



Community Development Department

DATE: March 12, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: Release and dedicate non-access lines on Lots 3 and 4, Block 1, Briese Subdivision.

REQUEST:

Mitchell Unterseher and Mark and Tamara Unterseher are requesting the release of non-access lines over two 30-foot sections along Fernwood Drive and one 20-foot section along Sandy River Drive, as well as the dedication of a non-access line over one 30-foot section along Fernwood Drive. Staff recommends approval.

BACKGROUND INFORMATION:

The non-access lines were granted with the plat of Briese Subdivision, which was recorded June 23, 1996.

An access easement was also granted with this plat. However, if the proposed non-access lines are released, there will be several access points along this section of Fernwood Drive.

Therefore, the dedication of a 30-foot non-access line is proposed along the eastern side of this easement along Fernwood Drive.

The attached staff report contains a complete review of the request, according to standards of the Comprehensive Plan, city ordinances, and other relevant law.

RECOMMENDED CITY COMMISSION ACTION:

Based on the findings contained in the staff report, staff recommends the release of two 30-foot sections of non-access lines from Fernwood Drive along the east lines of Lots 3 and 4, Block 1, Briese Subdivision; the release of one 20-foot section of non-access line from Sandy River Drive along the south line of Lot 4, Block 1, Briese Subdivision; and the dedication of one 30-foot section of non-access line on Fernwood Drive along Lots 3 and 4, Block 1, Briese Subdivision.

STAFF CONTACT INFORMATION:

Ben Ehreth, Community Development Director, 701-355-1842, behreth@bismarcknd.gov
Daniel Nairn, Planning Manager, 701-355-1854, dnairn@bismarcknd.gov
Lauren Oster, Planner, 701-355-1846, laoster@bismarcknd.gov

ATTACHMENTS:

1. Briese Subdivision PLMD

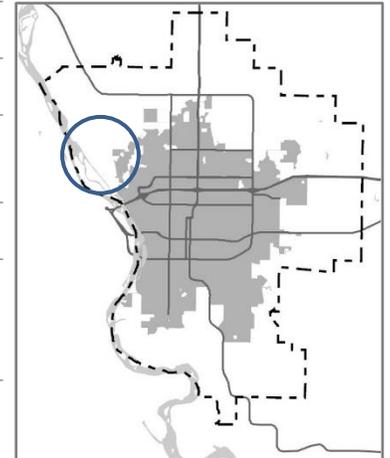
STAFF REPORT

Application for: **Non-Access Line Release**

Project ID: **PLMD2024-003**

Project Summary

<i>Title:</i>	Briese Subdivision, Lots 3 & 4, Block 1
<i>Status:</i>	City Commission - Final Consideration
<i>Property Owner(s):</i>	Mitchell Unterseher Mark and Tamara Unterseher
<i>Project Contact:</i>	Mark Issacs, PLS, ILSE, Inc.
<i>Project Location:</i>	Northwest of Bismarck, north of Interstate 94 and west of River Road, at the intersection of Sandy River Drive and Fernwood Drive
<i>Project Size:</i>	Release of a total of 80 feet of non-access lines and dedicate a total of 30 feet of non-access line
<i>Applicant Request:</i>	Release two 30-foot sections of non-access lines along Fernwood Drive, release one 20-foot section of a non-access line along Sandy River Drive, and dedicate one 30-foot section of a non-access line along Fernwood Drive
<i>Staff Recommendation:</i>	Approve



Project Narrative

Mitchell Unterseher and Mark and Tamara Unterseher are requesting the release of non-access lines over two 30-foot sections along Fernwood Drive and one 20-foot section along Sandy River Drive as well as the dedication of a non-access line over one 30-foot section along Fernwood Drive.

The non-access lines were granted with the plat of Briese Subdivision, which was recorded June 23, 1996.

There is an opening in the non-access line along Fernwood Drive adjacent to the southeast corner of Lot 3, Block 1, and the northeast corner of Lot 4, Block 1, because a 30-foot by 30-foot access easement is located here. As alternative access

points along Fernwood Drive would be available with the proposed release of non-access lines, the owners wish to dedicate a 30-foot non-access line along the eastern portion of this access easement to reduce the allowable access points along this portion of Fernwood Drive.

Public Engagement

Proposed non-access line releases are reviewed by City staff in Engineering and other departments and is not subject to public hearing or notification requirements.

Basic project information, with the ability to contact staff for more details, has been provided publicly online through the Community Development Activities map.

(continued)

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:



Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

Traffic operations or safety in the area would not be adversely impacted by the proposed non-access line release ([Goal C3-b](#))

Yes. The City Engineer affirms that the proposed release of the non-access line will not adversely impact traffic operations in the area.

The public health, safety and general welfare will not be adversely impacted by the proposed release of a non-access line ([Goal S10-a](#))

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff

find that the proposed release of a non-access line would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the release of two 30-foot sections of non-access lines along Fernwood Drive, the release of one 20-foot section of non-access line along Sandy River Drive, and the dedication of one 30-foot section of non-access line along Fernwood Drive.

Attachments

1. Draft Resolution
2. Release Exhibit
3. Original Plat Exhibit
4. Petition from Landowner

Staff report prepared by: Lauren Oster, Planner

701-355-1846 | laoster@bismarcknd.gov

**RESOLUTION OF
THE BISMARCK BOARD OF CITY COMMISSIONERS**

**RELEASE AND DEDICATION OF NON-ACCESS LINES
IN BRIESE SUBDIVISION (PLMD2024-003)**

WHEREAS, the owners of property described as Lots 3 and 4, Block 1, Briese Subdivision, adjoining and contiguous to a platted non-access line, have heretofore joined in petition requesting that two 30-foot sections along Fernwood Drive and one 20-foot section along Sandy River Drive of said non-access lines be released and one 30-foot section of non-access line along Fernwood Drive be dedicated, verified by oath of at least one petitioner and accompanied by a plat of said non-access line to be released, having set forth the facts and reason for said release and dedication; and

WHEREAS, said platted non-access line is shown on the plat of Briese Subdivision, which was recorded on June 23, 1996; and

WHEREAS, the City Engineer and County Engineer have determined that the non-access lines proposed for release are no longer necessary for efficient traffic movement or public safety; and

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release the platted non-access line described as:

The south 30 feet of the north 90 feet on the east side of Lot 4, Block 1, Briese Subdivision in Burleigh County, North Dakota

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the petition to release the platted non-access line described as:

The south 30 feet of the north 50 feet on the east side of Lot 3, Block 1, Briese Subdivision in Burleigh County, North Dakota

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the petition to release the platted non-access line described as:

The west 20 feet of the east 80 feet on the south side of Lot 4, Block 1, Briese Subdivision in Burleigh County, North Dakota

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the petition to dedicate the non-access line described as:

The south 15 feet on the east side of Lot 3 and the north 15 feet on the east side of Lot 4, Block 1, Briese Subdivision in Burleigh County, North Dakota

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 12 day of March, 2024.

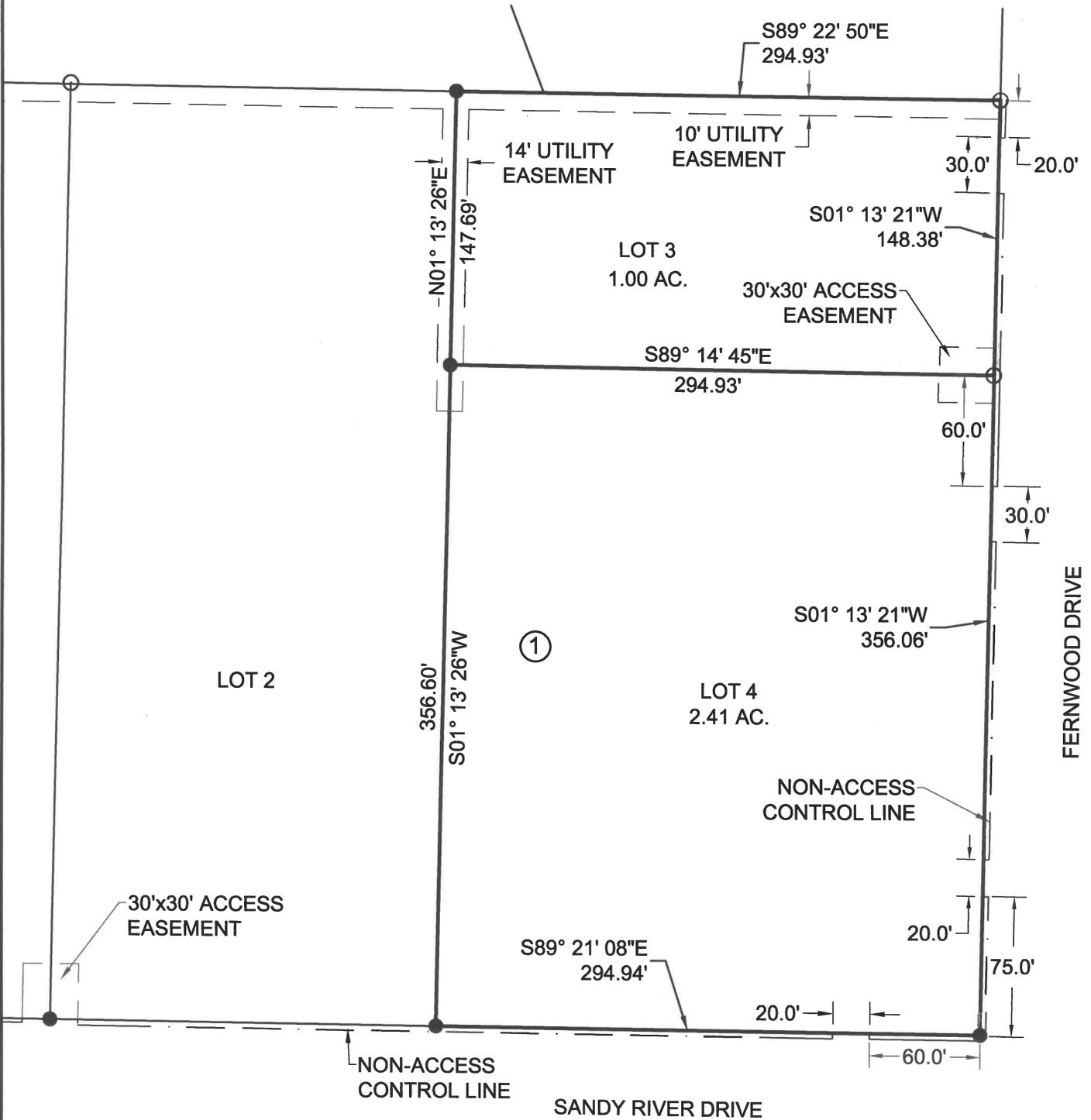
CERTIFICATE

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified 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 this March 12, 2024.

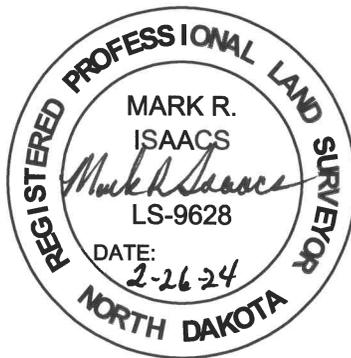
IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 12th day of March, 2024.

Jason Tomanek
City Administrator
Bismarck, North Dakota

PLAT MODIFICATION - NON-ACCESS LINES
 LOTS 3 & 4, BLOCK 1 BRIESE SUBDIVISION
 BURLEIGH COUNTY, NORTH DAKOTA; SECTION 14, T139N, R81W



NOTE: THIS DRAWING REPRESENTS THE PROPOSED NON-ACCESS LINES AND APPROACH LOCATIONS.



SCALE: 1" = 80'



BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET. MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK AND ARE REPORTED IN GRID.

- FOUND SURVEY MONUMENT
- SET 1/2" CAPPED REBAR LS-9628

Independent Land Surveying & Engineering Inc.

4215 OLD RED TRAIL NW, Mandan, ND 58554
 Phone: 701-663-5184 PROJ # 23043

BRIESE SUBDIVISION
 LOCATED IN THE SE1/4SE1/4 OF SECTION 14,
 TOWNSHIP 139 NORTH, RANGE 81 WEST, FIFTH P.M.
 BURLEIGH COUNTY, NORTH DAKOTA

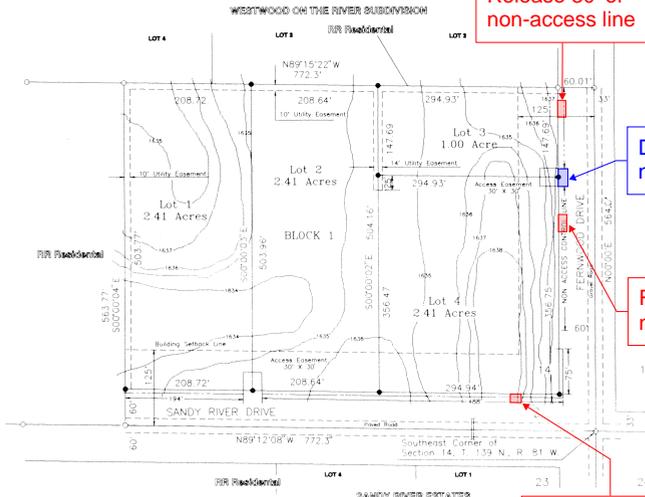


- IRON PIPE FOUND
- IRON PIPE TO BE SET
- 100YR FLOOD PLAIN EL. 1638.1

OWNER
 Dennis L. Briese
 1613 River Dr.
 Mandan, N.D. 58501

SURVEYOR
 Wilfred Eberle, RLS 1201
 3423 Winnipeg Dr.
 Bismarck, N.D. 58501

DISTRIBUTION OF ACREAGE
 Lots: 8.24 Acres
 Streets: 1.76 Acres
 Total: 10.00 Acres



Release 30' of non-access line

Dedicate 30' of non-access line

Release 30' of non-access line

Release 20' of non-access line

DESCRIPTION
 Part of the Southeast Quarter of the Southeast Quarter (SE1/4SE1/4) of Section Fourteen (14), Township 139 North, Range 81 West of the Fifth P.M., Burleigh County, North Dakota, more fully described as follows:
 Beginning at a point on the southeast corner of the SE1/4SE1/4 of said Section 14, thence running N07°00'E along the east line of said SE1/4SE1/4 a distance of 564.6 feet, to a Iron Manu, on the southeast corner of "WESTWOOD ON THE RIVER SUBDIVISION", thence N89°15'22"W along the south line of "WESTWOOD ON THE RIVER SUBDIVISION" a distance of 772.3 feet, to a Iron Manu, thence S07°00'04"E a distance of 563.77 feet, to a Iron Manu, on the south line of said SE1/4SE1/4, thence S89°12'08"E along the south line of said SE1/4SE1/4 a distance of 772.3 feet to the point of beginning.
 Tract contains 10.00 acres, more or less.

SURVEYOR'S CERTIFICATE
 I, Wilfred Eberle, a Registered Land Surveyor in the State Of North Dakota hereby certify that the accompanying plat was surveyed under my supervision and that all information shown hereon is true and correct to the best of my knowledge.

Wilfred Eberle
 Registered Land Surveyor
 N.D. Registration 1201



STATE OF NORTH DAKOTA
 COUNTY OF BURLEIGH
 On this 22 day of January, 1996, personally appeared before me, Wilfred Eberle, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

Notary Public - Burleigh County
 My Commission Expires March 18, 2000

PAUL J. PFEIFFER
 Notary Public, STATE OF NORTH DAKOTA
 My Commission Expires March 18, 2000

APPROVAL OF BOARD OF COUNTY COMMISSIONERS
 The Board of County Commissioners of Burleigh County, North Dakota, has approved the subdivision of land on the accompanying plat, has accepted the dedication of all streets and easements shown thereon and has approved the grounds as shown on the accompanying plat as an amendment to the master plan of Burleigh County. The foregoing action of the Board of County Commissioners of Burleigh County was taken by resolution approved on the 22 day of January, 1996.

Chairman, Roy Grobar
 County Auditor, Kevin Gantt

APPROVAL OF CITY PLANNING COMMISSION
 The Subdivision of land as shown on the annexed plat has been approved by the Planning Commission of the city of Bismarck, on the 22 day of January, 1996, in accordance with the laws of the State Of North Dakota, and ordances of the city of Bismarck and regulations adopted by said Planning Commission. In witness whereof one set the hands and seals of the chairman and secretary of the Planning Commission of the city of Bismarck.

DAVID BLACKSTEAD, CHAIRMAN
 CARL D. HOKENSTAD, SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS
 The Board of City Commissioners of the city of Bismarck, North Dakota has approved the subdivision of land as shown on the annexed plat. Has accepted the dedication of all streets shown thereon. Has approved the grounds as shown on the annexed plat as an amendment to the master plan of the city of Bismarck, North Dakota. The foregoing action of the City Commission of Bismarck, North Dakota was taken by resolution the 22 day of January, 1996.

W. C. WOCKEN, CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER
 Melvin J. Bullinger, City Engineer of the city of Bismarck, North Dakota, hereby approve Briese Subdivision, Bismarck, North Dakota as shown on the annexed plat.

MELVIN J. BULLINGER, CITY ENGINEER

OWNERS CERTIFICATE & DEDICATION
 KNOW ALL MEN BY THESE PRESENTS that Dennis L. and Janice Briese of Mandan, North Dakota, being the owner and proprietor of part of the SE1/4SE1/4 as described above and shown on the accompanying plat, has caused that portion described hereon to be surveyed and plotted and to be known hereafter as "BRIESE SUBDIVISION" and hereby donate and dedicate all streets to the public use forever. He also dedicates easements to run with the land, for access, water, sewer, gas, electric, or other public utilities or services under, on or over those certain strips of land designated hereon as "Access and Utility Easements".

Dennis L. Briese
 Janice Briese

STATE OF NORTH DAKOTA
 COUNTY OF BURLEIGH
 On this 22 day of January, 1996, personally appeared before me, Dennis L. & Janice Briese, known to me to be the persons who executed the foregoing instrument and acknowledged to me that he executed the same.

Notary Public - Burleigh County
 My Commission Expires



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

Last Revised: 2/08/2023

UNIFIED DEVELOPMENT APPLICATION

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 Map Amendment | <input type="checkbox"/> Planned Unit Development (PUD) / PUD Amendment | |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Variance | <input type="checkbox"/> Rural Lot Split (RR & RR5) | |
| <input type="checkbox"/> Major Street Plan Amendment | | <input type="checkbox"/> Future Land Use Plan Amendment | |

Lot Modification

- Lot Line Adjustment
- Lot Split
- Lot Combination

Plat Modification

- Street/Alley Vacation
- Easement Release
- Non-Access Line Release

PROPERTY INFORMATION

Project Name:	UNTERSEHER PLAT MODIFICATION		
Legal description: (Lot, Block, Addition/Subdivision)	LOTS 3 & 4, BLOCK1 IN BRIESE SUBDIVISION		
Street address of property:	4310 FERNWOOD DRIVE, BISMARCK, ND 58503		
Existing Zoning:	RR	Proposed Zoning:	RR
Acreage:	3.41	Number of Lots:	2
Description of development proposal, including reason(s) for the request: <i>(if additional room is needed, please attach a separate sheet)</i>	OWNER PROPOSES CHANGES TO THE NON-ACCESS LINES ALONG FERNWOOD DRIVE AND SANDY RIVER DRIVE.		

APPLICANT/DEVELOPER

Name:	MARK & TAMI UNTERSEHER
Mailing Address:	4310 FERNWOOD DRIVE, BISMARCK, ND 58503

PROPERTY OWNER (If Different Than Applicant/Developer)

Name:	MITCHELL UNTERSEHER
Mailing Address:	4404 FERNWOOD DRIVE, BISMARCK, ND 58503

CONTACT PERSON/CONSULTANT (If Different Than Applicant/Developer)

Name:	MARK R. ISAACS - ILSE, INC.
Mailing Address:	4215 OLD RED TRAIL NW, MANDAN, ND 58554

Plat Modification
(street/alley vacation,
non-access line release
or easement release)

Date of communication with City or County Engineer (roadway, water,
sanitary, drainage and stormwater)

Fee of \$550.00 (street/alley vacation)
Fee of \$400.00 (non-access line release)
Fee of \$400.00 (easement release)

Submitted

N/A

Exhibit showing location of request

For right-of-way vacation and utility easement release: Utility consent
forms from all impacted utilities