

**EUREKA TOWNSHIP**  
*Dakota County, State of Minnesota*

**PLANNING COMMISSION PUBLIC HEARING**  
**January 17, 2023-7:00 PM**

**Call to Order**

The Planning Commission Meeting was called to order at 7:00pm by Chair Clancy

Commissioners Present: Bill Clancy (Chair)  
Deb Burkhardt (Vice Chair)  
Randy Wood (Commissioner)  
Beth Eilers (Commissioner)

Others Present: Ralph Fredlund, Donovan Palmquist, Nancy Sauber, Kathleen Kaufmann, Mark Ceminsky, Dan Ames, Lu Barfknecht, Brian Ahern, Amy Liberty (Deputy Clerk)

Zoom Participants: Ranees Solis (Clerk), Jeff Otto, Julie Larson, Jody Arman-Jones

**Opening Statement**

Chair Clancy stated the purpose of this public hearing and read the following:

Please refer to old Ordinance 10, recodified into Chapter 216, both titled "Subdivision of Land".

This existing ordinance was written in an attempt to properly manage any new "sub-divisions," or suburban-like developments or groups of new housing, similar to Eureka Estates.

While a key intent of application of the ordinance was if it required new roads; other wording however in the chapter also applies to any subdivision of land... even a simple lot split.

Thus, recently the Planning Commission and Town Board discussed a flaw in the ordinances as written long ago.

One key specific example in Old Ordinance 10, Chapter 1, Section 4 called a subdivision of property....."is the result of a division of land creating only parcels of 20 acres or more in size *and with at least 500 feet or more of public road frontage.*" That wording, of course, carried into recodified Chapter 216-4, item B3.

The need to remove that 500-foot requirement drove a review and re-write of the entire 25-page recodified Chapter 216, with input from our new Township Attorney.

The new document was forwarded to the Planning Commission by the Town Board at their 12/27/22 meeting. The document is still under review.

The Planning Commission had it on their agenda for the first time at the January 3rd meeting. Additional needed changes are being reviewed.

The new document more importantly and clearly differentiates between a simple "lot split / combination process" in 216-7 and a more complex "Platted subdivision process" in 216-8.

Additional research unveiled the following from a Town Board Meeting conducted on 5-10-2010:

**C. Lot Split Approval**

Currently, the Township does not have the authority to approve lot splits, as the necessary, former subdivision ordinance language was repealed in the past, probably unintentionally, through an amendment of the Ordinances. The Town Board needs to adopt a Subdivision Ordinance in order to reinstate this authority. Reasons for the desirability of lot split approval were discussed. Attorney Trevor Oliver was asked to draft Ordinance language. A public hearing was scheduled for June 7, 2010, at 7:00 p.m., before the Regular Planning Commission Meeting.

The adopted Ordinance intertwined simple lot splits for citizens with more complex lot splits for platted subdivisions. The proposed amendment would separate the two into specific chapters.

**Public Comment**

Chair Clancy opened the public comment period, and the speakers were called upon in the order listed on the sign-in sheet and then on to the Zoom participants.

Mark Ceminsky 7226 235<sup>th</sup> St. W., Farmington

Mr. Ceminsky stated that he just found out about this public hearing and only had a short time to review the proposed amendment. He expressed his concern on how citizens receive information.

Mark also asked why the newly proposed version of the ordinance was not red lined to help determine what changes were made. Chair Clancy asked permission to address this question and explained that it was his idea due to the fact it was a completely different document both in format and wording. A red line version was virtually impossible due to the significant changes. The decision was to include the old ordinance alongside for comparison. Mark added it was confusing to compare and it would have been clearer if it was stated that this proposed document was a replacement. Wording in the new document, Mark feels, does have a few issues. One such example is having the word "or" in § 216-4. Decisions section. This may be interpreted as the Planning Commission having the authority to make a final decision without the Town Board.

**§ 216-4. Decisions.**

*All actions of the Town Board and Planning Commission pertaining to this chapter shall require the vote of a majority of the members of the entire Board or Commission.*

Mr. Ceminsky is curious as to why time is being spent on this ordinance when the Comp Plan clearly states 1 in 40 acres until 2040, and the Township cannot have subdivisions as far as developments. There are only so many housing rights in the Township. The need is for subdivisions for individual properties only and it should be stated in the ordinance that the Township does not allow housing developments. Variances, fees, and definitions are not set yet, so it was asked if another public hearing will be scheduled.

Mark concluded his time with a question about an email written by Jeff Otto and if it will be included for public viewing.

Kathleen Kaufmann, 25506 Ipava Ave., Lakeville

Kathleen wanted to direct the Chair's attention to a few items in response to the last speaker. First, the home page and the calendar both provided notice of this public hearing and the Board decided not to send postcards anymore. They showed up too often after the event and were considered inadequate notice. This was the decision of the Town Board and not a decision of this tribunal.

Secondly, the initial reaction in reviewing the amendment of the Subdivision Ordinance was exactly as what Mark Ceminsky mentioned. The Township doesn't need all the subdivision items in this draft, it is one house per forty and it is creating too long of an ordinance. It was later realized, however, that the Township is required to have a complete Subdivision Ordinance in order to be able to approve simple lot splits. This is why new language was written to differentiate the simple lot splits to the more complex.

Third, in the response to questions raised in the email written by Jeff Otto, the following was offered, with the concerns from Mr. Otto in bold and the answers given by the Township attorney.

**Page 3: Is there a difference between "Easement" and Zoning term "Servient Parcel"? Difference needs to be explained or settle on one term.**

The term "Easement" in Section 215-6 refers to a document memorializing a grant by a property owner of the use of a portion of the owner's property by the public, individuals, groups, or corporation for specific purposes designated in the easement. Although I could not find the term "servient parcel" defined in your current Town Code that is available online, a "servient parcel" generally refers to the parcel of land that is subject to an easement and benefits another parcel of land. These terms are consistent with each other and do not need to be changed or modified.

**Page 4 "Lot Split**

**"1. where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and have either direct access to a public road or in the alternative have an access easement from each lot to a public road at least 33 feet in width;"**

**If "Lot Split" is to be this narrowly defined, Zoning needs a new term (perhaps County term "Real Estate Division") to cover smaller splits (not platted), boundary changes, and combination splits such as 2 parcels being re-surveyed into 3 or 4 parcels. Having "Lot Split" defined differently in two chapters may be technically allowed but it obviously is a poor and confusing practice.**

The Zoning Ordinance refers "lot split" in Sections 240-9 and 240-10. In these sections the term "lot split" does not have a different meaning as the term is used in Chapter 216, the Subdivision Ordinance. In Sections 240-9 and 240-10, the reference to term "lot split" is in connection to whether a parcel would be considered a buildable lot for single-family residential purposes after being subdivided or combined with another parcel using the procedures outlined in Section 216-7 of the Subdivision Ordinance.

**Page 6 216-7 A.1) "1) Adjust a lot line in a manner that does not create any new lots; or"  
ALL lot line changes create NEW lots.**

**Dakota County does not handle it this way, which I experienced personally about 5 years ago. I was told it had to be submitted through Township as what we call a lot split and then filed with the County because ANY boundary change of a parcel has the old PID retired and a NEW PID assigned. This is because the square footage and the land classification (ag, wooded, wetland, highway easement, and various subclasses) of each square foot affects the property tax calculation of the two or more properties with new boundaries.**

I believe that Section 216-7A.1) can be deleted as the Township wishes to use Section 216-7, Lot Split/Combination Process, as the process for all proposed lot split/combinations except where a creation of a new road right-of-way would be required. If new road right-of-way is required to serve the new parcels, then the provisions of Section 216-8 would apply, the Platted Subdivision Process. Deleting Section 216-7A.1) would clarify the Township's position for property owners.

**Further, on Page 8 D.1)**

**The overall character of several subpoints is that this is a minor Township adjustment.**

**This of course also directly affects any grandfathered lot and its grandfathered housing right, so may be anything but a minor change. In my case, only about 450 sq. feet was involved. Our 72 acre farm property was issued a new PID. In the context of Eureka zoning, that is a NEW parcel.**

The Township understands that a lot line adjustment may negatively impact a property owner's rights, it was for this reason the Town Board determined to have these types of adjustments brought before both the Planning Commission and the Town Board for consideration rather than allowing the Zoning Administrator to approve the adjustment or lot split/combination, as is done in other communities. It was felt that either the Planning Commission and/or the Town Board could discuss with the applicant the potential negative impacts of their proposed lot line adjustment, lot split/combination including, but not limited to, effects on grandfathered lots and grandfathered housing rights.

**1)h) "Lot of Record Status shall not be affected by adding additional property to a lot that does not meet the current dimensional standards."**

**This clearly directly contradicts State guidance on grandfather protection. Most grandfather lots needing such protection are in fact substandard meaning they do not meet current dimensional standards, the main point of grandfather protection in the first place.**

The language of Section 216-7D1)h) does not affect any "grandfather" rights that may be available to the property owner. The language of this provision specifically states that a lot line adjustment granted by the Township would "not affect" the property's "Lot of Record" status.

Fourth, there is no need for two hearings because of alternative possibilities with respect to variance. There is language on variance. For instance, if you have language A or language B, you can comment on two different concrete sets of language.

Kathleen concluded with appreciation of the efforts of the Planning Commission and hopes a clean ordinance will come before the Town Board soon. Future simple lot splits depend on this amendment.

