

**EUREKA TOWNSHIP**

**DAKOTA COUNTY**

**STATE OF MINNESOTA**

**PLANNING COMMISSION SPECIAL MEETING OF NOVEMBER 19, 2018**

**I. Call to Order**

The Eureka Township Planning Commission Public Hearing was called to order at 7:02 p.m. by Chair Ralph Fredlund.

Members Present: Ralph Fredlund (Chair)  
Bill Funk (Vice Chair)  
Randy Wood (Commissioner)  
Allen Novacek (Commissioner)  
Julie Larson (Commissioner)

Members Absent: None

Others Present: Martin Norder (Kelly & Lemmons Attorney)  
Ranee Solis (Deputy Clerk)

See attached list for all others in attendance.

**II. Interim Use Permit for Storage in Mining Facilities**

Chair Fredlund stated that we have called this Special Meeting/Public Hearing for the purpose of reviewing a proposal to amend the mining Ordinance to allow storage of material or equipment on any property to which an Interim Use Permit has been issued, pursuant to Ordinance 3, Chapter 2, Section 1(D)1 provided that the proposed use satisfies the requirements of Ordinance 3, Chapter 10.

**III. Open Public Comment Period**

Chair Fredlund opened the public comment period and called upon the speakers in the order listed on the sign-in sheet.

Kathleen Kauffman – 25506 Ipava Avenue, Lakeville

Ms. Kauffman was opposed to the proposed amendment, see Addendum A.

Alice Storlie – 10210 235<sup>th</sup> St. W., Lakeville

Ms. Storlie spoke in favor of the proposed amendment and presented a letter signed by herself and four others, see Addendum B.

Nancy Sauber – 9445 225<sup>th</sup> St. W., Lakeville

Ms. Sauber was opposed to the proposed amendment, see Addendum C.

Brian Ahern – 6215 235<sup>th</sup> St. W., Farmington

Mr. Ahern was opposed to the proposed amendment, see Addendum D (read by Commissioner Wood).

Carrie Jennings – 8919 280<sup>th</sup> St. W., Northfield

Ms. Jennings was opposed to the proposed amendment, see Addendum E.

Lee Slavicek – 6808 235<sup>th</sup> St. W., Farmington

Mr. Slavicek stated that his concern is with cement plants. Truck traffic on 235<sup>th</sup> St. is ridiculous and bringing in additional product will double the truck volume. He is against storage in any gravel pits.

Gary Smith – 4628 235<sup>th</sup> St. W., Farmington

Mr. Smith asked if this amendment would allow for storage structures? The term agricultural product is too broad, needs to be better defined. The intent was always to get the gravel pits out as soon as possible. This sounds like industrial business, not mining. He is opposed to extending the life of gravel pits by allowing storage in the pits.

Chair Fredlund asked if there was any one else who would like to speak. Nancy Sauber and Kathleen Kauffman indicated that they had additional comments they would like to express.

Nancy Sauber – 9445 225<sup>th</sup> St. W., Lakeville

There is nothing in the language saying that gravel needs to be excavated before allowing storage. If a grandfathered mine stores product it perpetuates the life of the mine, which was not our intent. This elongates the life of the mines without proper reason.

Kathleen Kauffman – 25506 Ipava Avenue, Lakeville

I have an issue with a new Ordinance to make life easier for one resident who is not even a resident of Eureka Township. You're privatizing the profit and socializing the downside.

#### **IV. Close Public Comment Period**

Chair Fredlund asked three times if anyone had any additional comments, hearing none he closed the public comment period of the meeting.

#### **V. Planning Commission Discussion**

Commissioner Larson spoke against recommending approval to the Town Board.

Commissioner Wood spoke against recommending approval to the Town Board.

Vice Chair Funk spoke against recommending approval to the Town Board, however, might be in favor if the Board were willing to sign a closing date for the mines.

