



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS

PLANNING COMMISSION/BOARD OF ZONING APPEALS

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November 22, 2016

TO: Marion County Planning Commission

FM: Emma Tajchman, Director of Planning and Zoning

SUBJECT: PC-16-05 – Vacation of “A” Street of the Aulne Plat in Marion County, Kansas.

Background: This request was initiated by Justin and Brea Hett, and Terry Olsen. These are the only property owners with land adjacent to the platted “A” Street right-of-way. Vacation petitions were submitted by both parties, thus beginning the vacation process. Further discussion concerning the background and other factors in the area are outlined below. This request is to vacate only the platted “A” Street as shown in the original Aulne plat.

Under the provisions of K.S.A. 58-2613 et seq, a petition for a vacation of any item shown on the face of a plat requires a public hearing. The public hearing is to be held by either the Board of County Commissioners or the Planning Commission having jurisdiction. The public hearing for this vacation request has been set for the Marion County Planning Commission in accordance with the provisions of the controlling statutes and following the practices of this County.

The Marion County Planning Commission is to review the request and make a recommendation regarding the vacation and submit such recommendation to the Board of County Commissioners in the same manner provided by K.S.A. 12-752, and amendments thereto, for submission and approval of recommendations regarding plats. The Board of County Commissioners must determine that the public will suffer no loss or inconvenience by such vacation and that no private rights will be injured or endangered thereby. Ultimately, if the vacation is approved, the Board of County Commissioners will act upon an order that such vacation be made.

A home owned and occupied by the Hett’s is located on Lots 1-14 of Block 6. Lots 1-14 of Block 1 are generally considered part of this home site. “A” street as outlined in the Aulne plat lies between the two blocks. The property owners intend to install a new onsite wastewater system because of problems with the existing system. If constructed in accordance with Marion County Sanitary Code, the new system would require usage of the platted right-of-way to comply with the stipulated requirements of the Code.

The remaining lots adjacent to “A” Street right-of-way, found in Blocks 2, 3, 4, and 5, consist of agricultural ground. No improvements can be found on these lots and the land use is primarily agricultural, including most of the “platted street right-of-way”. No use will change by the extent of the requested vacation and, it is the opinion of staff that vacating the street right-of-way would cause the public no undue hardship.

Staff has discussed this request with Jesse Hamm, Director of Marion County Road and Bridge Department, and he advises there is no desire or need for the right-of-way. There are no utilities within the right-of-way that have been identified by any utility company. The only object currently in the right-of-way is an abandoned private water well. As such, there appears to be no need to maintain the right-of-way for any easement purposes.

Once vacated, the law dictates the land returns to the owners of the adjoining lands within the plat. As such, the adjoining landowners that own property within the plat will become the owners of the vacated street right-of-way adjoining their property. "A" Street will have the right-of-way split down the middle with the owners on either side obtaining ½ of the right-of-way. The vacation order will simply vacate the right-of-way. The subsequent deeds will acknowledge the vacation and the distribution of lands accordingly.

Staff Recommendation: It is staff's opinion, based on the facts in this case outlined above, the requested vacation of the platted street rights-of-way for "A" Street of the Aulne plat, Marion County, Kansas described in the petition for vacation be recommended for approval by the Board of County Commissioners of Marion County, Kansas, based on the finding that the public will suffer no loss or inconvenience by such vacation and that no private rights will be injured or endangered thereby.

Suggested Motion:

I move that Case No. PC-16-05, the request for vacation of the platted street rights-of-way for "A" Street of the Aulne plat, Marion County, Kansas, described in the petition for vacation be recommended for approval to the Board of County Commissioners of Marion County, Kansas, based on the finding that the public will suffer no loss or inconvenience by such vacation and that no private rights will be injured or endangered thereby, for the reasons stated in the Staff Report and as heard at this public hearing.