

EUREKA TOWNSHIP
Dakota County, State of Minnesota

SPECIAL PLANNING COMMISSION PUBLIC HEARING
June 22, 2021 - 7:00 p.m.
Via Teleconference

Due to the Peacetime Emergency and social distancing guidelines, the Town Board Chair has determined it is neither practical nor prudent to conduct an in-person meeting. Accordingly, under Minnesota Statute section 13D.021, the following meeting shall be conducted entirely through teleconferencing or other electronic means.

Call to Order

The Special Planning Commission Meeting was called to order at 7:06 P.M. by Chair Randy Wood.

Commissioners Present: Randy Wood, Bill Clancy, Julie Larson, Chad Berg, and Debra Burkhardt.

Others Present: Ranee Solis, Amy Liberty, Chad Lemmons, Cindy Trevis, Jim Kaiser, Ray Sell, Tony Trevis, Charles Liane, Nancy Sauber, Mike Callahan, Matt Mettling, Ralph Fredlund, Brian Ahern, Gary Smith, Virginia Windschitl, Kathleen Kauffman, Pat Mason, Steven Maxa, Andrew Gieseke, Carol Cooper, Dan Adelman, Lu Barfknecht, Dan Ames, Jeff Lee,

Chair Wood announced that the purpose of the Special meeting is to consider the proposed text amendment, essentially deleting the Town Board waiver of setback requirements of less than 1,000 feet.

Chair Wood explained that the Planning Commission is appointed by the Town Board to make recommendations to the Board on planning and zoning issues. Our recommendations are advisory only. The final decision on issues brought before us is made by the elected Township Board. With certain types of applications, such as this one, it is also our responsibility to conduct a public hearing. The purpose of the hearing is to ensure that everyone with an interest in this matter has an opportunity to present testimony and evidence in support of his or her position. The entire amendment has been posted on the website and displayed on zoom as well.

Our job, as a Planning Commission, is to review applications based on the regulations that exist in our ordinances and the laws of the State of Minnesota. We do not have discretion to change or ignore those rules. This proposed mining amendment affects the entire Township. We understand that there may be strong feelings on both sides of the issue. We are committed to conducting a fair and open process and providing everyone with an opportunity to be heard. We insist that everyone participate in an atmosphere of civility and mutual respect.

One person will have the floor at a time. You will be called on to speak in the order you signed in on the speaker's list. All comments must be directed to the Chair. When called upon to speak, please state your name and address for the record. Each individual will be allowed up to five minutes to speak. Please observe this limit so everyone has a chance to speak. All written comments received will be made part of the record. No speaker will be permitted to speak more than once, except to answer a question from the Commissioners.

Proposed text amendment to Ordinance 6, Chapter 7, Section 1(M)

Vice Chair Clancy explained that the first part of the original ordinance established the 1,000-foot setback requirement from a dwelling. The second part establishes the option for negating that. There is one change in the first part, noted in red, adding the word "also" as it is grammatically correct and provides clarity. The primary text change being proposed is eliminating the language beginning with "Notwithstanding". That entire section attempts to define when an exception should be made. The proposal being considered tonight strikes that language from the ordinance. There is an addition at the end, also noted in red.

M. Setbacks. No extraction activity may occur within one thousand (1000) feet of any dwelling and within fifty (50) feet of any adjacent property line, road right-of-way or public utility. Screeners, crushers, other processing equipment and manufacturing equipment may not be located closer than one thousand (1000) feet from a dwelling nor closer than one hundred (100) feet from any adjacent property line, road right-of-way or public utility. Setbacks from an existing dwelling shall take precedence over setbacks for road right-of-way, adjacent property line and public utility. If the processing equipment is placed within an enclosed structure, the Town Board may consider shorter setback distances. Grading plans affecting pipelines or power line corridors will be evaluated on a case-by-case basis. The Town Board may waive setback requirements when the common boundary area of an adjoining property is **also** a legal mining operation, the common boundary is not within one thousand (1000) feet of a residence, and both property owners of adjacent mining operations have agreed to a common reclamation plan and have a written agreement with the Township establishing responsibility for reclamation. ~~Notwithstanding the setback requirements set forth above, at the time of permit issuance, the Town Board may impose lesser setback requirements if the Town Board finds the following:~~

- ~~1. Practical difficulties exist in complying with the setback requirements set forth above; and~~
- ~~2. The protections afforded surrounding lands are not significantly lessened by the reduced setbacks when taking into account the following:~~
 - ~~a. the scope and size of the mineral extraction facility;~~
 - ~~b. the time and duration that the mining will occur in proximity to surrounding lands;~~
 - ~~c. reduced operating hours or restricted seasons of operation or additional berming, screening or other measures can be imposed to ameliorate the impact of mining in closer proximity to the surrounding lands than would be allowed by the setbacks stated above; and~~
 - ~~d. The lesser setbacks are reasonable in light of all circumstances; and~~
 - ~~e. There is a substantial volume of minerals in the more restrictive setback areas and it is reasonable to mine the substantial volume of minerals in the more restrictive setback~~

areas in light of the relatively small volume of minerals that can be mined on the remainder of the subject property.

If the Township receives a request for lessened setbacks, then prior to consideration of such request by the Town Board the request shall be referred to the Planning Commission for a recommendation. Prior to consideration of the request by the Planning Commission, the Clerk shall send notice by certified mail to all landowners that own property within one thousand (1000) feet of the proposed mining area. The notice shall be sent at least ten (10) days prior to the meeting at which the lessened setbacks are to be considered by the Planning Commission. The notice shall state the date, time and place of the Planning Commission meeting and the requested setbacks. For the purpose of giving mailed notice, the Clerk may use any appropriate records to determine the names and addresses of the owners having land within one thousand (1000) feet of the proposed mining area. The failure to give mailed notice or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply has been made. The applicant shall reimburse the Township for all costs associated with giving the notice.

Any existing approved setback reduction in an existing approved Interim Use Permit continues to have approved status.

Motion: Chair Wood moved to waive the reading of the proposed text amendment, seconded by Vice Chair Clancy. Roll call vote: Randy Wood – Aye; Julie Larson – Aye; Bill Clancy – Aye; Chad Berg – Aye; Debbie Burkhardt – Aye. *Motion carried 5-0.*

Open Public Comment period

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

Cindy Trevis – 5525 235th St. W., Farmington

My husband and I live at 5525 235th St. W., near the MPM mine. Because of the history of the gravel pit violations, and the possibility of further expansion of the mining closer to our home, we have, with great anguish and despair, decided to begin the process of putting our home up for sale before the inevitable loss of value to our home. This forced choice of selling our home is not one that we ever anticipated or planned, we hoped to live out our lives in our forever home.

Brian Ahern – 6215 235th St. W., Farmington

After a series of events involving permit issues with gravel mines being opened within a few hundred feet of residences along 235th St & Essex Ave in 1999, our Township Board realized that the mining ordinances were outdated and needed to be revised. Early in 2000, a moratorium was placed on new mining permit applications for a minimum of 9 months. A task team was formed to review the existing mining ordinance and make recommendations for changes and updates. The task team was made up of a cross section of Township residents, including a gravel mine owner/operator.

The Township Board reviewed & adopted many of the recommendations from the task team into the current Ordinance. One of the recommendations of the task team was the 1,000-foot setback for mining activity from any dwelling. At some point, a loophole in the Ordinance regarding exceptions to the 1,000-foot setback was also added. That vague and very loosely-worded loophole allowing the 1,000-foot setback to be reduced is the subject of the proposed text amendment.

I am going to comment on sections of the ordinance that the text amendment would delete. From Ordinance 6, Chapter 7, Section 1, Item M:

Notwithstanding the setback requirements set forth above, at the time of permit issuance, the Town Board may impose lesser setback requirements if the Town Board finds the following:

1. Practical difficulties exist in complying with the setback requirements set forth above; and
What is the definition of “practical difficulties” in this context? What standard is being used to measure against?

2. The protections afforded surrounding lands are not significantly lessened by the reduced setbacks when taking into account the following:
What does “not significantly lessened” mean in this context? From whose point of view is to be applied here?

a. the scope & size of the material extraction facility;
What is the definition of “scope & size”? Would larger or smaller extraction facilities be more likely to have reduced setbacks imposed? Are 5, 50 or 500-acre facilities more likely to have reduced setbacks imposed?

b. the time and duration that the mining will occur in proximity to surrounding lands;
What is the interpretation of “time & duration” in this context? The longer the proposed time and duration, the more likely reduced setbacks will be imposed? Is an exception for a 40-year duration preferable to a 1-year duration?

c. reduced operating hours or restricted seasons of operation or additional berming, screening or other measures can be imposed to ameliorate the impact of mining in closer proximity to the surrounding lands than would be allowed by the setbacks stated above; and
a·me·lio·rate: make something bad or unsatisfactory better. If conditions for reduced hours & days of operation are imposed, who monitors compliance? As we have seen in the past, the Township has no means to monitor compliance other than citizen observation. The Township has limited resources and means to enforce such conditions. Additional berming or screening, designed or specified by whom? The Township does not have the expertise or means to a. specify the design of such structures; b. verify the construction of such structures to design specifications; c. follow up on the maintenance of such measures, including erosion control, noxious weed and vegetation control.

d. the lesser setbacks are reasonable in light of all circumstances; and
What is the definition of “reasonable” in this context? Whose definition of “reasonable” in this context is to be applied here? Is consideration of lesser setbacks based on meeting just one of the circumstances listed in this section? Or is it based on meeting most or “all of the circumstances” listed in this section?

e. There is a substantial volume of materials in the more restrictive setback areas and it is reasonable to mine the substantial volume of materials in the more restrictive setback areas in light of the relatively small volume of minerals that can be mined on the remainder of the subject property.

Again, what is the definition of “reasonable” in this context? Whose definition of “reasonable” in this context is to be applied here? Is there a formula to be applied here to determine what qualifies as a “substantial volume of materials”? Do we have a mechanism to put a price or value on sacrificing Township residents’ health, safety, financial well-being and lifestyle, versus the value of a “substantial volume of materials”? What is that ratio? How is it to be determined?

If the Township receives a request for lessened setbacks, then prior to consideration of such request by the Town Board, the request shall be referred to the Planning Commission for a recommendation.

There are numerous examples of the Town Boards, over the years, ignoring the outcomes of public hearings and Planning Commission recommendations. We have had various issues with aggregate mining in the area of 235th St W & Essex Ave since 1999. Recent issues have put a spotlight on the potential negative effects this loophole in the ordinance has, Township-wide. This loophole in the Mining Ordinance has the effect of negating, or greatly reducing, the stated setback of 1,000 feet for mining activity from any dwelling. Once this loophole has been used or applied to reduce the 1,000-foot setback for a mining operation, it will most likely become the new standard Township-wide. We have a 1,000-foot setback for good reason. No sitting Township Board should have, or want, the ability to override or negotiate away any part of an existing Ordinance with such ease and little oversight.

This text amendment does not ban aggregate mining. Mining is an allowed land use anywhere in the Township. We do not have mining districts to control where mining activity is allowed, as there are in other cities & townships. The text amendment allows people, that actually live here, a means to try to coexist with mining. It gives current and future residents a degree of certainty that mining activity will be no closer than 1,000 feet from any dwelling and certainty that the rug is not going to be pulled out from underneath them unexpectedly by a creative application of this loophole anywhere in the Township. The existence of this loophole potentially places current, and more importantly, future Township Boards in the position of being pressured or possibly even intimidated by large corporations to greatly reduce, or effectively eliminate, the 1,000-foot setback anywhere in the Township. The text amendment closes this loophole. Please adopt the proposed text amendment to ordinance 6.

Virginia Windschitl – 5294 235th St. W., Farmington

I am Virginia Windschitl and live at 5294 235th St. West, in the house where I was born. My husband and I moved here when my father could not live on the farm anymore in 1994, renting from him until after he died and the estate was settled. In the meantime, the farmland was rented for farming operations. We were here when the borrow pits for the road construction were created, and the mining ordinances were put in place.

After my father passed away, and the family decided to sell the farm, minus the farmstead where Wayne and I live, we had an offer from Kenny Miller who wanted to mine the property for gravel. Because of the pipelines that run diagonally across the farm, and knowing about the 1,000-foot setback and the number of neighbors across Essex Ave. who would not agree to any mining closer to them than 1,000 feet, I felt that there could be no

mining west of the pipelines and agreed it was OK for the family to sell to Kenny Miller. Also, the area southeast of the pipeline was bordering farmland rather than residences (with one exception). Since then, the property that had been the family farm has changed owners several times. I had thought the ordinance required the agreement of affected neighbors to allow any changes to the setbacks, but the current wording seems to leave it entirely up to the Township Board.

I support the proposed change to the mining ordinance that removes the possible exemption to the 1,000-foot setback at the Township Board's sole discretion. Even with the 1,000-foot setback, there are issues with dust and noise. I hate to think of what it would be like to have mining closer to my property. Our farmstead is our primary asset, and any mining so close to our home would affect our property value if we ever choose to sell, and the quality of life while we live here. Please vote to support the text amendment. Do not allow any setback less than 1,000 feet.

Pat Mason – Ames Construction/Dakota Aggregate - 2500 W. County Road 42, Burnsville

We are the operator of the Brosseth level 3 permit off of 235th and Dodd, and the John Storlie permit as well. I read through the reports about decreasing property values when you are within a setback of a mine. I did not read the whole thing, but I would like to suggest that you take a look at Apple Valley, where you have Blanchard Farms and Cobblestone Lake, that were not only formerly gravel pits, but they were built in several phases throughout the time line for those gravel pits to be complete. As I Drive through those, and head east on 52, it is just amazing the types of houses and higher-end houses that have been there. The most recent one, which is in a nice neighborhood, then you step down to about \$500,000 homes, is in the Prior Lake/Savage area called Big Sky Estates. You see houses within 150-200 feet of a mine footprint. I do not believe they have a time frame set in stone for the next couple of years. Maybe 5 or 10, if even that. I suggest that you look closer by here, you will find the values are not going to be decreased with a reduced setback. I do not think anyone is talking about a zero-line setback, it would just be the ability, on a case-by-case basis, where you may be able to have less than 1,000 feet. You just throw out a number because it has to work for everyone for setbacks for noise and so forth. There are mitigation things we can do with back up alarms and circular motion of the trucks. Moreover, what we can also propose to do is mineral extraction, just removing the material, excavation-type, to a conveyor to within 1,000 feet, but still have the processing equipment that may be the source of any noise there 1,000 feet away. It is very efficient in my experiences. The other thing I would like to ask, I think I read there are some mines here now that fall under this level 3 permit, like us and the property owner, Kelly Brosseth, where they made some assumptions on what the ordinance says and there is a possibility to reduce the setbacks. By no means is that set-in stone, you would have to demonstrate you are within noise standards and there is no vibration, which we have done before on that site, the Storlie pit, and there were no negative impacts whatsoever. I am just saying there are some things that you can do with mining, on a case-by-case basis, where it might be acceptable and it does not cause detriment to neighbors. I would like you to consider keeping the ordinance where it is at, at least for the permit holders and land owners that are here to-date, similar to the previous ordinance where they were somewhat grandfathered in. Just to have the ability, because we have a huge investment here, we have no plans tomorrow or the next day to even ask to go within the 1,000 feet,

but with the depleting gravel resources in the metro area it is very important, state wide, to make sure that we extract those materials safely, efficiently, being good to our neighbors so we do not end up having to go to Iowa and outstate to get those in the future. I greatly appreciate your service and your time tonight in listening to my comments.

Mike Callahan – Mn Paving and Materials

Mike Callahan deferred his spot to Andrew Gieseke from Mn Paving and Materials.

Andrew Gieseke – Mn Paving and Materials

I am the Aggregate Manager speaking on behalf of MPM, and all the other mines. I agree a lot with what Pat said. There are a lot of things that can be done, whether it be a noise or dust mitigation, things can be worked within those 1,000-foot setbacks. In other cases, we are drilling and blasting within less than 1,000-foot setbacks, and running things very safely in a lot of our other areas. In Eureka Township, there is no drilling and blasting, just mine extraction, taking gravel sediment out of there. Again, the property values do not seem to be going down anywhere near mines. Typically, they are developed into other housing developments. As the pits have expired, they are turned into wild life refuges that are donated back to the County. We did two of them in Blue Earth County, one of them is a state swimming park. The land has value. Like Pat said, the mine resources, or mineral rights, are being evacuated within the metro at a very fast clip. They are going to need other areas to get those resources from. If it is not locally, it will get farmed out even further which, in turn, increases costs to all the customers and tax payers in that area. I would ask you to reconsider that, or at least think about that, as well. That cost goes to everyone that pays taxes within Eureka Township and within the state as the resources change.

Mike Callahan requested to speak on behalf of Mn Paving as well. Chair Wood reminded him that only one speaker per address is allowed to speak.

Gary Smith –4628 235th St. W., Farmington

Back in the year 2000, I was part of the task force to create the mining ordinance for the Township. I was Chairman of that committee. We met one day each week for a year. We came up with this ordinance and turned it over to the Town Board. And in their wisdom, they added some things and changed some things. My feeling is, I think the Town Board should have absolute control over the setbacks. I really feel that this this proposed amendment, striking of this wording, should be struck out of the ordinance. I live right on the east side of the gravel pit and I do not want to see them any closer to me than they are already. We worked long and hard on this ordinance. We checked with other communities who had gravel mining ordinances and I think we put together a pretty good ordinance.

Chair Wood asked if Mr. Smith was in favor of this amendment. Mr. Smith replied that he is in favor of the amendment strike out.

Dan Ames – 10005 235th St., Lakeville

Mr. Ames asked Township Attorney, Chad Lemmons, whether this was brought up in February or March and was denied. Chad Lemmons responded that the issue was brought up concerning the MPM pit IUP continuation. It was not brought up in regard to the

ordinance itself. Mr. Ames commented that if a text amendment is denied, it cannot be brought back within a year. Chad Lemmons clarified that if you apply for a CUP or IUP and are denied, you cannot apply again for a year. The one-year exemption only applies if the property owner seeks an amendment, and that gets denied. If a Planning Commission member, member of the public, or member of the Town Board seeks the amendment, the one-year rule would not apply because they are not applying as a property owner.

Kathleen Kauffman –25506 Ipava Ave., Lakeville

I have concerns about the ambiguity and the looseness of the ordinance language. I do not know who drafted it way back then and I doubt anyone remembers who drafted it. It is so loose that it kind of invites diversity, whether it is used to grant mining or is used to deny it. It is open for so much interpretation that it invites dispute. In addition, I think the ambiguous nature of the ordinance is a weight on property values across the Township. For new people coming in, if they look at the ordinances and see that a gravel pit can open anywhere, and they have no real guarantee that if one opens next to them, it is not going to be within 100 feet of their front steps. I know for a fact that my neighbor, Bill Clancy, read the entire ordinance book before he bought his property. If we have other purchasers like him coming in, and taking a look at the likelihood of a gravel pit coming in, it is going to have an impact on purchasers. I hope that those are some of the things the Planning Commission keeps in mind, and ultimately the Board, and looking at whether or not this language serves the best interests of the Township.

Chair Wood asked three times if there were any more speakers who wished to make comment. Hearing none, the Commissioners began reading the comments submitted to the Clerk prior to the meeting:

Atina and Martin Diffley – 25498 Highview Avenue, Farmington

We are writing in support of the proposed text amendment to remove the exemption from the current mining ordinance that could allow mining closer than 1,000 feet from a residence. The 1,000-foot setback in our mining ordinance is the only protection Eureka residents have from losing our rural lifestyle and property values to unchecked aggregate mining expansion.

I have experienced first-hand the impact of mining on neighboring residents. The noise from equipment and excavating and backing-up beeping is extremely unpleasant and has a big impact on the quality of life. Dust gets into homes and can cause lung issues, asthma, and other health problems. Shaking can cause damage to pipes and structures. The Township Board should not have the ability to change the 1,000-foot setback distance in the ordinance at its discretion.

The setback in the current ordinance should not be negotiable by any sitting Township Board, no matter how well intentioned they may be. There is too much at stake for the residents of the Township. Please vote for the proposed text amendment and remove the section of the ordinance which allows the Township Board to reduce the 1,000-foot setback at its sole discretion.

Ray and Mary Jo Sell – 5575 235th St. W., Farmington

We want to go on record as supporting the proposed text amendment that would remove the section of the ordinance which allows the Township Board to reduce the 1,000-foot setback at its sole discretion (concerning mining activity). We feel that if the Township Board should decide to reduce the 1,000-foot setback in this area, it would adversely affect us and nearby property owners. Please enter our message as part of the record.

Carrie Jennings – 8919 280th St. W.,

I support the proposed text amendment to clarify setbacks for mining of aggregate in the Township. Setbacks and buffers provide habitat and visual and noise screening, the value of which cannot be overstated. The more the public is screened from the unpleasantness of mining, the fewer complaints the Township will receive. Decreasing the set back to 100' would greatly exacerbate the negative impacts that mining already has on surrounding properties including:

- lowering property value
- increasing noise
- increasing vibration
- increasing fugitive dust with impacts on health and crops

I reproduce below a page of an [open file report from Washington State](#) on noise levels and setback distance. Note that loaders, crushers, and trucks are still in the “annoying to very annoying, hearing damage” range at 100 feet. It is only after they are set back over 1,000 feet that they reach the sound level of an air conditioner and allow for telephone use.

For safety purposes and to prevent failure of mine sides, setbacks also have to exceed the depth of the mine by *at least* 1.5 time the vertical height of the pit wall.

In addition, I would like to point out that it was never the intent to allow long-term, un-reclaimed pits to exist in the Township. Reclamation would ideally occur in stages as segments of the pit are exhausted or temporarily reclaimed following a dormant period of a few years.

Mine sites were never intended to be permanent locations for activities such as hot mix, asphalt or concrete plants. Those activities, if permitted at all, were to accelerate the depletion of the materials in the pit and allow for even earlier reclamation. That is why there is a limit on how much material can be imported into a pit. That material can also only be mixed with aggregate from the pit. Topsoil, mulch and other organic materials that are imported and stored or sold, unmodified are not allowed. Again, this is to accelerate depletion of the material in the pit and lead to reclamation of the area. That is the end goal; mine it out and then get out.

There are already too many former or dormant mine sites in the township that are improperly reclaimed. They are hazards to humans and wildlife, attract illegal dumping, off-road vehicles, and compromise groundwater quality, not to mention being unsightly.

Carrie Jennings, PhD, Professional Geologist license # 53476

Figure 3.7. Noise levels and human response for some common noise sources. (Modified from Barksdale, 1991.)

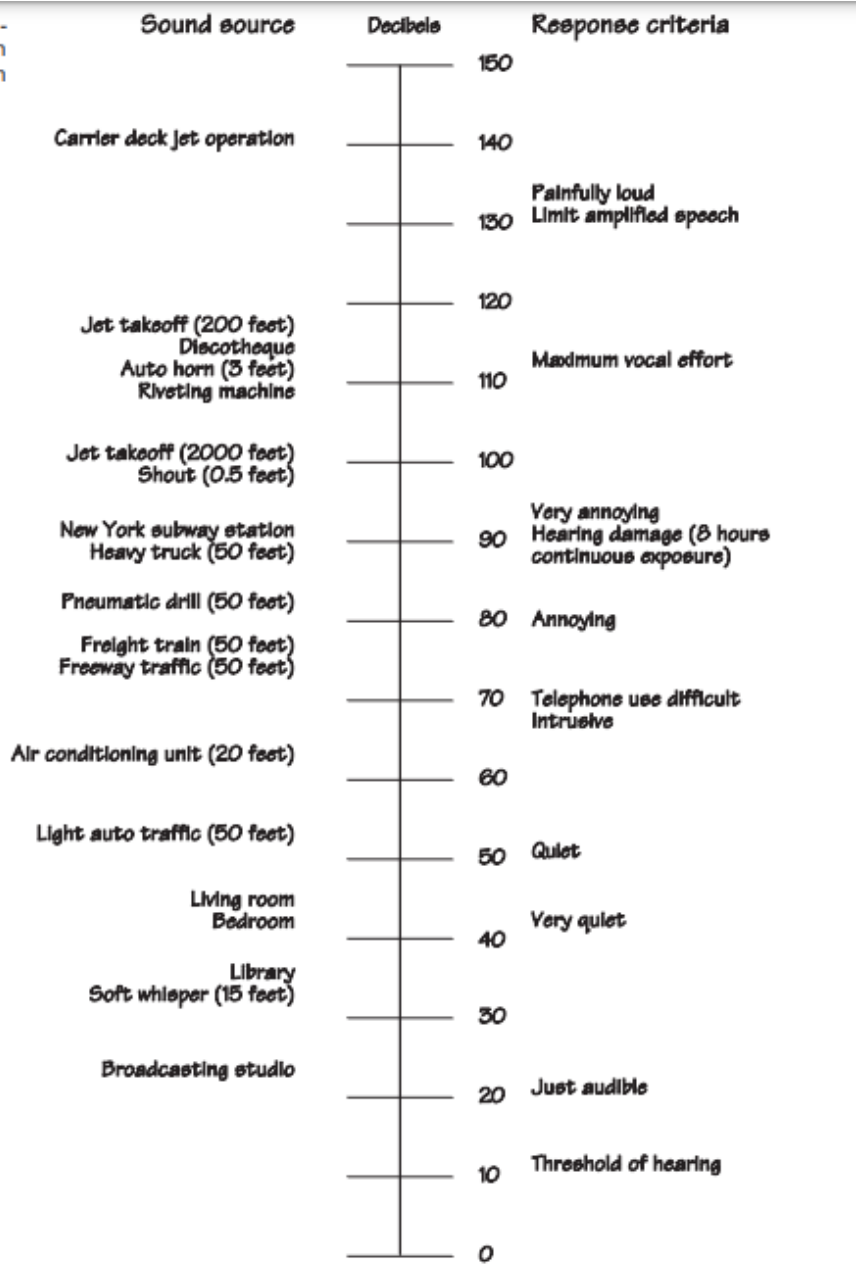


Table 3.1. Summary of noise measurements and projected noise levels in decibels (dBA) for common mining equipment (Barksdale, 1991)

Noise source	Measurements	Projected noise levels		
		1,000 ft	2,000 ft	3,000 ft
Primary and secondary crusher	89 dBA at 100 ft	69.0 dBA	63.0 dBA	59.5 dBA
Hitachi 501 shovel, loading	92 dBA at 50 ft	66.0 dBA	60.0 dBA	56.5 dBA
Euclid R-50 pit truck, loaded	90 dBA at 50 ft	64.0 dBA	58.0 dBA	54.4 dBA
Caterpillar 988 loader	80 dBA at 300 ft	69.5 dBA	63.5 dBA	60.0 dBA

Tom and Laura Ekness – 24705 Essex Ave., Farmington

Tom and I support closing the loophole in the existing ordinance regarding mining in Eureka Township. The current mining on 235th St. has impacted our enjoyment of our property. We can hear the backup signals even though we are more than a mile from the source of the noise. We built our home more than 40 years ago to enjoy living in a rural environment, away from the noise of town. We spend hundreds of dollars a year on feed for the birds and other critters. The mining of sand and gravel to pave sidewalks and pave roads, while we seem to be stuck on a gravel road that will never see blacktop in our lifetime, is a bitter pill to swallow. It is my understanding that the Metropolitan Council does not have any plan to pave Essex Ave any time in the near future. I understand that we chose to live on gravel when we bought our property, but if we have to put up with the noise of mining in our area, we should reap a reward for doing so. When we see new walking paths being paved along the new Co Rd 70, that seems unlikely to be of benefit to anyone currently, it does not seem fair that we have had our way of life impacted by the mining noise. The mining is for the financial benefit of a few at the disadvantage of those residents living close by. I have heard of the restoration of the land after the mining is completed. The land is not restored. You are not putting the sand and gravel back into the land. The drainage and soil are changed forever. We will also be impacted by increased traffic, and the intersection of Essex and 235th St. is, for the most part, a blind intersection. The noise, the dust. and the increased traffic are not worth the project for nearby residents.

Donald and Glenda Holz – 23787 Essex Ave

In regards to the possible consideration of an amendment to mineral extraction performance standards to remove language which allows for the waiving of setback requirements relative to dwellings. No, we cannot change the setback closer than 1,000 feet from our homes. I am over 88 years old and we worked hard for our home. It is also the major part of our savings. We all know it will badly affect our health and greatly reduce our homes value. It is like staling from us so that someone else can make a great profit at our expense. Thank you for understanding.

Arlene Goter – 23775 Essex Ave., Farmington

This letter is in support of the proposed amendment to the current mining ordinance in Eureka Township to maintain the 1,000-foot setback for legal mining operations. This amendment would guarantee that Township landowners can continue to expect the quality of life they currently experience, without the possible intrusion of mining as close as 100 feet from their property. Such intrusion would have myriad negative effects, not the least of which are possible health hazards from noise and dust. Studies have shown property values in similar situations in the state to have dropped precipitously from pre-mining values, and that same result would be expected in Eureka Township.

Decisions of this scope, and with such far-reaching ramifications for the Eureka Township citizens, should not be made at the discretion of the sitting Township Board members. There is no reason to think that, given one exception to the rule, more would not be expected in the future. No elected governing body should have the power to make these exceptions on its own. Maintaining the 1,000-foot setback as an ordinance would be advantageous to all Township residents and would contribute to the health, welfare and property values of those very residents. Surely, these considerations for Eureka Township

residents should be the primary motivation of the Township Board. Please enter this letter in favor of enacting the proposed amendment to the current mining ordinance as part of the public record

David and Kelly Metzger – 5853 235th St. W., Farmington

We, David and Kelly Metzger, support the proposed text amendment.

Stephen Pope – 5711 235th St. W., Farmington

I support the proposed text amendment and I would like it to be put on the record please.

Robert and Mary Vos – 6220 235th St. W., Farmington

We support the proposed text amendment to the current Mining Ordinance in Eureka Township. We would like to have our message entered as part of the official record.

Peggy Wade – 5905 235th St. W., Farmington

I hope to attend the zoom meeting tonight but, in case I can not make it, I wanted to submit comments in favor of the proposed amendment to Ordinance 6, Chapter 7, Section 1(M).

Lee and Bev Topp – 26045 Ipava Ave., Lakeville

We are writing in support of the proposed text amendment to remove the exemption from the current Mining Ordinance that could allow mining closer than 1,000 feet from a residence.

The 1,000-foot setback in our mining ordinance is the only protection Eureka residents have from losing our rural lifestyle and property values from unchecked aggregate mining expansion.

As former Supervisors, we both have experienced the impact of mining on neighboring residents before the ordinance was changed, affording them protections. The noise from equipment, excavating and backing up beeping is extremely unpleasant and has a big impact on the quality of life. Dust gets into homes and can cause lung issues, asthma, and other health problems. Shaking can cause damage to pipes and structures.

The setback in the current ordinance should not be negotiable, or at the discretion of any sitting Township Board, no matter how well intentioned they may be. There is too much at stake for the residents. Supervisors are elected to protect from unreasonable consequences of their ordinances.

Please vote for the proposed text amendment and remove the section of the ordinance which allows the Township Board, at their discretion, to reduce the 1,000-foot setback.

