

PLANNING COMMISSION

Wednesday, October 8, 2014

Chairman Angie Plantenberg called the meeting of the Brainerd Planning Commission to order at 6:00 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Pritschet, Hayden Shaw, Matten, Plantenberg, Norwood, and Cole. Commissioner Straw was noted absent. Also present was City Planner Ostgarden.

#2 Approval/Amendment of Agenda

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND MATTEN, DULY CARRIED, TO APPROVE THE AGENDA AS AMENDED.

#3 Approve minutes of the regular meeting of September 10, 2014

MOTION AND SECONDED BY COMMISSIONERS HAYDEN SHAW AND MATTEN, DULY CARRIED, TO APPROVE THE MINUTES FOR THE REGULAR MEETING OF SEPTEMBER 10, 2014.

#4 NEW BUSINESS

a. Public Hearing – Conditional Use Permit and Variances – 604 N 7th Street (former Whittier School) – Discovery Woods Montessori School ISD 4198

City Planner Ostgarden gave a presentation on information given to the Planning Commission. He stated Independent School District 181 sold the former Whittier School block property to Whittier Capital Group LLC; Jeffrey Laux, Vice President. It is planning to lease the site to Discovery Woods Montessori School. It will be relocating its school from its present site at 810 NW 7th Street north of the Veteran's Administration. The building was last used as a school in the 2007-08 school years. Since then, the building has been heated and maintained to best preserve its possible future uses. In 2010, the building received some minor improvements in preparation for a six (6) month lease to Essentia Health, who used it for dedicated training space for a system wide technology conversion. The site and amenities had been maintained by ISD 181 for neighborhood recreational purposes. The site does not comply with many current Zoning Ordinance requirements. Discovery Woods is requesting a conditional use permit to operate a school in a residential district and variances from zoning ordinance requirements. The following items were reviewed:

- Site location and parking locations
- Zoning Ordinance requirements
- Conditional Use Permit criteria noting it does not meet the off-street parking requirements and landscaping/screening requirements
- Zoning Ordinance objectives
- Requirements for granting Conditional Use Permits
- Noted Discovery Woods is planning a “steady increase” in enrollment which should be considered when reviewing the proposal

- Off-street and handicapped parking requirements and site recommendations. Total off-street parking spaces required would be eighty-four (84)

City Planner Ostgarden then reviewed the conditional use permit and variance issues to consider:

- Remove asphalt from Grove Street right-of-way and return to green space
- Install sidewalk along Grove Street
- Provide sidewalk and handicapped accessible access to the main entrance from the north side parking lot
- Determine whether more than 17 on-site parking spaces should be provided
- Consider curb cut on Holly Street to provide flow through the site
- Strip parallel spaces along the east side of the building
- All parking space sizes and maneuvering lanes shall comply with minimum standards
- Install screening on the north and south sides of the building
- Install drop-off identification sign

Discussion was held regarding parking locations and requirements.

The Public Hearing was opened at 6:43 p.m.

Mr. Chad Turcotte, representative of Discovery Woods Montessori School, reviewed the following:

- 22 buses will be dropping off students, working with Reichert on the drop off location to try to get the buses off the street
- Potential maximum students would be 150 students with 24 staff members
- Agree with all of the improvements
- Request some improvements to be done in the spring
- Possible ways to meet the parking requirements noting the area on the east side will be gated to protect students going from the school to the playground

Commissioners asked questions regarding parking and events. Mr. Turcotte noted what plans they have for parking and noted they had two to three events next year.

Mr. Ed Shaw, 517 N 9th Street, stated he feels this is a great project for both the school and the neighborhood and noted he does not want to see removal of green space for a large parking area for off-street parking.

The Public Hearing was closed at 6:52 p.m.

City Planner Ostgarden presented condition options and variance options.

Condition option plan

2014

- Identify a handicapped space in the north lot
- Install drop-off identification signs

2015

- Install sidewalk and make entrance accessibility improvements
- Remove asphalt in Grove Street right-of-way
- Install Grove Street sidewalk
- Stripe all parking spaces
- Screen parking on north and south of the building

2016

- Install access on Holly Street
- Construct additional parking

Variance Options

- Deny screening on north and south side of the building. Approve screening along east side parking area
- Deny parking space and parking isle dimension variances
- Determine what, if any, off-street parking variance should be approved

Commissioner Pritschet asked since Discovery Woods seems to be in agreement with all of the improvements/requirements, what are the exact variances they are requesting.

City Planner Ostgarden stated if they are willing to do all of these things then the only variance required is the number of required off-street parking spaces. He noted the other conditions will need to be stated for the record.

Commissioner Hayden Shaw read the findings-of-fact for the conditional use permit into the record as follows:

1. The property is the former Whittier School elementary school.
2. The property ceased operation as a school in 2007.
3. In 2014, Independent School District 181 sold the property to Whittier Capital Group, LLC; Jeffrey Laud, Vice President c/o Foley and Mansfield PLLP; 250 Marquette Ave, Suite 120; Minneapolis, MN 554
4. The property is being leased by Discovery Woods for a charter school.
5. Discovery Woods is a Montessori style school that currently has 22 full time staff and 107 preschool to sixth grade age children. Whittier School had enrollment as high as 188 students.
6. Reuse of the site described by Discovery Woods will return the site to the use that occurred prior to 2007.
7. The site has a parking area constructed in the Grove Street right-of-way and the school block has sidewalk on all sides except Grove Street.
8. The building has a gymnasium capable of seating 80-90 people.
9. Drop off and pick up is planned to occur primarily on N. 7th Street.
10. Discover Woods has stated *"DWMS....is projecting a steady increase of students over the years to come."*
11. The school building occupied approximately 13% of the site leaving room for additional off-street parking to be provided.
12. Building and site reuse for school purposes has been the neighborhood's preferred reuse.
13. North 8th Street is adjacent to the site and is considered a minor arterial street in the Comprehensive Plan.

14. Approving the CUP promotes the Zoning Ordinance objective of:
 - a. *Protect(ing) neighborhoods.*
 - b. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
 - c. *Encourage the protection of historic and aesthetic resources in the City.*
 - d. ***Provide for compatibility of different land uses.***
15. Reuse of the site meets the following Comprehensive Plan Goal:
LAND USE GOAL #5: *Support development that enhances community character and identity.*
Strategy
 1. Support the redevelopment of vacant and abandoned sites within the urban core

The Commission agreed to add the following findings-of-fact: 16. Two people spoke in favor. 17. Discovery Woods representative stated there would be a maximum of two additional classrooms with 150 students. 18. Discovery Woods representative stated they were in agreement with all improvements/conditions set forth.

The Commission agreed on the following conditions:

1. Identify a handicapped space in the north lot
2. Install drop-off identification signs
3. Install sidewalk and make entrance accessibility improvements
4. Remove asphalt in Grove Street right-of-way
5. Install Grove Street sidewalk
6. Stripe all parking spaces
7. Screen parking on north and south of the building
8. Require twenty-four off-street parking spaces in a location of choice by Discovery Woods
9. Install access on Holly Street

Discussion was held regarding parking requirements. Commissioner Norwood suggested twenty-four parking spaces. Commissioner Hayden Shaw stated she does not feel we should require them to remove green space to create more parking and we should only require fourteen spaces. Commissioner Cole stated he agrees with twenty-four parking spaces and would like to keep the parking spaces within the Grove Street right-of-way. Commissioner Matten stated she would like to revisit the parking requirements as the school grows and/or if it becomes an issue in the neighborhood. Commissioner Pritschet stated he would like to see the possibility of allowing temporary parking on the green space area.

Discussion was held regarding the Holly Street entrance and removal of the asphalt in the Grove Street right-of-way.

