



Community Development Department

DATE: June 11, 2024

FROM: Ben Ehreth, Community Development Director

ITEM: Whispering Ridge Second Subdivision - Stormwater and Drainage Easement Release

REQUEST:

Public hearing for the conditional release of the 20-foot stormwater and drainage easement on Lots 1 and 2, Block 1, Whispering Ridge Second Subdivision, requested by Knutson Homes and Rodney and Kathryn Froelich.

BACKGROUND INFORMATION:

Knutson Homes and Rodney and Kathryn Froelich request the release of a 20-foot stormwater and drainage easement over Lots 1 and 2, Block 1, Whispering Ridge Second Subdivision in conjunction with recording a new stormwater and drainage easement to the north of the lot to construct a single-family dwelling in the center of these lots.

As these lots are within the extraterritorial area (ETA), City and County staff have determined that the new easement should be dedicated to Burleigh County. Relocation of any stormwater and drainage infrastructure will be required prior to issuance of the building or occupancy permit for the proposed building.

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:

Hold a public hearing for the conditional release of the 20-foot stormwater and drainage easement on Lots 1 and 2, Block 1, Whispering Ridge Second Subdivision and take final action on this item.

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. Whispering Ridge Second Subdivision

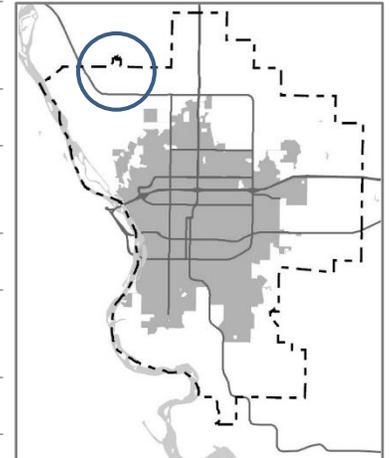
STAFF REPORT

Application for: **Easement Release**

Project ID: **PLMD2024-006**

Project Summary

<i>Title:</i>	Whispering Ridge Second Subdivision, Lots 1 and 2, Block 1
<i>Status:</i>	City Commission - Public Hearing
<i>Property Owner(s):</i>	Rodney and Kathryn Froehlich, Owners Knutson Homes, Applicant
<i>Project Contact:</i>	Andra Marquardt, Toman Engineering
<i>Project Location:</i>	Lots 1 and 2, Block 1, Whispering Ridge Second Subdivision
<i>Project Size:</i>	2.53 acres
<i>Applicant Request:</i>	Vacate the existing stormwater and drainage easement and record a new stormwater and drainage easement to the north of the lot
<i>Staff Recommendation:</i>	Approve



Project Narrative

Knutson Homes and Rodney and Kathryn Froelich are requesting the release of a stormwater and drainage easement over Lots 1 and 2, Block 1, Whispering Ridge Second Subdivision in conjunction with recording a new stormwater and drainage easement to the north of the lot to develop a home in the center of these lots.

The easement was granted to the City of Bismarck and the public with the plat of Whispering Ridge Second Subdivision, which was recorded October 24, 2019. As these lots are within the extraterritorial area (ETA), City and County staff have determined that the new easement should be dedicated to Burleigh County. Relocation of any stormwater and drainage infrastructure will be required prior to issuance of the building or occupancy permit for the proposed building.

Public Engagement

Release of any easement, other than franchise utility easements, requires a public hearing by City policy. Owners of adjacent properties have been notified of the public hearing to be held on this request.

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.

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

Yes, with dedication of a new stormwater and drainage easement. The overall function of stormwater management in this area would be retained if the easement proposed for release is replaced by a new stormwater and drainage easement. A draft of this replacement easement is attached to this staff report.

This new stormwater and drainage easement will be dedicated to Burleigh County. The Burleigh County Commission accepted the easement on June 3, 2024. It will be recorded in conjunction with the release of the current easement if this request is approved.

Proper administrative procedures related to the request are being followed

Yes. The proposed easement is subject to a public hearing and notification requirements, according to the City's Easement Release policy. A public hearing has been scheduled for this requested easement release, and all notice requirements have been met, as documented in this report above.

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 the stormwater and drainage easement 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 a stormwater and

(continued)

drainage easement on Lots 1 and 2, Block 1,
Whispering Ridge Second Subdivision.

