

3800 Laverne Avenue North
Lake Elmo, MN 55042

(651) 747-3900
www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday August 28th 2023
at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes of July 24th 2023
4. Public Hearings
 - a) **ROYAL GOLF MINOR SUBDIVISION AND VARIANCE:** Royal Development has submitted a variance and minor subdivision application to collapse the existing Block 1 Lot 2 and move it to the east side of 11455 20th Street North over the existing pool and fitness center for management purposes. The variance is requested in addition to the minor subdivision due to the new lot not having the required frontage on a public street.
 - b) **DRAKE MOTOR PARTNERS COMPREHENSIVE MAP AMENDMENT AND REZONING:** Drake Motor Partners has submitted applications for a comprehensive map amendment and a zoning map amendment to exchange the zoning of two similar sized parcels adjacent to each other along Hudson Boulevard. The request would change one parcel from Commercial to Right of Way zoning/future land use designation and the other parcel from Right of Way to Commercial.
5. New/Unfinished Business
 - a) N/A.
6. Communications/Updates
 - a) City Council Updates
 - i. Village Districts Design Review Zoning Text Amendment 8-2-2023
 - ii. 8286 Hidden Bay Court Variance 8-15-2023
 - iii. Northstar 1st Addition Final Plat and PUD 8-15-2023
 - iv. Prairie Skies Final Plat, PUD, Easement Vacation 8-15-2023
 - v. Easton Village 6th Final Plat 8-15-2023
 - b) Upcoming PC Meetings
 - i. September 11th 2023
 - ii. September 25th 2023
7. Adjourn

***Note: Every effort will be made to accommodate person or persons that need special considerations to attend this meeting due to a health condition or disability. Please contact the Lake Elmo City Clerk if you are in need of special accommodations.



**City of Lake Elmo Planning Commission Meeting
City Council Chambers – 3880 Laverne Avenue North
Minutes of Regular Meeting of
July 24, 2023**

CALL TO ORDER: Commission Chair Risner called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Risner, Bohlig, Geffre, Rehkamp, Steil, Williams, Vrieze

COMMISSIONERS ABSENT: None

STAFF PRESENT: City Planner Sophia Jensen

Pledge of Allegiance at 7:00 PM

Approve Agenda:

M/S/P: Steil / Rehkamp: made a motion to approve the agenda. **Vote: 7-0, motion carried unanimously**

Approve Minutes:

M/S/P: Vrieze / Geffre made a motion to approve the 6-12-23 meeting minutes with **Vote: 7-0, motion carried unanimously.**

PUBLIC HEARING

a) **8286 Hidden Bay - Variance.** Jeff and Judy Otto have submitted a variance application for three deviations from City's shoreland overlay district code (LEC 105.12.1260). The first variance request is a reduced structure setback from ordinary high water level. The second variance request is a reduced septic setback from the ordinary high water level. The third variance request is for an increase in impervious surface for unsewered shoreland lots.

Sophia Jensen, City Planner, gave presentation and answered questions.

Applicant Judy Otto, and Matt Beyer w/ PLAAD LLC (architect on record) spoke and answered questions

REVIEW AND ANALYSIS/DRAFT FINDINGS:

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 from Staff about the applicability of these criteria to the applicant's request.

1. **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "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.

IMPERVIOUS SURFACE FINDINGS: The applicant argues that the existing lot is too small to construct a new home and driveway that meets their desire to age-in-place and meet impervious surface requirements. Staff finds that the existing home/driveway could be remodeled or refurbished without the need for a variance since it is a legal nonconformity. Otherwise, the lot could fit a smaller home and driveway within impervious surface requirements. The discrepancy here is that the applicants are proposing a new larger home and driveway than code dictates, not that a home on this lot is not possible. **Practical Difficulties are not met.**

REDUCED STRUCTURE SETBACK FINDINGS: While a single family home is consistent with the zoning district. Staff finds that the complete demolition and reconstruction of a larger home and desire for a deck when an existing legal nonconforming home is already on site does not meet the practical difficulties requirement. **Practical Difficulties are not met.**

REDUCED SEPTIC SETBACK FINDINGS: The current system is failing and the applicant has had a septic designer review the property for a feasible septic location. Staff finds that the applicant has proven practical difficulties since a septic is needed given the current failing system and there is no other feasible area on site. **Practical Difficulties are met.**

2. **Unique Circumstances.** The plight of the landowner must be due to circumstances unique to the property not created by the landowner.

IMPERVIOUS SURFACE FINDINGS: The applicant argues that they need the main level garage and hammerhead driveway exactly as they proposed for safe access which would cause the impervious surface to increase. Staff finds that the reasoning for the garage and hammerhead driveway insufficient; the residence is at the end of a road where ample or fast moving traffic does not appear to be an impending safety concern. The applicant has the opportunity to refurbish the existing home, garage, and driveway footprint without the need for a variance. By completely redesigning the garage and driveway the applicant is creating the plight which they are requesting flexibility from. **Unique Circumstances are not met.**

REDUCED STRUCTURE SETBACK FINDINGS: The applicant argues that the setbacks are excessively large on this property, and a portion of the property is below the ordinary high water level, leaving a small buildable area for a new home. Staff finds that these requirements are in place to protect the waterbody and prevent damage to structures. Many properties have land that fluctuates over or under the ordinary high water level based on environmental factors, these areas may be subject to flooding or act as a wetland buffer. The ordinary high water level setbacks apply to all properties on the designated water body and not unique to this lot. Given that the applicant is proposing to demolish the existing legal nonconforming home and is then requesting flexibility to move the structure closer they are creating the plight they are requesting flexibility from. **Unique Circumstances are not met.**

REDUCED SEPTIC SETBACK FINDINGS: The applicant is proposing to replace the septic in roughly the same area of the property as the existing system. Again due to the fact this is a failing system, and the only location for a septic on the property **Unique Circumstances are met.**

3. **Character of Locality.** The proposed variance must not alter the essential character of the locality in which the property in question is located.

