



## MAYOR AND COUNCIL COMMUNICATION

DATE: 10/18/2016

**REGULAR**

ITEM #: 20

**AGENDA ITEM:** Conditional Use Permit Request for an additional accessory structure - 5699 Keats Avenue North.

**SUBMITTED BY:** Emily Becker, City Planner

**THROUGH:** Kristina Handt, City Administrator

**REVIEWED BY:** Stephen Wensman, Planning Director

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### **BACKGROUND:**

Rodney and Diane Sessing have requested a conditional use permit for an additional accessory structure for the property located at 5699 Keats Avenue North. The subject property is located in the Rural Residential zoning district and is 11.87 acres, or 517,057.2 square feet. There currently exists one 2448 square-foot accessory structure on the property. Per Section 154.406: Accessory Structures, Rural Districts, Subd. A: Size and Number, of the Zoning Ordinance, the property is allowed up to two accessory buildings totaling 2500 square feet. However, the Section also provides that additional accessory buildings may be considered in A and RR zones via a conditional use permit. The applicant is requesting a conditional use permit for an additional 2400 square-foot accessory structure.

### **ISSUE BEFORE COUNCIL:**

The Council is respectfully requested to consider a request for a Conditional Use Permit for an additional accessory structure for the property located at 5699 Keats Avenue North, zoned Rural Residential.

### **PROPOSAL DETAILS/ANALYSIS:**

#### **Proposal Details:**

- According to the applicant, the subject property was part of a larger parcel on which a family farm operated since at least 1972. The applicant's property and neighboring property at 5671 Keats Avenue were split from this farm in 1989.
- According to the applicant, the property is being used for agricultural purposes, and the applicant claims that additional storage is needed for that purpose.

- The narrative explains there are six 650-foot rows of raspberries, pumpkins, squash, and vegetables.
- The property’s tax description classifies the use as Agricultural.
- The applicant expresses desire to expand the farm, and the additional accessory structure is being requested in order to accommodate more storage for additional equipment and produce, as well as a place to house the addition of chickens and milking goats.

**Planning and Zoning Issues:**

- **Rural District Accessory Building Size and Number Restrictions.** The Zoning Code restricts the number and size of permitted accessory structures in rural zoning districts based on the size of the property. The following table details what is permitted:

Lot Size	Maximum Structure Size <sup>a</sup> (square feet)	No. of Permitted Bldgs
under 1 acre	1,200 <sup>b</sup>	1
1 - 2 acres	1,200	1
2 - 5 acres	1,300	1
5 - 10 acres	2,000	2
10 - 15 acres	2,500	2
15 - 20 acres	3,000	2
20 - 40 acres	4,000	2
40+ acres	Unregulated <sup>c</sup>	Unregulated <sup>c</sup>

- Because the subject property is located in a rural zoning district and is 11.87 acres in size, it is allowed up to 2 accessory structures totaling 2500 square feet in size.
- **Additional Accessory Buildings.** The Code also states that allowances for additional accessory buildings in A and RR zones may be considered via conditional use permit for agricultural purposes. This request is being processed as such. This provision of the Zoning Code was added to an accessory structure ordinance amendment approved in 2014. Previously, similar requests have been processed as variances.
- **Existing Storage.** The property currently has one detached accessory structure, as mentioned, that is 2448 square feet in size. Additionally, according to the applicant, there are two attached garages that are 22 feet by 22 feet and 18 feet by 36 feet in size, totaling 1132 square feet. Attached garages are not considered accessory structures, and so are not regulated in the accessory structure ordinance for a property of this size. The applicant has told Staff that personal vehicles are stored in these attached garages.
- **Permitted Uses in Rural Residential Zoning District.** The following are permitted uses in the Rural Residential Zoning District: single-family detached dwelling; parks and open areas; and agricultural production. The Zoning Code defines agricultural production as “establishments engaged in the production of crops, plants or vines, including agro forestry, or establishments which are engaged in the keeping, grazing, or feeding of livestock for sale, value increase, or livestock increase.” The applicant proposes to construct the additional accessory building to store equipment, produce and live animals related to a farming operation. As such, the proposed use is permitted. The conditional use of an accessory

structure in addition to what would normally be allowed on a property for agricultural use is appropriate in this circumstance with farming use.

- *Other Zoning Requirements for Accessory Buildings.* The proposed location of the accessory structure will far exceed all minimum required setbacks from property lines. The structure will need to meet all other requirements for accessory structures.
- *Surrounding Lots.* The property to the east is currently being farmed, although a Final Plat application is expected, and if approved, an Open Space Preservation Development will exist on the property. A Residential Estate Development is located to the west of the property.
  - The applicant has also noted a number of surrounding parcels on which he perceived comparable accessory structures are located:
    - The property to the north of the subject parcel also engages in farming operations and was granted a variance from the size and number restrictions on accessory structures in 2011. This parcel is similar in size to the subject parcel.
    - A 2400 square-foot barn exists on the 6.5 acre parcel to the south of the subject property, which would not be allowed without a special permit or variance today.
    - A property to the southwest of the subject parcel is around five acres in size and has a 2160 square foot barn; which also would not be allowed today without a special permit or variance.
    - Additionally, a property to the northwest of the parcel was granted a variance to re-construct a 3800 square-foot accessory structure in the floodplain that did not meet maximum size requirements.
- *Development Standards.* The Zoning Code states that additional accessory structures are allowed in the A – Agricultural and RR – Rural Residential zoning districts but does not provide any specific development standards to adhere to. As such, Staff does have concern that there are a number of properties that may make this same request. A map has been provided in this packet to show the number of properties that are zoned Agricultural or Rural Residential and are under 40 acres and so are subject to accessory structure size and number limitations; these properties could all potentially apply for a conditional use permit for an additional accessory structure.

#### **Conditional Use Permit Findings:**

- Conditional Use Permit findings are provided in the attached Resolution.

#### **Conditions:**

- The recommended conditions of approval are outlined in the attached Resolution.

#### **FISCAL IMPACT:**

Staff does not foresee a fiscal impact by granting this Conditional Use Permit.

#### **PLANNING COMMISSION/PUBLIC HEARING:**

A public hearing was held on the proposed Conditional Use Permit at the October 10, 2016 Planning Commission meeting. The meeting minutes are attached to this report. No one from the public spoke at the meeting. The applicant spoke, describing agricultural operations on the site and expressing the desire for

the building to not have to come down if the agricultural use goes away. The Commission recommended approval with an affirmative vote of 6 - 0.

**OPTIONS:**

The Council may:

- Approve the Conditional Use Permit request and recommended conditions of approval.
- Amend the recommended conditions of approval and approve the Conditional Use Permit request.
- Deny the Conditional Use Permit amendment request.

**RECOMMENDATION:**

Staff respectfully requests that the Council approve, as recommended by the Planning Commission and Staff, the request made by Rod and Diane Sessing for a Conditional Use Permit to allow an additional accessory structure for the property located at 5699 Keats Avenue North, subject to outlined conditions of approval with the following motion:

***“Move to adopt Resolution 2016-\_\_\_, granting a Conditional Use Permit for an additional accessory structure in the Rural Residential Zoning District for the property located at 5699 Keats Avenue North, subject to the outlined conditions of approval.”***

**ATTACHMENTS:**

- Resolution 2016-092
- Application Form and Project Narrative
- Location Map
- Properties Zoned Agricultural or Rural Residential <40 Acres, subject to accessory structure size and number limitations
- Planning Commission meeting minutes (10/10/16)

**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION 2016-092**

*A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR AN ADDITIONAL  
ACCESSORY STRUCTURE FOR THE PROPERTY LOCATED AT 5699 KEATS AVENUE  
NORTH*

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Rod and Diane Sessing, 5699 Keats Avenue North, Lake Elmo, MN 55042, (the “Applicant”) has submitted an application to the City of Lake Elmo (the “City”) for a Conditional Use Permit to allow an additional accessory structure at the property located at 5699 Keats Avenue North (the “Property”); and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.102; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on October 10, 2016; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated October 18, 2016, 2016; and

**WHEREAS**, the City Council considered said matter at its October 18, 2016 meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the City Council makes the following:

**FINDINGS**

- 1) That the procedures for obtaining said Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.106.
- 2) That all the submission requirements of said Section 154.106 have been met by the Applicant.
- 3) That Subd. B of Section 154.406: Accessory Structures, Rural Districts, provides that additional accessory buildings may be considered in Agricultural and Rural Residential zones via a conditional use permit.

- 4) That the proposed Conditional Use Permit is to allow an additional accessory structure in a Rural Residential zoning district, at the property located at 5699 Keats Avenue North.
- 5) That the Conditional Use Permit amendment is granted for the property legally described as follows and commonly known as 5699 Keats Avenue North:

PT NW1/4 BEING THE S 1125FT OF THE W 1100FT OF SD NW1/4 OF SEC 2 EXCEPT THE W 660FT OF THE S 825FT THEREOF-SUBJ TO SUBJ TO EASE OVER W 33FT FOR KEATS AVE EXCEPT: THE SOUTH 400 FEET OF THE EAST 440 FEET OF THE WEST 1100 FEET OF THE NW1/4 OF SEC 2 Section 02 Township 029 Range 021. PID#: 02.029.21.23.0003

- 6) The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.  
*The proposed use would not make a major impact on the property. The proposed accessory structure would be located in an area that is of lower grade than the rest of the property and is mostly screened from view from the street and adjacent properties.*
- 7) The use or development conforms to the City of Lake Elmo Comprehensive Plan.  
*The proposal is consistent with the Comprehensive Plan in that the property is guided for Rural Area Development. The Comprehensive Plan proclaims that “existing operating agricultural uses and qualifying alternative uses that preserve the open space within the community shall be supported. These uses shall be encouraged to continue operations and to retain large land holdings that contribute to operating efficiency...the City shall affirmatively establish and pursue specific strategies and seek resources to assist existing agricultural uses in remaining a viable alternative to urbanization for landowners, consistent with the concept of “a right to farm.””*
- 8) The use or development is compatible with the existing neighborhood.  
*The use is compatible with the existing neighborhood, as similar accessory structures exist on some surrounding properties. The additional accessory structure is not expected to make a significant impact on the property.*
- 9) The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter.  
*There are no specific development standards for additional accessory structures listed in Article 7 of this Chapter. However, Article 5, Section 154.213 sets forth standards for Accessory Buildings and Structures, Generally. Provided conditions are met, the proposed accessory structure meets these standards.*
- 10) If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management).  
*The property is located in an area of minimal flood hazard.*
- 11) The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.

***The use of an additional accessory structure is not expected to change the essential character of the area, as the area surrounding the Applicant's property has historically been used for active farming, and the proposed building will be located in such a manner that it will not be directly visible from surrounding properties. Additionally, former farm sites with multiple accessory buildings are not uncommon in this area.***

- 12) The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures.

***The proposed parking lot expansion will not be hazardous or create a nuisance, as the parking lot will accommodate an increase in attendance that the existing parking lot does not.***

- 13) The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.

***The proposed accessory structure is claimed to be needed to store equipment, produce, and animals. If used as proposed, the additional accessory structure would reduce exterior storage of equipment on the property, possibly reducing a perceived nuisance.***

- 14) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

***The proposed use is expected to be served adequately by the aforementioned.***

- 15) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, Property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.

***The proposed use is not expected to create additional requirements at public cost or be detrimental to economic welfare.***

- 16) Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.

***The proposed use will likely not create traffic congestion or interfere with traffic on surrounding public thoroughfares, provided conditions are met.***

- 17) The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance. *N/A*

### **CONCLUSIONS AND DECISION**

Based on the foregoing, the Applicant's application for a Conditional Use Permit to allow an additional 2400 square-foot accessory structure on the property located at 5699 Keats Avenue North is granted, subject to the following conditions:

- 1) The accessory structure must obtain all applicable permits, including a Valley Branch Watershed District permit if applicable, building permit, and grading permit if moving more than 50 cubic yards of material per acre.

- 2) The proposed structure shall not adversely affect drainage or cause excessive stormwater runoff to neighboring properties.
- 3) The accessory structure must comply with all other building, zoning and City requirements before a building permit is issued.
- 4) The accessory structure must not be used for storage of hazardous materials.
- 5) If applicable, the property must be in compliance with all Minnesota Pollution Control Agency requirements.
- 6) Agricultural Sales Business operations are not permitted on the property unless an Interim Use Permit is obtained for such a use.
- 7) The property must comply with all standards of Chapter 95: Animals and Chapter 96: Nuisances, of the Zoning Code.
- 8) The property must maintain existing screening provided by trees on the west and south sides of the property.
- 9) All farm equipment must be stored inside after use. Exterior storage shall be kept at a minimum. Exterior storage or inoperable equipment is not allowed.
- 10) The use of the proposed additional accessory structure shall be restricted to agricultural activities only. It must not be used for storage of personal automobiles, home-based business activity, or other non-agricultural equipment.
- 11) Agricultural production must be maintained on the property. The property shall be subject to at least an annual inspection.
- 12) The Conditional Use Permit shall become invalid if the property subdivides or is rezoned to a higher-density zoning classification.

Passed and duly adopted this 18<sup>th</sup> day of October, 2016 by the City Council of the City of Lake Elmo, Minnesota.

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Michael Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk



Date Received: 9/2/16  
Received By: EMILY BECKER  
Permit #: \_\_\_\_\_



651-747-3900  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

## LAND USE APPLICATION

- Comprehensive Plan  Zoning District Amend  Zoning Text Amend  Variance\*(see below)  Zoning Appeal
- Conditional Use Permit (C.U.P.)  Flood Plain C.U.P.  Interim Use Permit (I.U.P.)  Excavating/Grading
- Lot Line Adjustment  Minor Subdivision  Residential Subdivision Sketch/Concept Plan
- PUD Concept Plan  PUD Preliminary Plan  PUD Final Plan  Wireless Communications

Applicant: Rodney & Diane Jessing  
Address: 5699 - Keats Ave N. Lake Elmo, MN 55042  
Phone #: 612-919-4992  
Email Address: rodjessing@yahoo.com

Fee Owner: Same  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Property Location (Address): 5699 Keats Ave  
(Complete (long) Legal Description: Section 02 Township 029 Range 021 PT NW 1/4 being the S. 1125 ft. of the 1100 ft. on NW 1/4 of Section 2 Except 660 ft. of the S 825 ft. thereof -  
PID#: 02.029.21.23.0003 | Subject to subj to Enc over west 23 ft. of Keats Ave Except: the South 400 ft. of the east 440 ft. of the west 1100 ft. of the NW 1/4 of Sec 2.  
Detailed Reason for Request: Need additional space to store Agricultural Equipment & protection of goats & chickens from weather.

\*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows:  
Small farms need the additional storage for equipment & animals to make it viable.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: [Signature] Date: 9-2-2016  
Signature of fee owner: Same Date: \_\_\_\_\_

5699 Keats Ave. North Variance Application Information:

Written Statements:

- A. Owners: Rod and Diane Sessing
- B. Legal Discription: Section 02 Township 029 Range 021 PT NW ¼ BEING THE S 1125FT OF THE W 1100FT OFSD NW1/4 OF SEC 2 EXCEPT THE W 660FT OF THE S 825FT THEREOF- SUBJ TO SUBJ TO EASE OVER W 33FT FOR KEATS AVE EXCEPT:THE SOUTH 400 FEET OF THE EAST 440FEET OF THE WEST 1100FEETOF THE NW1/4OF SEC 2  
Parcel ID# 02.029.21.23.0003  
Parcel Size: 11.5 Acres or 497,375 square feet.  
Existing use of land: Residential/ Agricultural(Tax Class will be agriculturals as we mee the state statute Requirements)

Current Zoning: Rural Residential

- C. The Provisions of the code that we seek a variance from is 154.092 Accessory Building and Structures
- D. We are asking to build an additional 2400 square foot building out our property (see Site Plan). In our zoning district, we are allowed ~~2500~~ <sup>two structures totaling</sup> 2500 square foot building, which we currently have 2448 square foot.
- E. I would like to speak to the practical difficulties of the new variance standards.
  - 1. Is the variance consistent with the comp plan? Yes Very Much so. Our 2030 comp plan states this: " The following general planning and development policies will guide development in a manner that will allow reasonable growth to take place, while preserving and enhancing the Rural Character and features of Lake Elmo that make the city a unique and desirable community." The comp plan further talks about agricultural preservation. "in keeping with the general policies enumerated above, existing operating agricultural uses and qualifying alternative uses that preserve the open space within the community shall be supported. These uses shall be encouraged to continue operations and to retain large land holdings that contribute to operating efficiency. In keeping with the general policies enumerated above, the city shall affirmatively establish and pursue specific strategies and seek resources to assist existing agricultural uses in remaining available alternative to urbanization for landowners, consistent with the concept of right to farm. The provision of municipal infrastructure and services to the areas of the city where operating agriculture exists shall not be in a manner that results in an economic or operational disincentive to continue agricultural use of the land." In summary, the Comp plan requires the city to help us keep our farm viable which this new building will do.

2. Does the proposal put the property to use in a reasonable manner? Yes. This is a reasonable use of our property. Farming it is an allowed use in Rural Residential. It is logical that an agricultural use would need a building to store farm equipment and produce and also animals. Every property in RR is allowed a certain size of building for personal property whether they farm or not. It only makes sense that if someone farms and is allowed to farm by the city code and is classified as agricultural by the county, they should be allowed to have an agricultural building. By state statute, we do meet the criteria of agriculture and we are taxed as Agricultural for our land. The zoning in the city is somewhat random and there are properties zoned RR that should be Ag based on size and AG properties that should be zoned RR based on size. If we look at the future zoning map for our part of the city, all the property whether it is currently AG or RR is all RAD and there was even talk of combining AG and RR into one zoning for performance zoning. I think in our situation it is reasonable to base this decision on the use of our property and not the zone. Also since the city has already allowed my neighbor with 10.7 acres of land to be allowed an extra agricultural building of 2400 square feet, with less acreage than I have for our land of 11.5 acres, so the rule has been made once already, and at that city council meeting that approve the variance for the Ziertman's, I said I would be back asking for the same rights the council gave the Ziertman's, which would only be fair to all people.

I had slowed down in in agricultural produce due to Chuck Dillerud saying you cannot have retail sales on residential property. So when that happened I slowed down on the planting of produce and only sold wholesale since then.

3. Will the variance if granted alter the essential character of the neighborhood? No. The proposed building will not be seen from Keats Ave. there is an extensive tree line to the north as well as the neighbors own additional agricultural building will screen from their view from their house. There are other parcels around us that either have more or larger buildings than this size because the existing buildings were not required to be taken down as the properties go sub-divided. This is a rural portion of our city and people expect to see barns and buildings.
4. Are their unique circumstances to the property? Our farm has been around for a long time and is a unique part of the community. It was a part of a larger family farm that was also a pumpkin farm starting in 1972. Without this building we cannot continue with the farm and expand our produce and add animals to our farm. We are an integral part of the community and according to the comp plan, the City needs to assist us in remaining viable, especially since the city has already approved one of these buildings on less acreage, which is allowing us the tools by adding the this building to allow us to store more agricultural equipment inside of it instead of

outside and also store produce in it so it does not freeze and also allow us to add chicken's and goats to our farm.

In addition to the points already made, I would like to make a few more. I would point out that the city has already allowed this to happen on the property that lies to the north of us, who has less acreage than we have. Another point is that currently AG parcels of 40 acres or more can have a 20,000 square foot building in addition to unlimited AG buildings. That would equate to a 5000 square foot building on 10 acres without the unlimited AG buildings. This is less than 1% of the total square footage of our property and is pretty insignificant.

The character of the neighborhood will not be affected as there are many other lots under 40 acres that have more than the currently allowed size or amount of buildings. We are in the rural part of the city and to the north of us all the way to highway 36 will continue to be open space along with the Ziertman's 10 acre parcel which already has an additional AG building on their property which the city approved in 2011 with the RockPoint Church behind us.

I would like to mention that all of our produce is grown on site. Therefore we have a lot of equipment and I need more to accommodate our need. Plus we need this to house chickens which we are adding and also milking goats. In the fall our produce needs to be stored inside so it does not freeze along with giving the animals shelter from the cold and also storage of additional equipment.

The State spends a lot of tax dollars every year for the department of agriculture and Minnesota Grown, which we do, and this helps to ensure that the small farm like ours remain viable. Buy local is Huge!! We help to make Lake Elmo Unique and this contributes to our community. We have donated produce to many charity organizations over the years.

We would like to be able to preserve our farm to be able to pay it forward to our community. I think our situation is an example of why cities and city officials and league of Minnesota cities fought so hard to get the variance standards changed. So that the cities have a much greater say in what is acceptable outside the big box code that is not a one size fits all.

Thank you  
Rodney and Diane Sessing

612-919-4292 cell

5699 Keats Ave. North, Lake Elmo, MN 55042

Diane and I have enjoyed our farm in planting pumpkins and gourds and squash since we started in 1997. Once we moved over to our property from the original Ziertman farm located on highway 36 and Keats. Our land is an off shoot of the original farmstead. We also have expanded by adding 1000's of raspberry plants to our products. Now we want to expand our products by adding Chickens and Milking goats, along with more pumpkins and squash and gourds also and organic vegetables, we just need more storage of equipment for this process and We also need to have shelter for the animals thru the winter to keep them warm and safe. We will use part of the new storage building for both of these uses.

We want to continue our produce by expanding it and making it more viable for us.

The City of Lake Elmo gave the Ziertman's which has 10.7 acres of land the opportunity to have an additional 2400 square foot building to house their equipment. Now I am asking for the same opportunity that you gave the Ziertman's a few years ago, we own 11.5 acres of land. I believe this should be very easy to justify since our properties are very similar coming off of the same original farm stead although we have .8 acres more than the Ziertman's. Now that I have more time I want the same opportunity to increase our production to make it more viable for us to proceed with our farming business.

We are among the few surviving farms on smaller acres in Lake Elmo. Please allow us to continue and add more farming to Lake Elmo's history of supporting small farms.

**Thanks Rod and Diane Sessing  
5699 Keats Ave. North  
Lake Elmo, MN 55042  
612-919-4792**



## CITY-WIDE PLANNING POLICY

The following general planning and development policies will guide development in a manner that will allow reasonable growth to take place, while preserving and enhancing the rural character and features of Lake Elmo that make the City a unique and desirable community:

1. Develop land use and infrastructure plans corresponding to the 2030 population forecast of 24,000 in the 2030 Regional Development Framework.
2. Encourage the majority of the new households created in areas north of 10<sup>th</sup> Street North, and outside of the Village Area to be efficiently developed in a rural context in the form of Open Space Development cluster neighborhoods.
3. Guide new community growth in keeping with the geographic assignments and decennial household, population, and employment targets established by the Memorandum of Understanding entered into by the City and the Metropolitan Council in January 2005.
4. Limit Metropolitan Urban Service Area (MUSA) expansion to the area that can be served from the Regional Wastewater Interceptors specified, in the wastewater volumes specified by the aforementioned Memorandum of Understanding, and staged consistent with a City adopted development Staging Plan.
5. Adopt a MUSA expansion development Staging Plan/schedule that will limit total annual City household and employment growth to a use, mix, and scale that remains sustainable in the context of providing municipal services/infrastructure and local government fiscal responsibility.

### **Agricultural Preservation**

In keeping with the general policies enumerated above, existing operating agricultural uses and qualifying alternative uses that preserve the open space within the community shall be supported. These uses shall be encouraged to continue operations and to retain large land holdings that contribute to operating efficiency.

In keeping with the general policies enumerated above, the City shall affirmatively establish and pursue specific strategies and seek resources to assist existing agricultural uses in remaining a viable alternative to urbanization for landowners, consistent with the concept of “a right to farm.” The provision of municipal infrastructure and services to areas of the City where operating agriculture exists shall not be in a manner that results in an economic or operational disincentive to continue agricultural use of the land.

### **Residential Development**

All residential units will be designed, sited, and constructed to conserve energy in lighting, cooling, and heating processes.

The primary style of residential dwelling unit within RAD, RED, RAD2, and NC land

Accessory Building Variance – 5761 Keats Avenue

The City Council considered a variance required from Steve and Joan Ziertman, 5761 Keats Avenue, to allow the construction of a second 2,400 sq.ft. accessory building on their property. The proposed building would be used to house equipment related to the growing and selling of agricultural products. A variance has been requested because the applicants already have built a 2,310 sq.ft. building on their property, and the RR – Rural Residential Zoning District only allows one such accessory building on their property.

The Planning Commission recommended approval of the variance request with two conditions of approval.

Rod Sessing, 5699 Keats Avenue, stated his property is part of the Ziertman farm. He has grown pumpkins since 1997 and plans on getting back into farming. He said he had to cut back because of storage problems... had equipment in the building and sitting outside. He would like the Council to open to all property owners with 10.7 acres the ability to construct an additional accessory building.

Doug Lovitt , 9940 59<sup>th</sup> St. Court N., has a small produce farm and sees the need for more barn space.

*MOTION: Council Member Smith moved to adopt Resolution Number 2011-028 A Resolution approving a variance to allow the construction of a new 2,400 sq.ft. Accessory building at 5761 Keats Avenue in addition to an existing 2,310 sq.ft. building in a Rural Residential Zoning District. Council Member Park seconded the motion. The motion passed 3-2 (Council Member Emmons and Pearson voting against.)*

*MOTION: Council Member Emmons moved to direct staff to add the review of the ordinance relative to this question at a workshop for prioritization on the Planning Commission work plan. Council Member Pearson seconded the motion. The motion passed 5-0.*

Hotel/Motel Water Rates – Discussion and Proposed Ordinance No. 08-51

The City Council received an update on efforts to address issues related to water service to the Wildwood Lodge. Lake Elmo staff met with the Wildwood Lodge staff to discuss the history of billing and review of the infrastructure and water meters. Cathy Bendel, C&J Consulting, provided additional information which the Wildwood Lodge staff requested more time for review. A decision on hotel/motel water rates will be added to the next City Council agenda.

Update Re: Library Service Consideration

This item was scheduled at the request of the City Council in order to update the Council and public on efforts to retain and enhance library services for the Lake Elmo community. Administrator Messelt reported that all four boutique libraries will most likely close by January 2012. Attorney Snyder addressed questions regarding the City establishing their own library and authorizing a library levy.

14949 62<sup>nd</sup> Street North PO Box 200  
Stillwater, MN 55082-0200  
(651) 430-6175 www.co.washington.mn.us

Property ID: **02.029.21.23.0003** Bill#: **512663**



Taxpayer: **RODNEY N & DIANE L SESSING**  
5699 KEATS AVE N  
LAKE ELMO MN 55042-8509



**TAX STATEMENT**

**2016**

2015 Values for Taxes Payable in

VALUES AND CLASSIFICATION			
Taxes Payable Year:		2015	2016
Step 1	Estimated Market Value:	540,000	539,000
	Homestead Exclusion:	600	700
	Taxable Market Value:	539,400	538,300
	New Improvements/ Expired Exclusions:		
	Property Classification:	Res Hstd Ag Hstd	Res Hstd Ag Hstd
<i>Sent in March 2015</i>			
Step 2	<b>PROPOSED TAX</b>		
	<i>Did not include special assessments or referenda approved by the voters at the November election</i>		\$4,320.00
<i>Sent in November 2015</i>			
Step 3	<b>PROPERTY TAX STATEMENT</b>		
	First half taxes due	May 15	\$2,496.00
	Second half taxes due	November 15	\$2,496.00
Total Taxes Due in 2016:			\$4,992.00



You may be eligible for one or even two refunds to reduce your property tax. Read the back of this statement to find out how to apply.

Tax Detail for Your Property:				
Taxes Payable Year:		2015	2016	
1. Use this amount on Form M1PR to see if you are eligible for a property tax refund. File by August 15. If this box is checked, you owe delinquent taxes and are not eligible.		<input type="checkbox"/>	\$3,983.34	
2. Use these amounts on Form M1PR to see if you are eligible for a special refund.		\$4,018.25		
Tax and Credits	3. Property taxes before credits	\$4,541.05	\$4,494.80	
	4. Credits that reduce property taxes			
	A. Agricultural market value credit	\$363.20	\$362.60	
	B. Other Credits	\$0.00	\$0.00	
	5. Property taxes after credits	<u>\$4,177.85</u>	<u>\$4,132.20</u>	
Property Tax by Jurisdiction	6. WASHINGTON COUNTY			
		A. County General	\$1,181.15	\$1,183.20
		B. County Regional Rail Authority	\$9.05	\$10.52
	7. CITY OF LAKE ELMO		\$1,015.05	\$982.65
	8. State General Tax		\$0.00	\$0.00
	9. ISD 834 STILLWATER		\$630.25	\$663.29
		A. Voter approved levies	\$1,084.17	\$1,018.23
		B. Other Local Levies	\$40.22	\$39.60
		A. Metropolitan Council	\$57.85	\$58.35
		B. Metropolitan Council Transit	\$20.89	\$20.71
	C. Metropolitan Mosquito Control	\$72.54	\$74.85	
	D. Valley Branch Watershed	\$50.38	\$64.97	
	E. County HRA			
	11. Non-school voter approved referenda levies	\$16.30	\$15.83	
	12. Total property tax before special assessments	<u>\$4,177.85</u>	<u>\$4,132.20</u>	
	13. Special assessments	\$888.15	\$859.80	
	14. TOTAL PROPERTY TAX AND SPECIAL ASSESSMENTS	<u>\$5,066.00</u>	<u>\$4,992.00</u>	

Property Address:

5699 KEATS AVE  
LAKE ELMO MN 55042

Description:

Section 02 Township 029 Range 021 PT NW1/4 BEING THE S 1125FT OF THE W 1100FT OF SD NW1/4 OF SEC 2 EXCEPT THE W 660FT OF THE S 825FT THEREOF-SUBJ TO SUBJ TO EASE OVER W 33FT FOR KEATS AVE EXCEPT THE SOUTH 400 FEET OF THE EAST 440 FEET OF THE WEST 1100 FEET OF THE NW1/4 OF SEC 2

Line 13 Special Assessment Detail:

2013 KEATS STREET IMPROVEMENT	462.40
2013 KEATS WATER IMPROVEMENT	394.40
COUNTY ENVIRONMENTAL CHARGE PHE DEP	3.00

Principal: 633.00  
Interest: 226.80

**PAYABLE 2016 2<sup>nd</sup> HALF PAYMENT STUB**  
TO AVOID PENALTY PAY ON OR BEFORE: November 15

Property ID: **02.029.21.23.0003** Bill #: **512663**



Taxpayer:  
**RODNEY N & DIANE L SESSING**  
5699 KEATS AVE N  
LAKE ELMO MN 55042-8509

Detach at perforation & mail this stub with your 2<sup>nd</sup> half payment in the enclosed green envelope