Attachments

1. Draft Resolution
2. Release Exhibit
3. Replacement Exhibit and Description
4. Original Plat Exhibit
5. 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 OF STORMWATER & DRAINAGE EASEMENT
IN WHISPERING RIDGE SECOND SUBDIVISION (PLMD2024-006)**

WHEREAS, the owners of property described as Lots 1 and 2, Block 1, Whispering Ridge Second Subdivision, adjoining and contiguous to a platted stormwater & drainage easement, have heretofore joined in petition requesting that said stormwater & drainage 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 Whispering Ridge Second Subdivision, which was recorded on October 24, 2019; and

WHEREAS, the City Engineer and County Engineer have determined that the stormwater & drainage easement proposed for release is no longer necessary to provide stormwater & drainage services to the area; 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 stormwater & drainage easement described as:

All of the 20-foot stormwater & drainage easement within Lots 1 and 2, Block 1, Whispering Ridge Second Subdivision in the City of Bismarck, Burleigh County, North Dakota.

Containing 8,000 Square Feet, more or less

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 11th day of June, 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 June 11, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota.

Jason Tomanek
City Administrator
Bismarck, North Dakota

Date

DRAFT

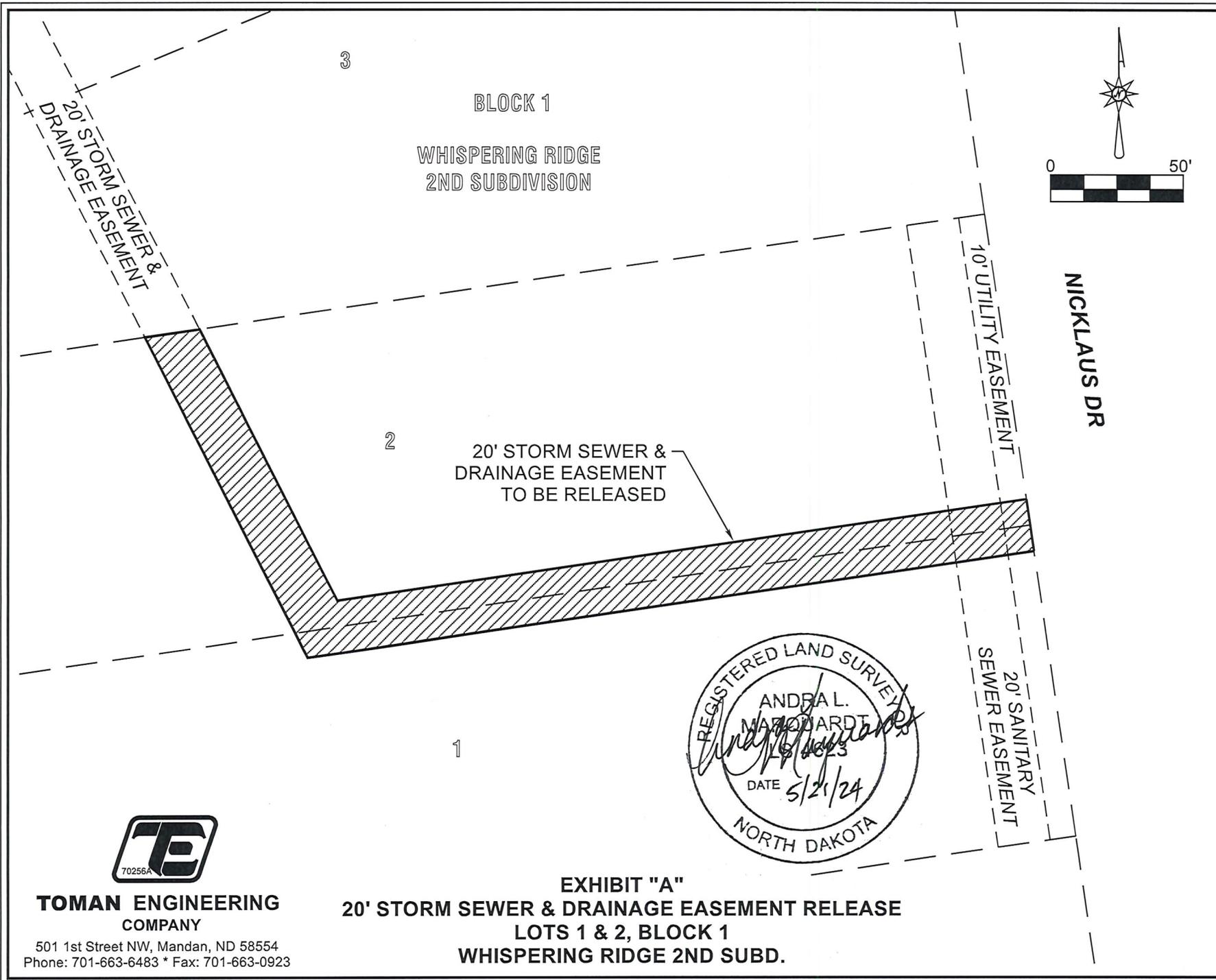
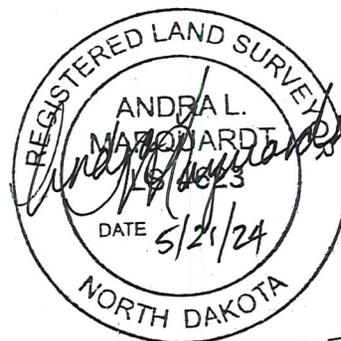


