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January 15, 2013

Scandia City Council
Scandia Planning Commission
14272 209th Street North
Scandia, MN 55703-8503

Re: Zavoral Mining and Reclamation Project: Conditional Use Permit Application

Dear Mayor and City Council Members:

I write on behalf of Tiller Corporation (“Tiller”), the Applicant for a Conditional Use Permit (the “CUP”) authorizing the Zavoral Mining and Reclamation Project (the “Project”). The purpose of this letter is to support Tiller’s request that the City Council approve Tiller’s Application for the CUP. The Project should be approved because it is a sound project, finally completing the mining of the project site with enhanced reclamation, providing a significant benefit to the City. The City’s regulatory framework applicable to the Project supports approval because the Project meets all of the requirements of the City’s Mining Ordinance and the standards in the City’s Development Code for a conditional use permit. The Planning Commission’s Resolution for Denial of the CUP should be rejected because it fails to apply the City Development Code and merely expresses the various Planning Commissioners’ individual will and opinion concerning the Project without reflecting the Planning Commission’s judgment about the merits of issuing the CUP.

THE PROJECT BENEFITS THE CITY

Granting the CUP will enable the City to obtain meaningful, prompt and extensive reclamation and permanently terminate the old gravel pit.

An even more compelling rationale in support of the CUP is inherent in the Project itself. Although discussed thoroughly in the EIS and presented by Tiller in its presentations in support of the Project, little attention has been given to the substantial benefits of the Project and the importance of the Project to the City of Scandia. The Project title is a meaningful expression of the Project purpose. This Project is as much about reclaiming the previously mined Project site as it is about producing material. The Project site as it sits today is predominantly bare, exposed sand and gravel, remnants of a mining operation conducted in a prior era before modern environmentally sensitive mining practices became the norm. The irregular landforms present today are neither aesthetically pleasing nor ecologically functional. Currently, vegetation is sparse and generally comprised of invasives and non-native species, providing little important habitat and a topography inconsistent with surrounding properties. Only in the course of a significant undertaking like the Project can the extensive site work, grading, and management of revegetation be accomplished. The City’s current Development Code does not provide a vehicle or mechanism to either incent or demand restoration, reclamation, revegetation, forest protection,

tree preservation, or habitat management of the property. At the Planning Commission's December 4, 2012 hearing, neighbor Greg Amundson described how the Shelander Gravel Pit reclamation project provided substantial benefits to the properties in the vicinity of the Project. It is those same benefits that the Project proposes to deliver to the City. The economic value of producing the limited amount of material to be mined from the Property supports the very substantial investment Tiller proposes to make in reclamation of the Project site. Tiller expects that rather than the \$2,000 per acre budgeted for standard gravel pit operations in the City, the more extensive reclamation effort at the Project will have a budget of \$6,000 per acre.

That a significant component of the value of this Project lies in reclamation is further evidenced by the fact that Tiller has determined to make substantial modification to the Project in order to further improve its acceptance in the community, and has developed an operating plan that would replace other materials rather than supplementing and increasing its market share.

Tiller is excited that this innovative approach will allow this unusable, impaired property to be put to productive use, generating value to be returned to the property as a mechanism to reclaim it for other productive uses and facilitate assimilation of this Project site into the neighborhood in a meaningful way.

THE PROJECT MEETS THE STANDARDS OF THE CITY DEVELOPMENT CODE

Applicable Regulatory Framework.

Much is made about the City Council's various decisions and reaffirmations of its determination to review the Project under the 2020 Comprehensive Plan. The factors that are important to that determination include:

- The extent of action which has occurred in reliance on the determination. 4 years and thousands of dollars were expended in the permitting process.
- The certainty with which the City made the decision. It was initially confirmed by staff and subsequently reaffirmed by the Council. Thereafter the opposition group has repeatedly asked specifically that the Council act to reverse that determination and each time the Council has directly decided not to do so.
- The practical impacts of the decision made by the council. This issue is really about whether the Project is banned outright without considering the merits of its impacts or lack thereof on the surrounding properties. The City has intentionally (and presumably thoughtfully) placed mining overlay zoning in Core agriculture areas repeatedly, thus a thoughtless ban (without considering the merits) operates as an arbitrary determination to be avoided.
- The fact that the Mining Ordinance provisions applicable to the facility and protection of the surrounding properties are the same set of regulations in the ordinances adopted under both the 2020 and 2030 Comprehensive Plans means that the underlying dispute is really about whether to allow the use at this particular location rather than whether it will have adverse effects upon the City.

