



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS
PLANNING COMMISSION/BOARD OF ZONING APPEALS
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MARION, KANSAS 66861
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STAFF REPORT

November 14, 2019

TO: Marion County Board of County Commissioners

FROM: Russ Ewy, AICP, Planning Consultant

SUBJECT: Protest Calculation – PC-19-04 Expedition Wind Conditional Use Permit.

Expedition Wind, LLC, on behalf of a collection of property owners, filed the above-referenced request for a conditional use permit to allow the development of electric transmission lines as part of a larger commercial wind energy conversion system project. Per K.S.A. 12-757(f), property owners within the 1000-foot notification buffer of an application site may file petitions against a zoning application, which may influence the number of votes required for a governing body to approve a zoning request.

In this instance, the Marion County Planning Commission ultimately recommended approval of the application during its public hearing on October 24, 2019. After the conclusion of the Planning Commission hearing, and before the statutory 14-day time limit, three protest petitions, containing four individual parcels of land, were filed with the Marion County Clerk's office and submitted to Planning staff for processing. Of these, two petitions containing three parcels of land were filed on property located within the 1000-foot notification buffer, and were determined to be valid and counted toward the 20 percent threshold referenced in K.S.A. 12-757(f).

After the staff's analysis, these protest petitions represent approximately 9.6 percent of the land area within the notification area. Therefore, no valid protest exists, and no three-quarter supermajority vote is required to accept the Planning Commission recommendation. Any potential override of the Planning Commission's recommendation for approval – either to deny or modify the conditions of approval - will require a two-thirds supermajority vote of the Board of Marion County Commissioners, per K.S.A. 12-757(f). Approval of the request, as recommended by the Planning Commission, will require a simple majority, or in the case of a three-member Commission, the same two votes out of three as with an override.

Tabulation of the petitions and the various calculations used to determine the final protest percentage are summarized below in Table 1, with a corresponding map of the protests shown on Exhibit A on page 3 of this report.

Table 1: Protest Calculations

	Area (Square Feet)
1000-Foot Notification Buffer:	15,439,617
Application Area:	(2,235,258)
Road Right-Of-Way:	(1,750,968)
Net Protest Area:	11,453,391
20-Percent Threshold:	2,290,678
Protested Property within Buffer:	1,098,998
Protest Percentage within Buffer:	9.60%

As indicated in Exhibit A, all petitions submitted are shown in pink as “protesting property” while those within 1,000 feet of the application area, and effecting the voting requirements, are dark red.

The basis for determining the validity of the petitions began with the assumption authorized persons signed on their behalf. The validated protest forms submitted provide the necessary information on ownership, legal description or parcel identification number, signature(s), as well as the date and time of filing with the Marion County Clerk’s office.

It is my opinion this determination was conducted using standard practices for such calculations and similar procedures as employed by other jurisdictions within the state. As with previous calculations, the areas referenced above utilized Marion County’s Geographic Information System data, information from the applicants, and verified with AutoCAD area calculations.

EXHIBIT A - PC-19-04 - EXPEDITION WIND CUP