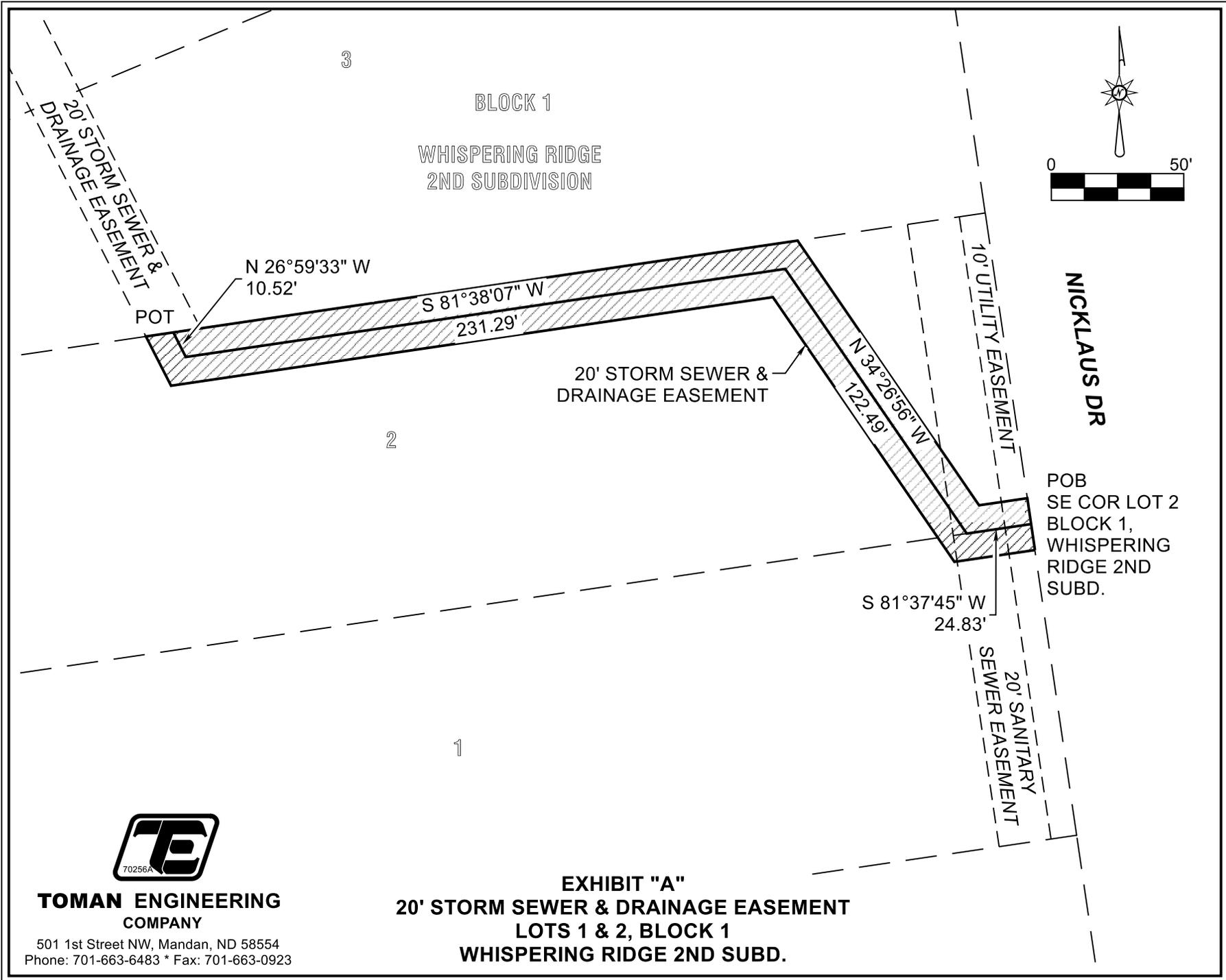
EXHIBIT "A"
20' STORM SEWER & DRAINAGE EASEMENT RELEASE
LOTS 1 & 2, BLOCK 1
WHISPERING RIDGE 2ND SUBD.



**TOMAN ENGINEERING
 COMPANY**

501 1st Street NW, Mandan, ND 58554
 Phone: 701-663-6483 * Fax: 701-663-0923

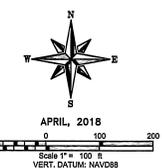
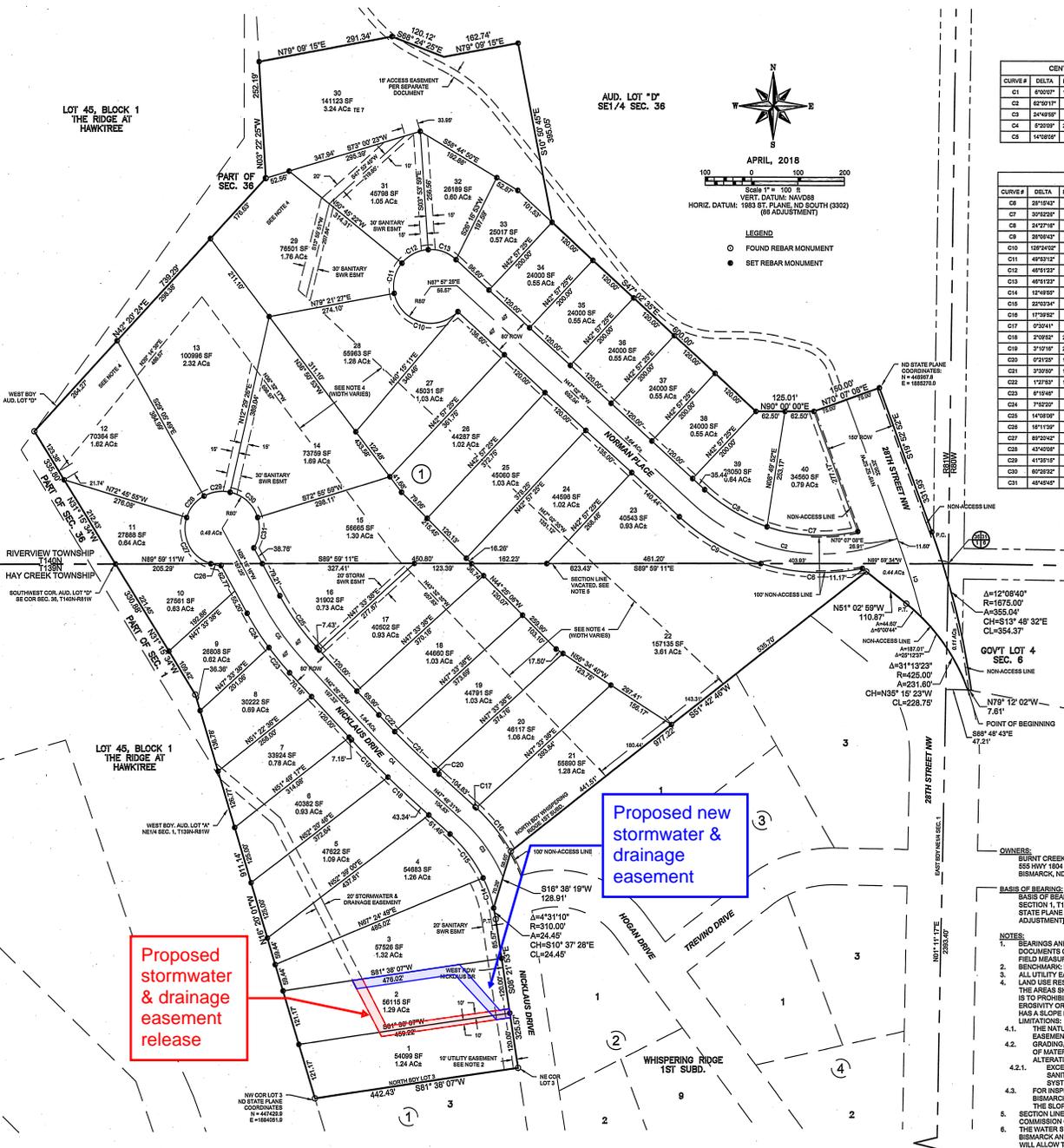