Commissioner Novacek spoke in favor of recommending approval to the Town Board.

**VI. Planning Commission recommendation to the Town Board**

**Motion:** Chair Fredlund moved to forward to the Town Board all of the language to make these amendments, including the language proposed to protect our roads, with a strong recommendation that it not be adopted due to the overwhelming testimony we heard tonight opposing it; due to the storage of products not allowed in our Comprehensive Plan; inadequate controls and safeguards language proposed; the original taskforce and the work they did, they didn't feel this was necessary; and more work needs to be done on it including review by the Vermillion Watershed people, seconded by Commissioner Larson.

**Motion carried 4-1**, with Commissioner Novacek opposed.

**VII. Adjournment**


**Motion:** Commissioner Larson moved to adjourn the meeting, seconded by Commissioner Novacek.

**Meeting adjourned at 8:02 p.m.**

Respectfully submitted,

  
Ranee Solis, Deputy Clerk

Minutes Officially Approved on: 12/4/18  
Date

By: \_\_\_\_\_ and   
Town Clerk Planning Commission Chair

# Addendum A - public Hearing 11-19-18

Kathleen Kauffman - 25506 Ipava Avenue

1. Thanks to the Planning Commission for their service to the Township.
2. Why is it that the response to a violation of an Ordinance is to change the Ordinance? What stops the cycle? This leads to lawsuits and unnecessary expense to the Township. We spend a lot of money when residents violate rules. Ignoring regulations encourages further disobedience of regulations.
3. The applicant is supposed to give a list of what will be stored. The proposed regulation requires good faith on the IUP owner. I have no faith that the list of stored items will be accurate.
4. Who will monitor and enforce? I have a well, we all have wells. Ground water is connected, hazards migrate. Ground water is surface water in mines. That same ground water supplies our wells. Do we know how to evaluate hazardous material? If you want to add monitoring and enforcement, hire a professional to do so, paid by dues paid by the mine owner, that's another matter. Citizens of Eureka should not bear the risk. This Ordinance privatizes profit and socializes losses, creates a benefit for mine owner but imposes costs on the entire community. Ordinances should look to improve the quality of life for all.
5. Mine-stored material is contrary to permit. Current exception sounds reasonable but reaction is to exact a broad change, broader than that needed for the current exception. A "storage facility" with stand alone buildings and lighted signs open between 7 am and 5:30 pm is a new industrial use, not an incidental short-term use of an idle mine. If we want industrial zoning, we need to hire planners to do a detailed analysis of the pros and cons.

Addendum B - public Hearing 11-19-18

This letter is being sent in support of Danny Ames request to store mulch in his gravel pit.

We are his closest neighbor and we are in favor of letting him store the mulch. The last time he stored it we couldn't even see it from our house and we overlook the pit. We feel it would not hurt anything if it was stored there.

Don and Alice Storlie *Don & Alice Storlie*

Dennis Carlisle *Dennis Carlisle*

*Fern Petter, Dan Storlie, 11/19/18*

Nov. 19, 2018

## Addendum C - Public Hearing 11-19-18

Nancy Sauber 9445 225<sup>th</sup> St. W. Lakeville

I have several comments regarding this proposed Ordinance language.

I believe that this text amendment should have been paid for by the individual who brought this forth to the Township. Instead, because the Board voted so, now the taxpayers are paying for this process. I'm sure some taxpayers are against this idea, but because of the Board's action, they are paying for it anyway.

For the Township to take on a text amendment that was first brought up by an individual to me compromises the appearance of neutrality and objectivity. How does the public hope to have any of its objections taken seriously enough to actually stop the adoption of this language, which is supposedly always an option? The appearance is that the Township officials may have already made up their minds even before the public can testify. Are we just going through the motions?

What is *the purpose* of this amendment? Is it in accordance with the original intent of the Mining Ordinance to excavate the gravel, reclaim the land and return it to ag use as quickly as possible? Or is it simply a way that certain officials see a use subject to a legal settlement agreement being able to in effect expand beyond its property to which it is restricted? A way for this use to circumvent the agreement? Note that this use was actually storing their product in the gravel pit earlier and, following a complaint, were directed by the Board to remove it. Neither the gravel pit owner nor the people associated with the settlement agreement use live in the Township to my knowledge. Therefore, would they ever have to live with the negative effects of this storage as the neighbors will have to?

Is this a backdoor approach to allowing contractors' yards in Eureka? What is the connection between gravel mining and construction materials and equipment? We do not allow contractors' yards, but now one can set one up, albeit on an interim basis, in a gravel pit? This is really a commercial/industrial use that otherwise is not allowed. How is that not contradictory to the Comprehensive Plan?

Even the C/I "work group" currently meeting recognizes a Comprehensive Plan update would be required to start to allow such uses. Their discussions have also included the requirement that there would be no outside storage in any C/I area. How do you reconcile this with this proposed language?

Going through the language, I would point out the following issues.

Section 2 adding No. 3 to Ordinance 3, Chapter 2, Section 1 (D) references "property for which an interim use permit has been issued" as the only properties eligible to apply for a storage IUP. When raised before, the attorney replied that the older uses are now considered Nonconforming uses. That is correct, but they were issued CUPs. Presumably the CUP would govern the NCU. HOWEVER, none of these "grandfathered" uses outlined in the legal descriptions in the Ordinance have ever applied for an IUP to my knowledge. In fact, Ordinance 6, Chapter 13, section 1 states that they can continue "...without first obtaining an interim use permit for a mineral extracting facility..." so how does the language stating that an IUP has been obtained include these "grandfathered" uses?

Under A, I would insert the words "for storage" so that it reads "...shall first have applied for and obtained an interim use permit for storage.." This would distinguish it from the IUP that a use has to have to have a gravel pit in the first place. I could see future bodies finding this a little confusing in application.

Chapter 10, B, 2, I question whether this use in conformance with the Comprehensive Plan. We allow mineral extraction. We do not allow commercial storage. There is no connection between storage of construction materials and equipment and gravel mining, so this is contorted, in my opinion. The same lack of connection applies to gravel mining and storage of "ag" products. They are two totally different uses. The Ordinances are supposed to "flow from" the Comprehensive Plan, not the other way around. Ord. 6, Chapter 7, Section 1, L states that "Any vehicles. Equipment or materials NOT ASSOCIATED with the mineral extraction facility...may not be kept or stored at the facility." Are we to understand that "associated with the mineral extraction facility" and "associated with mineral extraction" are two different things and that by including the proposed storage by however a convoluted reasoning MAKES these materials and equipment "associated" with the facility? Or does this have to be changed also. Again, I ask why would we do this?

Chapter 10, B, 4. Regarding the negative effects on existing land uses nearby, I believe the words "and reasonably" are perhaps meant to be "unreasonably."

Chapter 1, C. Material to be stored. If an applicant comes in with a list of ag products, construction materials, and construction equipment, none of which are hazardous as described under this portion of the proposed language, how can the Board "reserve the right and authority to deny permission to store any material or equipment described on the application?" If an applicant meets the requirements of what is to be stored and the Board denies some part of that material, how is that not "arbitrary and capricious?" Section F, 1, again references the Township's ability to modify the list. Again, how is that not "arbitrary and capricious" if the applicant's list includes items allowed for storage?

D, Application, again states that the property must have **an IUP** for mining in the first place. "Grandfathered" mines do not have IUPs, so again are we limiting this use to only the two newest mines at present as they are the ones with the IUPs?

