

STAFF REPORT

July 27, 2000

VROW #00VR007 - Vacation of Right of Way

ITEM 6

GENERAL INFORMATION:

PETITIONER	Olson Remodel & Construction
REQUEST	VROW #00VR007 - Vacation of Right of Way
LEGAL DESCRIPTION	The 25 foot wide public right-of-way lying adjacent to Lots 1R, 2R and 3R of Harms Tract, Section 8, T1N, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 4,375 Square Feet
LOCATION	5250 Power Street
EXISTING ZONING	Limited Agriculture (County)
SURROUNDING ZONING	
North:	Limited Agriculture (County)
South:	Flood Hazard (City)
East:	Flood Hazard (City)
West:	Limited Agriculture (County)
PUBLIC UTILITIES	Septic System Private Well
REPORT BY	Bill Lass

RECOMMENDATION: Staff recommends that the Vacation of Right of Way be **denied without prejudice at the applicant's request.**

GENERAL COMMENTS: **This Staff Report has been revised as of 7/19/00. Revised text is shown in bold print.** The petitioner **originally** submitted this request to vacate an approximately 175 foot long by twenty-five foot wide portion of public right-of-way. The subject property is located just outside of the City limits but is within the three-mile platting area. The property is located just past the fish hatchery on the north side of S.D. Highway 44 West. "Power Street" provides access to the subject property. Power Street is a very narrow street located in a twenty-five foot wide public right-of-way which connects with Highway 44. The Power street right-of-way extends beyond the termination of the improved roadway by a distance of approximately one hundred feet. The right-of-way **that was** to be vacated is an east/west segment that connects with the terminus of the Power Street right-of-way. The portion to be vacated is a "paper street" with no improved roadway being located within the right-of-way.

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At the end of Power Street are two driveways serving the two homes located in the area. The petitioner's home and driveway are located on the east side off the end of Power Street. The driveway to the petitioner's home extends across Lot 1 to the home located on Lot 2. The petitioner owns Lots 1, 2 and 3 (see exhibit). The vacation request is resulting from the petitioner's desire to obtain a building permit from Pennington County for a hot tub enclosure. With the presence of the right-of-way the **Pennington County Planning Department originally indicated to the petitioner that he** may not be able to comply with the building setbacks as required through the Pennington County Zoning Ordinance. City Planning Staff originally recommended that the petitioner pursue a Zoning Variance through Pennington County. The Pennington County Planning Department, however, indicated to the petitioner that if the City vacated the right-of-way, the setback issue would be resolved as the property could be considered a developmental lot by Pennington County. After further review of this issue, Staff has determined that the lots apparently do not meet the definition of a developmental lot according to the Pennington County Zoning Ordinance.

STAFF REVIEW: The Planning Commission continued action on this request at the June 29, 2000 Planning Commission meeting to allow the petitioner to meet with Staff to discuss this matter further. Staff and the petitioner met **shortly after the June 29 meeting with the result of the meeting being that the** petitioner decided to **secure** a structural survey in order to determine the precise location of all buildings with respect to the lot lines. **On July 14, 2000 the Pennington County Planning Department indicated to City Staff that the petitioner had completed this survey and that the survey showed the existing structure was in compliance with all applicable setback requirements thereby allowing the issuance of a building permit without either a variance or the vacation of right-of-way. On July 18 Staff talked to the petitioner and the petitioner expressed his desire to have this request denied without prejudice.**