

Working Draft

Eureka Township Strategic Vision

This is a working draft of a strategic vision for Eureka Township. It is being presented to the public by the Citizens Advisory Committee to promote discussion about specific ideas and to help the committee refine the draft.

Summary Intent

Eureka Township intends to maintain for at least the foreseeable future a rural and agricultural environment characterized by farms, private and public open space, very low density non-farm housing with private utilities, and a small number of businesses including home occupations and agriculture-related enterprises.

Opportunities for well-planned urban development will be considered by a subsequent comprehensive plan and implemented if or when regional sanitary sewer service is made available (probably after the year 2030) and Eureka potentially incorporates as a municipality. Until that time, the present nature of the township will be generally maintained and future options protected.

Objectives of the Strategic Vision

- 1.** Protect agriculture and farm operators from development that may contribute to the loss of farmland, land use conflicts and/or nuisance complaints.
- 2.** Limit the subdivision of the township's best farmland for housing and other non-farm land uses.
- 3.** Allow limited non-farm development provided that the impact on farming is minimized.
- 4.** Allow owners of large agricultural tracts to gain revenue by selling housing rights.
- 5.** Protect high quality natural resources.
- 6.** Avoid excessive, costly local service demands resulting from land development.
- 7.** Protect opportunities for efficient and cost-effective land development for the time when public sewer and water services may become available.
- 8.** Create a vision that is understandable by citizens.
- 9.** Respect landowners' rights to use their land in a way that does not significantly harm others' property nor contradict the community interests stated above.
- 10.** Be fair and base the vision on objective criteria.
- 11.** Protect Eureka Township's independence as a governing body in determining its own future.

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1. Land Use

Background

In a township there are 36 one-square mile sections. Each is split into quarters and each of these is split again into quarters producing quarter-quarter sections. There are 576 Quarter-Quarter Sections in Eureka Township. When the “one house per quarter-quarter section” zoning was put in place, there were already some quarter-quarters with more than one lot and more than one house, plus Eureka Estates and Rice Lake Heights were also platted to higher density. Currently (2007), there are approximately 525 houses in place and approximately 280 undeveloped parcels.

House clustering has been in place for over 17 years in the township and was designed to allow up to 4 houses to be built in a single quarter-quarter section by transferring the housing right from an adjacent quarter-quarter under the same ownership to the receiving quarter-quarter. This was done to protect open space.

The concept of a housing right has been linked to whether a property was buildable or not. However, these criteria have varied over the years. For example the amount of public road frontage required has changed. An attempt to grandfather “substandard” lots was made in the 1982 Zoning Ordinance, referencing 1978 buildability, but over the years, seemingly minor changes to buildability criteria have had the effect of removing housing rights on certain properties that were thought to be grandfathered. Some of these have been classified and taxed by Dakota County as Residential for three decades or more. Seemingly separate criteria have an interlocking effect that is requiring each situation to be researched to determine whether a housing right still exists. Even with this research, unclear Ordinance language can still allow different interpretation.

The following recommendations are designed to clarify and streamline the grandfathering of all housing rights and make them transferable and salable, subject to certain limitations, restrictions, or phase-in periods, including environmental sensitivity restrictions limiting where housing rights may be transferred in to apply for a building permit.

1.1 Housing Rights

In reference to objectives 2, 3, 4, and 5 the CAC agrees that some changes are needed to the current ordinances to provide financial opportunities for large landowners while providing an incentive to limit the sale of large blocks of agricultural land. The proposal defined below is intended to support these objectives. The CAC recommends that the citizens of Eureka be well informed of any changes to housing rights and densities and the Township Board take into consideration market and other implications or potential unintended consequences during the implementation process (see section D below).

In all cases in this document, all forms of Housing Rights and possible sales or transfers refer to Housing Rights originating in Eureka Township only and usable only in Eureka Township. While this may be a topic for future consideration, there are no plans at this time to participate with other townships or at the Dakota County level for transferring Housing Rights between townships or municipalities. We would not recommend considering expanding beyond Eureka Township until we have some experience with the program.

1.1.1 Native Housing Rights

Every Quarter-Quarter Section of land in Eureka Township has a “native” right to one house. All of those housing rights would be preserved under this vision except where the Housing Right has already been

transferred as a cluster move to another quarter-quarter section prior to enactment of this vision. (The Housing Right will be preserved at its new location, but not replaced at the source location.)

Housing Rights in this context are for single-family dwellings for use by private individuals and entities, not utilities, railroads, or tax exempt public entities.

Many quarter-quarter sections have been divided into smaller parcels over the years either by subdivision platting or by parcel splits. Many have been classified and taxed as Residential by the Dakota County Assessor since their creation. It is reasonable to assume that the great majority of these parcels were properly created as buildable lots with a Housing Right at the time they were created, but unfortunately changing criteria over the years raises questions about whether housing rights ever existed on certain properties regardless of size. There is no single, convenient source of information on which to base a determination except to read the documents on file with Dakota County for each property, a very time consuming process.

The Citizen Advisory Committee is in complete agreement in its desire to properly and fairly identify existing Housing Rights and determine simplified rules to enable compiling a master list of such rights. Such a list would then be easy to maintain going forward – the difficulty is in compiling and verifying pre-existing Housing Rights in the initial list. Significant progress has been made, but we are not yet confident we have adequately tested the proposed rules to be sure they apply fairly in every situation. We are recommending that more work be done in this area. We also recommend that whatever rules might be used to project pre-existing Housing Right availability would still require proper verification of circumstances based on official documents (deeds and surveys) recorded with Dakota County before any given Housing Right is exercised.

All properties intended and recorded as buildable lots any time in the past should also have a native Housing Right as of March 1, 2007, even if the property is no longer buildable under current Density sensitivity criteria. It must be of sufficient size to support one single-family dwelling, two septic systems, a well, a garage and a storage structure, of the minimum size described elsewhere and meeting all setback requirements. Public road frontage and Density limitations are not criteria for determining the existence of a Housing Right. Public road frontage and maximum density restrictions may not apply – see Section D, Maximum Density.

Aside from the above exception situations, the first house on a parcel within a quarter-quarter section uses the original native Housing Right for that Quarter-Quarter Section.

The special circumstance of a second farm dwelling that has been allowed by prior Ordinances as a Conditional Use Permit in the past does not have a separate Housing Right unless a Housing Right was clustered into the property in conjunction with its construction. If there was not a clustered Housing Right, then while there is still any dwelling on the property, the one native Housing Right is considered in use.

Unused Native Housing Rights may be used on the property in the Quarter-Quarter where they originate, clustered within the ownership tract (refer to Recommendation 11) or sold on the open market and used to apply for a building permit elsewhere in Eureka Township subject to possible phase-in restrictions and the Density regulations governing the maximum number of houses in the receiving Quarter-Quarter Section (refer to Recommendations 4, 5, 6 and 7).

Possession of an unused Housing Right to be applied to a property is a pre-requisite to applying for a building permit for that property.

A master registry of native Housing Rights will be created and maintained by the Township based on separately described parcels as identified by a unique Dakota County Property Identification Number as of March 1, 2007. Every Housing Right should have a unique identifying code so its use or availability can be tracked.

The Housing Right may be used in its current location if the parcel is buildable under current buildable lot requirements and environmental sensitivity requirements or may be transferred or sold as the owner chooses (subject to possible phase-in limitations). Evidence of separate parcel ownership will be the unique Dakota County Property Identification Number.

1.1.2 Split Ownership of a Quarter-Quarter Section

An unused Native Housing Right existing in a Quarter-Quarter Section in which there is more than one eligible private land owner will be restricted and not be allowed to be sold or used elsewhere in the township. It may be used in place or clustered to another parcel under contiguous ownership by the owner claiming the Housing Right.

Use of a Restricted Housing Right in this situation follows the more restrictive clustering concept of the 1990 Zoning Ordinance. Such rights may only be clustered to another Quarter-Quarter Section within the requesting owner's contiguous property. Such clustering will be subject to the density restrictions of the current Zoning Ordinance at the receiving location.

Any Restricted Housing Right will remain available to the first landowner with holdings in the Quarter-Quarter Section who applies for the Housing Right and proceeds to apply for a building permit within 90 days. If the permit expires without the dwelling being constructed, the Restricted Housing Right reverts to being available to another landowner to request it. The first requestor may not request it again for a period of one year after it reverts to availability.

Utilities, railroads, and tax exempt public entities are not eligible for native and reserve Housing Rights. If there is only one eligible private owner in a quarter-quarter section with one or more ineligible entities, the one Native Housing Right shall belong to the private owner and in this situation, the Housing Right is not restricted from sale.

There is no need to modify Dakota County property records to reflect transfer of a Housing Right away from a property. Zoning issues are a Township responsibility. This current Ordinance provision requiring deed update with the County can effectively block a cluster move that would otherwise be reasonable and appropriate.

When a landowner owns 30 or more acres (75% majority) of the land in a Quarter-Quarter Section, and an angled major road or railroad has separated the remaining portion of the Quarter-Quarter Section, then the 75% majority landowner shall be entitled to the same Native Housing Rights as if he owned the entire Quarter-Quarter Section, provided the majority landowner has never owned the smaller portion of the Quarter-Quarter Section for any period prior to April 12, 1982.

1.1.3 Additional "Reserve" Housing Rights

The basis for calculating additional "reserve" Housing Rights in this section is still under review. There is agreement on the principle of creating additional Housing Rights per objectives 3, 4 and 10, and general agreement that approximately 200 additional Housing Rights at this time is a reasonable target in conjunction with the greater flexibility proposed to allow transfer and sale of both these additional

Housing Rights as well as most of the approximately 280 existing unused Native Housing Rights. Utilities, railroads, and public entities with exempt tax status are not eligible to receive them.