IMPERVIOUS SURFACE FINDINGS: The applicant argues that the neighboring homes also exceed the imperious surface requirement and the single level house would be more accommodating to neighboring view sheds. Staff finds that many of the surrounding homes were build many years ago when different impervious surface and ordinary high water level regulations may have been in place. The request, if approved, would alter character of locality by deviating from the City and DNR requirements put in place to protect the waterbody and structures built around them. **Character of Locality is not met.**

REDUCED STRUCTURE SETBACK FINDINGS: The applicant argues that that many of the neighboring homes are within the required structure setback from the ordinary high water level. Staff finds that many of the surrounding homes were build many years ago and different setback and ordinary high water level regulations may have been in place. The City's shoreland ordinance (105.12.1260(12)(c)) has exception for legal nonconforming buildings, where if structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level. The existing home is already closer to the ordinary high water level than the adjacent structure to the west and the east side does not have a structure. The request, if approved, would alter character of locality by deviating from the City and DNR requirements put in place to protect the waterbody and the structures built around them. **Character of Locality is not met.**

REDUCED SEPTIC SETBACK FINDINGS: Given this area does not have access to City Sewer and all adjacent properties are on private systems; Staff finds that approval of this request would not alter essential character of the neighborhood. **Character of Locality is met.**

4. **Adjacent Properties and Traffic.** The proposed variance must not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

IMPERVIOUS SURFACE FINDINGS: The impervious surface increase should not increase congestion on a public street or negatively impair adjacent properties. **Adjacent properties and Traffic is met.**

REDUCED STRUCTURE SETBACK FINDINGS: The reduced structure setback should not increase congestion on a public street or negatively impair adjacent properties. **Adjacent properties and Traffic is met.**

REDUCED SEPTIC SETBACK FINDINGS: The proposed septic location should not increase congestion on a public street or negatively impair adjacent properties. **Adjacent properties and Traffic is met.**

M/S/P: Geffre / Steil moved to open the public hearing at 7:30 PM. **Vote: 7-0, motion carried unanimously.**

Emailed Public Comments:

- Link Lavey, 8510 Hidden Bay Trail N, Lake Elmo, had concerns.
- Anonymous resident, had concerns.
- Dawn Goracki, 2620 5th Avenue East, North St. Paul, owner of P.I.D 09.029.21.23.0012, had concerns.
- Doug & Pam Huntley, 8290 Hidden Bay Court, Lake Elmo, had concerns

Public Comments:

Jill Lundgren, 8282 Hidden Bay Court, has concerns.

M/S/P: Vrieze / Bohlig moved to close the public hearing at 7:36 PM. **Vote: 7-0, motion carried unanimously.**

M/S/P: Bohlig / Vrieze moved to recommend denial of the request from Jeff and Judy Otto for a variance to allow an impervious surface coverage of 21.8% for the property located at 8286 Hidden Bay Court based on the findings listed in the staff report. **Vote: 7-0, motion carried unanimously.**

M/S/P: Geffre / Rehkamp moved to recommend denial of the request from Jeff and Judy Otto for a variance to allow a reduced structure setback of 36.9 feet from the ordinary high water level for the property located at 8286 Hidden Bay Court based on the findings listed in the staff report. **Vote: 6-1, motion carried.** (Risner, Bohlig, Geffre, Rehkamp, Steil, Williams – Aye/ Vrieze – Nay)

M/S/P: Rehkamp / Steil moved to recommend approval of the request, with conditions listed in the staff report, from Jeff and Judy Otto for a variance to allow a reduced septic system setback of 38.3 feet from the ordinary high water level for the property located at 8286 Hidden Bay Court based on the findings listed in the staff report. **Vote: 7-0, motion carried unanimously.**

PUBLIC HEARING

b) Village Design Review - Zoning Text Amendment. The City of Lake Elmo has initiated a zoning text amendment to clean up outdated references, clarify the authorizing body, and update the process for review by a design professional for the Village Design Review in section 105.12.840 in Article XIII Village Districts.

Sophia Jensen, City Planner, gave presentation and answered questions.

M/S/P: Vrieze / Rehkamp moved to open the public hearing at 7:50 PM. **Vote: 7-0, motion carried unanimously.**

Public Comments: None

M/S/P: Vrieze / Steil moved to close the public hearing at 7:51 PM. **Vote: 7-0, motion carried unanimously.**

M/S/P: Steil / Geffre moved to recommend adoption of the proposed text amendment to Section 105.12.840 Village Districts Design Review as presented. **Vote: 7-0, motion carried unanimously.**

New/Unfinished Business

N/A

Communications/Updates - City Council Updates

- i. 4708 Larkspur Lane Variance - approved - 6/20/2023
- ii. Permitted Encroachments Zoning Text Amendment- approved - 6/20/2023

Upcoming Meetings

- i. August 14th
- ii. August 28th

Meeting adjourned at 7:52 PM.

Respectfully submitted,

Diane Wendt
Permit Technician



STAFF REPORT

DATE: 08/28/2023

REGULAR

ITEM#: 4a – PUBLIC HEARING

MOTION

TO: Planning Commission
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 11455 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 PLANNING COMMISSION:

The Planning Commission is being asked to hold a public hearing and make a recommendation on the minor subdivision and variance requests.

