

**CITY OF JOPLIN  
COUNCIL AGENDA ITEM**

**ITEM:**

CB 2020-258-Street Vacation

**MEETING DATE:**

May 18, 2020

**ORIGINATING DEPARTMENT:**

Planning, Development and Neighborhood Services

**REVIEWED BY:**

Director of Planning, Development & Neighborhood Services-Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, City Manager- Nicholas Edwards.

**SUMMARY REQUEST:**

Case 014-20: Street Vacation – A request to vacate street right-of-way lying South of W. 32<sup>nd</sup> St., located approximately 300 feet East of the intersection of S. McIntosh Circle and W. 32<sup>nd</sup> St. – City of Joplin.

**BACKGROUND:**

When Jackson Ave. was realigned, this portion of Right-of-Way constituting the old Jackson Ave. was no longer needed by the city. This case originally went to Planning & Zoning and the City Council shortly after that work was completed in 2010. Due to an error with the legal description, the case was stricken from the agenda.

This old Right-of-Way does intersect 32<sup>nd</sup> St. very close to where McIntosh Cir. does. It is within the distance the City requires for spacing between intersections. Given that Jackson Ave. has been rerouted on a safer alignment, the City requests that this old portion of Right-of-Way be vacated.

**PLANNING & ZONING COMMISSION TESTIMONY:**

Keegan Stanton, 602 S. Main Street, Joplin, MO. There is a long history with this case this was originally brought to Planning and Zoning, also City Council in the summer of 2010. At that time there was an incorrect legal description given for the portion that was going to be vacated. Planning & Zoning and City Council struck from the agenda. It was the intention to correct the legal description and bring it back right away, but it was not corrected in time before the tornado came and the case got lost with time. A new tenant moved in next door and it was brought back to our attention. When the city rerouted Jackson Ave. to curve and intersect with Macintosh Circle. The intent was to vacate this portion of Jackson Ave to remove the additional intersection that is so close to the intersection of Macintosh Circle and 32<sup>nd</sup> Street. There are utilities on the property. They have signed off on this vacation so long as there is a clause in the ordinance that still reserves their right to maintain and keep up the facilities. There is also an agreement between the property owners both on the east side and west side for a receptacle access agreement between the two. Basically, once this is vacated that portion that is vacated will be a shared access to both of those properties. It would no longer be a public threw street and traffic could be kept from going through there.

Mr. Eastman wanted to know if they plan on blocking the entrance from 32<sup>nd</sup> Street.

Mr. Keegan stated that will stay in and become a commercial drive instead of a through street. So, the only vehicles that would be accessing would be anyone going to the businesses.

Mr. Ramsour stated that even though there is a hospital, there would not be any issues with emergency vehicles?

Mr. Stanton stated that was correct.

**PUBLIC COMMENT:**

Linda and Robert Campbell, 3235 S. Jackson Ave, Joplin, MO. We have had the opportunity to look this over and our primary concern is the street. Our home is located directly behind the doctor's buildings. The first R-1 property to the south Mr. Stanton stated. Mrs. Campbell stated she has looked it over and they didn't like the street cut off in the first place. The way their home is located it faces east and west so the drive that comes on Jackson Ave., the new one goes directly into our bedroom, so they see the headlights of the cars at night. Her concern was who will be maintaining the streets and the drives. She thought the city was just going to block it off.

Mr. Stanton stated that the portions that would remain unvacated, those would still be considered city right-of-way. For the right-of-way it is not the city to care for that. It is the obligation of the abutting property owners. Minigus and Freeman would oversee maintaining the commercial driveways, mowing the grass and those sorts of things. We do have permits and specifications through our Engineering Department that govern the quality we require for any construction or maintenance within the city right-of-way.

Mrs. Campbell asked has any proposition been sent out to them on how they should maintain?

Mr. Stanton stated that until they start construction or maintenance of some kind, we don't require anything. Once it becomes vacated the driveway itself will be a private commercial driveway.

Mr. Ramsour stated that Mr. Stanton has explain well how this will evolve if approved.

Mr. Stanton stated that he doesn't think Minigus and Freeman will allow it to fall in obscene disrepair. Both have been very good commercial neighbors in the city.

Mrs. Campbell stated that Freeman isn't using that property.

Mr. Stanton stated that they are the property owners and responsible for the maintenance of the property.

Mr. Campbell stated that the main thing they would like to make sure of is that they are responsible for the upkeep and maintenance. Whether it be the drive itself or the grass, it is mud pits and rocks.

Mr. Stanton state they will be responsible for the maintenance of it as it becomes private property.

Mr. Campbell wanted to know with private property doesn't that automatically say that it is as good as it is today that's fine.

Mr. Stanton stated the current condition of the driveway will be grandfathered in. Whenever they do decide to do maintenance on it, they will be required to go through the permit process.

Mrs. Campbell voiced they are not going to do that. She thinks the City needs to step in now and take care of this situation. She did not realize that 100 feet south was being partitioned off and not by the city. She just read it this morning, and this is unacceptable and wanted to know what the commission could do about this situation.

Mr. Stanton stated the Public Works Department oversees right-of-way and streets and he is not well adverse in those subjects as he not from that department. City is not in the business of maintaining private drives or streets that we have planned to vacate. There is not a whole lot the city can require a company to force them to work to bring up to of level acceptable to you.

Mrs. Campbell stated she understood that Mr. Stanton was with the city and you do all this for them, and you have been on top of this. She was wondering what the Planning and Zoning Commission can do.

Mr. Eastman stated that we either approve it or disapprove it. We have nothing to do with the maintenance of the street.

Mr. Campbell wanted to know if there was someway verbally that they have to maintain that property?

Mr. Eastman suggested they write a letter to both companies.

Mr. Ramsour told them this commission is here for the purpose of approving or denying the vacation of the street.

Mr. Eastman stated that if this commission denies it the street will not change, we don't have control over that.

Mrs. Campbell stated that she wants to know why they can't plan it a little different. Your Zoning and Planning that is your title.

Mr. Ramsour stated we have a set of procedures that we must follow.

Mrs. Campbell stated that she didn't know anything about procedures. You can make a decision not to pass it on yet until we figure out what your going to do. Is that not your job?

Mr. Stanton explained that this commission is only going to rule on the vacation of the right-of-way. They cannot set any requirements for maintenance, not require any permits being issued or anything like that.

Mrs. Campbell stated that this request goes through the doctors will close it off. It is closed off now.

Mr. Eastman stated he asked the doctor about that and the doctor stated they weren't planning on doing that.

Mr. Stanton stated that he believed the intension is to close it to threw traffic. Only patrons to Maginus or Freeman will be able to use that property. Part of the vacation is to revert it back to private land and be split and at that point it would be up to the two property owners on how they would like to treat that.

Mrs. Campbell stated that in our opinion we would just assume be completely open and not vacated.

#### **FUNDING SOURCE**

These payments are included in the FY 2019-20 budget of the Community Planning Fund.

**RECOMMENDATION:**

Planning & Zoning Commission recommends approval 6 in favor, 0 nays, 1 absent  
Staff recommends approval of Case 014-20.

**ATTACHMENTS**

CB 2020-258, Staff Planning Report, P&Z Commission Minutes