

SARTELL CITY COUNCIL

AGENDA COVER MEMO

Originating Department Planning Department	Meeting Date: May 9, 2016	Agenda Item No. 7a
Agenda Section: Public Hearing	Item: Interim Ordinance – I2 Properties	

STAFF RECOMMENDATION:

Staff recommends approving the interim ordinance and the formation of a task force to review the terms outlined in the ordinance.

COMMISSION RECOMMENDATION:

The Planning Commission recommends **approving** (4/0) the Interim Ordinance and the formation of a task force.

MINNESOTA STATUTE 462.355:

Minnesota Statutes, section 462.355, subdivision 4, allows the City to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. While not required, the City did provide the step of conducting a public hearing and sending notices to the affected property owners notifying them of their ability to provide comments.

BACKGROUND:

There’s increasing concerns that the City’s official controls relating to the comprehensive plan (2003 and draft 2016), and that the subdivision and zoning ordinance may not adequately address the specific permitted/accessory/interim and conditional uses allowed on I2 properties, along with the appropriate standards in relationship to setbacks, height, building materials, screening and other site regulations may be outdated

As a result, it is necessary to form a task force consisting of property owners, Sartell citizens, representatives from the City’s Commissions and Council, the development community and other governmental partners to convene a study which will create a vision for the I2 properties along the River, in particular, those properties which are vacant, to determine appropriate land uses (may include master planning), review ordinance standards to determine if there is a need to amend the City’s official controls or its comprehensive plan. Through statute, City’s can enact a moratorium (interim ordinance) which essentially halts any new development from occurring on the identified properties to ensure the planning process can proceed without risk.

The moratorium is applicable to any new uses occupying the I-2 properties, platting, construction, erection, placement, reconstruction, enlargement, or expansion of any new development, not previously approved by City of Sartell as identified on Exhibit A and described

as those properties within the City of Sartell at the date of adoption of this. During the period of the moratorium, applications for zoning permits, site plans, rezonings, land use amendments, preliminary plat, final plat and other permits and approvals related to development shall not be accepted by the City; neither Staff, the Planning Commission nor the City Council shall consider or grant approval of any application for such work shall be issued.

The moratorium shall not apply to (a) existing approved permits, site plans or uses occupying the properties (b) plats and developments which have received all necessary permits and approvals from the City before the effective date of this ordinance, (c) zoning and plat applications which have been submitted previously to the effective date of this ordinance (d) any application to rezone property to I-2 Heavy Industrial.

ATTACHMENTS:

1. Ordinance and Exhibit A

ACTION REQUESTED:

1. Approval of the Interim Ordinance and Ordinance for publication
2. Authorize the formation of a task force with membership to be approved at the June 13th Council Meeting.

CITY OF SARTELL
ORDINANCE NO. ___-16
INTERIM ORDINANCE ESTABLISHING A MORATORIUM
ON I-2 PROPERTIES IN SARTELL

Section 1. Background.

1.01. The City of Sartell (“City”) currently regulates comprehensive planning, zoning (subdivision) and building permitting actions with the municipal boundary.

1.02 The City adopted a Comprehensive Plan in August 2003, which identified two areas (100/105 East Sartell Street, Sartell MN 56377 and 250 Riverside Avenue North, Sartell, MN 56377) along the Mississippi River as existing heavy industrial users. Industrial land uses include manufacturing, warehousing, assembly, truck terminals, mining, quarries and other businesses that provide goods and services, but not directly to the public. These industrial uses will often have an administrative or sales office within the same building, which is counted as part of the industrial use, and not as a separate commercial office use. Land used for industrial purposes consume two percent of the city’s total land area and four percent of the developed area. These uses are located primarily along the Mississippi River in the central part of the city. The community recognizes the need to ensure an adequate amount of its growth area for industrial use.

1.03 The City of Sartell set out in early 2014 to amend the 2003 Comprehensive Plan. The 2016 Draft Comprehensive Plan lays out a philosophy Sartell is a progressive community, engaged in shaping its future. The residents and businesses of Sartell are working to capitalize on the qualities and values that have made it a successful and desirable community.

1.04 The 2016 Comprehensive Plan is a policy document intended to guide City decisions. Both timely and necessary, Sartell has established a record of success in the face of rapid growth. However, with the development slower than in early 2000, coupled with high development costs, Sartell faces the challenges of diversifying its economic base; maintain what is in place and further investing in improvements that provide the high quality of life that residents and businesses have come to expect. It was time to take a half step back, leave the doors of city hall and talk to people, and collectively define the next steps forward. As things change, so must the planning and implementation efforts of the City. A fluid and flexible approach will allow the City to take advantage of new ideas or circumstances that may emerge as things progress. Ideas unforeseen today may have profound relevance for the future. The ability to incorporate them will keep Sartell vital and maintain the progressive and charming style that defines Sartell.

1.05. The Draft 2016 Comprehensive Plan has proactively identified areas including the I-2 area included within the property identified as 100 East Sartell Street, Sartell within the community that are anticipated to face significant long-term pressures to change and will likely need some public attention to capture future redevelopment opportunities which included the former paper mill site. As indicated in the plan, redevelopment master

planning process will be required before the commencement of any development activities. This is to ensure community input on the site; environmental concerns are addressed and that the site is developed with the highest and most practical land uses.

1.06. The City is concerned that its official controls relating to the comprehensive plan, and that the subdivision and zoning ordinance may not adequately address the specific permitted/accessory/interim and conditional uses allowed on I2 properties, along with the appropriate standards in relationship to setbacks, height, building materials, screening and other site regulations may be outdated and not meet the minimum vision set forth by the draft 2016 comprehensive Plan.

1.07. Minnesota Statutes, section 462.355, subdivision 4, allows the City to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. While not required, the City did provide the step of conducting a public hearing and sending notices to the affected property owners notifying them of their ability to provide comments.

1.08. That Minnesota local government units have broad authority to condition or deny special use permits to protect public health, safety, and welfare. When enacting the Municipal Planning Act (“MPA”) in 1965, the Legislature found that “municipalities are faced with mounting problems in providing means of guiding future development of land so as to ensure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities.” So long as there is a rational basis for a zoning or land use decision by a local unit of government, the courts have affirmed the broad discretion local governments have in developing land use and zoning regulations and will not disturb a decision unless it is unsupported.

Section 2a. Findings for the I-2 area included within the property identified as 100 East Sartell Street, Sartell (former paper mill site).

2.01. The City is a rapidly growing community and with the growth, a well thought out land use plan and permitted zoning standards and uses are needed to accommodate the vision and types of uses on I2 properties is a high concern and priority.

2.02. That the 2003 Sartell Comprehensive Land Use Plan identifies the I-2 area included within the property identified as 100 East Sartell Street, Sartell with a portion of heavy industrial uses (Future Land Use map). Demolition of the paper mill facility, per the approved Interim Use Permit (IUP) was completed to prepare the site for redevelopment which is consistent with its land use designation and may be consistent with the St. Cloud Urban Area Mississippi River Corridor Plan (2011) objective of providing opportunities in the river corridor to create connections to the river (page 23). The applicants provided documentation that the demolition of currently specified structures would facilitate this process and position the site for redevelopment.

2.03. That according to the approved IUP, the property owners of 100 East Sartell Street, Sartell agreed to assist in the funding for and fully participate in a redevelopment and

repurposing planning process for the existing site during Demolition (Approx August 2013 to March 2014). The property owner 100 East Sartell Street, Sartell had contracted with the Planning Firm of Loucks and Associates to assist in the facilitation of the redevelopment planning study. That study was initiated in the fall of 2013 but was suspended by the property owner during the winter of 2014.

2.04. The property owners at 100 East Sartell Street, Sartell also agreed on to additional redevelopment and repurposing process steps which could have included, but are not limited to continued discussions with the MPCA and the City's consultants regarding site and concrete conditions, environmental concerns, market studies, master plans and community/professional input into the highest and best use of the property for redevelopment and repurposing. Furthermore, the recommendations of the redevelopment and repurposing plan were to propose ways to incorporate the existing concrete footings and foundations into a master plan, otherwise the concrete footings and foundations were to be removed. The property owner has failed to follow through with this agreement.

2.05. That according to the IUP, future uses of the Site will likely include redevelopment and construction activities. Both immediate and future uses have a high probability of interacting with soils and groundwater, which results in the soils and groundwater being disturbed. The future redevelopment will also likely involve environmental liability protections for property developers, lenders, end users and regulatory closure of environmental issues at the Site from the MPCA. Securing liability protections (No Association Determination and Off-Site Source Determination) and obtaining regulatory closure (No Further Action Determination, Certificate of Completion, and/or Petroleum Site Closure) will require an updated Phase I ESA site characterization, development of a Response Action Plan to remediate environmental impacts and implementation of the RAP. Environmental liability protections and regulatory closures are obtained through the MPCA's VIC and the Petroleum Brownfields (PB) Program. The advantage of MPCA review and approval of an investigation work plan is that it provides liability protection for disturbing contaminated soils during the investigation and provides the opportunity for the MPCA to provide comment on the adequacy of the plan.

2.06. That the property owners were able to obtain a No-Action Letter (September 11, 2015) based on the fact that the use (and re-uses) proposed to include only vacant land, and no development scenarios. As so long as no action occurs on the site, no further action is needed. That arsenic was detected which slightly exceeded the MPCA's industrial soil reference value; Semi-volatile organic compounds were detected with a Benzo Pyrene equivalent concentration less the MPCA residential SRV. Cadmium and Lead were detected in water table groundwater sample exceeding the Minnesota's Department of Health's health risk limits. There was a lack of information provided to the MPCA regarding soil vapor.