GENERAL INFORMATION:

<i>Address:</i>	11455 20 th Street North and 11443 20 th 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.
- MN DNR – Did not provide a review memo.
- 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.

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.

DRAFT FINDINGS:

Staff is recommending that the Planning Commission consider the following findings with regards to the requests:

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.

- 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 assessment deferral form that will allow the applicant to continue to make payments on the special assessments.

RECOMMENDATIONS:

Staff recommends that the Planning Commission recommend approval of 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:

“Move to recommend approval of the Royal Development Pool and Fitness Center variance request based on the findings of fact and conditions presented in the staff report.”

AND

“Move to recommend approval of 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)

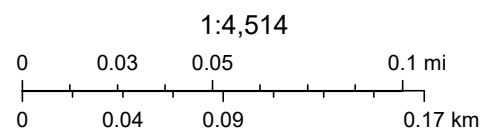
ArcGIS Web AppBuilder



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 parcels (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, 2nd 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

Outlot L, 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 platted 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. LeVahn, Chief Financial Officer

STATE OF _____
COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____, 20____, by Joel T. LeVahn, 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. LeVahn, President

STATE OF _____
COUNTY OF _____

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

(Signed)

(Printed)

Notary Public,
My commission expires _____

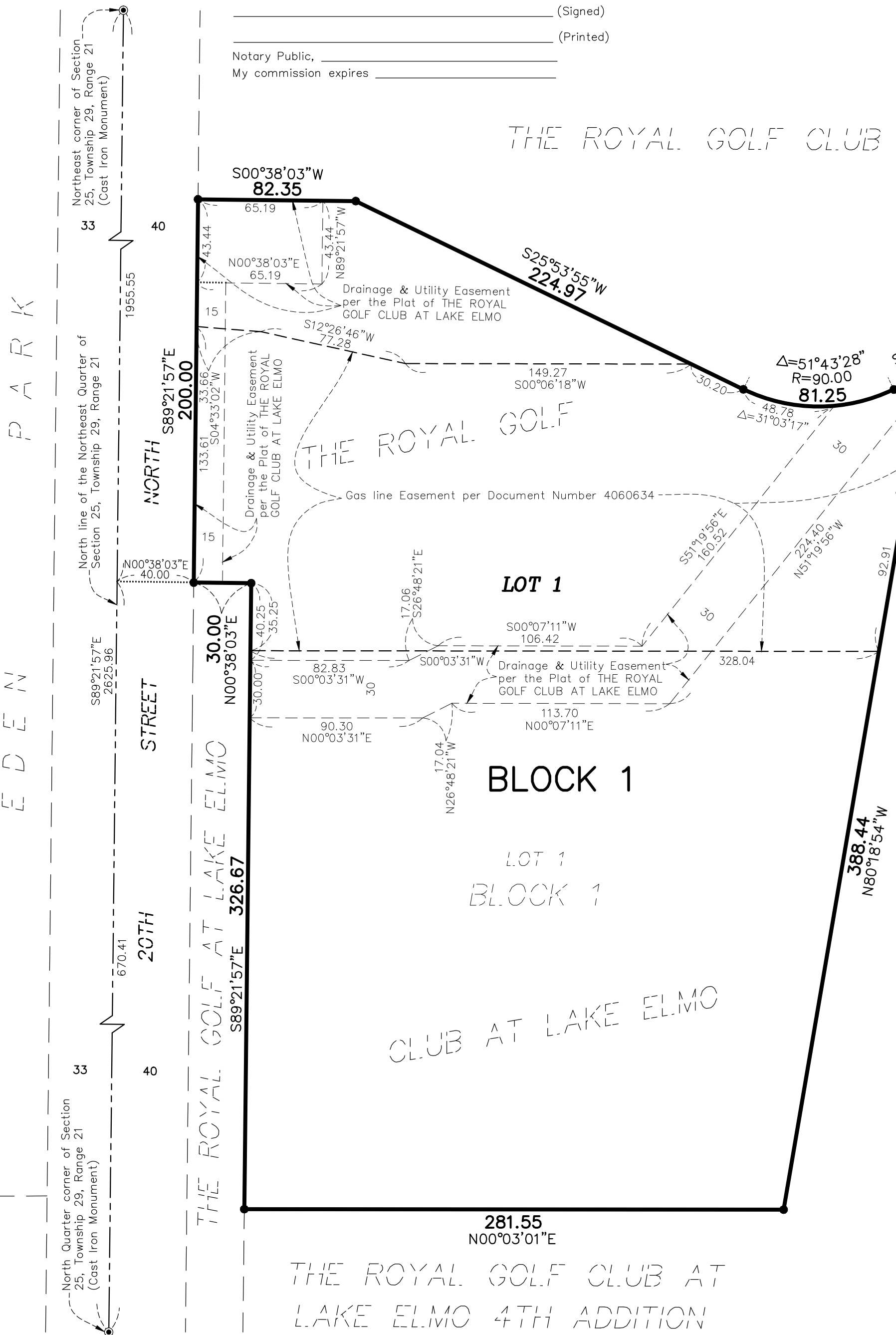
I, Thomas R. Balluff do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been set, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date 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. Balluff, Licensed Land Surveyor
Minnesota License No. 40361

(Signed)

(Printed)
Notary Public,
My commission expires _____



STATE OF _____
COUNTY OF _____
This instrument was acknowledged before me on this _____ day of _____, 20____, by _____

(Signed)

(Printed)
Notary Public,
My commission expires _____

CITY OF LAKE ELMO, PLANNING COMMISSION

Approved by the Planning Commission of the City of Lake Elmo, Minnesota, on this _____ day of _____, 20____.

