



Community Development Department

DATE: May 17, 2022

FROM: Ben Ehreth, AICP, Community Development Director

ITEM: Release Portion of Capital Electric Utility Easement through Lot 1, Block 1, Eagle Crest Eighth Addition

REQUEST:

Russell and Sandra Johnson are requesting approval of the release of the West 1 foot of a 7-foot Capital Electric utility easement release over Lot 1, Block 1, Eagle Crest Eighth Addition.

Please place this item on the May 24, 2022, City Commission meeting agenda.

BACKGROUND INFORMATION:

Capital Electric Cooperative is the only entity granted rights to use this easement. The applicant has obtained a letter from Capital Electric Cooperative consenting to the release of the easement.

RECOMMENDED CITY COMMISSION ACTION:

Based on the findings contained in the staff report, staff recommends approval of the attached resolution to release a portion of a Capital Electric utility easement described as:

The West 1 foot of the South 140 feet of the 7-foot Capital Electric utility easement along the East line of Lot 1, Block 1, Eagle Crest Eighth Addition.

STAFF CONTACT INFORMATION:

Ben Ehreth, AICP | Community Development Director | 355-1842 | behreth@bismarcknd.gov

Kim Lee, AICP | Planning Manager | 355-1846 | klee@bismarcknd.gov

Daniel Nairn, AICP | Senior Planner | 355-1854 | dnairn@bismarcknd.gov

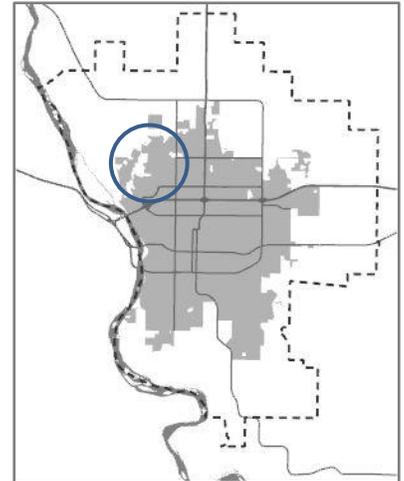
STAFF REPORT

Application for: **Plat Modification –
Easement Release**

Project ID: **PLMD2022-010**

Project Summary

<i>Title:</i>	Release Portion of Capital Electric Utility Easement through Lot 1, Block 1, Eagle Crest Eighth Addition
<i>Status:</i>	Board of City Commissioners
<i>Owner(s):</i>	Russell and Sandra Johnson
<i>Project Contact:</i>	Landon Niemiller, Swenson, Hagen & Co.
<i>Location:</i>	In northwest Bismarck, between East Valley Drive and Tyler Parkway on the north side of Crest Road
<i>Project Size:</i>	1 foot of a 7-foot easement
<i>Request:</i>	Release portion of easement



Staff Analysis

Russell and Sandra Johnson are requesting approval of the release of the West 1 foot of a 7-foot Capital Electric utility easement release over Lot 1, Block 1, Eagle Crest Eighth Addition.

The easement was granted with the plat of Eagle Crest Eighth Addition, which was recorded July 19, 2020.

Capital Electric Cooperative is the only entity granted rights to use this easement. The applicant has obtained a letter from Capital Electric Cooperative consenting to the release of the easement.

Required Findings of Fact (relating to land use)

1. The easement, or part thereof, shown on the plat of record and proposed for release is no longer needed for the purpose for which it was dedicated;

2. The release of the easement is consistent with the general intent and purpose of the zoning ordinance; and
3. The release of the easement is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the attached resolution to release a portion of a Capital Electric utility easement described as:

The West 1 foot of the South 140 feet of the 7-foot Capital Electric utility easement along the East line of Lot 1, Block 1, Eagle Crest 8^{Eighth} Addition.

Attachments

1. Location Map

(continued)

2. Plat Map
 3. Resolution
 4. Application/Petition
 5. Letter from Utility
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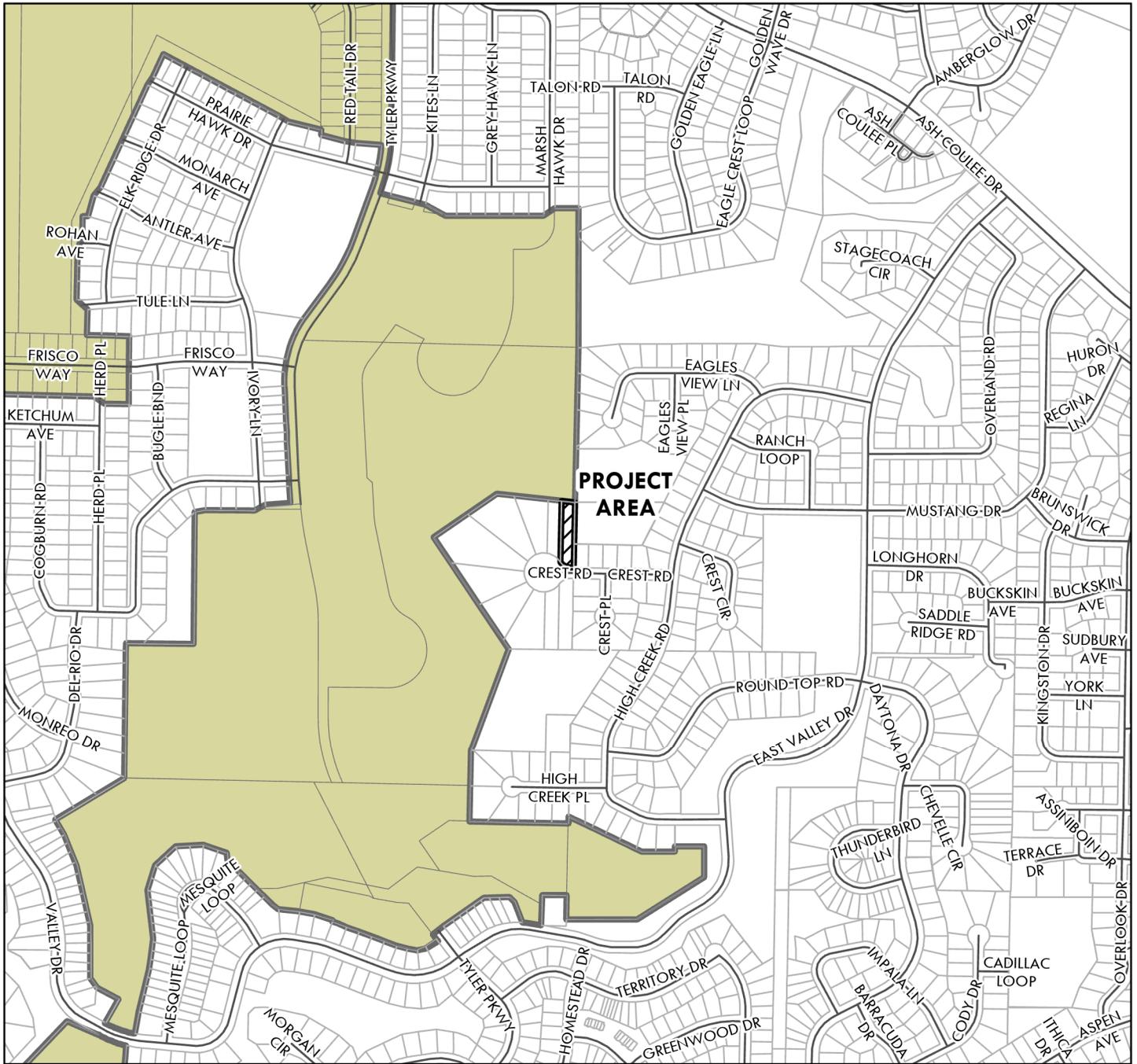
Staff report prepared by: Daniel Nairn, AICP, Senior Planner
701-355-1854 | dnairn@bismarcknd.gov



Location Map

EAGLE CREST EIGHTH ADDITION, L1, B1

PLMD2022-010

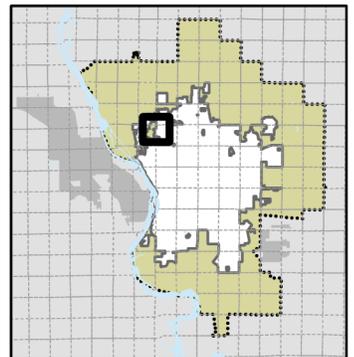


- City Limits
- Bismarck ETA Jurisdiction

City of Bismarck
 Community Development Department
 Planning Division
 May 2, 2022 (HLB)

Section, township, and range indicated in orange

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



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① 1

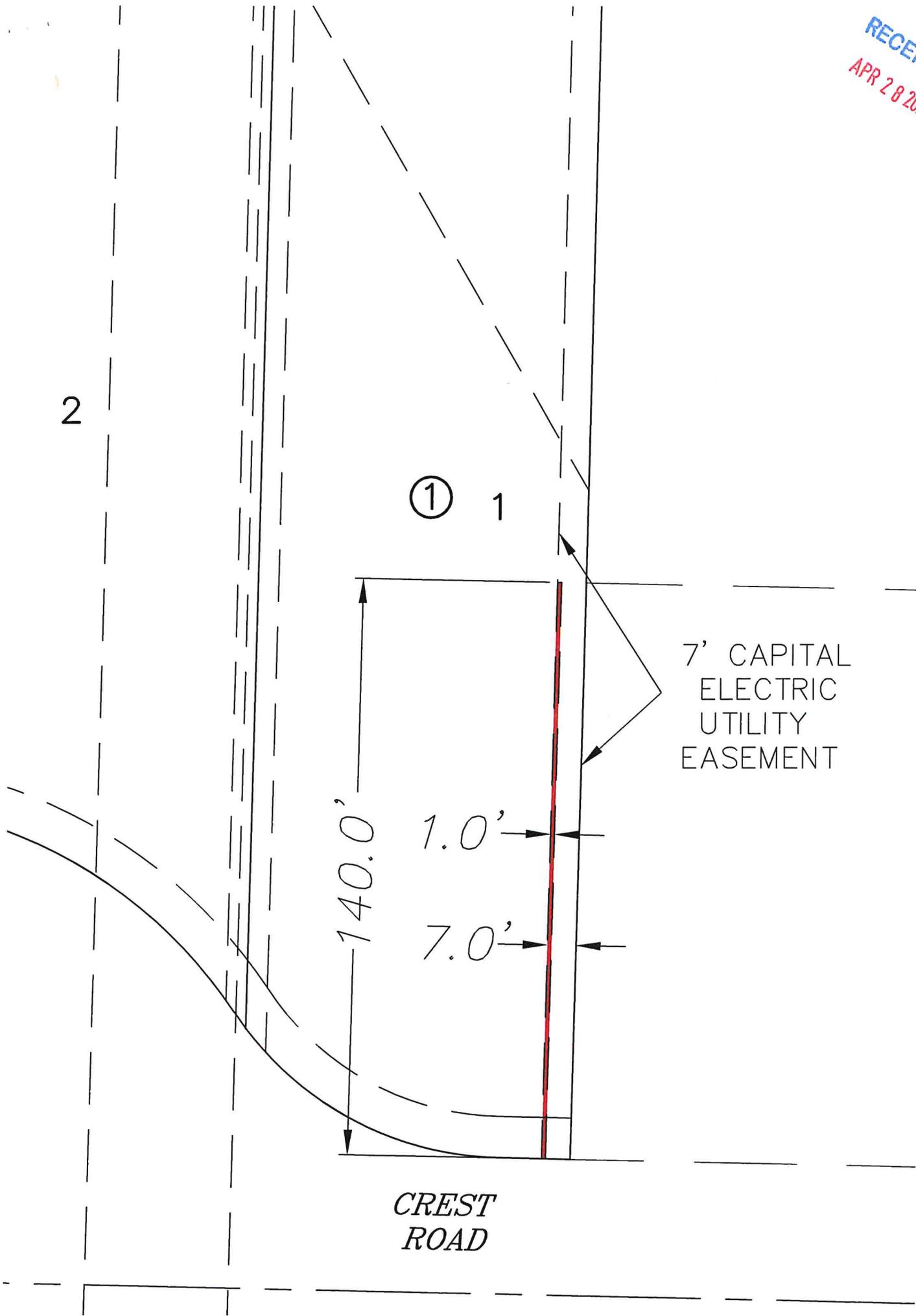
7' CAPITAL
ELECTRIC
UTILITY
EASEMENT

140.0'