E, Permitting Procedure, 2, talks about the Comprehensive Plan again. Since we do not allow C/I uses in the Comprehensive Plan, wouldn't the amendment to the Comp Plan also mentioned there have to take place before this ordinance can go into effect. Let me stress once more that there is no natural connection between gravel extraction and the storage of ag products, construction materials, and construction equipment. How did construction materials and construction equipment come to be included in this language? Is this another small minority wanting a use that the Comp Plan does not afford them? And why is the Township taxpayer paying for this then?

F, 2, applies to conditions limiting height, size, and location of a structure. If this structure is to be used for interim storage of the allowed items under this proposed language, should it not be specified that this structure can otherwise be used only for purposes directly related to gravel mining?

F, 3, speaks to modifying the size or location of the proposed outdoor storage area. Since this proposed additional use has been said publicly to not to be visible from the road, perhaps that requirement for outdoor storage should find a place in this ordinance.

F, 6, mentions signage and lighting of signs. Is this a good idea to allow this for a 9-month activity?

F, 7, speaks to protecting adjacent or nearby property by fencing, etc. Again, I would suggest the no visibility from the road be included. At a use that required berms and limited stack height, a passer-by can still see the product sticking out even above the berms and the trees planted there. Should residential neighbors have to look at another C/I use in addition to the mining itself?

F., 8 requires regular and periodic" inspections of the structure and the outdoor storage area to confirm all conditions are being met. Shouldn't there be a number of inspections and a frequency given? These are presumably outside of complaints. These would then incur an inspection cost for which the IUP holder should be responsible.

G mentions "...the right and authority to grant 'acceptations' to the hours..." I believe this should be "exceptions."

H. Refers to the length of the IUP for storage. It has been mentioned publicly that such a use would provide a source of income during the months that mining is idle. If that is the intent, I suggest that 9 months is too long. The gravel pits are active more than 3 months in the year.



Nancy Sander

To be added after  
"7.8." (as part of)

Ord. 6, Ch 6 says "In its review, the TB shall examine the information provided by the Operator & the TB shall determine whether the mineral extraction facility is in compliance w/ this Chapter, the conditions imposed by the permit & the Development Agreement."

Outside of when I was on the Board I haven't seen this followed through on. The SVP in question did not follow its conditions & was eventually required to do so.

Since then, all I've heard at the Feb. reviews is what was extracted, what do you owe the TB, and are there any complaints?

So even when it's in the Ord., it isn't always followed!



## Addendum D - public Hearing 11-19-18

Good evening,

I will be unable to attend tonight's public hearing on the proposed text amendment to the mining ordinance. I'm not sure if we have a means of giving input without being in attendance or not, but I thought I would send my comments in writing with the hopes that they can be added to the citizens input.

If you look at the proposal that started this process, storage of pallets of bagged product from the Miracle Gro Co. in the Ames gravel pit. On its own merit it doesn't seem like a bad idea, given the proximity of the pit to the plant. Although classifying that product as agricultural to make it a better fit into our ordinances, does seem like a bit of stretch to me. But if you look at the proposal in terms of the potential impact in the short & long term for the township as a whole, there are some issues that should be at the very least be considered.

The first issue is increased traffic in the area. In the Miracle Gro product example, there is the potential for 100(s) of flatbed loads of product being brought in for storage. (20-30 pallets per flatbed truck depending on product weight). That's potentially 100(s) of loaded trips in for delivery to storage, 100(s) of trips back empty out after delivery, 100(s) of trips back in for pickup & then 100(s) of trucks back out loaded. I've heard it said that this text amendment has no additional traffic impact due to the fact that it's off season storage. The product comes in during late Fall & leaves early Spring. Now I see that we're talking about a 9-month IUP for storage. I've even heard it said at one meeting that it could go out to 11 months. It would seem that it's inevitable that storage traffic & mining traffic will overlap, causing an increase in local traffic. Using the Miracle Gro example again, there was product stored in a yard South of Eureka township where pallets of product were still being distributed well into June.

