



STAFF REPORT

DATE: 9/19/2023

**REGULAR
MOTION**

TO: City Council
FROM: Sophia Jensen, City Planner
AGENDA ITEM: **Royal Golf Minor Subdivision and Variance**

INTRODUCTION:

The City received a minor subdivision and variance application from Royal Development Inc to collapse the existing Lot 2, Block 1 (11443 20th St N) and move it to the east side of 11441 20th St N to encase the private pool and fitness center that was approved by the City via a conditional use permit last year. The existing Lot 2, Block 1 was supposed to encase the pool and fitness center but due to utility constraints, the facility was moved to the east side of the property.

To achieve this minor subdivision, the applicant must also request a street frontage variance. The applicant is seeking flexibility from LEC 103.00.140 (b)(4) which requires all lots to have the minimum required frontage on a public street. Due to the existing lot layout, the new lot will not have public street frontage.

The intent of these requests is to place the lot lines around the facility that it was intended for (the pool and fitness center) and to allow private HOA management for the pool and fitness center versus the public clubhouse and golf course. Staff finds these requests are mainly for housekeeping purposes and generally in support of this proposal.



General Request Graphic

ISSUE BEFORE CITY COUNCIL:

The City Council is being asked to make a determination on the minor subdivision and variance requests.

GENERAL INFORMATION:

Address: 11455 20th Street North and 11443 20th St North

<i>PID:</i>	25.029.21.12.0002 and 25.029.21.12.0003
<i>Variance Requests:</i>	The applicant is seeking deviations from LEC 103.00.140 (b)(4) which requires all subdivision to have frontage on a public street.
<i>Existing Zoning:</i>	Golf Course Community (GCC), Shoreland Overlay District, Valley Branch Watershed District
<i>Surrounding Zoning:</i>	North: Golf Course Community South: Golf Course Community East: Golf Course Community West: Golf Course Community
<i>Deadline for Action:</i>	Application Complete – 7/27/2023 60 Day Deadline – 9/25/2023
<i>Applicable Regulations:</i>	Title 103 – Subdivision Regulations Article V – Zoning Administration Article XII – Urban Districts Article XIX – Shoreland Overlay District

REVIEW AND ANALYSIS:

Minor Subdivision: The City's subdivision regulations allow for certain major subdivision procedures and requirements to be waived when: 1) no more than four lots are being created; 2) when no new public infrastructure or rights-of-way or streets are necessary; and 3) when the proposed lots meet the minimum road frontage and area requirements of the underlying zoning district. The minor subdivision process allows for concurrent review and approval of a preliminary and final plat.

The proposed minor subdivision does not require any new public infrastructure or any new public streets or infrastructure. The request is not adding additional lots, instead an existing lot is being collapsed and relocated. This request will also meet the City's Royal Golf PUD and Golf Course Community zoning lot dimension and bulk building requirements. No tree removal or structure/building changes are proposed as a part of this request. With approval of the variance for road frontage, the proposed plat meets all the City's requirements for a subdivision.

Street Frontage Variance: An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 105.12.320 before the City may grant an exception or modification to City Code requirements. These criteria are listed below, along with comments about the applicability of these criteria to the applicant's request.

The proposed variance request would meet all four required criteria set forth in Section 105.12.320(f). The applicant has proven practical difficulties in that it is intending to use the lot in a reasonable manner and keeping in the spirit with the intent of the Golf Course Community zoning district and the Royal Golf Planned Unit Development. The applicant has proven unique circumstances given the unique existing barbell-shaped lot layout (11455 20th St North) and the existing infrastructure location which required the shift in location of the pool and fitness facility. The pool and fitness facility is also not a public place and is used exclusively by the residents of Royal Golf whereas the clubhouse and golf course are public facilities. The applicant has proven that character of locality will not be altered given the structures are to remain the same, only the lot lines will be shifting. Lastly, the proposed request of changing the lot lines should not impair adjacent properties or increase congestion of the public streets.

CITY AGENCY REVIEW:

This request was distributed to several departments and agencies for review on July 31st 2023. The following departments provided comments on the applications:

- Fire Department Review Memo (8-9-2023) provided comments regarding the requirements of maintaining access to the pool and fitness facility at all times.
- City Engineer Email (8-14-2023) did not have comments on the applications.
- City Attorney (8-17-2023) – Provided a plat opinion that must be addressed prior to release of the final plat for recording. A condition regarding special assessments has also been added based on the Attorney’s review to ensure the assessments will be paid.
- VBWD – Indicated a permit would be required through the watershed district.
- MN DNR – Did not provide a review memo.

PUBLIC COMMENT:

A public hearing notice was sent to surrounding properties on August 16th 2023. A public hearing notice was published in the City’s official newspaper on August 18th 2023. No public comments was received for either application.

PLANNING COMMISSION:

The Planning Commission reviewed the request at their August 28th 2023 meeting. The Commission recommended approval of the variance request (Vote: 5-0) and minor subdivision request (Vote: 5-0) with the conditions listed in the staff report.

DRAFT FINDINGS:

Staff is recommending that the City Council consider the following findings:

1. That the Royal Golf Pool and Fitness Center minor subdivision is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
2. That the Royal Golf Pool and Fitness Center minor subdivisions is consistent with the future development plans of the area and with the standards of the City’s Golf Course Community zoning district and the Royal Golf Planned Unit Development.
3. That the Royal Golf Pool and Fitness Center minor subdivision meets the requirements of the City’s minor subdivision regulations and specifically the requirements concerning exceptions to platting.
4. The Royal Golf variance request has proven practical difficulties given the applicant is intending to use the lot in a reasonable manner and keeping in the spirit with the intent of the Golf Course Community zoning district and Royal Golf Planned Unit Development.
5. The Royal Golf variance request has proven unique circumstances given the unique existing barbell-shaped lot layout (11455 20th St North) and the existing infrastructure location which required the shift in location of the pool and fitness facility. The pool and fitness facility is also not a public place and used exclusively by the residents of Royal Golf whereas the clubhouse and golf course are public facilities.
6. The Royal Golf variance request has proven the essential character of the locality will not be altered given the structures are to remain the same, only lot lines will be shifting.
7. The Royal Golf variance request will not have an adverse effect on adjacent properties and will not cause there to be an increase in traffic.

