



Legislation Text

File #: RES 12-1019, **Version:** 1

Memorializing City Council action taken May 16, 2012 granting an interim use permit to Semple Crushing & Recycling LLC to process concrete and asphalt on a temporary basis at 91 Ridder Circle.

WHEREAS, under Minn. Stat. § 462.3597, a municipality may temporarily permit the interim use of property provided the governing body makes the following findings:

- (1) The use conforms to zoning regulations;
- (2) The date or event that will terminate the use can be identified with certainty;
- (3) 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;
- (4) The user agrees to any conditions that the governing body deems appropriate for permission of the interim use; and

WHEREAS, pursuant to Minn. Stat. § 462.3597, Semple Recycling & Crushing LLC ("Semple") duly applied to the Saint Paul City Council ("Council") for an interim use permit for the limited purpose of site remediation and cleanup of stockpiled concrete and asphalt refuse which Semple had brought to its property commonly known as 91 Ridder Circle and legally described as set forth in the said permit application which is incorporated herein by reference; and

WHEREAS, on April 18, 2012 and pursuant to Leg. Code § 61.303, a public hearing was duly conducted before the Council at which all interested parties were given an opportunity to be heard, and the Council, at the close of the public hearing, moved to continue the matter for final disposition to May 16, 2012 for the express purpose of obtaining a formal site plan of the proposed project and for other additional information; and

WHEREAS, on May 16, 2012, the matter was taken up again by the Council at which time the site plan prepared by Semple and a staff report recommending specific conditions to place on the interim use permit in the event it is approved were presented to the Council by staff from the department of planning and economic development; NOW,

THEREFORE, BE IT RESOLVED, upon the receipt of the May 16, 2012 information noted above, and having considered all the facts, files, and record testimony from the April 18, 2012 public hearing, the Council, pursuant to Leg. Code § 61.104 hereby grants the requested interim use permit based upon the following findings of fact that the said interim use permit application meets the requirements of Minn. Stat. § 462.357, Subd.(1-4) as set forth in the staff report which the Council adopts as its own and incorporates herein by reference and subject to the specific conditions set forth under Finding No. 6(4)(1-9) and the violation of any of them shall form the basis for revoking this permit by the Council pursuant to Leg. Code § 61.108:

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, 2012 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. Minn. Stat. § 462.3597 defines interim uses, gives authority to governing bodies to allow them, and specifies the required findings for establishing an interim use. Minn. Stat. § 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." In this instance, the application proposes the temporary use of property until a particular date and fulfills the requirements of Minn. Stat. § 462.357, Subd. 1

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

6. Minn. Stat § 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 the use meets the four criteria specified under the statute:

(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 been 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 conditions to the permit such that violation of other conditions shall lead to immediate termination of interim use permit would meet this requirement. Semple has agreed to abide by the following conditions to be placed on the interim use permit:

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 period of sixty calendar days, beginning June 13, 2012, and ending August 12, 2012. On-site storage of the processed material 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.

AND, BE IT, FINALLY RESOLVED, that the City Clerk shall mail a copy of this resolution to Semple, the Zoning Administrator, the Planning Administrator, the Directors of the Department of Public Works and the Department of Safety and Inspections.

