

**EUREKA TOWNSHIP**

**DAKOTA COUNTY**

**STATE OF MINNESOTA**

**Eureka Planning Commission Special Meeting of May 19, 2015 and  
Special Meeting Continuation on May 21, 2015  
Review of Kenny Miller Amendment to Interim Use Permit  
Set Date for Public Hearing**

**Call to Order**

Planning Commission Vice Chair Barfknecht called the meeting to order at 7:04 PM. Planning Commission members present: Vice Chair Lu Barfknecht, Commissioner Phil Cleminson, Commissioner Fritz Frana, and Commissioner Donovan Palmquist. Chair Nancy Sauber recused herself. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

The meeting was called to consider application for Windmill LLC and to set a date for a Public Hearing. The first amendment to the Development Agreement as it refers to a concrete plant as an accessory use, it says ready-mix plant. Mr. Miller stated it is a dry ready-mix plant and is primarily a portable plant and with dry batch taking a lot more time, it limits production and is not a permanent plant. Mr. Miller stated that he would have his lawyer make the change to the Amendment to the Development Agreement and will add "Dry Batch Ready-Mix Concrete Plant. Mr. Miller will have amended copies provided for the Planning Commission. Vice Chair Barfknecht stated, if it is not added, it will be cause for concern.

Commissioner Frana had a question regarding Page 3, Environmental Assessment regarding building heights. The wash plant will be between 50-60 feet, which is similar to what Mr. Miller has now. Other concerns were how to make it blend with the surrounding area as much as possible. Mr. Miller stated that the front is open because of vandalism and theft problems in the past. He would build up the berms if necessary.

There were also questions regarding the noise that the plant will generate. Mr. Miller stated the berms would shield noise from the backup loader, motors and noise of the ready-mix plant. The generator is muffled and will probably be quieter than the present operation. Mr. Miller requested there be a visit with Planning Commission members to the Pearson Pit in Prior Lake, which is similar to Mr. Miller's operation to listen to the noise levels and also see the operation in general.

Other items discussed: The storage bin will be the stockpile. Within the year, Mr. Leroy Chard of Rivers Edge Concrete will install a plastic canvas cover over the structure to control noise and dust in the bins. The biggest storage is the stockpile of gravel which hold 2-3 truckloads of gravel each. The Dust-Bag house is like a vacuum cleaner sucking dust away (cement powder). The bag house captures the dust and reuses it. It fits tightly around the truck and muffles the noise and empties into the bag house. Storage bins are fed by a 60-foot conveyor, which is inside the building. The bag house is a great help environmentally.

Mr. Miller discussed the process from the time it enters the mine until it leaves in the cement trucks. Commissioner Frana suggested that there be a new site map indicating where the silos are located. Mr. Miller again suggested that a trip be taken to the Pearson pit. Mr. Miller stated that Mr. Chard does not have the equipment purchased and nothing is set in stone. Commissioner Frana suggested that he would like a sketch of the proposed layout of the plant in general. Mr. Miller stated that it is portable. The washout areas for the trucks are uncertified septic tanks-the water gets recycled, as well as the sludge on the bottom of the tanks. Mr. Miller will bring in a picture and a sketch of the "proposed" layout of the area which will be pretty general. Commissioner Frana stated something visual is needed and Mr. Miller said he has a PowerPoint Presentation

Mr. Miller also discussed traffic movement around the pit.

Mr. Frana also wanted to know how Mr. Miller would prevent the cement powder from entering the environment. Mr. Miller stated he would show the containment system. Cement powder is always contained as it cannot get wet or it will harden. The dust and air quality is monitored once a year; there is an operating test to certify that there are limits on dust. If the vacuum system goes down, the whole operation shuts down.

Chair Barfknecht stated that it was estimated the cement plant will have 6-7 ready-mix trucks and is wondering how many times during the day would there be backup noise? Mr. Miller stated there would be more noise from the backup alarms than the equipment running the plant. There may be imported rock from time to time – it is not common, but most of the material will be coming out of the pit. "Accessory uses may not exceed 25% off-site materials used in conjunction with each specified accessory use; therefore off-site minerals may not be aggregated to a single accessory use, allowing a specific accessory use to exceed 25% of off-site minerals used in conjunction with the specific accessory use.

Mr. Miller stated again he will provide a footprint layout – it will vary once equipment is brought in. Three ready mix trucks will remain on site.

Commissioner Frana had a question concerning Mr. Miller's engineer and the EAW worksheet. He stated the EAW document that Kirsten Pauly PE, drew up does not mention a dry ready-mix plant as part of the EAW. The question concerned introducing Portland

cement into the mine, which is a toxic material that is not identified or explained. Commissioner Frana stated he is struggling with the fact that the EAW may not comply and perhaps TKDA should do an independent assessment. Mr. Miller stated Ms. Pauly is a civil engineer and concrete ready mix plants are seen as a component of a gravel pit state-wide. Mr. Miller also stated that he would have Ms. Pauly address this question to the Planning Commission's satisfaction

Commissioner Frana again suggested an independent review by TKDA. He feels that it is in the best interest of Mr. Miller and the township to have TKDA look at this before a Public Hearing is held. Commissioner Cleminson agreed.

Mr. Miller stated he has no problems going to TKDA, but wants the directive to come from Chair Budenski and does not want to insult his engineer in doubting her competence. Commissioner Frana apologized and stated that was not his intent.

Mr. Miller stated he would get more information from Ms. Pauly to answer the Commission concerns, as well as providing a footprint. Vice Chair Barfknecht to clarify with Vice Chair Behrendt our amended Paragraph 2 of Subsection B, Section 7, Chapter 7 Ordinance. She also suggested that perhaps the Commission wait before moving forward with TKDA to see how Ms. Pauly responds to our questions.

Vice Chair Barfknecht suggested the meeting be continued at another time. Mr. Miller stated that Ms. Pauly would come to the continuation of the meeting to answer questions directly.

Vice Chair Barfknecht made a motion to continue the Special Meeting on Thursday, May 21 at 6:00 PM and to have Ms. Pauly, or an associates from her engineering firm present to answer any questions. Commissioner Frana seconded the motion.

This portion of the meeting ended at 8:46 PM.

### **Continuation of Meeting, May 21, 2015**

Vice Chair Barfknecht called the reconvening of the Special Planning Commission meeting to order at 6:00PM on Thursday, May 21, 2015 to finish up and review the information supplied by Mr. Miller of Windmill LLC and to set a date for a Public Hearing.

In attendance at the meeting: Vice Chair Barfknecht as Acting Chair, Commissioner Fritz Frana, Commissioner Phil Cleminson, Kenny Miller, Kirsten Pauly PE, of Sunde Engineering, Inc. representing Mr. Miller and Attorney Carol Cooper representing Mr. Miller.

Vice Chair Barfknecht stated she was not able to reach Supervisor Behrendt, but contacted Supervisor Budenski as far as clarifying Paragraph 2, Subsection B of the Ordinance related to 25% mineral extraction. Supervisor Budenski clarified this would be for the total, not individual dual accessory use, and it would not be necessary to contact the Township Attorney. As far as Commissioner Frana wanting to bring in another opinion of engineering firm, the fact that there is no change regarding the structural alteration or intensification of the primary use, which it states in the Ordinance is not required.

Commissioner Frana stated this is where he had a disconnect with the proposal. Commissioner Frana stated that in Resolution No. 2015-03, Section 1, Chapter 6, shall be amended by adding the following language: *“Any change involving structural alteration, enlargement, intensification of use, or similar changes not specifically permitted by the Interim Use Permit issued, shall require an amended Interim Use Permit and all procedures shall apply as if a new permit was being issued.”* Commissioner Frana stated that the phrase, “similar change not specifically permitted” is key, because on the next page if you look at the definition of Accessory Use in Subsection K, Section 1, Chapter 7 of the Ordinance shall be amended to read as follows, *“Accessory uses must be identified in the permit. Accessory uses not identified in the permit are not allowed.”* Currently the dry ready-mix plant is not identified in the permit. Vice Chair Barfknecht stated that in her opinion, that is why he is doing the amendment to his current permit. Commissioner Cleminson agreed with Vice Chair Barfknecht. Commissioner Frana disagreed. There was much discussion among the Planning Commission members.