RECOMMENDED CONDITIONS OF APPROVAL:

1. The applicant must obtain all other necessary City, state, and other governing body permits and approvals prior to release of the final plat for recording.
2. The City Attorney's comments set forth in the plat opinion shall be addressed prior to release of the final plat for recording.
3. The special assessments currently levied against the property subject to the minor subdivision shall be transferred to Lot 1, Block 1, The Royal Golf Club Pool and Fitness.
4. The special assessments that are transferred to Lot 1, Block 1, The Royal Golf Pool and Fitness will need to be paid at the time of recording the final plat unless the applicant signs a new fee assessment form that will allow the applicant to continue to make payments on the special assessments.
5. That the developer records the approved Final Plat with Washington County within 180 days after City Council approval. Failure to record the Final Plat within 180 days of approval will cause the approval to become void.

RECOMMENDATIONS:

Staff recommends that the City Council approve the minor subdivision and variance request from Royal Development to collapse Lot 2, Block 1 and move it to the east side of 11455 20th Street North so that it encompasses the existing pool and fitness center. Suggested Motions:

“Motion to adopt Resolution 2023-87 approving the Royal Development Pool and Fitness Center lot frontage variance request based on the findings of fact and conditions presented in the staff report.”

AND

“Motion to adopt Resolution 2023-88 approving the Royal Development Pool and Fitness Center minor subdivision request based on the findings of fact and conditions presented in the staff report.”

ATTACHMENTS:

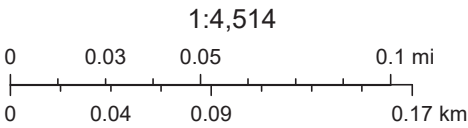
- 1) Location Map
- 2) Land Use Applications
- 3) Variance Narrative
- 4) Final Plat
- 5) Fire Dept. Memo (8-9-2023)
- 6) City Engineer Email (8-14-2023)
- 7) City Attorney Plat Opinion (8-17-2023)
- 8) Resolution 2023-87 - Variance
- 9) Resolution 2023- 88 – Minor Subdivision



8/17/2023, 8:58:02 AM

- Parcels
- Municipals

DNR Protected Waters ID



Date Received: _____
Received By: _____
Permit #: _____



651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

VARIANCE APPLICATION

Applicant: Royal Development, Inc.

Address: 10995 Club West Parkway, Suite 300, Blaine, MN 55449

Phone # 651.505.9051 (John Parsons)

Email Address: jparsons@royalclubmn.com

Fee Owner: Royal Development, Inc./H.C. Golf Land, LLC

Address: 10995 Club West Parkway, Suite 300, Blaine, MN 55449

Phone # 651.505.9051 (John Parsons)

Email Address: jparsons@royalclubmn.com

Engineer: Brian Kystofiak (Carlson McCain)

Address: 3890 Pheasant Ridge Drive NE, Suite 100, Blaine, MN 55449

Phone # 763.489.7905

Email Address: bkrystofiak@carlsonmccain.ca

Property Location (Address): 11455 20th Street North, Lake Elmo, MN 55042

Complete Legal Description: _____

PID#: 502921120002: 2502921120003: 2502921430028

Detailed Reason for Request: Applicants are proposing to replat the above property as The Royal Golf Club at Lake Elmo Pool & Fitness Center. Applicants are seeking approval for this replat to (1) Create new parcel (lot 2, Block 1, Pool & Fitness) for the construction of a pool & fitness facility for the Royal Club Residential Development; (2) Collapse the former planned location for the pool & fitness facility (lot 2, Block 1, 1st Addition) into Lot 1, Block 1, Pool & Fitness, and...

*Variance Requests: As outlined in LEC Section 103.00.110 (c), the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows: Please see included Letter in Support of Variance Request

(3) Make adjustments to Outlot L, 1st Addition to allow for ownership of / Responsibility of such area to be Clarified.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: [Signature] CFO

Date: 7/27/23

Signature of fee owner: [Signature] CFO

Date: 7/27/23

Date Received: _____
Received By: _____
Permit #: _____



651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

MINOR SUBDIVISION APPLICATION

Applicant: Royal Development, Inc.

Address: 10995 Club West Parkway, Suite 300, Blaine, MN 55449

Phone # 651.505.9051 (John Parsons)

Email Address: jparsons@royalclubmn.com

Fee Owner: Royal Development, Inc./H.C. Golf Land, LLC

Address: 10995 Club West Parkway, Suite 300, Blaine, MN 55449

Phone # 651.505.9051 (John Parsons)

Email Address: jparsons@royalclubmn.com

Engineer: Brian Kystofiak (Carlson McCain)

Address: 3890 Pheasant Ridge Drive NE, Suite 100, Blaine, MN 55449

Phone # 763-489-7905

Email Address: bkrystofiak@carlsonmccain.ca

Property Location (Address): 11455 20th Street North, Lake Elmo MN, 55042

Complete Legal Description: Lots 1 and 2, Block 1, The Royal Golf Club at Lake Elmo, according to the recorded plat thereof,

Washington County, Minnesota; Outlot L, The Royal Golf Club at Lake Elmo 2nd Addition, according to the recorded plat thereof, Washington County Minnesota.

PID#: 502921120002; 2502921120003; 2502921430028

Detailed Reason for Request: Applicants are proposing to re-plot the above-described property as The Royal Golf Club at Lake Elmo Pool and Fitness Center.

Applicants are seeking approval for this replat to (1) create a new parcel (Lot 2, Block 1, Pool and Fitness) for the construction of a pool and fitness facility for The Royal Club residential development; (2) collapse the former planned location for the pool and fitness facility

(Lot 2, Block 1, 1st Addition) into Lot 1, Block 1, Pool and Fitness, and (3) made adjustments to Outlot L, 2nd Addition to allow for ownership of/responsibility such area to be clarified

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: _____

Date: _____

Signature of fee owner: _____

Date: _____

**ROYAL DEVELOPMENT, INC.
10995 CLUB WEST PARKWAY
SUITE 300
BLAINE, MN 55449.**

July 27, 2023

City of Lake Elmo
Attn: Jenni Faulkner
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: Letter in Support of Variance Request for Minor Subdivision Application
Involving Property Located at 11457 20th Street North, Lake Elmo, MN 55042

Dear Mrs. Faulkner:

Royal Development, Inc. ("**Applicant**") has submitted a Minor Subdivision Application (the "**Application**") to the City of Lake Elmo seeking the approval of the plat for The Royal Golf Club Pool and Fitness (the "**Plat**"). In connection with the Application, Applicant is also seeking a variance for Lot 2, Block 1, within the Plat because such lot lacks frontage on a public street (the "**Variance**"). Applicant is submitting this letter in support of this Variance.

