



Community Development Department

DATE: March 26, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: Utility easement release on Lots 5B and 6, Block 1, Edens Subdivision.

REQUEST:

Logan and Hannah Hauf are requesting approval for the release of a 14-foot utility easement over the south 7 feet of Lot 5B and the north 7 feet of Lot 6, running 390 feet east and west, less the west 7-foot and east 10-foot perimeter easements, in Edens Subdivision.

BACKGROUND INFORMATION:

The easement was granted with the plat of Edens Subdivision, which was recorded June 5, 2017. The easement is classified as a franchise utility easement and not subject to a public hearing.

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 approval of release of a 14-foot utility easement over the south 7 feet of Lot 5B and the north 7 feet of Lot 6, running 390 feet east and west, less the west 7-foot and east 10-foot perimeter easements, in Edens Subdivision, as described in the attached resolution.

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. BCC_PLMD_UEAS_Edens_Subdivision

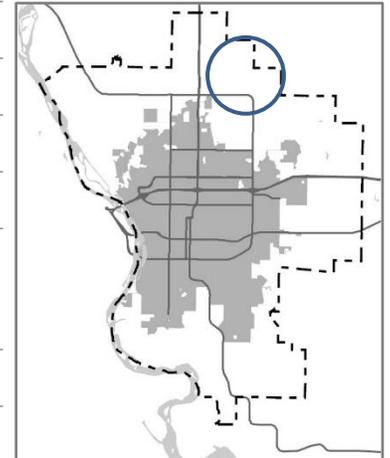
STAFF REPORT

Application for: **Easement Release**

Project ID: **PLMD2024-004**

Project Summary

<i>Title:</i>	Edens Subdivision, Lots 5B and 6, Block 1
<i>Status:</i>	City Commission - Final Consideration
<i>Property Owner(s):</i>	Logan and Hannah Hauff
<i>Project Contact:</i>	Logan Hauff
<i>Project Location:</i>	Northeast of Bismarck, south of 84th Avenue NE and west of 41st Street NE, to the east of Arcata Drive
<i>Project Size:</i>	5,460 square feet, more or lees
<i>Applicant Request:</i>	Vacate the 14-foot utility easement along the south line of Lot 5B and the north line of Lot 6, running 390 feet east and west, less the west 7-foot and east 10-foot perimeter easements, in Edens Subdivision
<i>Staff Recommendation:</i>	Approve



Project Narrative

Logan and Hannah Hauff are requesting approval of release of a 14-foot utility easement over the south 7 feet of Lot 5B and the north 7 feet of Lot 6, running 390 feet east and west, less the west 7-foot and east 10-foot perimeter easements, in Edens Subdivision.

The easement was granted with the plat of Edens Subdivision, which was recorded June 5, 2017. The easement is classified as a franchise utility easement and not subject to a public hearing.

The applicant has obtained letters from Montana-Dakota Utilities, Capital Electric Cooperative, Lumen, and South Central Regional Water consenting to the release of the easement.

Public Engagement

The requested utility easement release is exempt from public hearing and notification requirements. Release of any easement, other than franchise utility easements, requires a public hearing by City policy.

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

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.

The easement proposed for release is no longer needed for the purpose for which it was dedicated ([Goal C10-b](#), [Goal C11](#))

Yes. The County Engineer has affirmed that the utility easement proposed for release is not necessary for County services and operations. Public utility providers with facilities or operations in the area have affirmed in writing that the easement, or part thereof, proposed for release is not necessary to their present or planned service.

Proper administrative procedures related to the request are being followed.

Yes. The easement proposed for release is classified as a franchise utility easement and is thus exempt from public hearing and notification requirements, according to the City's Easement Release policy. Staff have reviewed the requested

release and present to City Commission for final approval.

The public health, safety and general welfare will not be adversely impacted by the proposed release of a utility easement ([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 utility easement would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of release of a 14-foot utility easement over the south 7 feet of Lot 5B and the north 7 feet of Lot 6, running 390 feet east and west, less the west 7-foot and east 10-foot perimeter easements, in Edens Subdivision.

Attachments

1. Draft Resolution
2. Release Exhibit
3. Petition from Landowner

(continued)

4. Utility Consent Forms

Staff report prepared by: Lauren Oster, Planner

701-355-1846 | laoster@bismarcknd.gov

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

**RELEASE OF UTILITY EASEMENT
IN EDENS SUBDIVISION (PLMD2024-004)**

WHEREAS, the owners of property described as Lots 5B and 6, Block 1, Edens Subdivision, adjoining and contiguous to a platted utility easement, have heretofore joined in petition requesting that said utility easement be released, verified by oath of at least one petitioner and accompanied by a plat of said easement to be released, having set forth the facts and reason for said release; and

WHEREAS, said platted easement is shown on the plat of Edens Subdivision, which was recorded on June 5, 2017; and

WHEREAS, the County Engineer determined that the utility easement proposed for release is no longer necessary to provide utility services to the area; and

WHEREAS, the utility service providers for which the easement was granted have filed consent with the City of Bismarck.

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

The entire South 7 feet of Lot 5B, Block 1, Edens Subdivision, less the West 7 feet and less the East 10 feet, in Burleigh County, North Dakota

is in all things allowed and granted.

BE IT FURTHER RESOLVED that the petition to release the utility easement described as:

The entire North 7 feet of Lot 6, Block 1, Edens Subdivision, less the West 7 feet and less the East 10 feet, 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 26th 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 26, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 26th day of March, 2024.

