



City of Muscatine

Planning & Zoning Commission

AGENDA

Tuesday, November 10, 2020 – 5:30 p.m.

Because of the Covid-19 pandemic, this meeting will be held electronically. To participate in this meeting go to the following link:

<https://global.gotomeeting.com/join/187752253> or
dial (571) 317-3122
and then use access code 187-752-253

1. Roll Call

2. Mission Statement

"The Planning and Zoning Commission is a seven-member group of residents of the City who are appointed by the Mayor and City Council. We serve as non-professionals and without compensation. Our purpose is to advise the City Council on managing the growth of the City. This involves reviewing subdivisions, rezoning requests, the use of public property, and reports related to land use policy and long-range planning. Recognizing that our decisions will not satisfy everyone, we attempt to base our decisions on what is best for the long-term interest of the City. We ask your input, pro or con, on issues before us in order that we formulate the best decisions possible. Please take this opportunity to share your thoughts and concerns with us. Our recommendations are not taken lightly by the City Council, but the City Council, your elected representatives, make the final decisions on all issues."

3. Minutes

Approval of minutes from the October 13, 2020 meeting

4. Right of Way Vacations

4A). Right of Way Vacation – PZVROW-10 Request by Millwork Properties, LLC to Vacate All of the Alley Undeveloped Located in Block 7 of George Smalley's Addition to South Muscatine

Millwork Properties, LLC, has submitted a request to vacate, and then deed over, the alley right of way that directly adjoins the rear of their property at 1103 Musser Street.

5. Subdivisions

5A). Preliminary Plat –PZS-20 McCleary Subdivision • Tim McCleary • 4500 25th Street South• 2 lots• 5.8 Acres

A preliminary plat for a two-lot subdivision located at 4500 25th Street South was submitted has been submitted by Tim McCleary. If approved this subdivision would split the existing parcel of 5.8 acres into two parcels; a 3.81 acre parcel which would contain the existing home and out building and a 2.09 acre parcel. The intent of the proposed subdivision is to create a new vacant parcel, which would allow for a new dwelling unit to be established on the newly created Lot 1.

6. Adjourn.



COMMUNITY DEVELOPMENT

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

MEMORANDUM

To: Planning and Zoning Commission
From: April Limburg, Planner 1
Date: October 22, 2020
Re: Right of Way Vacation – (PZVROW-10) Brier and Musser Street Alley

INTRODUCTION: A request to vacate all of the Alley located in Block 7 has been submitted to the City of Muscatine.

BACKGROUND: Jeff Sorenson, Managing Partner of Millwork Properties, LLC filed a right of way vacation for all of the alley between Brier and Musser Street and return the maintenance to the adjacent property owners. Alliant Energy will be rebuilding the distribution system from Musser to S. Houser Street next year and requested a public utility easement be granted for the alley. The Muscatine Power and Water also asked for the public utility easement be extended to Musser Street right of way.

The intent be once this right of way is vacated, the desire of Millwork Properties is to purchase it from the City of Muscatine and maintain the property.

RECOMMENDATION/RATIONALE:

Staff recommends approval of the proposed alley vacation and maintenance for this right of way.



Right of Way Vacation (PZVROW-10)

Legend

- BrierMusserAlleyRoW
- Parcels

170 85 0 170 Feet

Proposed legal description

ALL OF THE 20' ALLEYWAY LYING NORTHWESTERLY
AND ADJACENT TO LOTS 1, 2, 3, 4, 5, 6 & 7 AND
SOUTHEASTERLY AND ADJACENT TO
LOTS 8, 9, 10, 11, 12, 13 & 14 IN BLOCK 7 OF
GEORGE SMALLEY'S ADDITION TO SOUTH
MUSCATINE, IN THE CITY OF MUSCATINE,
MUSCATINE COUNTY IOWA. SAID PARCEL
CONTAINS A PUBLIC UTILITY EASEMENT AND
INCLUDES PARCEL "EE" AS SHOWN ON A SURVEY
RECORDED AS DOCUMENT 2012-02246 IN THE
OFFICE OF THE MUSCATINE COUNTY RECORDER.





At Musser Street looking towards Brier Street



At Brier Street looking towards Musser Street



COMMUNITY DEVELOPMENT DEPARTMENT

City Hall - 215 Sycamore St
Muscatine, IA 52761-3840
(563) 262-4141
Fax (563) 262-4142

Planning • Zoning • Building Safety • Construction Inspection Services • Public Health • Housing Inspections • Code Enforcement

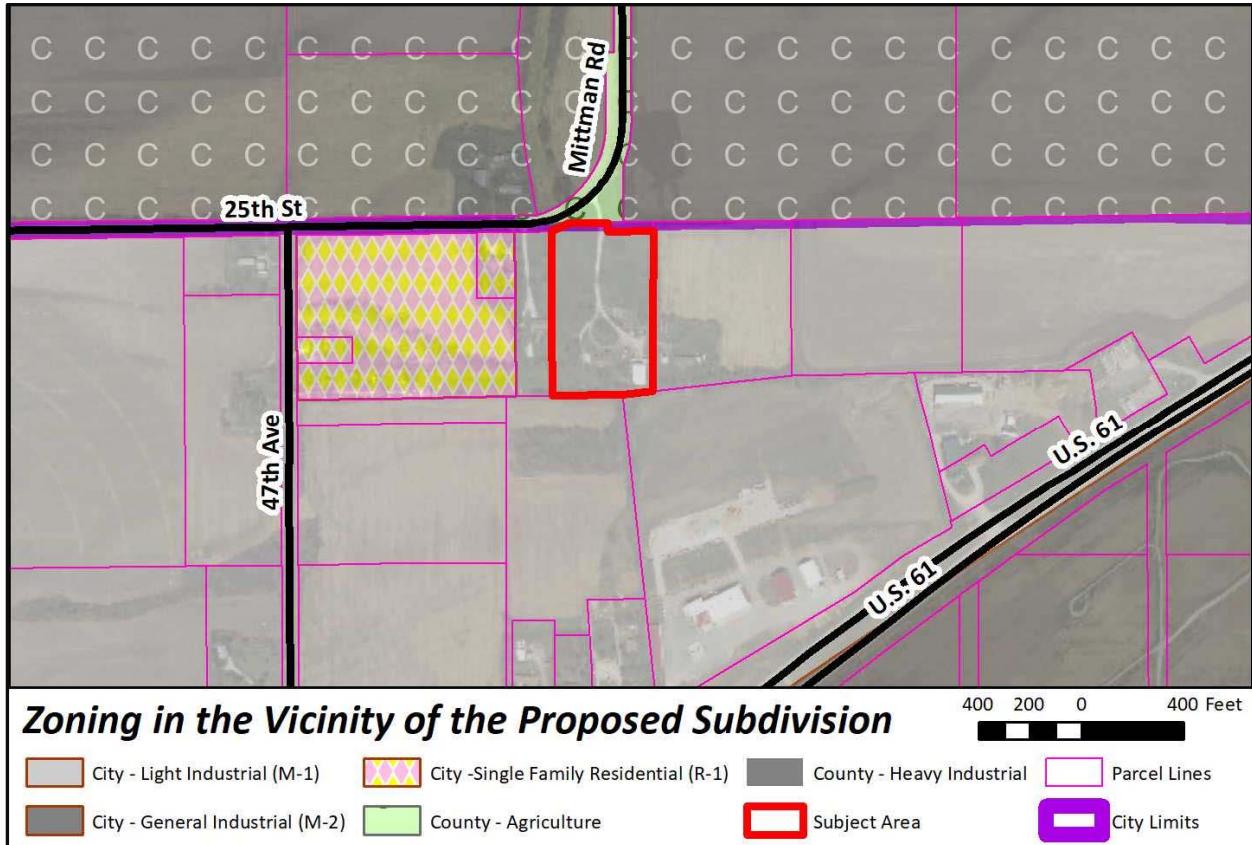
MEMORANDUM

To: Planning and Zoning Commission
From: Andrew Fangman, Assistant Community Development Director
Date: November 10, 2020
Re: McCleary Subdivision—Preliminary Plat

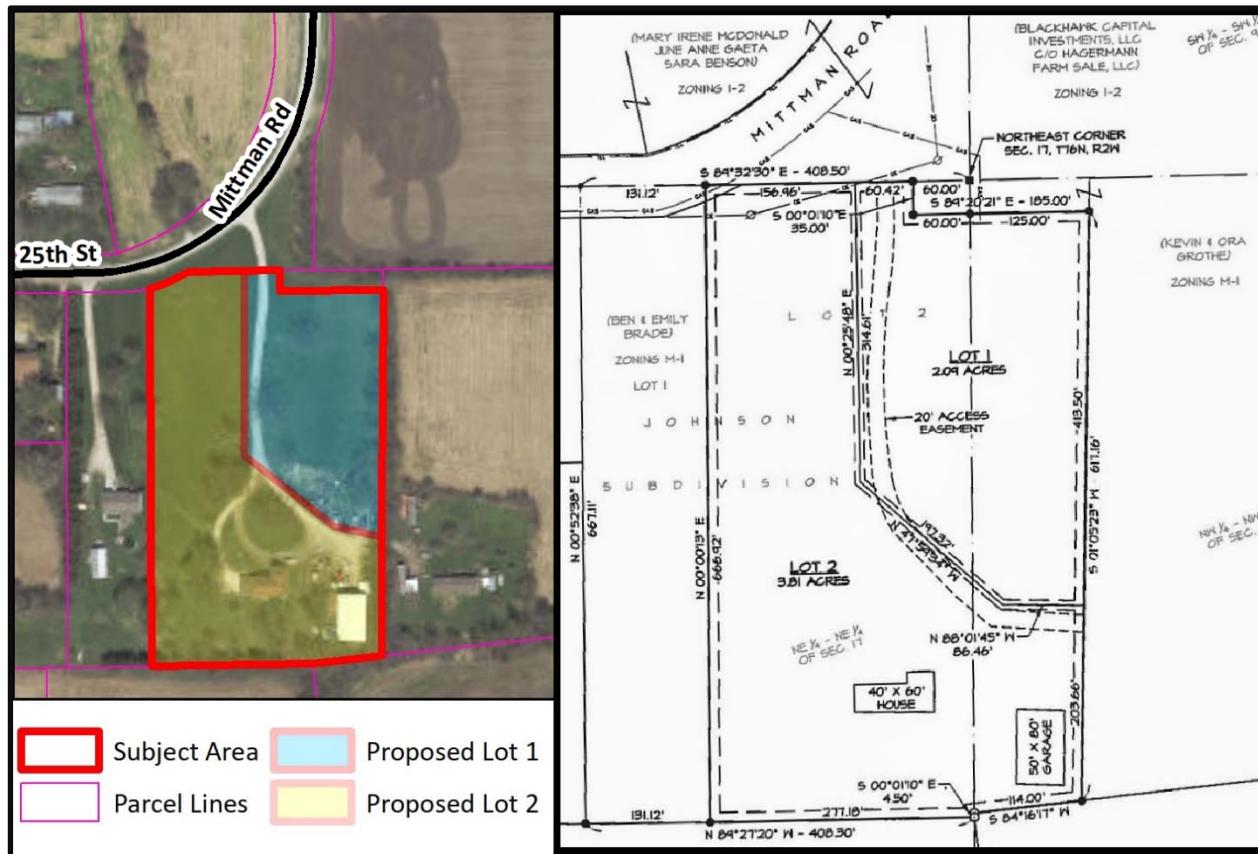
INTRODUCTION: A preliminary plat for the McCleary Subdivision has been filed.

BACKGROUND: A preliminary plat for a two-lot subdivision located at 4500 25th Street South was submitted has been submitted by Tim McCleary. If approved this subdivision would split the existing parcel of 5.8 acres into two parcels; a 3.81 acre parcel which would contain the existing home and out building and a 2.09 acre parcel. The intent of the proposed subdivision is to create a new vacant parcel, which would allow for a new dwelling unit to be established on the newly created Lot 1.

The subject area of this subdivision request is zoned M-1 Light Industrial. Parcels adjoining the subject area to the east, west, and south are also zoned light industrial. The parcels located to the north of the subject area are located outside of City Limits and are zoned heavy industrial by Muscatine County. The development of single-family dwellings in the light industrial zoning district is permitted under Section 10-14(A) of City Code, so long as any single family dwelling is developed on parcel that is at least two acres in size.



While both proposed lots have frontage along Mittman Road, the proposed physical access to each parcel would be via an existing gravel driveway. This gravel driveway is also used access to Mittman Road, by a home on the parcel directly adjoining the east side of the proposed subdivision. The proposed subdivision includes an access easement that would allow for the continued shared use of the existing gravel driveway.



Current City Code requires for all driveways to be hard surfaced, however because this driveway was established prior to the requirement for hard surfacing it is considered to be legal non-conforming, and such is allowed to remain as a gravel driveway, but the area of this driveway for which the surfacing is non-conforming with City Code cannot be enlarged. Any new or expanded portions of the driveway would have to hard surfaced in accordance with City Code.

Both lots in the proposed subdivision would be served by private drinking wells and septic tanks. There are no City water or sewer mains in the vicinity of the proposed subdivision.

In the summer of 2020, Tim McCleary, filed an application with the Zoning Board of Adjustment for a variance to allow for the construction of a second dwelling unit on the existing parcel located at 4500 25th Street South, said parcel is also the subject area of this subdivision request.

The Zoning Board of Adjustment considered at its July and August meetings, both of which included public hearings with significant feedback from nearby property owners and residents. At the August 4th meeting, the Zoning Board of Adjustment voted to deny the request variance. Four members of the Board voting to deny the variance, with one member abstaining.

Attached at the end of this memo, are the minutes from these Zoning Board of Adjustment meetings, detailing the discussion and public input received on this proposed variance.

RECOMMENDATION/RATIONAL:

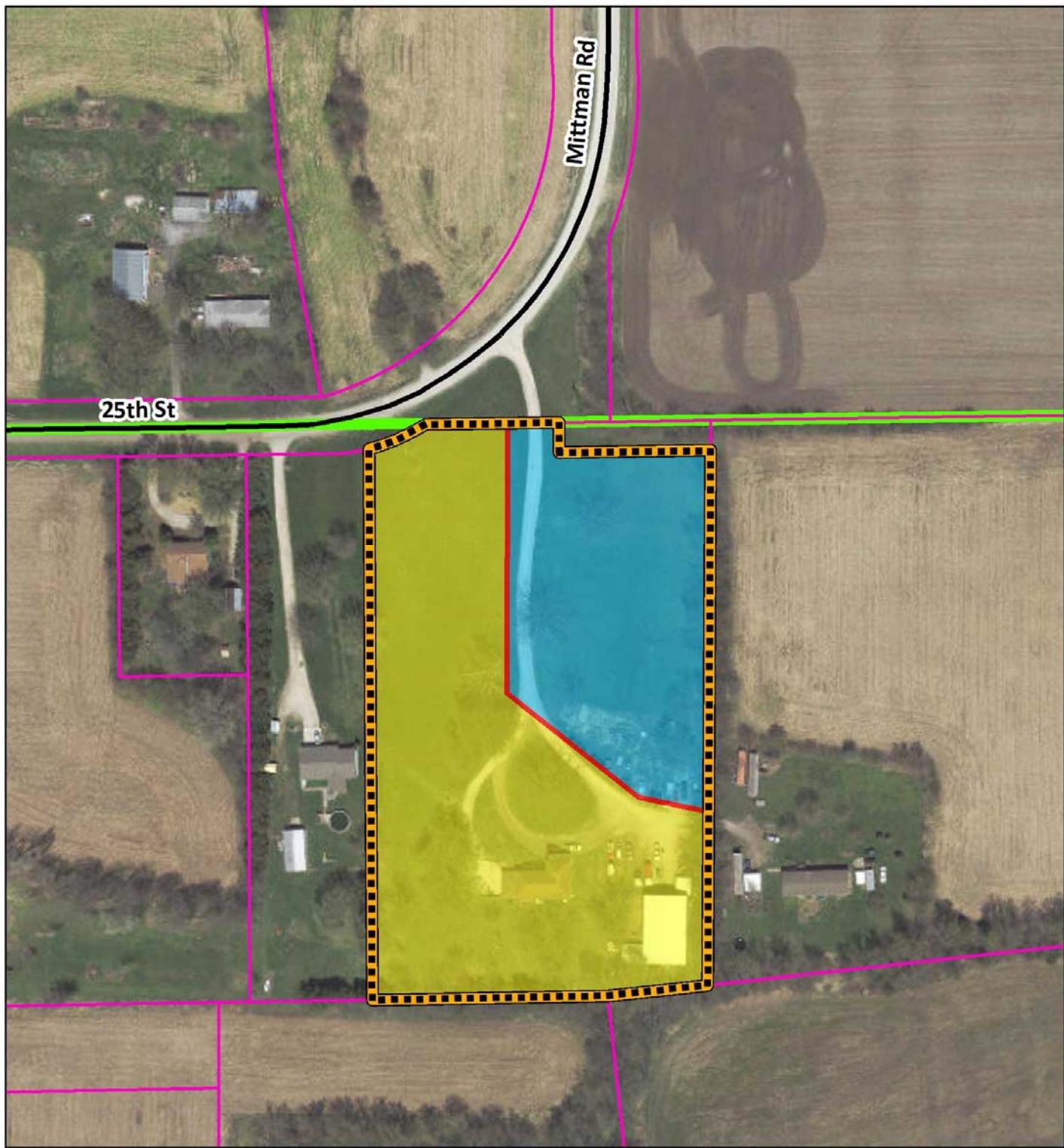
Staff recommends denial of this subdivision request. The combination of the proposed subdivision, the existing zoning of the area, and existing land uses would mean that approval of this subdivision increases the risk of future development in manner land use incompatibilities. Such incompatibilities would adversely impact nearby residents and property owners.

The M-1 Light Industrial Zoning District does permits for single family dwellings on homes on parcels of at least two acres. The M-1 District also permits a number of uses, that if developed in close proximity to residences could be potentially incompatible and problematic. Mitigation of these incompatibilities can be possible through adequate buffering and screening.

However, in the subject area the existing residences and the existing homes the likely location of new dwelling on the proposed Lot 1 are in close proximity. They are also closely linked through the continued use of the shared driveway. These conditions could make the necessary screening and buffering less effective in event that an allowed light industrial use, that less compatible with close proximity residences, is established on one the parcels in the area.

Increasing the number of lots, increases the odds of such a land use compatibility arising from future development. As the minutes from the Zoning Board Adjustment well illustrate, many nearby residents and property owners already have concerns about existing land use compatibility in this area.

Additionally, as is set out in the adopted Comprehensive Plan, development within the City should occur in locations with the appropriate infrastructure to serve such development, which subject area currently lacks. It is not served by City water or sewer. Approval of the proposed subdivision could result in three homes sharing one mostly unpaved driveway.



Subdivision PZS-20: McCleary Subdivision



Subject Area



Parcel Lines



Proposed Lot 1



City Limits

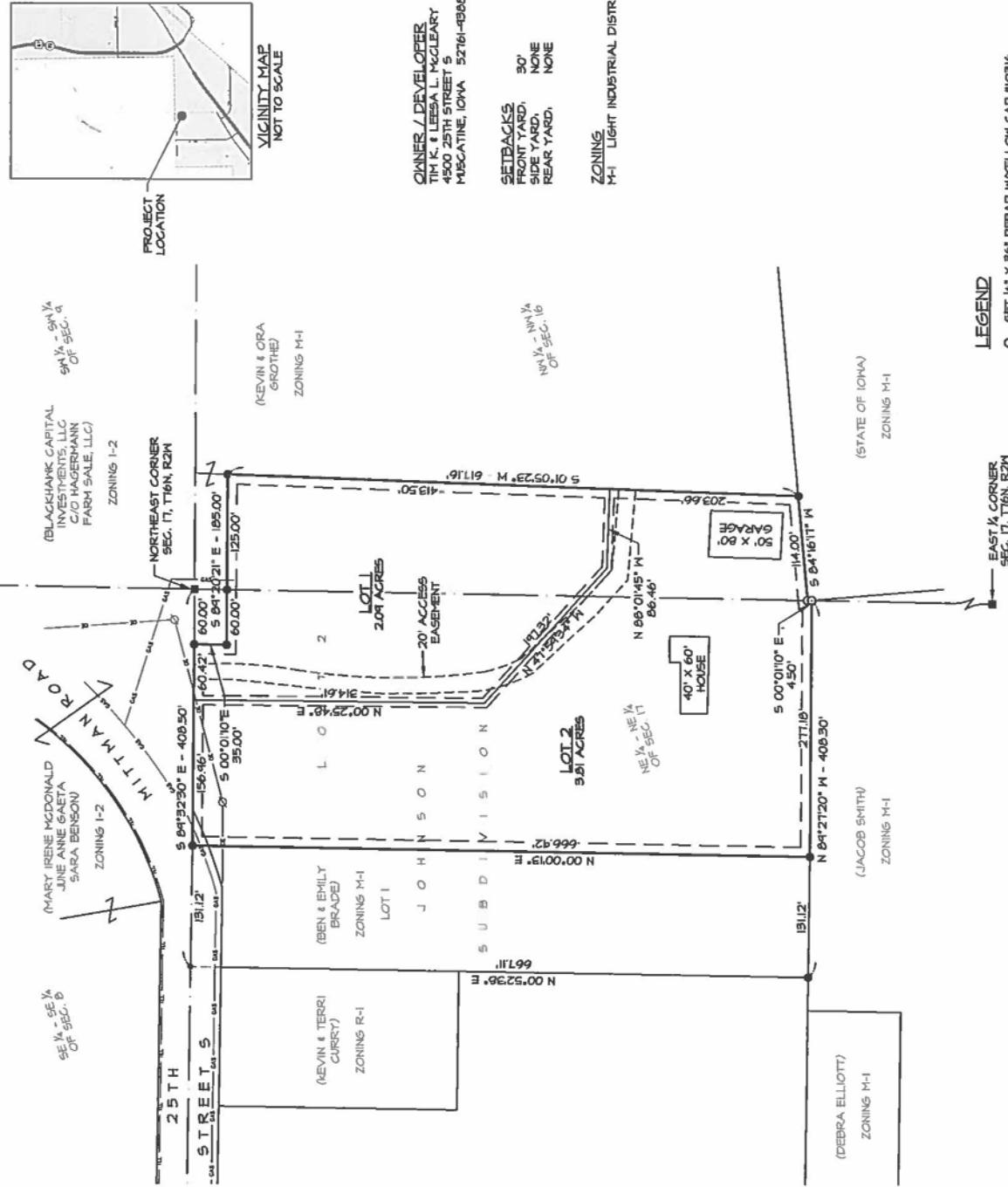


Proposed Lot 2



McCLEARY SUBDIVISION
PRELIMINARY PLAT

— WEST 1/4 CORNER
SEC. 6, T76N, R22W



LAND DESCRIPTION - DOC. #2012-02044

LAND DESCRIPTION - DOC #2012-03001

LAND DESCRIPTION = DOC #2012-03011

1 AND DESCRIPTION - Doc 22019-00000
SET NAIL •
PROPRIETORS: TIM K. AND LEESA L. MCLEARY
CONTRIBUTOR: JEFFREY MCLEARY

1. AND DESCRIPTION - NOC 420101-0004
2. PROPRIETOR(S): TIM K. AND LESLA L. MCLEA
3. ADDRESS: 1011 1/2 10TH ST., BAPTIST
4. CITY: BIRMINGHAM
5. STATE: AL
6. ZIP CODE: 35203
7. TELEPHONE: 205-222-1111
8. SET NAIL -

OWNER: **JOHN W. MCNEIL** - 1000 10th Street, Suite 1000, Denver, CO 80203
PROPERTY: **1000 10th Street, Suite 1000, Denver, CO 80203**

1 AND DECEDITION - NOC 12010-0204
PROPRIETORS: TIM K. AND LEESA L. MCLEARY
SCHOOL: SOUTHERN CALIFORNIA COLLEGE OF CHiropractic

1 AND DESCRIPTION - Doc 12019-00000
PROPERTY: TIM K. AND LEESA L. MCLEARY
CONTRACTOR: KELLY & CO., INC.

1 AND DESCRIPTION - NO. 44010-0000A
SET NAIL •
PROPRIETORS: TIM K. AND LEESA L. McCLEARY
SOUTHERN TOWNSHIP,
KENTUCKY.

• SET NAIL •
TANT DISCREPANT - DOC
YODA - GIOJUR
PROPRIETARY: TIM K. AND LEESHA L. McCLEARY
DENTAL LAB: GENEVA DENTAL INC.



Gary W. Villalobos
Date _____ Reg. No. 160316
My license renewal date is December 31, 2021

Pages or sheets covered by this seal: 1	SURVEY COMPANY RETURN TO: Martin & Whittacre Surveyors & Engineers, Inc. P.O. BOX 413 MUSCATINE, IOWA 52761 INFO@MARTINWHITTACRE.COM						
SURVEYOR: GARY W. WHITTACRE		PROPRIETORS: TIM K. AND LEESE A. McCLEARY		REQUESTOR: TIM K. MCCLEARY			
LOCATION: NW 1/4 - NW 1/4 OF SEC. 16 & NE 1/4 - NE 1/4 OF SEC. 17, T16N, R24W IN THE CITY OF MUSCATINE MUSCATINE COUNTY, IOWA		SURVEY TYPE: PRELIMINARY PLAT				JOB NO. 0404-20	
FILE #	BOOK #	SCALE	DRW	CHKD	DATE	STREET / CLO	
REV.	1	1"=80'	4MM	4MM	10/20/04	100 100	

MINUTES
July 7, 2020 – 5:30 p.m.
Zoning Board of Adjustment
Online GoToMeeting

Present: Jeff Armstrong, Larry Murray, Julie Wolf, Robert McFadden and Jodi Hansen

Excused:

Staff: Andrew Fangman, Assistant Community Development Director, Community Development
Christa Bailey, Office Coordinator, Community Development

Acting Chairperson Julie Wolf opened the meeting at 5:30 p.m. and read the mission statement.

Minutes: ...

Appeal Case #ZBAV-25, has been filed by Carmen Santana to allow for the conversion of an existing single family located at 2211 Lucas Street into a duplex. This location is in the C-1 zoning district which as per City Code Section 10-11-1 does not permit duplexes.

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Appeal Case #ZBAV-27, filed by Muscatine Downtown Investors LLC, to allow for a multi-family residential building to be constructed, with no front yard setback at 403 West Mississippi Drive. This location is in the M-1 Light Industrial Zoning District, which as per City Code Section 10-14-1 does not permit multi-family residences and as per City Code Section 10-14-3(B), requires a 30 feet front yard setback.

...

Appeal Case #ZBAV-28, has been filed by Tim & Leesa McCleary, to allow for the construction of a second dwelling unit at 4500 25th Street South. Multiple dwelling units are not a permitted use in the M-1 Light Industrial Zoning District as per City Code Section 10-14-1.

Tim McCleary, 4500 25th St S, was present to discuss this appeal explaining that his wife passed away in January and the home is bigger than he needs for just himself. But Mr. McCleary's son and friend are interested in purchasing the home so he would like to sell his current home to them then, rather than construct an apartment addition on the current house he would like to build a second smaller modular home on the property for him to live in himself. Jodi Hansen inquired about any additional buildings that are already located on the property to which Mr. McCleary answered there is a large metal accessory/storage building on the property that is not used for business. Ms. Hansen asked Andrew Fangman for the staff recommendation and Mr. Fangman informed the Board Members that a petition from the neighbors was received against allowing the second dwelling unit which he forwarded to all the Board Members. Mr. Fangman also notified them that there are several City Code nuisance violations that exist currently on the property that need to be addressed and a "Notice to Abate" has been sent with a deadline of July 13, 2020. As of this meeting, the cleanup of the nuisance violations has started and is not finished but they have roughly a week before the deadline. Mr. Fangman suggested possibly tabling any action on this appeal until after the July 13, 2020 deadline to confirm that Mr. McCleary makes the effort to come into compliance with City Code.

Kevin Grothe, 4420 25th St S, shared that he is opposed to a second dwelling unit because while Mr. McCleary states he is not running a business out of the large metal building Mr. Grothe insists that he is running a car repair business so junk cars are on the property all the time. Mr. Grothe commented that the street is in very bad condition and there is already a lot of traffic because of the car repair business

and Mr. McCleary's trailer park employees so adding a second dwelling will increase the amount of traffic which will worsen the street condition.

Terri Curry, 4600 25th St S, added that the entirety of the people surrounding the McCleary property signed the petition voicing their opposition.

Kevin Curry, 4600 25th St S, questioned if Mr. McCleary would need to put in a hard-surfaced driveway and if City water and sewer would be required for the second residence. Mr. Fangman stated that a new driveway would need to be hard-surfaced but the driveway currently on the property can remain as is and that City Code only requires a residence to be connected to City water and sewer if it is within 250 feet of a main line. Mr. Curry also mentioned that he does not want the second residence to be a modular home.

Jeff Armstrong motioned to table the appeal to the next Zoning Board of Adjustment meeting on August 4, 2020 after the nuisance violation deadline to see the outcome; seconded by Robert McFadden.

Four ayes: Jeff Armstrong, Julie Wolf, Larry Murry and Robert McFadden

One nay: Jodi Hansen

Motion carried.

Meeting adjourned at 7:17 p.m.

ATTEST:

Julie Wolf, Acting Chairperson
Zoning Board of Adjustment

Respectfully Submitted,

Andrew Fangman, Secretary
Assistant Community Development Director

**August 4, 2020 – 5:30 p.m.
Zoning Board of Adjustment
Online GoToMeeting**

Present: Jeff Armstrong, Jodi Hansen, Robert McFadden, Larry Murray and Julie Wolf

Excused:

Staff: Andrew Fangman, Assistant Community Development Director, Community Development
Christa Bailey, Office Coordinator, Community Development

Acting Chairperson Jodi Hansen opened the meeting at 5:30 p.m. and read the mission statement.

Minutes:

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Appeal Cases:

Appeal Case #ZBAV-27, filed by Muscatine Downtown Investors LLC, to allow for a multi-family residential building to be constructed, with no front yard setback at 403 West Mississippi Drive. This location is in the M-1 Light Industrial Zoning District, which as per City Code Section 10-14-1 does not permit multi-family residences and as per City Code Section 10-14-3(B), requires a 30 feet front yard setback.

...

Appeal Case #ZBAV-28, has been filed by Tim & Leesa McCleary, to allow for the construction of a second dwelling unit at 4500 25th Street South. Multiple dwelling units are not a permitted use in the M-1 Light Industrial Zoning District as per City Code Section 10-14-1.

Tim McCleary, 4500 25th St S, was present to discuss this appeal explaining that his son and friend are interested in purchasing the home so he would like to sell his current home to them then, rather than construct an apartment addition on the current house he would like to build a second smaller modular home on the property for him to live in himself. Andrew Fangman explained that the City Code nuisance violations that were discussed at the previous meeting had been corrected upon reinspection of the property after the July 13, 2020 deadline.

Mary McDonald, 2389 Mittman Rd, stated that there is an easement located on her property for the driveway used to access Mr. McCleary's property and that she is not willing to allow the easement to be widened for more traffic. Mrs. McDonald also shared her opinion that constructing an addition to the current home for in-law quarters would be easier than constructing a second home.

Kevin Grothe, 4420 25th St S, questioned since the second residence is not being subdivided from the current property if the McCleary's would be able to sell one of the houses separately in the future. Andrew Fangman explained that to be able to sell one of the houses they would need to subdivide or deal with it as they would a condominium. Mr. Grothe asked what guarantee the neighborhood has that if a second residence is allowed that more houses will not be added on the same property. Mr. Fangman stated that the variance appeal request is specifically only for the second residence but that does not mean Mr. McCleary could not apply for another variance appeal request in the future to add more houses

or apply to subdivide or rezone the property to allow more houses. Mr. Grothe wanted to know the regulations pertaining to septic tank systems within City limits and Mr. McCleary stated that the septic tank must be 50 feet from the well and the leech field must be 100 feet. Mr. Grothe reiterated that he is against allowing the second residence at 4500 25th St S.

Mr. McCleary stated that it was his understanding that this type of variance was approved previously in the same area to which Mr. Fangman responded that a variance for a second dwelling was approved on Grandview Ave by the DOT building. Jeff Armstrong questioned if driveways were discussed at the previous meeting and Mr. Fangman reiterated that any new driveway or driveway addition would have to be hard surfaced.

Jeanie Douglas, 2701 47th Ave W, shared that her home was built over 20 years ago when her grandparents owned it and they were required to subdivide the property to add a second residence which caused them to pay more taxes, would Mr. McCleary be required to pay more taxes with the addition of a second residence as well? Mr. Fangman explained that as he is not the County Assessor that he cannot speak to the taxes with certainty but typically when any type of structure is added on a property the taxes will raise.

Robert McFadden motioned to approve the appeal case; seconded by Jeff Armstrong. Zero ayes and four nays: Jeff Armstrong, Julie Wolf, Larry Murry and Robert McFadden. Robert McFadden abstained from voting as he personally knows Mr. McCleary. Motion denied.

Appeal Case #ZBAV-29, has been filed by Ezequiel & Veronica Alvarado, to construct an addition on the rear of the residence located at 1508 1st Ave. The proposed addition would encroach a further 3' into the rear yard setback required by City Code Section 10-6-3(D).

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Election of Chair and Vice-Chair:

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ATTEST:

Jodi Hansen, Acting Chairperson
Zoning Board of Adjustment

Respectfully Submitted,

Andrew Fangman, Secretary
Assistant Community Development Director