As I believe you are aware, Applicant is seeking approval of the Plat primarily to create a separately platted lot, which will be platted as Lot 2, Block 1, The Royal Golf Club Pool and Fitness ("**Lot 2**"), upon which Applicant intends to construct a pool and fitness facility for the use of the residential lot owners within The Royal Club development (the "**Pool and Fitness Facility**"). The Pool and Fitness Facility will be available for use only by the residential lot owners within The Royal Club development and their invitees, and will not be available for use by the general public. Access to the Pool and Fitness Facility will be provided via an access and driveway easement over the adjacent property owned by Applicant's affiliate, H.C. Golf Land, LLC ("**H.C. Golf**"), and this easement will also provide users of the Pool and Fitness Facility the right to use certain of the parking areas in the immediate vicinity of the Pool and Fitness Facility.

Applicant initially intended to construct the Pool and Fitness Facility on a previously platted lot – Lot 2, Block 1, The Royal Golf Club at Lake Elmo – which was a small, land-locked lot adjacent to other property owned by Applicant and H.C. Golf. Due to the final layout of the residential developments and the golf course, as well as other considerations relating to the overall use and function of the site, Applicant ultimately determined that the proposed Lot 2 would be a preferable location for the Pool and Fitness Facility. The primary purpose of the Plat is to eliminate the lot previously platted for the Pool and Fitness Facility (which will become part of Lot 1, Block 1, The Royal Golf Club Pool and Fitness), and to create Lot 2 as a newly platted lot.

Applicant believes that all of the criteria necessary for the City to grant the Variance are satisfied here. Applicant will address each of these criteria below:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property.

The Pool and Fitness Facility will be a high-quality building that will be used exclusively for recreation and fitness purposes by the residential lot owners within The Royal Club and their invitees. These types of uses are ideally suited to be located in close proximity to the uses that occur on the adjacent golf course and in the nearby clubhouse, restaurant, and conference/banquet facility (the “**Clubhouse**”). The Pool and Fitness Facility is not a public facility, and its use will instead be limited to certain eligible individuals. This type of facility is an ideal type of facility to be located in a more isolated location that is not located directly on a public street.

The immediate neighbors of the Pool and Fitness Facility will be the golf course and Clubhouse, which is owned/maintained by H.C. Golf. The location of Lot 2, as well as the Pool and Fitness Facility, will cause such facility to essentially be integrated into the existing ongoing operations at this site and will have no detrimental impacts to any neighboring properties.

2. There are unique circumstances or conditions affecting the applicant’s land that the strict application of the minimum standards of this section would deprive the applicant of the reasonable use of the land.

The physical layout and shape of Lot 1, Block 1, The Royal Golf Club at Lake Elmo is unique in that the lot is essentially a barbell shape. This shape, as well as the ultimate development of The Royal Golf Club around this lot, have resulted in the northern portion of this lot being largely separated from the southern portion of the lot. Due to this separation, the uses of these separated areas varies greatly – the northern area is the golf course’s ‘back of house’ operations at the maintenance facility that is located there (which is adjacent to the driving range), and the southern portion of the lot is where the bulk of the visitor/patron activity at the club (other than golf) occurs. The Pool and Fitness Facility, while a private facility that will be restricted for use by the residential owners and their invitees, is a use that will be consistent and compatible with the uses that occur in and around the Clubhouse. It would not be practical at this stage of the development and use of the overall facility to attempt to locate the Pool and Fitness Facility in a location that would have frontage along 20th Street North. The unique lot shape here warrants Applicant being provided flexibility and not requiring Lot 2 to have public street frontage.

3. The variance is required by reason of unusual hardship relating to the physical characteristics of the land.

As noted above, the site is relatively oddly shaped, which results in the area of the site that is adjacent to 20th Avenue North largely being physically separated from the portion of the site where the Clubhouse and golf course facilities are located. This physical characteristic lends itself to creating an attractive entrance feature as guests drive along the private driveway serving the Clubhouse, but it largely renders impractical Applicant’s ability to construct anything along 20th Street North that is otherwise integrated into the project. This shape of the site presents an unusual physical hardship that requires Applicant to construct the Pool and Fitness Facility in an internal, land-locked location and to serve the same using a private access and driveway easement.

4. Why there are practical difficulties meeting city code standards with this subdivision.

As mentioned in prior responses, the only public street frontage near this area of the golf course is along 20th Street North. The long driveway from 20th Street North to the Clubhouse is not a public street, and instead is a privately owned and maintained driveway. Thus, to satisfy City Code's requirement that Lot 2 must have frontage on a public street, either (i) Lot 2 (and ultimately the Pool and Fitness Facility) would have to be moved so as to have frontage on 20th Street North, or (ii) the existing driveway that serves The Royal Golf Club would have to be replatted (and ultimately reconstructed) as a public street and then Lot 2 would need to be configured to have frontage on this new public street. There are practical difficulties that prevent either of these options from being a viable alternative.

The strong desire of Applicant, as well as the ultimate owners and users of the Pool and Fitness Facility, is to have such facility located close to the Clubhouse so as, among other things, (i) to enhance the aesthetics of the surrounding area, which will greatly improve users' ability to enjoy the pool, (ii) to improve the security for users and their vehicles by having such facility located in an area of the site that has more regular foot traffic and activity throughout the day, and (iii) to provide convenient parking in close proximity to the Pool and Fitness Facility. If the Pool and Fitness Center was moved to have frontage on 20th Street North, the Pool and Fitness Facility would be located near the golf course maintenance operations that are conducted out of the existing maintenance facility. This would be far from an ideal location for the Pool and Fitness Facility from an aesthetics standpoint, but would also present additional security concerns because there is less foot traffic and activity in that area of the site, especially during the evening. Moreover, it is intended that the Clubhouse and its staff will provide food and other services to the Pool and Fitness Facility, which will be significantly less practical if such facility is a far distance from the Clubhouse.

The existing driveway is built as a private driveway to serve the Clubhouse and golf course, and is not constructed according to City standards for a public road. It would not be practically viable to replat and reconstruct this driveway as a public street. Additionally, there is no desire to invite non-golf course or Clubhouse related traffic onto this private driveway, which converting this to a public street would do. Ultimately, there are practical difficulties that exist which would eliminate the need for the Variance for Lot 2.

In conclusion, Applicant respectfully requests that the City of Lake Elmo approve the Variance as requested herein so that Applicant may complete the proposed Minor Subdivision for the Pool and Fitness Facility.

Thank you in advance for your assistance with this matter.

Regards,

ROYAL DEVELOPMENT, INC.

By: 
Joel LeVahn

Its: CFO

77311436 v2

THE ROYAL GOLF CLUB POOL AND FITNESS

KNOW ALL BY THESE PRESENTS, that H.C. Golf Land, LLC, a Minnesota limited liability company, owner of the following described property situated in the County of Washington, State of Minnesota, to wit:

Lot 1, Block 1, THE ROYAL GOLF CLUB AT LAKE ELMO, according to the recorded plat thereof, Washington County, Minnesota;

and

Outlet 1, THE ROYAL GOLF CLUB AT LAKE ELMO 2ND ADDITION, according to the recorded plat thereof, Washington County, Minnesota;

and that Royal Development, Inc., a Minnesota corporation, owner of the following described property situated in the County of Washington, State of Minnesota, to wit:

Lot 2, Block 1, THE ROYAL GOLF CLUB AT LAKE ELMO, according to the recorded plat thereof, Washington County, Minnesota;

Have caused the same to be surveyed and plotted as THE ROYAL GOLF CLUB POOL AND FITNESS.

In witness whereof said H.C. Golf Land, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officer this _____ day of _____, 20____.

H.C. GOLF LAND, LLC

Joel T. Lelivink, Chief Financial Officer

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____, 20____, by Joel T. Lelivink, Chief Financial Officer of H.C. Golf Land, LLC, a Minnesota limited liability company, on behalf of the company.

In witness whereof said Royal Development, Inc., a Minnesota corporation, has caused these presents to be signed by its proper officer this _____ day of _____, 20____.

ROYAL DEVELOPMENT, INC.

Joel T. Lelivink, President

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____, 20____, by Joel T. Lelivink, President of Royal Development, Inc., a Minnesota corporation, on behalf of the corporation.

Notary Public, _____

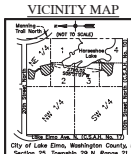
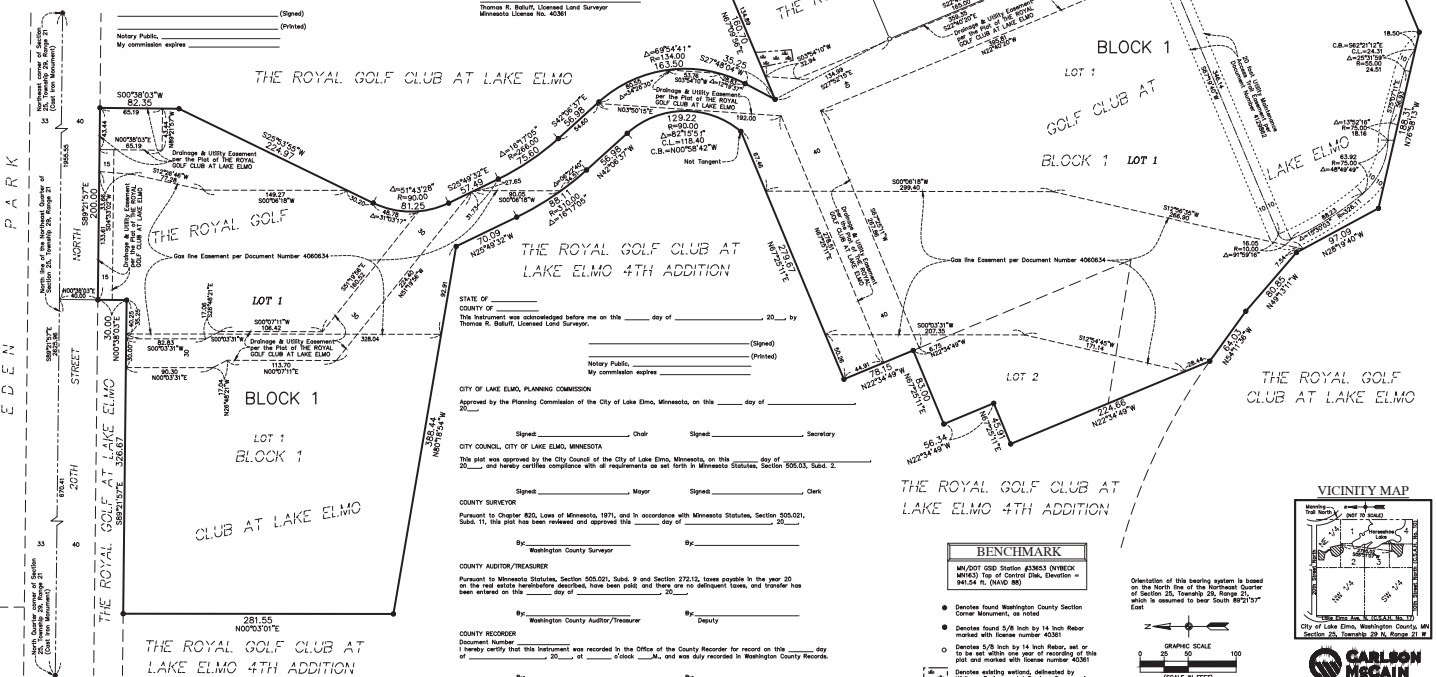
My commission expires _____

I, Thomas R. Balfour, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and notes are correctly indicated on this plat; that all monuments indicated on this plat have been set, or all its corners set within one year; that all water boundaries and wetlands, as defined in Minnesota Statutes, Section 55B.02, Subd. 2, or of the state of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this _____ day of _____, 20____.

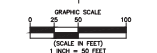
Thomas R. Balfour, Licensed Land Surveyor

Minnesota License No. 40361



BENCHMARK
MN/DOT GSD Station #3383 DRYBROOK
4460'7\"/>

Orientation of this bearing system is based on the North line of the Northwest Quarter of Section 25, Township 25, Range 27, which is assumed to bear South 87°10' East.



