**TO:** City Council
**FROM:** Community Development Department

**DATE:** August 23, 2021

**RE:** **CASE #TU-21-005**
**REQUEST:** A temporary use permit for a concrete crushing plant

**APPLICABLE CODE SECTIONS:** §15.02.110—Temporary Use Permit

A. Purpose. A temporary use permit is required for limited term activities or events, which occur on private property within the City that may potentially create off-site impacts to surrounding properties and the neighborhood in which it will occur.

C. Procedure.

2. Temporary uses not specifically listed here shall require the specific approval of the City Council. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located.

**LEGAL DESCRIPTION:** Part of the W ½ SW ¼ Section 17, Township 74, Range 43, Pottawattamie County, Iowa, more particularly described in Attachment 'A'

**LOCATION:** 12.85 acres of undeveloped land located immediately south of property addressed as 13500 192nd Street

**APPLICANT:** Peterson Contractors, Inc., 104 Blackhawk Street, P.O. Box A, Reinbeck, IA 50669

**OWNERS:** Steve and Jane Morris, 10566 Woodland Trail, Council Bluffs, IA 51503

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**BACKGROUND INFORMATION** –The Community Development Department has received an application from Peterson Contractors, Inc. for a temporary use permit to allow a concrete crushing plant (salvage operation) comprised of 12.85 acres of agricultural land on property legally described above.

The applicant, Petersen Contractors, Inc., has been subcontracted by Hawkins Construction for all pavement removals and grading in relation to the I-29 Iowa DOT Project (IM-NHS-29-3(141)53) and intends to use the subject property for their concrete crushing location. The applicant's site plan included as Attachment 'B'. The submitted plan of operation is included as Attachment 'C'. The applicant has requested approval to allow concrete crushing activity (salvage operation) to commence upon City Council approval and extend until August 31, 2022.

The applicant has provided the following additional information regarding the request:

1. The site will be reclaimed to an agricultural land use and restored to predevelopment conditions.
2. The site will have all topsoil stripped and stockpiled on-site. Stockpiles will protect stormwater runoff to the drainage areas off-site. A current Iowa DNR NPDES General Permit #3 is on record and will be kept on-site when the plant is in operation and a copy will also be held at Peterson Contractors, Inc.'s office located at 104 Blackhawk Street, Reinbeck, Iowa.
3. A site-specific Stormwater Pollution Prevention Plan and Spill Prevention Plan Countermeasure and Control Plan have been developed and will be kept on-site when the plant is in operation. An additional copy will be held at our office at 104 Blackhawk Street, Reinbeck, Iowa.
4. There will be one entrance and exit to the yard from 192nd Street. This entrance will use the Iowa DOT specifications to shake off mud, dirt, etc. when leaving the site.
5. Crushing dust control will be completed with our water tank that feeds directly into the crusher along with our water truck spraying down the stockpiles, driveway, and gravel road as necessary. A broom will be used to address any potential tracking issues on paved surfaces.
6. Water for the crusher and water trucks will be obtained from Western Engineering's plant located off the South Expressway.
7. Solid waste and sanitary management locations will not be determined until the plant is set up and are typically located near the crusher. Littering will not be tolerated on-site.

The following attachments are included with the case staff report:

- Attachment A: Full Legal Description of Property
- Attachment B: Site Plan
- Attachment C: Plan of Operation
- Attachment D: Location/Zoning Map

**APPLICABLE CODE SECTIONS -** Council Bluffs Municipal Code (Zoning Ordinance) Section 15.02.110 Temporary Use Permit, provides for the issuance of temporary use permit(s) '*for limited term activities or events, which occur on private property within the City that may potentially create off-site impacts to surrounding properties and the neighborhood in which it will occur.*' The code further defines eight (8) specific uses, which are eligible for issuance of a temporary use permit administratively. The requested concrete crushing use is not defined as a temporary use that can be administratively authorized.

Council Bluffs Municipal Code (Zoning Ordinance) Section 15.02.110.C.2 states that '*temporary uses not specifically listed here shall require the specific approval of the City Council. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located*.' The crushing of concrete is considered a 'salvage operation' in the context of the Zoning Ordinance and is only allowed as a permanent use if established in an I-2/General Industrial District with the issuance of a conditional use permit by the Zoning Board of Adjustment, to allow salvage operations. In order for temporary crushing to be allowed at the subject property, the City Council would have to authorize the use through the issuance of a temporary use permit.

Per Council Bluffs Municipal Code Section 15.02.110 *Temporary Use Permit*, all temporary uses shall comply with all the standards listed below.

1. *No temporary use shall be permitted that causes, or threatens to cause, an on-site threat to the public health, safety and general welfare.*
2. *Every temporary use shall be operated in accordance with any restrictions and conditions as other departments may require. If required by the City, the operator of the temporary use must employ appropriate security personnel.*
3. *No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such use would have undue detrimental effects on surrounding streets and uses.*
4. *No temporary use shall be authorized that would unreasonably reduce the amount of required parking. The Zoning Administrator may make an assessment of the total number of parking spaces that will be reasonably required in connection with a proposed temporary use, on the basis of the particular use, its intensity and the availability of other parking facilities in the area. The Zoning Administrator shall approve such temporary use only if such parking spaces are provided.*
5. *No temporary use shall be permitted if such use would conflict with another previously authorized temporary use.*
6. *Signs shall be permitted only in accordance with this Ordinance.*

**CURRENT ZONING AND LAND USE** –The subject property is zoned I-2/General Industrial District as is the property located immediately north. The subject property is bounded on the west by Interstate 29. The property located immediately south of the subject property is zoned A-2/Parks, Estates and Agricultural District. The owners of the subject property also own both adjacent properties to the north and south.