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

Nancy recommended the following edits:

- Page 16, number 8, to insert the words “primary and secondary” before on-site to make this clearly reflect the Dakota County Ordinance 113 requirements.

*Ordinance 113, Subsurface Sewage Treatment Systems, Section 5, General Requirements,*

*C. SSTS ON LOTS CREATED AFTER JANUARY 23, 1996. All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support systems as described in Minn. R. parts 7080.2200 through 7080.2230 or site conditions described in Minn. R. 7081.0279, subps. 3 through 7. (Minn. R. 7082.0100, Supb. 3(F))*

*§ 216-9. Platted subdivision design standards*

*F. Lots.*

*8. Lots not served by a public sewer system shall have sufficient room for a primary and secondary on-site subsurface sewage treatment system in compliance with all State, County and Township laws.*

- Page 10, number 4, insert (s) by newspaper. Eureka Township currently designated two official newspapers. (Dakota County Tribune and the Sun This Week)

*Notice of the public hearing may consist of a legal property description, shall contain a description of the request, and shall be advertised in the official newspaper (S) at least ten days before the day of the hearing. Property owners within 350 feet of the proposed subdivision shall also be notified through the mail of the hearing. Failure of any property owner to receive said notice shall not invalidate the public hearing.*

- The word valid should be written as “invalid” in Section 216-16.

*§ 216-16. Validity and separability.*

*Whenever any provision of this chapter is more restrictive than provisions of existing laws or ordinances, the provision of this chapter shall govern.*

*Should any section, clause or provision of this chapter be declared by a court of competent jurisdiction to be **Invalid**, the same shall not affect the validity of the chapter as a whole or any part thereof, except that part so declared to be invalid.*

Nancy offered further comment on the following:

The uncertainty of the language -1. *Adjust a lot line in a manner that does not create any new lots;* under section § 216-7., needs to be addressed. Anytime a lot line is adjusted, a new PID number would be issued. It is possible this is referring to sliver lots, however this should be clarified. In addition, requirements of sliver lots should be conveyed.

Owners of grandfathered lots who have a housing right on the parcel should know that it not advised to perform a lot split; this would result in the loss of the housing right. With this knowledge, this ordinance would not negatively affect a grandfathered lot.

The definition of variance in this Subdivision Ordinance refers to § 240-33, which is based on the state statute language of variances that the Township must adhere to. Due to this, it's questionable as to why there is a separate section on variances included. Extraordinary hardships in context to variances has little meaning. It is of the opinion, § 216-13. *Variances*, should be removed or simply state within the section, “refer to § 240-33”.

Nancy Sauber mentioned, to her understanding, if items are discussed at the hearing as they should be, another public hearing would not be necessary, unless something drastically changes after the meeting and was not discussed.

Dan Ames, 10265 235<sup>th</sup> St. W., Lakeville

Dan raised a concern about the website. As of last week, he did not see the notice of this hearing, however it did show up on his phone tonight. Chair Clancy explained the website issues the Township is having and mentioned Market Clarity has been contacted to help resolve the problems. The Planning Commission made a statement at the beginning of the January 3<sup>rd</sup> meeting, as did the Town Board at the January 10<sup>th</sup> meeting, about such problems with the website postings.

Dan also commented on the meeting minutes being a month or two behind. Chair Clancy acknowledged his frustration and explained the procedure of approving minutes before being published. The last item on the agenda of both Planning Commission and Town Board meetings is approving of the minutes, therefore inherently, the minutes will be published at least a month behind.

Another reason for attending the hearing, Dan added, was the confusion about the development part. He understood that the Township didn't allow development and wanted to hear discussion on this. Chair Clancy explained this portion is preparing for the long term. Rewrite is truly for the citizens so they can have an abbreviated process for lot splits.

Jeff Otto, 25580 Dodd Blvd., Lakeville-via ZOOM

Jeff explained his heavy involvement in the update clarifications to the main zoning ordinance, and his interest in the Subdivision Ordinance is because of things like lot splits and concern about overlap and consistency of terminology.

Jeff expressed the need to enter the following for the record:

My initial letter, in the form of an email, dated January 12<sup>th</sup>, which was last Thursday, subject line is, RE, as in reference to, January 17, 2023, Public Hearing for Subdivision of Land Text Amendment. For the benefit of those in the audience, I followed the standard procedure as an outsider, not a member of the Planning Commission, or the Board. I forwarded my letter to the clerk, Ranee Solis, and asked her to immediately forward it to all members of the PC and the Board so it wouldn't be a blind side coming at tonight. So, it has accomplished what I wanted it to, through result in some dialogue already with the attorney, and there's already progress being made to address the specific issues I raised, and I do very much appreciate that, so I fully endorse the effort and the opportunity to clarify the record on this. I wanted to let the members of the public know where I had major concerns which I put in writing. The detailed information that Supervisor Club (Kaufmann) provided to me greatly eased my concerns.

Carol Cooper, 26437 Galaxie Ave., Farmington, -Email

I will not be able to attend tonight's public hearing, but have read Jeff Otto's two emails to the township regarding his concerns. I am writing to express my wholehearted agreement with his concerns, and urge the township to wait until this ordinance has been revised to make it workable and understandable.

Please forward this email to the Planning Commission and Town Board supervisors, and make it part of the record of tonight's public hearing.

*Carol S. Cooper*

C. S. Cooper Law Firm PLLC

Before closing the Public Comment period, Chair Clancy wanted to add to the record, that on page 4, third definition, Lot Split, is under review.

The last phrase, *including the following separations*, may need to be changed back to *except* and the need for a clearer understanding of 33 feet width instead of the infamous 500 feet.

*LOT SPLIT*

*The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest does not necessitate the creation of streets, roads, or alleys, for residential, commercial, industrial, or the use of any combination thereof, and not in conflict with any provision or portion of Chapter 240, Zoning, or the regulations contained in this chapter, including the following separations:*

- 1. where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and have either direct access to a public road or in the alternative have an access easement from each lot to a public road at least 33 feet in width;*
- 2. creating cemetery lots; or*
- 3. resulting from court orders, of the adjustment of a lot line by the relocation of a common boundary.*

Attendees shared that they would like to add more comments, therefore Public Comment continued with a second round of statements.

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

Nancy wanted to add the reminder regarding lot splits of 20 acres or more, when there is a CUP or NCU involved, the Township does require the citizens to designate which parcel will retain this right, they do not multiply. She also wanted to state, although the website is a great source of information for our citizens, it is not a mandatory way of communication. By law, the State requires us to publish the hearing in our official newspaper or newspapers, and post on the outside bulletin board, which is our official posting site.

Jeff Otto, 25580 Dodd Blvd., Lakeville-via ZOOM

Jeff continues to have concerns and asked for further clarification on page 8.

*D. Lot line adjustment*

*1) Lot line adjustment defined;*

- h) Lot of record status shall not be affected by adding additional property to a lot that does not meet the current dimensional standards.*

Chair Clancy assured Jeff that this will be put on the open items list to discuss with the attorney.

Mark Ceminsky 7226 235<sup>th</sup> St. W., Farmington

Mark agrees with Jeff's concern and stated that anytime you change a lot of record for a grandfathered lot, it changes it and it's no longer grandfathered. Another concern is the phrase minor changes, used in Section 216-8. This is too broad and perhaps should be further defined.

*§ 216-8. Platted subdivision process.*

*A. Preliminary Plat (Platted Subdivision)*

- 8) If the Town Board requires changes to the preliminary plat, and if such changes are determined to be **minor changes** in the opinion of the Town Board, then such changes may be noted on the Plat and approved as such.*

Mark added that the unknown detail of § 216-12. *Platted subdivision fees and expenses*, and

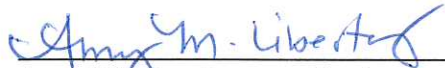
§ 216-13. Variances, is concerning. Citizens do not know the result until it is voted upon. Lastly, he wanted to make the Planning Commissioners aware that he was finally able to see the postings on the website and understands it is an issue that is being investigated and thanked them for their time. Chair Clancy in turn, thanked everyone present for the invaluable input.

Review will continue and the Planning Commissioners will make a recommendation to the Town Board during the next Planning Commission meeting, held on February 6, 2023.

*Motion:* Chair Clancy moved to adjourn the hearing; Commissioner Wood seconded.  
*Roll call vote:* Randy Wood-Aye; Bill Clancy-Aye; Beth Eilers-Aye; Deb Burkhardt-Aye;  
*Motion carried 4-0.*

The public hearing was adjourned at 9:08pm.

Respectfully submitted,

  
\_\_\_\_\_  
Amy Liberty, Deputy Clerk

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



# EUREKA TOWNSHIP

Dakota County, Minnesota



Subdivision Ordinance Amendment (Chapter 216 of the Eureka Town Code)

**Public Hearing**

**Attendance**

**January 17, 2023**

**7:00 PM**

**Name**

Ralph Fredlund

Mark Comiskey

Kenneth Sawyer

Ken Olson

LaBrosse

Don Amis

**EUREKA TOWNSHIP**  
**Public Hearing Speaker List**  
January 17, 2023

Subdivision Ordinance Amendment (Chapter 216 of the Eureka Town Code)

If you would like to make a comment during tonight's public hearing, please provide your name and address below. Speakers will be called in the order they are listed.

PRINT NAME

ADDRESS

PRINT NAME	ADDRESS
Mark Comiskey	7024 235 <sup>th</sup> St W
Kathleen Kaufman	25506 Spawa Ave
+ Nancy Sarber	225 <sup>th</sup> W