Kirsten Pauly PE,, Sunde Engineering, Inc. stated, that the permit needs to be amended to allow the ready-mix as an accessory use—that does not mean you have to do an Environmental Assessment Worksheet. There have already been permits issued for the mining site—there has already been an environmental review. The aggregate industry produces different mixtures and it is common for MN DOT or counties to require new types of processing, it is not uncommon to change some of the processing equipment or change some of the materials as the market changes.

Commissioner Frana questioned structural alterations. Even though Mr. Miller is bringing in a portable structure, Commissioner Frana believes that the business model is changing which is a structural alteration plus bringing in different offsite material –the cement and the mix. Commissioner Frana stated he feels that is considered intensification of use.

Commissioner Cleminson does not see intensification of the temporary structure. There was much discussion among the Planning Commission members. Mr. Miller stated there would not be more activity as there is a lot more profit in cement and they will probably back off of engineering soils which is why we are shifting the focus and not intensifying.

Ms. Pauly, Sunde Engineering stated that in the State of Minnesota certain activities require a storm water permit from the Minnesota Pollution Control Agency. It is a state program that is required at a federal level. In the state of MN the PCA has developed what they call a

general permit for non-metallic mineral mining and associated activities, and that permit covers sand and gravel mining and the associated activities include ready-mix plants, hot mix asphalt plants. Within that permit is a requirement for a storm water pollution prevention plan and that plan has to make sure that the storm water is contained onsite and is allowed to infiltrate, or if it is discharged offsite that it is treated in a sedimentation pond before it is discharged. If it is discharged there are monitoring requirements in accordance with this permit. The PCA has inspection requirements, and if there is ever a change in stockpile locations, it is a working document that as evolvment occurs, the storm water prevention plan is reviewed to make sure all the current activities are addressed. Bringing in new portable equipment the storm water pollution plan would be updated. The permit is in place and is mandated yearly and a quarterly report is filed. These pollution prevention plans get amended, as it is a working document where changes are encouraged to be made.

Discussion was held regarding cleaning of trucks and how the hardened cement and the water are contained and are recycled and monitored.

Ms. Pauly answered the question regarding toxicity of Portland cement noting Material Safety Data Sheets are required for companies to describe potential hazards that are associated with their products. The mine safety is overseen by MSHA and OSHA which are separate entities, but the data sheets are there for worker's-right-to know. Portland cement is hazardous to inhale and the data sheets indicate that there is crystal and silica in the cement and those particles can cause silicosis and that is hazardous. It lists precautions workers have to take if they are working around dry cement. Under normal use, the cement is not hazardous to the environment. It is similar to fertilizers in that there are certain criteria for how to use them, but they are not a hazardous waste. The material should be kept dry and enclosed. If it is mixed with water it hardens.

Mr. Miller stated that all of his state permits are updated and current.

Vice Chair Barfknecht made a motion to accept the changes to the amendment to the Interim Use Permit and that the Planning Commission set a date for the Public Hearing. Commissioner Cleminson seconded the motion. Motion passed 2-1 with Vice Chair Barfknecht and Commissioner Cleminson voting yes and Commissioner Frana voting nay.

Discussion was held regarding setting a date for a Public Hearing. Available date is Wednesday, June 10 at 7:00 PM at the Township City Hall. Vice Chair Barfknecht made a motion to adjourn the meeting. Commissioner Cleminson seconded the motion. The meeting was adjourned at 8:00 PM.

Respectfully submitted,  
*Special Planning Commission Meeting Minutes*

*Page 5 of 6*

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*May 19, and May 21, 2015*

Cheryl Murphy  
Deputy Clerk  
Eureka Township

Minutes approved by the Planning Commission on July 6, 2015.