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT TO ALLOW REUSE OF THE WHITTIER SCHOOL SITE AT 604 NORTH 7TH STREET AS A MONTESSORI SCHOOL WITH THE EIGHTEEN (18) FINDINGS-OF-FACT AND THE NINE (9) CONDITIONS.

COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, AMENDED THE MOTION TO ADD THAT THE CONDITIONS MUST BE MET BY DECEMBER 31, 2016.

COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, AMENDED THE MOTION ADDING ALLOWING THE SCHOOL TO USE THE GREEN SPACE FOR TEMPORARY PARKING UP TO FIVE (5) TIMES A YEAR FOR SPECIAL EVENTS.

City Planner Ostgarden corrected that there will be two variances required; one for the number of required off-street parking spaces and one for the screening along the parking spaces along the east side of the building

Commissioner Cole read the findings-of-fact for the variance into the record as follows:

1. The property is the former Whittier School elementary school.
2. The property ceased operation as a school in 2007.
3. In 2014, Independent School District sold the property to Whittier Capital Group, LLC; Jeffrey Laud, Vice President c/o Foley and Mansfield PLLP; 250 Marquette Ave, Suite 120; Minneapolis, MN 554
4. The property is being leased by Discovery Woods for a charter school.
5. Discovery Woods is a Montessori style school that currently has 22 full time staff and 107 preschool to sixth grade age children. Whittier School had enrollment as high as 188 students.
6. The site has a parking area on the building north side; however a portion of the lot is constructed in the Grove Street right-of-way.
7. The building has a gymnasium capable of seating 80-90 people.
8. There are 17 on-site parking spaces, none of which are screened. Based upon current parking requirements, the site is required to have approximately 84 off-street parking spaces.
9. Discover Woods has stated “DWMS....is projecting a steady increase of students over the years to come.”
10. The school building occupied approximately 13% of the site leaving room for additional off-street parking to be provided.
11. Approving the variance will not detrimentally affect the Zoning Ordinance objectives of:
 - *Protect(ing) neighborhoods.*
 - *Encourage the protection of historic and aesthetic resources in the City*
 - *Provide for compatibility of different land uses.*
12. *When the variance is consistent with the Comprehensive Plan.*

General Goal #3: *Promote community spirit and unity and enhance Brainerd’s character and identity.*

Strategy – *Protect and enhance important historical, cultural and natural resources as a means to maintain the integrity, heritage and local character of Brainerd’s natural and built environment.*

GOAL: *Support development that enhances community character and identity.*

Strategy – *Support the redevelopment of vacant and abandoned sites within the urban core.*

Commissioners agreed to add the following findings-of-fact: 13. Two people spoke in favor.
14. Discovery Woods representative stated there would be a maximum of two additional

classrooms with 150 students. 15. Discovery Woods representative stated they were in agreement with all improvements/conditions set forth

Commissioners agreed to amend finding-of-fact 8 to read 23 on-site parking spaces instead of 17.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN SHAW AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF A VARIANCE TO REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES FROM EIGHTY-FOUR (84) TO TWENTY-FOUR (24) AND TO ELIMINATE THE PARKING SCREENING REQUIREMENT ALONG THE EAST SIDE OF THE BUILDING.

b. Public Hearing – Interim Use Permit for the Decommissioning of the former Wausau Paper Site – 1804 Mill Avenue – Brainerd Industrial Center

City Planner Ostgarden gave a presentation on all of the information given to the Planning Commission including the staff report, supporting documents, site plans, and building layouts. He stated Brainerd Industrial Center (BIC) purchased the Wausau property in August 2014. It has submitted an Interim Use Permit (IUP) application 180⁰ different than the IUP submitted and approved for Renu's decommissioning process. BIC does plan to sell and/or scrap the site assets, however that is the where the process similarities stop. BIC's vision is the site and buildings have significant value and have tremendous potential for manufacturing, warehousing and even commercial uses and it plans to lease the facility for such purposes. It plans only minor demolition to the main building and to demolish the treatment plant and water tower. This change in decommissioning philosophy results in an IUP review that while requiring many of the same issues from the previous IUP be addressed, the potential for negative impact is greatly reduced and in several areas to completely removed. The following items were reviewed:

