

COMMUNITY DEVELOPMENT**MEMORANDUM**Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

To: Planning and Zoning Commission

From: Andrew Fangman, Assistant Community Development Director

Date: October 13, 2020

Re: Right of Way Vacation – PZVROW-8 a Request by McKee Button Company to vacate Undeveloped Located Behind 1000 Hershey Avenue

INTRODUCTION: McKee Button Co, has submitted a request to vacate, and then deed over, the portion of the unimproved Front Street (Mississippi Drive) right of way that directly adjoins the rear of their property at 1000 Hershey Avenue

BACKGROUND: The majority of the Front Street right of way being requested for vacation was subject to a resolution (*Public Document No. 9892*) passed by City Council 1905, see attached, which vacated and deeded over to the adjoining property owner, the majority of Front Street (Mississippi Drive) right of that adjoins 1000 Hershey Avenue. However, the property owner that received this deed from the City 1905, failed to record it and no copies of it can currently be found. This lack of a recorded deed makes impossible to document with 100% certainty the current owner of the specific portion of the Front Street (Mississippi Drive) right of way. If approved this request would allow for the City to issue a new deed, in the name of the current adjoining property, which would resolve this issue.

Additionally, McKee Button is requesting that the City vacate and then deed over the small part of the Front Street (Mississippi Drive) right of way retained by the City in 1905. Currently this stretch of right of way is occupied by a gravel driveway, solely used by McKee Button.

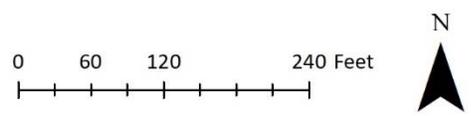
The subject right of way has not been developed as public streets or alleys, and contains no public infrastructure. In portion that was subject of the 1905 of City Council resolution numerous buildings and structures have been constructed since 1905. The adjoining property to south is owned by the Canadian Pacific Railroad.

RECOMMENDATION/RATIONALE: Staff recommends approval of this request. The vacation of the majority of the right of way covered by this request was fully approved by the City Council 115 years ago. The vacation of the portion of the right of way retained by the City in 1905 is recommended as the reason for which the City retained this right of way in 1905, the loading and unloading of freight from the adjoin railroad tracks ceased to exist decades ago.



PVROW-8 Proposed Vacation of Right of Way Behind 1000 Hershey Avenue

-  Front Street (Mississippi Dr) Right of Way Proposed for Vacation
-  Right of Way Explicitly Retained by the City in 1905 as Front Street
-  Right of Way Subject Vacation Resolution in 1905
-  McKee Button Property - 1000 Hershey Ave
-  Parcel Lines



Legal description of the right of way being requested to be vacated:

A STRIP OF LAND ADJACENT TO BLOCK 2 IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA. BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 2; THENCE SOUTH 88°07'01" EAST 125.08 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF HERSHEY AVENUE EXTENDED TO THE APPARENT NORTHERLY RIGHT-OF-WAY OF THE IOWA CHICAGO & EASTERN RAILROAD; THENCE SOUTH 53°17'56" WEST 536.51 FEET ALONG SAID RIGHT-OF-WAY TO THE WEST LINE OF SAID BLOCK 2 EXTENDED; THENCE NORTH ALONG SAID LINE NORTH 01°34'52" EAST 96.09 FEET TO THE SOUTHWEST CORNER OF BLOCK 2; THENCE NORTH 52°54'32" EAST 379.22 FEET ALONG THE SOUTHERLY LINE OF BLOCK 2 TO THE POINT OF BEGINNING, CONTAINING 0.807 ACRES, MORE OR LESS.

RESOLUTION

Directing the Mayor and City Recorder to Execute, Seal and Deliver a Certain Quit Claim Deed to the Hershey Lumber Company.

Whereas, A certain deed of release and conveyance has been tendered to the City by the Hershey Lumber Company, conveying to said City certain ground necessary to widen Green Street, also for an extension of Busch and Pearl Streets, Bismark Avenue and the alley in Block Thirty (30), and as a part of Mill Street, and as a part of Front Street, for loading purposes:

And, Whereas, Said grant by said company was upon the condition that the City release and quit claim to the said Hershey Lumber Company, certain grounds which were formerly in the bed of Muscatine Slough, and also a portion of the ground lying South of Block Two (2) in the City of Muscatine, Iowa.

Therefore, be it resolved by the City Council of the City of Muscatine, that the Mayor and City Recorder be, and they are hereby directed to execute in behalf of said City, the certain deed of release herewith presented; the same to be delivered to said Hershey Lumber Company on receipt of the deed from said Hershey Lumber Company to the City, properly executed and acknowledged.

Adopted and approved this 17th day of April, 1905.

P. H. Nutt

Mayor.

Attest:

Estel W. ...

City Recorder.

d. t.