The Ordinance Standards are met.

Reviewing the Project under the 2020 Comprehensive Plan yields the conclusion that the Project is a conditional use at the Project Site. This conclusion is important to the analysis of the compliance with the City's Development Code as set forth below.

(1) The conditional use will be in compliance with and shall not have a negative effect upon the Comprehensive Plan, including public facilities and capital improvement plans. In a letter dated December 12, 2012 on behalf of Tiller we set forth the ways in which this project meets the goals and objectives of the City's 2020 Comprehensive Plan, including the plan segments discussing:

- Rural Area Issues (explaining the need for gravel pits, describing the benefits of well screened facilities and the insisting upon reclamation);
- Community Vision and Values (calling for managing natural resources with the care i.e. mitigation and CUP conditions);
- Natural Landscape Plan (advancing the importance of mine area reclamation);
- General Community Goals (The stated large lot development goal is enhanced by creation of the "river terrace-like" landform.);
- General Rural-Agricultural Land Use Policy (Mining and reclamation is compatible with agriculture production and does not encourage increased residential density)
- Transportation (No new traffic is generated. The access to the Project utilizes only state Trunk Highways, "arterial" roadways.)

"(2) The establishment, maintenance or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort." Tiller Corporation's submittal dated January 7, 2013 reviewed this criterion directing the City Council and Planning Commission to the information presented by the City's sources—the Staff reports, the City's consultants reports and the EIS. This review focused on the economic benefits of access to the mined materials as well as the community benefits of the enhanced reclamation. This criterion requires the City to also consider the conclusions in the EIS that with adequate mitigation the Project does not present adverse environmental effects. In this criterion it is very important that the City not be tempted to act based upon unsubstantiated fears and concerns but base its considerations on objectively stated data. City staff, consultants and the EIS supports the lack of detriment relating to:

- *Air Emissions.* The EIS analysis concluded that dust levels would not exceed health based standards and that nuisance dust could be controlled with an active dust control plan. The Draft CUP contains further assurances from monitoring.
- *Noise.* Noise level analysis by Tiller, the City's consultant and the National Park Service each provided noise analysis. None predicted any noise levels which would exceed the City's noise standards (Limited by state statute (M.S. Section 116.07) to the MPCA Noise levels of Minn. Rules Ch. 7030. Although the Park Service seeks to have the City be more restrictive it presents no regulation to provide a rational basis for that request.

- *Traffic Safety and Congestion.* The EIS concluded that because the Project is the production of material that will replace Ad-rock currently hauled on Trunk Highways 95 and 97, traffic impacts from the operation of the Project will be minimal. By access directly to state trunk highways through a controlled intersection upon receipt of a MN/DOT issued Access Permit, the City is assured the project traffic will move safely.
- *Surface Water Resources.* In both the Mining Plan and the Reclamation Plan the Project includes the creation of internally draining landforms with inherent surface water filtering and cooling. The EIS concludes that there would not be impacts to surface water resources from the Project. In support of that conclusion, the Project includes an active Storm water Pollution Prevention Plan as part of an MPCA issued storm water permit program to assure there would not be adverse effects. The Staff recommendations for permit conditions include monitoring to assure there are no surface water issues.
- *Groundwater Quality or Quantity.* That groundwater would not be an issue for the Project was an early determination when the washing and other processing was deleted from the plans. The City in its Development Code requires a Groundwater Monitoring Plan to protect groundwater at gravel mines. The City Development Code not only does not have a standard for groundwater separation but contemplates that mining operations could mine into the water table. Development Code Chapter 4 Section 5.2 (9) (P) and Section 7.1 (&). CMSCWD recommends a three foot separation distance between the mine floor and groundwater; however other facilities permitted by the City do not maintain any separation. The EIS confirms that there would not be any groundwater quantity impacts based on pump tests. The EIS concluded that there would not be any impacts to groundwater quality. The City Staff's proposed conditions would include monitoring to provide further assurance against groundwater impacts.

