

Council member Peterson introduced the following resolution and moved for its adoption:

**RESOLUTION # 46-13**

**A RESOLUTION APPROVING AN INTERIM USE PERMIT FOR THE DEMOLITION OF PORTIONS OF THE FORMER VERSO PAPER MILL**

**WHEREAS**, AIM Development LLC, has submitted an Interim Use Permit (IUP) application for review under 10-7B-3.5 of the Sartell City Code, for the demolition of a portion of the former Verso Paper Mill (Benton County) property located at 100 East Sartell Street (PIN 18.0000.100, 18.0000.140, 18.0003.800); and

**WHEREAS**, the Planning Commission, on July 1, 2013, reviewed the IUP application in accordance with the requirements of 10-14.5; and

**WHEREAS**, on July 8, 2013, the Sartell City Council conducted a public hearing for the request of the Interim Use Permit at the request of AIM Development for the purposes of the demolition of certain portions of the former Sartell Verso Paper Mill site.

**WHEREAS**, the Planning Commission may recommend and the City Council may consider, based on the evidence presented to it, findings as required under the provisions of the City's Comprehensive Plan and Sartell City Code 10-7B-6 and under the authority of Minn. Stat. 462.3597 which governs and provides the authorization of cities to permit interim uses and appropriate performance standards and conditions.

**WHEREAS**, in July 2013 the City entered into consulting contracts with the St. Paul Port Authority, Liesch Associates and Stoel Rives LLP, which provided technical and legal environmental expertise to the Council as it relates to the IUP application and proposal.

**NOW, THEREFORE, BE IT RESOLVED**, by the Sartell City Council, that the application of AIM Development LLC for an Interim Use Permit for the demolition of the Verso Paper Mill at 100 Sartell Street East is hereby approved subject to the listed performance standards and the following conditions:

- 1. Term of Permit.** The site work is expected to start in August 2013 and take 15 months to complete. The approval of this permit is valid for 12 months (to August 22, 2014) because of the lack of detail concerning the process and timeline for demolition and environmental investigation and clean up within the submitted IUP. If upon receipt of a staff approved, detailed regulatory and demolition timeline and schedule and all conditions of the permit are satisfactorily

completed according to the performance standards, the Permit will be automatically reissued for an additional 12 months without further Planning Commission or Council Action. If conditions of the permit are not being performed according to the approved standards, AIM Development shall appear before the Planning Commission and Council prior to the expiration of the Permit to discuss permit renewal. Otherwise, operations on the Site will terminate upon permit expiration or revocation.

The issuance of the demolition building permit may not occur until AIM Development submits the detailed regulatory and demolition timeline/schedule, enters the MPCA's VIC and PB programs.

**2. Implementation of the Redevelopment and Repurposing Plan.** AIM Development will submit an escrow fund of \$34,000, with an additional \$10,000 towards inspection services needed for evaluating the property for Redevelopment TIF District qualification, for the redevelopment and repurposing plan prior to the issuance of the demolition permit. Within 30 days of the approval of the IUP, the City and AIM Development will jointly agree upon the consultant or consultants who will provide redevelopment planning services which may include community engagement, market studies, site review and repurposing research, and any other services deemed necessary to develop preliminary repurposing plans for the Subject Property, and that the Escrow Fund may be used to pay all expenses incurred as a part of such services. Preliminary cost estimates received by the City for these services are \$57,000, and the Developer agrees to pay any costs incurred over and above the escrowed amount based upon invoices from the agreed upon consultant for redevelopment planning.

If it is determined that the site would benefit or be eligible for state or federal grants for the redevelopment and repurposing of the site, the City may act as the sponsor of those grants and AIM Development will be responsible for the costs associated with the grant application and management.

**3. Landscaping.** All disturbed areas on the site will be seeded with MnDOT low-maintenance seed mixes to establish ground cover. Ground cover and any other landscaping must be established as shown on the site plan and maintained in good condition per Sartell Code. Any grass or grassy vegetation may not exceed 10 inches in height. All noxious weeds shall be eliminated within the site or within the boulevard areas. All existing trees and shrubs shall be maintained.

