

Scandia Planning Commission,
December 12, 2012

**Zavoral Mine and Reclamation
Project—
Chapter One Criteria Review**

Development Code Criteria— Chapter 1, Section 8: CUP's

- 1. Compliance with Comprehensive Plan**
- 2. Will not be detrimental to or endanger public health, safety, morals, comfort**
- 3. Not diminish use of other properties, substantially impair property values or scenic views**
- 4. Adequate public facilities and services are available**
- 5. Conform to regulations and standards of district**
- 6. Complies with performance standards of the Development Code**

Determining Compliance with Criteria

- Identify objective standards in the Development Code for evaluating each general criteria—for example, “general public welfare” includes standards in Code related to traffic control, environmental impacts, surface and ground water impacts, economic impacts
- Identify and relate factual data related to compliance from application, EIS, other factual data
- Identify conditions that could be required to meet criteria
- Evaluate: Does the project meet the criteria?

Criteria #1—Project must comply with Comp Plan, including public facilities and CIP Plan.

- **Using 2020 Comprehensive Plan—adopted plan at time of application**
 - **Attorney's analysis**
 - **Aggregate Mining is allowed use with CUP in Agriculture District**

Criteria #1—Project must comply with Comp Plan, including public facilities and CIP Plans.

- **2020 Comp Plan Policies—Aggregate Mining**
 - **Mining should continue to be an allowed use in the Agriculture District with a CUP**
 - **Aggregate mining is a necessary activity**
 - **Mining activity should be screened from neighbors' views**
 - **Land reclamation should be required and carefully managed**

Criteria #1—Project must comply with Comp Plan, including public facilities and CIP Plans.

- **Planner's findings for Criteria #1: Project meets criteria**
 - Aggregate mining is a permitted use in the AG District with a CUP
 - The CUP application includes screening and a reclamation plan that meet or exceed the code requirements.
 - Screening must be at least 6' high and may include walls, berms, fences, plantings
 - Reclamation criteria—Ordinance 103, Section 8
 - The proposed project does not impact the public facilities discussed in the 2020 Comprehensive Plan—local roadways, local parks, and downtown sewer system.
 - Condition included for funding for city bike/pedestrian trail
 - 2020 Comprehensive Plan did not include a CIP Plan. EIS concludes no impact to public facilities with mitigation
 - Conditions included that Tiller fund public improvements required for operation
 - Conditions included that Tiller fund all monitoring and implementation of mitigation plan

Criteria #2: 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.

- **Objective criteria/data in Code and EIS for “general public welfare, safety, morals and comfort:”**
 - *Traffic control—prevent congestion, traffic hazards and excessive traffic through residential areas (particularly truck traffic). Safe internal traffic movements and no backing into streets.*
 - **Environmental impacts—Hazardous materials and nuisances (noise, odors, air pollution, wastes, dust, etc.)—*must meet MPCA (State) standards***
 - **Surface and ground water impacts—*standards in items 5.6, 5.7, and 5.9 in Mining Ordinance #103***
 - **Economic impacts—*jobs, local economy, taxes, property values***

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- **Traffic– EIS concluded that the existing roadway network is sufficient to handle potential traffic volumes that the project may create safely. Why?**
- **Existing total traffic on TH 95 and TH 97**
 - **Average daily traffic (ADT--existing) on TH 95: 3500-4200 vehicles**
 - **Average daily traffic (ADT--existing) on TH 97: 4200-9000**
 - **MnDOT: general standard is 2-lane State Trunk Highways can handle up to 10,000 ADT before consider upgrade to 4-lane**
- **Existing Tiller Traffic on TH 95 and TH 97 from mines in Franconia Township, MN and Osceola, Wisconsin**
 - **Average: 380 trips per day**
 - **Maximum during recent haul event: 530 trips per day**

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- While Tiller Site is in operation, Tiller would not haul from Franconia and Osceola. This traffic will be replaced with hauling from Zavoral Mine to Scandia Mine.
- Traffic generation per alternative, comparison: New truck trip generation by project on peak days is around 7% more trips than existing condition.

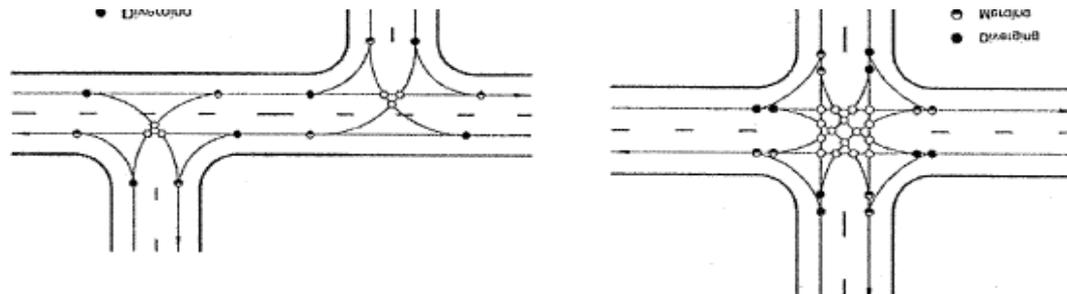
Alternative	Average daily trips	Peak daily trips
Alternative #1	334-400	600
Alternative #2 (No build—existing)	210-528	560
Alternative #3	334-400	600
Alternative #3A	696	736

