

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

**Resolution No. 2009-052**

**A RESOLUTION DENYING A REZONING APPLICATION OF THE 33.44 ACRE  
PROPERTY AT 01-029-21-21-0007 FROM RURAL RESIDENTIAL TO  
AGRICULTURAL FOR COUNTRY SUN FARM AND GREENHOUSE**

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

**WHEREAS**, Richard and Eileen Bergmann on behalf of Country Sun Farm and Greenhouse (the "Applicants"), 11211 60<sup>th</sup> Street North, have submitted an application to the City of Lake Elmo (the "City") to rezone a 33.44 acre parcel from Rural Residential to Agricultural. The parcel is described as follows:

Sect-01 Twp-029 Range-021 PT NE1/4-NW1/4 & PT W1/2-NW1/4 NE1/4 012921  
EXC THEREFROM PT DESC AS FOLL COM AT NE COR SD W1/2-NW1/4-NE1/4  
THN S01DEG09' E ALG E LN SD W1/2 DIST 293.43 FT TO INTER WITH SLY R/W  
HWY 36 THN S88DEG57'44"W ALG SD SLY R/W DIST 557.70FT TO POB THN  
S01DEG09'E PARL WITH SD E LN OF W1/2 DIST 360.83FT THN S82DEG28'34"W  
DIST 318.69FT THN WLY & NWLY DIST 333.51FT ALG TCRV TO RT RAD  
197.62FT CENT ANG 96DEG41'43" THN N0DEG 49'38"W TANG TO SD CRV DIST  
199.75FT TO INTER WITH SD SLY R/W THN N88DEG57'44"E ALG SD R/W DIST  
535.14FT TO POB SUBJ TO EASE EXCEPT THAT PT NE1/4-NW1/4 & PT OF  
W1/2-NW1/4-NE1/4 S01T29R21 AS FOLL: BEG AT NE COR OF SD W1/2-NW1/4-  
NE1/4 THN ON BRG S89DEG47'30"W ALG N LN OF SD W1/2-NW1/4-NE1/4 DIST  
353.59FT THN S0DEG19'54"E DIST 294.59FT TO INTER OF SLY R/W LN STATE  
HWY 36 THN CONT S0DEG19'54"E DIST 292.32FT THN S61DEG31'55" W DIST  
226.42FT THN S83DEG20' 18"W DIST 323.13FT THN S89DEG 45'35"W DIST  
257.62FT THN S0DEG00'32"E DIST 675.77FT TO S LN OF SD NE1/4-NW1/4 THN  
N88DEG59'11"E ALG S LN 474.94 FT TO SE COR OF SD NE1/4-NW1/4 THN  
N88DEG58"56"E ALG S LN OF SD W1/2-NW1/4-NE1/4 DIS 660.99 FT TO SE COR  
OF SD W1/2-NW1/4- NE1/4 THN N0DEG19'54"W ALG E LN OF SD W1/2-NW1/4-  
NE1/4 DIST 1095.94FT TO INTER OF SD STATE HWY 36 THN N0DEG19'54"W  
DIST 294.39FT TO POB SUBJ TO EASEMENT

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on November 23, 2009; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated December 1, 2009; and

**WHEREAS**, the City Council considered said matter at its December 1, 2009, meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the Board of Adjustment makes the following findings:

#### **FINDINGS**

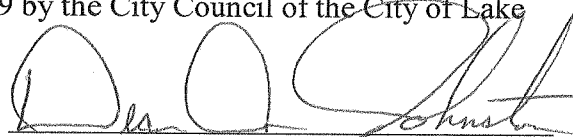
- 1) That the procedures for obtaining said Map Amendment are found in the Lake Elmo Zoning Ordinance, Section 154.020.
- 2) That all the submission requirements of said Section 154.020 have been met by the Applicant.
- 3) That the proposed rezoning of the property is from Rural Residential to Agricultural for the entire 33.44 acres.
- 4) The Rural Residential zoning district has a 10 acre minimum lot size requirement while the Agricultural zoning district has a 40 acre minimum lot size. The rezoning of the parcel to Agricultural would result in non-conformance to the minimum lot size as the parcel is 33.44 acres.
- 5) Relocating the greenhouses would still allow for reasonable use of the current property, thereby resulting in a de facto expansion of business activity and, with it, traffic concerns and other public health, life and safety considerations.
- 6) The proposed rezoning would be preemptive in nature as the applicant's intent is to move a greenhouse to the property which may or may not be in conflict with a currently unknown, unplanned or unscheduled future reconfiguration of the intersection of County Road 17 and State Highway 36.
- 7) As public infrastructure would be significantly impacted by any re-zoning and subsequent access road and greenhouse relocation, the public stands to have such disruption of public services occur on multiple times and at significantly increased cost due to this premature rezoning;

- 8) The applicant retains reasonable use of the affected property today and, with approval of the Agricultural Entertainment Business CUP, is allowed for reasonable expansion of said business within the acceptable parameters established by the City.

**CONCLUSIONS AND DECISION**

Based on the foregoing, the Applicants' application for rezoning the 33.44 acre parcel is denied.

Passed and duly adopted this 1<sup>st</sup> day of December 2009 by the City Council of the City of Lake Elmo, Minnesota.

  
Dean A. Johnston, Mayor

ATTEST:

  
Bruce A. Messelt, City Administrator