**4. Noise.** The concrete crushing operation will be located in multiple locations within the site throughout the duration of the demolition. Noise will be measured on any property line of the zoning lot on which the operation is located. Noise must be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. The sound pressure level of noise in an octave band frequency radiated continuously from a facility shall not exceed the noise area classification (NAC) established by the MPCA and as amended, exempted or granted a variance from those standards as directed and approved by the MPCA. This requirement does not apply to snow removal activities, noise as a result of safety equipment or the noise created from truck and waste traffic entering or exiting the site. AIM Development will provide, as requested, noise readings to the Planning Director. The noise created on site is not expected to be at a greater decibel than any underlying industrial user (i.e. Verso, etc). The wood barricades along the easterly side of the property (along Benton Drive) will be kept up as long as possible so that it can act as a sound and sight buffer.

**5. Vibration.** Vibration must not be discernible at any adjoining property line to the human sense of feeling for three (3) minutes or more in duration in any one (1) hour. AIM Development shall submit pre-demolition vibration readings. AIM Development will provide, upon request by the City, vibration readings to the Planning Director.

**6. Waste.** All construction debris (wood and roofing materials) will be hauled to multiple construction and demolition landfills. AIM Development shall provide the names and the locations of the landfills to the Planning Department. All handling and disposal of construction and demolition debris should be done in accordance with all federal, state and local laws and ordinances. Metal will be cut and hauled off site by rail or truck. If materials need to be temporarily (less than 72 hours) stored outside of a contained building or structure, it must be completely screened from all public roadways and public waterways. All wastes containing any hazardous or toxic constituents must be managed in the manner prescribed by the Health Department and/or the MPCA.

**7. Performance Bond For Demolition.** 10-7B-6 (F) of the Sartell City Code, gives the City the authority to require a Security Agreement to ensure that the performance standards are completed as provided in the approved IUP. AIM Development must submit a Security Agreement in the form of a Performance Bond in the amount of \$2 Million to complete the first phase of demolition as determined by the demolition timeline and schedule prior to the issuance of the building permit. Upon completion of the first phase of demolition, AIM Development must submit a Security Agreement in the form of a Performance Bond in the amount of \$3.16 Million to complete the second phase of demolition work according to the demolition timeline and schedule. Combined, \$5.16 million is 100% of the estimated costs for demolition of work included in all phases of the decommissioning and demolition activities referenced under the IUP documents and Storm water Pollution Prevention Plan as amended.

**8. Environmental Investigations and Remediation.** Sartell City Code 10-7B-6(G) provides the City with the authority to require AIM Development to enter the Site into the MPCA Voluntary Investigation Cleanup ("VIC") program before a City Building Permit is issued for the demolition work, with the purpose of entering the VIC program to begin the process of site characterization, Response Action Plan (RAP) development and ultimately securing a No Action ("NA") determination or a No Further Action ("NFA") determination letter(s) from MPCA for any soil, soil vapor, and/or groundwater contamination at the Site. AIM must also, before the issuance of the Building Permit, enter the site into the MPCA Petroleum Brownfields program with the purpose of obtaining a RAP approval letter for petroleum response actions and securing Site File Closure letters from MPCA for all Leak Site numbers established at the Site.

**9. Performance Bond for Environmental Investigation and Remediation.** Because of the potential for environmental contamination at the property, AIM Development is required to submit a performance bond, in form and substance satisfactory to the City, within 30 days of the issuance of the Interim Use Permit to assure the actions and work necessary to obtain the NFA letters and Site File Closure letters. The City shall be the sole obligee under the bond and no other party shall be intended to be benefited by the provisions of the bond. The submittal of the redevelopment bond shall occur within 30 days of the issuance of the IUP approval. If the redevelopment bond is not received within 30 days of the issuance of the IUP, this shall be grounds for the immediate revocation of the interim use permit and demolition permit and a stop work order being issued requiring all activity on the site under this permit to cease until received.

An initial required amount of \$3.75 million is based on \$1.30 per square foot and is derived by using the amount required by the City of St. Paul for environmental investigation and remediation costs arising in the demolition and redevelopment of the former Ford Plant in that city. A key difference between the Ford plant site and the Site is that the Ford site has already received significant Phase II investigation work. Thus, costs for further investigation and cleanup are more accurate. Because the Site has not received a Phase II investigation, nor has an MPCA approved Response Action Plan which will dictate the scope and therefore the actual costs of any remediation been completed, the amount of the Performance Bond may be adjusted (increased or decreased), at the sole discretion of the City, to reflect 100 percent of the estimated cost to complete all steps and work necessary to obtain the NA(s) or NFA(s) and Site File Closure letter(s) after the MPCA has approved any Response Action Plan(s) or petroleum corrective action plan(s). The submitted bond shall be retained to ensure adequate progress is being made in accordance with the submitted schedule of work to complete the VIC/PB work as identified in the Demolition and Regulatory Timeline/Schedule. The bond amount may be reduced by 25%, to \$2,812,500, after the completion of a Phase II investigation, satisfactory to the MPCA VIC/PB programs, and submittal of the Phase II report(s) to said programs. The bond amount may be additionally increased or decreased, at the sole discretion of the City, at such a time that the MPCA approves a Response Action Plan and the costs of implementing said plan are provided to City, and reviewed and agreed upon by the City. Upon the completion of all work and steps as identified in the Demolition and Regulatory Timeline/Schedule, the Bond may be released.

**10. Concrete Crushing.** AIM Development shall also be required to obtain a Case-Specific Beneficial Use Determination for reuse of the concrete crushing resulting from the demolition project. Such Determination must be obtained prior to the commencement of concrete crushing.

**11. Historical Buildings and Endangered Species.** None of the buildings slated for demolition are historically designated or eligible properties and buildings. (See email dated July 3, 2013 from Thomas Cinadr of the Minnesota State Historic Preservation Office and email dated August 15, 2013 from Murray Mack of hma Architects). AIM Development has identified certain elements of the original structure to be removed and saved for reuse on site. A secured location will be identified for a location of the dismantled brick. As determined by the submitted Stormwater Pollution Prevention Plan, no federally-listed threatened or endangered species or their designated critical habitats are likely to occur in the action/demolition area. (See MnDNR on determination dated June 3, 2013). Any change in the determination by the state or federal agencies regarding the designation or eligibility of these properties or buildings for historical significance will nullify this IUP.

**12. Transportation.** Approximately 60% of the demolition debris will be removed by truck, 40% by rail. That equates to approximately 25 trucks and 25 other cars and personal vehicles a day coming to the site. This is less traffic than what the Verso plant generated when it was in operation. (At that time up to 80 trucks and 250 cars accessed the site every day. Of these, the 80 trucks used Benton Drive to the north to the Highway 10 interchange).

- a) All demolition and debris truck traffic into and out of the site will use the northerly most existing entrance/exit along Benton Drive.
- b) Trucks would use Benton Drive north to the Highway 10 interchange. Use of County Road 29 or 2<sup>nd</sup> Street South is not allowed to ensure the long term integrity of the road.
- c) Workers will park within the existing parking lot located adjacent to Benton Drive. The site is accessible in accordance with the provisions of the Americans with Disabilities Act

(ADA), including parking spaces, passenger loading zones and accessible routes where applicable. All adjacent public sidewalks and/or rights-of-way (Benton Drive, 2<sup>nd</sup> Street Bridge) around the site will be maintained to provide a continuous route for vehicles and pedestrians, including the disabled and bicyclists.

- d) AIM Development LLC will be responsible for repairing any damage to Benton Drive and adjacent streets, sidewalks, curbs and driveways caused by trucks or equipment from the demolition and restoration.
- e) Any overweight/size vehicles using Stearns or Benton County highways would need to obtain a moving permit from the respective jurisdictions.

