

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

RESOLUTION NO. 2015-59

*A RESOLUTION APPROVING A PRELIMINARY AND FINAL PLAT FOR THE HALCYON
CEMETERY AS ORDERED BY THE DISTRICT COURT*

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

WHEREAS, Mr. Lee Rossow, 11050 50th Street North, Lake Elmo MN 55042 (“Applicant”) has submitted an application to the City of Lake Elmo (“City”) for a Preliminary and Final Plat for a cemetery to be called Halcyon, a copy of which is on file in the City of Lake Elmo Community Development Department; and

WHEREAS, the proposed Final Plat includes a cemetery on one parcel of land (PID: 01.029.21.33.0003) in the Rural Planning Area; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on July 13, 2015 to consider the Preliminary and Final Plat application; and

WHEREAS, the Lake Elmo Planning Commission adopted a motion recommending approval of the Final Plat subject to 14 conditions of approval; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation concerning the Preliminary and Final Plat as part of a memorandum to the City Council for the July 21, 2015 Council Meeting; and

WHEREAS, the City Council reviewed the Halcyon Cemetery Preliminary and Final Plat at its meeting held on July 21, 2015 and tabled taking action at that time; and

WHEREAS, the City Council further reviewed the Halcyon Cemetery Preliminary and Final Plat at its meeting held on October 6, 2015 and denied the request based on findings of fact as outlined in Resolution 2015-59.

WHEREAS, the Applicant sued the District Court, challenging the denial of the Applicant’s Preliminary and Final Plat applications, alleging the denial was arbitrary, capricious and without sufficient factual or legal basis.

WHEREAS, the District Court granted summary judgment to the City and dismissed the Applicant’s complaint.

WHEREAS, the District Court’s decision was appealed to the State of Minnesota Court of Appeals, and the Court remanded the case to the district court with instructions to issue an Order directing the City to approve the plat.

WHEREAS, The Supreme Court denied the petition by the City of Lake Elmo to further review the LeRoy J. Rossow, Jr. vs. The City of Lake Elmo, Minnesota on February 20, 2018.

WHEREAS, The District Court ordered on March 21, 2018 for the City to approve the preliminary and final plat within 30 days of the Order in accordance with the proposed Resolution No. 2015-59.

WHEREAS, the findings of fact of proposed Resolution 2015-59 made the following findings of fact:


- 1) That the Halcyon Cemetery Final Plat is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
- 2) That the Halcyon Cemetery complies with the City's RR – Rural Residential zoning district.
- 3) That the Halcyon Cemetery complies with the City's subdivision ordinance.
- 4) That the Halcyon Cemetery Final Plat meets other City zoning ordinances, such as landscaping, tree preservation, erosion and sediment control, off-street parking and other ordinances, except where noted in this report herein.
- 5) That the Halcyon Cemetery Final Plat is consistent with the City's engineering standards, except where noted, provided the plans are updated to address the City Engineer's comments documented in a letter dated July 8, 2015 and the Fire Chief's comments documented in a letter dated July 7, 2015.
- 6) The applicant has committed to establishing a permanent care trust fund consistent with the requirements established under State Statute.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve the Halcyon Cemetery Preliminary and Final Plat subject to the following conditions:

- 1) The applicant shall revise the Final Plat to accommodate all required right-of-way on Lake Elmo Avenue and 50th Street North as documented in review memorandums submitted by Washington County and the City Engineer.
- 2) All required modifications to the plans as requested by the City Engineer in a review letter dated July 8, 2015 shall be incorporated into the plans prior to the City's execution of the Final Plat.
- 3) The developer shall follow all of the rules and regulations spelled out in the Wetland Conservation Act, and abide by all conditions of approval established in the approved Valley Branch Watershed District permit.
- 4) The applicant shall be responsible to address all review comments submitted by Washington County described in the review memorandum received from the County dated July 7, 2015. In addition, the applicant shall obtain all necessary right-of-way permitting from Washington County.

- 5) The Landscape Plan shall be revised to include 6 additional trees to fulfill the City's Landscaping Requirements. In addition, the plant material that is on top of utilities shall be moved to comply with the direction of the City Engineer per his memorandum dated July 8, 2015. Finally, prior to installation of plant material, the plan shall be reviewed by the City's Landscape Consultant for final approval.
- 6) The applicant must enter into an agreement with the City to own, operate and maintain the private storm water facilities on the property. The storm water maintenance agreement must be recorded with the Final Plat.
- 7) Prior to the issuance of grading/building permits, all review comments of the Fire Chief must be addressed by the applicant.
- 8) The applicant shall obtain the necessary permitting from Washington County to install a new septic system to serve the property prior to the City issuing and building permits for the remodel of the home.
- 9) All lighting installed on the Halcyon Cemetery site must comply with the City's dark skies ordinance.
- 10) Any alterations to the existing single family home shall be reviewed for conformance to the City's design standards.
- 11) All trees transplanted on the site shall include a two-year warranty period to ensure survival. Any trees that do not survive the two-year period shall be replaced.
- 12) The Landscape Plan shall be amended to add plantings along the Eastern and Northern property lines consistent with screening requirements specified in 154.258.F of the City Code.

Passed and duly adopted this 17th day of April by the City Council of the City of Lake Elmo, Minnesota.



Mike Pearson, Mayor

ATTEST:



Julie Johnson, City Clerk