



**Public Hearing Meeting Minutes
Zoning Ordinance Amendment Regarding Clustering
April 8, 2019 6:30pm**

ATTENDANCE

Clerk	Molly Weber
Supervisor	Jim Sipe
Supervisor	Doug Wille
Supervisor	Dan Peine
Treasurer	Leo Nicolai

Planning Commission Members

Jeremy Irrthum
David Peine
Mike Tix
Casondra Schaffer

The purpose of the hearing is to consider, hear from the public, and act to make a recommendation to the Town Board regarding an amendment to the Town's zoning ordinance regarding clustering standards.

The standard Public Hearing Process was followed.

1. Introduction: outline the rules, talk about what the rules are and follow that plan
2. Establish the ground rules: public will be limited to 5 minutes
3. Applicant presentation: applicant presents what they want to build
4. Public Testimony: anyone from public can voice their opinion
5. Rebuttal Testimony: applicant can counter any questions made by the public testimony
6. Closing

Applicant Presentation:

Jim Sipe was present to discuss the amendment to the Town's zoning ordinance regarding clustering standards. Jim stated that there were a couple instances last year where folks wanted to cluster in a different $\frac{1}{4}$ $\frac{1}{4}$ than the one allowed. Gene and Judy Kimmes have a similar request. The Kimmes's were told they could request a variance but they did not want to do that. They requested that the ordinance be amended instead.

Jeremy Irrthum read aloud the proposed amendment (attached at the end of these minutes) and section 402B of the Town's Ordinance.

Section 402 Land Use Density and Intensity Regulations

B. Notwithstanding the limitations on density, one additional home may be allowed within a quarter-quarter section (40 acres) owned entirely by same person, persons or entity if the only home on the property is an original farm dwelling the owner can demonstrate to the satisfaction of the Township was constructed prior to April 21, 1982.

Public Testimony:

This was limited to 5 minutes per person.

Doug Wille supported the amendment stating the original ordinance says you can cluster but sometimes prohibits clustering because of existing residences. The amendment is like fixing a mistake in the original ordinance.

Leo Nicolai stated the ordinance needs to be fixed and the amendment is like enhancing the original intent.

Rebuttal: none

Planning Commission Discussion: Dave Peine stated you need to define the buildables in advance but they do not need to be immediately constructed. He said the planning commission always recommends owners define their buildables before selling any property to maximize their buildables.

Casondra Schaffer stated that if Mike Tix owned 160 acres and sells 2 buildables he would need to get them all lined up before he sells so he can transfer them to whomever purchases the land. Cassondra described multiple situations where the amended ordinance would be just as or more difficult to interpret and enforce than the current ordinance.

Mike Tix stated that discretion will need to be used where it applies.

Doug Wille reference back to Section 403 C. of the ordinance. He stated the proposed amendment is too broad and lengthy. Jeremy Irrthum agreed, and that “too broad and lengthy” is a problem. Jeremy is not comfortable with it being up to the board of supervisors’ sole discretion. He wants an ordinance with defined parameters. Something consistent with continuity for everyone. In his opinion, “The Town Board may, in its sole discretion” does not provide the foundation for an argument to allow or prohibit clustering.

Doug stated that perhaps the amendment should be reworded to provide conditions like if they owned the original 160 acres and can prove it, they should be allowed to cluster since they are not adding any extra houses.

Jeremy Irrthum said an amendment is not necessary. The township’s variance process, which includes a public hearing, is a fair and consistent opportunity for the town board to act in its sole discretion. He stated a wetland covers almost the entire South East ¼ ¼ of the Kimmes property. It may be practical to move the buildables to another ¼ ¼ section. Jeremy said it was not their job to say no, but to work with residents to identify solutions permitted by the ordinance if possible. He would like to see the Kimmes’s use their 3 buildables allowed by the ordinance. Their situation may justify a variance. He mentioned the ordinance allows a variance based on the following criteria:

1. The property in question cannot be used in a reasonable manner under certain requirements of the ordinance;
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner;
3. The variance, if granted, would not alter the essential character of the locality; and
4. Economic considerations alone do not constitute practical difficulties.

Situations would have to be addressed on a case by case basis. Planning Commission told Kimmes’s the fastest way to resolve this situation would be to request a variance. The Kimmes’s stated they were told by their attorney that they do not need to request a variance.

The vote by the Planning Commission was 4-0 against adopting the proposed zoning ordinance amendment.

Jeremy Irrthum put an invitation out that the Town Board and Planning Commission meeting to further discuss it.

Casondra Schaffer made a motion to adjourn the Public Hearing at 7:05pm and have a meeting at a later date with the Town Board to discuss it again. Mike Tix seconded it. Meeting was adjourned.

**HAMPTON TOWNSHIP
DAKOTA COUNTY, MINNESOTA
ORDINANCE NO. 2019-____
AN ORDINANCE AMENDING THE HAMPTON TOWNSHIP
ZONING ORDINANCE REGARDING CLUSTERING**

The Board of Supervisors of the Town of Hampton ordains:

Article I. Land Use Density; Clustering. Article IV, Section 402, Paragraph C of the Hampton Township Zoning Ordinance is hereby amended by adding the double underlined material and deleting the ~~stricken~~ material as follows:

C. Clustering of more than one ~~home~~ single family dwelling within a quarter-quarter section in the Agricultural Preservation District ~~will be permitted~~ is allowed if the Town Board determines the proposed clustering meets the following standards and requirements are met:

1. If a quarter section (160 acres) is vacant and is owned by the same person, persons or entity, four ~~homes~~ single family dwellings may be clustered on one of the quarter-quarter sections of the quarter section.
2. If three contiguous quarter-quarter sections (120 contiguous acres) are vacant and are owned by the same person, persons or entity, three ~~homes~~ single family dwellings may be clustered on one of the quarter-quarter sections.
3. If two contiguous quarter-quarter sections (80 contiguous acres) are vacant and are owned by the same person, persons or entity, two ~~homes~~ single family dwellings may be clustered on one of the quarter-quarters sections.
4. A development agreement or restrictive covenant in a form acceptable to the Township that clearly states that the allowed densities from the parcels that do not contain clustered ~~homes~~ single family dwellings have been transferred to the parcel that contains the clustered ~~homes~~ single family dwellings has been recorded against the affected parcels.
5. Easements for common usage and agreements for common maintenance of shared driveway access in forms acceptable to the Township have been executed and recorded, if required. Common driveways are subject to the Township's driveway standards.

The Town may have the Planning Commission review any clustering proposal and provide a recommendation to the Town Board. The Town Board will consider the Planning Commission's recommendation, if requested, and the requirements of this Ordinance before deciding whether to approve the proposed clustering.

The Town Board may, in its sole discretion, approve a clustering proposal that does not strictly comply with the above standards if it determines the proposal satisfies all of the following requirements:

1. The resulting density will not exceed four single family dwellings in the quarter section. If a pre-existing single family dwelling satisfying the requirements of Section 402.B exists in the quarter section, the total number of single family dwellings in the quarter section shall not exceed five;

2. The area in which the single family dwellings are proposed to be clustered have adequate access to a public road and can adequately be served by on-site water and wastewater services;

3. The proposed clustering will not create an unreasonable burden on public infrastructure; and

4. The proposal is consistent with the intent of the clustering provisions, the related density limitations, ownership requirements, and the other applicable provisions of this Ordinance.

Article II. Corrections and Incorporation. The Town Attorney is authorized and directed to: (1) change references to “home” or “homes” in the Zoning Ordinance to “single family dwelling” or “single family dwellings” as appropriate; (2) change terms in the Zoning Ordinance as needed to consistently reference a “single family dwelling” or “single family dwellings”; and (3) incorporate all of the amendments adopted by this ordinance into the Zoning Ordinance and present it for signature by the Chairperson and Clerk to serve as the official Hampton Township Zoning Ordinance.

Article III. Effective Date. This ordinance shall be effective upon the first day of publication after adoption.

Adopted this __ day of _____, 2019.

BY THE TOWN BOARD

Chairperson

Attest: _____
Clerk