in the form of light, off-site, should be addressed by the photometric plan. The use of millings could create additional dust in times of heavy use or if the surface was not aggressively maintained. Staff determination: ***Negative***
- k. The economic impact of the proposed use on the community. Prior to the development of the BNSF intermodal and logistics park, there have been few commercial and industrial uses within the City. Warehousing and related uses in the L-P District, if built, have the potential to benefit the residents and community in a positive way by providing needed jobs and tax revenues. While this type of use is needed for the operation of the intermodal facility the use itself is not typically considered as a positive in regards to possible impacts on adjacent properties. While this use would bring some economic benefits, it also has the ability of creating properties which are located adjacent and which are not considered highly desirable due to the location of this use. This negative would be increased if the property is allowed to be developed to standards below what is required of other properties in the area. Staff determination: ***Inconclusive***
- l. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for conditional use permit as compared to the hardship imposed upon the conditional use applicant from such denial. There would be little gain to the public health, safety and welfare of the City of Edgerton and the property owner would be required to expend significant amount of funds if the request to amend to Conditional Use Permit is denied and they are required to development the property using concrete or asphalt. While this would be a significant increase in the cost of this project, two other similar projects have already been developed with the use of asphalt surface and a third is anticipated to start paving with concrete soon. Staff determination: ***Inconclusive***
- m. Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton, and the general safety, health, comfort and general welfare of the community. The Future Land Use Map (attached) within the Comprehensive Plan designates the subject property for industrial development. While this complies with the Comprehensive Plan, the UDC specifies that this type of use is required to us concrete or asphalt for all paving and is therefore not consistent. Staff determination: ***Negative***
- n. The recommendation of professional staff. (Ord. 798; 2005) Please see the Recommendations Section, below.

CARGO CONTAINER STORAGE, REPAIR, AND MAINTENANCE FACILITY

PERFORMANCE CRITERIA.

All cargo container storage and cargo container repair and maintenance facilities (collectively referred to as “facilities”) shall be subject to the following performance provisions:

1. Access: No cargo containers or semi-trailers (either on or off a chassis), or a chassis, may be stored in a manner that impedes access to public rights-of-way, public utility or drainage easements, structures, and buildings. *Final site plan complies.*
2. Exterior Lighting: Facilities shall provide lighting on-site, including at all vehicular entrances and exits. A lighting plan shall be submitted and approved. *Final site plan complies.*
3. Minimum Lot Size: Facilities shall have a minimum lot size of twenty (20) acres. *Property complies with 30 acres.*
4. Noise: Noise from businesses and facilities shall not exceed 60 dB(A) in any adjacent residential district or 70 dB(A) in any adjacent commercial or industrial district or property. *Noise issues are not addressed in the applicant's proposal; however, the use must continuously comply with these noise maximums in the conduct of the business.*
5. Paving: All interior driveways, parking, loading, and storage areas shall be paved and dust-free. For purposes of this stipulation:
 - i. Paving shall mean concrete or asphalt: and
 - ii. Dust-free shall mean that all interior driveways and storage area surfaces shall be kept free of dust, dirt or other materials to prevent the migration of dust off-site. *Permanent surface must be asphalt or concrete.*
6. Parking: Facilities shall comply with the Article 5.2 L-P District Off Street Parking and Loading regulations. No portion of any required off-street parking or loading/unloading areas shall be used for the storage of cargo containers, semi-trailers (either on or off a chassis), chassis or similar storage devices. *The proposed use shall continuously comply.*
7. Cargo Container Stacking: Cargo containers shall not be stacked more than five (5) in number. *The proposed use must continually comply and not exceed the maximum stacking height.*
8. Chassis Stacking/Racking: Empty chassis may be stored on end (racking), or may be stacked. When stacked, chassis shall not be more than five (5) in number. *The proposed use must continually comply and not exceed the maximum stacking height.*
9. Screening and Landscaping: Screening may be required on the perimeter of the property. Screening shall be a combination of fencing and landscaping or berming and landscaping. Screening shall comply with requirements Article 5.2 L-P District Landscape Standards. *An Alternative Landscape Plan has been approved.*
10. Setbacks and Separation Distance: All buildings, structures, parking and other uses on the property, shall be subject to the setback requirements in Article 5.2 L-P District Setback,

Yard, Area Regulations, except, however, the parking or storage of cargo containers or semi-trailers (either on or off a chassis), and chassis (racked or stacked) shall be subject to the following setback standards that may vary depending upon the difference scenarios set forth below:

- i. When abutting (touching), or across the street from non-residentially zoned property, such parking or storage shall be setback from any exterior property line of the subject property a distance equal to the height of the cargo container or semi-trailer (either on or off a chassis), and chassis (racked and stacked).
 - ii. When abutting (touching) public right-of-way, such parking or storage shall be setback from any exterior property line of the subject property a distance equal to the height of the cargo containers or semi-trailers (either on or off a chassis), and chassis (racked or stacked).
 - iii. When abutting (touching), or across the street from, residentially zoned property, such parking and storage shall be setback a minimum of 250 feet from the nearest property line of the residentially zoned property. There is County Rural (residential) zoned property abutting to the east and south of the subject property. *Final site plan complies.*
 - iv. When abutting (touching), or across the street from, a habitable dwelling, such parking and storage shall be setback a minimum of 300 feet from the nearest dwelling. *The nearest home is about 300 feet from the storage area. The Site Plan complies.*
11. Signage: Business signs shall be allowed according to Article 5.2 L-P District Signage regulations. No signage, other than shipping company identification logos and placards, shall be allowed on any cargo container, semi-trailer or chassis. *Final site plan complies.*
 12. Site Plan: A site plan shall be submitted with the application. The site plan shall be prepared in accordance with the requirements of Article 9 (B) (3) of these regulations. *Final Site Plan shall be revised to comply with all stipulations of Final Site Plan and Conditional Use Permit review.*
 13. Other Rules and Regulations. All facilities shall abide by any and all governmental rules, regulations, codes and specifications now in effect or hereafter adopted that would be applicable to this permit or the use of the property by the applicant/landowner. *The proposed use must comply with these requirements.*

RECOMMENDATIONS

City staff recommends **denial** of the Conditional Use Permit for Arrowhead Intermodal.

Following are the conditions which are currently in effect for the subject property and which would still be in effect if the request is denied. If the Planning Commission were to approve the request, staff would suggest that similar conditions should be placed and that the

conditions should also contain specific standards and criteria for how the property will be developed (cross section of material) and maintained.

1. The property owner shall continuously comply with all performance criteria in Article 7 pertaining to Cargo Container Storage Facilities and Cargo Repair and Maintenance Facilities, including, but not limited to, noise maximums and cargo container and chassis stacking height requirements, paving requirements, etc.
2. The property shall be developed in accordance with the Site Plan, Landscaping Plan, and Photometric Plan as revised, as approved by the City, prior to commencement of the cargo container storage use. Plant material shall be continuously maintained and replaced when dead.
3. All existing building exteriors shall modified in accordance with the City of Edgerton Unified Development Code. Applicant shall provide documentation for review and approval by City for service of utilities and compliance with ADA standards for all existing buildings to remain.
4. Cargo containers and chassis may be stored only in the designated, stripped areas shown on the Site Plan.
5. No other outside storage of equipment or materials shall be allowed on the property.
6. Any future phases or additional areas used for cargo container maintenance and repair uses shall not commence until a Site Plan is submitted and approved by the City for that phase, including photometric and landscaping plans.
7. This Conditional Use Permit shall be valid for 10 years from approval by the City of Edgerton.

ATTACHMENTS

Application, Including letter from Arrowhead Intermodal Services – July 15, 2015
Ordinance 967

BG Consultants, Inc. Memo – July 7, 2015

Site Plan – North Grading Plan – No Date (original submittal)

Site Plan – North Grading Plan – Revised 05-27-15

CITY OF EDGERTON, KANSAS
PROPERTY OWNER NOTIFICATION LETTER

Case No.: CU 2015-001

Dear Sir or Madam:

This letter is to notify you that a public hearing will be held at the Edgerton Community Building, 404 E. Nelson St., Edgerton, Kansas, to consider a conditional use permit request for _____ on the following described tract of land:

Legal Description:

Part of the NW 1/4 section 3 township 15 Range 22
City of Edgerton Johnson County Kansas

General Location:

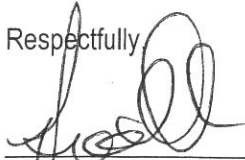
32355 W 191st St Edgerton KS

A public hearing will be held to consider the conditional use permit request on the above-described tract at 7:00 p.m. on August 18, 2015. Any interested persons or property owners are invited to attend. Information regarding this conditional use permit request is available in the office of the City Clerk at City Hall or by phone at (913) 893-6231. You may also contact the undersigned for additional information regarding this conditional use permit request.

