

STAFF REPORT  
January 24, 2008

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**No. 07VR013 - Vacation of Right-of-Way**

**ITEM 34**

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GENERAL INFORMATION:

APPLICANT	Lawrence Dickey and Janice Morgan
AGENT	Ted Schultz for CETEC Engineering Services, Inc.
PROPERTY OWNER	Lawrence Dickey and Janice Morgan
REQUEST	<b>No. 07VR013 - Vacation of Right-of-Way</b>
EXISTING LEGAL DESCRIPTION	A 40 foot parkway dedicated to the public across Lots C and D of Lot 12, located in the SE1/4 of the NE1/4, Section 9, T1N, R8E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.53 acres
LOCATION	3782 E. Highway 44
EXISTING ZONING	Suburban Residential District (Pennington County)
SURROUNDING ZONING	
North:	Suburban Residential District (Pennington County)
South:	Suburban Residential District (Pennington County)
East:	Suburban Residential District (Pennington County) - General Commercial District
West:	Suburban Residential District (Pennington County)
PUBLIC UTILITIES	Rapid Valley Sanitary District
DATE OF APPLICATION	11/9/2007
REVIEWED BY	Travis Tegethoff / Ted Johnson

RECOMMENDATION:

Staff recommends that the Vacation of Right-of-way be approved with the following stipulation:

1. **Prior to Planning Commission approval, all necessary miscellaneous documents required to secure utility and drainage easements for the existing and proposed utilities shall be recorded at the Register of Deed's Office, and copies submitted to the Growth Management Department.**

GENERAL COMMENTS:

**(Update January 14, 2008. All revised text is shown in bold.) All revised and/or added text is shown in bold print. This item was continued to the January 24, 2008 Planning Commission to allow the applicant to submit additional information. On January 8, 2008 the applicant submitted additional information for review and approval**

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**demonstrating that the sign would be located outside of the proposed drainage easement.** The applicant has submitted a Vacation of Right-of-Way request to vacate a portion of Highway 44 right-of-way adjacent to Lots C and D of Lot 12, located in the SE1/4 of the NE1/4, Section 9, T1N, R8E, BHM, Pennington County, South Dakota. The property is located at 3782 E. Highway 44. The applicant is proposing to vacate the right-of-way to allow a sign to be installed in that area.

STAFF REVIEW:

Staff has reviewed the Vacation of Right-of-Way and has noted the following considerations:

Petition to Vacate Public Right-of-Way: The applicant and the adjacent property owners have submitted a petition to vacate a portion of Highway 44 right-of-way that extends through the property to allow for the installation of a sign. The adjacent properties have access from the remaining South Dakota Highway 44 right-of-way.

Utility Company Approval: The vacation of a utility easement requires permission of all affected utility companies. Staff noted that all of the affected utility companies have been contacted. All affected utility companies have provided written documentation indicating that they do not have objections to vacating the right-of-way.

Water System: Rapid Valley Sanitary District has an existing water main within the area proposed to be vacated. The applicant is proposing to provide a 30 foot wide utility easement for the existing water main. Staff recommends that prior to Planning Commission approval a utility and drainage easement shall be recorded at the Pennington County Register of Deed's Office.

Sign Easement: The applicant is proposing a sign easement over a portion of the proposed drainage and utility easement. However, Section 16.12.200 states that any drainage easement, drainage right, or drainage right-of-way indicated on a subdivision plat or by other document dedicating the easement, right or right-of-way shall be kept free of all obstructions including, but not limited to buildings, walls, fences, hedges, trees, shrubs and firewood storage stacks or piles. As such, staff recommends that prior to Planning Commission approval a revised easement document shall be submitted for review and approval relocating the sign outside of the proposed drainage easement.

**On January 8, 2008 the applicant submitted a revised easement document relocating the sign outside of the proposed drainage easement.**

Street Networking: The right-of-way is identified on the Major Street Plan as an arterial street. However, the remaining right-of-way of 150 feet exceeds the 100 feet requirement for an arterial street. As such, staff is recommending that the Vacation of Right-of-Way be approved.