

January 7, 2013

The Scandia Planning Commission met for a Special Meeting on the above date. The purpose of the meeting was to continue deliberation on the Conditional Use Permit for the Zavoral Mine and Reclamation Project (Tiller Corporation, Applicant). Chair Christine Maefsky called the meeting to order at 7:00 p.m. The following were in attendance: Commissioners Jan Hogle, Tom Krinke, Steve Philippi, Peter Schwarz and Commission Chair Christine Maefsky. Staff present: City Administrator Kristina Handt, City Planner Sherri Buss, Attorney Vince Stevens and Deputy Clerk Brenda Eklund.

APPROVAL OF AGENDA

Schwarz, seconded by Krinke, moved to approve the agenda as presented. The motion carried 5-0.

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

Commission Chair Maefsky explained that staff had prepared two draft resolutions for the Commission to consider. A resolution to approve the CUP had been updated with conditions as discussed at the January 2, 2013 meeting. Maefsky stated that Commission members had expressed areas of concern throughout the past meetings. By direction given at the January 2, 2013 meeting, staff also prepared a draft resolution to deny the CUP based on findings submitted by the Commissioners.

The Commissioners began with a review of the draft resolution to deny the CUP. The resolution evaluated the criteria for Conditional Use Permits as contained in the City's Development Code, Chapter 1, Section 8.0 Conditional Use Permits, 8.4 General Criteria. The findings listed the issues in which the proposed project did not comply with the criteria.

City Administrator Handt read through Finding #1 and directed the Commissioners to select which Comprehensive Plan should apply to support their recommendation and findings, either the 2020 or 2030 Comprehensive Plan. The application was received in November 2008, prior to adoption of the current 2030 Comprehensive Plan in March 2009. The new plan eliminated gravel mining as an allowed use at the Zavoral site.

Commissioner Schwarz stated that he was under the impression that the 2020 Comprehensive Plan, which was in effect at the time of Tiller's submission, was the only choice, and asked if this was binding.

Attorney Stevens explained that the City had adopted a resolution supporting this determination, but theoretically the new plan could be applied, unless the applicant can prove "manifest injustice".

Commissioner Philippi stated that one could argue that the City had never given up the discretion to apply the new plan and could change the decision of which Comprehensive Plan the application should be considered under. Commissioner Schwarz stated that he doesn't see any

other legal option than to apply the 2020 Comprehensive Plan and the City is bound by their decision.

Krinke, seconded by Maefsky, moved to proceed to review the findings for denial based on the current 2030 Comprehensive Plan. The motion carried 4-1, with Schwarz opposed.

Administrator Handt noted that Findings 1-5, Section A in the draft resolution, would therefore be eliminated now that it has been decided to use the 2030 Comprehensive Plan. One of the remaining findings concluded that the proposed mine failed to meet the criteria of being in harmony with the general purposes and intent of the City's Development code and applicable Comprehensive Plan.

Handt proceeded to read each finding and asked the Commissioners for any changes to the language of each finding or to decide if it is applicable to the decision to deny. Commissioner Philippi had submitted suggested resolution clauses prior to the meeting. Three of these were incorporated into the resolution as they pertained to groundwater issues, property values, and noise studies.

The Commissioners then began a review of the draft resolution to approve the CUP. Commissioner Hogle recommended that language be added that would make the TH 97/ Lofton Avenue safer, and to split the traffic between the two County roads.

Hogle, seconded by Krinke, moved to add a condition stating "All project truck traffic should use the controlled Manning Avenue intersection when making left-hand turns onto TH 97". The motion carried 5-0.

Commissioner Hogle also recommended that truck warning signs be installed at the entrance to the Scandia Mine at 223rd Street and Lofton Avenue. Commissioners were in agreement with this and Planner Buss noted this addition to Condition #39.

Commissioners discussed the alternatives for the duration of the project as presented in the EIS. Commissioner Schwarz stated that the preferred length of mining should be no more than three years, with three months allowed for preparing the site for mining. Planner Buss suggested that a completion time of 39 months could be written into the Development Agreement with Tiller, from the approval date of the CUP.

Chair Maefsky asked if any Commissioners were ready to put forward a motion for a recommendation to the City Council.

Krinke, seconded by Philippi, moved to adopt PC Resolution No. 01-07-13-01D, Denying Conditional Use Permit for the Zavoral Mine and Reclamation Project, with the amendments as recorded by City Administrator Handt.

Commissioner Philippi asked if he could be allowed to submit his summary notes of his entire CUP report, including property value research, to the Council members before the Council's deliberation on the CUP. Attorney Stevens advised that he could as a private resident, but he should not appear to represent the body of the Planning Commission.

Commissioner Philippi stated his concern that the resolution to deny was too spread out and all over the place. Chair Maefsky countered that the document appeared to be organized and defensible.

Chair Maefsky called for a roll call vote on the above motion to recommend to the City Council to deny the Conditional Use Permit: Hogle – yes; Krinke – yes, Schwarz – abstained; Philippi – yes; Maefsky – yes. The motion carried 4-0, with Schwarz abstaining.

The City Council will discuss the Planning Commission's recommendation at their January 15, 2013 and February 19, 2013 meetings.

ADJOURNMENT

Krinke, seconded by Schwarz, moved to adjourn the meeting. The motion carried 5-0.

The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk