



## Legislation Text

**File #:** PH 12-10, **Version:** 1

Public hearing to consider the application of Semple Crushing and Recycling LLC to approve an Interim Use Permit for site remediation and clean-up of existing onsite concrete and asphalt refuse. (Public hearing continued from April 18)

### INTERIM USE PERMIT STAFF REPORT

1. FILE NAME: Semple Recycling and Crushing LLC FILE #: 12-024-420
  2. APPLICANT: Semple Recycling and Crushing LLC HEARING DATE: March 21, 2012
  3. TYPE OF APPLICATION: Interim Use Permit
  4. LOCATION: 91 Ridder Circle
  5. PIN & LEGAL DESCRIPTION: 052822120014; Registered Land Survey 369 Lot 1 Blk 3 Riverview Industrial Park No.12 And In Sd Reg Land Survey 369, tract A
  6. PLANNING DISTRICT: 3 EXISTING ZONING: I2
  7. STATE STATUTE REFERENCE: State Statute 462.3597
  8. STAFF REPORT DATE: February 24, 2012 BY: Josh Williams
  9. DATE RECEIVED: February 14, 2012 60-DAY DEADLINE FOR ACTION: April 14, 2012
- A. PURPOSE: Interim use permit
- B. PARCEL SIZE: 3.02 acres
- C. EXISTING LAND USE: Industrial (I2)
- D. SURROUNDING LAND USE:
- North: Mississippi River
  - West: Vacant/Airport (I2)
  - South: Airport (I2)
  - East: Industrial (I1)
- E. STATE STATUTE CITATION: State Statute 462.3597, which provides for interim uses, includes required findings for establishing an interim use.
- F. HISTORY/DISCUSSION: In 2000, Semple Enterprises applied to rezone the property at 91 Ridder Circle from I2 to I3. Full records of cases could not be located in PED files. Per the minutes of the 712/2000 City Council meeting, the City Council voted 7-0 to deny the application to rezone; the Zoning Committee, Planning Commission, and District Council had all recommended denial of the application. An application for a Recycling Processing Center license for 91 Ridder Circle was filed by Semple Enterprises in 1999, and held pending approval of the rezoning application; the application was withdrawn and the fee refunded in 2005 at the request of the applicant. Site plan reviews for the property related to the demolition and construction of a building were conducted in 2001 and 2007. In June and July of 2009, DSI staff informed Semple Enterprises that crushing operations were not allowed at the property location. In November of 2009, Semple Enterprises applied to establish a concrete and asphalt crushing operation as a legal non-conforming use of the property. The Planning Commission denied the application, and the decision was upheld on appeal to the City Council.
- G. DISTRICT COUNCIL RECOMMENDATION: The West Side Community Organization had not made a recommendation as of the date of this report. However, a meeting to review the proposal has been scheduled for March 20<sup>th</sup>, 2012.
- H. FINDINGS:
1. The applicant, Semple Recycling and Crushing LLC, provides concrete and asphalt crushing

services. The property at 91 Ridder Circle is zoned I2 General Industrial; crushing operations are first allowed in the I3 Restricted Industrial district. In 2000, the applicant applied to rezone the property to I3 in order to allow crushing operations on-site. In 2009, the applicant applied to establish crushing operations at 91 Ridder Circle as a legal non-conforming use. Both applications were denied by the City Council. In June of 2009, the Department of Safety and Inspections became aware of crushing operations being conducted at 91 Ridder Circle, and informed the applicant that crushing was not allowed at the site and directing that all crushing operations be discontinued immediately. At present, there is a stockpile of approximately 50,000 tons uncrushed concrete and asphalt refuse on the site.

2. The applicant submitted a letter to the Saint Paul City Council on February 12 requesting the issuance of an interim use permit to allow remedial action for site clean-up on the property at 91 Ridder Circle. The remedial activities would consist of processing of the stockpiled concrete and asphalt material for subsequent on-site storage and sale. The applicant has requested 60 days to carry out the remedial activities.

3. The applicant has made application for site plan review for ongoing storage of concrete and asphalt materials at 91 Ridder Circle. Approval of the site plan will require approval of storage pile locations by the Department of Public Works and is pending approval of an interim use permit for site remediation.

4. State Statute 462.3597. Interim Uses defines interim uses, gives authority to governing bodies to allow them, and specifies the required findings for a establishing an interim use. §462.3597, Subd. 1 defines an interim use as "a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it."

