



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS

PLANNING COMMISSION/BOARD OF ZONING APPEALS

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MARION, KANSAS 66861
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March 5, 2020

TO: Marion County Planning Commission

FM: Sharon Omstead, Director of Planning and Zoning

SUBJECT: PC-20-01 Vacation of a portion of Schlotthauer and a portion of Patricia (214th Terrace) and all platted building setbacks on Block G of the Eastshore Plat, in the Unincorporated area of Marion County, Kansas

Background: This request was initiated by Marion County Rural Water District #2, owners of Block G, Eastshore Plat. There are two property owners with land adjacent to the rights-of-way proposed to be vacated. One of these property owners also owns the property on the opposite side of Block G. The vacation petition was signed by all three parties, thus beginning the vacation process. This vacation petition relates only to the portion of Schlotthauer north of Patricia/214th Terrace between Block D and Block G, and; the portion of Patricia/214th Terrace east of Schlotthauer between Block G and Block H, and; the triangle-shaped area connecting the center points of those two named road rights-of-way up to the southwest corner of Block G, and; the platted building setbacks on Block G, of the Eastshore Plat, Marion County, Kansas. Further discussion concerning the background and other factors in the area are outlined below.

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.

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.

Two homes are adjacent to the area proposed to be vacated, located on Lot 1 of Block D and Lot 1 of Block H. Block G, the corner parcel, was home to Rural Water District #2's water tower, but that tower has since been removed and only a storage shed remains. The parcel directly to the north of the platted area consists of 12.62 acres and is zoned Agricultural. It consists of a residence and agricultural ground. The residence does not utilize any of the platted right-of-way for access. The property owner of this parcel does not have any concerns regarding the proposed vacation. The property owner to the east of the platted area consists of 155.76 acres, zoned Agricultural, and consists of agricultural ground and no structures. This property owner has expressed concern with the portion of Patricia/214th Terrace being

vacated because it may cause vehicles to use his property when accessing utilities that serve the residences on the bordering properties.

The intention of vacating the adjacent street rights-of-way and building setbacks on Block G, is to produce a parcel more conducive to building a residence, and therefore bring more value to the neighborhood. The Rural Water District intends to sell this corner tract soon. It is their opinion that the space dedicated to street rights-of-way are not being used as such, and instead being maintained by adjacent property owners. Lot 1 of Block D and Lot 1 of Block H will maintain public road access via remaining platted streets. It is the opinion of staff that vacating the said street dedications would cause the public no undue hardship.

Staff has discussed this request with Brice Goebel, Marion County Road and Bridge Engineer, and he advises there is no desire or need for the right-of-way. Utility easements exist and will remain as such. The current portion of the rights-of-way in question have been maintained voluntarily by the adjacent property owners. There is currently no rock on these portions of the rights-of-way.

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. The vacated portion of Schlotthauer and Patricia/214th Terrace will have the rights-of-way split down the middle with the owners on either side obtaining ½ of the right-of-way. Vacating the platted building setbacks for Block G will allow more buildable space; however, this will not remove the building setbacks required by the Marion County Zoning Regulations. 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 this portion of Schlotthauer north of Patricia/214th Terrace between Block D and Block G, and; the portion of Patricia/214th Terrace east of Schlotthauer between Block G and Block H, and; the triangle-shaped area connecting the center points of those two named road rights-of-way up to the southwest corner of Block G, and; the platted building setbacks on Block G, of the Eastshore Plat, Marion County, Kansas 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. It is recommended that all utility easements continue, and that new building setbacks; being 10 feet along the west boundary (abutting Block D), 30 feet across the front boundary (abutting road right-of-way), 6 feet along the south boundary (abutting Block H), 10 feet along the north rear boundary, and 20 feet along the east rear boundary of Block G of the Eastshore Plat, Marion County, Kansas, be enforced.

Suggested Motion: I move that Case No. PC-20-01, the request for vacation of that portion of Schlotthauer north of Patricia/214th Terrace between Block D and Block G, and; the portion of Patricia/214th Terrace east of Schlotthauer between Block G and Block H, and; the triangle-shaped area connecting the center points of those two named road rights-of-way up to the southwest corner of Block G, and; the platted building setbacks on Block G, of the Eastshore Plat, Marion County, Kansas, 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. It is recommended that all utility easements continue, and that new building setbacks; being 10 feet along the west boundary (abutting Block D), 30 feet across the front boundary (abutting road right-of-way), 6 feet along the south boundary (abutting Block H), 10 feet along the north rear boundary, and 20 feet along the east rear boundary of Block G of the Eastshore Plat, Marion County, Kansas, be enforced.