WHISPERING RIDGE 2ND SUBDIVISION

OF BURLEIGH COUNTY, NORTH DAKOTA

ALL OF LOTS 1 & 2, BLOCK 1, WHISPERING RIDGE 1ST SUBDIVISION, PART OF AUDITOR'S LOT "A" OF NE1/4 SEC. 1, T139N-R81W, PART OF GOVERNMENT LOT 4, SECTION 6, T139N-R80W, HAY CREEK TOWNSHIP, AND PART OF AUDITOR'S LOT "D" OF SE1/4 SEC. 36, T140N-R81W, RIVERVIEW TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA



LEGEND

- FOUND REBAR MONUMENT
- SET REBAR MONUMENT

CENTERLINE STREET CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD LENGTH
C1	67°00'00"	100.00'	107.87'	S81°02'49"E	149.27'
C2	12°21'11"	430.00'	441.47'	S10°18'44"E	433.37'
C3	24°49'59"	350.00'	351.49'	N40°21'33"W	350.59'
C4	6°20'00"	2000.00'	188.29'	N40°00'30"W	188.19'
C5	14°09'58"	800.00'	148.02'	N39°22'19"W	147.69'

LOTLINE CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD LENGTH
C6	30°12'42"	448.00'	239.89'	S81°17'19"E	219.77'
C7	32°22'29"	320.00'	183.92'	S10°18'05"E	156.91'
C8	24°22'48"	380.00'	387.07'	S59°18'12"E	355.89'
C9	28°30'43"	448.00'	304.71'	S60°07'57"E	203.41'
C10	18°24'02"	80.00'	179.49'	S72°52'54"E	148.81'
C11	49°07'32"	80.00'	85.69'	S14°18'02"W	87.49'
C12	49°07'32"	80.00'	85.62'	S52°02'22"W	83.82'
C13	49°07'32"	80.00'	85.42'	N70°57'17"W	83.62'
C14	12°49'50"	310.00'	69.42'	N16°18'00"W	69.29'
C15	22°02'34"	310.00'	119.23'	N42°44'44"W	116.62'
C16	11°59'52"	390.00'	120.24'	N40°22'54"W	119.79'
C17	0°24'04"	280.00'	2.88'	N10°11'19"W	2.88'
C18	2°02'52"	250.00'	77.07'	N44°41'35"W	72.02'
C19	3°10'19"	250.00'	112.81'	N44°51'30"W	112.82'
C20	0°24'04"	280.00'	13.31'	N47°59'48"W	13.21'
C21	3°10'19"	190.00'	120.21'	N40°21'41"W	120.19'
C22	1°27'59"	190.00'	50.11'	N10°10'19"W	50.11'
C23	0°24'04"	280.00'	149.98'	N10°11'19"W	149.92'
C24	7°32'29"	840.00'	87.05'	N12°12'28"W	87.89'
C25	14°09'58"	80.00'	138.19'	N10°12'19"W	137.80'
C26	18°11'59"	80.00'	22.61'	S89°12'59"E	22.64'
C27	80°22'42"	80.00'	124.79'	S01°28'19"E	124.49'
C28	41°59'19"	80.00'	85.07'	S51°41'49"W	84.81'
C29	60°28'32"	80.00'	84.39'	N41°17'19"E	83.53'
C30	48°43'45"	80.00'	88.09'	N7°10'51"E	88.69'

OWNERS:
BURNT CREEK GROUP, LLC
555 HWY 1804 NE
BISMARCK, ND 58503

BASIS OF BEARING:
NORTH BOUNDARY LINE OF THE NE1/4 SECTION 1, T139N-R80W SOUTH 89°59'11" WEST, NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83 SOUTH ZONE 1698 ADJUSTMENT). UNITS ARE INTERNATIONAL FEET.