Signed: _____, Chair Signed: _____, Secretary

CITY COUNCIL, CITY OF LAKE ELMO, MINNESOTA

This plat was approved by the City Council of the City of Lake Elmo, Minnesota, on this _____ day of _____, 20____, and hereby certifies compliance with all requirements as set forth in Minnesota Statutes, Section 505.03, Subd. 2.

Signed: _____, Mayor Signed: _____, Clerk

COUNTY SURVEYOR

Pursuant to Chapter 820, Laws of Minnesota, 1971, and in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this _____ day of _____, 20____.

By: _____, Washington County Surveyor By: _____

COUNTY AUDITOR/TREASURER

Pursuant to Minnesota Statutes, Section 505.021, Subd. 9 and Section 272.12, taxes payable in the year 20____ on the real estate hereinbefore described, have been paid; and there are no delinquent taxes, and transfer has been entered on this _____ day of _____, 20____.

By: _____, Washington County Auditor/Treasurer By: _____, Deputy

COUNTY RECORDER

Document Number _____
I hereby certify that this instrument was recorded in the Office of the County Recorder for record on this _____ day of _____, 20____, at _____ o'clock _____ M., and was duly recorded in Washington County Records.

By: _____, Washington County Recorder By: _____, Deputy

THE ROYAL GOLF CLUB AT LAKE ELMO

LOT 2

BLOCK 1

LOT 1

GOLF CLUB AT

BLOCK 1 LOT 1

THE ROYAL GOLF CLUB AT LAKE ELMO 4TH ADDITION

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BLOCK 1

LOT 1

BENCHMARK

MN/DOT OSID Station #33653 (NYBECK MN163) Top of Control Disk, Elevation = 941.54 ft. (NAVD 88)

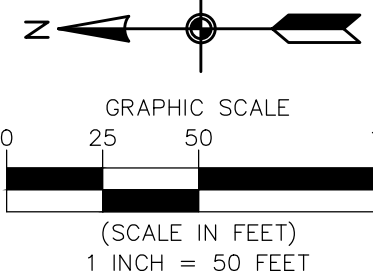
● Denotes found Washington County Section Corner Monument, as noted

● Denotes found 5/8 inch by 14 inch Rebar marked with license number 40361

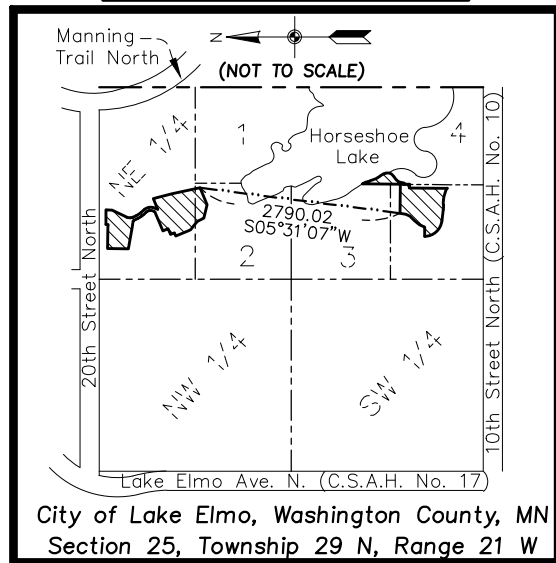
○ Denotes 5/8 inch by 14 inch Rebar, set or to be set within one year of recording of this plat and marked with license number 40361

Denotes existing wetland, delineated by Kjolhaug Environmental Services Company in 2016

Orientation of this bearing system is based on the North line of the Northeast Quarter of Section 25, Township 29, Range 21, which is assumed to bear South 89°21'57" East



VICINITY MAP

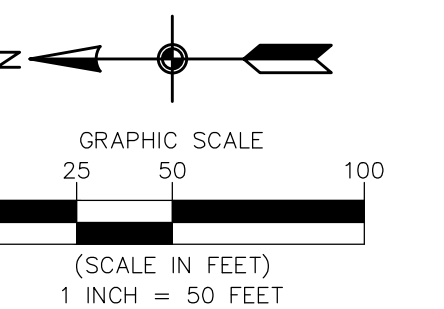


CARLSON MCCAIN
ENGINEERING \ SURVEYING \ ENVIRONMENTAL

Minnesota DNR protected waters
(No. 82-74P)
OHW=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



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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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

Page 8

Sarah J. Sonsalla

Sarah J. Sonsalla



STAFF REPORT

DATE: 8/28/23

MOTION

TO: Planning Commission
FROM: Jenni Faulkner, Consultant Planner
Frannie Nielsen, Consultant Planner
AGENDA ITEM: Comprehensive Plan & Zoning Map Amendment for Ebertz Addition Land Exchange

BACKGROUND:

The subject property is located at 9923 Hudson Boulevard N and centrally located along the southern border of the City of Lake Elmo, just north of I-94 and west of Keats Avenue N. The proposed use of a Dairy Queen was approved as part of previous Drake Properties PUD (Tesla).

On June 20th, 2023, the City Council approved a land exchange between the City of Lake Elmo and Drake Motor Partners LE LLC. The land exchange will benefit the city by giving the city additional frontage on Hudson Blvd. and Drake will benefit by having additional frontage along I-94 (to place their signage). Prior to the applicant obtaining a sign permit, the land exchange is subject to approval of a Comprehensive Plan Amendment and a Zoning Map Amendment. The land exchange has been recorded. The City now owns the parcel guided and zoned commercial and Drake owns the parcel guided and zoned for right-of-way.

