

RESOLUTION NO. 2007-051

**RESOLUTION APPROVING A PRELIMINARY PLAN, PRELIMINARY PLAT,  
AND OPEN SPACE DEVELOPMENT CUP FOR WHISTLING VALLEY THIRD  
ADDITION**

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

WHEREAS, the City Council of the City of Lake Elmo has adopted zoning regulations in the Municipal Code to promote orderly development and utilization of land within the city; and,

WHEREAS, Robert Forsythe ("Applicant") is owner of property ("property") in Lake Elmo which is legally described as follows:

PROPERTY DESCRIPTION

That part of the Southeast Quarter of the Southwest Quarter of Section 27, T.29, R.21, Washington County, Minnesota described as follows:

Beginning at the south quarter corner of said Section 27; thence north along the east line of said Southwest Quarter for 200 feet; thence west along a line parallel with the south line of said Section 27 for 218 feet; thence north along a line parallel with said east line for 50 feet; thence west along a line parallel with said south line for 32 feet; thence north along a line parallel with said east line for 120 feet; thence east along a line parallel with said south line for 250 feet to the east line of said Southwest Quarter; thence north along said east line for 901 feet, more or less, to the northeast corner of said Southeast Quarter of Southwest Quarter; thence west along the north line of said Southeast Quarter of Southwest Quarter for 690 feet; thence south and parallel with said east line of said Southwest Quarter to the south line of said Southwest Quarter; thence east along said south line for 690 feet to the point of beginning.

EXCEPT the following described tract: that part of said Southeast Quarter of the Southwest Quarter described as follows: Beginning at the south quarter corner of said Section 27; thence north along the east line of said Southwest Quarter for 200 feet; thence west along a line parallel with the south line of said Section 27 for 218 feet; thence north along a line parallel with said east line for 50 feet; thence west along a line parallel with said south line for 32 feet; thence north along a line parallel with said east line for 123 feet; thence west along a line parallel with said south line for 440 feet; thence south along a line parallel with said east line to its intersection with said south line; thence east along said south line for 690 feet to the point of beginning.

Subject to easements and reservations.

WHEREAS, the property is located within the RR zoning district; and,

WHEREAS, the Applicant is requesting approval of an Open Space Preliminary Plan;  
and

WHEREAS, the Applicant is also requesting approval of an Open Space Preliminary Plat; and,

WHEREAS, the Applicant is also requesting approval of a conditional use permit for Open Space development of the property; and

WHEREAS, the Applicant is also requesting five (5) deviations from standard open space development standards; and

WHEREAS, the Planning Commission reviewed the requests and held a public hearing on said items on May 14, 2007; and

WHEREAS, the Planning Commission recommended approval of the requests and deviations subject to conditions; and

WHEREAS, the City Council reviewed the request on June 19, 2007, and made the following findings of fact:

1. The proposal is consistent with the goals, objectives and policies of the Comprehensive Plan.
2. The proposal is consistent with the intent of the Open Space Preservation ordinance.
3. The proposal, except as otherwise approved by Council, complies with the development standards of the Open Space Ordinance.
4. The proposal is being requested by the same developer as the adjacent Whistling Valley 1<sup>st</sup> and 2<sup>nd</sup> Additions.
5. The proposal, when averaged with the previous Additions, results in an overall plan which conforms to current Open Space Preservation requirements.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lake Elmo hereby approves the requested Open Space Preliminary Plan; and,

BE IT FURTHER RESOLVED, that the City Council of the City of Lake Elmo hereby approves the requested Open Space Preliminary Plat; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lake Elmo hereby approves a conditional use permit (CUP) for the proposed Open Space development; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lake Elmo hereby approves a deviation in the OP development standards to allow a minimum lot size of 14.45 acres rather than the required forty (40) acres; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lake Elmo hereby approves a deviation in the OP development standards to allow the proposed open space parcels to be less than ten (10) acres in size; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lake Elmo hereby approves a deviation in the OP development standards to allow a reduction in the one hundred (100) foot development buffer from Whistling Valley 1<sup>st</sup> Addition; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lake Elmo hereby approves a deviation in the OP development standards to allow required boulevard plantings to be planted outside of the boulevard consistent with the proposed landscaping plan; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lake Elmo hereby approves a deviation in the OP development standards to allow the proposed right-of-way to enter the western development buffer at less than a ninety degree angle; and

BE IT FURTHER RESOLVED, that the approval of all requests and deviations shall include the following conditions:

1. Preliminary plat approval shall be contingent upon the developer addressing all engineering items outlined in the TKDA memos of June 13<sup>th</sup>;
2. Within six (6) months of preliminary plan approval, the applicant shall complete the following:
  - a. The applicant shall provide adequate title evidence satisfactory to the City Attorney;
  - b. The applicant shall pay all fees associated with the preliminary plat;
  - c. The applicant shall submit a complete application for final plat meeting all conditions of preliminary approval;

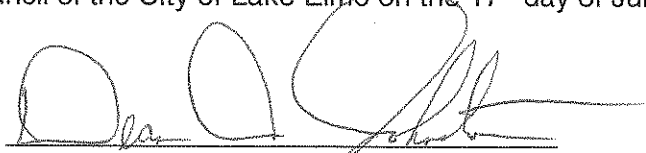
All of the above conditions shall be met prior to the City accepting an application for final plat.

3. The final plat application shall incorporate the following specific components in addition to the requirements spelled out in City Code:
  - a. Final Plat (signature page and final plat per statutory requirements);
  - b. Final Development Plan (a final and updated version of the preliminary site plan sets incorporating all conditions of preliminary plat approval);
4. The final plat application shall continue to incorporate all information shown in the preliminary plat unless required to be updated by the City;
5. Fencing shall be installed per the proposed plan sets prior to any soil disturbance on the site;
6. Sheet C2.1 of the plan sets shall be updated to include tree protection fencing in all areas where grading will be near trees intended for preservation;
7. The site shall be inspected by the City Forester at the developers expense for the existence of Oak wilt before, during, and after construction of the development;
8. If any Oaks are pruned or wounded during development of the site, the wounds should be covered with paint immediately to prevent insect transmission of the Oak wilt fungus to fresh wounds and development of Oak wilt disease.
9. The "Planting Detail" " (1/L2/0, 2/L2.0, 4/L2.0) shall be provided to all landscape contractors seeking to complete this work. All plans shall be adhered to and, if planting is not done according to the approved plan and detail, it shall be re-done;

10. The developer shall be required to provide an escrow for site inspections by the City Forester for the following:
  - a. Periodic inspections to ensure the tree protection fencing stays up throughout the construction period; and
  - b. Inspection of the plant material at time of delivery/planting; and
  - c. Periodic inspections to ensure adherence to the planting methodology included in the Planting Detail.
11. The developer shall be responsible for the reconstruction of any roadway impacted by the extension of utilities to service the proposed lots;
12. Driveways should be located so as to preserve existing trees in as much as possible;
13. Addresses for the individual homes should be posted at each driveway entrance;
14. The developer shall dedicate a minimum twenty (20) foot wide drainage and utility easement for any utilities proposed to cross Outlot G. The easement shall encompass at least ten (10) feet on each side of the proposed utilities;
15. The applicant shall provide the City with a copy of a MN Department of Health permit in accordance with the Well Advisory Area prior to acquiring any building permits for the 3<sup>rd</sup> Addition.;
16. Watermain shall be designed and installed to City Standards;
17. The proposed sanitary sewer pipe shall be re-routed to avoid wetlands and the proposed storm water pond per the direction of the City Engineer;
18. The MPCA permit for the shared septic facility shall be modified and approved prior to the City accepting an application for Final Plat;
19. Storm sewer shall be constructed using Reinforced Concrete Pipe (RCP);
20. All drainage calculations and stormwater management plans shall be updated to address all engineering comments;
21. The City of Lake Elmo may require specific BMP's on individual lots as a condition of future building permits based on the most effective way to manage water quality, quantity and rate control.
22. Silt fencing shall be shown at the construction limits for the proposed houses and driveways with the future building permit application.
23. All public utilities and facilities shall be flood-proofed in accordance with the building code or elevated to above the regulatory flood protection elevation.

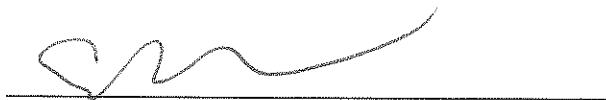
24. All utilities shall be placed underground in accordance with the provisions of all applicable City ordinances;
25. The applicant shall install a new street sign at the proposed intersection;
26. The hydrant near the proposed hammerhead shall be labeled as being "out of service;"
27. In accordance with Section 400.14 Subd. 6; reference monuments shall be placed in the subdivision as required by state law.
28. The developer shall follow all of the rules and regulations spelled out in the WCA, and acquire the needed permit from the VBWD;
29. All conditions laid out for VBWD permit approval shall be adhered to;
30. All new structures in Whistling Valley 3<sup>rd</sup> Addition shall have low floor elevations above 935.0 (three feet above the RFPE of 932.0);
31. All necessary permits shall be provided to the City. (VBWD, MPCA, NPDES, MDH);
32. At the developer's expense, the City shall hire a licensed appraiser to determine the fair market value of the land for the purposes of determining the cash-in-lieu value for park dedication.
33. All drainage and utility easements shall be established so as to ensure City access to all such areas for maintenance purposes.
34. The developer shall comply with any additional requirements established by the City Engineer and City Attorney.
35. All open space easements shall be dedicated to the City and the Minnesota Land Trust.

This resolution was adopted by the City Council of the City of Lake Elmo on the 17<sup>th</sup> day of July 2007, by a vote of \_\_\_ Ayes and \_\_\_ Nays.



\_\_\_\_\_  
Mayor Dean Johnson

ATTEST:



\_\_\_\_\_  
Susan Hoyt  
City Administrator  
(SEAL)