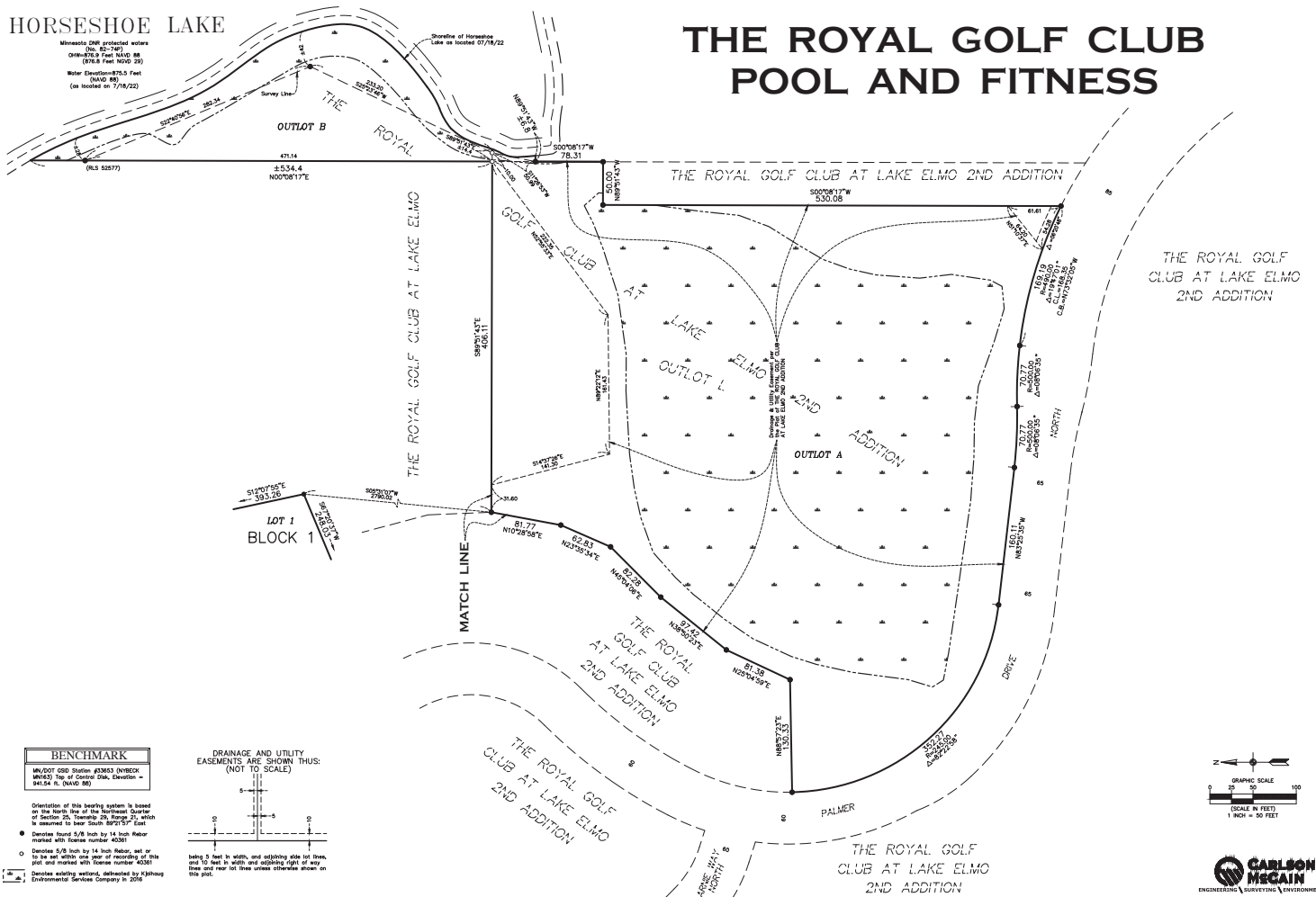
CARLSON MCGAIN
ENGINEERING SURVEYING ENVIRONMENTAL

Minnesota DNR protected waters
(No. 82-74P)
CHW=876.9 Feet NAVD 88
(876.8 Feet NGVD 29)
Water Elevation=875.5 Feet
(NAVD 88)
(as located on 7/18/22)

Shoreline of Horseshoe Lake as located 07/18/22

THE ROYAL GOLF CLUB AT LAKE ELMO 2ND ADDITION

THE ROYAL GOLF
CLUB AT LAKE ELMO
2ND ADDITION



LAKE ELMO FIRE DEPARTMENT – OFFICE OF THE FIRE MARSHAL

Fire Prevention, Code Enforcement, and Public Education



August 9, 2023

Royal Development, Inc
10995 Club West Parkway, Suite 300
Blaine, MN 55449

Re: Variance Request for Minor Subdivision Application involving property located at 11457 20th ST N, Lake Elmo, MN 55342

Applicant,

The Lake Elmo Fire Department will require no additional changes/additions to the previously approved development plan for the property located above. However, with the split in ownership/lot lines, the requirement maintains that access to the pool and fitness facility be maintained at all time. This includes during winter months in relation to snow plowing. The same provisions are required of the clubhouse and maintenance buildings.

Respectfully,

Anthony Svoboda



Anthony Svoboda | Assistant Chief

Lake Elmo Fire Department
Fire Station #1 - 3510 Laverne Ave N. | Lake Elmo, MN | 55042
651-747-3907 office | www.lakeelmo.org

Sophia Jensen

From: Jack Griffin <Jack.Griffin@focusengineeringinc.com>
Sent: Monday, August 14, 2023 10:04 AM
To: Sophia Jensen
Subject: Royal Golf Club Pool & Fitness Center

Caution: This email originated outside our organization; please use caution.

In regards to the Minor Subdivision, engineering has no review comments.

Thanks ~Jack

John (Jack) W. Griffin, P.E.
Principal / Sr. Municipal Engineer

FOCUS ENGINEERING, INC.
651.300.4264
jack.griffin@focusengineeringinc.com



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(612) 337-9310 fax
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SARAH J. SONSALLA
Attorney at Law
Direct Dial (612) 337-9284
Email: ssonsalla@kennedy-graven.com

August 17, 2023

VIA E-MAIL ONLY

Ms. Jenni Faulkner
Senior Planner
Bolton & Menk, Inc.
12224 Nicollet Avenue
Burnsville, MN 55337

RE: Plat Opinion for THE ROYAL GOLF CLUB POOL AND FITNESS

Dear Jenni:

At the City's request, I have reviewed the title commitment issued by Land Title, Inc., as agent for First American Title Insurance Company, with an effective date of June 13, 2022 (the "Commitment"). I have also reviewed a preliminary plat prepared by Carlson McCain, Inc., which is titled **THE ROYAL GOLF CLUB POOL AND FITNESS** (the "Preliminary Plat").

The Commitment purports to cover the following legal description:

Parcel A:

Lot 1 , Block 1, The Royal Golf Club at Lake Elmo, Washington County, Minnesota.

Parcel B;

Lot 2, Block 1, The Royal Golf Club at Lake Elmo, Washington County, Minnesota.

Parcel C:

Outlot L, The Royal Golf Club at Lake Elmo 2nd Addition, Washington County, Minnesota.

Abstract Property

(the "Property").

Based on my review of the Commitment and the Preliminary Plat, I have the following comments relative to the proposed Preliminary Plat:

1. **Plat execution.** The Preliminary Plat must be signed by:

a. The fee owners:

- i. Parcels A and C: H. C. Golf Land, LLC, a Minnesota limited liability company.
- ii. Parcel B: Royal Development, Inc., a Minnesota corporation.