- Demolition/asset recovery plan
- Interim Use Permit process
- Site characteristics
- City leased portions of the property
- Sewer/Water/Wastewater information
- Neighborhood characteristics
- Differences between the previous Interim Use Permit (Renu) and this one (BIC)
- Conditional Use Permit criteria
- Decommissioning timeframe
- Neighborhood meetings, hours of operation, truck traffic hours
- Environmental reports that have been done
- Recommended conditions
- Information submitted by Brainerd Industrial Center
- Reports from City Departments

City Planner Ostgarden summarized that this is a very different process than the previous interim use permit submittal. He stated the impact on the neighborhood should be minimal if any, but the City must do their due diligence to protect the safety, health, and welfare of the community.

The Public Hearing was opened at 7:58 p.m.

Mr. Mike Higgins, Brainerd Industrial Center, gave a review of his initial plans for the site. He introduced some staff members that will be working on the project. He stated he has met with many people regarding this project and everyone has worked very well together.

Mr. Jeff Bean, Brainerd Industrial Center, stated he will be working more with the technical issues and the interim use permit and once that portion is completed he will be more involved in the leasing portion of the project. He reviewed the following questions and concerns:

- Truck traffic - how it will apply to leased operations versus the IUP?
- Amend meeting/inspection days from Monday to Wednesday.
- Environmental reports – who will provide the renovation and demolition environmental checklist?
- Approvals by other agencies – they request that the requirement to deal with the State Historic Preservation Office not be part of the IUP as they feel the property differs significantly from the intent of the Historic Preservation items. (he cited examples of his concerns).
- Adding removal of the south electric substation that are no longer in use.
- Termination – request to add a 30 day notice to cure if there is a violation and the IUP will be terminated.
- Truck traffic hours – there is a possibility to have a lease on one of the buildings for warehousing that may want 24 hour truck traffic use which does not fit into the proposed truck traffic hours. Also, it is hard to control trucks that will be coming in from all over the country for removal of equipment. He noted the plan (on a busy day) is to have possibly five to six loads of scrap per day at different times of the day along with three to four with salvageable equipment. He is asking for some flexibility.

Mr. Bean commended City staff for all the work they have done and consideration they have had in working with them on this project.

The following are questions from the Planning Commissioners with responses from Mr. Bean and Mr. Higgins:

- When will concrete crushing occur? Monday through Friday.
- Outside work on the weekends? There will be no outside work done on Sundays.
- Will the truck drivers be educated on the routes/streets they can/cannot use? There will be notices on the guard shack informing drivers they cannot use side streets.
- Questioned the response to the transloader rail location. It was vague because of the unknown of who may utilize the rail but they will be in contact with City staff to make sure it is used correctly.
- How is the surge tank emptied? The wastewater system was explained noting testing prior to being discharged to the river.
- Who will be doing concrete crushing? Some will be done by their staff and some will be contracted. State and Federal regulations were reviewed along with previous projects that were done.
- What is the timeline of the crushing? Ten to fourteen working days.

- What parts of the hours of operation and trucking hours are a concern and what is an alternate suggestion? Hours of operation, exterior demolition/decommissioning 7:00am to 7:00pm Monday-Friday and 9:00am to 5:00pm on Saturday with no Sunday work. Interior hours would not be limited. Truck traffic for demolition/decommissioning would not occur from 9:00pm and 7:00am Monday-Friday. Truck traffic for demolition/decommissioning allowed 8:00am to 3:00pm on Saturday with no demolition/decommissioning truck traffic on Sunday.

