

Councilmember Peterson introduced the following resolution and moved for its adoption:

**RESOLUTION #95-11-261**

**A RESOLUTION APPROVING THE ISSUANCE AND DECLARING TERMS OF AN AMENDED CONDITIONAL USE PERMIT FOR THE OPERATION OF A DEMOLITION CONCRETE AND ASPHALT PROCESSING FACILITY ON LOT 1, BLOCK 1, AND OUTLOT A, BURY AND CARLSON ADDITION, ANOKA COUNTY, STATE OF MINNESOTA, BASED ON FINDINGS OF FACT #0389.**

**WHEREAS**, on August 25, 1992, the Ramsey City Council adopted Resolution #92-08-199 approving the issuance and declaring terms of a conditional use permit to Bury and Carlson, hereinafter referred to as "Permittee", for the establishment of a demolition concrete and asphalt processing facility on Lot 1, Block 1, and Outlot A, Bury and Carlson; and

**WHEREAS**, on the City of Ramsey received a letter from Doherty Rumble & Butler, attorney for the Permittee, dated September 20, 1995, requesting an amendment to the terms of the conditional use permit; and

**WHEREAS**, on November 9, 1995, the Ramsey Planning Commission conducted a public hearing and recommended approval of an amendment to the conditional use permit.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:**

1. This permit shall remain in effect so long as the conditions imposed herein are complied with.
2. The site shall be constructed and operated in accordance with the site plan consisting of five (5) sheets, drawn by D.R. Griswold and Associates, dated June 16, 1992, revision date July 30, 1992, attached hereto as Exhibit A.
3. The stockpiled materials on the site relating to the processing of demolition concrete and asphalt into aggregate shall not exceed two hundred fifty thousand (250,000) cubic yards at any one time.
4. Stockpile heights shall not exceed thirty-five (35) feet as measured from the existing ground elevation over which it is placed.
5. The Permittee shall be required to conform to the Minnesota Pollution Control Agency standards as to the regulation of noise, odors, dust and any other health and safety issues. The permittee shall provide the City of Ramsey with a copy of the MPCA Air Emission Permit and any other permits, correspondence or reports applicable to the Ramsey site. The City shall uphold the State standards by requiring testing upon the premise that an environmental problem may exist.
6. No stockpiling of material shall occur on the site in the absence of an Air Emission Permit from the Minnesota Pollution Control Agency (MPCA) for the Ramsey site.
7. All landscaping plant materials referenced in the approved site plan shall be maintained and replaced as necessary on a permanent basis.
8. All on-site lighting and signage shall meet all City Code requirements and the approval of City Staff prior to any installations.

9. **Crushing operations will be conducted a minimum of one time per year. A maximum of two crushing periods are allowed per calendar year. Each crushing period shall not exceed 10 weeks in duration. Should either an emergency, equipment failure, weather, or any other unforeseen event cause the crushing operation to cease, the crushing operation shall not extend beyond the 10 week period except by prior special approval of the City Administrator or his/her designated representative. The City Council shall be notified of the temporary change in crushing operations and any change shall not exceed the standards as addressed by the MPCA Permit.**
10. **The Permittee shall notify the City by letter at least one week prior to each crushing period. The notification shall indicate when crushing will begin and how long it will last. The notification shall also indicate the name(s) of the person(s) who will be supervising the facility and a contact phone number.**
11. **Should a situation arise pertaining to noise, dust, or any other health, safety, or general public welfare issues, the City may contact the MPCA or other qualified environmental testing companies or agencies to investigate the situation. All testing will be at the owners expense.**
12. **The official permit issued by the MPCA is hereby incorporated by reference into these conditions and made a part of this Conditional Use Permit as if fully set forth herein. However, where the City and MPCA standards conflict, the more stringent standards shall apply.**
13. **Noise standards shall be the same as those set forth in the MPCA standards and, for any regulated matters not covered in the MPCA standards, the League of Minnesota Cities Model Noise Ordinance standards as established for 1990 shall apply. Dust shall be controlled by Bury and Carlson, Inc. in the following manner:**
  - a. **A water truck will be stationed on the premises at all times. The permittee shall be responsible for wetting down the areas where the trucks are hauling material to lessen the dust caused by the traffic.**
  - b. **The Permittee shall locate spray nozzles on the crusher. The water from these spray nozzles will lessen the dust created when old concrete and asphalt are reduced in the crusher. The permittee shall also install and use spray nozzles on the conveyors to lessen the dust caused by the transportation of the finished product from the crusher to the stockpile.**
  - c. **The Permittee shall be responsible for removing debris on Jaspert Street N.W. from the facility entrances north to 143rd Avenue N.W., and 143rd Avenue N.W. west to Ramsey Blvd. N.W., caused by vehicles using the facility. Debris removal activities shall be instituted promptly following information of such accumulation. In the event the Permittee fails to remove debris within 24 hours of notice of accumulation by the City, the City may cause such debris to be removed. The City shall bill the cost of such removal to the Permittee and payment shall be remitted within 30 days of such billing.**
14. **If site operations cease, the Conditional Use Permit becomes null and void and all materials relating to the production of aggregate on the site shall be removed by the operator within ninety (90) days of the date of termination of the Permit. The Permittee shall provide a financial guarantee at the City, in the amount of Eight Thousand Dollars (\$8,000.00) to insure removal of all demolition rubble in the event the permittee fails to perform said removal upon the conditional use permit becoming void or revoked. The financial guarantee may be in the form of cash or an irrevocable Letter of Credit or some other form of financial guarantee acceptable to the City. This financial guarantee shall be maintained at the City as long as the conditional use permit remains in full force and effect.**

