

**Eureka Township  
Public Hearing  
June 8, 2006  
Eureka Town Hall**

Agenda: Request for Text Amendment to Zoning Ordinance 3

Planning Commission members present included Mike Greco, Kevin Flaherty, Nancy Sauber, Rich Stevens, Sharon Buckley and Clerk/ Treasurer Nanett Champlain to record the minutes.

Town Board Members present included Gary Smith, Cory Behrendt and Legal Council for Eureka Township, Sharon Hill

Citizens present: See attached attendance list.

Planning Commission Chair, Mike Greco called the public hearing to order at 7:03 pm.

The contact person listed on the application, Don Storlie, was contacted by the clerk earlier today, informing him that late last week the town board requested that their attorney be present at the public hearing and that the applicants are responsible for paying attorney costs and other costs incurred by the town board, relating to the proposed application.

Chair Mike Greco read the names of the applicants listed on the application and also the information provided by the applicants on the application. *See attached application.*

Before opening the floor for public comments, Chair Mike Greco asked for a representative on behalf of the application to make a brief statement of an explanation of the application.

Charles Hansen, 26120 Highview Ave spoke on behalf of the applicants. He looks at it as open land clustering; it would allow anybody to cluster off of somebody else's property. Currently today to cluster one must have contiguous acres. They are asking to change the contiguous acres requirement and to allow open land clustering. The board could set rules and regulations to cluster on a 10 acre or 20 acre piece, they could allow clustering wherever they felt appropriate. They are not asking for a TDR (transfer of building rights), they are asking for single house clustering. Not looking at starting housing developments. They are asking to allow someone to purchase a building right and moving it somewhere else. It would not impact as far as causing more permits to be out there, they would be existing permits on lots of record.

Chair Mike Greco read a statement on the role of the planning commission in the permit process and the procedure that would be followed. All speakers will be called in the order listed on the speaker list. Each speaker will be allowed ten minutes to speak.

Chair Mike Greco opened the floor for public comment at 7:12 pm.

Francie Madden- 10250 225<sup>th</sup> St W, Lakeville

She emphasized that the present Ordinance does state: 4 clustered homes per 40 acres. She emphasize the language: Make sure you leave in the part that says “within the Township” All requests must go through the Town Board; each must be approved by the Town Board.

Butch Hansen- 26120 Highview Ave, Farmington

Mr. Hansen waived his right to make additional comments at this time.

Gayle Klausner- 24595 Essex Ave, Farmington

She hadn't seen anything in writing, the details of the proposal. Her concerns were passing something that would increase the density of the buildings; she would like to preserve the rural feel of the township. Her concerns were opening it up to an increased density. Would this create increase in density in any area of the township?

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

Main reason they started the process is because of the pipeline- wanted to have bargaining chip. If we have open land clustering- you do not necessarily have to buy, but have the opportunity. When they comes through we have a chance to be reimbursed fairly for what we have. This would give a hand to those affected by the pipeline coming through. The issue on increased density- it would remain the same, the permits are in the township already, they are just being adjusted around the township. People that are ready to retire, will have the opportunity to buy a building right and add it to the acreage they have and sell a couple more lots.

Mike Greco asked: How does this help as a bargaining chip in negotiations?

Don Storlie- The Township is zoned as Ag. , residents are one on forty. If the pipeline is coming through our property and we have the right in the township to have open land clustering (can buy someone else's building right and transfer it to our property) We want to place the building right where the pipeline is coming through, it makes the property more valuable than it is, if it is just ag land.

Glen Shirley- 27010 235<sup>th</sup> St W., Farmington

It is interesting that there has been two proposals in the last month, they may or may not be good proposals, they beg question that they both should be turned over to the planner we are close to acquiring. This may be a good thing with guidance of counsel as to clustering houses in a more beneficial place than four per forty acres in open land. Both to preserve open land, by environmental and aspects of agriculture. We have some of the best agricultural land in the county. He suggests that this issue should be deferred until we can get guidance from our planner.