Mr. Bruce Buxton, representative of BLAEDC Board and the Wausau Site Task Force, stated he is in support of this project. He stated the reason the State Historic Preservation Office was involved originally was because of the concern with removing everything from the site from the previous interim use permit submittal. He noted at this time there is reason or concern to involve the Historic Preservation Office as the scope of this project is different.

Mr. Chris Robinson, BLAEDC representative, stated BLAEDC has had a lot of involvement in this project and they support the plans to maintain and reuse the buildings on this site. He stated they have strong interest in this site from area businesses and are optimistic that Brainerd Industrial Center will make the project a reality.

The Public Hearing was closed at 8:44 p.m.

City Planner Ostgarden responded to the concerns/suggestions from Mr. Higgins and Mr. Bean.

- Addition of the 30 day notice for termination of the interim use permit can be added.
- The conditions apply only to the demolition/decommissioning process. Any uses would fall under the requirements of the I-2 District in the Zoning Code.
- The Commission will be able to come up with truck traffic and operating hours that are reasonable to both parties.
- The State Historic Preservation Office is a moot point. BIC does not have to do anything with regards to this as the site is not listed on the National Registry of Historic Places and the buildings are not registered.
- The transformer substation can be added to the items to be removed.
- Meeting dates can be changed from Monday's to Wednesday's.

Discussion was held regarding truck traffic and potential hours.

Commissioner Matten read the findings-of-fact into the record as follows:

1. Brainerd Industrial Center (BIC.), a Michigan Company, has purchased the former Wausau Paper facility located at 1801 Mill Avenue and has submitted an Interim Use Permit application to begin a decommissioning process.
2. The site is approximately 80 acres (owner information identifies the site as 71 acres +/-) and is located in an I-2 (General Industrial) District. Site decommissioning is allowed by Interim Use Permit in the I-2 District.
3. The City of Brainerd Comprehensive Plan Future Land Use Map identifies the property as industrial land use.
4. The decommissioning is supported by Commercial/Industrial, Economic Development and Land Use Goals and Strategies.

5. The industrial zoning will permit BIC to lease the facility during the demolition and decommissioning process.
6. Minnesota local government units have broad authority to condition or deny special use permits (e.g. interim uses) in order 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 insure 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.
7. Minn. Stat. 462.3597, specifies City’s may grant permission for an interim use of property if, among other things, 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 grants the City the ability to set conditions or requirements for the IUP as deemed appropriate to better ensure the costs of demolition completion and to ensure that costs of environmental pollution would not flow through to the public.
8. This IUP does not include new development; therefore many of the typical standards for site plan review do not apply.
9. BIC will conduct a community meeting for the residents of the area.
10. Demolition/Decommissioning process includes:
 - The treatment plant, water tower, two areas of the main building, and the air exchange system on the main building roof.
 - Removal of all paper making assets and associated equipment and material.
11. The demolition and decommissioning process will occur over a two year period meaning that if all required practices are followed the process should result in no negative impacts on the neighborhood and community.
12. The site has Mississippi River frontage which will require compliance with applicable Shoreland Regulations.
13. The site is adjacent to a residential neighborhood requiring that issues such as vibration, noise and dust have prescribed methods for testing and compliance.
14. BIC is aware of the environmental findings in the following reports:
 - a) Phase I Environmental Property Assessment, Barr Engineering, June 2002
 - b) Phase II Environmental Investigation Report, Barr Engineering, Oct. 2002
 - c) Response Action Implementation Report, Barr Engineering, Dec. 2003
 - d) Supplemental Groundwater Investigation Report, Barr Engineering, January 2003
 - e) Phase I Environmental Site Assessment, Landmark Environmental, August 2013
15. Truck traffic is not permitted on local streets.
16. Access will continue to be via the Mill Avenue entrance.
17. 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.
18. A Storm Water Pollution Prevention Plan (SWPPP) will require that an Erosion Control Supervisor be identified. The SWPPP will address:
 - a. Erosion control sequencing
 - b. BMP inspection and maintenance
 - c. Pollution prevention management measures
 - d. Stabilization schedules

- e. Temporary storm water quality measures, including silt fence, inlet protection, dust control
- 19. Access easements to the hydroelectric dam have been retained.
- 20. The planned demolition and decommissioning process supports the following

Comprehensive Plan goals and strategies:

COMMERCIAL/INDUSTRIAL LAND USE

Goal: *Plan for the orderly, efficient and fiscally responsible growth of commercial and industrial development in Brainerd.*

STRATEGY

Encourage the development of additional commercial and industrial areas within the city in accordance with the land use plan.