Contiguous land in common ownership as of March 1, 2007 totaling 70 acres or more will be granted one Reserve Housing Right assigned to the owner. What is still under consideration is whether to create a second additional Reserve Housing Right for those owners whose properties total more than 105 acres and whether to create a third additional Reserve Housing Right for owners whose properties total more than 140 acres (up to three Reserve Housing Rights total per owner).

A Reserve Housing Right may be used with similar flexibility and restrictions as a Native Housing Right except that it is not associated with a single parcel or quarter-quarter section, but belongs to the owner. It may be used by the owner to apply for a building permit on a buildable lot, replace a previously clustered housing right, or sold on the open market for use elsewhere in the township. Sale may be subject to possible phase-in limitations and the regulations governing the maximum number of houses in the receiving Quarter-Quarter Section (refer to sections 4, 5, 6 and 7).

Contiguous land parcels under common ownership may have their acreage combined into one total in order to reach the thresholds of 70, 105, or 140 acres (depending on which formula is used).

Reserve Housing Rights, as with Native Housing Rights, create the ability to apply for a Township permit to build single-family houses but not multiple-family (attached) housing such as duplexes, townhouses or apartments.

The number of and ownership of Reserve Housing Rights will be calculated one time based on ownership status as of March 1, 2007. Reserve Housing Rights created in this manner will also be maintained in the Township's Master Registry referenced above.

1.1.4 Single Use of Housing Rights

Housing Rights are unique and may not be in use for more than one single family dwelling at a time except to bridge from one dwelling to a replacement dwelling. In this case, the first dwelling will lose its occupancy permit 90 days after the replacement dwelling is available for occupancy.

1.1.5 Selling Housing Rights

Both Native and Reserve Housing Rights may be sold, except in split ownership quarter-quarter sections (see A-2), at rates determined by the market and used in any normally-developable location in Eureka Township within the density limit of the receiving location, subject to possible phase-in limitations.

1.1.6 Record-Keeping

Eureka Township will maintain a permanent record of all Housing Rights (both Native and Reserve) including whether they are in use or available, and whether sold or transferred. The Township will determine the number and location of available Reserve Housing Rights as of a given date, which will be prior to the date this feature was proposed (example: March 1, 2007). This will be a one-time-only calculation of additional Reserve Housing Rights and there will be no subsequent recalculation after the Board certifies the available rights. Future zoning changes may add additional Housing Rights but may not terminate Housing Rights certified by this calculation.

1.1.7 Notice of Housing Rights Available

The Township may establish and publish on its Website a listing of salable housing rights whose owners wish to publicize the availability of rights for sale. Alternatively, such a list may be maintained and published by a private entity, such as the Multiple Listing Service.

1.2 Maximum Density

1.2.1 Maximum Density of Houses per Quarter-Quarter Section

The current maximum density allowed through clustering is 4 Houses per quarter-quarter section. It is proposed that this be raised to 5 across the Township in support of objectives 1, 2, 3, 4, 6, 7, 8, 9, and 10.

Parcels or lots already in place at a higher density in a given quarter-quarter section as of March 1, 2007, will have their resulting total density allowed. Any such parcels subsequently deemed unbuildable will reduce the maximum density by one each but not less than the general maximum density of 5.

New lots created for housing purposes after March 1, 2007, such as by splitting parcels, do not have a Housing Right and do not expand the maximum density allowed in the quarter-quarter section. If the lot is buildable and within Density limits, an unused Housing Right must be transferred to the property as a prerequisite to applying for a building permit. Such a new lot cannot preempt the rights of an undeveloped pre-March 1, 2007 lot without an affected owner's agreement.

1.2.2 Land Enrolled in the Metropolitan Agricultural Preserves Program

All land parcels enrolled in the Metropolitan Agricultural Preserves Program (Ag Preserves) must maintain an average housing density of no greater than one house per 40 acres as described by State of Minnesota Statute 473H. Note that this is NOT tied simply to the density of quarter-quarter sections, but also to the actual acreage of the land in the Program. We have specifically verified this with the Metropolitan Council, the official administrator of this program for the State. The primary guideline is whether the property, wherever it is located, does not actually have houses on it to a density of more than 1 house per 40 acres of property. Therefore, eligibility is largely under the control and responsibility of the property owner to not exceed that density on the property so enrolled.

However, by law the Township as zoning authority does need to serve a supporting role to preserve the underlying one per quarter-quarter zoning where land is in Ag Preserves or the eligibility is lost. It also needs to provide certification by resolution designating land eligible for Ag Preserves participation. Since this certification is by Town Board resolution, not Ordinance, this provides flexibility to more easily add land at a later date should an owner desire to place additional land in Ag Preserves.

Approximately 17% of the area of the Township is in Ag Preserves is a key reason that the Township should NOT make a blanket change to 2/quarter-quarter or 4/quarter-quarter zoning across the entire Township as that would take away the Ag Preserve eligibility of all existing participants. The first forum held by the CAC also generated the feedback that residents did not like the idea of dividing the Township into different zoning densities.

The current optional ability to cluster up to 4 houses per quarter-quarter section and the proposed new maximum cluster density of 5 houses per quarter-quarter section do not directly affect the eligibility of property for the Ag Preserves Program. Exercising clustering on land actually in Ag Preserves could not be done to a higher density than one house per 40 acres of a given owner's Ag Preserve acreage or that owner's eligibility would be lost.

Since the eligibility is based on the physical existence of houses and the underlying zoning density, the owner's mere possession of unused Housing Rights of any type in any quantity does not jeopardize that eligibility. Since unused Housing Rights would no longer be tied to the land under this proposed

approach, the owner would be able to use them outside of his or her Ag Preserve land or transfer or sell them elsewhere in the Township.

1.2.3 House Clustering

Building more than one house per Quarter-Quarter Section is known in this document as clustering.

The minimum size of a house lot in a cluster is governed by Recommendation 11, Minimum Parcel Size. The parcel will be buildable only if it also satisfies maximum density Section B-9 and sensitivity restrictions of Section C.

Prior to preparing a plan for clustered housing, applicants must draw an analysis of site features and determine which areas should be kept open and which are most suited for housing, and review it with the Planning Commission.

Clustered houses should be grouped with the aim of preserving productive farmland, wetlands, floodplains, mature forest and rural agricultural views. The site analysis must also show how the land could be efficiently and attractively re-subdivided to urban-sized lots and streets in the future when public sewer and water services may become available. Community driveways are encouraged in clustered areas and public road frontage is not required.

1.2.4 Minimum Parcel Size

Land parcels for housing need only be large enough to accommodate at least two on-site wastewater systems, a well, a house, a garage and a storage structure while observing all normally required setbacks. Thus, the minimum parcel size will vary depending on soil conditions. The Township encourages small parcels but low density in order to keep land in cultivation, minimize interference with farming and reduce complaints about farm operations such as odors or machinery noise, support individual septic systems and wells, and not overload unpaved Township roads with traffic.

Further study is needed to determine if there should also be a minimum acreage requirement, such as 1 or 2 acres.

1.3 Density Limited by Environmental Sensitivity

In reference to objectives 5 and 6, the CAC agrees that density and/or construction standards in areas that are environmentally sensitive should be modified. Environmentally sensitive areas are those that have watershed protection, higher groundwater sensitivity, or other naturally occurring features, which have a higher potential for contamination from septic discharge or changes caused by housing or other uses that would require costly alternatives.

1.3.1 Preferred Locations for New Houses

New houses should be located where they will cause the least interference with farming (example: the corner or edge of a tillable area or the perimeter of a quality wooded area rather than the middle of either) and minimize environmental impact.

1.3.2 Land within a Shoreland Zoning District

Shoreland Overlay Zoning Districts exist around Chub Lake (within 1,000 feet) and along the branches of the Vermillion River (300 feet from either side). Dakota County administers those zoning districts. See also Environmental Protection.

Owners of land in the Shoreland Overlay Districts may use their Native or their Reserve Housing Rights on-site but may not buy and transfer in Housing Rights from other locations. However, Housing Rights may be sold and transferred out from a Shoreland Zoning District to another location in the township.

Where a property straddles a shoreland zone, the portion of the property outside the zone is not restricted by Shoreland Zone requirements and may be built upon subject to any other buildability, density and sensitivity restrictions that may apply.

The maximum number of houses per Quarter-Quarter Section in a Shoreland Overlay District will be set by the comprehensive plan and Eureka Township zoning. The Shoreland Overlay zoning has additional regulations such as the minimum setback of houses from the water.

1.3.3 Area of High Groundwater Sensitivity

A portion of Eureka Township illustrated by Figure 1 is underlain by soils that have developed in sand and gravel. Furthermore, some areas of sandy surface material shallowly bury the underlying permeable bedrock layers (St. Peter Sandstone and Prairie du Chien Dolostone), causing these bedrock aquifers (water-bearing bedrock units) to be susceptible to contamination. In those locations, surface pollutants such as those from individual wastewater systems or farm fields can seep quickly to the groundwater from which wells draw drinking water.

Therefore in areas mapped as “High” risk for groundwater contamination, care should be taken so that surface pollutants that can be harmful to humans are kept from soaking into the ground. This could be achieved by reducing the average density of homes or requiring them to meet higher standards required for mitigation to allow full housing density. For example, higher quality on-site sewage treatment systems that use a pre-treatment system may reduce the impact of human waste discharge. The University of Minnesota onsite Sewage Treatment Program, Water Resources Center, Extension, should be used as a resource (<http://septic.umn.edu/>). In addition, restrictions on the use of salts (water softeners), fertilizers and herbicides could be a requirement for placement inside a sensitive area. Stricter runoff control measures could be imposed both within a sensitive area as well as where runoff from adjacent property would flow directly into a sensitive area.

Where a property straddles a high water sensitivity zone, the portion of the property outside the zone is not restricted by zone requirements and may be built upon subject to any other buildability, density and sensitivity restrictions that may apply.

Where questions arise, a neutral authority such as the Soil and Water Conservation District should be consulted.

1.3.4 Wooded Land

Areas that are defined as quality wooded may use their Native or their Reserve Housing Rights on-site but may not transfer in Housing Rights from other locations. Housing Rights may be transferred or sold from a wooded parcel to another location in the township. Refer also to section II.

Quality wooded means a contiguous area of land which has trees that are confirmed to be of a desirable species, healthy and mature, 20 years or older, shade or evergreen trees with a minimum height of ten feet. The distribution of the trees must be such that there are no areas greater than ½ acre in size not covered by canopy in the summer months.

Within two years of the time the comprehensive plan is adopted, the Township will use a professional forest scientist to determine which woods are of highest quality and deserving of protection. The Board may then decide whether lesser quality woods may be classified as receiving locations for Housing Rights.

Protected woodlands will be a mappable overlay and therefore the impact on any one parcel will fall into one of two categories. Either house placement may be restricted to a portion of the parcel that will support a dwelling and setback requirements without significantly impacting the quality woodlands or the entire parcel may be deemed unbuildable.

1.3.5 Biologically Significant Land

Biologically significant land maps (Figure) will be used as an overlay so that further disruption to the remaining natural plant and animal communities is minimized. A parcel containing a site of biological significance will fall into one of two categories: either house placement may be restricted to a portion of the parcel that will support a dwelling and setback requirements without significantly impacting the protected land; or the entire parcel may be deemed unbuildable. When these parcels come into question, a professional ecologist will be used to determine how best to protect and manage these areas.

1.4 Possible Phase-in of Reserve Housing Right Usage

In reference to objectives 4 and 8, the CAC agrees that the citizens of Eureka should be well informed of any changes to the housing rights and densities, and changes should be phased-in or rolled-out if deemed necessary to protect land values or housing right values to landowners.

Under the above Land Use section it is estimated that approximately 232 Reserve Housing Rights would become available and eligible for sale on the open market. (See Appendix “Count of Ownership Tracts, Housing Rights Projections”)

It is also estimated that at least 280 unused Native Housing Rights would also become eligible for sale on the open market. Note: the number of Native Housing Rights eligible for sale will actually be somewhat

less than is listed on the table after restricted salability of “split ownership” parcels in the same Quarter-Quarter Section are taken into account (refer to section A. 3.)

Having the above estimated numbers of Native and Reserve Housing Rights potentially available to the market at the same time may negatively impact selling prices. It may be advisable for the Township Board to temporarily restrict the usability of some of the Rights. For example, if each third Reserve Housing Right issued to a single landowner would be marked as a “PHASE-IN Reserve Housing Right,” and its holder restricted from applying for a Building Permit until some future date, say January 1, 2010, then the number of same-kind Rights on the market would be reduced, raising the value of the non-restricted Rights offered for sale.

1.5 Independence and Future Urbanization

In reference to objectives 1, 6 and 11, the CAC agrees that Eureka Township should protect its independence as a governing body in determining both current and future opportunities, which may include the potential for future incorporation.

Eureka Township is positioned in close proximity to the fast-growing cities of Lakeville and Farmington. Although there is little direct information that the adjacent cities have interest in annexing any of Eureka Township, the CAC strongly believes that the township should take an active role in preserving its independence as a governing body and resist efforts towards annexation. Active efforts such as those employed by Empire Township and other agricultural townships should be explored by the future study groups as directed by the Board of Supervisors. Potential ideas discussed by the CAC include utilizing natural resources such as watersheds or gravel mining to limit the interest for annexation. Other options include utilizing zoning to limit the annexation interest.

The Township should be willing to discuss developer proposals and if deemed beneficial to the township as also determined in public hearings, then consider appropriate rezoning to accommodate such development. This applies to commercial as well as residential development proposals. When public sanitary sewer and water services become available, Eureka Township may rezone property and increase the number of housing rights and housing density correspondingly, as well as designate commercial and industrial zones.

It is likely that higher-density planned communities will develop in subdivisions large enough to cover their own costs of road paving (including access to paved county roads) and careful planning across a relatively large number of lot purchasers within the development itself. It is unlikely in the foreseeable future that the Township would have the resources alone to fully plan and implement such development, but rather that it would be done in partnership with a large developer and outside agencies with the expertise to augment the Township.

Commercial and industrial development of the kind to generate significant tax revenue growth typically needs public sewer, water, and often road upgrades to be viable. While some infrastructure upgrades may be included in the developers' costs, the Township may also need to participate in financing arrangements based on anticipated future tax revenue in order to attract such development.

2. Livability

In reference to objectives 1, 5, 6, 9 and 10, the CAC agrees that the following areas of ordinances should be continued, enhanced, or added to protect citizens' safety and well being and continue to support Eureka Township as an agricultural community.

2.1 Home Occupations

It is the intent of this recommendation to provide for those small-scale activities that are conducted in conjunction with a residential or residence-farmstead use. It is not the intent of this provision to provide for a stand-alone site for business or industry scattered about the township. Land uses that may be permitted under this should be located on a site either with an existing residence, or residence/farmstead, and fall into one of the following categories.

2.1.1 Home Occupations

The business is of a type typically considered a home-based business, home occupation, or adaptive re-use of existing buildings. Examples would include, but are not limited to, a CPA office, beauty shop, bed and breakfast inn, or cabinet shop.

2.1.2 Off-Site Services:

Businesses that provide a service off the site with the primary use of the land being for storage and maintenance of equipment used off the site. The typical use of this type would be a small contractor yard (e.g., road building, construction, landscaping, well drilling). This provision is intended to accommodate those operations that are small and of low intensity and can be accommodated on the typical residential or farm homestead site.

2.1.3 Farm-Related:

The land use is farm-related in that it is directly supportive of commercial agriculture (e.g., repair or maintenance service for equipment unique and necessary to agricultural operations; produces a product or involves a process that utilizes locally grown or produced commodities; sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations).

The following criteria should be used to evaluate uses proposed under farm-related activities ~~this~~. An affirmative answer to several of the criteria may generally indicate the use is not appropriate in Eureka Township:

- The scale of operation (number of trucks, on-site employees, trips generated) does not generally fit a-an agricultural setting;
- The average daily traffic on a gravel road would exceed 200, or heavy equipment use would exceed the road design.
- The principal operator of business does not reside on site;
- Would result in a permanent conversion of a significant amount of highly productive agricultural land.
- Sewage discharge would require approval from the Minnesota Pollution Control Agency;
- The size or number of new structures exceeds reasonable relationship to parcel size, or does not generally fit an agricultural setting.

2.2 Commercial and Industrial Areas

No additional properties should be zoned for commercial or industrial purposes in the foreseeable future, nor should the range of business types eligible for conditional use permits be expanded. This is consistent with the recommendations of the Eureka Township Commercial Task Force Report, 2003.

Appendix B illustrates two general locations tentatively planned for commercial and industrial development for the time when public sewer and water services become available.

2.2.1 Aviation

Currently, the Airlake Airport facility is partially located in Eureka Township. The township has limited ability to manage the development and implementation of public aviation facilities. These are primarily under the management of the Metropolitan Airports Commission. In lieu of that direct authority, for the benefit and well being of the citizens, the Township is obliged to provide input into any expansion or changes to the airport. Therefore, the Township should continue to keep the Airlake Airport within the boundaries of Eureka Township.

Private aviation facilities are under the direct authority of the Township, therefore Eureka should continue to manage these utilizing Conditional Use Permits or other means to ensure the safety and well being of the citizens.

2.2.2 Utilities, i.e. Pipelines, Power Lines, Cables, Telephone, Electric etc.

Being an agricultural area, Eureka appears to be considered a prime location for the installation of public utilities such as pipelines and power lines. Currently, Eureka has major pipelines, sewer interceptors, and power lines installed and are under consideration for additional public utilities in the near future. While understanding the requirement for public utilities to support the livability of the entire area, in order to protect the current livability of the township, Eureka should make every effort to ensure that it does not contain an over abundance of the burden of public utilities to service the Twin City area.

2.2.3 Gravel Mining

Eureka Township will continue to enforce the provisions of its current ordinance regulating gravel mining (Ordinance 6). The Township will coordinate with the efforts of Dakota County to map and regulate mineral extraction countywide. The Township will consider adding a provision that requires new houses to be set a minimum distance from any existing mining operation.

2.2.4 Land Uses in an Agricultural Location

Conditional use permits (CUPs) are currently used to allow a property use that is typically not permitted in a particular zoning area. For example, today Eureka uses this to allow a private airstrip to be built and operated in an agricultural zone. CUPs are attached to the land and not to the owner. Therefore, they transfer from owner to owner and are permanent. A CUP can be surrendered by a particular owner at which time it is no longer valid. Conditions can be stated on the CUP, which are consistent with the legal jurisdiction of the town board.

Interim use permits (IUPs) are similar to CUPs in that they allow a property use which is not typically permitted in the zoning, but contain a sunset or end date. An IUP is attached to the land and transfers from owner to owner, but ends on a date specifically documented in the permit. Similar to a CUP, conditions

can be stated on the IUP, which are consistent with the legal jurisdiction of the town board. IUPs are not currently used in Eureka Township except for mining permits.

Uses by right are those activities defined by the ordinances or other laws to be allowed based upon the zoning of the land. For example, farming is a permitted use in an agricultural zone.

Additional study of uses and the appropriate mechanism for permitting or not permitting is recommended prior to finalization of the comprehensive plan and ordinance changes.

2.2.5 Dakota County Park Search Area

It is acknowledged that Dakota County may study the vicinity of Chub Lake for possible acquisition as a county park. The Metropolitan Council has identified it as a proposed search area for a future regional park. See also section III Environmental Protection.

2.2.5 Regional Trail Search Area

Eureka Township will cooperate with Dakota County in studying the feasibility of a multi-use bicycling and walking path that would run from Farmington and Lakeville to Chub Lake and Elko-New Market. Potentially, segments of this path could be located on the abandoned railroad right-of-way that runs diagonally between Farmington and Elko-New Market. (Portions of that right-of-way appear to have been sold to adjacent land owners.) Other segments of the route might consist of paved shoulders along County or Township roads.

2.2.6 Dakota County Farmland and Natural Areas Protection Program

Eureka Township believes that preservation of relatively small but high-quality natural areas and farmland is an appropriate use of the Dakota County Farmland and Natural Areas Protection Program in this township. Examples of such land acquisition may include floodplain along the Vermillion River or pockets of undisturbed native forest. See also section III Environmental Protection.

2.2.7 Chub Lake Wildlife Management Area

The *Eureka Township Strategic Vision* recognizes the Chub Lake Wildlife Management Area, located south of Chub Lake, is owned and managed by the Minnesota Department of Natural Resources. See also section III Environmental Protection.

2.2.8 Right-to-Farm

The Township will continue to support the right to farm when using generally accepted agricultural practices, as mandated by the State of Minnesota.

3. Environmental Protection

In reference to objectives 5, 7, and 9, the CAC agrees that the natural resources of Eureka Township should be protected through the institution of the following recommendations into the Eureka Township Comprehensive Plan.

Recommendations

3.1 Woodlands

Eureka Township will allow housing development in woodlands but strive through zoning regulations and subdivision reviews to minimize the tree loss of home sites and roads and to protect high quality woodlands. (See also Recommendations 4, 5 and 6 under the Land Use objectives, above.)

Eureka Township will allow housing development in woodlands but strive through zoning regulations and subdivision reviews to minimize the tree loss during construction of homes and roads. Trees need to be protected from soil compaction, taking away or piling of dirt, materials, etc., and physical damage to bark and root systems.

3.2 Biologically Significant Lands

Biologically significant lands were mapped by the Department of Natural Resources, Non-Game Wildlife, Biological Heritage Division and include small, remaining areas of original vegetation and occurrences of rare plants and animals (refer to map). Further mapping and classification has been done as part of the Metro Greenways program and Dakota County's Farmland and Natural Areas Protection Program.

This mapping will be used so that further disruption to these remaining natural communities is minimized. When a parcel that falls into this overlay area comes into question and the maps do not adequately address concerns, a professional ecologist will be used to determine how best to protect them.

3.3 Water

3.3.1 Surface Water

The surface water in Eureka Township is part of the Vermillion River WMO or the North Cannon River WMO. Watershed groups monitor water quality and develop management plans to minimize the impacts of excess sediment, nutrients or chemicals on surface water quality. In addition, they may be concerned about maintaining a specific water temperature and dissolved oxygen content that is best for aquatic communities. The recommendations of these watershed groups should be adopted by the township to minimize adverse impacts on surface waters. This area covered by these recommendations is not restricted to the shoreland areas as defined by the DNR.

3.3.2 Surface Water Management and Erosion Control

Eureka Township will continue to administer (through the Dakota County Soil and Water Conservation District) Ordinance 9 regulating surface water runoff, wetland protection (including state and federal wetland regulations), flood plain protection and erosion control.

Eureka Township will cooperate with the two watershed management organizations that overlap the township: the Vermillion River WMO and the North Cannon River WMO. Cooperation will take the

form of continuing to enforce the provisions of the township's comprehensive surface water management ordinance (Ordinance 9), appropriately regulating land use and public works, and promoting use of the technical assistance programs of the WMOs.

3.3.3 Ground Water

A portion of Eureka Township is sensitive to groundwater contamination. In areas where soils have developed in sand and gravel and this sandy surface material shallowly buries the underlying, permeable bedrock (St. Peter Sandstone and Prairie du Chien Dolostone), the bedrock aquifers (water-bearing bedrock units) are susceptible to contamination from surface pollutants. Areas of groundwater sensitivity were defined by the Minnesota Department of Natural Resources, Division of Waters and a monitoring study done by Dakota County has demonstrated that this mapping is a useful, predictive tool. The Dakota County Ambient Groundwater Study (data collected from 1999 – 2003; published in 2006) has determined that many wells are already contaminated and that wells that are constructed in areas with less than 50 ft of cover over the Prairie du Chien bedrock have the greatest number and highest level of contaminants. Therefore areas ranked as being the most sensitive deserve special treatment. These maps should be used to shift land uses that could have adverse impacts on groundwater quality away from the sensitive areas and encourage them in other, better protected parts of the township.

3.4 Shorelands

Dakota County and other authorized agencies will continue to administer supplementary land use regulations within 1,000 feet of designated lakes and within 300 feet of designated streams, consistent with the model ordinance developed by the Minnesota Department of Natural Resources. See also Land Use Number 5

3.4.1 Vermillion River Corridor

Eureka Township recognizes and will cooperate with initiatives by authorized agencies to preserve and protect the Vermillion River Corridor. Eureka Township also recognizes the initiatives to acquire development rights in a band along the Vermillion River for the purpose of environmental protection. See also Land Use Number 27

3.4.2 Cannon River Corridor

Eureka Township recognizes and will cooperate with initiatives by authorized agencies to preserve and protect the Cannon River Corridor for the purpose of environmental protection.

3.4.3 Chub Lake

Eureka Township recognizes initiatives by authorized agencies to preserve and protect the Chub Lake area for the purpose of environmental protection. See also Land Use Number 25 and 28

3.4.4 Rice Lake

Eureka Township recognizes initiatives by authorized agencies to preserve and protect the Rice Lake area for the purpose of environmental protection.

3.5 Private Wastewater Systems

Eureka Township will work with Dakota County to investigate the advisability of requiring a higher level of on-site wastewater treatment for houses and businesses located in the area of High Groundwater Sensitivity as defined by Dakota County.

3.6 Feedlot Setbacks

Eureka Township will study the feasibility of adopting an ordinance requiring that new non-farm houses be separated from existing confined animal feedlots or manure storage facilities by the same distances that those new facilities must be separated from existing houses. Ordinance 3, Chapter 5, Section II of the Eureka Township Code of Ordinances specifies these setbacks:

Setback of a Feedlot from a New House Not Owned by Feedlot Owner, Family or Employee
New homes built in an area where a feedlot exists should follow the same setbacks as required of feedlots from existing homes

This is intended to reduce the number of objections to feedlot odors from new non-farm residents and safeguard the right to operate feedlots in Eureka Township. (See also Recommendation 21, Right to Farm, under the Land Use objectives.)

4. Roads and Public Services

4.1 Road Access for New Housing

New housing should be accessed by a township road. A driveway may be connected to a County road if the access management guidelines of Dakota County and the Minnesota Department of Transportation are followed.

4.2 Service and Development Standards

The public services existing and planned in Eureka Township are those necessary to support agriculture and limited residential development: on-site sewer, private well, gravel road, and contract fire protection. Urban services (sewer, water, hard surfaced streets) will not be available in Eureka Township prior to 2030; in most parts of the township, urban services will not be available for the foreseeable future. Much of the land in Eureka Township is served by gravel township roads.

The maximum capacity of a gravel township road is typically 200 average daily trips, and in some cases much less. The County and State highways are designed to carry larger volumes of traffic at high speeds. Proper spacing and design of private access is critical to protecting this capacity and providing safe roads. Eureka Township contains natural resources such as lakes, streams, wetlands, valleys and woods that can be adversely affected by more developed land uses.

The following are intended to ensure that land uses in Eureka Township are compatible with a rural, agricultural area and the level of services available.

- Alternatives must be investigated in cases where the approval of a change in land use would raise traffic on a gravel road substantially above 200 average trips per day.
- Individual land uses that will generate high levels of traffic and/or heavy vehicle traffic may be required to participate in the upgrading of facilities
- Shared access to and from an existing road from clustered housing should be used when feasible. Particular emphasis on this strategy should be made for safety when County roads and high traffic Township roads are involved.
- House access may be via easement across another land owner's parcel. The driving surface must be suitable for emergency vehicle access. (The current Township requirement that the parcel for each house must abut the public road right-of-way may be eliminated.)
- Typically, individual lots should have no more than one access to a public road.
- When a single land use will be generating substantial amounts of sewage, the most effective treatment system should be installed, and monitoring of the treatment facility will be considered.
- At least one, and potentially two, alternative treatment sites shall be required for any land use requiring an ISTS Permit for treatment of sewage.

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- In areas where development will result in a number of wastewater systems in close proximity, land may be required to be set aside for a community treatment system, or the installation of such a system may be required.
- Measures shall be taken to prevent erosion and sediment during and after construction including meeting all standards of the Eureka Township.
- Lakes, wetlands, streams, bluffs and other sensitive natural features shall be protected from the adverse impacts of construction and development. All measures and standards contained in the County Water Plan shall be met.
- Land use changes and development should be designed so as to minimize disturbance of natural systems. Building sites should remain in their natural state to the greatest extent possible.
- Natural drainage should be used to the greatest extent possible.

5. Next Steps

5.1 Prepare and Adopt a New Comprehensive Plan

The Township will prepare and adopt a comprehensive plan that meets the content requirements of the Metropolitan Council and submit it to the Council by the end of 2008. This *Strategic Vision* will be incorporated into the comprehensive plan. Other elements will address roads, regional parks, aviation and water.