During the hearings for the last text amendment to the mining ordinance allowing cement plants in certain class pits, increased traffic was also an issue. On multiple occasions the mine operator assured us that there would be no additional traffic impact over what was then the current level. A heavy truck associated w/the pit or cement plant operation travels by my home every 6-8 minutes all day long. The vast majority of those trucks are directly connected to the cement plant operation. That's more trucks per hour than we used to see in a day, sometimes 2 days. The point I'm trying to make here is that promises & commitments were made to get the last text amendment passed. What we ended up with is something quite different than what was proposed. Compliance with permit conditions seems to be at times optional. The township really has no means to monitor compliance with permit conditions. Enforcement options are also limited. Why are we proposing another exception or loop hole to the mining ordinance when we are having difficulty administering the last one?

The second issue is what comes next? If this text amendment for storage in mining pits passes, what will the next inevitable change or exception request to the ordinance be? The more exceptions or variances under the current mining ordinance that are allowed, the more difficult it will be to deny future requests. The storage & crushing of concrete rubble has come up several times already. If expanding pit operations via storage of "agricultural" or non-mining products is ok, why not concrete, bituminous or who knows what allowed. The argument that those other materials are not allowed under the mining ordinance & would therefore be denied a permit has been made. We're talking about the same ordinance that not that long ago, didn't allow concrete plants & currently doesn't allow non-mine related storage. It doesn't seem that difficult to get an existing ordinance changed if you can get the right people behind it.

To sum it up. It's a fact that the township has a valuable resource in gravel & the gravel has to be mined where it lies in the ground. Asking residents to coexist w/mining operations in the township is one thing. Asking them to coexist w/expanded mine operations not directly associated w/the removal, processing & sale of material from gravel pits as the original ordinance intended, might be quite another. I'm not sure I see an upside for the township here. As residents of Eureka Township for 36 years, we would not be in favor of the proposed text amendment to the mining ordinance be passed.

Sincerely,

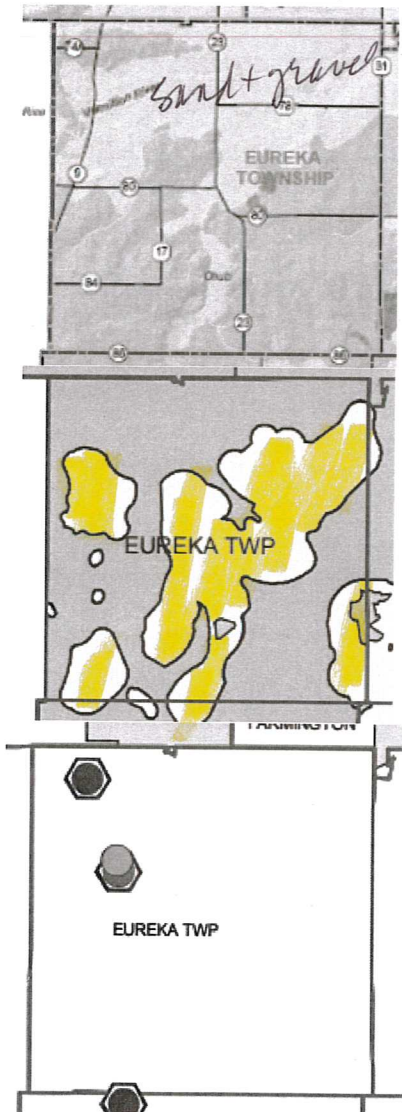
Brian & Nancy Ahern

6215 235<sup>th</sup> St W

Farmington, MN 55024

Carrie Jennings provided this information to the Planning Commission of Eureka Township on 11/26/18

Source: <https://www.co.dakota.mn.us/Environment/WaterResources/WellsDrinkingWater/Documents/AmbientGroundwaterStudy.pdf>



Beige = sand and gravel. Contaminants move quickly and easily through this material.

The water table is close to the bottom of the pits and in some years, the water level rises to be in the pit.

