

December 4, 2012

The Scandia Planning Commission held their regular monthly meeting on the above date. Chair Christine Maefsky called the meeting to order at 7:06 p.m. The following were in attendance: Commissioners Jan Hogle, Tom Krinke, Steve Philippi, and Commission Chair Christine Maefsky. Commissioner Peter Schwarz arrived at 7:10 p.m. Staff present: City Administrator Kristina Handt, City Planner Sherri Buss, Attorney Vince Stevens and Deputy Clerk Brenda Eklund.

APPROVAL OF AGENDA, MINUTES

Hogle, seconded by Krinke, moved to approve the agenda as presented. The motion carried 4-0.

Hogle, seconded by Philippi, moved to approve the November 7, 2012 minutes as presented. The motion carried 4-0.

PUBLIC HEARING: CONDITIONAL USE PERMIT FOR ZAVORAL MINE AND RECLAMATION PROJECT. TILLER CORPORATION, APPLICANT

Chair Maefsky began the meeting by explaining the public hearing process and asking that comments focus on the facts of Tiller's Conditional Use Permit application. On September 25, 2012, the City Council determined the Final Environmental Impact Statement to be adequate, and Maefsky explained that the EIS cannot be reopened.

Due to the complexity of the application, Maefsky announced that the meeting would conclude after three hours and the public hearing continued to December 12, 2012, to allow for all public comments to be taken. Once the hearing is closed, the Planning Commissioners will begin deliberation on the application. It was proposed that the Commissioners would make a recommendation to the City Council at their January 2, 2013 meeting.

City Planner Sherri Buss presented the staff report and described how the application was evaluated using the requirements and criteria in relationship to City Ordinance No. 103, Mining and Related Activities.

Tiller Corporation has requested a Conditional Use Permit to operate a gravel mine on the site of a dormant, unreclaimed gravel mine. The 114-acre site, owned by Dr. James Zavoral and known as the Zavoral Site, is located along St. Croix Trail (State Trunk Highway 95), east of its intersection with Scandia Trail (State TH 97). Tiller is proposing to mine 64 acres of the site. Fifty-five acres of the proposed project are located on portions of the Site that were previously mined under a permit with Washington County; a 9-acre area that was not mined in the past is proposed for mining. Four acres of the Site are proposed for reclamation only.

The east boundary of the Zavoral Site is partially within the St. Croix National Scenic Riverway. The area proposed for mining is located outside the Riverway and scenic easement area. Tiller proposes to conduct reclamation activities on approximately 4 acres of the previously mined area of the site that is located within the St. Croix River District Zone and scenic easement area.

Buss continued describing the project history and background. Tiller submitted a CUP for the Project in November 2008. The City's Development Code required Tiller to prepare an Environmental Assessment Worksheet (EAW). On March 9, 2009, it was then determined that the Project had the potential for significant impacts and an Environmental Impact Statement (EIS) was needed. The City determined the Final EIS was complete on September 25, 2012. Tiller revised its CUP application based on the Final EIS and submitted the application to the City on October 9, 2012.

During the EIS process, Tiller eliminated processing activities from the gravel operation, including washing and related groundwater withdrawals. The Project proposes to excavate and haul the material to other sites for processing, including the Scandia Mine Site, located near Manning Trail and 225th Street.

Buss explained that the application was reviewed using the 2020 Comprehensive Plan that was in place when the CUP application was submitted in November 2008. Aggregate mining was an allowed use in the AG Zoning District under those regulations. Scandia's 2030 Comprehensive Plan was adopted on March 17, 2009, with the zoning map and ordinance that implement the plan in November 2010. Mining is no longer an allowed use in any district other than active mining areas zoned as a Mining District. The Zavoral Site is currently zoned Agriculture – Core.

Buss continued to summarize the staff report which evaluated the application and submittals using the objective standards and criteria of the Mining Ordinance and Development Code. Buss stated that several subconsultant specialists assisted with the review, addressing issues including water, air quality, erosion, wetlands, rare and threatened species, noise and traffic.