5.2 Prepare and Adopt a New Zoning Ordinance

The Township will prepare and adopt a zoning ordinance that implements the land use element of the adopted comprehensive plan.

5.3 Document and Track Housing Rights

The Township will document Native and Reserve Housing Rights across the township based on ownerships as of a given date (which will be prior to the time this land use planning proposal was conceived, such as March 1, 2007).

The Township will establish a computerized method for tracking where Housing Rights originate and where they are used. Printed documents of this information will be maintained for public inspection and permanent record.

5.4 Study and Resolve Outstanding Questions

Before the *Eureka Township Comprehensive Plan* is finalized and adopted, the Township will study issues that were not fully resolved by the 2006-07 strategic visioning process, such as:

- Whether industrial or commercial development should be allowed in the township at this time. The CAC has requested to be included in the countywide market study, under the direction of Dakota County Community Development Agency that would "predict the demand for commercial building space and land through 2030." The study is expected to begin in October or November of 2007 and be completed in early 2008.
- Which wooded sites are considered sufficiently high quality so as to deserve a higher level of protection from development than others?
- CAC suggests inviting Empire Township officials to describe the steps in their evolution in recent years including their planning process, how they decide when to make zoning changes, and what they would do differently.
- Determine the maximum number of Reserve Housing Rights that any one landowner may receive(1, 2, or 3).
- What is the timing for to allow Reserve Rights and/or Native Rights to be available for sale? Should there be a phase-in period or some other slow introduction?

Appendix A: Comprehensive Planning

Objective

Make sound public decisions through a structured and transparent process for the wise long-term use of land, water and financial resources in Eureka Township.

Recommendations

1. Comprehensive Plan

Prepare and adopt a comprehensive plan based largely on the *Eureka Township Strategic Vision*. The comprehensive plan should address land use, roads, water and other natural resources, historic resources, parks and aviation, as required by the Twin Cities Metropolitan Council. Submit the plan to the Metropolitan Council by the end of 2008.

2. Using the Comprehensive Plan

Use the comprehensive plan to guide all zoning changes to ensure consistent development policy.

3. Maintaining the Comprehensive Plan

Review the comprehensive plan annually and amend it as necessary to ensure its usefulness as a practical guide for current and future development. Formulate and enforce ordinances to ensure development in accordance with the comprehensive plan.

The Eureka Township Planning Commission will prepare an annual report describing:

- How the plan was used to direct spending, regulatory and construction decisions
- How development did or did not coincide with the guidance of the plan
- How the township has changed in ways that may call for amendments to the plan.

The report should be transmitted to the Township Board of Supervisors and made available to the public. A brief verbal presentation at a workshop meeting should be conducted to call attention to the major findings of the annual report.

No plan amendments are necessitated in conjunction with these reports, although such amendments may be appropriate depending on the reports' findings.

4. Amending the Comprehensive Plan

The Eureka Township Planning Commission may propose amendments to the comprehensive plan from time to time as circumstances warrant. The public should be notified of these major proposed changes and allowed an opportunity to become informed of the change and comment. The Township could consider soliciting public opinion through direct mail survey forms or Planning Commission public meetings.

Appendix B: Housing

Estimated Number of Allowable Additional Houses

Eureka Township Strategic Vision

Ownership Tracts by Acreage and Housing Rights Projections

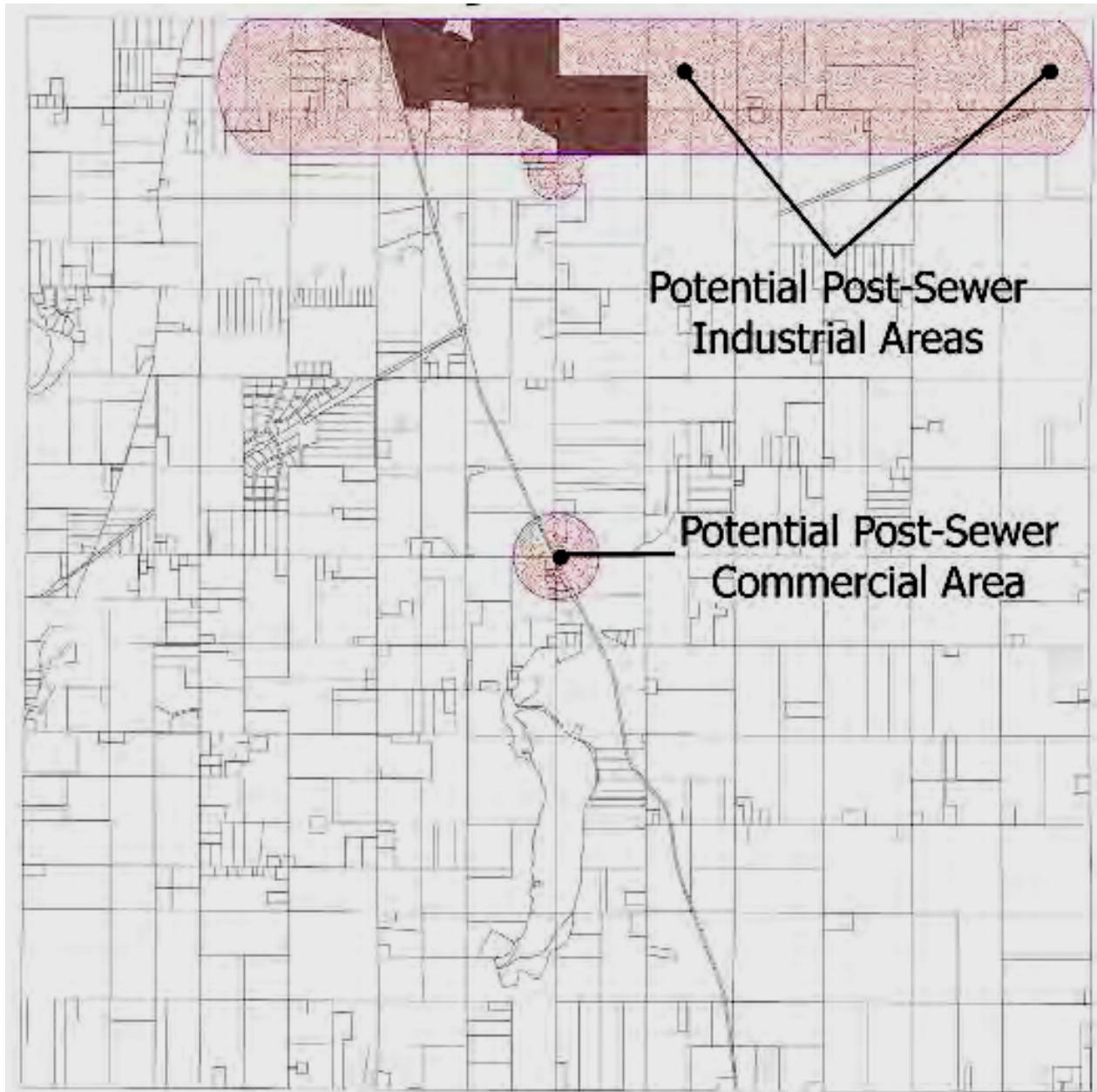
23 April 2007

Size of Ownership Tracts* (35-acre increments)		No. of Tracts	Projected Housing "Reserve Rights"		
From:	To:		1 Right per tract over 70 acre threshold	Add 1 more Right at 105 acres (max. 2 Rights)	Add 1 more Right at 140 acres (max. 3 Rights)
0.00	34.99	511			
35.00	69.99	55			
70.00	104.99	56	56	56	56
105.00	139.99	19	19	38	38
140.00	174.99	27	27	54	81
175.00	209.99	6	6	12	18
210.00	244.99	6	6	12	18
245.00	279.99	0			
280.00	314.99	1	1	2	3
315.00	349.99	1	1	2	3
350.00	384.99	0			
385.00	419.99	2	2	4	6
420.00	454.99	1	1	2	3
455.00	489.99	0			
490.00	524.99	1	1	2	3
525.00	559.99	0			
560.00	594.99	0			
595.00	629.99	0			
630.00	664.99	0			
665.00	699.99	0			
700.00	734.99	0			
735.00	769.99	0			
770.00	804.99	1	1	2	3
Total		687			
Total Projected "Reserve Rights"			121	186	232
Current Eureka houses			540	540	540
Unused "Native Rights" (from 1 per 1/4 1/4 zoning)			280	280	280
Total Potential Houses at Full Buildout (incl's Res. Rts.)			941	1006	1052
Less: Potential houses if township zoned 2 per 1/4 1/4 section			1309	1309	1309
Net difference			-368	-303	-257

*Excludes Chub Lake Wildlife Management area (139.84 acres) and Airlake Airport (452.25 acres)

This table is subject to refinement before the plan is adopted.

Appendix C: Potential Commercial Industrial Areas



The CAC study of commercial or industrial locations was very limited. This map was developed based on concepts and requires further study.