Ken Olstad- 8000 257<sup>th</sup> St W., Farmington

Would the transfer be permanent, would it go with the transfer of land? Is there an existing legal mechanism for recording the building transfer? Is it recorded on the title? What happens in the future if the zoning density changes in the future? Does the application include any details on the number of building rights allowed in a transfer, density rates- need a handle on this and restrictions. If a higher density is allowed in an area, what does it mean what type of restrictions? It could be fairly dense in a certain area, could impact roads and taxes- this should be looked at closely. Water table, concerns of groundwater- protect water. Need to use advice of a professional planning consultant. Is there anyway a

person that does not live in Eureka Township, or someone that does, buy a building right and hold it-on speculation or to keep the neighboring property open and at sometime sell it to another person. It might enhance the selling of the building rights.

It was mentioned earlier that it was not a TDR- what is the difference?

Overall potential limit density of the township would not increase, under the proposal but more of the unused building rights would get used. It is clearly that the number of houses would increase.

Dean Monson-10391 250<sup>th</sup> St W., Lakeville

The commission and the board could use this as a good tool for the progress of the township. He feels everyone could be happy. Some do not want development, but it is going to happen. Lets use this as a tool, to get out in front of the issue, so we don't continue to get steamrolled by sewer lines, oil pipelines, annexation and other county issues.

Atina Diffley- 25498 Highview Ave., Farmington

She asked how many citizens are in the township was and the number of undeveloped house sits.

According to US Census the population is approximately 1500, the number of building rights was estimated by the envisioning task force in 2003 to be approximately 270.

Jim Sauber- 9025 225<sup>th</sup> St W., Lakeville

He thinks it is a good idea to explore and look into for Eureka township, it is important that it applies to all people in the township- or if the intent is just for people that have a hardship because of a pipeline or sewer that there is specific criteria and measurable criteria on who it applies to and who it wouldn't assuring that we have equal and non discriminatory focus on it. Should research other communities, there are a number of township that have implemented this type of program, we can learn from other townships. Eureka should model off the ordinances- developed in other townships. We would be developing a commodity market of buying and selling of building rights. The final ordinance should be controlled thru the township board. There should be a limitation to time frame 1,2,5 years if not executed it would become null and void at some point, if not used. He was concerned of lost records, confusion on owners, etc. hard to keep track of- recording- who gave up right, bought right, used right, etc. Ensure a person is not forced to sell or give up a right, the two parties agree to the sale. Regarding the pipeline-is putting a time clock on the process- town board needs to take the time to do it correct.

Ray Kauffenburg- 24510 Dodd Blvd, Lakeville

It is hard to get public input without specifics of the proposal. Once information is collected from the public, will there be another opportunity for public input, once a specific proposal is developed. What is the benefit of not allowing more than 4 houses on 40 acres? Why would this be a benefit of the township? The advantage of clustering is that you are putting the homes near to each other preserving the other agricultural land for agricultural use. Clustering should be intense. This is more of a forum than public input, because we do not have much information to go on.

Martin Diffley -25498 Highview Ave., Farmington

Two issues- Nature of houses- single family verses multi family, condos. Ownership once transferred- ownership would remain with a resident or a non resident of MN. It would be best if limited to residents of Eureka Township. Information should be obtained from other townships that have gone through this and he supports obtaining a consultant on the issue.

John Storlie- 23449 Dodd Blvd., Lakeville

He feels this is a good opportunity; we need to expand our horizons. Rice County has this process. As landowners we do not have a lot of flexibility with our land, it would be nice to have something other than agricultural. We should take a deep look at this and expand our horizons and move forward. It is a good idea.

Planning Commission Chair Mike Greco invited any person already spoken to make additional comments.

Don Storlie

If you buy rights and do not use them and the zoning changes, you could lose those rights, so you would need to be wise in purchasing. They are looking for the option to do this, it doesn't mean that we will necessarily buy them, but it gives the opportunity to do so.

Planning Commission Member, Sharon Buckley asked if any of the applicants had answers to any of the questions raised by citizens and would like to address those questions.

Charles Hansen

TDR's- must own building right before requesting development, have a community well and septic system, blacktop roads. That is not what we are looking for in our request. We are asking the board to transfer rights to a minimum of 10 acres, so we do not have tight clustering. We are not looking at creating housing developments. Persons who own acreage with no building rights could purchase a building right and sell 10 acres as a buildable site. Not all farm land in Eureka is desirable farm land. The goal is to leave the power in the control of the board. The board could set the format of the use. You would have to be a land owner in Eureka Township to buy a building right in the township. As far as increasing the density on a certain piece of property- the town board would have control of that.

Atina Diffley

Would not like to see a ten acre minimum, it would be very destructive to agriculture practices. She would like to see something like 2 1/2 acres. So houses are together, rather than carving the land up into 10 acre plots.

Ken Olstad

He agrees that development is going to happen and we need to get control of it. If we have a good understanding of details and it protects of potential impacts, that is one thing, but if it simply worded that you can transfer building rights, then we are just increasing density in some places- jumping the gun.

Charles Hansen

What happens to building rights if the zoning changes? It has no effect, if the zoning changes, it changes for everyone. A scenario- If under new zoning you would have 4 building rights, but you sold 1, then you would have only 3 and the person who bought

your right would have 5 (if you each had 40 acres and the zoning was one on ten) The town board could put a limit on a time frame on when a purchased building right needs to be used.

They want this to increase land values in Eureka Township. A building right on a property increases the value of the piece of property. If we do this we need to make sure that we do this properly.

Terri Petter- 24005 Dodd Blvd

She entertained a scenario in Apple Valley that agricultural land has much less value than development plotted area.

Charles Hansen

In response to increased burden on roads- if there are more homes, then the tax base is increased, so there is more tax base to improve the roads.

Glen Shirley

It has been proven by research that houses do not pay their way, ag land more than pays its way in taxes.

Mike Dveney 5810 212<sup>th</sup> St W., Farmington

He asked about the possibility of the pipeline not going through the township.

The planning Commission received two written letters from Eureka citizens, Beverly Topp- 26045 Ipava Ave. W, Lakeville and Carolyn Papke- 5965 235<sup>th</sup> St W, Farmington. The audience asked that these letters be read. *See attached.* Chair Mike Greco read the two letters.

Dean Monson

He would like to see the Commission and Board to meet the best interest of the majority of the people in Eureka Township.

Chair Mike Greco asked for additional public comment, hearing none, the public comment portion of the hearing was closed at 8:10 pm.

### **Planning Commission Comments:**

Rich Stevens

He asks to what happens to one on forty if the zoning changes. It needs to be recorded on deed. If it changes with zoning the buyer and seller needs to know. A time limit is not necessarily a good thing, if someone wants to buy a right to keep open space next door, then it would be ok to buy it and not use it.

Mike Greco

He has done a lot of research on TDR's it is a very complex concept. It is difficult to do well. It needs to be thoughtfully, carefully and with significant input from citizens. He had a long conversation with the Planning Administrator in Rice County; they have a combination of TDR and clustered development. Essentially the transfer of building rights is the simplest form of TDR. For this to work, to benefit the entire community-and to be in the health, safety and welfare interests of the community, it has to be more than individual landowners getting more money for their individual property. That simply is not a legitimate basis for the planning commission to make a decision in favor of something like

this. Typically a community identifies in advance areas in the township where receiving zones will be located and other places in the community where the community desires to preserve open space, agricultural land and historical sites. (*Sending Zones*) Normally the building rights are permanently retired, even if the zoning changes in the future.

Other things to consider is the complexity of this, someone needs to keep track of all the transfers- where they are coming from, where going to, who holds them, whether they have been used or not, resold ,etc. We do not have the staff or technical ability to keep track of this. Mike thinks that TDR is worth exploring further, if it is done right it would be a great tool in the township to allow development while preserving open space. He does not think what was put forth in the proposal is something that the planning commission can move forward with and act upon without the assistance of a planning professional. He feels we should go through the process, make sure that TDRs are one of the many tools we consider, to give it the time, thought and consideration it deserves. It is far beyond the ability of the planning commission to do it right.

As far as the pipeline issue and how it relates to this issue. He has talked to land use attorneys that specialize in utility cases, they do not understand how this would help individuals. The pipeline route has already been identified. They are not purchasing the land, only a 50 foot easement. The pipeline company would say that they are not inhibiting you from building on the parcel, you just cannot build over the pipeline, it can be placed somewhere else on the parcel. He also commented that specific concerns of access to property and other types of issues can be addressed with the pipeline company on individual basis.

#### Nancy Sauber

It is hard to consider without exact language. They have submitted a concept. Without exact language to evaluate it would be very difficult to make a decision, because we do not have the exact language for consideration as requested. Further there are no criteria given for the transfers, where are the sending zones, how far away can you transfer rights, how many times can you transfer a right, would they retire, density, would there be a cap on the number of rights to transfer, or from a particular parcel- what would the numbers be and why. Where would the receiving zones be what density would the appropriate or desirable? What infrastructure such as roads would need to be improved and at what cost a by whom. Would there be a cap on the number of building sites that a parcel could receive, even if it keeps an acreage requirement that is imposed. How would you be affecting neighboring land owners? These are all serious questions that would take a lot of time and consideration. Most communities use TDR to plan land use for the greater good, as an example to preserve open space, to preserve hardwood forest, to protect scenic views, rivers or lakes. This proposal is for an economic situation, someone willing to sell, someone willing to buy, what are we trying to accomplish are we trying to create a trading market for building sites. It is not reflective of an overall zoning plan for the township. The planning commission is in the process of obtaining a planner, the end results may include this concept, but this would come from a lot of input from the community, thoughtful consideration. To approve this now would hamper this process.

Don Storlie interrupted Nancy Sauber during her presentation; he stated that the applicants wish to withdraw their application. They do not want to pay for any more attorney time.

Several applicants were out of order. Chair Mike Greco brought the meeting back to order and asked the attorney whether the applicants can verbally withdraw the application.

Attorney, Sharon Hill's response was that each applicant would need to make a statement on record that they wish to withdraw the application

Chair Mike Greco allowed Nancy Sauber to complete her statement.

Nancy Sauber

There are no criteria outlined in the proposal. The central element of the proposal would result in spot building clustering that may or may not be consistent with the overall zoning plan. Application states that it will not change overall density. The ag district is one house per qtr/qtr section, allowing preservation of open space and farming. For the future it allows for flexibility for farm use and planning. The overall density may not change, but the density in one neighborhood could drastically change. Do you change the ordinances to favor one group, to the possible detriment another group? Should you change the ordinances for one group of people or for the greater good of the health, safety, welfare of all our citizens?

She thinks the request is ill founded, poorly articulated and not been given exact language to adopt or to evaluate for adoption. It does not reflect any serious consideration for long term thought for zoning in the future. We need input from all citizens; we want to proceed in an orderly thoughtful manner, so we can zone land use for now and the future, redo the COMP Plan that would benefit everyone.

Chair Mike Greco asked the attorney for clarification on the withdrawal process. Attorney, Sharon Hill explained that there are a number of applicants that signed the application. All of the applicants need to state on record tonight or in writing that they are withdrawing their application tonight. You cannot accept just one signature.

The Planning Commission can move to continue the hearing to another night, giving the applicants time to submit a written withdrawal. If they do not submit the withdrawal, then the planning commission can act on the application at their next meeting.

A motion by Rich Stevens: To table the item and continue the discussion at the July 3, 2006 planning Commission meeting. Motion seconded by Sharon Buckley. Motion carried by unanimous vote.

Motion to adjourn by Rich Stevens. Meeting adjourned at 8:37 pm.