


COUNTY BOARD SUMMARY REPORT

TO : County Clerk: Attn: Monet McCullen

FROM : David R. Cary, Director of Planning 

RE : **County Miscellaneous 19003** - vacate final plat
(North 148th Street and Havelock Avenue)

DATE : October 25, 2019

1. On October 16, 2019, County Miscellaneous 19003, as requested by Michael and Rhonda McClellan, was included as part of the Planning Commission's consent agenda.
2. Attached is the Planning staff report that includes the proposed vacation request, on property generally located at North 148th Street and Havelock Avenue.
3. The staff recommendation of approval is based upon the Analysis as set forth on pp.1-2, concluding that this request to vacate the plat of McClellan Estates Addition will allow a driveway to be relocated.
4. On October 16, 2019, the Planning Commission voted 7-0 (Finnegan and Campbell absent) to recommend approval of this request to vacate.
5. To access all public comments and information on this application, click on the following link www.lincoln.ne.gov and (Keyword = PATS). Click on the "Selection Screen" under "Featured Links", type in the application number (i.e. MISC19003); click on "Search", then "Select". Go to "Related Documents".

The public hearing before the County Board has been scheduled for **Tuesday, November 5, 2019, at 9:00 a.m.**, in Room 112 of the County-City Building, 555 South 10th Street, Lincoln, Nebraska.

If you need any further information, please let me know (402-441-6365).

cc: County Board
Jenifer Holloway, County Attorney's Office
Tom Cajka
Waverly City Clerk

Ann Ames, County Commissioners
Kerry Eagan, County Commissioners
Michael and Rhonda McClellan
Cass County Clerk

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Miscellaneous #19003

FINAL ACTION?
No

DEVELOPER/OWNER
Michael and Rhonda McClellan

PLANNING COMMISSION HEARING DATE
October 16, 2019

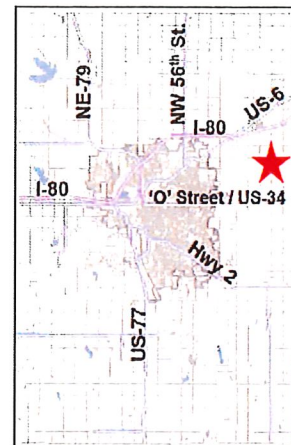
RELATED APPLICATIONS
None

PROPERTY ADDRESS/LOCATION
4180 N. 148th St.

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This request is to vacate the plat of McClellan Estates Addition. The plat vacation will allow a driveway to be relocated.



JUSTIFICATION FOR RECOMMENDATION

Vacating the final plat will allow the owners to move the driveway to their preferred location. The plat should be vacated, but retain the right-of-way along Havelock Avenue dedicated with this final plat.

APPLICATION CONTACT

Michael and Rhonda McClellan,
402-304-5437 R-honda@outlook.com

STAFF CONTACT

Tom Cajka, (402) 441-5662 or
tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The plat vacation is in conformance with the Comprehensive Plan.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 12.3 - this site is shown as future Agricultural on the 2040 Lincoln Area Future Land Use Plan.

ANALYSIS

1. This request is to vacate the plat of McClellan Estates Addition. The applicant's letter states the reason for the plat vacation is to allow the drive to be relocated. The location of the driveway will be at the previous location before the final plat was approved.
2. McClellan Estates Addition final plat was approved under the conditions of AG Preservation per Lancaster County Zoning Section 4.016. One of the conditions is that lots shall be accessed by a single shared driveway which shall be in a 60' wide public access and utility easement. The easement cannot be within the lot. The access easement is

the only access allowed to N. 148th Street. The previous driveway was required to be removed as a condition of approving the McClellan Estates Addition final plat.