Appendix D: Summary Results of the Public Opinion Survey

Community Opinion Survey

Please mark an “X.” in the column that most closely corresponds with your opinion.		Response Percentages		
		Agree	Neutral / No Opinion	Disagree
1	Eureka Township should adopt a plan for the future.	92	5	3
2	Eureka Township should plan a location for small stores.	46	16	38
3	Gravel mining should be allowed to expand.	30	23	47
4	There should be more housing in Eureka Township.	38	14	48
5	Eureka Township should remain rural.	72	6	22
6	Eureka Township should use zoning to minimize the conversion of farmland to housing for as long as possible.	66	5	29
7	Eureka Township should continue for at least the next ten years its zoning pattern that allows one house per 40 acres.	56	6	39
8	Eureka Township should plan an area for industry.	44	13	43
9	Eureka Township should use planning and zoning to preserve high quality natural areas.	85	7	8
10	Eureka Township should plan for recreational trails.	57	23	21
11	Eureka Township should establish a program to allow landowners to transfer (sell) development right on their property to other landowners in the township.	33	28	38
12	Property rights should not be restricted by zoning.	38	16	46
13	Future housing should be allowed predominately in tight clusters.	35	16	49
14	Commercial recreation businesses such as golf courses are appropriate uses of land in Eureka Township.	46	14	40
15	Eureka Township should permit multi-family housing in residential zones.	33	13	64
16	Eureka Township should closely regulate land use.	61	14	25
17	Most future housing should be in locations that are not well suited for farming.	56	17	28

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18. Over the next 20 years, on a typical 40-acre farm field in Eureka Township the ideal number of new houses that should be allowed by zoning is:

37 1 9 2 22 4 14 8 18 16

19. Over the next 20 years, on a typical 40-acre wooded tract in Eureka Township the ideal number of new houses that should be allowed by zoning is:

31 1 11 2 22 4 20 8 17 16

20. How many years have you lived in Eureka Township?

24 0-10 27 11-20 19 21-30 30 31+

21. What is your gender? 67 Male 33 Female

22. What is your age? 1 18-29 8 30-39 27 40-49 34 50-59 30 60+

23. Is farming in Eureka Township your primary occupation? 11 Yes 89 No

24. In which part of Eureka Township do you live?

37 NW 15 NE

30 SW 14 SE

4 Live elsewhere

NW <i>250th Street</i>	<i>Cedar Ave.</i>	NE
SW	<i>Ave.</i>	SE

Appendix E: References

Background Maps from the Eureka Township Envisioning Task Force Report, 2003:

Figure 1: Aerial Photo

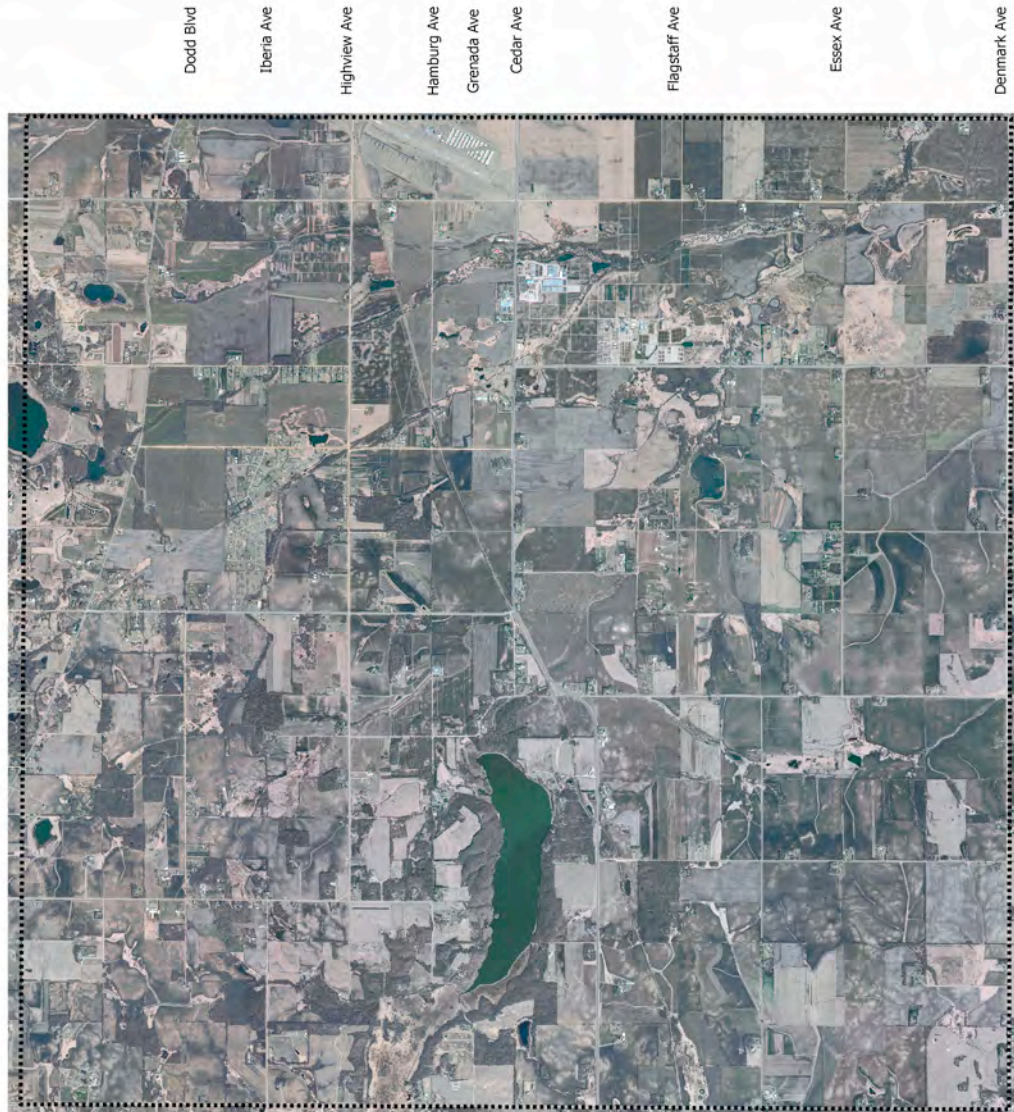


Figure 2: Parcels



Figure 3: Land Use Pattern, 2005

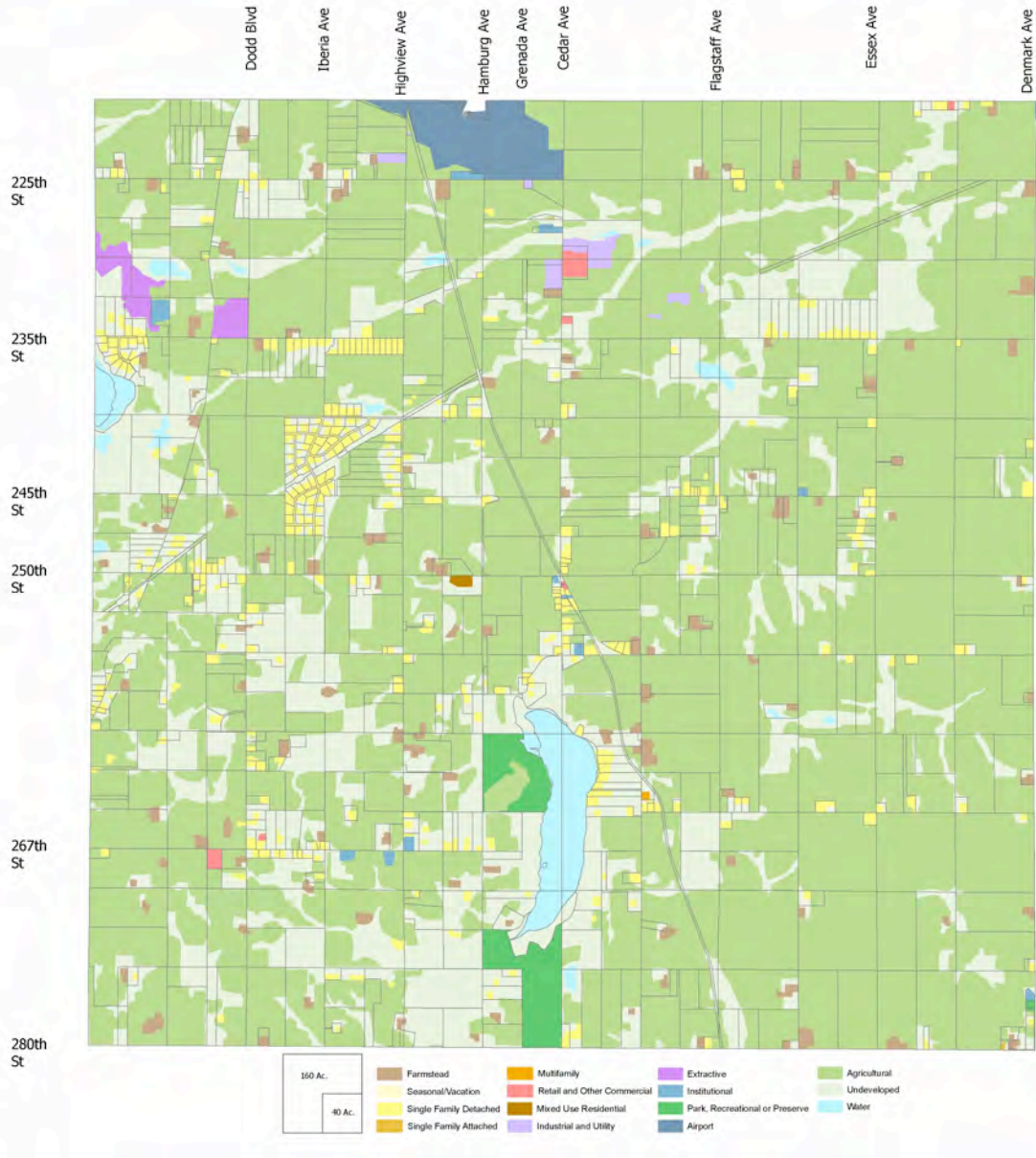
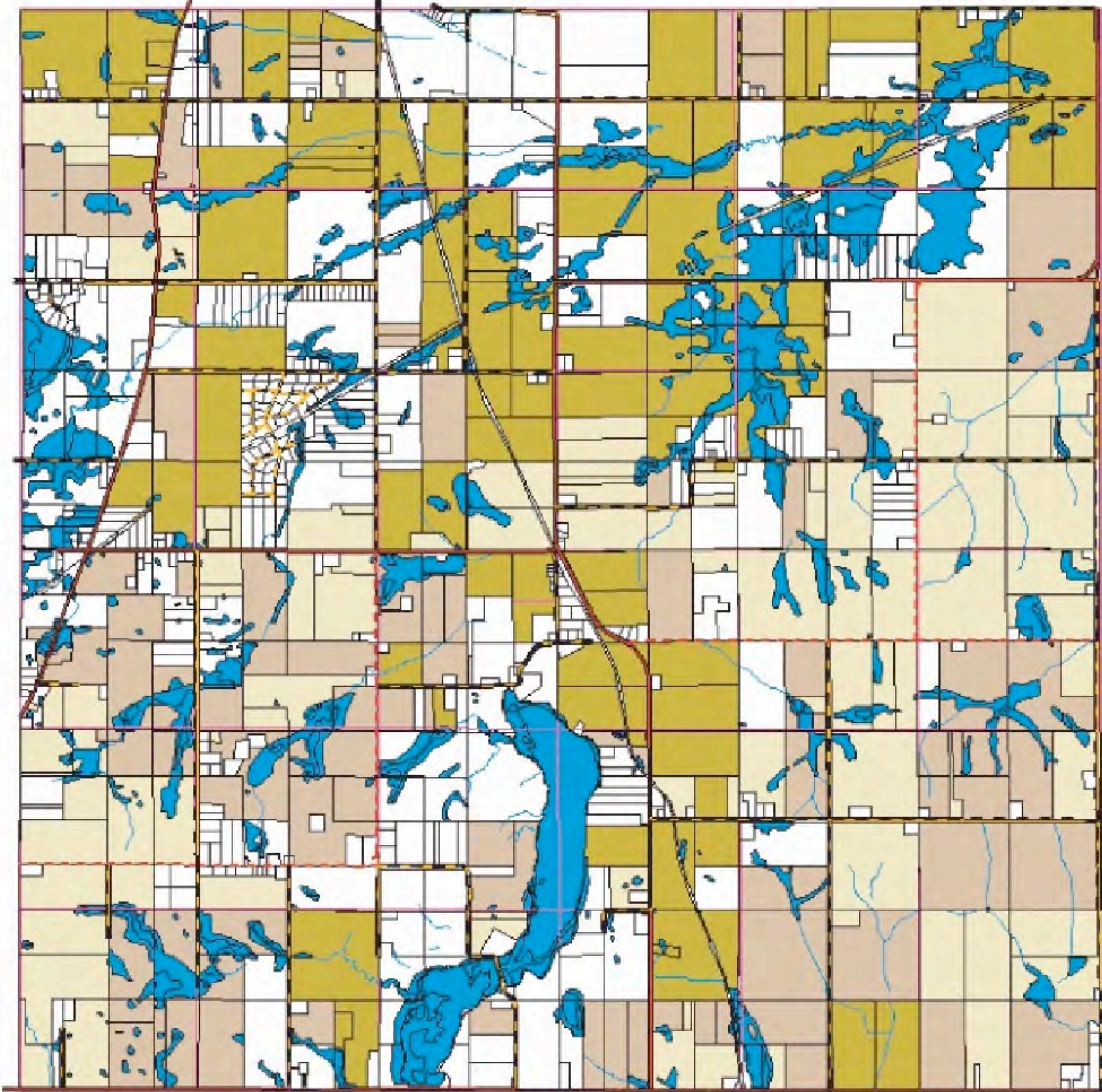


Figure 4: Farmland Areas



-  Township Paved Roads
-  Township Gravel Roads
-  County Gravel Roads
-  County Paved Roads
-  High Priority FNAP Farmland Areas
-  Medium Priority FNAP Farmland Areas
-  Medium/High Priority FNAP Farmland Areas
-  Surface Water and Wetlands

Figure 5: Wetlands

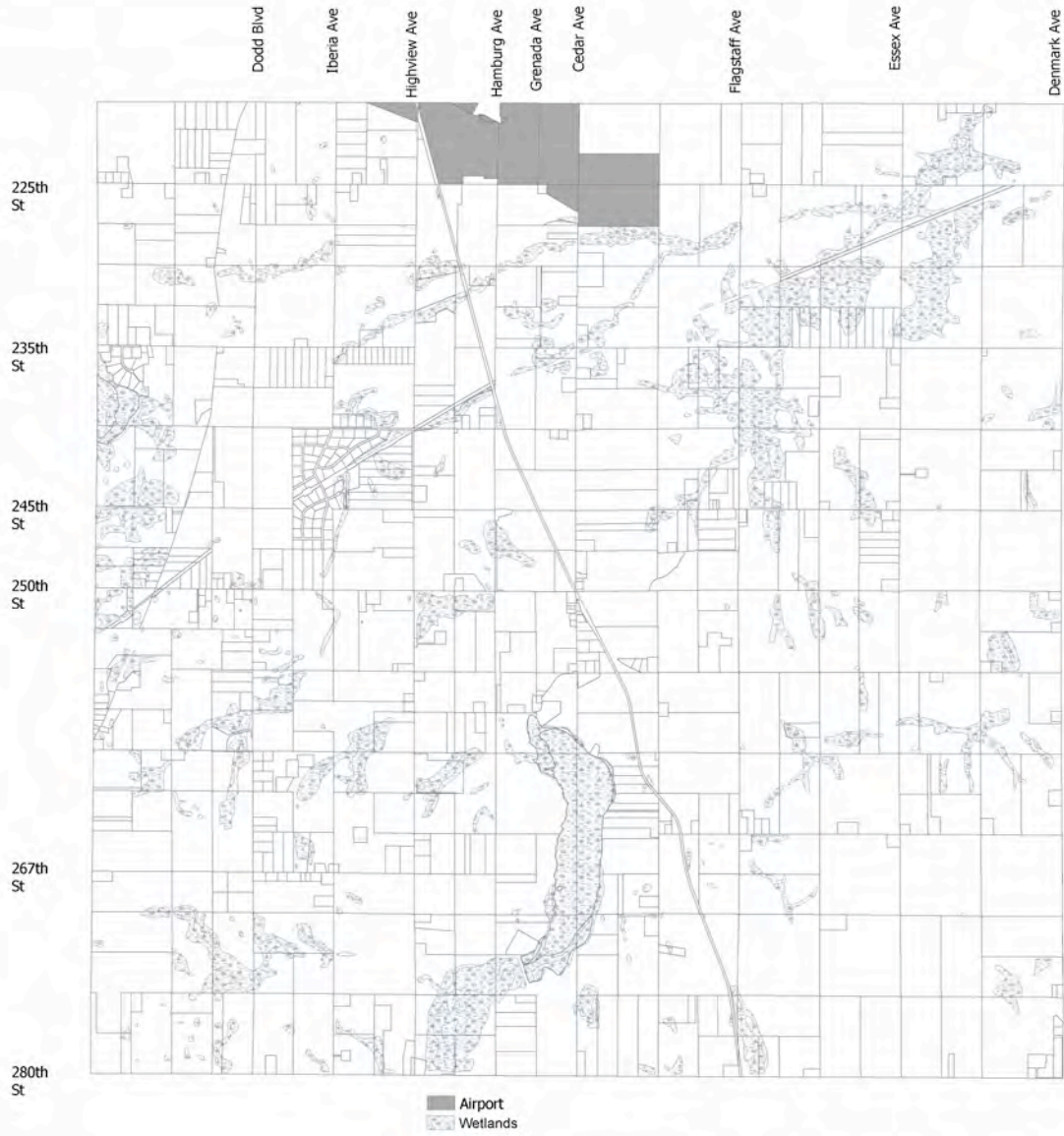


Figure 7: Natural Areas

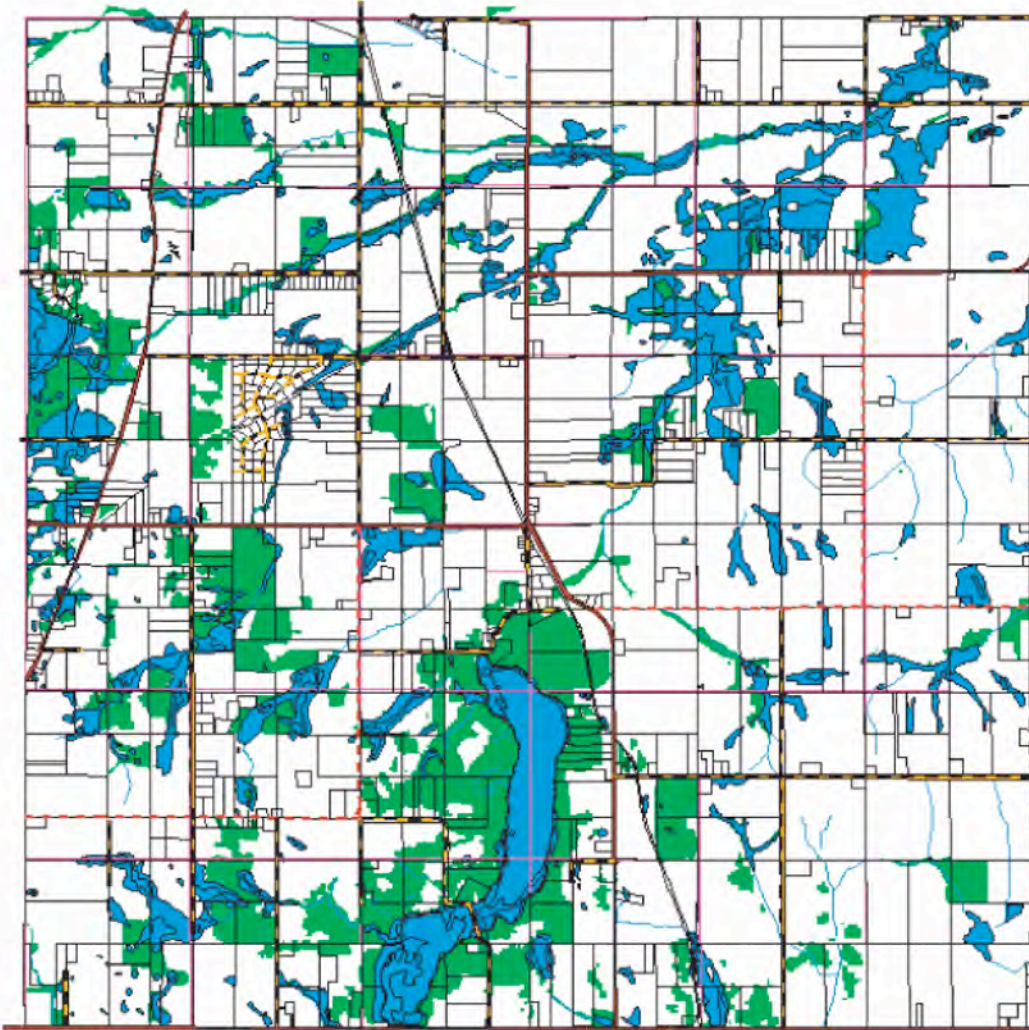
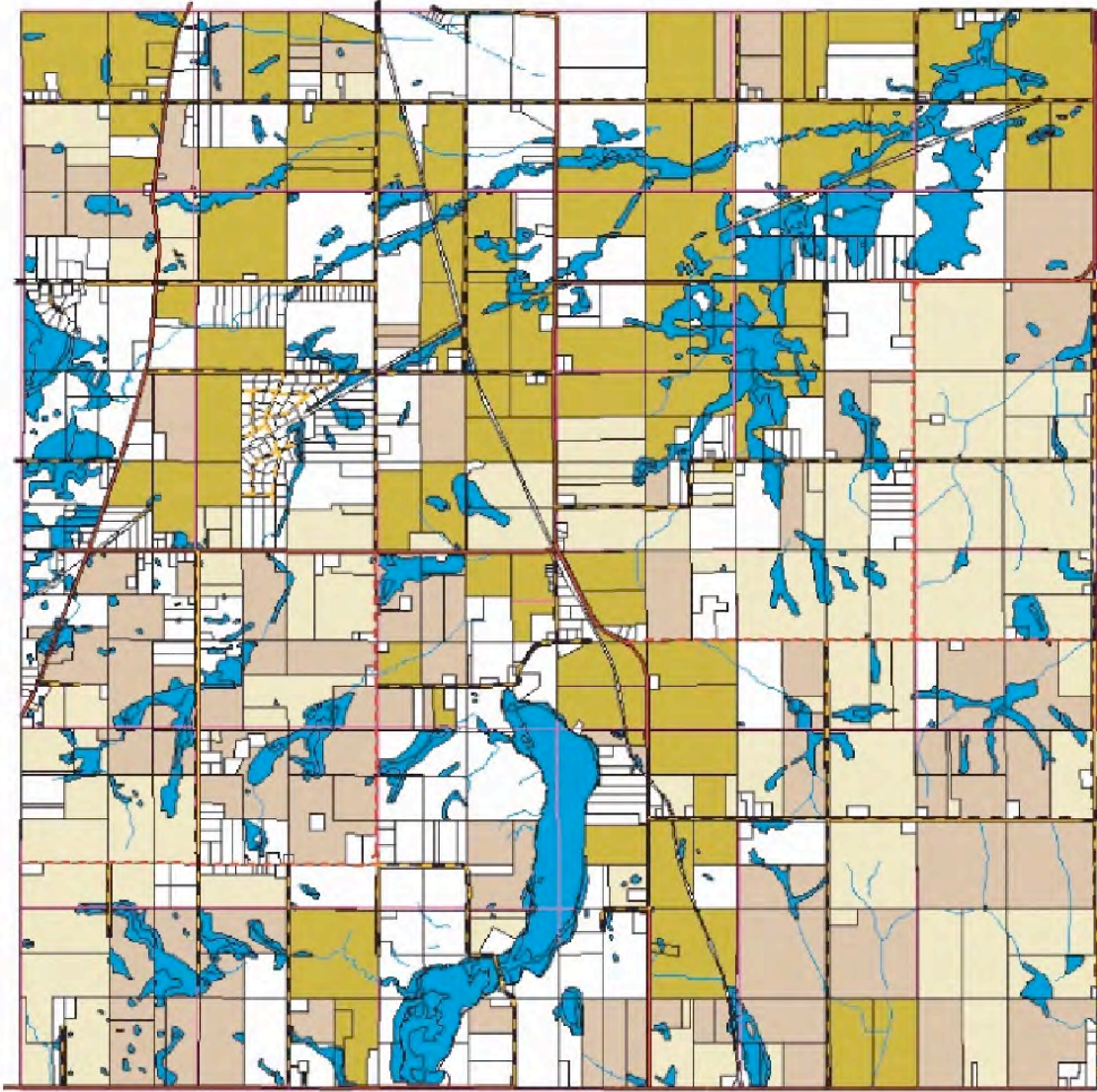
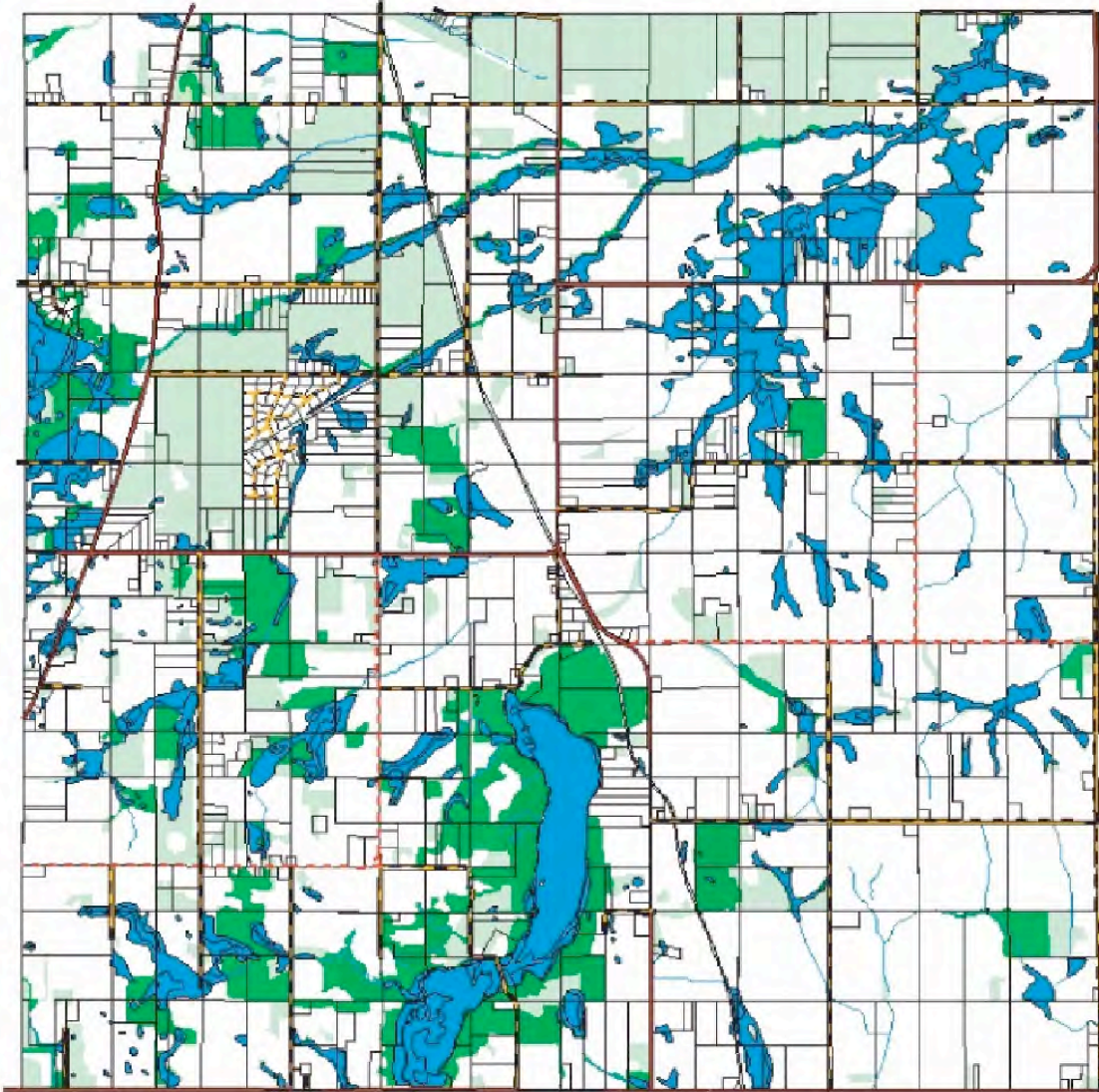


Figure 8: Minnesota Land Cover Classification System



-  Township Paved Roads
-  Township Gravel Roads
-  County Gravel Roads
-  County Paved Roads
-  High Priority FNAP Farmland Areas
-  Medium Priority FNAP Farmland Areas
-  Medium/High Priority FNAP Farmland Areas
-  Surface Water and Wetlands

Figure 9: Priority Natural Areas



-  Township Paved Roads
-  Township Gravel Roads
-  County Gravel Roads
-  County Paved Roads
-  High and Medium Priority Natural Areas (SWCD)
-  Low Priority Natural Areas (SWCD)
-  Surface Water and Wetlands