15. The operator of the facility will provide a visual inspection of all trucks and remove any debris from them prior to the trucks leaving the site, and take precautions to prevent spillage from trucks.
16. The City may initiate action to revoke the conditional use permit in accordance with procedures established in the Ramsey City Code.
17. The failure of the City at any time to require performance by the permittee of any provisions hereof shall in no way affect the right of the City thereafter to enforce the same. Nor shall waiver by the City of any breach of any of the provisions hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.
18. If any provision of this CUP shall be declared void or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect.
19. The Permittee agrees to connect to City sewer and water at the time sewer and water is extended to the area and herein agrees to join in a petition for such improvements provided such petition is not presented within 7 years of the City's acceptance of the required improvements to 143rd Avenue N.W. and Jaspar Street N.W. However, the Permittee does not relinquish their rights under Minnesota Statutes Chapter 429, or Ramsey City Code Chapter 4, to appeal the amount of the assessments.
20. The City Administrator, or his/her designee, shall have the right to inspect the premises for compliance and safety purposes annually or at any time, upon reasonable request.
21. The Permittee shall be responsible for all City costs incurred in administering and enforcing this conditional use permit. Said expenses shall be paid within fifteen (15) days of billing by the City and failure to pay the City's expenses within the fifteen (15) day billing period will permit the City to draw upon any of the escrows required by this agreement for payment. The permittee shall maintain a \$2,000.00 balance in an escrow account with the City. This escrow shall be used to reimburse the City for expenses incurred in the administration of this permit in the event the permittee fails to pay the City expenses within the fifteen day billing period. The City reserves the right to use these funds to pay for testing services as necessary.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Beyer and upon vote being taken thereon, the following voted in favor thereof:

Mayor Glen Hardin  
Councilmember Kenneth Peterson  
Councilmember Sheila Beyer  
Councilmember Gerald Zimmerman  
Councilmember Carolyn Beahen

and the following voted against the same:

None

and the following abstained:

None

and the following were absent:

None

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 28th day of November, 1995.

Bury and Carlson, Inc. hereby acknowledge receipt of this permit and that they have reviewed the conditions of this permit and have agreed that they will cause compliance with the terms of this permit.

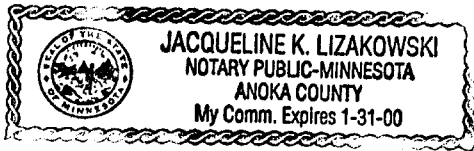
BURY AND CARLSON, INC.:

By: Norman C. Bury

Its: Vice President

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF ANOKA )

The foregoing was acknowledged before me this 21<sup>st</sup> day of December, 1995 by Norman C. Bury, the Vice President of Bury and Carlson, Inc., a corporation under the laws of the State of Minnesota, on behalf of the corporation.



Jacqueline K. Lizakowski  
Notary Public

CITY OF RAMSEY:

By: [Signature]  
Mayor

By: [Signature]  
City Administrator

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF ANOKA )

On this 2<sup>nd</sup> day of February, 1996, before me, a Notary Public, personally appeared Glen Hardin and Ryan R. Schroeder, to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Administrator of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said Municipal Corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council and said Glen Hardin and Ryan R. Schroeder acknowledge said instrument to be the free act and deed of said Municipal Corporation.

Jacqueline K. Lizakowski  
Notary Public

This document drafted by:  
The City of Ramsey  
15153 Nowthen Blvd. N.W.  
Ramsey, Minnesota

