



## 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)