

STAFF REPORT

June 5, 2003

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**No. 03VR005 - Vacation of Right-of-Way**

**ITEM 51**

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GENERAL INFORMATION:

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|-------------------------------|---|
| PETITIONER                    | William H. Siegel   |
| REQUEST                       | <b>No. 03VR005 - Vacation of Right-of-Way</b>   |
| EXISTING<br>LEGAL DESCRIPTION | The 40 foot right-of-way north of Lot 5, Freeland Subdivision, located in the SE1/4 SW1/4, Section 19, T2N, R8E, BHM, Pennington County, South Dakota |
| PARCEL ACREAGE                | Approximately 2.0 acres   |
| LOCATION                      | 2925 Freeland Avenue  |
| EXISTING ZONING               | General Agriculture District (County)   |
| SURROUNDING ZONING            |   |
| North:                        | General Agriculture District (County)   |
| South:                        | General Agriculture District (County)   |
| East:                         | General Agriculture District (City)   |
| West:                         | General Agriculture District (County)/Suburban Residential District   |
| PUBLIC UTILITIES              | Private on-site wastewater and water  |
| DATE OF APPLICATION           | 05/09/2003  |
| REPORT BY                     | Tom Kurtenbach  |

RECOMMENDATION:

Staff recommends that the Vacation of Right-of-Way be denied.

GENERAL COMMENTS: The applicant is proposing to vacate a 40 foot wide right of way located north of Lot 5 of the Freeland Subdivision and south of an approximate one acre parcel owned by the applicant. The applicant currently resides on the parcel located to the north of the right of way proposed for vacation. A petition to vacate the right of way was submitted by the applicant on May 9, 2003.

STAFF REVIEW: According to Pennington County records, the owners of the land located adjacent to the segment of right of way proposed for vacation include the applicant and Louise E. Wold. State statute requires that the vacation petition include the signatures of the owners of land located adjacent to the segment of right of way proposed for vacation. A signed petition was submitted with the vacation of right of way request.

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Exhibit A: The vacation of right of way procedures requires that the applicant submit four copies of the vacation instruments marked "Exhibit A" prepared by a registered Professional Engineer or Land Surveyor. The vacation instrument shall include book, page number and date of original plat dedicating right of way. The date of the original plat dedicating the right of way proposed for vacation was not submitted by the applicant.

Utilities: The vacation of right of way requires the permission of all affected utility companies. At the time of this writing, Qwest Communications, Inc. has not responded to the vacation request.

Street Network: The Pennington County Highway Department staff does not support the vacation of right of way. By vacating this segment of right of way, Freeland Avenue effectively becomes a dead end right of way. The Exhibit A submitted by the applicant does not accurately identify the extent of Freeland Avenue right of way. The plat document identifies the northern extent of the Freeland Avenue right of way ending at the northern extent of the right of way proposed for vacation.

The right of way proposed for vacation is located one block north of Mullock Street. Ardee Avenue is located one block west of Freeland Avenue, and extends to a point located south of the western extent of the right of way proposed for vacation. Staff is concerned with vacating this segment of right of way. When future development occurs to the north and west, this right of way will provide street and utility connectivity to these future parcels.

Staff cannot support the vacation of right of way at this time. As such, staff is recommending that the vacation request be denied.