Buss concluded with the statement that the application meets the criteria for approval of a CUP in Mining Ordinance No. 103, using the mitigation and monitoring recommendations included in the EIS and the Planner's recommended conditions using Alternative #1 of the EIS (operation of the mine for five to ten years). Buss advised the Commissioners that the City may require a shorter alternative, based on its evaluation of the project and its potential impacts, including the comments and concerns of agencies and the public.

Chair Maefsky asked Planner Buss to address the status of the bike trail on Highway 95. Buss explained that one of the conditions requires the Applicant to fund improvements to the existing trail in the mine area after the new access to the mine is constructed.

Commissioner Hogle asked what would happen if the conditions of the permit are not met? Attorney Stevens explained that the City has the discretion to withdraw a CUP. Planner Buss described the Annual Operating Permit process. Permits for active mines are reviewed annually to determine compliance, and the City has the opportunity to make changes in conditions at that time.

A member of the audience, no name given, asked how will the length of the mining operation affect truck traffic? Planner Buss replied that the Planning Commissioners will deliberate on three alternatives cited in the EIS: a 5 to 10 year operation, a 3 to 5 year, and an accelerated

mining operation which would conclude in 1-1/2 to 2 years. The number of truck trips increases with the shorter length of mining, and adds potential implications. Buss asked the public to provide their input on a preferred length of the mining operation to the Planning Commission, and informed the public to find information of the traffic analysis study in the EIS.

Another member of the audience, no name given, asked about the depth of excavation condition, which would guarantee a minimum separation of 10 feet from the water table. She explained that the agencies evaluated a 25 to 50 foot separation, to conclude that there would be no temperature difference in the trout stream. She asked if this was taken into account in the condition of a 10-foot separation. Buss replied yes, the Watershed District minimum is a 3-foot separation and the EIS analysis concluded that the project will increase the amount of infiltration and may be a benefit to the trout stream and other water resources.

Chair Maefsky asked the public to hold any other questions for the public comment period.

Representatives of Tiller Corporation were introduced to provide the Applicant's statement.

Greg Korstad, the attorney representing Tiller, provided information on the history of the application. City staff had advised Tiller that the application would proceed under the standards which were in place at the time of the submission. He stated that the intense environmental review has answered many questions and the process is working the way it should. Due to the community's concern of environmental effects, Tiller listened and revised the operation to remove processing at the Site. Korstad explained that the removal of needed gravel resources will replace hauling from other locations to the Scandia Mine, and the land reclaimed at the conclusion of the operation. Korstad stated that the EIS, which took three years to write, was determined to be adequate by a number of environmental professionals and by the City Council.

Kirsten Pauly, Civil Engineer and Geologist with Sunde Engineering, presented details of the proposed project, which first began as a proposal in 2002. Mining activity, including crushing washing, and asphalt processing, had been occurring at the Site from the 1960's to the 1980's. Tiller had been issued permits to allow for the removal of stockpiled material up to 2004.

Pauly explained that the Project will allow for construction sand and gravel to be excavated as add rock and transported to other sites for processing or use in road construction projects in the area.

Pauly presented a map of the reclamation plan, which she stated exceeds the City's requirements. Current conditions of irregular topography, sparse to no vegetation, and invasive species will be reclaimed with the establishment of dry prairie, mesic prairie and coniferous woodlands. Pauly stated this would provide ecological diversity and a woodland buffer along the bluff line, and promote infiltration and groundwater recharge.

A 3-D model of the site, both current and after reclamation, was shown. Pauly explained that the proposed minimum mining elevation would be 840 feet above mean sea level. The proposed

minimum reclamation elevation was stated as 851 feet above msl, resulting in a difference between existing grade and proposed grade over the entire mining area of 11 feet. On average the Site would be lowered less than 15 feet. Pauly described the resulting topography as a terrace, rather than bowl shaped.

After Chair Maefsky asked for the presentation to conclude, Pauly finished by addressing the traffic, air quality, and noise issues. Effects of these issues were found to be within the established standards.

Chair Maefsky opened the public hearing at 8:50 p.m.

Barb Staub, 20233 Quinnell Avenue: Ms. Staub asked what the response was to the gravel washout when the mine was operational, which resulted in a gravel bar in the river; and if it were to happen again, what would the response be in either the AOP or CUP.