**13. Hours of Operation.** All decommissioning related activity must be limited to the hours of 7:00 AM to 8:00 PM. Truck traffic entering or exiting the site may be limited to 8:00 AM to 8:00 PM. Because the amount of limited truck traffic (approximately 25 daily) is significantly less than the previous mill operations and the trucks will maintain the route north on Benton Drive to the Highway 10 interchange, decommissioning related activity may occur on Saturday and Sunday. Hours of operation must be posted on the site and at all entrances and exits, along with site contact information. Occasional truck traffic will need to enter the site at 7:00 AM.

**14. Utility Protection/Termination. Water.** Initially, the water will be terminated at the meter pit. During demolition, water lines that are no longer needed will be abandoned, capped and cut off 10 feet from the Service Tee.

**15. Utility Protection/Termination. Storm Water.** The site plan will maintain the current storm water conveyance system and will enhance with additional storm drainage systems. The site is currently almost entirely paved. The site plan is consistent with this finding. The site plan includes a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP and figure 5) calls for:

- a. Temporary storm water quality measures, including silt fence, inlet protection, dust control, and multiple rock construction entrance.
- b. Permanent storm water management system. Additional ponds/basins are being constructed on the site to manage storm water prior to discharging or overflowing into the Mississippi River. The IUP/Demolition project shall create a better storm water management system than what currently exists on the property.

**16. Utility Protection/Termination. Sanitary Sewer.** Prior to the start of demolition, the main service point shall be plugged to ensure no debris enters the city main line. During demolition, all lines must be televised from the tracks to the river to verify the number of sanitary sewer services if needed. Sanitary sewers that are no longer needed will be abandoned, capped and cut off 10 feet from the Service Tee.

**17. Fire Safety.** The following shall be adhered to during the duration of the demolition:

- a) Water shall be accessible through the onsite well or other identified water source through the duration of the demolition.
- b) 20-30 extinguishers throughout the plan for all hot work being conducted.
- c) AIM Development and contractors shall ensure enough time for fire watch to be conducted for any hot work being completed.
- d) Responsibility for the costs of the responding fire departments if there was a failure to conduct an approved fire watch is that of AIM Development.
- e) Install 2-1/2 inch valves on the city water inlet inside the building with 2-1/2 inch hose lines connected to the water supply. Should be long enough to be present

throughout the mill when any hot or hazardous work is being completed. Must be properly maintained.

- f) If there is a hazardous condition or fire, call 911.
- g) The north side of the plant due to water restrictions the bank/shoreline along the river will need to be maintained clear and blocked off for fire department access.
- h) Copy of all plans/procedures and contact list must be submitted to the fire department (provide any updates).
- i) All internal hydrants not live must be capped.

**18. Fence.** The site must be enclosed with existing or new fence and/or visual screen until site restoration is completed. A "Certificate of Liability Insurance" is required for installing barbed wire on the fence near the bridge entrance.

**19. Signs.** Signs or other graphics (including any on the visual screen) must comply with City sign regulations. A separate review and permit is required for any signs.

**20. Approvals by other agencies.** AIM Development must obtain approvals and appropriate documentation for the demolition and restoration from all other agencies having jurisdiction, including but not limited to the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, State Historic Preservation Office, and Environmental Protection Agency. Work must be performed as specified in these approvals.

**21. Demolition Inspection and reports.** AIM Development must maintain a record on site of all inspections for viewing by City inspectors. An electronic version of the inspection record must be submitted to the Sartell Planning Department on a monthly basis. AIM Development must also submit to the City a written monthly summary on the progress of work and of site conditions, including erosion and sediment control measures. A certified environmental professional must prepare this summary.

**22. Environmental Inspection and Reports.** AIM shall provide copies of all documents and correspondences submitted to and received from MPCA regarding the Site. AIM Development shall provide a monthly written summary, in form and content satisfactory to the City, regarding its progress in obtaining the NA(s) and NFA(s) and Site File Closure letter(s).