Ag Hstd Res Hstd

SECOND HALF TAX AMT

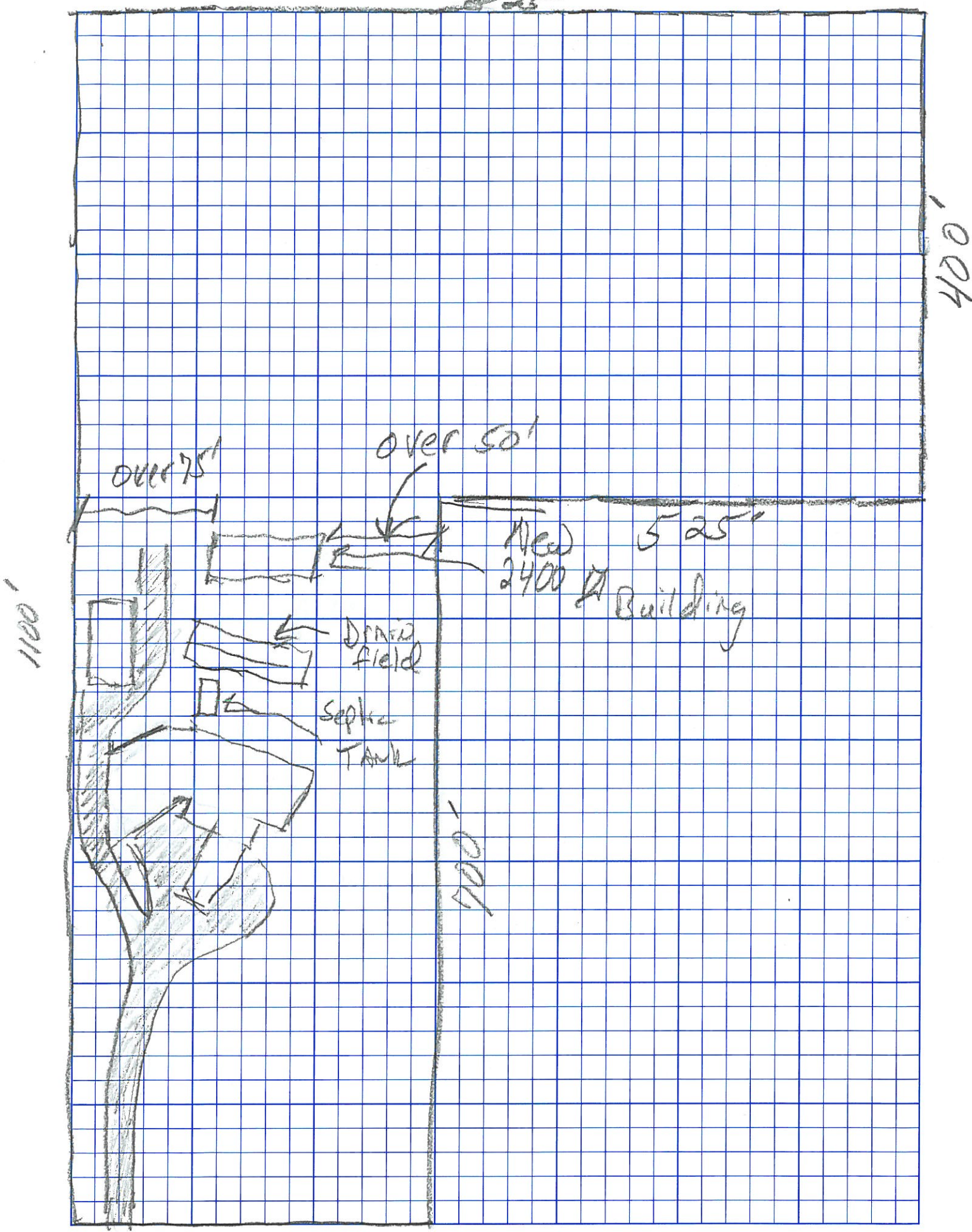
**\$2,496.00**

MAKE CHECKS PAYABLE TO:  
Washington County  
P.O. Box 200  
Stillwater MN 55082-0200

CHECK  
 CASH

No Receipt sent. Your canceled check is proof of payment. Do not send postdated checks.







5699 Keats Ave N, Lake Elmo, MN

*New 2400 Sq. Ft. Building*

© 2013 Google



56999 Keats Ave N, Lake Elmo, MN

New Building

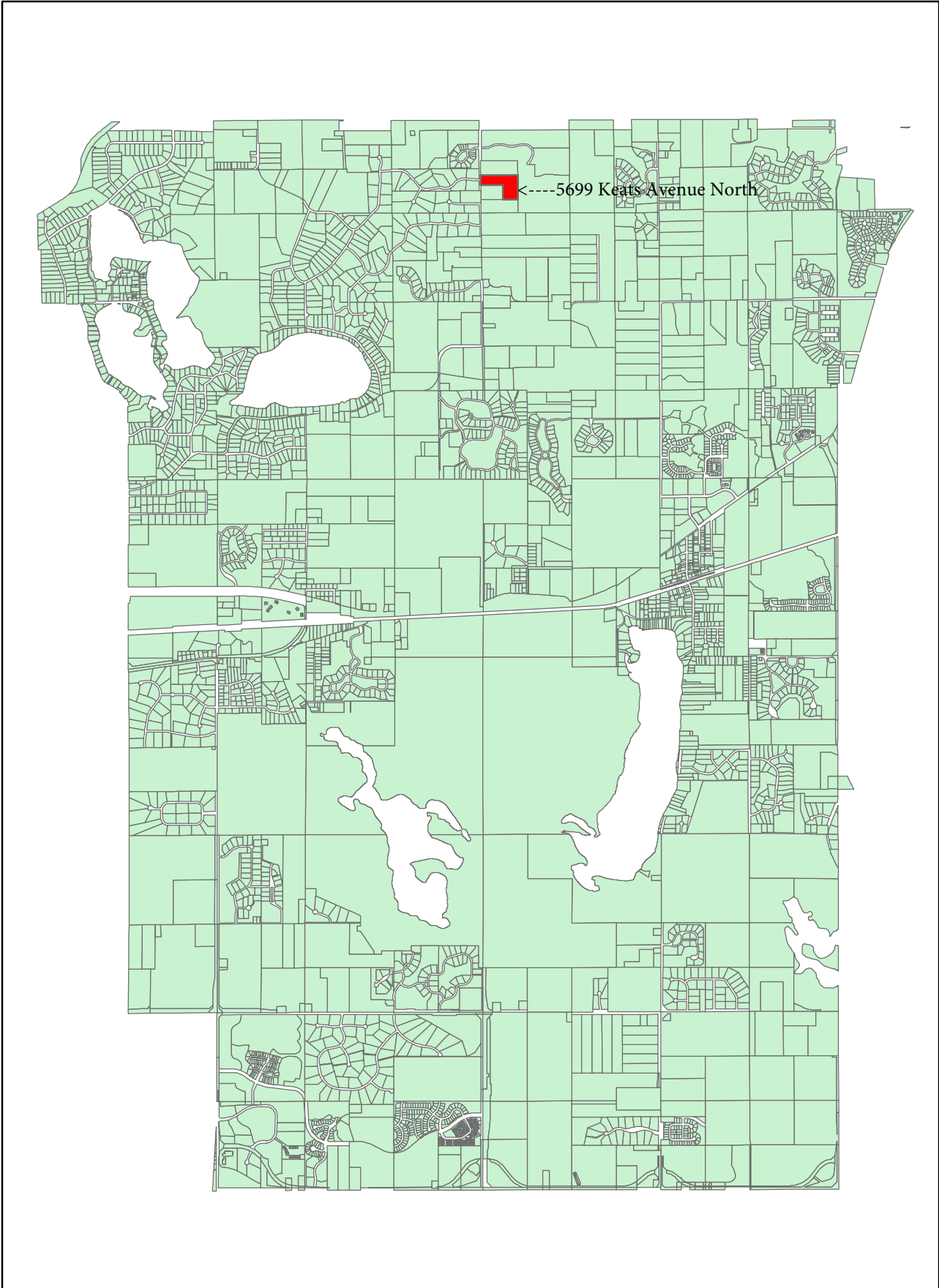
© 2013 Google

45°01'50.99" N 92°54'00.93" W elev 978 ft

12 1991

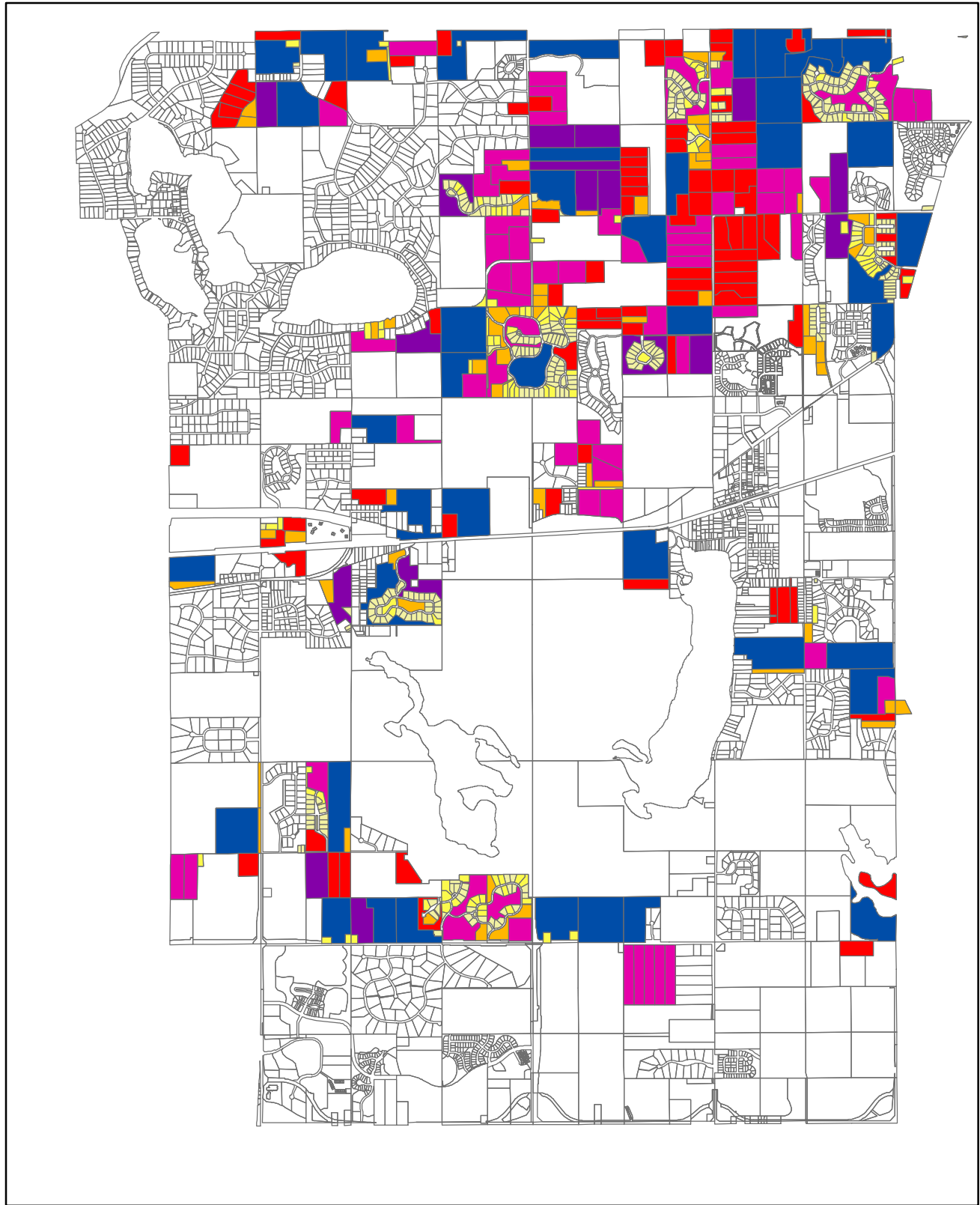
Go

# 5699 Keats Avenue North Location Map





# Properties Eligible for Conditional Use Permits for Additional Accessory Structures



## Number of Acres

0.499184 - 0.999999  
(1 acc. bldg. permitted up to 1200 sf)

1.000000 - 1.999999 (1 acc. bldg. permitted up to 1200 sf)

2.000000 - 4.999999 (1 acc. bldg. permitted up to 1300 sf)

5.000000 - 9.999999 (2 acc. bldgs. permitted up to 2000 sf)

10.000000 - 14.999999 (2 acc. bldgs. permitted up to 2500 sf)

15.000000 - 19.999999 (2 acc. bldgs. permitted up to 3000 sf)

20.000000 - 39.999999 (2 acc. bldgs. permitted up to 4000 sf)

infringing on the Krueger property. She would like the landscaping looked at more closely. Wensman said he will follow up with the City Engineer to see if it isn't functioning properly.

Dodson had a question on the CIC agreement. Wensman stated that this new property needs to be incorporated into the agreement.

Williams asked if this development met the street naming ordinance. Wensman stated that it would meet the current ordinance.

M/S/P: Dunn/Williams, move to postpone consideration of the final plat and PUD development plans for the Wildflower at Lake Elmo 2<sup>nd</sup> Addition upon the completion of the next agenda item, ***Vote: 5-1, motion carried, with Dodson voting no.***

**Public Hearing – Conditional Use Permit – 5699 Keats Ave – Additional Accessory Building in RR Zoning**

Wensman started his presentation regarding a Conditional Use Permit for an additional accessory building in the RR zone at 5699 Keats Ave. This is located in the North/Central section of the city in a rural residential zoning district. On lots 10-15 acres, you are allowed 2 buildings up to a combined 2500 square feet. The applicant is asking for this building for agricultural purposes. They are being taxed as an agricultural property. They have (6) 650 foot rows of raspberries, pumpkins, squash and vegetables. They desire to expand their farm to house chickens and goats and for the storage of agricultural equipment. Agricultural production is an allowed use. The setbacks are met and will be put in a lower elevation. Right now there is a lot of exterior storage of equipment on this property and this will alleviate the need for that.

There currently are no development standards outlined in Article 7 which is referred to. Article 5 has standards for accessory buildings and structures generally. Notices were sent out and there was one public comment expressing concerns about drainage and if there was a need for storage on this property. A condition was added in response to this comment. Staff is recommending approval with 12 findings. Staff is recommending approval with 13 conditions of approval.

Williams asked for clarification of the allowed building sizes and numbers and if it was a total aggregate area. Wensman pulled up code and it confirmed it is aggregate maximum size. Williams is also wondering about the last condition that if the property subdivides does that mean the building has to come down. He is also wondering about the condition referring to Home Based Business. Wensman stated that the request is for an agricultural building and should not be used for a home based business. There is already a lot of storage on the site and some kind of limit has to be placed for the building to be used appropriately. Williams feels that condition number 5, might not be applicable and number 10 seems to cover it.

Dodson is wondering if they need a finding stating why they need a conditional use permit. Wensman stated that there really aren't standards so he thinks it would be based on implied need, but it is not really provided.

Kreimer asked if there were standards that it has to be compatible with the house. Wensman referred to the code and accessory buildings have to be compatible with the principle structure, but pole buildings are an exception to that rule.

Rod Sessing, 5699 Keats Ave, is asking for a conditional use permit to store his agricultural equipment inside as it deteriorates 10 times faster sitting outside. They would like to expand their farm to have organic chickens and eggs as well as milking goats. It bothers him that they talk about tearing down a building. When the variance went through for his neighbor, a tear down clause was talked about, but it was not approved that way. He would like the tear down clause to be removed. He agrees that it will only be used for AG, but to tear down a perfectly good building later on, doesn't make sense. Sessing stated that drainage is not going to be an issue as water flows to the south and there is a pond to the south to collect water.

Public Hearing opened at 8:35 pm

There were no other written or electronic comments received

Public Hearing closed at 8:35 pm

Dodson asked for more clarification regarding the drainage issue. Wensman stated it was just a concern that this building might increase the water drainage to the area. This would be addressed through the building permit process if there were any issues.

Dunn agrees with not needing the home occupation part in there and also with not tearing it down. Wensman stated that the Ziertman's building was obtained through the variance process and variances run with the land. Therefore, there was no condition placed on the building to be torn down. A CUP runs with the land, but they can expire if conditions are not met. If you want to take out that clause, you would need to strike the condition that it only be used for agricultural purposes and they could use it for whatever they wanted.

Fields does not feel that the condition should be struck. The request is for an additional building for an agricultural purpose and that is what it needs to be used for. If the agricultural use goes away, the building can be left vacant, but can't just be used for any use. Dunn and Lundquist agreed.

M/S/P: Williams/Lundquist, move to recommend approval of the request for a conditional use permit for an additional accessory structure in the RR – Rural zoning district for the property located at 5699 Keats Avenue N, subject to the amended conditions of approval, **Vote: 6-0, motion carried unanimously.**

**Public Hearing – Wildflower 2<sup>nd</sup> Addition Final Plat and Final PUD Plan**

Public Hearing opened at : pm

There were no other written or electronic comments received

Public Hearing closed at : pm

M/S/P: /, move to recommend approval of the final plat and PUD development plans for the Wildflower at Lake Elmo 2<sup>nd</sup> Addition based on the finding of fact in the staff report, **Vote: -, motion carried unanimously.**

**Public Hearing – Conditional Use Permit Amendment – Rockpoint Church Parking Lot**

Wensman started his presentation

Public Hearing opened at : pm

There were no other written or electronic comments received

Public Hearing closed at : pm

M/S/P: /, move to ,**Vote: -, motion carried unanimously.**

**City Council Updates – October 4, 2016 Meeting**

- i) OP Ordinance – Passed
- ii) Horning Lot Size Variance – Passed
- iii) Fence Ordinance Amendment – Solid Wall Fences – Passed
- iv) Common Ground IUP – Passed
- v) Wasatch Storage Partners CUP - Passed

**Staff Updates**

1. Upcoming Meetings
  - a. October 24, 2016
  - b. November 14, 2016

**Commission Concerns**