



Staff Report

Date of Meeting: January 15, 2013

To: City Council

From: Kristina Handt, City Administrator

Re: Tiller Conditional Use Permit

Agenda Item #: 7.a) 1)

Background:

At their special meeting on January 7, 2013, the Planning Commission passed Resolution 01-07-13-01 D recommending denial of Tiller Corp's Application for a Conditional Use Permit for the Zavoral Mine and Reclamation Project.

Issue:

Per Scandia Development Code, the Council needs to determine if the Application for a CUP for the Zavoral Mine and Reclamation Project meets the following criteria:

Ordinance No. 103 Section 3.1(4):

In order for the City to grant a Conditional Use Permit for a new mining operation or the expansion or change in use of an existing operation, all of the following criteria must be met:

- (A) The property, which may consist of more than one parcel with more than one owner, is at least 40 contiguous acres in size.
- (B) The standards for approval of a conditional use permit as contained in Chapter One, Section 7, of the Scandia Development Code are met;
- (C) The operation is consistent with the Scandia Comprehensive Plan; and
- (D) All provisions of this Chapter are met.

Chapter 1, Section 8, Scandia Development Code:

8.4 General Criteria. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but be not limited to, the following general criteria:

- (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.
- (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.
- (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.

- (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.
- (5) Adequate public facilities and services are available or can be reasonably provided to accommodate the use which is proposed.
- (6) The conditional use shall conform to the applicable regulations of the district in which it is located and all other applicable standards of this Chapter.
- (7) The conditional use complies with the general and specific performance standards as specified by this Section and this Chapter.

Proposal Details:

Included in your packet are a copy of Resolution No. 01-07-13-01 D, approved by the Planning Commission and recommending denial.

Also included in your packet is the staff report from the City Planner that includes staff analysis and recommendations for conditions to place on the CUP if the application is approved.

The City Planner will go through each of the criteria required to be met in order to issue a CUP and will present both the Planning Commission recommendation and staff recommendation,

In order to have a resolution drafter for the February 19, 2013 Council meeting, the Council will need to provide direction to staff on whether or not each of the criteria are met and what factual evidence they are basing that decision on.

The complete application, EIS, public comments, staff reports and other information presented to the Planning Commission and Council previously is available on the city's website and therefore has not been included in your packet materials.

Fiscal Impact:

A Developer's Agreement has been drafted by the City Attorney. It covers costs incurred by the City in the negotiation and drafting of and the Owner's and Operator's compliance with the CUP, the AOP and this Agreement including but not limited to the Monitoring Activities (including but not limited to the costs of equipment, installation, site visits, data collection, data analysis, reporting and all other costs associated with monitoring activities) and the Reclamation Actions. A draft of the Developer's Agreement is provided in your packet.

There is also a condition in the resolution requiring the applicant to cover all of the city's costs incurred with monitoring and reclamation including city staff time.

The Developer's Agreement cannot be signed until all of the blanks are filled in. The City Council should provide direction to staff on which Alternative from the EIS should be used and also establish an escrow amount. Monitoring costs for the first year are estimated to be about \$155,000. Staff would recommend the escrow be established at \$25,000 to minimize the need to use City funds while waiting for reimbursement from the applicant.

Options:

- 1) Provide findings of fact to support an approval of the CUP, with or without conditions
- 2) Provide findings of fact to support a denial of the CUP.