

ORDINANCE NO. 2019-0307

AN ORDINANCE VACATING RIGHT-OF-WAY (HANCOCK STREET AND LAKE PARK BOULEVARD ADJACENT TO 922 HANCOCK STREET) IN THE CITY OF MUSCATINE, IOWA

WHEREAS, the Planning and Zoning Commission of the City of Muscatine has recommended approval of the vacation of a portion of street and right-of-way the City of Muscatine, Iowa; and

WHEREAS, the City Council of the City of Muscatine has conducted a public hearing on said vacation request;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA, AS FOLLOWS:

Section 1. The following described real estate be vacated by the City of Muscatine, Iowa:

PARCEL "DD" -

THE SOUTH 15 FEET OF HANCOCK STREET IN PARK PLACE ADDITION TO THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA LYING EAST OF THE ALLEY IN BLOCK 71 OF PARK PLACE ADDITION AND WEST OF ISSETT AVENUE. CONTAINING 3,241 SQUARE FEET. *(Area A)*

PARCEL "EE" -

A PART OF LAKE PARK BOULEVARD IN PARK PLACE ADDITION TO THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA. COMMENCING AT THE NORTHEAST CORNER OF LOT 2 IN BLOCK 71 OF PARK PLACE ADDITION; THENCE NORTH 86°35'56" EAST 71.83 FEET TO THE POINT OF BEGINNING; THENCE NORTH 53°18'37" EAST 52.90 FEET TO THE WEST LINE OF ISSETT AVENUE; THENCE SOUTH 03°23'46" EAST 29.03 FEET; THENCE SOUTH 86°35'56" WEST 44.21 FEET TO THE POINT OF BEGINNING. CONTAINING 642 SQUARE FEET AND SUBJECT TO EASEMENTS OF RECORD. *(Area B)*

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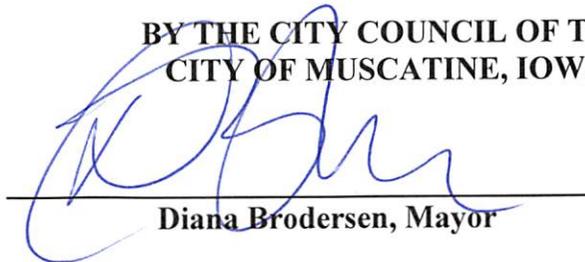
BEGINNING AT THE NORTHEAST CORNER OF LOT 2 OF BLOCK 71 OF PARK PLACE ADDITION TO THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA; THENCE NORTH 86°35'56" EAST 99.16 FEET; THENCE SOUTH 53°18'37" WEST 118.63 FEET TO THE EASTERN LINE OF LOTS 1 AND 2 IN BLOCK 71 EXTENDED; THENCE NORTH 03°23'46" WEST 65.11 FEET TO THE POINT OF BEGINNING. CONTAINING 3,228 SQUARE FEET AND SUBJECT TO EASEMENTS OF RECORD. *(Area C)*

Vacation and Easement Plat is hereto attached as Exhibit A

Section II. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is hereby repealed.

PASSED, APPROVED AND ADOPTED this 17th day of October, 2019.

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



Diana Brodersen, Mayor



Attest:



Nancy Lueck, Acting City Clerk

1st Reading - September 19, 2019

2nd Reading - October 3, 2019

3rd Reading - October 17, 2019

COMMUNITY DEVELOPMENT

MEMORANDUM

To: Mayor and City Council Members
Cc: Gregg Mandsager, City Administrator
From: Andrew Fangman, Assistant Community Development Director
Date: October 17, 2019
Re: Right of Way Vacation – (PZVROW-4) Hancock Street and Lake Park Boulevard
Adjacent to 922 Hancock Street & Resolutions Executing Deeds for Vacated Right
of Way.

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

INTRODUCTION: Ken and Dana Larue, owners of Non-Emergency Medical Transport, filed a right of way vacation plat for 7,111 square feet of right of way on Hancock Street and Lake Park Boulevard, in three separate areas, all of which directly adjoin their current property located at 922 Hancock Street.

BACKGROUND:

In November of 2016 this location, the former location of the former Christian Life Church, was rezoned from R-3 Single Family Residential to S-2 Institutional Office. The applicants began operating their business, Non-Emergency Medical Transport from this location shortly thereafter. Parking at this location operates the same as it did when this site was operated as a church, starting in 1960, when the existing structure was built. A small unpaved parking area exists immediately to the west of the existing structure, and there also a larger number unpaved parking on the Hancock Street right of way and the Larue's property, see image below (underlying aerial photo was taken on Saturday, April 20, 2019).

As this rezoning has been previously approved, the current use of the site, which currently conforms to all applicable portions of City Council, as business is not question before council. The sole question is if unused City right of way should be vacated to allow for the creation of additional off street parking for Non-Emergency Medical Transport in order alleviate issues with on street parking associated with this business.



The small number of off-street parking spots that currently exist on this site, while meeting the minimum requirements of City Code, has created issues for nearby residents. Frequently much of the on-street parking on Hancock Street gets used by employees of Non-Emergency Medical Transport. This situation does not violate City Code, as the three requirements under City Code for a vehicle to be parked on a street is for a vehicle to be currently registered, be moved at least once every 24 hours, and in location where on-street parking not prohibited. While technically code compliant, the congestion and lack on street parking for residents is clearly a problematic situation.

To address this, and to aid in the operation of their business the Larue's are proposing to construct a garage that will accommodate 24 vehicles, on a location immediately east of their existing building. Entry to this garage would be from a single driveway off of Hancock Street, it should be noted that this driveway has aligned so that it does not directly front any of the homes on the north side of Hancock Street, exit would be through a driveway onto Lake Park Blvd, see a overview of the submitted site plan on Page 7. A small detention basin would be constructed on the south of the new building. The area between the new building and Hancock Street, will be landscaped as shown in attached landscaping plan on Page 8. The right of way vacation has been proposed because the Larue's existing parcel is not larger enough to accommodate what they are proposing to construct, and a project that only makes use of their current parcel would not move as many vehicles off of Hancock Street.

A small portion of the 7,111 square feet of right of way being proposed for vacation is being proposed to be acquired by the property owner at 923 Lake Park Blvd, the property adjoining 922 Hancock Street to the south. In 1987 at the request of pervious owner of 923 Lake Park Blvd, the City vacated and sold a portion the Lake Park Blvd right of way located directly to the south of this parcel. While the legal description for this transaction has always been correct, the depiction on MAGIC of what right of was vacated and added to 923 Lake Park Blvd has not been. For unknown reasons it has always shown a portion of the Lake Park Blvd right of way located directly to the west of 923 Lake Park Blvd as being part of this property, and not the right of way to the south that was actual vacated and sold in 1987, see diagram on following page. Eric Boots the current owner of 923 Lake Park Blvd, based on what was depicted on MAGIC, has recently invested in landscaping a portion of the City right of way that was depicted as being part of his property.

This error came to light as part of the process of preparing the right of way vacation plat that Council is being asked to act upon. The Larue's and Mr. Boots have come to an agreement where, with City Council approval, the Larue's would get the portion of the vacated right of way need for their off-street parking project, and Mr. Boots would get the portion of the right of way that he has landscaped.



RECOMMENDATION/RATIONALE: The Planning and Zoning Commission has voted at their August meeting to recommend approval of this request. Staff concurs with this recommendation. The right of way being proposed for vacation serves no useful public purpose. The right of way being proposed for vacation serve no useful public purpose, and its vacation would facilitate the alleviation of issues created by on street parking issues on Hancock Street.

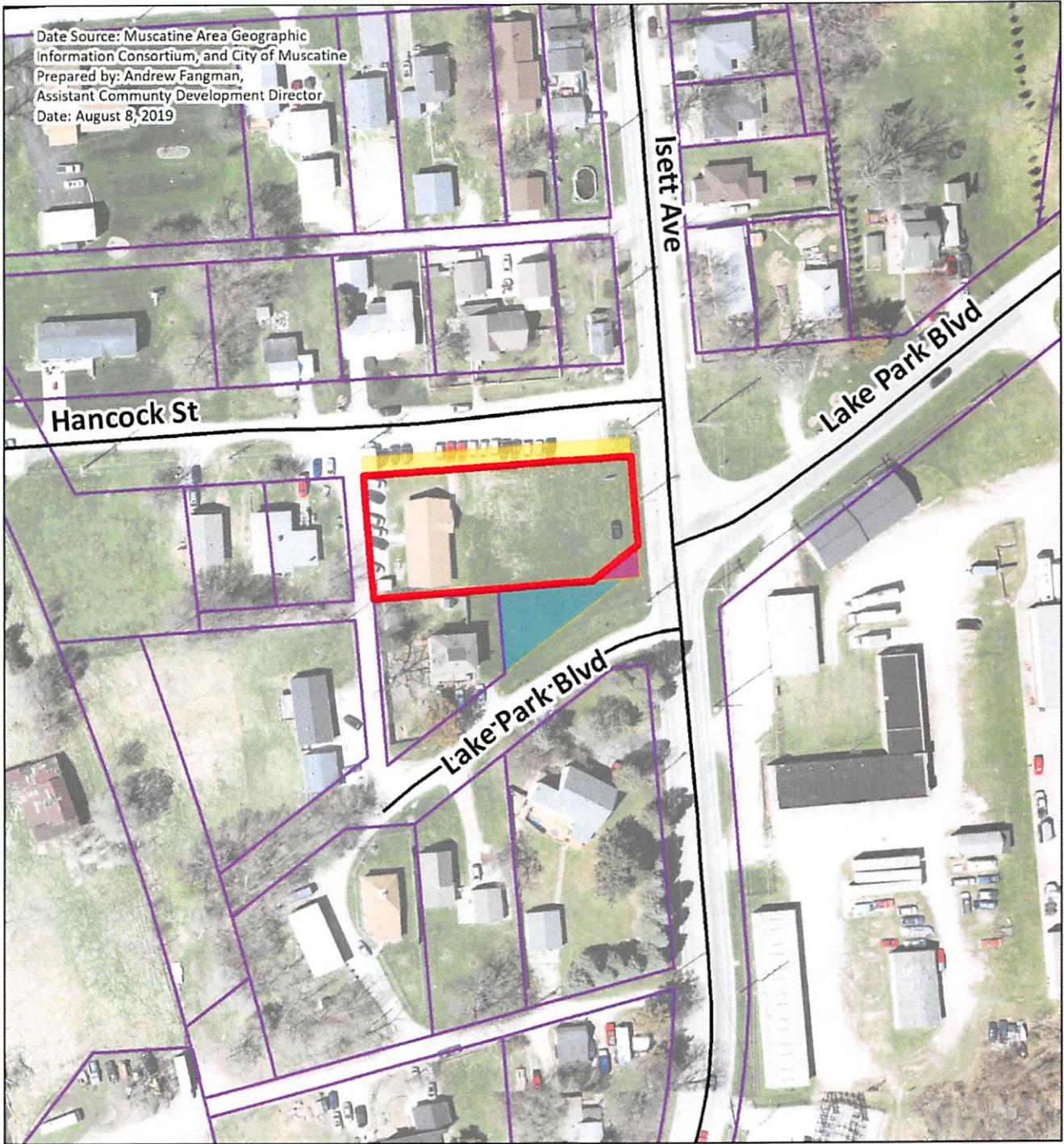
The number of vehicles related to for Non-Emergency Medical Transport parking on Hancock Street is creating issues for nearby residents. The proposed garage is the most effective way to reduce this impact, as it moves the parking for 24 vehicles into an indoor space. If the proposed right of vacation were not be approved, the Larue's would not be able to construct the proposed structure. They would however retain the right to construct more parking on their existing parcel, however whatever alternate that they might construct within the bounds of their current parcel would accommodate less than the 24 vehicles that will be able to park within the structure that they are currently proposing to build. Reducing the number of new off-street parking does not benefit the residents in this area or the Larue's.

In lieu of a direct payment for the vacated right of way, staff has negotiated an agreement with the Larue's that would require that all existing unpaved parking areas at 922 Hancock Street, be paved within two years. It is staff's opinion that paving these currently graveled areas would provide a greater benefit the neighborhood and community than the \$1.05 per square foot that the City typical charges for vacated right of way. Additionally, it may be possible to add a handful more parking space off of the Lake Park Blvd driveway. The Larue's have indicated, that should council request this as part of the sale of the property, that they would be willing to do so, in exchange for being given 5 years to pave the existing unpaved parking areas.

BACKUP INFORMATION:

1. Ordinance
2. Vacation Plat
3. Resolutions Approving Executed Deeds

Date Source: Muscatine Area Geographic Information Consortium, and City of Muscatine
 Prepared by: Andrew Fangman,
 Assistant Community Development Director
 Date: August 8, 2019

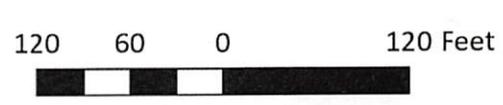


Areas of Right of Way Proposed for Vacation

- Area A - 3,241 Sq. Ft.
- Area B - 642 Sq. Ft.
- Area C - 3,228 Sq. Ft.

Right of Way Vaction (PZVROW-4)

- Parcel Containing 922 Hancock
- Current Parcel Lines



**RIGHT-OF-WAY
VACATION PLAT**



BASIS OF BEARINGS
IOWA REGIONAL COORDINATE SYSTEM
ZONE 14



PARCEL 'DD' -

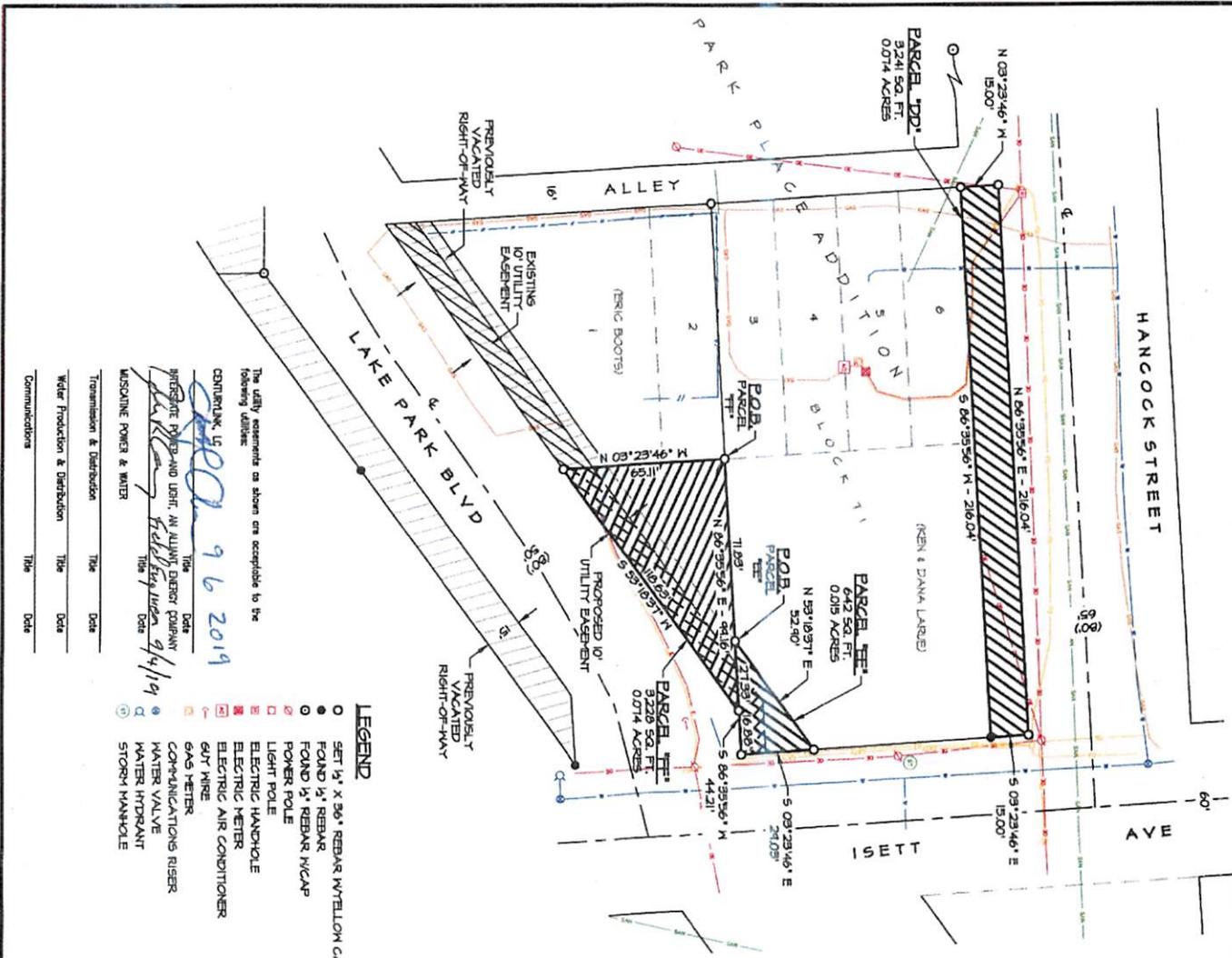
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LEGEND