Kristen Tuenge, 20595 Quinnell Avenue: Ms. Tuenge stated that she is representing Take Action, Conserve Our Scandia (TA-COS), a citizen action group of over 100 supporters united by the vision of the 2030 Comprehensive Plan. Ms. Tuenge spoke of four impacts of concern regarding the CUP criteria: 1) use and enjoyment of the river due to noise impacts of industrial level sound; 2) a serious threat to public safety due to the high volume of truck traffic; 3) the negative impact the project would have on the current 2030 Comprehensive Plan and the vision it has for the City; and 4) the negative impacts to property owners in the area due to diminished property values and the enjoyment of their property. Ms. Tuenge urged the Commissioners to consider the No-Build Alternative and deny the CUP based on the 2030 Comprehensive Plan.

Vernon Swing, Traffic Engineer with RLK Incorporated: Mr. Swing stated that RLK Inc. was hired by TA-COS to review Tiller's CUP application for the project, specifically the traffic issues at the access driveway to the mining site. Mr. Swing concluded that creating a 4-legged intersection at TH 95/TH97 creates a significant threat to traffic safety, and would result in 32 conflict points. By offsetting the access to the mine, conflict points are reduced to 18, thereby lowering the potential for crashes. Mr. Swing offered handouts illustrating these traffic patterns. Mr. Swing stated that a condition of the CUP, if granted, should be to require Tiller to construct an offset driveway access to improve traffic safety.

Chair Maefsky asked why it was determined to change the entrance to the mine directly across from TH97. Buss stated that MnDOT's recommendation and specific rationale was for safety. Mr. Swing stated his disagreement with this recommendation.

Philippi asked if travel time for loaded trucks to cross TH95 was taken into account in the traffic study. Mr. Swing explained that this was explored, including site distances, and it appeared there was sufficient time to cross the intersection.

Kieran Dwyer, attorney with Dorsey & Whitney, representing TA-COS: Mr. Dwyer stated four reasons that the City should deny Tiller's application for a CUP based on legal standards: 1) the mine would negatively impact the Comprehensive Plan; 2) the mine would be a threat to public

safety; 3) the mine would injure the use and enjoyment of the St. Croix River; and 4) the mine would substantially diminish property values and enjoyment of property. Mr. Dwyer summarized that any one of the recognized impacts is sufficient reason to deny Tiller's CUP application based on Scandia's City Code. Mr. Dwyer cited case law which gives the City the authority to deny a CUP for reasons related to public health, safety, general welfare or for incompatibility with the City's land use plan. Mr. Dwyer's letter to the City was included in the written public comments received for the meeting.

Commissioner Schwarz asked Mr. Dwyer if he is basing the application on the criteria of the current Comprehensive Plan. Mr. Dwyer answered yes, the City should consider future land use goals contained within the current Comprehensive Plan.

Chris Stein, Superintendent of the St. Croix National Scenic Riverway: Mr. Stein expressed opposition to the application on behalf of the National Park Service, which shares a boundary with the Site. He noted the potential environmental harm to geologic features and nearby streams due to proposed mining activities. Mr. Stein noted the disagreement of applying State noise standards to the River, and stated that it is a federally managed area and Federal National Park Service noise standards should apply. He explained that Federal NPS noise standards would protect natural ambient sound levels, whereas the State noise standards allow for up to a four-fold increase from natural ambient sound levels. Mr. Stein urged denial of the CUP as a means to protect the river from mining noise and allow for the enjoyment of the riverway. At this point, a recording of natural sounds from the River adjacent to the Site was played. Mr. Stein's written comments are included in the minutes for the record.

Cliff Guggisberg, 12780 182nd Street: Mr. Guggisberg stated that he was in approval of granting Tiller a CUP to operate the mine, as he sees it as a needed resource necessary for new roadway construction. Commissioner Hogle asked if he had a preference for the length of the mining operation. Mr. Guggisberg stated a 10-year mining operation would not add any more traffic than the roads currently hold.