2.06. That on two occasions (April 19, 2016, December 2, 2016) City Staff has unsuccessfully obtained requested documents related to the IUP and approved demolition permit including:

1. Copy of Phase 2 Investigation Work Plan
2. Copy of Phase 2 Report
3. Any MPCA approval letters
4. The redevelopment plans submitted as part of the MPCA review
5. Soil Vapor Data
6. Verification that areas below the slabs and subfloors were backfilled as stated on 11/12/2015) including, but not limited to the coal chute, all tunnels, roller grinder pit, lift station. Need descriptions of what areas were backfilled and with what types of materials.
7. Verification that the petroleum storage area(s) were properly filled and materials disposed of per State, Federal, and Local guidelines.
8. Verification that the elevator shafts (4-5) were properly sealed. Describe how the cylinders were capped off (5 stories deep). Provide all certifications and documents related to the Minnesota Department of Health's Wellhead Protection Plan.
9. Verification that the antifreeze areas were properly handled, per State, Federal, and Local guidelines.
10. Slabs core drilled and sampled
11. Verification that the asbestos-related work was completed properly per State, Federal and Local guidelines
12. Verification and/or documentation that the utilities were abandoned (water lines, storm, and sewer)
13. Asbuilts or drawings of any footings/foundations/slabs that remain.

Section 2b. Findings for the Hydroelectric Facility and DeZurik Property.

2.01. The City is a rapidly growing community and with the growth, a well thought out land use plan and permitted zoning standards and uses are needed to accommodate the vision and types of uses on I2 properties is of high concern and priority.

2.02. That the 2003 Sartell Comprehensive Land Use Plan identifies the hydro facility property and the DeZurik Property as heavy industrial(Future Land Use map).

Section 3. Planning and Zoning Study; Moratorium

3.01. The City Council finds that it is necessary to form a task force consisting of property owners, Sartell citizens, representatives from the City's Commissions and Council, the development community and other governmental partners to convene a study which will create a vision for the I2 properties along the River, in particular those properties which are vacant, to determine appropriate land uses (may include master planning), review ordinance standards to determine if there is a need to amend the City's official controls or its comprehensive plan.

2.04. The City Council finds that there is a need to adopt an interim moratorium ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens regarding such matters.

3.02. Pending completion of the task force study and the adoption of any amendments to the City's official controls, there is hereby established a moratorium on any new uses

occupying the vacant I-2 properties, platting, construction, erection, placement, reconstruction, enlargement, or expansion of any new development, not previously approved by City of Sartell as identified on Exhibit A and described as those properties within the City of Sartell at the date of adoption of this. Those properties identified within Exhibit A.

3.03. During the period of the moratorium, applications for zoning permits, site plans, rezonings, land use amendments, preliminary plat, final plat and other permits and approvals related to development shall not be accepted by the City; neither Staff, the Planning Commission nor the City Council shall consider or grant approval of any application for such work shall be issued.

3.05. The moratorium shall not apply to (a) existing approved permits, site plans or uses occupying the properties (b) plats and developments which have received all necessary permits and approvals from the City before the effective date of this ordinance, (c) completed and accepted subdivision, zoning and plat applications which have been submitted previously to the effective date of this ordinance (d) any completed or accepted application to rezone property to I-2 Heavy Industrial.

Section 4. Enforcement.

The City may enforce this ordinance by mandamus, injunction or other appropriate civil remedy in any court of competent jurisdiction.

Section 5. Duration.

This ordinance shall remain in effect for 12 months from the date of its effective date or until such earlier time as said ordinance shall be revoked or otherwise amended.

Section 6. Effective Date.

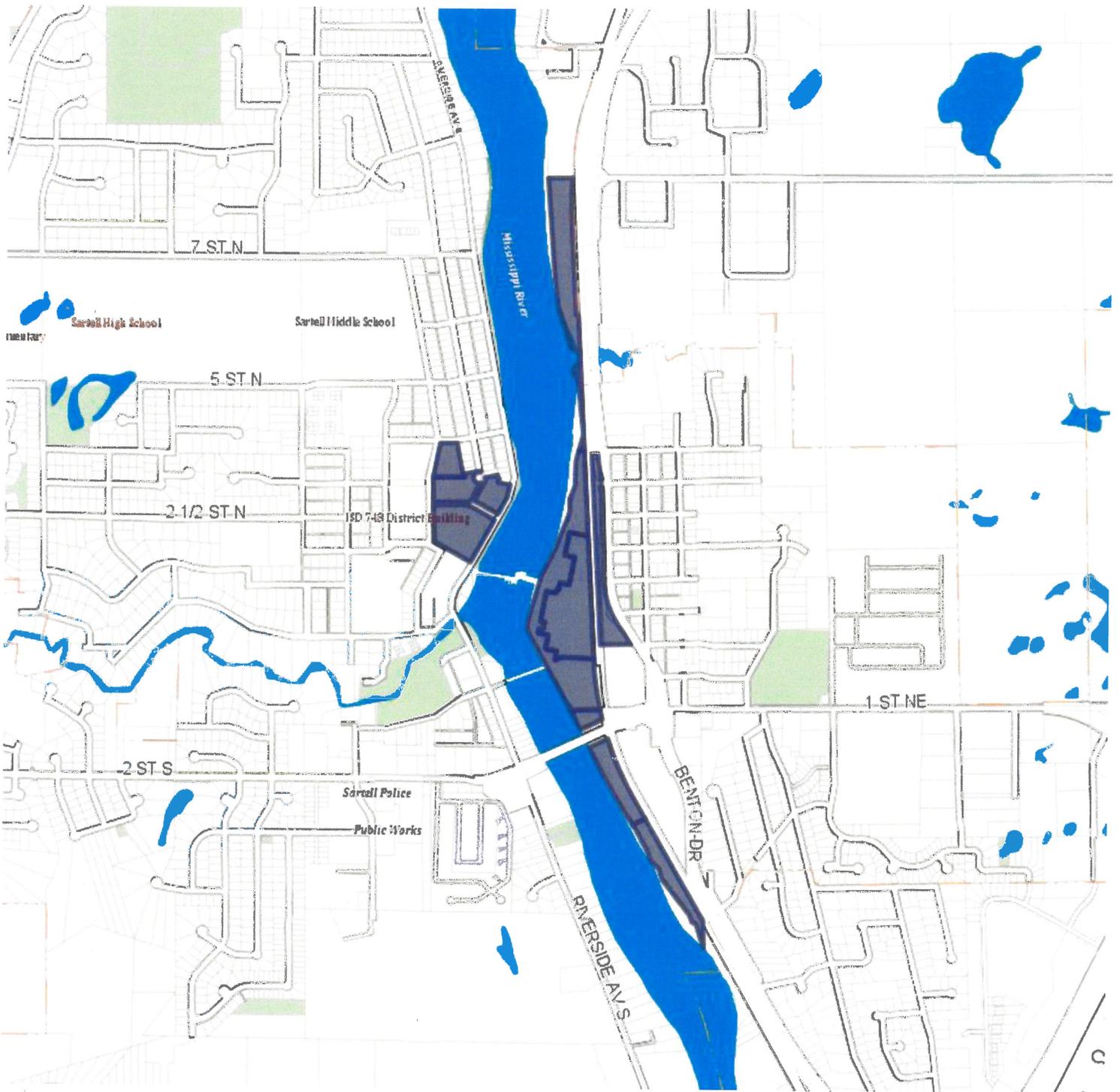
This ordinance shall take effect the day after the date of its publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SARTELL, this 9th day of May 2016.

ATTEST: MAYOR

CITY ADMINISTRATOR

I-2 Heavy Industrial Properties – Sartell, MN



Ordinance No. _____

**INTERIM ORDINANCE ESTABLISHING A MORATORIUM
ON I-2 ZONED PROPERTIES IN SARTELL**

The following official summary of the ordinance referred to has been approved by the City Council as clearly informing the public of the intent and effect of the amendments.

Pending completion of the task force study and the adoption of any amendments to the City's official controls, there is hereby established a moratorium on any new uses occupying the vacant I-2 properties, platting, construction, erection, placement, reconstruction, enlargement, or expansion of any new development, not previously approved by City of Sartell as identified on Exhibit A and described as those properties within the City of Sartell at the date of adoption of this.

During the period of the moratorium, applications for zoning permits, site plans, rezonings, land use amendments, preliminary plat, final plat and other permits and approvals related to development shall not be accepted by the City; neither Staff, the Planning Commission nor the City Council shall consider or grant approval of any application for such work shall be issued.

The moratorium shall not apply to (a) existing approved permits, site plans or uses occupying the properties (b) plats and developments which have received all necessary permits and approvals from the City before the effective date of this ordinance, (c) zoning and plat applications which have been submitted previously to the effective date of this ordinance (d) any application to rezone property to I-2 Heavy Industrial.

This ordinance shall remain in effect for 12 months from the date of its effective date or until such earlier time as said ordinance shall be revoked or otherwise amended.

A printed copy of the entire ordinance is available for inspection by any person at the office of the City Clerk any Monday through Friday between the hours of 7:00 a.m. and 4:30 p.m.

This document hereby is made a part of this ordinance and is attached hereto.

Mayor

ATTEST:

City Administrator

SEAL

PUBLISHED IN THE SARTELL NEWSLEADER ON _____