The Final Plat must be executed with all the formalities of a deed of title. The Applicant submitting Preliminary Plat appears to be H.C. Golf Course Development, LLC, a Minnesota limited liability company. The Consent to Plat provided by Applicant states that H.C. Golf Land, LLC is now known as H.C. Golf Course Development, LLC. I require a certificate of good standing from the Minnesota Secretary of State and evidence that the fee owners of the Property are authorized to convey the easements dedicated on the Plat and that the person signing is authorized to execute the Plat on the fee owner's behalf. *I require review of these instruments.*

- b. The mortgagee, Northeast Bank, a Minnesota corporation, according to the Commitment. In lieu of signing the Plat, the mortgagee may provide any of the following instruments for recording prior to the Plat: partial release of mortgage; satisfaction of mortgage; or consent to Plat. Additionally, the mortgagee must also provide a release or termination of other financing documents of record. *I require review of these instruments.*

2. **Plat Corrections.** I require review of the following revisions.

- a. The Plat does not convey any new drainage and utility easements to the public, including along the perimeters of Lots 1 and 2, Block 1. There is an existing drainage and utility easement along Outlot A per the plat of The Royal Golf Club at Lake Elmo Second Addition. *The City should review and determine if it additionally requires public drainage and utility easements to be dedicated along the perimeter of the Lots or Outlot. Public dedication language must additionally be added by the surveyor to the Plat.*
- b. The notification of interest should be revised from "ALL BY THESE PRESENTS" to "ALL PERSONS BY THESE PRESENTS".
- c. The fee owner acknowledgment for H.C. Golf Land should be revised from "limited liability company, on behalf of the company." to "limited liability company."
- d. The surveyor's acknowledgment should be revised from "by Thomas R. Balluff, Licensed Land Surveyor." to "by Thomas R. Balluff."
- e. The City Council approval certificate should be revised from "the City Council of the City of Lake Elmo" to "the City Council of Lake Elmo".

- f. The County Auditor/Treasurer approval should be revised from “in the year 20” to “in the year 20__”.

3. Title Exceptions.

- a. Rights or claims of tenants, as tenants only, under unrecorded leases, if any. *The developer should provide copies of any unrecorded leases, if any, for my review.*
- b. Subject to the rules and regulations of the Department of Natural Resources concerning protected wetlands areas, protected waters and protected watercourses. The wetlands are depicted on the Preliminary Plat. *No further action is required.*
- c. Site Improvement Agreement between City of Lake Elmo and H.C. Golf Land, LLC, dated August 17, 2017, filed August 25, 2017, as Document No. 4125499. The Site Improvement Agreement allowed the developer to construct certain improvements prior to the recording of a prior plat, and the developer executed a drainage and utility easement along 20th Street which was not to be recorded unless there was a default under the Site Improvement Agreement. *No further action is required.*
- d. Drainage and utility easements over the subject property as shown on the recorded plat. The easements dedicated on the plat of The Royal Golf Club at Lake Elmo are depicted on the Plat. *No further action is required.*
- e. Drainage and Utility Easement in favor of City of Lake Elmo dated September 15, 2017, filed September 29, 2017, as Document Number 4129861. *The public drainage and utility easement must be depicted on the Plat. I require review of this revision.*
- f. Development Agreement between the City of Lake Elmo and Royal Development, Inc., dated September 19, 2017, filed September 29, 2017, as Document No. 4129865; as amended by Second Amendment to Development Agreement, dated August 10, 2021, filed August 19, 2021, as Document No. 4330026.

The Development Agreement, between the City of Lake Elmo and Royal Development, Inc., requires, among other things, the construction of certain public and private improvements to have been completed by October 31, 2018. The Second Amendment modifies the Development Agreement to modify certain sections of the Agreement relating to cash contributions to be paid by the Developer. *No further action is required.*
- g. License and Maintenance Agreement for Landscaping Improvements dated September 19, 2017, filed September 29, 2017, as Document Number 4129867. The License and Maintenance Agreement includes, among other things, that the developer would install certain landscaping improvements on certain city-owned

property, and maintain those improvements for two years. *No further action is required.*

- h. Mortgage, Security Agreement and Fixture Financing Statement executed by H.C. Golf course Development, LLC, a Minnesota limited liability company, dated March 14, 2016, filed March 18, 2016, as Document Number 4060697 in the amount of \$4,250,000.00, in favor of Northeast Bank; as modified by Document Number 4130775, filed October 6, 2017; as modified by Corrective Modification filed September 19, 2018, as Document Number 4168884. *The mortgage must be resolved prior to the recording of the final plat in accordance with 1.b. of this letter. I require review of those documents as described on 1.b.*
- i. Assignment of Leases and Rents by and between H. C. Golf Course Development, LLC, a Minnesota limited liability company, and Northeast Bank, dated March 14, 2016, filed March 18, 2016, as Document Number 4060698. *The assignment must be resolved prior to the recording of the final plat in accordance with 1.b. of this letter. I require review of those documents as described on 1.b.*
- j. Combination Mortgage, Security Agreement and Fixture Financing Statement executed by H.C. Golf Land, LLC, a Minnesota limited liability company, dated October 2, 2017, filed October 6, 2017, as Document Number 4130777 in the amount of \$4,250,000.00, in favor of Northeast Bank; as modified by Modification filed May 14, 2018, as Document Number 4153852. *The mortgage must be resolved prior to the recording of the final plat in accordance with 1.b. of this letter. I require review of those documents as described on 1.b.*
- k. Combination Mortgage, Security Agreement and Fixture Financing Statement executed by Royal Development Inc., a Minnesota corporation, dated October 2, 2017, filed October 6, 2017, as Document Number 4130778 in the amount of \$4,250,000.00, in favor of Northeast Bank; as modified by Mortgage Modification Agreement filed May 14, 2018, as Document Number 4153853; as modified by Corrective Modification filed September 19, 2018, as Document Number 4168885. *The mortgage must be resolved prior to the recording of the final plat in accordance with 1.b. of this letter. I require review of those documents as described on 1.b.*
- l. Master Declaration of Royal Golf Club Master Community dated September 28, 2017, filed September 29, 2017, as Document Number 4129866; as amended by First Amendment filed August 3, 2018, as Document Number 4163569; as amended by Second Amendment filed January 19, 2019, as Document Number 4181540. Under the Master Declaration, the developer may include the Property to the development up to ten years after the date of the declaration. *No further action is required.*
- m. Terms and conditions of Storm Water Quality Treatment Facility Maintenance Agreement dated June 9, 2016, filed July 12, 2016, as Document No. 4074234; as

amended by Amended Storm Water Quality Treatment Facility Maintenance Agreement, dated July 13, 2017, filed July 28, 2017, as Document No. 4121597.

