

STAFF REPORT
February 23, 2010

No. 09VE019 - Vacation of Easement

ITEM

GENERAL INFORMATION:

APPLICANT/AGENT	Robert Buchele
PROPERTY OWNER	Lois Koester
REQUEST	No. 09VE019 - Vacation of Easement
EXISTING LEGAL DESCRIPTION	Lot 8 of Block 2 of Hillsvieview Haven Subdivision, Section 7, T1S, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.48 acres
LOCATION	23658 Busted Five Court
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)
West:	Suburban Residential District (Pennington County)
PUBLIC UTILITIES	Hart Ranch water and septic tank
DATE OF APPLICATION	12/17/2009
REVIEWED BY	Ali DeMersseman / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Vacation of Easement be **approved with the following stipulation:**

- 1. Prior to approval by the Public Works Committee, an original signed and sealed copy of the Vacation Exhibit shall be submitted to the Growth Management Department.**

GENERAL COMMENTS: (Update, February 15, 2010. All revised and/or added text is shown in bold print.) This item was continued at the February 9, 2010 Public Works Committee meeting in order to allow the applicant to submit a copy of the Permanent Utility Easement document creating an easement for the existing water line and an original signed and sealed copy of the Vacation Exhibit. A copy of the recorded Permanent Utility Easement document has been submitted to the Growth Management Department. However, as of this writing, a signed and sealed copy of the Vacation Exhibit has not been submitted to the Growth Management Department. As such, staff recommends that prior to approval by the Public Works Committee, an original signed and sealed copy of the Vacation Exhibit must be submitted to the

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Growth Management Department.

The applicant has submitted a Vacation of Easement request to vacate a portion of an existing 20 foot wide water line easement on Lot 8, Block 2 of the Hillsview Haven Subdivision, located north of South Highway 16.

The property was originally platted in 1996 and an east-west water line easement was identified on the plat. The applicant is now proposing to vacate a portion of the existing 20 foot wide water line easement and create a new water line easement where the line was actually constructed. In addition, the site plan submitted with the application indicates that a portion of the garage and shed are located within the existing easement.

The applicant has also submitted a Variance request to the Pennington County Board of Adjustment to reduce the required side yard setback from 25 feet to 24.5 feet along the north lot line due to the encroachment of the existing garage and shed.

The property is located at the southeast corner of Busted Five Court and Busted Five Lane. A single family residence, garage and shed are located on the property.

STAFF REVIEW: Staff has reviewed the Vacation of Easement request and has noted the following considerations:

Utilities: The affected utility companies have indicated concurrence with the request to vacate the utility easement.

Permanent Utility Easement Document: As previously noted, a 20 foot wide water main easement along the northern portion of the property is identified on the plat document. However, the existing water line was constructed outside of this easement. The applicant has prepared a Permanent Utility Easement document for the existing water line; however, as of this writing, the document has not been recorded with the Register of Deeds. As such, staff recommends that prior to approval by the Public Works Committee, the Permanent Utility Easement document creating an easement for the existing water line be recorded at the Register of Deed's Office and a copy be provided to the Growth Management Department.

Vacation Exhibit: Prior to approval by the Public Works Committee, an original signed and sealed copy of the Vacation Exhibit must be submitted to the Growth Management Department.

Staff recommends that the Vacation of Easement be **approved with the stipulation as noted above.**