Lisa Schlingerman, 20661 Quint Avenue: Ms. Schlingerman read from Washington County documents which, in 1998, stated that reclamation had been completed, and it would be best not to disturb the established vegetation. Excavation of material was prohibited, and permits for the removal of stockpiled material only were issued. Records noted that the well should be sealed, but this was not done. Ms. Schlingerman asked the Commissioners to recommend the No-Build Alternative. She stated the reclamation proposal is the wrong approach, as the site has been reclaimed naturally. She urged the City to deny the CUP based on the current Comprehensive Plan.

Tom Triplett, 19420 Newgate Avenue: Mr. Triplett stated that he was representing the position of the Friends of Scandia Parks and Trails which adopted a resolution requesting the City reject the CUP as contrary to the interests of the City, its residents, and its natural areas. Mr. Triplett stated the following reasons for rejection: 1) unacceptable risks to the surrounding environment; 2) reclamation will not ensure ongoing protection of the river's watershed; 3) no valid economic

reason why gravel cannot be obtained from less sensitive locations; and 4) endangerment to the health and safety of residents due to dust, traffic and other effects of the mining operation. The resolution is included in the minutes for the record.

Mr. Triplett also stated his experience as a past manager of the Minnesota Environmental Quality Board. He stated that historically, reclamation plans have been difficult to enforce.

Bonnie Hendrickson, 16290 Scandia Trail: Ms. Hendrickson stated that she lives within a quarter mile of the Site, and urged the City to deny the CUP. She stated that she has respiratory problems, predicted decreased property values, and sees no benefit to the citizens of Scandia.

Greg Amundson, 20575 St. Croix Trail: Mr. Amundson stated that his residence of the past 14 years is within the old Shalander gravel pit, a reclaimed site with a pond and abundant wildlife. He said that he respects his neighbors' concerns about a mining operation, but gravel is a needed resource and there is a plan to reclaim the pit. Mr. Amundson stated that Highway 95 is noisy and there never is complete solitude. His experience has been that it is rare to hear truck traffic on the river, unlike motorcycles, which reverberate across the area and are audible at the river level. He noted Zavoral's property rights, and supports re-opening the mine with a five-year plan. Mr. Amundson recommended that the proper traffic control would be stop signs at the TH95/TH97 intersection.

Colleen Eklin, 16140 Scandia Trail: Ms. Eklin stated that she lives within close proximity to the Site, suffers from COPD, and has air quality concerns due to the dust. She asked for a written statement that air quality would not be a problem, and did not believe the results in the EIS are valid. Ms. Eklin's written statement is included in the minutes for the record.

Gregory Page, 17001 220th Street: Mr. Page read from a letter he recently received from a DNR Plant Ecologist, which noted that his property, within the vicinity of the Site, contains many rare and natural features that would qualify it for Scientific and Natural Area designation. He urged the City to listen to both sides of the issue and decide what is right and prudent. The application could be denied if there are no valid reasons to support that the operation is safe or good. Mr. Page asked the City to apply the current Comprehensive Plan as the City needs to look toward the future. Mr. Page asked if a deep pit at the entrance to Scandia is a good idea. He recommended the no-build solution; but if approved, to require that mining conclude in one year, with collection of a large financial guarantee to ensure reclamation and liability against potential damages.

Bill Newman, 18837 Osceola Road, WI: Mr. Newman stated that he was representing an advocacy organization of the St. Croix River, to promote tourism and enjoyment of the river. Mr. Newman urged the City to distinguish between fact and opinion, and stated that the recommendation to approve the CUP is an opinion. The potential legal challenge to deny is not supported in the record. He stated that although the EIS was deemed adequate, it does not support approval of the CUP, nor is it a right of Tiller Corporation to be granted a CUP. Mr. Newman stated that economic influences alone cannot guide the City's decision. If Tiller loses money by not mining, he sees it as a cost of doing business.

Chair Maefsky announced that the meeting would be ending, and the Public Hearing continued to a Special Meeting of the Planning Commission on December 12, 2012 at 7:00 p.m.

ADJOURNMENT

Philippi, seconded by Schwarz, moved to adjourn. The motion carried 5-0.

The meeting adjourned at 10:08 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk