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. 32nd St., located approximately 300 feet East of the intersection of S. McIntosh Circle and W. 32nd 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 32nd 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 32nd 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 32nd 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

CB 2020-258

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

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Mr. Ramsour asked the Commissioners if there were any other questions? There was not. Is there was anyone who would like to speak in favor to this case? There was not. He also asked if there was anyone to speak in opposition of this case?

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

Mr. Ramsour asked if there was anyone else to speak in opposition of this case? There was not.

MR. EASTMAN MOVED, SECONDED BY MR. MCCULLOUGH, CASE 014-20 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL. MOTION CARRIED WITH MR. RAMSOUR, MR. DERMOTT, MRS.

BRUCKNER-SEARS, MRS. STEELE, MR. MCCULLOUGH, AND MR. EASTMAN VOTING "AYE". (6 IN FAVOR, 0 NAYS, 1 ABSENT).

Z&P Meeting: March 9, 2020
City Council Meeting: May 18, 2020

STAFF PLANNING REPORT
Vacation

CASE 014-20 A request to vacate street right-of-way lying South of W. 32nd St.

APPLICANT City of Joplin

REPRESENTATIVE Keegan Stanton

LOCATION Approximately 300 feet East of the intersection of S. McIntosh Circle and W. 32nd St.

EXISTING CONDITIONS

Easement Type(s)	Easement Size
Street Right-of-Way	Approximately 250' x 60'

REASON FOR VACATION

With the realignment of Jackson Ave. to curve and intersect with McIntosh Cir., this old portion of Right-of-Way is no longer needed by the City. In addition, the proximity of this Right-of-Way to the intersection of 32nd St. and McIntosh Cir. is very close and constitutes a traffic hazard.

UTILITIES CURRENTLY LOCATED IN THE RIGHT-OF-WAY?

Utilities are currently in the Right-of-Way. Rerouting of utilities is not required to maintain current services to adjoining properties. A savings clause will be provided in the ordinance.

UTILITIES PLANNED TO LOCATE IN THE RIGHT-OF-WAY?

No plans for new utilities to be located in the right-of-way.

DISCUSSION

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. Following the tornado, the case was forgotten until neighboring property owners recently inquired.

This old Right-of-Way does intersect 32nd 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.

Staff recommends approval of Case 014-20 with a savings clause to allow for utilities to access and maintain their infrastructure.

ENCLOSURES

- Application
- Map

CITY OF JOPLIN

APPLICATION FOR VACATION OF STREET OR RESERVATION

Return Form and Attachments to:
Planning / Community Development Specialist
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 014-20
Filing Fee: ~~$550.00~~
Date Advertised: 2-23-20
Date Notices Sent 2-25-20
Public Hearing Date: 3-9-20

I. Applicant Name: City of Joplin Phone: 417-624-0820 ext. 511

If more than one property applicant, please submit additional names, address and phone numbers on attached sheet(s)

Address: 602 S. Main St. Zip: 64801

II. Type of vacation requested (check one):

Street Vacation X

Alley Vacation_____

Utility Vacation_____

Other (Please specify)_____

III. Please indicate below the extent to which the following standards are met, in the applicant's opinion.

1. Private rights will not be injured or endangered by the vacation. Correct.

2. The vacation will not cause the public to suffer a loss or inconvenience. Correct.

3. In justice to the applicant(s) the vacation should be granted. Correct.

IV. Required Attachments:

1. Legal description of the street, alley, or utility easement to be vacated from a deed of record or certified survey. Digital copies are acceptable. Must be legible.

2. Survey or such other drawing acceptable to the Planning / Community Development Manager depicting the street, alley or public reservation sought to be vacated and the properties and property ownerships surrounding said street, alley or public reservation.

3. Affidavit(s) from each owner of land adjoining said area that is proposed to be vacated, whom are not listed as an applicant, indicating their consent to the vacation.

4. Completed Utility Comments forms from the following utility companies indicating their consent to vacate the easement. The following companies must be contacted, and their consent received, before the Public Hearing can take place.

Utility	Contact	Email	Phone
AT&T	Kenny Kenworthy	kk7429@att.com	417-625-8092
Missouri American Water	Andrew Holderness	andrew.holderness@amwater.com	417-623-0676 x1009
Liberty Utilities (Power)	Jeff Lebeda	jeff.lebeda@libertyutilities.com	417-625-6159
Republic Services (Trash)			(800) 431-1507
Cable One/Sparklight	Keri Bledsoe	keri.bledsoe@sparklight.biz	
Spire Energy (Gas)*	Ken Stegall	ken.stegall@spireenergy.com	
Spire Energy (Gas)*	Mandy Butkovich	mandy.butkovich@spireenergy.com	816-472-3767
City Sanitary Sewer	Chris Parker	cparker@joplinmo.org	417-624-0820 x584
City Stormwater	Steven Martinez	smartine@joplinmo.org	417-624-0820 x531

*Must contact BOTH contacts at Spire Energy.

Signature

2/12/2020

Date

Case 014-20: Approximately 300 feet East of the intersection of S. McIntosh Circle and W. 32nd St.



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

P & Z Case 014-20
City of Joplin
(P & Z Recommended Approval)

COUNCIL BILL NO. 2020-258 ORDINANCE NO.

AN ORDINANCE providing the vacation for a public street located approximately 300 feet East of the intersection of S. McIntosh Circle and W. 32nd St. in the City of Joplin, Newton County, Missouri.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That part of a public street right-of-way being located approximately 300 feet East of the intersection of S. McIntosh Circle and W. 32nd St in the City of Joplin, Newton County, Missouri. described as follows and hereby vacated, conveyed, relinquished, and reverted to the owners of the abutting lots and land:

> All that part of Jackson Avenue adjoining Lot 192 and Lot 130 in Dunwoody's Subdivision, in the City of Joplin, Newton County, Missouri, according to the recorded plat thereof, except the North 50 feet and the South 100 feet of said part of Jackson Avenue.

Section 2. That this vacation of the portion of the street easement hereby vacated shall not affect or derogate from the existing rights of way or other easements of public utility companies now having installations in the portion of the street hereby vacated. Such utility companies shall have the right to maintain and repair any such installations now on the vacated portion of said street and shall be subject to the rights of the city of Joplin for sewer construction and maintenance.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2020, by a vote of _____.

_____
ATTEST: Gary L. Shaw, Mayor

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney