

Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

Lisa M. Hanni, L.S. Director



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To: Board of Adjustment
From: Land Use Management
Report Date: August 8, 2016
Meeting Date: August 22, 2016

Application Information:

Applicant: Ronald & Cheryl Clemens
Address of Zoning request: 13482 Sunset Trail
Zoning district: A2
Township Information: The Applicant has informed staff that the Township approves of the Variance.

Attachments:

Applicant Statement
Goodhue County Zoning Ordinance: Articles 22
Site Map

Notice: Ronald & Cheryl Clemens – Variance request from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per 1/4 1/4 section (currently there are 3 dwellings); to build a residence at 13482 Sunset Trail. Part of E 1/2 of the NW 1/4 of Section 5 in Vasa Township.

Background: The purpose of this variance is to seek approval to build a dwelling on parcel 42.005.1104. Article 22 Agricultural District, Section 5 General District Regulations, Subdivision 2, limits the number dwellings to 12 dwellings per Section and a limit of one dwelling per 1/4 1/4 Section. Section 5 of Vasa Township currently has 15 dwellings and the SE 1/4 of the NW 1/4 of Section 5 currently has 3 dwellings.

The north 1/2 of Section 5 includes 14 of the 15 dwellings located within the Section. These existing dwelling sites are located along a stretch of Sunset Trail which runs through a rolling, wooded landscape and includes very little land being used for agricultural purposes.

Findings of Fact:

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

- 1) They are in harmony with the general purposes and intent of the official control;
The intent and general purpose of the A2 District is to maintain and conserve agricultural investments and prime agricultural farmland,

but provide for a slightly higher density of dwellings than the A1 District. The A2 District is intended to apply to those areas where large farms and feedlots are more scattered and greater numbers of non-farm uses or small parcels are present.

A decision by the Board of Adjustment to allow the construction of a dwelling on the Applicant's property will not significantly impact agricultural land use due to its small size, sloped topography and the presence of abutting dwelling sites. Not more than 1/3 of Section 5 is currently used for agricultural purposes.

- 2) The variance is consistent with the comprehensive plan;
The 2016 Comprehensive Plan speaks to this variance in the Housing Element.

ELEMENT 3: Housing

Objective #1: "Direct the location of new or replacement dwelling sites in areas that minimize loss or conversion of prime agriculture soils."

Approval of the Applicant's request for a variance to construct a home on the site in question would "direct the location of a new dwelling sites in areas that will minimize loss" of Ag land, because this land is viable for agricultural use. Abutting and nearby properties along Sunset Trail are also residential.

Agricultural use of the Applicant's property may be detrimental to the surrounding parcels and neighborhood. If the Board allowed the construction of a dwelling on the Applicant's property no tillable prime agricultural land would be removed because most of the soils are not considered prime agriculture soils.

Objective #2: "Consider adjustments to the density of Agricultural Zoning Standards, 1/4 1/4 Limit in A-2 Zone or other standards to allow limited additional rural dwelling sites in agriculture zones."

Adjustments to the A2 Zone, specifically the 1/4 1/4, would alleviate the need for part of this variance. Approval of this variance would "allow limited additional rural dwelling sites in agriculture zones."

Objective #12: "Provide opportunities for smaller communities to thrive through more compact land development practices, diversity of business land uses, mixed use development and pedestrian orientated design."

Approval of the variance would "provide opportunities for smaller communities to thrive through more compact land development practices." Along a 1 3/4 mile stretch of Sunset Trail there are currently 24 dwelling sites, 14 of which are located in the north 1/2 of the Section.

Objective #13: "Provide more housing choices for rural residents"

Approval of the variance would "provide more housing choices".

Implementation strategy #1: "Explore other housing density criteria instead of the current Section based limits; take into account land use, topography, scenic views, and access to roads."

The surrounding “land use, topography, scenic views,” and road access make the Applicants property a suitable residential site.

ELEMENT 1: Agriculture

Plant Agriculture Objective #4: “If residential development occurs, it should be compact and designed to preserve the prime farmland for agricultural uses or other compatible uses to minimize conflicts between agricultural and non-agricultural uses.”

Approval of the Variance would be consistent with Objective #4, by contributing to a “compact” residential area and preserving prime farmland.

- 3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.

The intent of the A2 District is to encourage long-term agricultural uses and preserve prime agricultural farmland by restricting the location and density of non-farm dwellings.

The best use of the subject property is a dwelling. No farm land will be lost to the construction of dwelling. The dwelling will not increase the density of housing in a way that will negatively affect the “preservation of prime agricultural farmland and agricultural production, due to the sparse residential nature of the immediate area.”

- 4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

The Applicant has not contributed to the need for a variance. The Section was full before the land owner obtained the property. The land owner purchased the parcel that had been split from a farm property.

- 5) The variance, if granted, will not alter the essential character of the locality.

The surrounding neighborhood character will not change. In fact, construction of a dwelling on the subject property may well reinforce the character of the neighborhood.

- 6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

Residences are allowed within the A2 Zone. The variance request involves an exception to Section and 1/4 1/4 dwelling density limit, not land use.

- 7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

If the variance is approved than, in accordance with this provision, conditions the Board of Adjustment may impose conditions.

The following should be edited to reflect any concerns raised at the August 22, 2016 BOA meeting and public hearing:

Staff Recommendation:

Staff recommends the Board of Adjustment adopt the staff report into the record (dated August 8, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: approve the variance request from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per $\frac{1}{4}$ $\frac{1}{4}$ section (currently there are 3 dwellings); to build a residence at 13482 Sunset Trail. Part of E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 5 in Vasa Township;

Subject to the following condition: Conformance with the application submitted to Goodhue County Land Use Management Office dated July 25, 2016.

Variance

| Application for Variance | |
|---|---------------------|
| VARIANCE NUMBER: <small>For Staff Use only</small> | Z16-0051 |
| \$350 RECEIPT# | 154605 DATE 7/25/16 |

1. Owner/Applicant Information

PROPERTY OWNER'S NAME:

Ronald + Cheryl Clemens

PROPERTY OWNER'S ADDRESS:

Parcel # 420051104
13482 Sunset trail
55089

TELEPHONE:

(651) 301-0880

EMAIL:

Shariclemens@hotmail.com

APPLICANT OR AUTHORIZED AGENT'S NAME:

Same as Above

APPLICANT'S ADDRESS:

513 5th Street East
Wanamingo MN 55983

TELEPHONE:

(507) 824-2603

EMAIL:

Shariclemens@hotmail.com

CONTACT FOR PROJECT INFORMATION:

Ronald Clemens

Same as Above

ADDRESS:

TELEPHONE:

()

EMAIL:

2. Location and Classification

STREET ADDRESS OF PROJECT:

13482 Sunset trail

ZIP CODE:

55089

LEGAL DESCRIPTION:

Parcel # 420051104

Attached

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES

PID#:

ZONING DISTRICT

LOT AREA (SQ FT):

LOT DIMENSIONS:

STRUCTURE DIMENSIONS (if applicable):

(Please check all that apply)

ADDITIONS TO BUILDING:

PRESENT OR PREVIOUS USE:

- New Building on vacant land Rear
- New Addition to existing building Front
- Animal Building Side
- Storage building Other Please clarify

PROPOSED USE:

To Build our house

BUILDING APPLICATION PERMIT NO.: (if filed)

DATE FILED:

TOWNSHIP:

By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request. Attached

TOWNSHIP OFFICAL'S PRINTED NAME AND TITLE

TOWNSHIP OFFICAL'S SIGNATURE

DATE

3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: Ronald Clemens + Cheryl Clemens

Date: 7-22-2016

Print name: Ronald Clemens + Cheryl Clemens owner or authorized agent (circle one)

Signed on 7/8

Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

Requesting a change from 12 parcels per section to allow use of our property

Variance Findings

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).

Our property is located in a A-2 section with a density limit that was set at 12 parcels per section. Currently there are 14 or 15 parcels in this section. We are set in the area of little to no Ag land that is in use. Our property is not large enough for Ag use.

2. Who or What created the circumstances?

Goodhue County Zoning Ordinance Density

3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc.) and how is the request consistent with this character?

We are currently being taxed nonresidential Homestead because we have a pole shed on our property which is in Ag2 area.

4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.

Other property owners adjacent to ours are enjoying their Country homes in the same area with little use of their Ag2 parcels.

5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.

The zoning Ordinance already allowed 2 more parcels per section in this Parcel which is over the 12 parcels per section guidelines

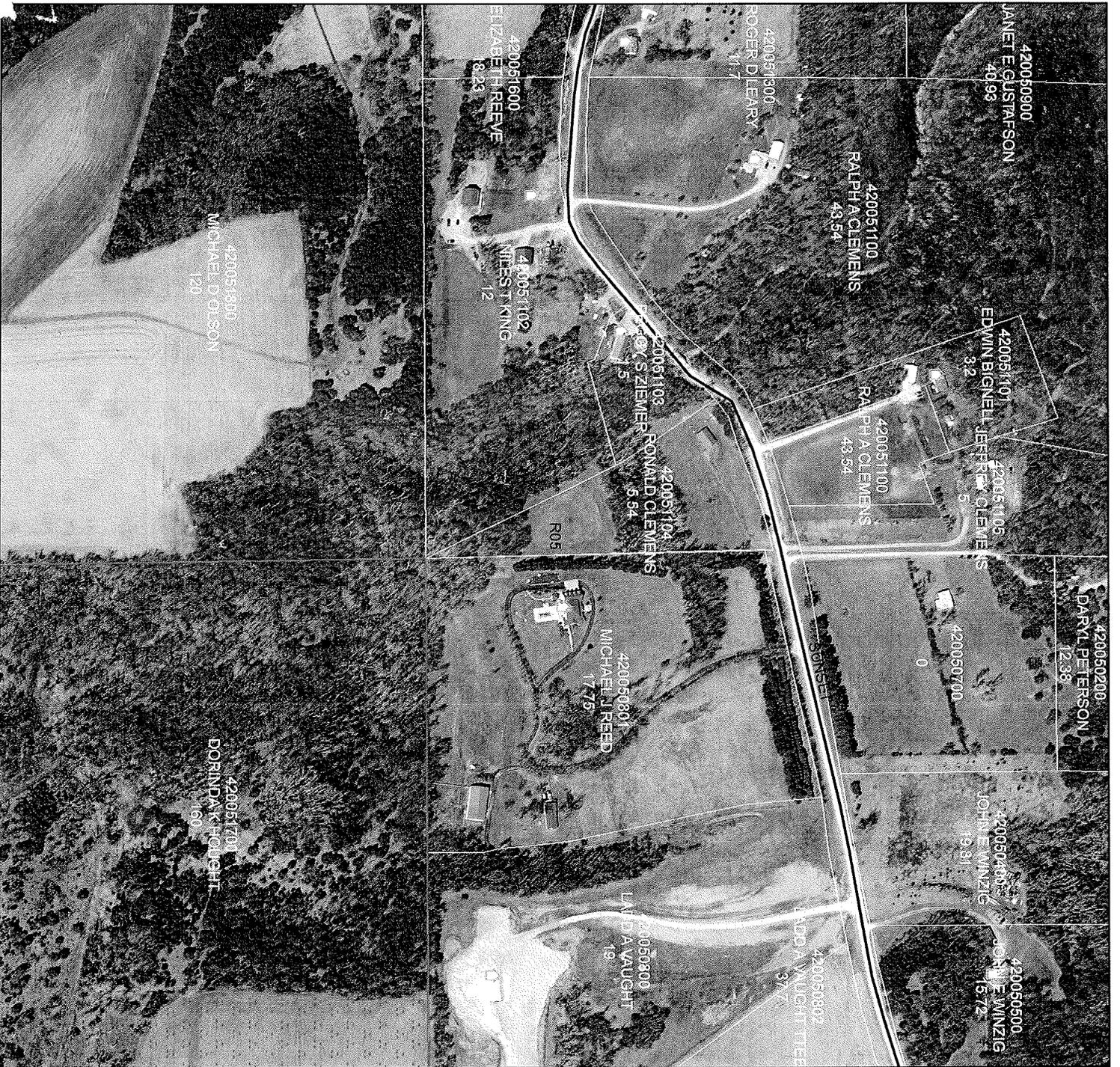
6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.

Yes. By allowing this variance we would be able to finally build our home we want.

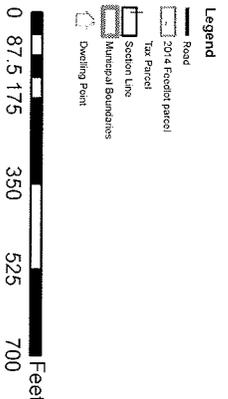
7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.

Yes, we currently own 2 properties and have been trying to build on this parcel since 2001. The cost for taxes and not being able to use this parcel as our home is a hardship. See Back of page →

We would have a hard time selling our
property without a home on it, and that would
cause a hardship.



Parcel #420051104
 Ronald Clemons - Variance to A-2
 Section Density Limit
 to allow a dwelling



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ARTICLE 22 A-2, AGRICULTURE DISTRICT

SECTION 1. PURPOSE

The purpose of this district is to maintain and conserve agricultural investments and prime agricultural farmland, but provide for a slightly higher density of dwellings than the A-1 District. This A-2 District is intended to apply to those areas where large farms and feedlots are more scattered and greater numbers of non-farm uses or small parcels are present. This district also has more topographic features and less prime farmland than the A-1 District.

SECTION 2. PERMITTED USES

- Subd. 1. Single family dwellings.
- Subd. 2. A second farm dwelling.
- Subd. 3. Any agriculture operation including tree farms.
- Subd. 4. Feedlots as regulated in Article 13.
- Subd. 5. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a retail structure not to exceed 2400 square feet in area.
- Subd. 6. Any mining, quarrying, excavating, or filling of land subject to the standards of Article 14 of this Ordinance.
- Subd. 7. Plant nurseries and sales.
- Subd. 8. Home occupations as regulated in Article 11 of this Ordinance.
- Subd. 9. Wind Energy Conversion Systems in accordance with Article 18 of this Ordinance.
- Subd. 10. Farm Wineries including Tastings Rooms in buildings up to 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

SECTION 3. CONDITIONAL USES AND INTERIM USES

In the A-2, Agriculture District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 1. A mobile home as a temporary second dwelling when there is a need to provide health care services to residents of one of the dwellings.
- Subd. 2. Any aircraft landing field and associated facilities.
- Subd. 3. Commercial recreation facilities including, but not limited to, golf courses, driving ranges, tennis courts, skiing, swimming pools, park facilities, and health facilities.
- Subd. 4. Any community building, church, cemetery or memorial garden.
- Subd. 5. Any commercial radio and television towers and transmitters.
- Subd. 6. Any public, private or nursery school.

- Subd. 7. Any public stable.
- Subd. 8. Any raising of fur bearing animals or commercial kennel.
- Subd. 9. Commercial and industrial uses primarily intended to serve the agricultural community.
- Subd. 10. Any boarding and rooming houses or bed & breakfast inn.
- Subd. 11. Campground and RV site.
- Subd. 12. Park manager's residence limited to one single family unit per any licensed campground or RV site regulated, consisting of thirty (30) or more campsites.
- Subd. 13. Any veterinary clinics.
- Subd. 14. Junk/salvage reclamation yards.
- Subd. 15. Any migratory labor camp.
- Subd. 16. Any park or recreational area operated by a governmental agency.
- Subd. 17. Hunting club or shooting preserve.
- Subd. 18. Temporary or seasonal off-site roadside produce stands. No more than two (2) signs totaling fifty (50) square feet of sign area advertising the stand shall be permitted. In addition, the structure shall be limited in size to two thousand (2,000) square feet.
- Subd. 19. Educational Farm Retreat.
- Subd. 20. Retreat Centers.
- Subd. 21. Wind Energy Conversion Systems as per Article 18 of this Ordinance.
- Subd. 22. Non-Agricultural uses/activities associated with an agri-tourism (as defined in Article 10).
- Subd. 23. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a retail structure that exceeds 2400 square (see Article 11, Section 29).
- Subd. 24. Farm Wineries including Tasting Rooms in buildings exceeding 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).
- Subd. 25. Residential accessory building(s) exceeding seven thousand two hundred square feet.

SECTION 4. ACCESSORY USES AND STRUCTURES

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Refer to Article 11, Section 5 for further regulations on Accessory Structures. Accessory uses in the A-1 District shall include Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance.

SECTION 5. GENERAL DISTRICT REGULATIONS

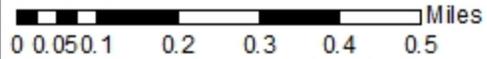
Any parcel in an A-2, Agriculture District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

- Subd. 1. Lot Size.
- A. All buildable parcels in this district shall contain an area not less than two (2) acres.
- Subd. 2. Density Requirements.
- A. Twelve (12) single family dwellings per section unless additional dwellings are permitted by Sections 2 and 3 of this Article.
 - B. Any dwellings allowed by Subd. A. above shall be limited to one per 1/4, 1/4 section, except as allowed by Sections 2 and 3 of this Article.
- Subd. 3. Yard Requirements.
- A. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:
 - 1. Front Yard.
 - a. There shall be a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway.
 - b. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.
 - 2. Side Yard.
 - a. Every building shall have two (2) side yards. Each side yard shall have a minimum width of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.
 - 3. Rear Yard.
 - a. Every building shall have a rear yard. The rear yard shall have a minimum depth of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.
- Subd. 4. Public Road Frontage or Road Access Easements Standards:
- A. Each Lot shall include a minimum 33 feet of frontage on a public road right-of-way line extending to the building line. As an alternative a single lot that does not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a driveway access easement that is a minimum of 33 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management Department.
 - B. Two lots that do not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a shared driveway access easement that is a minimum of 66 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management.
 - C. Access for three (3) or more lots shall meet the requirements for public roads in Goodhue County Subdivision Ordinance.



PUBLIC HEARING:
 Ronal & Cheryl Clemens – Variance request from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per ¼, ¼ section (currently there are 3 dwellings); to build a residence at 13482 Sunset Trail. Part of E ½ of the NW ¼ of Section 5 in Vasa Township

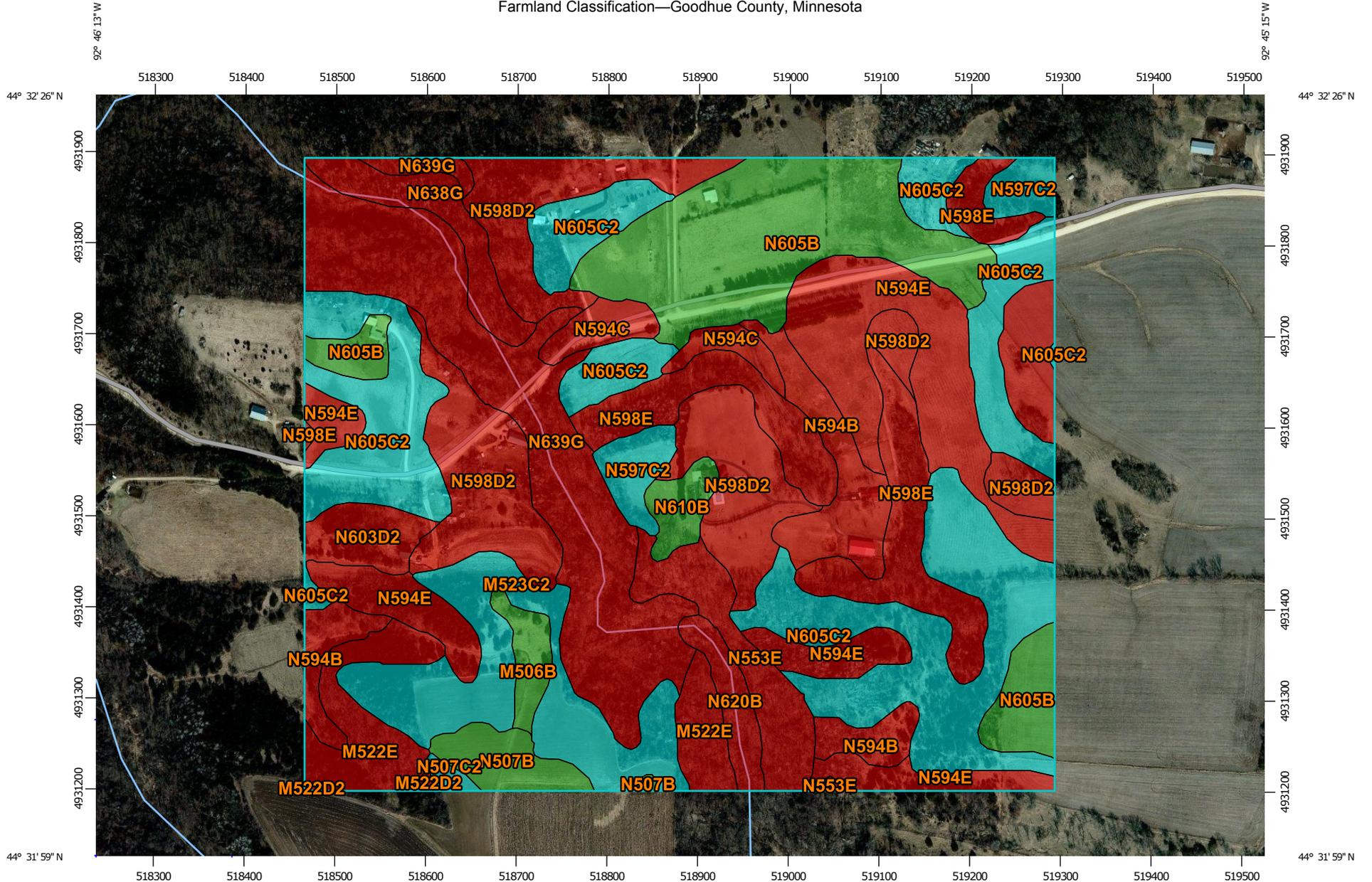
- Legend**
- Municipal Boundaries
 - Road
 - Section Line
 - Bluff Impact**
 - % Slope**
 - 20
 - 30
 - Tax Parcel
 - Dwelling Point
 - Shoreland



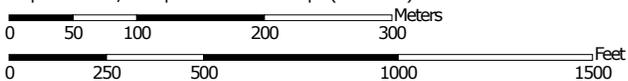
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2014 Aerial Imagery
 Map Created 2016 Kate Eynok

Farmland Classification—Goodhue County, Minnesota



Map Scale: 1:5,890 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 15N WGS84

MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

 Soil Survey Areas

 Soil Map Unit Lines

Soil Rating Polygons

 Not prime farmland

 All areas are prime farmland

 Prime farmland if drained

 Prime farmland if protected from flooding or not frequently flooded during the growing season

 Prime farmland if irrigated

 Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season

 Prime farmland if irrigated and drained

 Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season

 Prime farmland if subsoiled, completely removing the root inhibiting soil layer

 Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60

 Prime farmland if irrigated and reclaimed of excess salts and sodium

 Farmland of statewide importance

 Farmland of local importance

 Farmland of unique importance

 Not rated or not available

Soil Rating Lines

 Not prime farmland

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Soil Rating Points

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 Farmland of statewide importance

MAP INFORMATION

-  Farmland of local importance
-  Farmland of unique importance
-  Not rated or not available

Water Features

-  Streams and Canals

Transportation

-  Rails
-  Interstate Highways
-  US Routes
-  Major Roads
-  Local Roads

Background

-  Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Goodhue County, Minnesota
Survey Area Data: Version 11, Sep 18, 2015

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Mar 16, 2012—Apr 26, 2012

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.