Close Public Comment period

Chair Wood asked three times if anyone had any additional comments. Hearing none, the public comment period was closed.

Planning Commission discussion

Motion: Commissioner Larson moved to accept the text amendment as presented, seconded by Vice Chair Clancy.

Commissioner Clancy: One of the primary purposes of the Planning Commission is, per Ordinance 2, “to plan for the physical development, to recommend a zoning plan for the Township of Eureka and provide rules for the operation thereof”. In our advisory role to the Town Board, and our service to the community and the citizens, we must follow and apply the rules of the ordinances and be sure they are up to date and properly established and defined. Ideally, the less reliant on subjective and interpretive opinions, the better. Often, this requires an iterative process over time. It is difficult to chisel the ten commandments into stone and get all of the rules right in one writing. The proposed text amendment eliminating the Town Board’s discretion to eliminate the 1,000-foot setback of a mine from a dwelling anywhere and everywhere in the Township is an important topic for all of the residents and land owners in Eureka Township. The key question of this text amendment is that any Town Board member, past, present or future, has the authority to reduce the setbacks anywhere in the Township. We have received substantial public comment on that topic. Development will continue to work southward into Eureka Township. Pressure for more aggregate and more mines in the Township will grow. Both the Comprehensive Plan and our Ordinances allow mining anywhere and everywhere in our Township, with no mining district limitations. We are surrounded by four Townships, two of which do not allow mining, and the other two who limit it to mining districts. Thus, in the current ordinances as written, the 1,000-foot setback requirement is the sole primary protection that homeowners have.

Commissioner Burkhardt: I think that when the ordinance was written, it was done so leaving a little leeway to see how things go; leaving the door open; seeing the effect it would have on the residents. I think they tried to make a good ordinance. I think we have sufficient input from our residents as to how this is actually working out, and what is best for the residents. It seems quite clear that they would prefer at least a 1,000-foot setback, and for that not to be debatable.

Commissioner Wood: As noted by speakers, the ambiguity of the ordinance language which offers waivers of setbacks is troubling. The summary Analysis: Impacts of Operational Gravel Pits on House Values, which is part of our packet, shows values for homes negatively impacted based on their distance from gravel pits. It is no different than for landfills and hazardous waste sites. A home adjacent to a pit is negative 30% of what the house would sell for if it was not near a pit. A house half a mile away is negative 20%. Home values are negatively impacted based on their distance from a gravel pit. The financial benefit is small compared to loss of surrounding home values, which means less property taxes for our Township overall. Pits bring no value to neighborhoods, but offer noise, dust, unattractive appearances and consequently a decrease of positive rural amenities which we cherish, and the reason many of us moved here. These DIS-amenities are deflected in home values up to three miles away. I find it ironic that I find myself in this place and position after 20 years, when I, along with residents of the Township, were on the original mining task force. Gary Smith was Chair, along with Sharon Buckley, Kenny Miller, Glen Shirley, Pat Steege, Don Storlie and myself. We worked and met each week for over a year to come up with a good

ordinance, which went to a public hearing. The language we offered tonight, to delete regarding setbacks, was never discussed or proposed in the year 2000 ordinance. Somehow, mysteriously, the flexible setback waivers were added without consulting with the task force. The Board members at that time I believe were Bev Topp, Don Pflaum, Clark Smith, Kenny Miller and Connie Anderson. I have gone through Township meeting minutes and documents from the year 2001 through 2002, and found little to no insights or information as to how that language was added.

Chair Wood called for a roll call vote: Bill Clancy – Aye; Julie Larson – Aye; Chad Berg – Aye; Debbie Burkhardt – Aye; Randy Wood – being this is a Township-wide issue and does affect myself, living near a gravel pit, and to avoid the appearance of impropriety, I will abstain from voting on this matter. *Motion carried 4-0.*

Chair Wood commented that he hopes the Town Board has the wisdom to understand this is a Township-wide issue that affects all to take action.

Planning Commission recommendation to the Town Board

In conclusion, the Planning Commission will forward its findings to the Town Board for their consideration. The reasoning behind the recommendation to adopt the text amendment is as summarized during discussion.

Adjournment

Motion: Vice Chair Clancy moved to adjourn the meeting, seconded by Chair Wood. Roll call vote: Bill Clancy – Aye; Julie Larson – Aye; Chad Berg – Aye; Debbie Burkhardt – Aye; Randy Wood - Aye. *Motion carried 5-0.*

Meeting adjourned at 8:15 p.m.

Respectfully submitted,

Ranee Solis, Town Clerk

Minutes Officially Approved by: _____ on: _____
Planning Commission Chair Date