3. At the time of the final plat AG Preservation was the only recourse to be able to have the house on a lot less than 20 acres. The AG District requires a minimum lot size of 20 acres unless a farmstead split or AG Preservation is done. The farmstead split requires that a single family dwelling has existed on the land for more than 5 years. The dwelling had been on the land for less than 5 years which made AG Preservation their only option.
4. If this final plat is vacated, the restriction on access would be removed. Lot 1 and Outlot A of McClellan Estates would revert back to an irregular tract.
5. Fifty feet of right of way along Havelock Avenue was dedicated with the final plat. With the vacation of the final plat, the street right-of-way will also be vacated, unless the Lancaster County Board of Commissioners chooses to retain the right-of-way. The County Engineering Department has requested to retain the right-of-way along Havelock Avenue.
6. Section 3.19 of the Lancaster County Subdivision Regulations allows that "The owner of any subdivision or plat may file a request to vacate all or a portion of such subdivision or plat with the Planning Department."
7. Utility easements are vacated when a final plat is vacated. The only easement on this plat is the 60' public access and utility easement. Norris Public Power District does not object to this plat vacation.
8. The applicant does not gain anything by creating a final plat and then vacating it. No additional lots were created. The plat vacation simply returns the lots to their original state, minus the right-of-way.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: AG-Agriculture Single family dwelling and farm ground

SURROUNDING LAND USE & ZONING

North:	AG-Agriculture	Farm Ground
South:	AG-Agriculture	Farm ground and 2 dwellings on acreage lots.
East:	AG-Agriculture	Farm ground
West:	AG-Agriculture	Farm ground and 1 dwelling on an acreage lot.

APPROXIMATE LAND AREA: 38 acres, more or less

LEGAL DESCRIPTION: Lot 1 and Outlot A, McClellan Estates Addition located in the NW ¼ of Section 10, Township 10 North, Range 8 East, Lancaster County, NE