ECONOMIC DEVELOPMENT

Goal: *Support the development of a strong, diversified, and growing economic base and create a favorable climate for economic development and ongoing business activities.*

STRATEGY

Promote and encourage quality commercial and industrial development in the city through the support and cooperation of the City Council, EDA, the Brainerd Lakes Development Corporation (BLADC), business organizations and community leaders.

1. Actively promote development and redevelopment within the community,

...

2. Plan for adequate land for future Industrial and Commercial Developments in three principal areas within the city:



East of Business Highway 371 near the Industrial Park Road



Within the Redevelopment of the Northern Pacific Center



On the former Potlatch Paper Mill site



Other areas deemed appropriate

LAND USE

Land Use Goal #5: *Support development that enhances community character and identity.*

STRATEGY

Support the redevelopment of vacant and abandoned sites within the urban core.

- 21. Crow Wing County Engineering Department has submitted a letter with comments related to Mill Avenue use.
- 22. There are 23 approval conditions to protect the community public health, safety and welfare.

The Commission agreed to amend/add the following findings-of-fact:

- Amend 10 to include demolition of the utility substation.
- Amend 15 to read “local residential streets”
- Remove finding-of-fact 18
- Add finding-of-fact 23 – owner Mike Higgins and Jeff Bean who has assisted in the IUP proposal spoke.
- Add finding-of-fact 24 – Bruce Buxton a member of the BLAEDC Board and Wausau Site Task Force and BLAEDC staff member Chris Robinson spoke in support of the BIC request.

The Commission agreed to the following conditions as presented by staff to include amendments previously discussed:

1. **Decommissioning Approval Period.** The Interim Use Permit for all decommissioning activity shall be in effect for two (2) years from the date of the Interim Use Permit approval.
2. **Neighborhood Meeting.** Prior to beginning the decommissioning process, BIC will conduct a neighborhood meeting.
3. **Decommissioning Meeting.** Prior to beginning the process, a decommissioning meeting shall occur with all parties involved to review the decommissioning work plan.
4. **Contact Person.** The owner must designate and maintain throughout the term of the project a site representative with final decision making authority 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 plans. The City of Brainerd will designate the Building Official as the contact person on behalf of the City.
5. **Decommissioning Process.** The decommissioning process shall not commence and a City of Brainerd Building Permit will not be issued until all of the applicable submittal requirements specified herein have been submitted and approved by the City of Brainerd.
6. **Document Submittal.** Any and all documents that need to be submitted and revised to be in compliance with the conditions, terms and performance standards of this Interim Use Permit shall be submitted to the City prior to the issuance of a building permit.
7. **Escrow Account.** BIC shall provide and maintain an escrow in the amount of \$5,000 to cover the cost of testing during the decommissioning process, staff time associated with the decommissioning process and for any other unintended damages or needs that arise during the decommissioning process. The unused escrow amount will be returned upon completion of the decommissioning process.
8. **Inspections.** A bi-monthly (every 2 months) meeting with the Building Official shall occur on-site on a Wednesday before a City Council meeting.
9. **Environmental Inspection and Reports.** The owner shall provide a copy of the renovation/demolition environmental checklist to the City of Brainerd along with certifications that the hazardous materials have been removed and properly disposed of.
10. **Easements.** Easements shall that have been granted to the City of Brainerd shall remain. If needed, new easements shall be in a location and size acceptable to the City of Brainerd. Documents for any new easements shall be prepared by the property owner and reviewed by the City of Brainerd. Easements shall be recorded at the Crow Wing County Recorder's office at the property owner's expense.
11. **Utility Connections.** All disconnections from services shall be mechanically capped or bulk headed as required by the City Engineer's Office.
12. **Foundation Removal.** Demolition work shall include complete subgrade walls, floors and foundations/footings.
13. **Fill.** Fill to be either a granular backfill or Class 7 crushed concrete compacted to a 95% maximum density.
14. **Structural Integrity.** An engineered structural solution and restoration plan shall be submitted for any alterations to the remaining load bearing structure.
15. **Noise.** Activities that generate continuous noise, such as concrete crushing and hydraulic hammering, may not exceed the noise standards as established by the Minnesota