- SET 1 1/2" X 3/8" REDBAR W/YELLOW CAP #10316
- FOUND 1/2" REBAR
- FOUND 1/2" REBAR W/CAP
- POWER POLE
- LIGHT POLE
- ELECTRIC HANDBOLE
- ELECTRIC METER
- ELECTRIC AIR CONDITIONER
- GUY WIRE
- GAS METER
- COMMUNICATIONS RISER
- WATER VALVE
- WATER HYDRANT
- STORM MANHOLE

- OVERHEAD ELECTRIC
- UNDERGROUND FIBER OPTIC
- UNDERGROUND TELECOMMUNICATIONS
- UNDERGROUND GAS
- UNDERGROUND SANITARY SEWER
- WATER MAIN
- FENCE
- PROPERTY OWNER
- TO BE VACATED
- PREVIOUSLY VACATED
- EXISTING UTILITY EASEMENT
- PROPOSED UTILITY EASEMENT

The utility easements on shown are accepted to the following utilities:

- CONTRACTOR, LLC Title Date 9/6/2019
- PROFESSIONAL ENGINEER AND SURVEYOR, AN ALIEN, DIRECT COMPANY Title Date 9/4/19
- MUSCATINE POWER & WATER Title Date

Transmission & Distribution	Title	Date
Water Production & Distribution	Title	Date
Communications	Title	Date

I, Surveyor, certify that this plat represents the true and correct location of the utility easements shown hereon and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

Darryl W. Whitacre Reg. No. 10418
By license renewed date is December 31, 2018

Page or sheets covered by this seal: 1

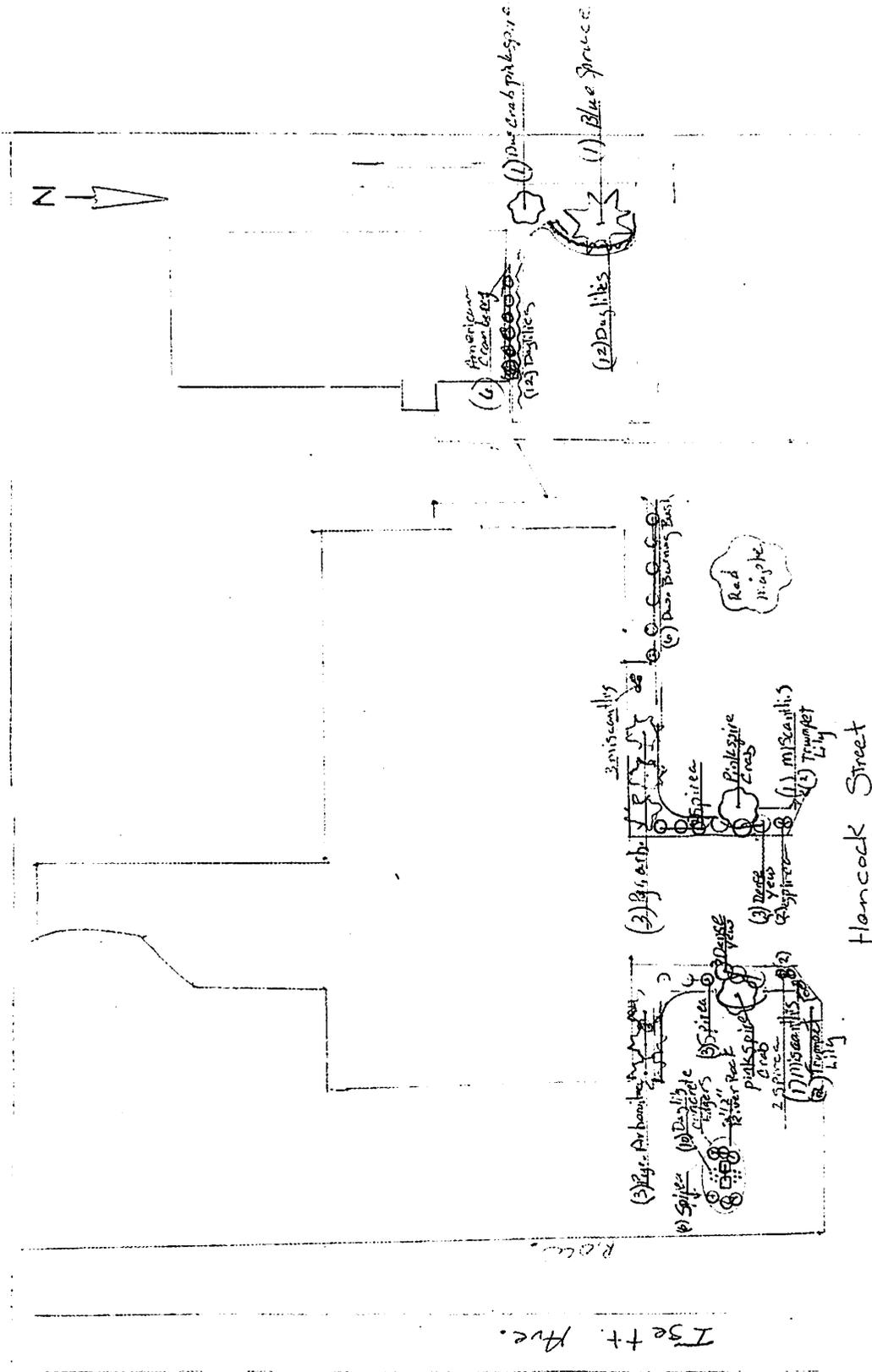


SURVEY COMPANY / RETURN TO:
Martin & Whitacre
Surveyors & Engineers, Inc.
P.O. BOX 413 MUSCATINE, IOWA 52701
INFO@MARTIN-WHITACRE.COM (563)283-7881

SURVEYOR: GARY M. WHITACRE
PROFESSIONAL: KEN & DANA LARUE

LOCATION: PART OF HANCOCK STREET RIGHT OF WAY & PART OF LAKE PARK BLVD RIGHT OF WAY IN THE CITY OF MUSCATINE, IOWA

SURVEY TYPE:	VACATION PLAT	DATE:	09/04/2019
REVISION:	1	DATE:	09/04/2019
BY:	DW	DATE:	09/04/2019
BY:	GW	DATE:	09/04/2019
BY:	KL	DATE:	09/04/2019
BY:	DL	DATE:	09/04/2019