Prepared by

Tom Cajka, Planner

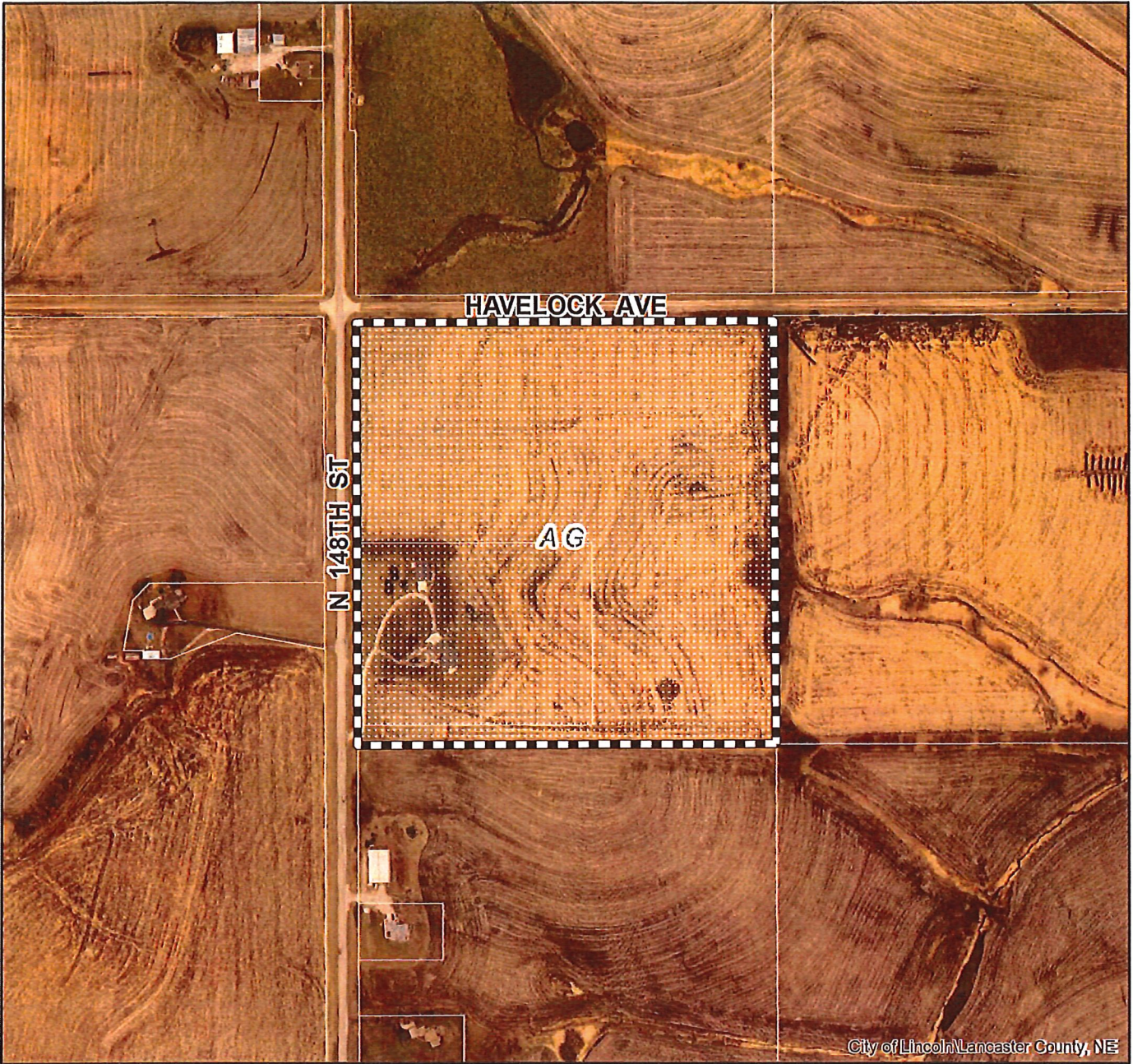
Date: October 1, 2019

Applicant: Michael and Rhonda McClellan
4180 N. 148th St.
Lincoln, NE 68527
402-304-5437
R-honda@outlook.com

Contact/Owner: Same as applicant

CONDITIONS OF APPROVAL - MISCELLANEOUS #19003

This approval permits McClellan Estates Addition final plat to be vacated per Section 3.19 of the Lancaster County Subdivision Regulations with the condition that the right-of-way along Havelock Avenue is retained.



City of Lincoln Lancaster County, NE

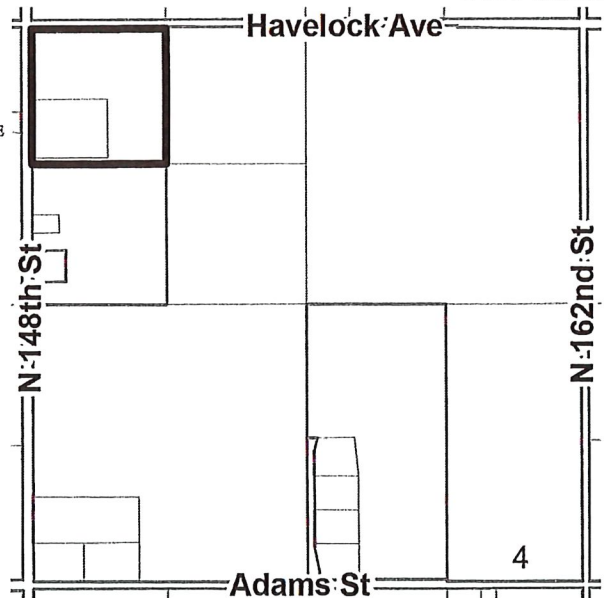
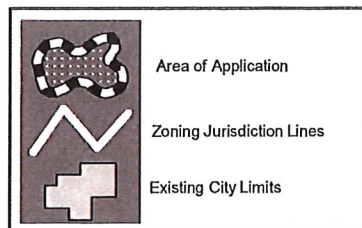
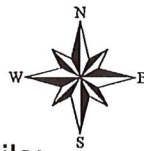
2018 aerial

Miscellaneous #: MISC19003
Plat Vacation
N 148th St & Havelock Ave

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile:
 Sec.10 T10N R08E



MCCLELLAN ESTATES ADDITION FINAL PLAT

Print #: 2015012901 Mon Apr 06 11:05:56 CDT 2015
 Filing Fee: \$20.00
 Lancaster County, NE Assessor/Registrar of Deeds Office PLAT
 Page 3

MCEs #5183

FINAL PLAT DEDICATION

THE FOREGOING PLAT, KNOWN AS MCCLELLAN ESTATES ADDITION, AS DESCRIBED IN THE SURVEYOR'S CERTIFICATE IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED, THE SOLE OWNERS, AND THE EASEMENTS SHOWN THEREON ARE HEREBY GRANTED IN PERPETUITY TO LANCASTER COUNTY, WINDSTREAM NEBRASKA INC., TIME WARNER CABLE MIDWEST L.L.C., BLACK HILLS ENERGY, AND NORRIS PUBLIC POWER DISTRICT, THEIR SUCCESSORS AND ASSIGNS, TO ALLOW ENTRY FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, OPERATION AND MAINTENANCE OF WIRES, CABLES, CONDUITS, FIXTURES, POLES, TOWERS, PIPES, AND EQUIPMENT FOR THE DISTRIBUTION OF ELECTRICITY AND GAS; TELEPHONE AND CABLE TELEVISION; WASTEWATER COLLECTORS; STORM DRAINS; WATER MAINS AND ALL APPURTENANCES THERETO, OVER, UPON, OR UNDER THE EASEMENTS AS SHOWN ON THE FOREGOING PLAT.

THE CONSTRUCTION OR LOCATION OF ANY BUILDING OR STRUCTURE, EXCLUDING FENCES, OVER, UPON, OR UNDER ANY EASEMENT SHOWN THEREON SHALL BE PROHIBITED.

LANCASTER COUNTY, ITS SUCCESSORS AND ASSIGNS ARE HEREBY HELD HARMLESS FOR THE COST OF REPLACEMENT OR DAMAGE TO ANY IMPROVEMENT OR VEGETATION OVER, UPON, OR UNDER ANY EASEMENT SHOWN THEREON.

DIRECT VEHICULAR ACCESS TO NORTH 148TH STREET IS HEREBY RELINQUISHED EXCEPT AT THE 60 FOOT PUBLIC ACCESS EASEMENT AS SHOWN.

DIRECT VEHICULAR ACCESS TO HAVELOCK AVENUE IS HEREBY RELINQUISHED.

THE 60 FOOT PUBLIC ACCESS, MAINTENANCE AND UTILITY EASEMENT SHOWN THEREON SHALL BE USED FOR PUBLIC ACCESS AND THE PUBLIC IS HEREBY GRANTED THE RIGHT OF SUCH USE. OWNERS OF ALL LOTS AND OUTLOTS WITH ACCESS TO THIS EASEMENT ARE HEREBY GRANTED THE RIGHT TO MAINTAIN, REPAIR, OR REBUILD THE DRIVEWAY WITHIN THIS ACCESS EASEMENT AS NECESSARY.

THE 50.00 FOOT WIDE RIGHT-OF-WAY SHOWN ALONG HAVELOCK AVENUE IS HEREBY DEDICATED TO THE PUBLIC.

Michael J. McClellan
 MICHAEL J. MCCLELLAN (HUSBAND)

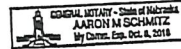
Rhonda L. McClellan
 RHONDA L. MCCLELLAN (WIFE)

ACKNOWLEDGEMENT OF NOTARY

STATE OF Nebraska } ss.
 COUNTY OF Lancaster }

ON THIS 26 DAY OF March, 2015, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, DULY COMMISSIONED, QUALIFIED FOR AND RESIDING IN SAID COUNTY, PERSONALLY CAME MICHAEL J. MCCLELLAN (HUSBAND), PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE DEDICATION OF THE FOREGOING PLAT AND HE ACKNOWLEDGED THE SAME TO BE HIS VOLUNTARY ACT AND DEED.