The Storm Water Quality Treatment Facility Maintenance Agreement in part conveys certain easements for public right of way or perpetual access from public rights-of-way to the Valley Branch Watershed District's water quality unit. The First Amendment corrects the legal description of the Property. *The public easements must be depicted on the Plat. I require review of this revision.*

- n. Site Grading Agreement between the City of Lake Elmo and H.C. Golf Land, LLC, dated June 1, 2017, filed June 28, 2017, as Document Number 4117554 and Amendment filed November 9, 2017, as Document Number 4134802.

The Site Grading Agreement, among other things, permitted the developer to begin grading prior to the City's approval of the filing of the subsequent plats and subdivision plats on the property depicted by the plat of the Royal Golf Club at Lake Elmo. The First Amendment modifies the legal description of the property subject to the Site Grading Agreement. *No further action is required.*

- o. Utility Maintenance Access Trail Easement in favor of City of Lake Elmo dated September 15, 2017, filed September 29, 2017, as Document Number 4129862. The easement is depicted on the Plat. *No further action is required.*
- p. Drainage and utility easements as shown on the recorded plat of The Royal Golf Club at Lake Elmo 2nd Addition. *The drainage and utility easements over Outlot L of The Royal Golf Club at Lake Elmo 2nd Addition must be depicted on the final plat.*
- q. Combination Mortgage, Security Agreement and Fixture Financing Statement executed by Royal Development, Inc., a Minnesota corporation, dated July 26, 2018, filed August 3, 2018, as Document Number 4163571 in the amount of \$3,232,172.00, in favor of Northeast Bank. *The mortgage must be resolved prior to the recording of the final plat in accordance with 1.b. of this letter. I require review of those documents as described on 1.b.*
- r. Combination Mortgage, Security Agreement and Fixture Financing Statement securing \$3,232,172.00, dated July 26, 2018, filed August 3, 2018, as Document No. 4163572, by and between H.C. Golf Land, LLC, a Minnesota limited liability company, and Northeast Bank, a Minnesota corporation. *The mortgage must be resolved prior to the recording of the final plat in accordance with 1.b. of this letter. I require review of those documents as described on 1.b.*
- s. Development Agreement for Royal Golf Club at Lake Elmo 2nd Addition dated July 26, 2018, filed August 3, 2018, as Document No. 4163573; as amended by First Amendment to Development Agreement dated August 10, 2021, filed August 19, 2021, as Document No. 4330025.

The Development Agreement, by and between the City of Lake Elmo and Royal Development, Inc., requires, among other things, the construction of certain public and private improvements to have been completed by October 31, 2018. The First Amendment modifies the amount of cash donation the Developer was to make with respect to the City Parks fund. No further action is required.

- t. Open Space Easement Agreement between Royal Development, Inc., a Minnesota corporation and the City of Lake Elmo, dated July 26, 2018, filed September 17, 2018, as Document Number 4168628. *The public easement must be depicted on the Plat. I require review of this revision.*
 - u. License and Maintenance Agreement for Landscaping Improvements between City of Lake Elmo and Royal Development Inc., dated July 26, 2018, filed September 17, 2018, as Document Number 4168630. The License and Maintenance Agreement includes terms whereby the developer must or may maintain certain landscaping improvements. *No further action is required.*
 - v. Combination Mortgage, Security Agreement and Fixture Financing Statement securing \$2,000,000.00, dated October 7, 2019, filed January 2, 2020, as Document No. 422917, by and between Royal Development Inc., a Minnesota Corporation, H.C. Golf Land, LLC, a Minnesota limited liability company, and Northeast Bank, a Minnesota corporation; as amended by Mortgage Modification Agreement dated December 7, 2020, filed April 22, 2021, as Document No. 4307981. *The mortgage must be resolved prior to the recording of the final plat in accordance with 1.b. of this letter. I require review of those documents as described on 1.b.*
 - w. Easement Agreement between H.C. Golf Land LLC, Royal Development, Inc, Royal Golf Club Master Association and Royal Golf Club Homeowners Association, dated December 17, 2021, filed December 28, 2021, as Document Number 4352906. The private easement does not need to be depicted on the Plat. *No further action is required.*
 - x. Declaration Regarding Use of Shared Amenities Parcel dated February 10, 2022, filed February 17, 2022, as Document Number 4360002. The Declaration introduces certain restrictions on the property related to hours of operation, food service, and alcohol, among other terms. *No further action is required.*
 - y. The Plat depicts a Gas Line Easement per Document Number 4060634. The Easement is not listed as an exception on the Commitment. I require an updated Commitment per 5.a., below, and either the Commitment or the Plat must be corrected with respect to Document Number 4060634. *I require review of this revision to either the Plat or the Commitment.*
4. **Property taxes and assessments.** All real estate taxes due in the year the Plat is to be recorded must be paid prior to recording. Please additionally see paragraph 4.c., below.

Parcel A:

Tax I.D. No. 25-029-21-12-0002

2023 base tax is \$105,552.00, and taxes are half paid.

There are no delinquent taxes of record.

There are no levied or pending special assessments.

Parcel B:

Tax I.D. No. 25-029-21-12-0003

2023 base tax is \$0.00.

There are no delinquent taxes of record.

There are no levied or pending special assessments.

Parcel C:

Tax I.D. No. 25-029-21-43-0028

2023 base tax is \$20.00, and taxes are paid.

There are no delinquent taxes of record.

There are no levied or pending special assessments.

5. Additional Comments.

- a. The Commitment is dated June 13, 2022. *I require review of a title commitment that is less than 90 days old.*
- b. The final plat will need to meet all requirements of Minnesota Statutes Chapter 505 and the Manual of Guidelines for Platting in Minnesota (including the Washington County Addendum).
- c. The special assessments currently levied against the property subject to the minor subdivision shall be transferred to Lot 1, Block 1, The Royal Golf Club Pool and Fitness. It is my understanding that there is an agreement between the Fee Owner's and the City that this specific assessment will not be paid prior to recording the Plat, with the County's approval.

This letter does not purport to set forth every matter relevant to a determination of whether title to the Property is marketable, and no one should rely upon it for that purpose. The sole purpose of this letter is to identify required signatories to the Plat and related issues of interest to the City in connection with platting, as evidenced by the Updated Title Commitment.

This opinion is conditioned upon both my review of a final plat and the issuance of a title policy in favor of the City of Lake Elmo, insuring the City's interests as they appear on the Plat.

Please contact me if you have any questions regarding this information. Thank you.