5. State Statute 462.3597, Subd. 2. allows for conditions to be set on interim uses. The governing body may grant permission for an interim use of property if:

(1) The use conforms to the zoning regulations. This requirement is met. The proposed interim use is for site remediation and clean-up, consistent with the I2 General Industrial zoning of the property. The proposed activities, if subject to monitoring and containment measures, are of a sufficiently limited scope to prevent substantial or ongoing impacts on adjacent properties or the surrounding neighborhood.

(2) The date or event that will terminate the use can be identified with certainty. This requirement can be met. The applicant has estimated it will take approximately two months to complete site remediation; staff has not able to independently verify the accuracy of this estimate. A condition attached to the permit such that it expires upon processing of all concrete and asphalt refuse currently on-site, or alternatively that it expires on a set date or at the end of a specified period, would meet this requirement. A separate condition of the permit may be set to allow on-site storage of the processed concrete and asphalt materials for an additional time period beyond the period during which material processing for site remediation is allowed.

(3) The permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future. This requirement is met. Clean-up and removal of the concrete and asphalt refuse on the site would generate substantial costs for the hauling and disposal of the materials. On-site processing and temporary storage will allow the sale of processed materials with hauling costs borne by purchaser(s). Approval of the interim use permit will therefore substantially reduce costs for the applicant and eliminate the possibility of site remediation and clean-up occurring at public cost if a future public taking of the property becomes necessary.

(4) The user agrees to any conditions that the governing body deems appropriate for permission of the use. This requirement can be met. Attachment of a condition to the permit such that violation of other conditions shall lead to immediate termination of interim use permit would meet this requirement.

6. The proposed interim use is consistent with the Land Use Chapter of the Comprehensive Plan's Generalized Future Land Use policy designation for the parcel, which is "Industrial."

I. STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the interim

use permit for site remediation and clean-up with the following conditions:

1. Activities allowed under this interim use permit are limited to the processing and subsequent on-site temporary storage of concrete and/or asphalt refuse currently stockpiled at 91 Ridder Circle, for the purpose of site remediation and clean-up.
2. Processing of concrete and asphalt refuse shall be allowed for a ~~specified period of time, not to exceed 60 days and commencing immediately upon approval of this interim use permit request~~ period of sixty calendar days, beginning June 13, 2012, and ending August 12, 2012. On-site storage of the processed materials ~~shall be consistent with an approved site plan and shall continue for a specified period of time, not to exceed one year and commencing immediately upon approval of this interim use permit request~~ in areas beyond those specified on the approved site plan shall be limited to one calendar year from the time processing activities begin.
3. During remediation activities, water shall be sprayed to eliminate any off-site migration of dust generated by these activities. An inspector from the City of Saint Paul shall be present during remediation activities to verify compliance with this condition. Any and all measures shall be taken as necessary to prevent generation and migration of airborne dust from the stored materials and any related transfer, loading, or unloading activities.
4. Remediation activities shall be conducted only between the hours of 7 a.m. and 6 p.m. Monday through Friday and between the hours of 10 a.m. and 6 p.m. Saturday. No remediation activities shall be conducted on Sundays.
5. Any unprocessed material remaining at the end of the specified remediation processing period beyond what is specified in shall be removed from the site immediately at the cost of the applicant. Any processed material remaining at the expiration of the specified on-site storage period, excepting storage of materials consistent with the approved site plan, shall be removed from the site immediately at the cost of the applicant.
6. No additional concrete or asphalt refuse shall be imported to the property at 91 Ridder Circle. Any such import of additional refuse or materials to the site shall result in immediate revocation of this interim use permit. As a term of the permit, all remaining processed and/or unprocessed concrete and/or asphalt refuse and/or materials on-site at the time of permit revocation shall be removed from the site immediately at the cost of the applicant.
7. No future concrete, asphalt or rock crushing operations shall occur on the property at 91 Ridder Circle, nor shall Semple Crushing and Recycling LLC or related business entities or individuals seek such permission. An authorized representative of Semple Crushing and Recycling LLC shall provide a signed written statement to this effect.
8. The applicant must receive site plan approval, and shall execute a license agreement with the Department of Public Works for the use of land under the control of the City of Saint Paul through ownership and/or easement.
9. The applicant shall install fencing vegetative plantings to provide visual screening along the southern boundary of property at 91 Ridder Circle.