Aaron M. Schmitz
 NOTARY PUBLIC



MY COMMISSION EXPIRES THE 8 DAY OF October, 2018

ACKNOWLEDGEMENT OF NOTARY

STATE OF Nebraska } ss.
 COUNTY OF Lancaster }

ON THIS 26 DAY OF March, 2015, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, DULY COMMISSIONED, QUALIFIED FOR AND RESIDING IN SAID COUNTY, PERSONALLY CAME RHONDA L. MCCLELLAN (WIFE), PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE DEDICATION OF THE FOREGOING PLAT AND HE ACKNOWLEDGED THE SAME TO BE HIS VOLUNTARY ACT AND DEED.

Aaron M. Schmitz
 NOTARY PUBLIC



MY COMMISSION EXPIRES THE 8 DAY OF October, 2018

PLANNING DIRECTOR'S APPROVAL

THE PLANNING DIRECTOR, PURSUANT TO SECTION 3.16 OF THE LANCASTER COUNTY LAND SUBDIVISION REGULATIONS HEREBY APPROVES THIS FINAL PLAT.

[Signature]
 PLANNING DIRECTOR
APRIL 3, 2015
 DATE

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE CAUSED TO BE SURVEYED THE SUBDIVISION TO BE KNOWN AS "MCCLELLAN ESTATES ADDITION", A SUBDIVISION OF LOT 12 OF IRREGULAR TRACTS, LOCATED IN THE NW1/4 OF THE NW1/4 OF SECTION 10, T10N, R8E OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF SAID LOT 12, SAID POINT BEING ON THE EASTERLY R.O.W. LINE OF N. 148TH STREET; THENCE N87°33'58"E (ASSUMED BEARING) ON THE NORTH LINE OF SAID LOT 12, 1274.68 FEET TO THE NE CORNER OF SAID LOT 12; THENCE S02°32'30"E ON THE EAST LINE OF SAID LOT 12, 1317.34 FEET TO THE SE CORNER OF SAID LOT 12; THENCE S87°37'37"W ON THE SOUTH LINE OF SAID LOT 12, 1274.21 FEET TO THE SW CORNER OF SAID LOT 12, SAID POINT BEING ON THE EASTERLY R.O.W. LINE OF N. 148TH STREET; THENCE N02°33'44"W ON THE WEST LINE OF SAID LOT 12, 1315.99 FEET TO THE POINT OF BEGINNING, CONTAINING 38.52 ACRES MORE OR LESS.

Leslie J. Siegel
 LESLIE J. SIEGEL, NEBRASKA L.S. NO. 469

02/11/2015
 DATE



L & S SURVEYING
 P.O. BOX 354, CRETE, NE 68333

Michael J. McClellan	4180 N 148 th ST Lincoln, NE 68527 402-304-5477 michaeljmcclellan@outlook.com
-----------------------------	---

September 17, 2019

Lancaster County Commissioners
555 South 10th ST, Room 110
Lincoln, NE 68508

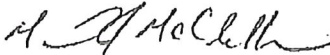
Dear Lancaster County Commissioners:

As the owners of parcel 2310100001000, Rhonda and Michael McClellan respectfully request that the Lancaster County Board of Commissioners vacate the McClellan Estates Addition final plat (FPPL14109). Five years ago we needed to establish an Ag Preservation Subdivision in order to obtain the mortgage for our then new home. As a part of that effort we had to establish an easement which dictated the location of the access point to the property. What we did not realize at the time was that the easement we selected actually created a visibility and therefore safety issue to the north of the access point.

Over the past couple of months, Rhonda and I have participated in meetings with Commissioners Schorr and Vest, County Engineer Dingman, County Surveyor Schroeder, and consultation with County Planner Cajka. As a result, we believe that the best way to achieve the desired result of a safer access point is to abandon the referenced plat and then re-plat the property using the farmstead split option that was not available five years ago due to the age of the home.

Again, as a first step toward the desired result, we appreciate the Board's consideration of our request to vacate final plat FPPL14109.

Sincerely,



Michael McClellan