A permanent concrete crushing plant is located north of the subject property. The adjacent property located directly east of the subject property across 192nd Street and the industrial property south of the subject property are located in Pottawattamie County.

**CITY DEPARTMENTS AND UTILITIES** – The request was routed to all local utility providers and City Departments. The following comments were received:

Council Bluffs Community Development Department provided the following comments:

1. A 'salvage operation' use is defined in Section 15.03.594, *Definitions, Salvage Operation*, of the Council Bluffs Municipal Code (Zoning Ordinance) as *"an establishment engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automobile wrecking yards, junk yards, salvage yards and scrap processing yards."* The stockpiles and concrete crushing operation would fall under this definition.
2. The crushing of concrete is considered a 'salvage operation' in the context of the Zoning Ordinance and is only allowed as a permanent use if established in an I-2/General Industrial District with the issuance of a conditional use permit by the Zoning Board of Adjustment. The requested temporary concrete crushing use is not defined as a temporary use that can be administratively approved.

3. The applicant has requested to operate a concrete crushing plant (salvage operation) from the date of City Council approval until August 31, 2022, which exceeds the six (6) month time period by which the request could be approved administratively. This time duration cannot be granted administratively and requires the approval of City Council.
4. The hours of operation for the crushing operation shall be limited to Monday through Saturday from 7:00 AM-5:00 PM, as identified in the submitted application.
5. Dust and other bi-products shall be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street and all dust control measures outlined in the submitted application shall be followed.
6. The operator is responsible to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses, and drain inlets.
7. All applicable permits necessary to meet local, state, and federal requirements shall be the operator's responsibility.
8. All product brought on-site shall be limited to materials from the Interstate 29 DOT Project (IM-NHS-29-3(141)53).
9. The amount of material stored on site shall be kept to a reasonable level with crushing operations occurring routinely. No additional materials shall be brought on site if the material stockpiles reach 25 feet in height or if no material has been processed in thirty (30) days or longer. A salvage operation is not intended to be a place for long term storage or disposal of material or debris.
10. Upon completion of the project, all rubble, materials, debris, and equipment related to the operation shall be removed from site. The contractor shall request a site inspection to ensure that the site has been restored to predevelopment conditions.
11. The Storm Water Pollution Prevention Plan and Spill Prevention Plan identified in the submitted plan of operation shall be followed for the concrete crushing operation.
12. The requested temporary use permit approval shall expire on August 31, 2022. The applicant may request a 90-day administrative extension of time to allow for the processing of any existing material on-site and/or removal of equipment from the site. No new materials shall be brought to the site during this time. Any extensions of time outside of 90 days shall require City Council approval.
13. The requested temporary use permit shall be valid until August 31, 2022. However, should the applicant complete the identified Interstate 29 project prior to this date, the site shall be restored to predevelopment conditions and the contractor shall request a site inspection to ensure that the site has been restored to predevelopment conditions prior to August 31, 2022.
14. Due to the temporary nature of the request, gravel parking shall be considered an approved parking surface.

Council Bluffs Fire Department stated that they have no comments in regards to the request.

Council Bluffs Permits and Inspections Division stated that they have no comments in regards to the request.

Council Bluffs WaterWorks stated that they have no comments in regards to the request.

Black Hills Energy stated that they have no concerns with the request, however, they would like to note that Black Hills Energy does not own the gas line identified on the submitted site plan as abandoned.

MidAmerican Energy stated that they have no conflicts with the request and noted that the customer or their agent should contact MidAmerican Energy directly to discuss the project timeline and identify any costs associated with extending electric service to the site.

**RECOMMENDATION** –The Community Development Department recommends approval of the request for a temporary use permit to allow concrete crushing (salvage operation) to occur on the property legally described as part of the W ½ SW ¼ Section 17, Township 74, Range 43, Pottawattamie County, Iowa, more particularly described in Attachment "A' in relation to the Interstate 29 construction project until August 31, 2022 subject to the comments stated above and the following conditions:

1. Dust and other bi-products shall be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street and all dust control measures outlined in the submitted application shall be followed.
2. The operator shall maintain and remain in compliance with all applicable Federal, State, and local permits and regulations, including, but not limited to: the Iowa DNR NPDES General Permit #3, Stormwater Pollution Prevention Plan, and Spill Prevention Plan.
3. The hours of operation for the crushing operation shall be limited to Monday through Saturday from 7:00 AM-5:00 PM.
4. All product brought on-site shall be limited to materials from the Interstate 29 DOT Project (IM-NHS-29-3(141)53).
5. The amount of material stored on site shall be kept to a reasonable level with crushing operations occurring routinely. No additional materials shall be brought on site if the material stockpiles reach 25 feet in height or if no material has been processed in a month or longer. A salvage operation is not intended to be a place for long term storage or disposal of material or debris.
6. Upon completion of the project, all rubble, materials, debris, and equipment related to the operation shall be removed from site and the site shall be restored to predevelopment conditions. The contractor shall request a site inspection to ensure that the site has been restored to predevelopment conditions.
7. The requested temporary use permit approval shall expire on August 31, 2022. The applicant may request a 90-day administrative extension of time to allow for the processing of any existing material on-site and/or removal of equipment from the site. No new materials shall be brought to the site during this time. Any extensions of time outside of 90 days shall require City Council approval.
8. The requested temporary use permit shall be valid until August 31, 2022. However, should the applicant complete the identified Interstate 29 project prior to this date, the site shall be restored to predevelopment conditions and the contractor shall request a site inspection to ensure that the site has been restored to predevelopment conditions prior to August 31, 2022.
9. Due to the temporary nature of the request, gravel parking shall be considered an approved parking surface.

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