

RESOLUTION 91-34

A RESOLUTION OPPOSING THE DETACHMENT OF 93 ACRES KNOWN AS
OUT LOT A LAKE ELMO HEIGHTS 2ND ADDITION FROM LAKE ELMO
AND ITS CONCURRENT ANNEXATION TO THE CITY OF OAKDALE

WHEREAS, The City of Lake Elmo, Washington County,
Minnesota is a statutory city existing and authorized
pursuant to the laws of the State of Minnesota; and

WHEREAS, Lake Elmo Heights Limited Partnership, the
owners of Out Lot A Lake Elmo Heights 2nd Addition submitted
a petition to the Minnesota Municipal Board for detachment
of Out Lot A from the City of Lake Elmo with a concurrent
annexation to the City of Oakdale, pursuant to Minnesota
Statutes 414.061 Subdivision 5, identified by the Municipal
Board as Case No. D-277 Lake Elmo/A-4909 Oakdale, Lake Elmo
Petition, 93 acres; and

WHEREAS, the following chronology of events resulted in
the creation of Out Lot A, Lake Elmo Heights, 2nd Addition:

1. On January 7, 1985, Don Bishop/Clapp/Thomssen Co.,
Et. Al made application to the City of Lake Elmo for a
rezoning of 79 acres of land from Rural Residential
(minimum 10 acre lot size) to R1 (minimum 1-1/2 acre
lot size). The application for rezoning was denied by
the City Council on March 19, 1985. The applicant did
not appeal the City's denial of his rezoning request.

Although the City Council denied the rezoning request
on March 19, 1985, it did give preliminary concept
approval for a cluster development of the entire 145
acres consistent with the City's standards for a Rural
Residential cluster development.

The cluster development standards in the Rural
Residential zoning district permitted a density of 7
lots per 40 acres of land which allowed for 25 lots on
the applicants 145 acres. If the applicant would have
developed under the Rural Residential development
standards without clustering, he would have been
limited to 14 lots on this property, based on the 1 lot
per ten acre minimum lot size in the Rural Residential
zoning district.

2. On July 2, 1985, Don Bishop/Clapp/Thomssen Co. made application to the City of Lake Elmo for preliminary plat approval of 11 (Phase I) of the 25 lots that would be allowed in the cluster development. At the same time, applicant requested variances for three lots that exceeded the 2.0 acre maximum lot size allowed in the Rural Residential cluster development standards.

3. At its August 12, 1985 meeting, the Planning Commission made two recommendations to the Lake Elmo City Council: (1) That the City Council approve the preliminary plat and final plat for 11 lots in Phase I, Lake Elmo Heights; and (2) That the City Council approve variances allowing lots 1, 4 and 5 to be greater than 2 acres in size.

4. On August 20, 1985, the Lake Elmo City Council voted unanimously to grant preliminary plat approval for Lake Elmo Heights Phase I, contingent upon permits being issued by the Valley Branch Watershed District, and the Washington County Highway Department.

5. On September 17, 1985, the Lake Elmo City Council granted lot size variances for Lots 1, 4 and 5 of Lake Elmo Heights. These variances allowed for the three lots to exceed the 2 acre minimum standard set forth in the Rural Residential Cluster Standards of the Lake Elmo Municipal Code.

6. On March 24, 1986, the Lake Elmo City Council approved, by Resolution 86-22, the final plat for Lake Elmo Heights, a cluster development of 11 lots in the Rural Residential zoning district.

7. On July 15, 1986, E. Don Bishop, president of Lake Elmo Heights, entered into a developers agreement with the City of Lake Elmo for Lake Elmo Heights.

8. On November 16, 1986 the City Council changed the development standards for clustering in the Rural Residential zoning district. The new standards allowed clustering at 4 lots per 40 acres with a minimum lot size of 5 acres and maximum lot size of 7 acres.

9. On January 16, 1987, the City of Lake Elmo accepted the application for preliminary plat approval, and final plat approval of Lake Elmo Heights 2nd Addition. This application was for the second phase of the Lake Elmo Heights cluster development and consisted of 13 lots which ranged in size from 1-1/2 to 2 acres, and one Out Lot consisting of 93 acres. This application

was made based on the conceptual approval that was given by the City Council on March 19, 1985 for the entire 145 acre cluster development.

10. On February 9, 1987, the Lake Elmo Planning Commission held a public hearing to consider the preliminary plat of Lake Elmo Heights 2nd Addition. The Planning Commission recommended that the new cluster standards (4 lots per 40 acres with 5 to 7 acre contiguous lots, with no transfer of density) apply to the Lake Elmo Heights 2nd Addition preliminary plat.

11. On April 7, 1987, the Lake Elmo City Council held a public hearing to consider the request of Don Bishop, on behalf of the Lake Elmo Heights Limited Partnership for a variance to the Rural Residential cluster development standards adopted by the City on November 18, 1986. The variance would allow applicant to complete Lake Elmo Heights 2nd Addition under the 7 lot per 40 acre 1979 Rural Residential Cluster Standards, rather than the 4 per 40 acre Rural Residential Cluster Standards.

12. On June 16, 1987, the Lake Elmo City Council granted preliminary plat approval for Lake Elmo Heights 2nd Addition noting that this was the remaining 13 lots, (plus one 93 acre Out Lot) from the original 25 lot cluster development proposal that had been approved in concept on March 19, 1985. The City Council further determined that a variance for the length of the cul-de-sac was not needed; and determined that a variance to the requirement of 1 acre of land for a drainfield was not required.

13. On June 27, 1987 the Lake Elmo Planning Commission recommended, on a 7 to 2 vote, that the Lake Elmo City Council deny the final plat of Lake Elmo Heights 2nd Addition based on their conclusion that the cul-de-sac should be permanent and limited to 800 feet; that cluster development is considered to be the ultimate density under the current Comprehensive Plan and therefore, street planning for the Out Lot is not necessary.

14. On July 7, 1987, the Lake Elmo City Council granted final plat approval to Lake Elmo Heights 2nd Addition (13 clustered home sites) by adoption of Resolution 87-33 with the condition the applicant comply with the recommendations of the City Engineer, subject to the applicant complying with the recommendations of the Washington County Public Works Department, subject to the City Attorney's written approval of the developers agreement, and subject to

applicant providing a list of the partnership members of Lake Elmo Heights Limited Partnership as required in the Lake Elmo City Code, and subject to applicant paying a park dedication fee of \$250 for each newly created lot.

15. On July 15, 1987, the City of Lake Elmo entered into a developers agreement with Lake Elmo Heights, a Minnesota Limited Partnership, for Lake Elmo Heights 2nd Addition and Lake Elmo Heights 2nd Addition - Out Lot A.

This agreement recognizes that Out Lot A was restricted to the development of one single family residential unit on the entire 93 acres, and that the land would be set aside as part of the City's development regulations which allowed the cluster development of Lake Elmo Heights and Lake Elmo Heights 2nd Addition.

WHEREAS, the land being sought for detachment is a platted lot allowed by the City under its Rural Residential Cluster Standards; and

WHEREAS, Lake Elmo residents on lots within Lake Elmo Heights and Lake Elmo Heights 2nd Addition have advised the City that they purchased their property with the understanding that Out Lot A would continue to be used for Agricultural and/or Open Space purposes consistent with the City's cluster development regulations; and


WHEREAS, the proposed concurrent detachment and annexation would be of no benefit to the City of Lake Elmo and may further establish this procedure as a method of resolving differences in development philosophies between the City of Lake Elmo and individual landowners within the City, and would serve to erode the integrity and effectiveness of the City's Comprehensive Plan and subdivision regulations; and

WHEREAS, the proposed concurrent detachment/annexation would allow the petitioner to have the effect of taking advantage of the City's development regulations when it served his purpose, but ignore the development regulations when they did not serve his purpose.

NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Lake Elmo strongly opposes the proposed detachment and annexation of said property; and

FURTHER, that the City Council for the City of Lake Elmo has determined that it is not, under any circumstances, in the best interest of the City of Lake Elmo that said concurrent detachment and annexation be approved.

Adopted by the City Council of the City of Lake Elmo
this 12th day of November, 1991.



David D. Johnson, Mayor

ATTEST:



Mary Kueffner, City Administrator