Sincerely,

Ms. Jenni Faulkner
August 17, 2023
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Sarah J. Sonsalla

Sarah J. Sonsalla

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

RESOLUTION NO. 2023-87

***A RESOLUTION APPROVING A VARIANCE FOR A NEW LOT WITHOUT THE
REQUIRED STREET FRONTAGE FOR THE ROYAL GOLF POOL AND FITNESS
CENTER MINOR SUBDIVISION***

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

WHEREAS, Royal Development LLC, 10995 Club West Parkway, Suite 300, Blaine, MN 55449 (the “Applicant”), have submitted an application to the City of Lake Elmo (the “City”) to request a variance to allow the creation of a new lot without the required frontage on a public street; and

WHEREAS, notice of a public hearing has been published, mailed, and posted pursuant to the Lake Elmo Zoning Code, Section 103.00.120; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on August 28th 2023; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation of approval of the variance to the City Council as part of a Staff Memorandum dated September 19th, 2023; and

WHEREAS, the City Council reviewed the Royal Golf Pool and Fitness Center Variance at its meeting held on September 19th, 2023 and made the following findings of fact:

1. That the Royal Golf Pool and Fitness Center minor subdivision is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
2. That the Royal Golf Pool and Fitness Center minor subdivisions is consistent with the future development plans of the area and with the standards of the City’s Golf Course Community zoning district and the Royal Golf Planned Unit Development.
3. That the Royal Golf Pool and Fitness Center minor subdivision meets the requirements of the City’s minor subdivision regulations and specifically the requirements concerning exceptions to platting.
4. The Royal Golf variance request has proven practical difficulties given the applicant is intending to use the lot in a reasonable manner and keeping in the spirit with the intent of the Golf Course Community zoning district and Royal Golf Planned Unit Development.

5. The Royal Golf variance request has proven unique circumstances given the unique existing barbell-shaped lot layout (11455 20th St North) and the existing infrastructure location which required the shift in location of the pool and fitness facility. The pool and fitness facility is also not a public place and used exclusively by the residents of Royal Golf whereas the clubhouse and golf course are public facilities.
6. The Royal Golf variance request has proven the essential character of the locality will not be altered given the structures are to remain the same, only lot lines will be shifting.
7. The Royal Golf variance request will not have an adverse effect on adjacent properties and will not cause there to be an increase in traffic.

DECISION

NOW, THEREFORE, BE IT FURTHER RESOLVED, and based upon the information received and the above Findings, that the City Council of the City of Lake Elmo hereby approves the Applicants' request for a new lot without the required frontage on a public street, subject to the following conditions:

1. The applicant must obtain all other necessary City, state, and other governing body permits and approvals prior to release of the final plat for recording.
2. The City Attorney's comments set forth in the plat opinion shall be addressed prior to release of the final plat for recording.
3. The special assessments currently levied against the property subject to the minor subdivision shall be transferred to Lot 1, Block 1, The Royal Golf Club Pool and Fitness.
4. The special assessments that are transferred to Lot 1, Block 1, The Royal Golf Pool and Fitness will need to be paid at the time of recording the final plat unless the applicant signs a new fee assessment form that will allow the applicant to continue to make payments on the special assessments.
5. That the developer records the approved Final Plat with Washington County within 180 days after City Council approval. Failure to record the Final Plat within 180 days of approval will cause the approval to become void.

Passed and duly adopted this 19th day of September, 2023 by the City Council of the City of Lake Elmo, Minnesota.

Mayor Charles Cadenhead

ATTEST:

Julie Johnson, City Clerk

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

RESOLUTION NO. 2023-88

***A RESOLUTION APPROVING THE ROYAL GOLF POOL AND FITNESS CENTER
MINOR SUBDIVISION***

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

WHEREAS, Royal Development LLC, 10995 Club West Parkway, Suite 300, Blaine, MN 55449 submitted application to the City of Lake Elmo (“City”) for a Minor Subdivision for the Royal Golf Pool and Fitness Center, a copy of which is on file in the City of Lake Elmo Community Development Department; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on August 28th, 2023 to review and consider a Minor Subdivision (Preliminary Plat and Final Plat) request; and

WHEREAS, the consensus of the Lake Elmo Planning Commission was to recommend to the City Council approval of the Minor Subdivision subject to conditions of approval; and

WHEREAS, the City Council reviewed and approved the Minor Subdivision at its September 19, 2023 meeting subject to conditions of approval.

WHEREAS, the proposed Royal Golf Pool and Fitness Center Minor Subdivision includes two lots; and

WHEREAS, the City Council reviewed the Royal Golf Pool and Fitness Center Minor Subdivision at its meeting held on September 19th, 2023 and made the following findings of fact:

1. That the Royal Golf Pool and Fitness Center minor subdivision is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
2. That the Royal Golf Pool and Fitness Center minor subdivisions is consistent with the future development plans of the area and with the standards of the City’s Golf Course Community zoning district and the Royal Golf Planned Unit Development.
3. That the Royal Golf Pool and Fitness Center minor subdivision meets the requirements of the City’s minor subdivision regulations and specifically the requirements concerning exceptions to platting.
4. The Royal Golf variance request has proven practical difficulties given the applicant is intending to use the lot in a reasonable manner and keeping in the spirit with the intent of the Golf Course Community zoning district and Royal Golf Planned Unit Development.

5. The Royal Golf variance request has proven unique circumstances given the unique existing barbell-shaped lot layout (11455 20th St North) and the existing infrastructure location which required the shift in location of the pool and fitness facility. The pool and fitness facility is also not a public place and used exclusively by the residents of Royal Golf whereas the clubhouse and golf course are public facilities.
6. The Royal Golf variance request has proven the essential character of the locality will not be altered given the structures are to remain the same, only lot lines will be shifting.
7. The Royal Golf variance request will not have an adverse effect on adjacent properties and will not cause there to be an increase in traffic.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve the Royal Golf Pool and Fitness Center Minor Subdivision subject to the following conditions:

1. The applicant must obtain all other necessary City, state, and other governing body permits and approvals prior to release of the final plat for recording.
2. The City Attorney's comments set forth in the plat opinion shall be addressed prior to release of the final plat for recording.
3. The special assessments currently levied against the property subject to the minor subdivision shall be transferred to Lot 1, Block 1, The Royal Golf Club Pool and Fitness.
4. The special assessments that are transferred to Lot 1, Block 1, The Royal Golf Pool and Fitness will need to be paid at the time of recording the final plat unless the applicant signs a new fee assessment form that will allow the applicant to continue to make payments on the special assessments.
5. That the developer records the approved Final Plat with Washington County within 180 days after City Council approval. Failure to record the Final Plat within 180 days of approval will cause the approval to become void.

Passed and duly adopted this 19th day of September, 2023 by the City Council of the City of Lake Elmo, Minnesota.

Mayor Charles Cadenhead

ATTEST:

Julie Johnson, City Clerk