1.0'

7.0'

CREST
ROAD



RESOLUTION

RELEASE OF CAPITAL ELECTRIC UTILITY EASEMENT IN EAGLE CREST Eighth ADDITION

WHEREAS, the owners of property described as Lot 1, Block 1, Eagle Crest Eighth Addition adjoining and contiguous to a platted Capital Electric utility easement, have heretofore joined in petition requesting that part of said Capital Electric utility easement be released, verified by oath of at least one petitioner and accompanied by a plat of said Capital Electric utility easement to be released, having set forth the facts and reason for said release; and

WHEREAS, said platted Capital Electric utility easement was shown on the plat of Eagle Crest Eighth Addition, which was recorded on July 19, 2020, and

WHEREAS, Capital Electric Cooperative, the only entity granted rights to use this easement, has consenting to the release of the easement.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release a portion of a Capital Electric utility easement described as:

The West 1 foot of the South 140 feet of the 7-foot Capital Electric Utility Easement along the East line of Lot 1, Block 1, Eagle Crest Eighth Addition

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the City Administrator be and is hereby authorized to file this resolution for record in the office of the County Recorder, Burleigh County, North Dakota.

Adopted this 24th day of May, 2022.

CERTIFICATE

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Board of City Commissioners held on May 24, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 24th day of May, 2022.

(SEAL)

Jason Tomanek
Assistant City Administrator
Bismarck, North Dakota



City of Bismarck
 Community Development Department
 Planning Division
 Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
 PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 1/1/2022

**UNIFIED
 DEVELOPMENT
 APPLICATION**

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NOTE: APPLICATIONS ARE NOT COMPLETE UNTIL ALL REQUIRED SUBMITTALS HAVE BEEN RECEIVED

Application submitted for (check all that apply):

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> Preliminary Major Plat | <input type="checkbox"/> Final Major Plat | <input type="checkbox"/> Minor Plat | <input type="checkbox"/> Plat Vacation |
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Zoning Change | <input type="checkbox"/> PUD Zoning Change / PUD Amendment | |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Variance | <input type="checkbox"/> Rural Lot Split (RR & RR5) | |
| <input type="checkbox"/> Fringe Area Road Master Plan Amendment | | <input type="checkbox"/> Land Use Plan Amendment | |
- | | |
|--|--|
| <u>Lot Modification</u> | <u>Plat Modification</u> |
| <input type="checkbox"/> Lot Line Adjustment | <input type="checkbox"/> Street/Alley Vacation |
| <input type="checkbox"/> Lot Split | <input checked="" type="checkbox"/> Easement Release |
| <input type="checkbox"/> Lot Combination | <input type="checkbox"/> Non-Access Line Release |

PROPERTY INFORMATION			
Project Name:	Eagle Crest 8th Addition--utility release		
Legal description: <small>(Lot, Block, Addition/Subdivision)</small>	Lot 1 Block 1 Eagle Crest Eighth Addition		
Street address of property:	1500 Crest Rd		
Existing Zoning	R5	Proposed Zoning:	
Acreage:		Number of Lots:	
Description of development proposal, including reason(s) for the request: <i>(if additional room is needed, please attach a separate sheet)</i>	Release the west 1' of the south 140' of the 7' capital utility easement along the east line of Lot 1 Block 1 Eagle Crest 8th Addition		

APPLICANT/DEVELOPER	
Name:	Russell & Sandra Johnson
Mailing Address:	1625 Maple Pl, West Fargo, ND 58078

PROPERTY OWNER (IF DIFFERENT THAN APPLICANT/DEVELOPER)	
Name:	
Mailing Address:	