Yellow = sandstone, blue, limestone. Both are aquifers used for drinking water. They lie immediately below the sand and gravel being mined.

### Legend

#### Number of Different Pesticides Per Well

- No Result
- 5
- 4
- 3
- 2
- 1
- 0
- △ Jordan Sandstone
- Prairie du Chien Dolomite
- Municipal Boundary
- MUSA 1998

-Aquifers in this part of Eureka already show contamination by nitrates (fertilizer) and a number of pesticides.

-Chemicals and even organics (wood, leaves, grass clippings) can release toxins to the groundwater and surface water.

-Storage in the pit delays reclamation of the pit as required by current rules.

-Aquifers in this part of Eureka lead directly to the headwaters of the Vermillion River.

-Storage in the pit is not permitted under current rules.

- answer was "no" for bituminous and recycled concrete. How is this different?

Minnesota State Board of Architecture, Engineering,  
Land Surveying, Landscape Architecture,  
Geoscience and Interior Design  
This is to certify that

**Carrie Ellen Jennings, Ph.D.**

is a licensed

**Professional Geologist**

53476

06/29/2016

06/30/2018

License Number

Effective Date

Expiration Date

ISSUED

Carrie Ellen Jennings, Ph.D.  
8919 280th St. W.  
Northfield, MN 55057

TO:

License Number

53476

Expires

06/30/2018



BOARD OF ARCHITECTURE • ENGINEERING  
LAND SURVEYING • LANDSCAPE ARCHITECTURE  
MINNESOTA GEOSCIENCE • INTERIOR DESIGN

This is to certify that

**Carrie Ellen Jennings, Ph.D.**

is a licensed

**Professional Geologist**

53476

05/30/2018

06/30/2020

License Number

Effective Date

Expiration Date

ISSUED

Carrie Ellen Jennings, Ph.D.  
8919 280th St. W.  
Northfield, MN 55057

TO:

License Number

53476

Expires

06/30/2020

MINNESOTA STATE BOARD OF ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE  
AND INTERIOR DESIGN  
THIS IS TO CERTIFY THAT

**Carrie Ellen Jennings, Ph.D.**

is a licensed

**Professional Geologist**

License Number

53476

Effective Date

06/29/2016

Expiration Date

06/30/2018



BOARD OF ARCHITECTURE • ENGINEERING  
LAND SURVEYING • LANDSCAPE ARCHITECTURE  
MINNESOTA GEOSCIENCE • INTERIOR DESIGN

This is to certify that

**Carrie Ellen Jennings, Ph.D.**

is a licensed

**Professional Geologist**

License Number

53476

Effective Date

05/30/2018

Expiration Date

06/30/2020

# EUREKA TOWNSHIP

Dakota County, Minnesota



## Planning Commission Public Hearing

### Attendance

Monday, November 19, 2018

7:00 PM

Printed Name

Address

Nancy Sauber

9445 225th St. W. Lkvl.

Charles & Katherin Knuff

25506 Geneva

Lee Sawicki

6808 235th St. W. Farmington

Gary Smith

4628 235th St. W. Farmington

Shane Trego

10355 235th St. W. Lkvl.

Ken Arns

10205 235th St W

Carrie Jennings

8919 280th St W Northfield MA



# EUREKA TOWNSHIP

Dakota County, Minnesota



## Planning Commission Public Hearing

Public Comment Sign-In

Monday, November 19, 2018

7:00 PM

Printed Name

Address

Kathleen Kauffman

2550 Gawa Ave Lakewood

Alice Storlie

10210-235<sup>th</sup> St. W LA Kenville

Lee Slavicek

6808 235<sup>th</sup> St. W. Farmington

Gary Smith

4628 235<sup>th</sup> St. W Farmington

~~KATHLEEN KAUFFMAN~~

~~25506 TRAVA~~

Miray Amber

9445 225<sup>th</sup> St. W LKV

Brian Atherly

Carrie Leming