A fourteen (14) day protest period begins at the conclusion of the public hearing during which you may file a protest petition in the office of the City Clerk. If valid protest petitions are received from twenty (20) percent of the property owners within the notification area, a three-quarters (¾) vote of the Governing Body is required to approve this conditional use permit request.

Copies of the protest petitions are available in the office of the City Clerk.

Respectfully



Applicant (or Owner or Agent)

ADDRESS: 32355 W 191st Edgerton KS 66021
STREET CITY STATE ZIP

CITY OF EDGERTON, KANSAS
APPLICATION FOR CONDITIONAL USE PERMIT

Please print or type

REQUESTING CONDITIONAL USE PERMIT FOR: Variance of paving
LOCATION OR ADDRESS OF SUBJECT PROPERTY: 32355 W. 191st. Street
Edgerton, KS 66021
LEGAL DESCRIPTION: Part of the NW 1/4, section 3 township 15 Range 22
city of Edgerton Johnson County Kansas
ZONING ON SUBJECT PROPERTY: _____ CURRENT LAND USE: _____

PROPERTY OWNER'S NAME(S): CY Edgerton, LLC PHONE: (708) 333-7510
COMPANY: Arrowhead Intermodal Services, LLC FAX: _____
MAILING ADDRESS: 20012 W. South Arsenal Rd. Wilmington, IL 60481
STREET CITY STATE ZIP
APPLICANT/AGENT'S NAME(S): Joshua Cooley PHONE: (708) 333-7510
COMPANY: Arrowhead Intermodal Services, LLC FAX: _____
MAILING ADDRESS: 20012 W. South Arsenal Rd Wilmington, IL 60481
STREET CITY STATE ZIP
ENGINEER/ARCHITECT'S NAME(S): Roger L. Cassity PHONE: 913-333-3574
COMPANY: Renaissance Infrastructure Consulting FAX: _____
MAILING ADDRESS: 1135 Cambridge Cir Dr Kansas City KS 66103
STREET CITY STATE ZIP

SIGNATURE OF OWNER OR AGENT: _____

If not signed by owner, authorization of agent must accompany this application.

FOR OFFICE USE ONLY

Case No.: CU-2015-001 Amount of Fee Paid: \$ 250.00 Date Fee Paid: 7/17/15
Received By: Helena S Bragg Date of Hearing: 8/

July 15, 2015

Mr. Kenneth Cook
Community Development Director
City of Edgerton, Kansas
404 E. Nelson St.
Edgerton, KS 66021

Re: Application to Amend Conditional Use Permit

Dear Kenny:

Based on our discussions during the July 14th Planning Commission meeting, we are submitting an application to amend our Conditional Use Permit. We believe that the circumstances regarding the use of our property necessitate the need for a deviation. Specifically, we request an amendment to the paving criteria, in Article 7 regarding the L-P (Logistics Park) zoning district, to allow the use of asphalt millings with a seal coat of MC-70 in areas where cargo containers and trailer chassis would be stored.

The current requirements state that "paving shall mean concrete or asphalt" and our proposed alternative is recycled asphalt product (RAP) otherwise known as asphalt millings. It is hot mix asphalt (HMA) that was milled from a previous HMA installation. This product would only be placed in the areas noted on our plans.

In terms of performance, asphalt millings are a preferred product to HMA pavement at cargo container facilities throughout the United States. This is due in great part to the performance limitations of HMA pavement and the high cost of reinforced concrete pavement. Depending on the loading and the temperature of the pavement, HMA pavement can warp or crack when it is continually loaded with up to five (5) cargo containers stacked one on top of the other. The container lift can create a live load of up to 32 tons and can cause HMA pavement to rut. A reinforced concrete pavement can be placed to deal with such loads, but that is not an option on a 30 acre facility due to the high cost of reinforced concrete. Asphalt millings have an installation cost that is approximately 5 times less than an 8" reinforced concrete pavement and 3 times less than HMA pavement.

Due to the extreme loads applied and the unique circumstances under which the surface would be used, the higher structural number assigned to HMA by AASHTO and other measures which indicate that HMA possesses superior structural qualities to asphalt millings cannot be applied directly in an analysis. Simply put, both HMA and asphalt millings are prone to failure under the loadings at a container yard. Thus both surfaces require regular maintenance and constant monitoring. What must be considered is not the initial strength or appearance of a surface, but the ability to repair quickly and efficiently while keeping the operation running.

The proper maintenance procedure for asphalt millings is also more conducive to the smooth operation of a container storage facility than equivalent procedures for an HMA pavement. To repair a damaged section of asphalt pavement it may be necessary to mill out or cut the damaged section, then a batch of HMA needs to be shipped to the site with a roller on site ready to compact the asphalt after it is placed. Comparatively, repairing a section of asphalt millings only requires more millings, a roller for compaction, and the application of a tackifier to further bind the top layer of millings. The first step in either maintenance procedure is what makes one more appealing than the other: HMA is delivered by the truckload from a plant with a very limited shelf life, while millings can be delivered in any quantity and stored on site for as long as needed. This is very beneficial to container yards where the layout is constantly changing and there are small windows to perform spot repairs without closing off a section of the yard.

In addition to spot repairs which are typically unplanned, Arrowhead Intermodal would perform regularly scheduled maintenance at a four (4) times per year. Each season (spring, summer, fall, and winter) a road grader or road blade would be used to smooth the surface on the entire site. New millings would be laid down and compacted and tackifier would be placed on the millings. This maintenance schedule ensures that if any spots had been missed during the preceding season's spot repairs, they are found and repaired. If seasonal variations required additional repairs, they would be completed as well.

The second half of the current requirements states that "all interior driveways and storage area surfaces shall be kept free of dust, dirt or other materials to prevent the mitigation of dust off-site." The asphalt millings would create very minimal dust since the millings are encased in oil from their previous use as asphalt pavement. In addition, MC-70 tackifier would be placed on the top surface of the asphalt millings to bind the millings together. Typically, the MC-70 can bind the top layer of asphalt millings for a period of 2-3 years. However, due to the extreme loads applied to the surface, it would be continually monitored and reapplied with each patch and during scheduled maintenance periods as needed. With each additional application and compaction the tackifier would create a thicker and more cohesive top layer. Thus, the tackifier would become more effective with each successive application.

Arrowhead Intermodal intends to be at this location for the long term and it is with long term considerations that we are requesting approval for these alternates. It is our firm opinion that the spirit and intent of the regulations are being met.

Sincerely,

Arrowhead Intermodal Services

ORDINANCE NO. 967

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE A CONDITIONAL USE PERMIT TO ALLOW USE OF LAND, IN THE L-P, CITY OF EDGERTON LOGISTICS PARK ZONING DISTRICT LOCATED AT THE SOUTHEAST CORNER OF 191ST STREET AND HOMESTEAD LANE, FOR "CARGO STORAGE, MAINTENANCE, AND REPAIR FACILITIES"

WHEREAS, the Edgerton Planning Commission did hold a public hearing on the requested Conditional Use Permit in accordance with the requirements as set forth in the Edgerton Zoning Regulations; and

WHEREAS, the Edgerton Planning Commission voted to approve the Conditional Use Permit for use of land for "Cargo Storage, Maintenance, and Repair Facilities" but such vote was conditioned on the following being adhered to by the Applicant:

1. The property owner shall continuously comply with all performance criteria in Article 7 pertaining to Cargo Container Storage Facilities and Cargo Repair and Maintenance Facilities, including, but not limited to, noise maximums and cargo container and chassis stacking height requirements, paving requirements, etc.
2. The property shall be developed in accordance with the Site Plan, Landscaping Plan, and Photometric Plan as revised, as approved by the City, prior to commencement of the cargo container storage use. Plant material shall be continuously maintained and replaced when dead.
3. All existing building exteriors shall modified in accordance with the City of Edgerton Unified Development Code. Applicant shall provide documentation for review and approval by City for service of utilities and compliance with ADA standards for all existing buildings to remain.
4. Cargo containers and chassis may be stored only in the designated, striped areas shown on the Site Plan.
5. No other outside storage of equipment or materials shall be allowed on the property.
6. Any future phases or additional areas used for cargo container maintenance and repair uses shall not commence until a Site Plan is submitted and approved by the City for that phase, including photometric and landscaping plans.
7. This Conditional Use Permit shall be valid for ten years from approval by the City of Edgerton.

WHEREAS, the City Governing Body, after reviewing the Conditional Use Permit and considering the criteria set forth in Article 7 of the City Zoning Regulations and the recommendations of the Planning Commission, finds the Conditional Use Permit should be approved.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY

OF THE CITY OF EDGERTON, KANSAS:

Section 1. The proposed Conditional Use Permit for use of the following land [located at the southeast corner of 191st Street and Homestead Lane], for "Cargo storage, Maintenance, and Repair Facilities" is hereby approved:

All that part of the Northwest 1/4 of Section 3, Township 15, Range 22, and a part of Tract A and Tract B according to the survey recorded in Book 201207, Page 000700 in the Register of Deeds Office Johnson County, Kansas, in the City of Edgerton, Johnson County, Kansas, more particularly described as follows;

Commencing at the Southwest corner of the Northwest 1/4, of said Section 3; thence N 88° 26' 09" E, along the South line of the Northwest 1/4 of said Section 3, a distance of 771.32 feet, to the true Point of Beginning of subject tract; thence N 1° 31' 15" W, parallel with the East line of said Tracts A and B, a distance of 2653.33 feet, to a point on the North line of the Northwest 1/4 of said Section 3; thence N 88° 10' 27" E, along the North line of the Northwest 1/4 of said Section 3, a distance of 539.88 feet; thence S 1° 49' 35" E, along the East line of a tract of land described in Book 3047, Page 6 as filed in said register of deeds office, a distance of 355.00 feet, to the Southeast corner of said tract of land; thence S 88° 10' 27" W, along the South line of said tract of land, a distance of 21.73 feet, to a point on the East line of said Tract A; thence S 1° 31' 15" E, along the East line of said Tracts A and B, a distance of 2300.70 feet, to a point on the South line of the Northwest 1/4 of said Section 3; thence S 88° 26' 09" W, along the South line of the Northwest 1/4 of said Section 3, a distance of 520.03 feet, to the point of beginning.

Section 2. The Conditional Use Permit approved by this Ordinance is expressly conditioned on the Applicant's strict compliance with the seven Conditions set forth above, which were recommended by the Edgerton Planning Commission.


Section 3. The effectiveness of this Conditional Use Permit is conditioned upon the strict compliance by the applicant with the provisions contained herein and in the City of Edgerton Zoning Regulations. Should applicant fail to comply with any term or provision thereof and shall such failure continue following notice from City to applicant specifying the breach and actions to be taken to cure the same, then, at the direction of the City Administrator, applicant will be notified that this Conditional Use Permit is revoked and all uses permitted herein on the Property must immediately cease. Reinstatement following default may only be effected by action of the Governing Body. Wholly separate and apart from the specific conditions of the City's Zoning Regulations are the City's interest and duties to protect the public health, safety and welfare. Applicant agrees that this Ordinance shall not operate or be construed to impede or impair the lawful function of City government operation in this area.

Section 4. This ordinance shall take effect and be enforced from and after its

publication once in the official city newspaper. All Zoning and Regulations of Edgerton, Kansas, affecting the use of the real property heretofore described which are inconsistent with this ordinance are hereby made inapplicable to said property until the Conditional Use Permit is vacated or is declared null and void.

Section 5. Ordinance 963, adopted on January 9, 2014, is hereby repealed.

PASSED by the Governing Body of the City of Edgerton, Kansas, and approved by the Mayor on the 27th day of February, 2014.



Donald Roberts, Mayor


(Seal)

ATTEST:




Jancice Rawles, City Clerk

APPROVED AS TO FORM:



Patrick G. Reavey, City Attorney



Memo

To: Kenny Cook
From: David Hamby, P.E., CFM, City Engineer
Dan Harden, P.E.
Date: July 7, 2015

Re: Arrowhead Intermodal Services, LLC July 1, 2015 proposal

The City has been asked to favorably consider the placement of asphalt millings in lieu of asphalt or concrete surfacing on the CY Arrowhead property in the community. To begin this discussion an explanation of these materials and installation is in order.

Recycled Asphalt Pavement (RAP) is asphalt pavement material that had been placed in service as a pavement and was later milled off. The resulting particles vary in size from dust particles to chunks the size of your fist and larger. There is some residual asphalt oil content remaining in the material.

RAP is not a homogenous and predictable material. The gradation and residual asphalt percentage vary substantially from batch to batch and from location to location within the same batch.

RAP is usually truck dumped and placed with construction equipment capable of spreading the material. Spreading the material segregates the material as the larger pieces move to the end of the blade used for placement.

Our experience is the American Association of State Highway and Transportation Officials (AASHTO) pavement structural number for RAP is about 0.15 to 0.20 per inch of layer thickness. Hot mix asphalt (HMA) pavement is a combination of approximately 95% crushed limestone and sand bound together by asphalt cement. Asphalt cement is heated then mixed with the crushed limestone and sand at a hot mix plant. The resulting mixture is a homogenous and predictable material. The resulting HMA is trucked to the paving site. The trucks dump the HMA into hoppers located at the front of paving machines. The asphalt is placed without segregation, and then compacted using a vibratory roller driven over the asphalt.