CONTACT PERSON/CONSULTANT (IF DIFFERENT THAN APPLICANT/DEVELOPER)	
Name:	Swenson Hagen & Co
Mailing Address:	909 Basin Ave., Bismarck, ND 58504

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<input type="checkbox"/> Special Use	Fee of \$700.00	Submitted	N/A
	3 prints of site plan, at not less than 1" = 20' scale	<input type="checkbox"/>	
	8-1/2" x 11" paper reduction of the site plan	<input type="checkbox"/>	
	Narrative describing proposed operations/activities	<input type="checkbox"/>	
	Photograph of the building (moving building only)	<input type="checkbox"/>	<input type="checkbox"/>
	Building inspection report (moving building and child care center only)	<input type="checkbox"/>	<input type="checkbox"/>

<input type="checkbox"/> Variance	Fee of \$550.00	Submitted	N/A
	Site plan, drawn to scale (no larger than 11" x 17"), with dimensions	<input type="checkbox"/>	
	Elevation of proposed structure(s), if required	<input type="checkbox"/>	
	<u>Written statement of hardship</u> , completed by applicant (separate form that must be completed for variances)	<input type="checkbox"/>	

<input type="checkbox"/> Rural Residential Lot Split (for lots in RR or RR5 only)	Fee of \$750.00	Submitted	N/A
	Exhibit showing how the parcel is to be modified with all existing buildings, structures, and drain field(s) on the property, setbacks from existing and proposed parcel boundaries and a scale bar. Exhibit does not need to be stamped and signed by a Registered Land Surveyor, however, if approved, a certificate of survey and/or a plat of irregular description will be required	<input type="checkbox"/>	<input type="checkbox"/>
	Legal description of property, both existing and proposed, with sizes and dimensions. Exhibit does not need to be stamped and signed by a Registered Land Surveyor, however, if approved, a certificate of survey and/or a plat of irregular description will be required	<input type="checkbox"/>	<input type="checkbox"/>

<input type="checkbox"/> Lot Modification (all modifications except lot splits in RR & RR5)	Fee of \$150.00	Submitted	N/A
	Exhibit showing the proposed modification with all existing buildings or structures on the property and setbacks from existing and proposed parcel boundaries and a scale bar. Exhibit must be stamped by a Registered Land Surveyor if lot split or lot line adjustment (not required for a lot combination/ or if all affected properties are vacant)	<input type="checkbox"/>	
	Legal description(s) of the existing lot(s) and/or parcel(s)	<input type="checkbox"/>	
	Draft certificate of survey including the proposed legal description(s), size(s), property boundary and dimension for the resulting parcel(s)	<input type="checkbox"/>	

<input checked="" type="checkbox"/> Plat Modification (street/alley vacation, non-access line release or easement release)	Fee of \$550.00 (street/alley vacation)	Submitted	N/A
	Fee of \$400.00 (non-access line release)	<input type="checkbox"/>	
	Fee of \$400.00 (easement release)		
	Exhibit showing location of request	<input checked="" type="checkbox"/>	
	Letters of consent from utility companies (street/alley vacation & easement release)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Letter of consent from City Engineer (water, sanitary, drainage and stormwater)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	



SWENSON, HAGEN & CO. P.C.

civil engineering . surveying . land planning . hydrology
landscape & site design . construction management

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April 20, 2022

Mr. Greg Owen
Capital Electric Cooperative
PO Box 730
Bismarck, ND 58502-0730

Re: Eagle Crest 8th Addition

Dear Greg,

Russell and Sandra Johnson wish to vacate the west 1.00' of the south 140.00' of the 7' Capital Electric utility easement along the east line of Lot 1 Block 1 Eagle Crest Eighth Addition. Any relocation of capital electric lines that fall within 2' of the proposed foundation wall will be at the owner's expense.

If you agree with this easement vacation, please sign your consent below and return to the office of Swenson, Hagen & Co. within the next 10 business days.

Sincerely,

Landon Niemiller
Land Development Tech

LN;lm

I, Greg Owen, a representative of Capital Electric Cooperative, hereby consent to the proposed vacation of the above described utility easement.

Capital Electric Cooperative