**23. Excavation Oversight.** Sartell City Code 10-7B-6(G) give the City the authority to require that AIM Development must have on-site oversight by an environmental engineer during excavation and pipe/tank decommissioning activities to advise on identification of potential environmental contamination and actions necessary to immediately address such contamination including report of such contamination to the Minnesota Duty Officer and the MPCA VIC and Petroleum Brownfields programs.

**24. Work Plan.** AIM Development shall provide, prior to the issuance of the Building Permit, a detailed work plan and schedule, to the satisfaction of the City, for completing the demolition and redevelopment project and including the steps and dates necessary to obtain the NA(s) or NFA(s) and Site File Closure letter(s), in addition to removal of the concrete foundations and footings if applicable. Failure to obtain the NA(s) and NFA(s) and Site File Closure Letter(s) by the dates cited in the schedule after a reasonable cure period will result in the City terminating the Permit, exercising the Performance Bond(s) or both.

- 25. Project contact person.** AIM Development must designate and maintain throughout the term of the project a site representative to field questions and complaints from the public and must make this person's name and contact information available to the city and the public before permits are issued for the work shown on the approved site plan. The City will designate the Planning Director as the contact person on behalf of the City. Both contacts will be identified on the city's web site on the "AIM Development Sartell Site, Former Verso Paper Mill Demolition" page.
- 26. Future Permits.** The property will be subject to future building, and/or demolition permits relating to the hydroelectric operations building. The property may also be subject to other zoning and subdivision codes upon the redevelopment of the property.
- 27. Inspection.** The City Administrator and/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. Furthermore, the City and or his/her designee may enter the property and shall have the right to complete the terms and requirements of all earthwork, deconstruction, demolition and construction activities utilizing the proceeds of the security agreement if AIM Development fails to complete the demolition and storm water activities.
- 28. Extension.** The Interim Use Permit upon written notice being provided by the City to the Permittee but without further action by the Planning Commission or City Council, shall expire if the permit holder fails to initiate such interim use within six months from the date of the building demolition permit issuance, and/or fulfill each and every condition identified in the IUP. An extension may be requested in writing and filed with the City at least thirty (30) days before the expiration of the original interim use permit. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the interim use permit. Such petition shall be presented to the Planning Commission for a recommendation to the Council and acted upon by the Council.
- 29. Termination.** The interim use permit shall terminate upon the occurrence of any of the following events, whichever first occurs:
- a) The date specified in the permit;
  - b) A violation of the conditions under which the permit was issued; or
  - c) A change in the City's zoning regulations; however, the City may provide a period of relief for up to a year if warranted.
- 30. Compliance.** Any use permitted under the terms of any Interim use permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith, and the Interim use permit shall remain in effect only so long as the terms and conditions agreed upon are observed and/or until the specified termination date/event occurs.
- 31. Revocation:** The City Council shall revoke this interim use permit when it determines that the terms and conditions of the permit as issued are no longer being complied with. A certified copy of any order revoking this interim use permit shall be filed with the County Recorder for recording. A revocation of the permit requires that all operations granted under the terms, conditions and performance standards must stop until authorized by the City Council.

32. Any and all documents that need to be submitted and revised to be in compliance with the conditions, terms and performance standards of this IUP shall be submitted to the City prior to the issuance of a building permit.

The motion for the adoption of the foregoing resolution was duly seconded by Council member Nicoll, and upon vote being taken thereon, the following voted in favor thereof: Mayor Perske, Council members: Braig-Lindstrom, Nicoll, Peterson

and the following voted against the same: None

and the following abstained:

and the following were absent: Member Hennes

Whereupon said resolution was declared duly passed and adopted by the Sartell City Council the 22 day of August, 2013.

CITY OF SARTELL:

By: J. Perske  
Mayor

By: Mary Degiovanni  
City Administrator