



City of Muscatine



AGENDA ITEM SUMMARY

City Council

DATE:11-19-20

STAFF

Andrew Fangman, Assistant Community Development Director

SUBJECT

A resolution setting a public hearing on declaring 3,826 square feet of real estate of unknown title adjoining a City owned parcel located at 1030 Hershey as surplus and directing for its disposal.

EXECUTIVE SUMMARY

McKee Button Company is requesting the City of Muscatine issue a quit claim deed for a 3,826 square feet area, located between McKee Button's property at 1000 Hershey Avenue, and a City owned parcel located at 1030 Hershey Avenue. Ownership of the subject area of this request is unable to be determined. A public hearing is required before the City Council may take any action on this request.

STAFF RECOMMENDATION

Staff recommends approval of this resolution setting a public hearing.

BACKGROUND/DISCUSSION

McKee Button Company is requesting that the City of Muscatine issue a quit claim deed for a 3,826 square feet area unknown ownership. The subject area of this request is specifically described in the attached plat. It is located between the McKee Button property located at 1000 Hershey Avenue and the parcel located at 1030 Hershey Avenue, which formerly contained the Beach Lumber Company, owned by the City of Muscatine since 2016. Ownership of the subject area is unknown, as neither the recorded legal description for the McKee Button property, or the adjoining City owned parcel includes the 3,826 square feet subject area.

McKee Button Company desires to resolve any potential title issues as they anticipate selling their properties. Issuing a quit claim deed to this area is a method by which the City could formally and permanently renounce any potential claim of ownership of the subject area. No records documenting City ownership of the subject area have been located.

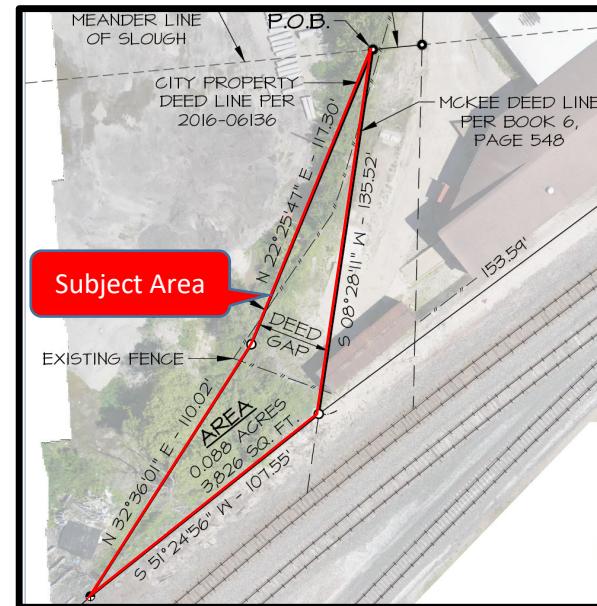


General location of the subject area. Depicted parcel lines are from MAGIC, and are approximate. In this case they do not depict the "deed gap" area of unknown ownership that is the subject of this request.

The subject area is located at the southern end of the boundary between the McKee Button parcel and the City owned parcels, and adjoins the railroad tracks. All existing physical improvements located within the subject area, including portions of a fence, some pavement, and the corner of a shed, are associated with McKee Button.

The City acquired the parcel located at 1030 Hershey Avenue, which adjoins the subject area, via a donation by Carver Riverfront Real Estate in October of 2016. This donation was made through a quit claim deed. The legal description that was part of this quit claim, does not include the subject area. As such, this quit claim deed did not convey ownership of the subject area to the City.

The City does not appear to have any claim of the subject area through adverse possession. Adverse possession law in Iowa provides that if someone other than the owner uses property, exercising control over the property, which is open and notorious for a continuous period of time (10 years), then the "trespasser" can make the claim that they are entitled to possession by adverse possession. The City has owned the adjoining property for less than 10 years. Further, the City has not made any use of or exercised any control over the subject area.



Pictures of Subject Area

While it is the opinion of staff, based on the reasons outlined in this memo, that the City does not have any ownership over the subject area, a quit claim deed is necessary to make a formal and permanent renunciation of any potential future claim of ownership over the subject area. In order to issue such a quit claim deed, it is first necessary for City Council to declare this area

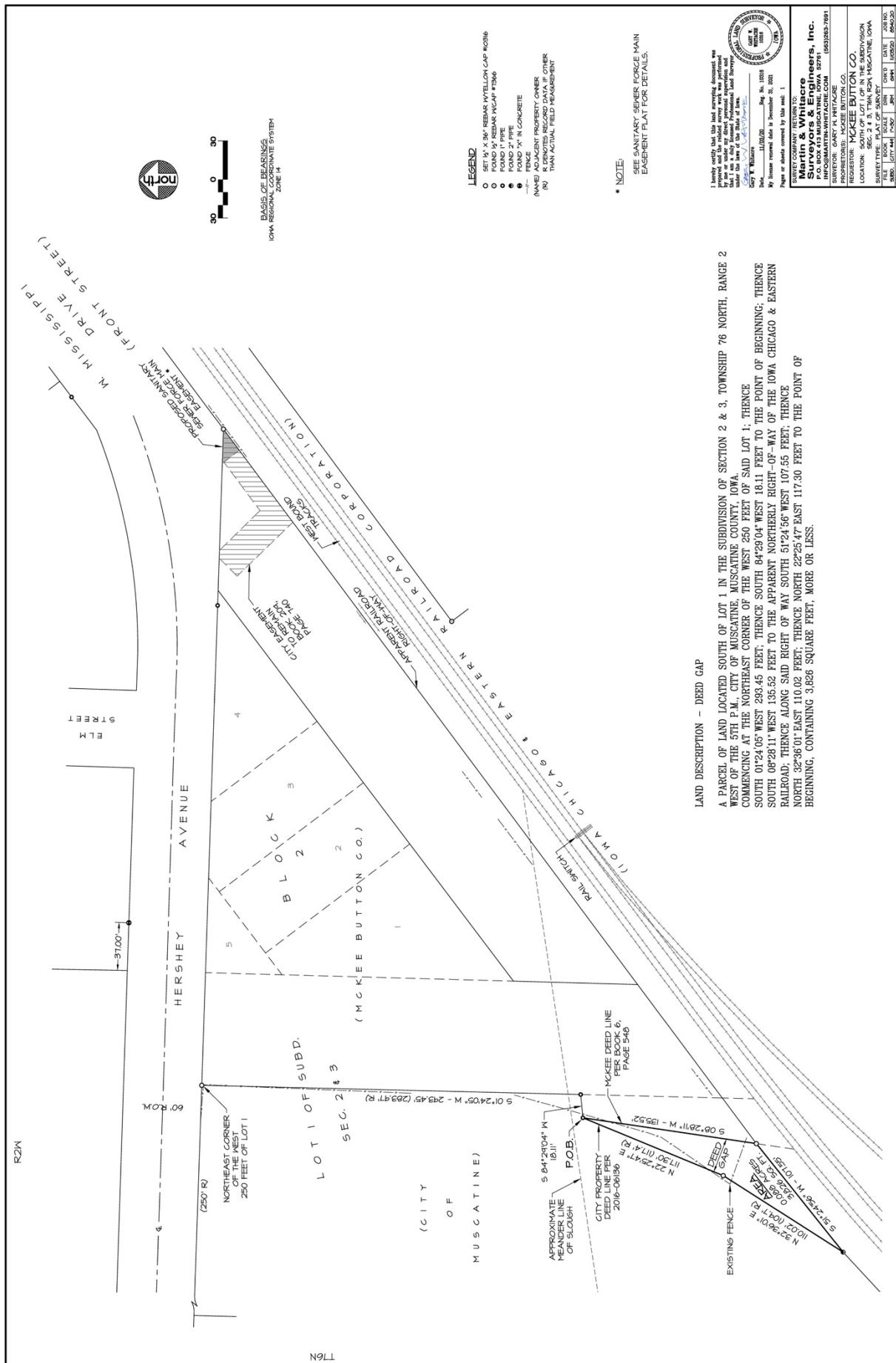
as surplus property after a public hearing. The attached resolution would set the necessary public hearing and direct for the required public notice to be given.

CITY FINANCIAL IMPACT

Approval of this action would result in small increase in revenue. The applicant will cover transactional costs. The vacation will make the property and any future improvements upon it subject to property tax.

ATTACHMENTS

1. Plat
2. Resolution
3. Public Notice



RESOLUTION NO. 2020-0393

**A RESOLUTION SETTING A PUBLIC HEARING CONCERNING THE
DECLARATION OF REAL ESTATE AS SURPLUS PROPERTY AND
EXECUTING A QUIT CLAIM DEED TO SAID PROPERTY (AN AREA ADJOINING
1030 HERSHEY AVENUE)**

WHEREAS, the City Council of Muscatine, Iowa, is considering declaring the following described real estate in Muscatine, Iowa, to-wit:

A PARCEL OF LAND LOCATED SOUTH OF LOT 1 IN THE SUBDIVISION OF SECTIONS 2 & 3, TOWNSHIP 76 NORTH, RANGE 2 WEST OF THE 5TH P.M., CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA. COMMENCING AT THE NORTHEAST CORNER OF THE WEST 250 FEET OF SAID LOT 1; THENCE SOUTH 01° 24' 05" WEST 293.4 FEET; THENCE SOUTH 84° 29' 04" WEST 18.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 08° 28' 11" WEST 135.52 FEET TO THE APPARENT NORTHERLY RIGHT-OF-WAY OF THE IOWA CHICAGO & EASTERN RAILROAD; THENCE ALONG SAID RIGHT-OF-WAY SOUTH 51° 24' 56" WEST 107.55 FEET; THENCE NORTH 32° 36' 01" EAST 110.2 FEET; THENCE NORTH 22° 25' 47" EAST 117.3 FEET TO THE POINT OF BEGINNING, CONTAINING 3,826 SQUARE FEET, MORE OR LESS;

as surplus property and executing a quit claim deed to said property.

WHEREAS, a public hearing must be conducted by the City Council of Muscatine prior to declaring said real estate as surplus property and executing a quit claim deed to said property.

NOW, THEREFORE, BE IT RESOLVED, by the City Council for the City of Muscatine, that a public hearing on declaring said real estate as surplus property and executing a quit claim deed to said property be held at 7:00 pm on December 3rd, 2020, in the City Hall Council Chambers and that the attached public notice of the time and place of said public hearing shall be given by publication in the *Muscatine Journal* as required by the Code of Iowa.

PASSED, APPROVED AND ADOPTED this 19th day of November 2020.

**BY THE CITY COUNCIL OF THE
CITY OF MUSCATINE, IOWA**

Diana L. Broderson, Mayor

Attest:

Carol Webb, City Clerk

PUBLIC NOTICE

TO THE CITIZENS OF MUSCATINE, IOWA: You are notified that the City Council of Muscatine, Iowa, is considering declaring the following described real estate, adjoining 1030 Hershey Avenue, in Muscatine, Iowa, to-wit:

A PARCEL OF LAND LOCATED SOUTH OF LOT 1 IN THE SUBDIVISION OF SECTIONS 2 & 3, TOWNSHIP 76 NORTH, RANGE 2 WEST OF THE 5TH P.M., CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA. COMMENCING AT THE NORTHEAST CORNER OF THE WEST 250 FEET OF SAID LOT 1; THENCE SOUTH 01° 24' 05" WEST 293.4 FEET; THENCE SOUTH 84° 29' 04" WEST 18.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 08° 28' 11" WEST 135.52 FEET TO THE APPARENT NORTHERLY RIGHT-OF-WAY OF THE IOWA CHICAGO & EASTERN RAILROAD; THENCE ALONG SAID RIGHT-OF-WAY SOUTH 51° 24' 56" WEST 107.55 FEET; THENCE NORTH 32° 36' 01" EAST 110.2 FEET; THENCE NORTH 22° 25' 47" EAST 117.3 FEET TO THE POINT OF BEGINNING, CONTAINING 3,826 SQUARE FEET, MORE OR LESS;

as surplus property and executing a quit claim deed to said property.

You are further notified that oral or written statements in support of or opposition to this declaring as surplus and executing a quit claim deed to said property may be made at a public hearing before the City Council to be held at 7:00 o'clock P.M. on December 3, 2020, in the Council Chambers in City Hall, 215 Sycamore Street, Muscatine, Iowa.

Carol Webb, City Clerk