Jason Tomanek
City Administrator
Bismarck, North Dakota

PLMD 24-4

RECEIVED

FEB 29 2024



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

UNIFIED DEVELOPMENT APPLICATION

Last Revised: 2/08/2023

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

Application submitted for (check all that apply):

- Preliminary Major Plat Final Major Plat Minor Plat Plat Vacation
- Annexation Zoning Map Amendment Planned Unit Development (PUD) / PUD Amendment
- Special Use Permit Variance Rural Lot Split (RR & RR5)
- Major Street Plan Amendment 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:	Hauff, Logan		
Legal description: <small>(Lot, Block, Addition/Subdivision)</small>	Lot 5B & 6, Block1, Edens Subdivision		
Street address of property:	8175 & 8165 Arcata Dr Bismarck, ND 58503		
Existing Zoning:		Proposed Zoning:	
Acreage:		Number of Lots:	2
Description of development proposal, including reason(s) for the request: <small>(if additional room is needed, please attach a separate sheet)</small>	Vacate the 14' utility easement along the south line of Lot 5B and the north line of lot 6 running 390' East & West in Edens Subdivision.		

APPLICANT/DEVELOPER	
Name:	Logan Hauff
Mailing Address:	8165 Arcata Dr Bismarck, ND 58503

PROPERTY OWNER (If Different Than Applicant/Developer)	
Name:	
Mailing Address:	

CONTACT PERSON/CONSULTANT (If Different Than Applicant/Developer)	
Name:	Logan Hauff
Mailing Address:	[REDACTED]

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)

2/23/24

Submitted

N/A

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

Exhibit showing location of request

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



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UTILITY CONSENT FORM

Last Revised: 1/11/2023

Consent Provided for:

- Right-of-Way Vacation
- Easement Release
- Encroachment within Easement (e.g. sign)

Name of Utility Service Provider:	Capital Electric Coop.
Legal Description of area proposed for release/vacation:	Vacate the 14' utility easement along the south line of Lot 5B and the north line of lot 6 running 390' East & West in Edens Subdivision.

- An exhibit of the above-described area is attached to this form

Conditions Required (if any):	Retain utility easements as otherwise shown on Lots 5 & 6 Eden's Subdivision, namely the 7' and 10' utility easements shown around the lot perimeters. These easements were not shown on the plat of irregular description and would apply to Lots 5A, 5B, and 6.
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I, Greg Owen, a representative of the above-noted utility provider, hereby consent to the action described herein with the understanding that all noted conditions would be met.


(Signature)

2/23/2024
(Date)

Use Instructions:

This form must be completed, signed, and attached to any petition to release or vacate rights held by the utility service provider, or to any request for an encroachment within an easement without altering said easement. In the case of a general utility easement or public right-of-way, a separate form should be used for each entity providing utility services to the area within which the proposed vacation/release is located.



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UTILITY CONSENT FORM

Last Revised: 1/11/2023

Consent Provided for:

- Right-of-Way Vacation
- Easement Release
- Encroachment within Easement (e.g. sign)

Name of Utility Service Provider:	Lumen
Legal Description of area proposed for release/vacation:	Vacate the 14' utility easement along the south line of Lot 5B and the north line of lot 6 running 390' East & West in Edens Subdivision.

- An exhibit of the above-described area is attached to this form

Conditions Required (if any):	
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I, CONNIE M KASSIAN, a representative of the above-noted utility provider, hereby consent to the action described herein with the understanding that all noted conditions would be met.

(Signature)

2-23-2024
 (Date)

Use Instructions:

This form must be completed, signed, and attached to any petition to release or vacate rights held by the utility service provider, or to any request for an encroachment within an easement without altering said easement. In the case of a general utility easement or public right-of-way, a separate form should be used for each entity providing utility services to the area within which the proposed vacation/release is located.



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Last Revised: 1/11/2023

UTILITY CONSENT FORM

Consent Provided for:

- Right-of-Way Vacation
- Easement Release
- Encroachment within Easement (e.g. sign)

Name of Utility Service Provider:	South Central Water
Legal Description of area proposed for release/vacation:	Vacate the 14' utility easement along the south line of Lot 5B and the north line of lot 6 running 390' East & West in Edens Subdivision.

- An exhibit of the above-described area is attached to this form

Conditions Required (if any):	
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I, Larry Kirschmann, a representative of the above-noted utility provider, hereby consent to the action described herein with the understanding that all noted conditions would be met.


(Signature)

2-26-2024
(Date)

Use Instructions:

This form must be completed, signed, and attached to any petition to release or vacate rights held by the utility service provider, or to any request for an encroachment within an easement without altering said easement. In the case of a general utility easement or public right-of-way, a separate form should be used for each entity providing utility services to the area within which the proposed vacation/release is located.



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Last Revised: 1/11/2023

UTILITY CONSENT FORM

Consent Provided for:

- Right-of-Way Vacation
- Easement Release
- Encroachment within Easement (e.g. sign)

Name of Utility Service Provider:	MDU
Legal Description of area proposed for release/vacation:	Vacate the 14' utility easement along the south line of Lot 5B and the north line of lot 6 running 390' East & West in Edens Subdivision.

- An exhibit of the above-described area is attached to this form

Conditions Required (if any):	
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I, ROBERT FRANK, a representative of the above-noted utility provider, hereby consent to the action described herein with the understanding that all noted conditions would be met.


 (Signature)

2/29/2024
 (Date)

Use Instructions:

This form must be completed, signed, and attached to any petition to release or vacate rights held by the utility service provider, or to any request for an encroachment within an easement without altering said easement. In the case of a general utility easement or public right-of-way, a separate form should be used for each entity providing utility services to the area within which the proposed vacation/release is located.