AASHTO assigns a structural number for HMA of 0.44 per inch. This means an inch of HMA has over twice the strength of an inch of RAP. With a proper foundation and good drainage a HMA pavement is permanent pavement construction.

RAP has a tendency to form extreme washboards in the traveled way and lose fine aggregate on the surface. Fog seals can abate this phenomenon for about a week or two. Single or double bituminous surface treatments can slow down the rate of washboarding but do not eliminate washboarding. RAP is not considered to be permanent pavement surface.

Based on our past 40 years of experience with the placement, use and maintenance of RAP surfaces, a review of the Arrowhead letter of July 1, 2015 and a site visit to observe an example installation we are recommending denial of the use of asphalt millings as an equivalent substitute for the use of HMA or Portland cement concrete.

[illegible]

FINAL DEVELOPMENT PLANS
15-0122
CY EDGERTON, LLC
EDGERTON, KANSAS

ESTIMATED EARTHWORK

Cut:	113,880 CY
Fill:	15,692 CY

Earthwork calculations are informational only. Contractor shall be responsible for their own earthwork calculations and perform all necessary earthwork shown herein without additional cost to the owner if quantities differ than above. Earthwork numbers are unadjusted.



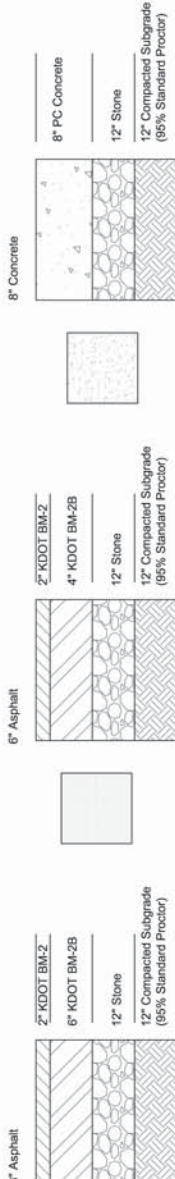
GRADING NOTES

1. All construction shall conform to the City of Exton's minimum design standards.
2. Spot Grades shown herein shall govern over finished grades.
3. The contractor shall provide evidence that his insurance meets the requirements of the Project.
4. The contractor shall be in compliance with the Manual of Uniform Traffic Control Devices (MUTCO).
5. All traffic control shall be in accordance with the Manual of Uniform Traffic Control Devices (MUTCO).
6. The contractor is responsible for the protection of all property corners and section corners. Any property corners and/or section corners disturbed or damaged by construction activities shall be reset by a Registered Land Surveyor licensed in the State of Kansas, at the contractor's expense.
7. Registered Land Surveyors shall be responsible for the location and setting of all property corners and improvements such as curbs, driveways, sidewalks, street light and traffic-signal light boxes, traffic signal loop lead ins, signal poles, irrigation systems, etc. Damaged improvements shall be repaired in conformance with the latest City standards and to the City's satisfaction.
8. The contractor is responsible for providing erosion and sediment control BMPs to prevent sediment from reaching paved areas, storm sewer systems, drainage courses and adjacent properties. In the event the prevention measures are not effective, the contractor shall remove any debris, silt, or mud and restore the right-of-way, or adjacent properties to original or better condition.
9. The contractor shall sod all disturbed areas within the public street right-of-way unless otherwise noted on the plans.
10. A permit of replacement approval is granted by the City.
11. All public street ramps constructed will be required to comply with the Americans with Disabilities Act (ADA).
12. Excavation for utility work in public street right-of-way requires a Right-of-Way Work Permit from the Public Works Department. In addition to all other permits.
13. All work shall be confined within easements and/or construction limits as shown on the plans.
14. All curb and hubs shall be provided at all high points, low points, ADA ramp openings, and on each side of all culverts when setting string line.
15. All National Pollution Discharge Elimination System (NPDES) standards shall be met.
16. Public and Private utility facilities shall be moved or adjusted as necessary by the owners to fit the new construction. The Contractor is responsible for the cost of utility relocations unless otherwise indicated on the plans.
17. All state grading work on the project shall be in compliance with the State Geotechnical Report.

LEGEND

- TC: Top of Curb
T/S: Top of Structure
P: Pavement
G: Ground
F: Flow Line
(HP) High Point
(LP) Low Point

PAVEMENT SECTION



Apr 20, 2015-11:58am
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