The Comprehensive Plan Amendment and Zoning Map Amendment requests are as follows:

1. A Comprehensive Plan Amendment for Parcel #1 from C (Commercial) to ROW (right-of-way);
2. A Comprehensive Plan Amendment for Parcel #2 from ROW (right-of-way) to C (Commercial);
3. A Zoning Map Amendment (rezoning) for Parcel #1 from Commercial PUD (C-PUD) to Public Right-of-Way;
4. A Zoning Map Amendment (rezoning) for Parcel #2 from Public Right-of-Way to Commercial PUD (C-PUD).

ISSUE BEFORE PLANNING COMMISSION:

The Planning Commission should hold a public hearing and make a recommendation on the comprehensive plan amendment and rezoning requests.

GENERAL INFORMATION:

Property Owner: Parcel #1: City of Lake Elmo
Parcel #2: Drake Motor Partners LE LLC
Applicant: Jon Hauser, Drake Motor Partners LE LLC
Location: 9923 Hudson Boulevard North
Parcel #1 – part of Lot 1, Block 1, EBERTZ ADDITION, Washington County, Minnesota. PID 34.029.21.44.0004
Parcel #2 – part of Parcel 33B, Minnesota Department of Transportation Right of Way Plat No. 82-43, Washington County, Minnesota. PID 34.029.21.44.0012

Requests: Comprehensive Plan Amendment and Zoning Map Amendment

Site Area: 0.04 acres

Existing Zoning: Parcel #1: Commercial PUD (C-PUD)
Parcel #2: Public right-of-way

Future Land Use: Parcel #1: Commercial (C)
Parcel #2: ROW

Proposed Zoning: Parcel #1: Public right-of-way
Parcel #2: Commercial PUD (C-PUD)

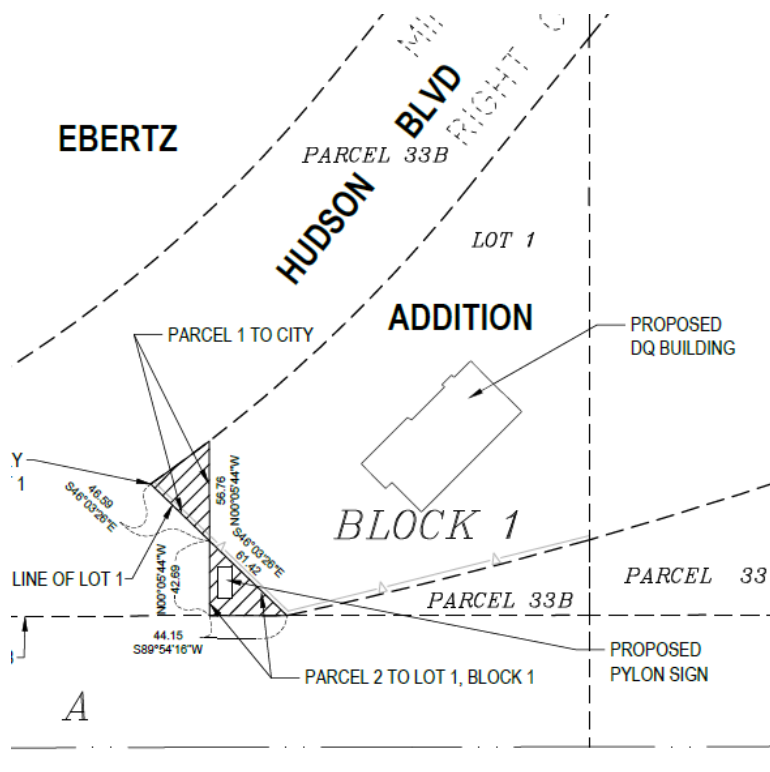
Proposed Land Use: Parcel #1: ROW
Parcel #2: Commercial (C)

Surrounding Land Use: Commercial

Surrounding Zoning: Commercial PUD (C-PUD) and Commercial (C)

Deadline for Action: Application Complete – 7/27/2023
60 Day Deadline – 9/25/2023
Extension Letter Mailed – No

Applicable Regulations: Section 105.12.280 Zoning Amendments
2040 Lake Elmo Comprehensive Plan
Minnesota State Statute 462.355 Subd. 3



PROPOSAL REVIEW AND ANALYSIS

COMPREHENSIVE PLAN AMENDMENT REVIEW

The 2040 Comprehensive Plan has the Future Land Use of Parcel #1 designated as Commercial (C) and Parcel #2 as ROW. This Comprehensive Plan Amendment request is a result of a land exchange between the City of Lake Elmo and Drake Motor Partners LE LLC. The parcels' land use designations are requested to be swapped in order to meet requirements of the land exchange and to be consistent with the remaining portion of the site in accordance with the new ownership and land uses.

The decision to change or amend the Comprehensive Plan is a policy matter for the Planning Commission to make a recommendation on to the City Council. Any change to the Comprehensive Plan should be based on findings and criteria to show that the change would be consistent with the goals and policies of the City.

As a condition of approval of the proposed Comprehensive Plan Amendment, the City should require the submission of the necessary Comprehensive Plan Amendment to the Metropolitan Council and the City receiving formal notification from the Metropolitan Council that they have completed their review and that they have approved the proposed plan amendment.

ZONING MAP AMENDMENT REVIEW

In order to meet requirements of the land exchange, the City also will need to approve a zoning map amendment (rezoning) to be consistent with the Comprehensive Plan Amendment (from right-of-way to commercial and vice versa). The overall nature and function of the site will remain the same.

RECOMMENDED FINDINGS

Comprehensive Plan Amendment. Staff recommends approval of the Comprehensive Plan Amendment for the proposed Drake Motor Partners LE LLC parcel, Parcel #1, and the City of Lake Elmo property, Parcel #2, based on the following findings:

1. That the applicant has submitted a request to the City of Lake Elmo to amend the Comprehensive Plan in accordance with the procedures as established by the Lake Elmo Planning Department and the Lake Elmo Planning Commission; and
2. That the request is to amend the Land Use Plan Map for Parcel 1 from C (Commercial) to ROW (right-of-way); and
3. That the request is to amend the Land Use Plan Map for Parcel 2 from ROW (right-of-way) to C (Commercial); and
4. That the proposed amendment is consistent with the overall goals and objectives of the Lake Elmo Comprehensive Plan.

Staff recommends the following condition of approval:

1. Submission of the Comprehensive Plan Amendment to the Metropolitan Council and the receipt of formal notification from the Metropolitan Council that they have reviewed and approved the proposed amendment.

Zoning Map Amendment. Staff recommends approval of the Zoning Map Amendment for the proposed Drake Motor Partners LE LLC parcel, Parcel #1, and the City of Lake Elmo property, Parcel #2, based on the following findings:

1. That the applicant has submitted a request to the City of Lake Elmo to amend the Zoning Map in accordance with the procedures as established by the Lake Elmo Planning Department and the Lake Elmo Planning Commission; and

2. That the request is to amend the Zoning Map for Parcel 1 from Commercial PUD (C-PUD) to Public Right-of-Way; and
3. That the request is to amend the Zoning Map for Parcel 2 from Public Right-of-Way to Commercial PUD (C-PUD).
4. That the proposed amendment is consistent with the overall intent and purpose of the City of Lake Elmo Zoning Code.

Staff recommends the following condition of approval:

1. The rezoning shall not be effective until such time as the Met Council approves the Comprehensive Plan Amendment.
2. The applicant shall record the Zoning Map Amendment with the County Recorder upon Met Council approval.

FISCAL IMPACT:

There would be no fiscal impact to the City at this time.

RECOMMENDATIONS:

Comprehensive Plan Amendment

Staff recommends that the Planning Commission recommend approval of an amendment to the Land Use Plan of the Comprehensive Plan for Parcel #1 from C (Commercial) to ROW (right-of-way) and for Parcel #2 from ROW (right-of-way) to C (Commercial) with the following motion:

***“Move to recommend approval of a Comprehensive Plan amendment from C (Commercial) to ROW (right-of-way) for Parcel #1 and from ROW (right-of-way) to C (Commercial) for Parcel #2. This recommendation is based on the findings listed in the Staff report and subject to the condition listed in the staff report.*”**

Zoning Map Amendment

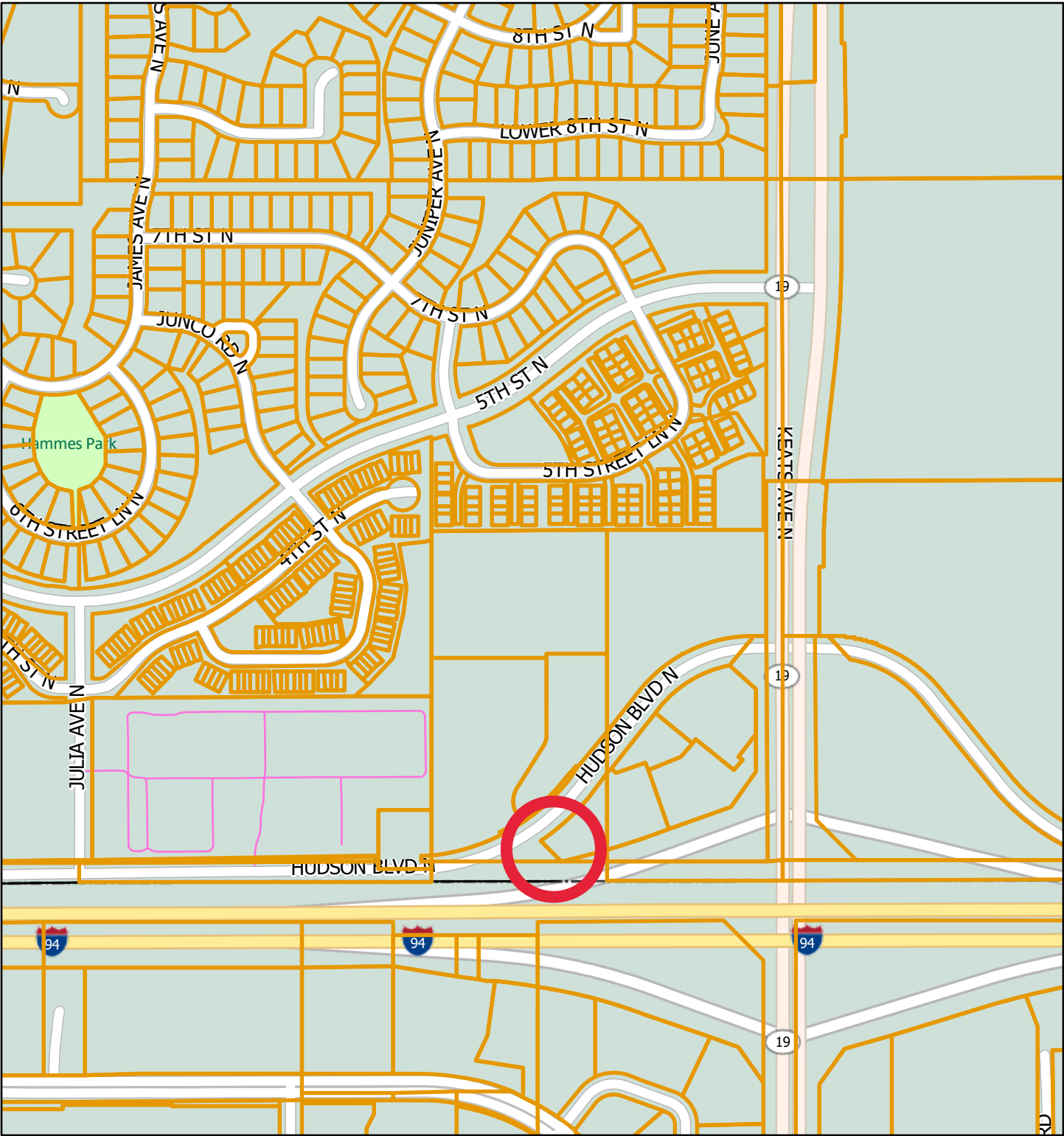
Staff recommends that the Planning Commission recommend approval of the zoning map amendment of Parcel #1 from Commercial PUD (C-PUD) to Public Right-of-Way and Parcel #2 from Public Right-of-Way to Commercial PUD (C-PUD) with the following motion:

***“Move to recommend approval of a zoning map amendment of Parcel #1 from Commercial PUD (C-PUD) to Public Right-of-Way and Parcel #2 from Public Right-of-Way to Commercial PUD (C-PUD). This recommendation is subject to the City’s recommendation to amend the Comprehensive Plan for the parcels and is based on the findings listed in the Staff report and subject to the conditions listed in the staff report.”*”**

ATTACHMENTS:

- Site Map
- Comprehensive Plan Amendment Application
- Zoning Map Amendment Application
- Narrative
- Existing Zoning/Land Use Exhibit
- Proposed Zoning/Land Use Exhibit

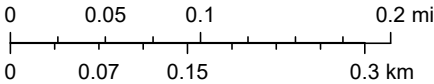
Drake Zoning and Land Use Change



8/16/2023, 11:23:40 AM

1:9,028

-  Parcels
-  Municipals



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



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

COMPREHENSIVE PLAN AMENDMENT APPLICATION

Applicant: Jon Hauser
Address: 496 S. Broadway, Denver, CO 80209
Phone # 303-825-6200
Email Address: hauser@drakeres.com

Fee Owner: Drake Motor Partners LE LLC
Address: 496 S. Broadway, Denver, CO 80209
Phone # 303-825-6200
Email Address: hauser@drakeres.com

Engineer: Tom Meyer
Address: 105 S. Fifth Avenue, Suite 513, Minneapolis, MN 55401
Phone # 612-638-0241
Email Address: tmeyer@landform.net

Property Location (Address): 9923 Hudson Boulevard N
Complete Legal Description: See attached exhibit

PID#: 3402921440004

Detailed Reason for Request:
See attached narrative.

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: 7-24-23

Signature of fee owner:  Date: 7-24-23

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



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

ZONING MAP AMENDMENT APPLICATION

Applicant: Jon Hauser, Drake Motor Partners LE LLC
Address: 496 S. Broadway, Denver, CO 80209
Phone # 303-825-6200
Email Address: hauser@drakeres.com

Fee Owner: Drake Motor Partners LE LLC
Address: 496 S. Broadway, Denver, CO 80209
Phone # 303-825-6200
Email Address: hauser@drakeres.com

Engineer: Tom Meyer
Address: 105 S. Fifth Avenue, Suite 513, Minneapolis, MN 55401
Phone # 612-638-0241
Email Address: tmeyer@landform.net

Property Location (Address): 9923 Hudson Boulevard N
Complete Legal Description: See attached exhibit

PID#: 3402921440004

Detailed Reason for Request: See attached narrative.

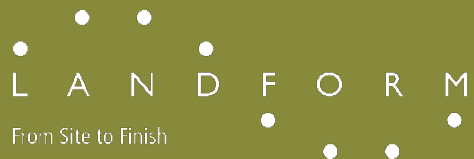
In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received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

Signature of applicant:  Date: 7/24/2023

Signature of fee owner:  Date: 7/24/2023

RECEIVED
JUL 25 2023

BY:



Comprehensive Plan Amendment and Rezoning Narrative

Lake Elmo, MN

Prepared for:
Drake Real Estate Services



July 24, 2023



SUBMITTED TO
Lake Elmo Planning & Zoning
3880 Laverne Avenue N
Lake Elmo, MN 55042



PREPARED BY
Landform Professional Services, LLC
105 5th Ave S, Suite 513
Minneapolis, MN 55401

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Introduction

On behalf of Drake Motor Partners LE LLC, Landform is pleased to submit this application for a Comprehensive Plan Amendment and Rezoning for a portion of the parcel located at 9923 Hudson Boulevard North as part of the land exchange with the City.

The site includes the following PIDs:

Parcel #1 (Dairy Queen site) – 34.029.21.44.0004

Parcel #2 (City Right-of-way) – 34.029.21.44.0012

The legal description of the parcels is as follows:

Parcel #1 – Lot 1, Block1, EBERTZ ADDITION, Washington County, Minnesota.

Parcel #2 – Parcel 33B, Minnesota Department of Transportation Right of Way Plat No. 82-43, Washington County, Minnesota.

Project Contacts

Owner:	Drake Motor Partners LE LLC 496 South Broadway Denver, CO 80209 hauser@drakeres.com 303-825-6200	Applicant:	Jon Hauser 496 South Broadway Denver, CO 80209 hauser@drakeres.com 303-825-6200
Engineer:	Tom Meyer, PE 105 South 5 th Avenue Suite 513 Minneapolis, MN 55401 tmeyer@landform.net 612-638-0241	Dairy Queen Engineer:	Joseph Radach, PE 8915 Vernon Street Rockford, MN 55373 jradach@contoured.com 612-730-2265

Background

The site was previously platted as part of the Ebertz Addition. An exhibit is attached with the submittal that describes and illustrates the land exchange and provides a legal description for the portion of each parcel that has been exchanged. An equal portion of land, approximately 0.02 acres, has been swapped between the two parties. A land exchange was proposed between the City and the property owner to accommodate the location of a pylon sign for the Ebertz Addition with proximity to Highway 94. The benefit to the City is having more land abutting the Hudson Boulevard right-of-way.

The purpose of the comprehensive plan amendment and rezoning is to make the sections of the parcels exchanged by the City and Drake Motor Partners LE LLC consistent with the proposed uses and comprehensive plan. A Comprehensive Plan Amendment and Rezoning will allow the proposed right-of-way and commercial uses on the exchanged sections of either parcel.

The proposed use of Lot 1, Block 1, Ebertz Addition is a Dairy Queen fast-food restaurant. A pylon sign for Ebertz Addition development will be located on the area of Parcel 2 to Lot 1, Block 1. The proposed Dairy Queen use and a

comprehensive sign plan for the pylon sign were approved with the PUD approvals. Parcel 2 will be combined with Lot 1, Block 1 and Parcel 1 to the City will be combined with the existing right-of-way.

Comprehensive Plan Amendment

We are requesting approval of a Comprehensive Plan Amendment to re-guide the following:

Parcel 1 to the City: Amend future land use designation from Commercial (C) to Right-of-way (ROW)

Parcel 2 to Lot 1, Block 1: Amend future land use guidance from Right-of-way (ROW) to Commercial (C)

The Comprehensive Plan Amendment is required to be consistent with the planned uses.

Rezoning

We are requesting approval of a Zoning Map Amendment to re-zone the following:

Parcel 1 to the City: Rezone from Commercial PUD (C-PUD) to Public Right-of-Way

Parcel 2 to Lot 1, Block 1: Rezone from Public Right-of-Way to Commercial PUD (C-PUD)

The proposed rezoning is consistent with the comprehensive plan, in accordance with the comprehensive plan amendment also requested with this application.

Summary

We respectfully request approval of the Comprehensive Plan Amendment and Rezoning to allow for the land exchange between the City right-of-way and Lot 1, Block 1, Ebertz Addition. We anticipate the application will be heard at the Planning Commission on September 11th with the final action by City Council on October 3rd.

Contact Information

This document was prepared by:

Nicholas Ouellette
Landform
105 South Fifth Avenue, Suite 513
Minneapolis, MN 55401

Any additional questions regarding this application can be directed to Tom Meyer at tmeyer@landform.net or 612.638.0241.

EXISTING DESCRIPTIONS:

Dairy Queen
Lot 1, Block1, EBERTZ ADDITION, Washington County, Minnesota.

City of Lake Elmo
Parcel 33B, Minnesota Department of Transportation Right of Way Plat No. 82-43, Washington County, Minnesota.

PROPOSED DESCRIPTIONS:

Proposed Dairy Queen
Lot 1, Block1, EBERTZ ADDITION, Washington County, Minnesota, Except that part lying west of the following described line: Commencing at the most westerly corner of said Lot 1, thence South 46 degrees 03 minutes 26 seconds East, plat bearing, along the southwesterly line of said Lot 1, a distance of 46.59 feet to the Point of Beginning of the line to be described; thence North 00 degrees 05 minutes 44 seconds West, a distance of 56.76 feet to the northwesterly line of said Lot 1 and there terminating.
And
That part of Parcel 33B, Minnesota Department of Transportation Right of Way Plat No. 82-43, Washington County, Minnesota, described as follows: Commencing at the most westerly corner of Lot 1, Block 1, EBERTZ ADDITION, said Washington County; thence South 46 degrees 03 minutes 26 seconds East, plat bearing, along the southwesterly line of said Lot 1, a distance of 46.59 feet to the Point of Beginning; thence continuing South 46 degrees 03 minutes 26 seconds East, along last said line, a distance of 61.42 feet to the south line of said Parcel 33B; thence South 89 degrees 54 minutes 66 seconds West, along last said line, a distance of 44.15 feet to a line bearing South 00 degrees 05 minutes 44 seconds East from the Point of Beginning; thence North 00 degrees 05 minutes 44 seconds West, a distance of 42.69 feet to the Point of Beginning.

Proposed Lake Elmo
Parcel 33B, Minnesota Department of Transportation Right of Way Plat No. 82-43, Washington County, Minnesota, Except that part described as follows: Commencing at the most westerly corner of Lot 1, Block 1, EBERTZ ADDITION, said Washington County; thence South 46 degrees 03 minutes 26 seconds East, plat bearing, along the southwesterly line of said Lot 1, a distance of 46.59 feet to the Point of Beginning; thence continuing South 46 degrees 03 minutes 26 seconds East, along last said line, a distance of 61.42 feet to the south line of said Parcel 33B; thence South 89 degrees 54 minutes 66 seconds West, along last said line, a distance of 44.15 feet to a line bearing South 00 degrees 05 minutes 44 seconds East from the Point of Beginning; thence North 00 degrees 05 minutes 44 seconds West, a distance of 42.69 feet to the Point of Beginning.
And
That part of Lot 1, Block 1, EBERTZ ADDITION, Washington County, Minnesota, lying west of the following described line: Commencing at the most westerly corner of said Lot 1, thence South 46 degrees 03 minutes 26 seconds East, plat bearing, along the southwesterly line of said Lot 1, a distance of 46.59 feet to the Point of Beginning of the line to be described; thence North 00 degrees 05 minutes 44 seconds West, a distance of 56.76 feet to the northwesterly line of said Lot 1 and there terminating.