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- **Traffic Analysis, Cont.**
 - **Level of Service (intersection function analysis) found that service levels would be acceptable for all alternatives.**
 - **Crash data analysis found that all road segments on TH 95 and 97 are well-below state averages for similar roads**

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- **RLK Traffic Comments (11.30 submittal)**
 - **Scandia residents are driving through intersections with the same crash potential every day**
 - **Traffic engineers recognize potential issues—include design changes to reduce crash potential**
 - **Direct access at TH97 is safer for “through” truck traffic—trucks will be on TH 95 for less time**



Criteria #2: 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.

- **Mitigation that Mn/DOT would require (included in proposed conditions)**
 - **Tiller shall construct a new driveway access directly across from TH 97 for safe site access.**
 - **Tiller shall construct a new north-bound turn lane on TH 95**
 - **Tiller shall install truck warning signs that comply with State Traffic Manual requirements**

Criteria #2: 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.

- **Other Traffic Mitigation**
 - **Traffic may not exceed maximum analyzed in EIS for selected alternative**
 - **Tiller reporting required**
 - **Trucks must use State and County roads**
 - **Tiller must fund pedestrian/bike trail**
 - **Tiller must report any crashes to the City immediately**
 - **City will monitor**

Criteria #2: 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.

- **Environmental Hazards**
 - **Bulk storage of over 2,000 gallons of fuel or similar materials**
 - **Such materials will not be stored at the site. Fuel would be delivered by truck for direct fueling**
 - **Explosives—none will be used at the site**
 - **Nuisances—Noise, odors, air pollution, dust, etc.**
 - **EIS included extensive analyses of each of these factors. Analyses concluded that for each, the project will not exceed state standards, and would therefore meet the City's Ordinance requirements.**

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■ **Proposed conditions**

- **Tiller shall monitor all construction equipment for leaks**
- **Any above-ground storage tanks must meet MPCA requirements**
- **Tiller must sample ground water for any diesel-range organics. Analysis by independent laboratory and review by City.**
- **Tiller must implement Dust Control Plan. Non-chloride materials must be used.**
- **Tiller shall use broadband alarms and circular traffic pattern to minimize noise**
- **City will monitor air, noise, ground and surface waters for impacts. Review with each Annual Operating Permit (AOP)**
- **Lighting during hours of operation only, and must meet city code requirements**

Criteria #2: 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.

- **Surface and Ground Water Quality**
 - **Site includes 64 acres to be mined.**
 - **52 acres drain to interior “bowl.” Drainage=Rainwater. All drainage is infiltrated and goes to groundwater**
 - **12 acres drain to 3 tributaries to St. Croix River**
 - **Stormwater analysis shows that flows to each tributary will be greatly reduced from existing conditions—will benefit streams by reducing erosion and sedimentation**
 - **Increased infiltration may benefit seeps and other groundwater-related resources**

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- **Surface and Groundwater**
 - **After mining and reclamation are complete, the total area with off-site discharges will be reduced from 12 acres to 1.3 acres, as the “bowl” is deepened and a larger area of the site drains internally**
 - **Potential for large storm event discharge will diminish as well—It would take more than 2 back-to-back 100 year 24-hours storm events (total of more than 11.8 inches of rain in 2 days) to create enough runoff so that any stormwater would leave the site.**
- **Proposed conditions are included in staff report**

Criteria #2: 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.

- **Economic Impacts: EIS analysis**
 - **Project is likely to create 10-25 jobs**
 - **No discernible impact to local tourism**
 - **Project will generate aggregate tax revenues and local property tax revenues**
 - **The Project may impact the value of properties with $\frac{1}{4}$ mile of the project, between 2-5% of value (will discuss under Criteria #3)**
 - **Project will contribute a resource that is regionally important**

Criteria #2: 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.

- **Planner conclusion criteria #2: With required conditions and mitigation, the project will meet the Ordinance criteria**
 - **Will not create congestion or traffic hazards**
 - **Will not create significant environmental impacts**
 - **Will not be detrimental to public welfare, or endanger public health, safety, morals or comfort**

Criteria #3. The 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.

- **Ordinance criteria to evaluate “use and enjoyment of other property” covered under Criteria #2**
 - **Traffic, air, noise, dust**
 - **Establishment of Mining District will not change potential use of properties in adjacent District**

Criteria #3. The 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.

- **Property values**
 - City code does not define “substantial” diminishment
 - Legal advise on how to interpret—Appeals Court Cases
 - Potential property value loss has usually not been a determining factor in denying CUP’s for mining or other uses
 - Requires real, objective evidence that actual reduction has occurred in similar areas or nearby and objective data to suggest that a reduction is likely as a result of the project (not even professional opinion)
 - Cases don’t define “substantial”
 - Before denying on this basis, would need to look at additional conditions that could help to protect against potential losses (berms, screening, reduction in length of operation).