NOTES:

- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.
- BENCHMARK: BSC BASE STATION, ELEV: 1885.60.
- ALL UTILITY EASEMENTS 10 FEET UNLESS OTHERWISE NOTED.
- LAND USE RESTRICTION: THE PURPOSE OF THE RESTRICTION IN THE AREA SHOWN ON THIS PLAN (LOTS 1-29 AND 31, BLOCK 1) IS TO PROHIBIT ANY ACTIVITY THAT COULD AFFECT THE EROSION OR STABILITY OF THE SLOPES. EACH OF THE LOTS HAS A SLOPE PROTECTION EASEMENT AND DEVELOPMENT LIMITATIONS:
- THE NATURAL VEGETATION WITHIN THE SLOPE PROTECTION EASEMENT SHALL BE LEFT UNDISTURBED.
- GRADING, EXCAVATING, FILLING, TERRACING, STOCKPILING OF MATERIAL OR EQUIPMENT, OR ANY OTHER SURFACE ALTERATIONS ARE NOT ALLOWED.
- EXCEPTIONS: INSTALLATION AND MAINTENANCE OF SANITARY SEWER SYSTEM, AND STORM WATER SYSTEM.
- FOR INSPECTION AND MONITORING PURPOSES, CITY OF BISMARCK PERSONNEL WILL BE ALLOWED ACCESS INTO THE SLOPE PROTECTION EASEMENT.
- SECTION LINE WAS VACATED BY BURLEIGH COUNTY COMMISSION ON 10/22/2017.
- THE WATER SERVICE AGREEMENT BETWEEN THE CITY OF BISMARCK AND SOUTH CENTRAL REGIONAL WATER DISTRICT WILL ALLOW THE PROVISION OF WATER SERVICE TO WHISPERING RIDGE 2ND SUBDIVISION FOR A PERIOD OF 5 YEARS AND SUBSEQUENT TO THAT TIME, THE CITY MAY, UPON A 1-YEAR NOTICE, REQUIRE SOUTH CENTRAL REGIONAL WATER DISTRICT TO DISCONTINUE WATER SERVICE IF CITY WATER SERVICE IS AVAILABLE.
- LOT 30 IS RESERVED FOR GREENOPEN AREA & SANITARY SEWER SYSTEM. IT IS TO BE HELD IN COMMON OWNERSHIP BY ALL LOT OWNERS WITHIN THIS SUBDIVISION. ACCESS TO THIS LOT, AND CONTINUING ACCESS TO HAWKTRIE GOLF COURSE WILL BE DETERMINED VIA SEPARATE DOCUMENT.
- TOTAL ROAD ACRES: 4.82
- TOTAL LOT ACRES: 5.13
- TOTAL ACRES: 5.13
- NE1/4 SEC 1, T139N-R81W: 21.89
- SE1/4 SEC 36, T140N-R81W: 29.43
- GOVT LOT 4, SEC 6, T139N-R80W: 0.11



TOMAN ENGINEERING
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923
SURVEYOR: ANDREA L. MARGUARDT, RLS-4623
SHEET 1 OF 2



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

RECEIVED
 APR 15 2024

UNIFIED DEVELOPMENT APPLICATION

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 LTMD 24-8

Plat Modification

- Street/Alley Vacation
- Easement Release PLMD 24-6
- Non-Access Line Release

PROPERTY INFORMATION			
Project Name:	Lots 1 & 2, Block 1, Whispering Ridge 2nd Subdivision		
Legal description: <small>(Lot, Block, Addition/Subdivision)</small>	Lots 1 & 2, Block 1, Whispering Ridge 2nd Subdivision		
Street address of property:	8112 & 8120 Nicklaus Drive, Bismarck		
Existing Zoning:	R5	Proposed Zoning:	R5
Acreage:	2.53	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>	Combine Lots, vacate existing 20' stormwater & drainage easement & record new storm sewer easement to reflect relocated storm sewer.		

APPLICANT/DEVELOPER	
Name:	Knutson Homes
Mailing Address:	101 Slate Drive, Bismarck, ND 58503

PROPERTY OWNER (If Different Than Applicant/Developer)	
Name:	Rodney & Kathryn Froelich
Mailing Address:	8710 Hwy 6, Selfridge, ND 58568

CONTACT PERSON/CONSULTANT (If Different Than Applicant/Developer)	
Name:	Toman Engineering Co.
Mailing Address:	501 1st St NW, Mandan, ND 58554