“(3) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values or scenic views.” In Its January 7, 2013 submittal (Memo from Greg Korstad) Tiller described how this standard was met by the Project when it is operated in conformance with its permits and operating plans submitted with the Application and based upon the mitigation analyzed in the EIS. Tiller also emphasized the objective factual information presented on each of these issues and contrasted it with the unsubstantiated fears and concerns described by Project opponents. In evaluating this criterion it is important to consider the entire Project including the reclamation of the site. The significant improvement of the vicinity of the Project from the reclamation of the site assures that this standard is met.

“(4) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district”. As confirmed in the City Staff Report, the Project will not prevent the continued use of any of the properties surrounding the Project in the same manner as they are currently being used. The Project will in fact improve the neighborhood by completing the reclamation of the Project site not otherwise available

“(5) Adequate public facilities and services are available or can be reasonably provided to accommodate the use which is proposed”. This Project does not require any public facilities, except roadways and they are provided by the State of Minnesota. Thus no impact to services provided by the City.

“(6) The conditional use shall conform to the applicable regulations of the district in which it is

located and all other applicable standards.” This standard is met in the same way as described in the discussion of criteria (7) in the following paragraph.

“(7) The conditional use complies with the general and specific performance standards as specified in ...[the Code.]” The City can be well assured that each of its performance standards will be met. The process followed by the City in reviewing the CUP has several safeguards built in to assure compliance:

- The City Development Code requires an Annual Operating Permit which will be effective to assure performance standards are met, including monitoring by third parties.
- The City’s EIS describes the effectiveness of mitigation.
- The City Staff has provided extensive CUP conditions as recommendations.
- The City’s Planning Commission’s extensive deliberations resulted in its mark up of a proposed set of permit conditions intended to operate to assure the City that the Project will meet these performance standards.

THE PLANNING COMMISSION RECOMMENDATION SHOULD BE REJECTED

The rationale for rejecting the Planning Commission’s recommendation is based upon the following factors:

1. The Planning Commission has not followed the local and state laws applicable to the review of the CUP. The proposed resolution describes a review of the Project which does not follow the City’s Development Code. The Planning Commission has attempted to apply standards not found in the City’s Zoning Code. The Planning Commission’s Resolution does not comply with state law requiring a rational basis for a decision reflecting the Planning Commission’s judgment based on state statutes and legal precedents for conditional use permits.
2. The Planning Commission’s Resolution fails to follow the City Council’s direction to consider the Project and the application for the CUP under the City’s 2020 Comprehensive Plan, which was in effect at the time of the application and at the time that the City commenced its review of the application and the City’s environmental review of the Project.
3. The Findings and conclusions of the Planning Commission as expressed in its resolution are not based upon factual information presented to it, are contra to the information obtained by the City in its preparation of its environmental impact statement and are not supported by the record. Facts cited in the Planning Commission Resolution are not supported by the record.

Based upon these factors as discussed below in our review of the specific paragraphs of the Planning Commission Resolution, the City’s Planning Commission recommendation is unable to be supported in either law or fact. Accordingly, the Planning Commission recommendation must

be rejected and the City Council must develop its own decision based upon the City's Ordinance Code, state law, the City's environmental review, and the EIS, as well as the additional consulting reports obtained by the City in connection with review of the EIS.

The Planning Commission's recommended Resolution fails to follow the City's regulatory framework for reviewing the CUP by not reviewing the Project under the applicable Comprehensive Plan and Ordinance.

The Planning Commission's Resolution in the Preamble describes the seven criteria for evaluating Conditional Use Permits as described in the City of Scandia Development Code, but then the resolution goes on to review the Project and the application for the CUP against several other criteria not contained in the Development Code.

- In Paragraph E-1, the Planning Commission proposes to review the Project noise against a standard not found in the City's Development Code. State law requires that noise impacts be judged in accordance with objective, measurable noise regulations promulgated by the Minnesota Pollution Control Agency. This issue was discussed at the Planning Commission's January 7 meeting following advice from City staff and the City Attorney about statutory limits on the City's regulation of noise.
- In Paragraph A-22, the Planning Commission seeks to impose an additional standard not found in the City's Development Code of "harmony with the general purposes and intent of the City's Development Code and applicable Comprehensive Plan" and "presents an unacceptable risk of irreparable harm to the City's most precious assets." (This notwithstanding the EIS finding that there would not be potential for significant environmental effects, stated in the Preamble of the Planning Commission's Resolution.)
- Paragraphs B-6 through B-8 seek to impose a view shed standard which would be used to limit through traffic within the City. This is not found in the Development Code, and further fails to acknowledge the presence of traffic regardless of the Project.
- In Paragraph B-5, the Planning Commission imposes an additional criterion not found in the City's Development Code, a requirement that the Project create or add jobs in Scandia's job base, notwithstanding many residents of the City commute to jobs. This paragraph also ignores the fact that the Project locates workers and activities on-site that are not being currently performed in the City.

The Planning Commission's deliberations included a review of proposed conditions for any permit issued for the Project. In those deliberations conditions were drafted by the Planning Commission that would impose the costs of regulating the facility directly on Tiller as authorized by state law and the City's Development Code. Notwithstanding the availability of this regulatory solution, the Planning Commission attempts to attribute an adverse impact to the City from the regulatory costs that Tiller would bear. It is also important to note that the City has presented a proposed development agreement from Tiller to review which would protect the City's interests.

The City Council and City Staff have on numerous occasions been asked to determine whether the Project should be reviewed by considering the Comprehensive Plan in existence at the time the Project was brought to the City for consideration and at the time of the formal application. Project opponents have asked the City Council on multiple occasions to provide advice on that issue. The City Council and Staff have been unanimous and consistent in determining that the City 2020 Comprehensive Plan is to be considered by the City in determining compliance with the plan, as has been recommended by both the City Planner and the City Attorney. The Planning Commission, however, in Section A1-10, goes on to describe how the 2030 Comprehensive Plan Update was developed without ever addressing the Council's directive or considering the effect of its action on the approval process as established by the City. The Planning Commission does not address the fact that the City's determination on how to conduct the environmental review process contributed much of the delay in reviewing the Project. Nor does the Planning Commission consider that at the time of the application, the Project was not able to be reviewed under the 2030 Comprehensive Plan because the City had not yet completed development of the various ordinances executing the 2030 Plan until November of 2010.

Paragraph A-11 of the Resolution does not fully describe the regulatory framework found in the City's current ordinance and current Comprehensive Plan as relates to mining. Gravel mining is an authorized use at various locations within the City and all areas of the City zoned as an overlay district. The overlay district zoning is by definition compatible with Agricultural Core Area zoning by virtue of the fact that all three of the City's mining overlay district areas are in or adjacent to Agricultural Core Area zones.

Paragraph A-13 misquotes the 2030 Comprehensive Plan describing how mining is to be treated within the City. It mischaracterizes the two operations described in Northwest Scandia and completely ignores the discussion in Land Use Goal 13, which is the discussion of the mining use which suggests mining would be "limited to existing locations." The Zavoral site at a dormant, unreclaimed mine is certainly an existing location because it is mapped in this Plan.

In Paragraph A-17, the Planning Commission misstates the City's April 2009 determination to review the Project under the 2020 Comprehensive Plan and speculates about information not in the record as to what Tiller Corporation's legal staff may or may not have thought.

The Planning Commission failed to understand the Project. In Paragraph E-10, the Planning Commission describes impacts to a nine acre white pine hardwood forest. There is no nine acre white pine forest in the Project.

In Paragraph E-11, the Planning Commission indicts the mining industry generally as a basis for not approving the Project notwithstanding that the City has and continues to annually issue operating permits to three other mining operations.

Paragraph B-1 misstates the traffic situation when it describes truck traffic at the three intersections at which existing truck traffic, which would be replaced by traffic from the Project, is currently present. This provision also fails to acknowledge that the Project removes this traffic from the area of Highway 95 north of 97. It also ignores the fact that all of the traffic from the Project exits directly into the 95/97 intersection at a controlled intersection, where it is required to yield to all other vehicles. The description of traffic at Highway 97 and Lofton and Lofton

and 223rd Street ignores the circumstances existing without the Project. Without the Project, the traffic will still be there when ad rock is hauled for the Tiller Scandia mine.

The Planning Commission failed to consider the EIS.

The Planning Commission's recommended resolution contains a perverse result. In the preamble to its Resolution, the Planning Commission concludes that the City's EIS demonstrates that "the Project will not have significant environmental impacts." The Planning Commission then goes on to describe in its Resolution a variety of concerns and considerations that would suggest it chooses not to rely upon the City's EIS.

In Paragraph E-2, the Planning Commission misinterprets the impact of state noise regulations at highways. The Planning Commission reiterates Tiller's quote from the EIS stating that noise standards would be exceeded, but fails to acknowledge that the exceedance is from existing traffic. The cited segment of the EIS does not support the Planning Commission conclusion in that it states "the noise impacts to residences . . . are not predicted to change from current conditions." Because there is not a demonstrated change in noise level impacts resulting from the Project, noise considerations support Project approval.

In Paragraphs E-3 (both), the Planning Commission attributes a violation of federal policies for noise to the Project, but fails to identify or describe that policy or how it operates within state statutes that prohibit the City from acting to enforce more strict requirements than state regulations. In addition, reliance on noise generated outside the scenic easement areas acquired by the Project fails to recognize the function of those scenic easement areas as providing a buffer to the park. Accordingly, it is not reasonable to require a buffer of the buffer.

The Planning Commission failed to consider the City's staff and consultants' advice. The Planning Commission asked the City to obtain the advice of several well qualified knowledgeable experts in several areas of interest in the Project and sought advice from them. These experts confirmed the analysis of the EIS and generally described how the Project could be regulated. The Planning Commission instead chose to ignore them.

The Planning Commission's recommended Resolution is not based on the factual information and data presented in the EIS, and by expert testimony.

In Paragraph A-21, the Planning Commission calls out the presence of "high sensitivity for ground water, sensitivity to ground water pollution" as an adverse factor of the Project, but fails to recognize that each of the mining overlay designations in the City are also in areas that are similarly characterized. In this paragraph, the Planning Commission also attempts to impose a standard not found in the Development Code relating to "increased consideration of natural resources" Further, this paragraph mis-states the content of Overlay Map 26, when it states that the Project site is entirely within the Natural Resources Priority Areas shown in Map 26. Map 26 shows a perimeter surrounding the formerly mined area of the Project effectively carving out most of the Project from the Priority Area.

The Planning Commission has significantly misstated the information about traffic contained in the EIS and in the materials presented in Tiller's application and testimony at public hearings. Paragraph B-2 does not completely present information provided by Project opponents' traffic engineer. It also fails to present consideration and information from the Minnesota Department of Transportation Project Analysis. The opposition engineer's statement that there are more opportunities for conflict at a crossroads than a T-intersection is not put into the context of either existing traffic, nor moving all of the truck traffic from Highway 95 and adding the additional control of the crossroad configuration for the Trunk Highway 95/97 intersection.

The Planning Commission's Paragraph B-3 cites data from Project opponents' consultant as describing an eroded valley as a "blow out area" without ever quantifying the level of activity necessary in order to support the premise that some sort of hypothetical instability could occur. Thus the Planning Commission took the testimony that it is possible to make a slope unstable through saturation as conflicting with testimony from the City's consultants that the level of activity undertaken by the Project would not be sufficient to make those circumstances occur. The constructed conflict is then used to suggest uncertainty, when the only uncertainty presented is in the lack of The Planning Commission goes on to suggest that the geologic instability in some way adversely threatens groundwater without providing any support for that assumption.

In Paragraph B-4, the Planning Commission speculates that 25 feet of separation from groundwater may not be sufficient, however, there is no information presented to support that speculation.

In Paragraph C-1, the Planning Commission relies on speculation of a potential loss in property value regardless that all of the objective analysis of transactions and market data presented in the EIS and by Project opponents and Tiller shows no measurable effect on property values.

In Paragraph C-2, the Planning Commission states that property values have been impacted but then goes on to state that there is no record of that impact.

The Planning Commission's recommended Resolution appears to be the result of public opposition and the will of commission members rather than judgment about the Project.

In Paragraph A-20, the Planning Commission acknowledges that the City's Comprehensive Plan "calls for reclamation," but then recommends against a project that would do just that.

The Planning Commission attempts in Paragraphs E-4 through E-10 to present a determination that the Project fails "to conform to the applicable regulations." This attempt fails because it merely cites the standards without describing any evidence of conformance or nonconformance.

In Paragraph A-14, the reference to Map 6 showing sand and gravel deposits, is incomplete and out of context. This paragraph omits the fact that Map 6 shows the Project site as being located within an area of "moderate to excellent" deposits.

The discussion of scenic views ignores the realities of the active use of the state highways in the City. In Paragraph B-5, the Planning Commission describes the Trunk Highway 95-97 intersection as a gateway point, and further in Paragraph B-6, confirms that it may be possible to

screen the mine entrance from view, confirming the lack of view shed impact, but then goes on to describe the absurd situation that truck traffic on the State Trunk Highways is somehow an impairment to the view shed.

The City Staff Report

City Planning Staff have prepared a report to aid the Council's deliberations. The staff report is generally an accurate description of the Project but is missing certain important information.

- The unmined nine acre segment of the Project is not well described. It has been seriously mis characterized in public hearings. There are trees on this area; however those trees are only a small portion of the nine acres, approximately 4.2 Acres. The wooded area is a less effective edge area habitat and is not protected by any existing regulation which would prevent them from being harvested today. The nine acres is only partially wooded and contains a deposit integral to the project and not unique to the Project site or vicinity.
- The Findings for the March 3, 2009 EIS decision by the City Council is misstated in the Staff Report. The City's decision was based upon the a finding that "the City couldn't determine whether there was a potential for significant effects after the City rejected the preparation of an annotated EAW to promptly answer opponents questions about the Project. This is wholly different from a conclusion that the EAW presented a determination that there were potential significant effects.

The Staff Report is an objective analysis of the Project. It reviews the Project against the standards of the City's Comprehensive Plan and Development Code. The Staff Report describes a thorough review of the Environmental Review, the planning issues presented and the documentation provided in the Application. The proposed approval resolution prepared by staff is clearly supported by the information in the City's record.

CUP Conditions

The city's Planning Staff has prepared a recommendation for the CUP terms for the Project. Generally the conditions stated in the Staff Report are related to the Project and mitigation of the impacts as described in the EIS. There are however recommended conditions that are not supported by either the EIS or the technical information presented to the City by its consultants and which are not supported by the City's experience at the three more intense gravel mining facilities for which the City has issued conditional use permits and issues annual operating permits. These conditions should be deleted from the CUP:

- 3. The restriction on the depth to groundwater is not based on any regulation regulatory requirement or technical analysis, but rather is simply derived from the project characterization. The applicable regulation calls for a 3 foot separation distance thus monitoring and reporting a 25 foot proximity is unreasonable.

- 4. There is no basis for differentiation on the use of mined material for hydraulic fracturing as opposed to any other use. The City has evaluated the air emissions issues in its EIS which has concluded that there is not an environmental health impact from the silica materials in the materials mined at the Project.
- 34 -40. The Project does not create any change in traffic on Trunk Highway 97 or at the Scandia Mine from the operation of the Zavoral Project because the Project material substitutes for material being obtained elsewhere. Accordingly there is not a basis for conditions related to the traffic situation on Trunk Highway 97.
- 88. Cash escrow amount. The City's monitoring estimate of approximately \$100,000 is excessive, especially when compared to the monitoring requirements imposed at other facilities. This is aggravated by the circumstance that, in contrast to the other facilities in the City, this Project is simply digging the naturally occurring materials from the ground and putting them in trucks which drive away from the site.

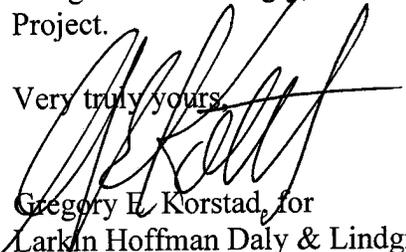
Conclusion

The Planning Commission mischaracterizes the role of mining in the City's Comprehensive Plan by claiming a mining facility has a negative impact on the Comprehensive Plan when, in fact, the Comprehensive Plan specifically identifies mining as an authorized use in the City.

The City Council has an obligation to the City to assure that develop occurs in an orderly fashion and to act rationally and reasonably in evaluating the Project. The City has determined that the Project does not have the potential for significant environmental effect following a comprehensive Environmental Impact Statement. In 2009 the City was presented with an environmental assessment worksheet which reached a similar conclusion, however, based on questions presented by Project opponents, at that time the City determined that it would test that hypothesis by preparation of an EIS.

The EIS has now been completed at a cost of four years and thousands of dollars, and again the City is presented with the same conclusion, albeit supported with greater detail. The City is no longer in a position where it can hypothesize that the Project may have a particular effect. It now is in the situation of knowing the effects of the Project and understanding the substantial benefits to the community in reclaiming the Zavoral mine property and the lack of adverse effects from doing so. Accordingly, Tiller requests that the City approve a Conditional Use Permit for the Project.

Very truly yours,


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