Criteria #3. The 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.

- **EIS Property impacts analysis**
 - **Actual sales data from residential areas around aggregate mines showed no loss in value**
 - **Given recent losses in property values, mine may have impact**
 - **Potential for impacts will decline after reclamation is completed**
 - **Potential impacts may only be realized by owners who sell while mine is in operation**
 - **County Assessor's Office will not lower property values or tax rates because project is approved or implemented. Reductions would only occur based on actual sales data or documented appraisal information is submitted to the County for consideration. (11/30/12 comment letter suggests immediate value loss would happen.)**

Criteria #3. The 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.

- **Property impacts analysis**
 - **Magone v. Denmark Township (2003): Washington County Assessor's office reported that location near a gravel mine "did not appear to have a negative influence" on the sale prices of homes.**
 - **Recent call to County Assessor's office: the Office has no market value information that shows that location near an aggregate mine does or does not impact property values.**
- **Conclusion**
 - **Lack factual data that shows that the project would substantially reduce property values**
 - **If have data, would need to look for ways to mitigate potential losses**

Criteria #3. The 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.

- **Scenic views**

- **EIS included views analysis**
- **If required mitigation (conditions) are implemented, the project will not impair scenic views**
- **Conditions:**
 - **Maintain existing screening and construct additional berms and screening**
 - **Maximum stockpile height of 880 feet amsl**
 - **Lighting must be shielded and downcast, and meet ordinance requirements**

Criteria #3. The 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.

- **Planner's analysis of Project's compliance with Criteria #3**
 - **The project will not be injurious to use of other property in the area if required conditions and mitigation are implemented.**
 - **There is no factual evidence that the project will substantially diminish property values.**
 - **The project will not impair scenic views if the proposed conditions are implemented.**

Criteria #4. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for the uses permitted in the district.

- **Surrounding district is Agricultural Core District.**
 - **Permitted uses include agricultural uses, recreation and open space and single-family residential uses.**
 - **Objective criteria in the Code for evaluating impacts to future development include:**
 - Traffic congestion
 - Environmental hazards and nuisances—noise, dust, air pollution
 - Views
 - **EIS analyses indicated that if mitigation is implemented (conditions) the project will not have significant impacts in these areas**
 - **No factual data that indicates adjacent properties could not be developed for the permitted uses due to project impacts.**
 - **Planner concludes that the proposed project meets the ordinance criteria**

Criteria #5. Adequate public facilities and services are available or can be reasonable provided to accommodate the use which is proposed.

- Adequate roadway facilities are available to serve the project
- City and County will be able to provide public and emergency services needed
- City will need to monitor the project to determine compliance with conditions. Proposed conditions require that Tiller cover all costs related to monitoring
- Planner's analysis concludes that the proposed project meets the ordinance requirement.

Criteria #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.

- **Aggregate mining is a permitted use with a CUP in the Agriculture District under the applicable Comprehensive Plan and ordinance.**
- **The proposed project meets the requirements of the Mining Ordinance and District standards**
- **Planner's analysis indicates that the proposed project meets the ordinance requirement.**

Criteria #7. The conditional use complies with the general and specific performance standards as specified by this Section and this chapter.

- **Performance standards (Item 8.5 in Chapter One of the Development Code)**
 - Use and site can support wastewater disposal needs. *Yes*
 - Protect surface and ground waters. *Yes with required conditions.*
 - Parking is adequate. *Yes*
 - Pedestrian circulation is adequate. *Conditions require improvements to bike/ped trail*

Criteria #7. The conditional use complies with the general and specific performance standards as specified by this Section and this chapter.

- Performance standards, cont.
 - All landscaping, screening, and tree preservation requirements are met. *Meets Mining Ordinance requirements*
 - Exterior lighting must meet code requirements. *Yes*
 - Noise mitigation measures shall be provided so that the use meets the City's standards. *Meets code standards with required conditions.*
 - Drainage system must meet applicable standards. *Meets requirements with required conditions.*
 - Buildings must be in harmony with Design Guidelines. *N/A*
 - Signs must comply with applicable regulations. *Would need to obtain city permit for any signs and meet requirements.*
 - Must comply with applicable federal or state laws. *Will comply if proposed conditions are implemented*

Criteria #7. The conditional use complies with the general and specific performance standards as specified by this Section and this chapter.

- **Performance standards, cont.**
 - **Must obtain applicable licenses. *N/A***
 - **Hours of operation may be restricted. *Proposed conditions include restrictions.***
 - **Any costs that may be incurred by the City to monitor compliance with the conditions of the Conditional Use Permit shall be paid by the applicant and/or owner of the property. *Included in proposed conditions***
- **Planner's analysis indicates that the proposed project meets this ordinance requirement.**