Pollution Control Agency (MPCA) on various land uses within audible distances of the activities. Noise measurements will be conducted as soon as weather conditions permit following the commencement of the activity. A sufficient number of spot measurements will be taken to test residential properties located radially from the site. If the noise levels fall within acceptable MPCA guidelines, additional measurements will not be necessary unless there is a change of activity location, a change in noise abatement features, or complaints from the public.

- 16. Vibration.** Measurements at adjacent property lines should not exceed a Peak Particle Velocity (PPV) of 0.5 inches per second. If measurements are greater than 0.5 inches per second, additional readings should be taken to determine a safe distance from the activity. BIC shall submit pre-demolition vibration readings. The owner will provide, upon request by the City of Brainerd vibration readings to the City Engineering Department.
- 17. Waste.** All disposal debris will be hauled to a licensed demolition landfill. The handling and disposal of construction and demolition debris shall be done in accordance with all federal, state and local laws and ordinances.
- 18. Fire Safety.** The owner shall comply with Section 14 of the State of MN Fire Code. An onsite walkthrough inspection by the City of Brainerd Fire Department will be required prior to starting the decommissioning process.
- 19. Trucking Route.** Truck traffic on local residential streets is prohibited.
- 20. Site Buffer/Security.** The existing visual buffer and fencing shall be retained.
- 21. Approvals by Other Agencies.** The owner must obtain approvals and appropriate documentation for the demolition and restoration from all other agencies having jurisdiction, including but not limited to Crow Wing County, Minnesota Department of Natural Resources, Minnesota Pollution Control Agency, and Environmental Protection Agency. Work must be performed as specified in these approvals. The City of Brainerd is not responsible for BIC's approval by these agencies and/or ensuring BIC complies with these agency rules and regulations.
- 22. Termination.** The Interim Use Permit shall terminate upon the occurrence of any of the following events, whichever first occurs:
 - a. The completion date specified in the permit (Condition #1);
 - b. A violation of the conditions under which the permit was issued. A 30 day order to cure will be provided to the owner by the City of Brainerd in advance of termination.
 - 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.
 - d. A certified copy of any order terminating the Interim Use Permit shall be filed with the Crow Wing County Recorder for recording.
- 23. 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.

Discussion was held regarding truck traffic hours. The Commission agreed to remove Condition 9 regarding hours of operation and truck traffic.

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND MATTEN, DULY CARRIED, TO RECOMMEND APPROVAL OF THE INTERIM USE PERMIT AS SUBMITTED BY BRAINERD INDUSTRIAL CENTER FOR THE DECOMMISSIONING OF FORMER WAUSAU PAPER SITE LOCATED AT 1801 MILL AVENUE THE WITH THE TWENTY-TWO (22) FINDINGS-OF-FACT AND TWENTY-THREE (23) CONDITIONS.

#5 **PUBLIC FORUM** – Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission – Time limits may be imposed.

#6 **OLD BUSINESS**

None

#7 **Commissioners' Questions/Comments**

None

#8 **City Planner's Report**

None

#9 **Adjournment**

As there was no further business the meeting adjourned at 9:02 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

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