Landscape Plan
Proposed Site Improvements

Hancock Street
Bayfield Landscape
2355 Bayfield Road

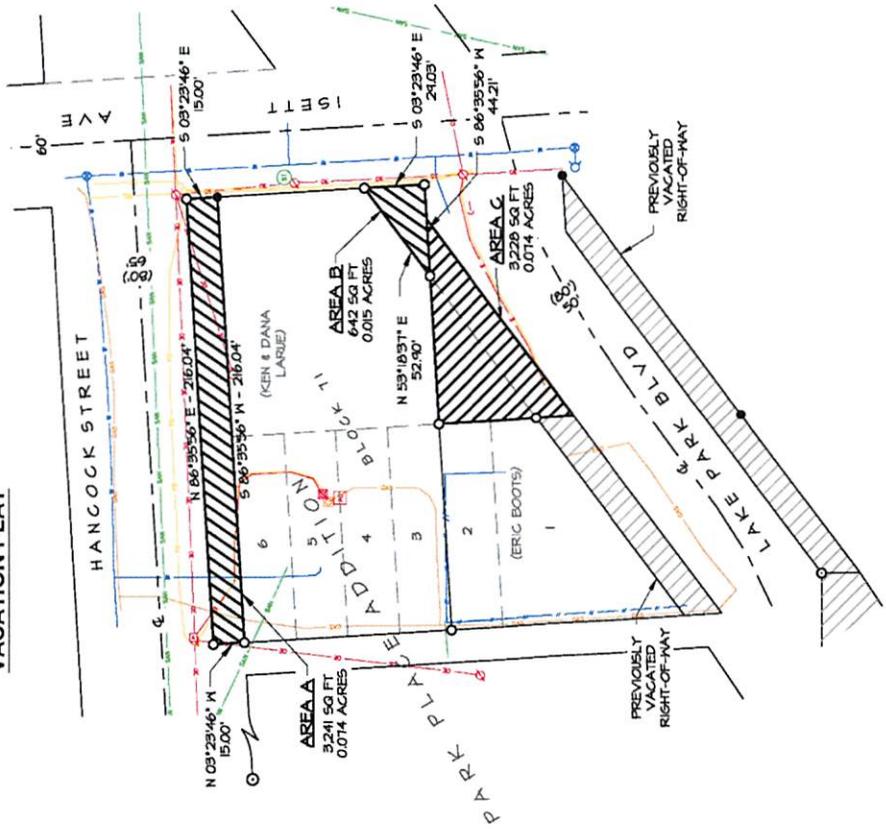
Non-Emergency Transport
Muscadine
Tuna

Exhibit A

40 0 40
BASIS OF BEARINGS
IOWA REGIONAL COORDINATE SYSTEM
ZONE 14



RIGHT-OF-WAY VACATION PLAT



LAND DESCRIPTION -

The utility easements as shown are acceptable to the following utilities:

CENTURYLINK, LC	
INTERSTATE POWER AND LIGHT, AN ALLIANT ENERGY COMPANY	
MUSKOGEE POWER & WATER	
Transmission & Distribution	
Water Production & Distribution	
Communications	

LEGEND

- SET 1/2" x 3/8" REBAR NYTELON CAP #10216
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- WATER MAIN
- FENCE
- (NAME) PROPERTY OWNER
- TO BE VACATED
- PREVIOUSLY VACATED

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.



Gary T. Williams
Reg. No. 10016
By license renewal date is December 31, 2019
Pages or sheets covered by this plat: 1

SURVEY COMPANY / RETURN TO:

**Martin & Whitacre
Surveyors & Engineers, Inc.**
P.O. BOX 413 MUSCATINE, IOWA 52761
INFO@MARTIN-WHITACRE.COM (563)263-7891

SURVEYOR: GARY T. WHITACRE
PROPRIETOR(S): KEN & DANA LARJE

REQUESTOR: KEN & DANA LARJE
LOCATION: PART OF HANCOCK STREET RIGHT OF WAY & PART OF LAKE PARK BLVD RIGHT OF WAY IN THE CITY OF MUSCATINE, IOWA

SURVEY TYPE: VACATION PLAT

FILE NO.	BOOK	SCALE	DRN	CHKD	DATE	JOB NO.
10016	11-42	1"=40'	JMS	GMW	04/04/14	040414
REV. 0						8404 VACATION PLAT SHEET 1 OF 1

*** Proof of Publication ***

The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

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RIGHT-OF-WAY (HANCOCK STREET
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Vacation and Easement Plat is hereto attached as Exhibit A
Section II. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is hereby repealed.

PASSED, APPROVED AND ADOPTED THIS 17TH day of October, 2019.

BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

/S/ DIANA BRODERSEN, MAYOR

ATTEST:
/S/ NANCY LUECK, ACTING CITY CLERK

1st Reading - September 19, 2019
2nd Reading - October 3, 2019
3rd Reading - October 17, 2019

CITY OF MUSCATINE- Legals account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 54958

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.

Jessica Kelly

Section: Notices & Legals
Category: 2635 Legal Ordinance
PUBLISHED ON: 10/29/2019

TOTAL AD COST: 41.72
FILED ON: 10/29/2019

Subscribed and sworn to before me by said affiant this 29 day of October 2019.

Cheryl Lou Schemmel

Notary Public in and for Scott County, Iowa

