



City of Muscatine



AGENDA ITEM SUMMARY

DATE: 8-5-21

City Council

STAFF

Andrew Fangman, Assistant Community Development Director

SUBJECT

An ordinance vacating undeveloped right of way adjoining 1820 Angle Street

EXECUTIVE SUMMARY

A request to vacate and then sell to the adjoining property owner certain right of way adjoining 1820 Angle Street has been submitted by Paul Neff, owner of Pete's Tap. Mr. Neff desires to make improvements to his business, but is somewhat constrained by the small size of the current parcel and has requested this vacation and sale. The attached ordinance vacates this right of way.

STAFF RECOMMENDATION

Staff recommends approval of the attached resolution.

BACKGROUND/DISCUSSION

Paul Neff, owner of Pete's Tap, located at 1820 Angle Street, has requested the vacation and sale of 8,598 square feet of the unimproved public right of way surrounding this property. (The area shown in yellow on the attached map)

The parcel upon which Pete's Tap is currently located is extremely small, just 2,548 square feet, and largely just contains the existing building footprint. The owner of Pete's Tap desires to make improvements to their business, but are somewhat constrained by the small size of their current parcel and are requesting this vacation and sale. On December 19, 2019, City Council approved a purchase agreement, attached to this memo, which set forth the terms by which the subject right of way would be sold to the applicant, pending successful completion of the right of way vacation process.

In the agreement, the applicant acknowledged awareness that both the current property, located at 1820 Angle Street, as well as the right-of-way are both located in the R-3 Single Family Residence Zoning District. In the R-3 District, bars/restaurants are not an allowed use, and that the bar/restaurant operated by the buyer, at 1820 Angle Street, is a lawful nonconforming use, under the provisions of Chapter 24 of Title of the City Code of Muscatine, Iowa, as it was established prior to the Zoning Ordinance. Section 10-24-2 states that the existing nonconforming use may continue provided no structural alterations are made. Expansion of the Buyer's existing building onto the right of way or the buyer's current parcel, located at 1820 Angle Street, will require authorization in the form of a variance from the

Zoning Board of Adjustment. To file for this variance, plans for any proposed expansion or improvements will have to be submitted as part of the application for a variance. The variance request will then be subject to a public hearing, with notification sent to all property owners living within 200 feet of the subject property. After this public hearing, the Zoning Board of Adjustment will vote to approve or deny the variance request. If at a later date, any additional expansion to the footprint of the legal non-conforming business, not covered by the original variance request, were proposed, an additional variance with the full public hearing in front of the Zoning Board of Adjustment, would be required.

The area proposed for vacation contains small stretches of sanitary and storm sewer. If vacation and sale of this right of way is approved, easements will be created to accommodate these sewers lines, as is commonplace for sewer lines located outside the public right of way. Additionally, an access easement across the entire vacated right of way would be granted to the City for maintaining the slough and the slough shoreline. The City would retain ownership of the slough shoreline and adjoining areas located within the floodplain.

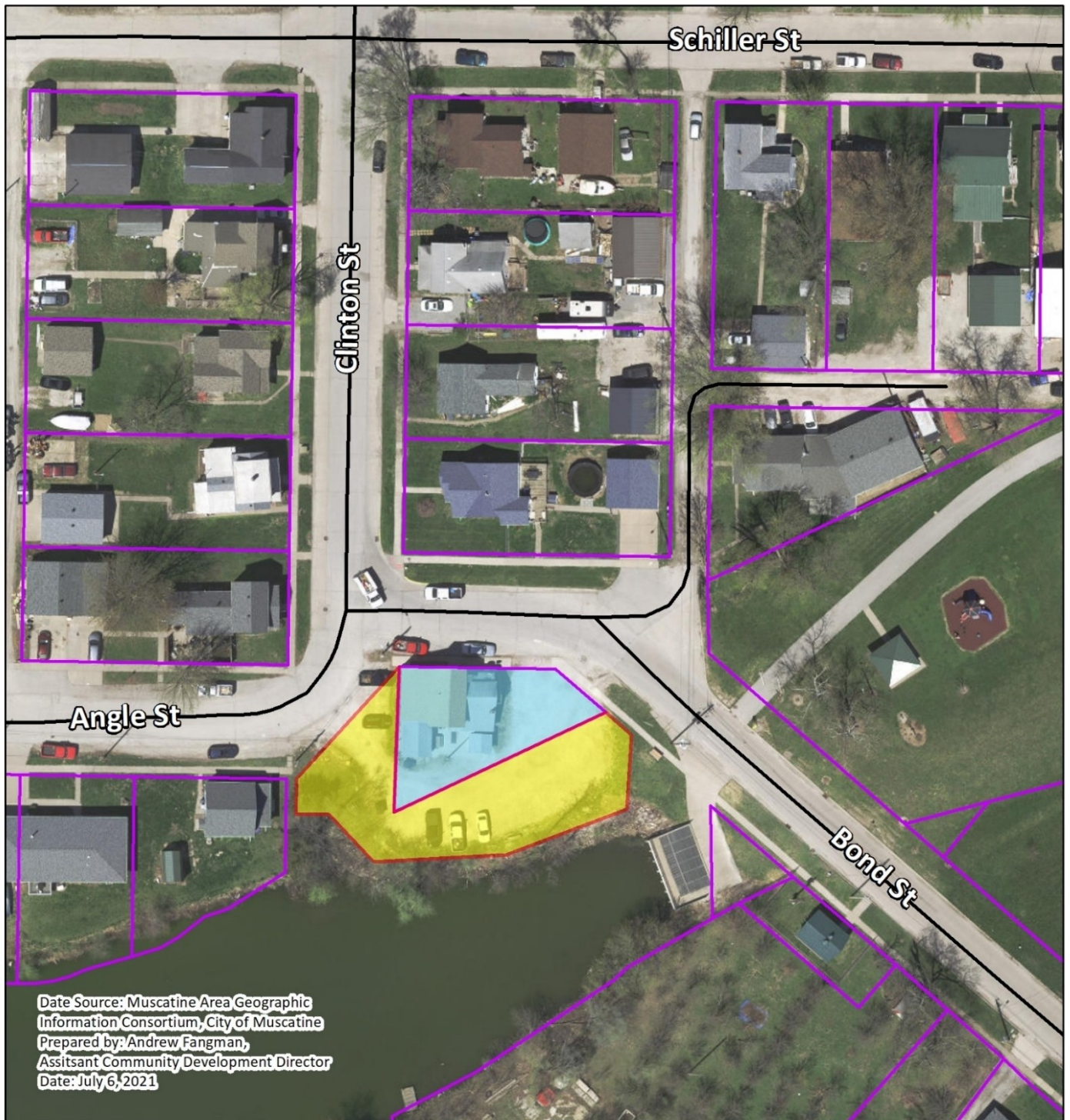
The right of way being proposed for vacation and sale is irregularly shaped, and did not have a valid legal description allowing it to be vacated and sold. For this reason, the purchase agreement required that the applicant, at their expense, hire a registered surveyor to prepare a right of way vacation plat and accompanying legal description. A valid legal description of the right of way to be proposed for vacation is necessary before process can begin. Now that such a legal description and plan have been prepared and submitted, the process to vacate this right of way can begin.

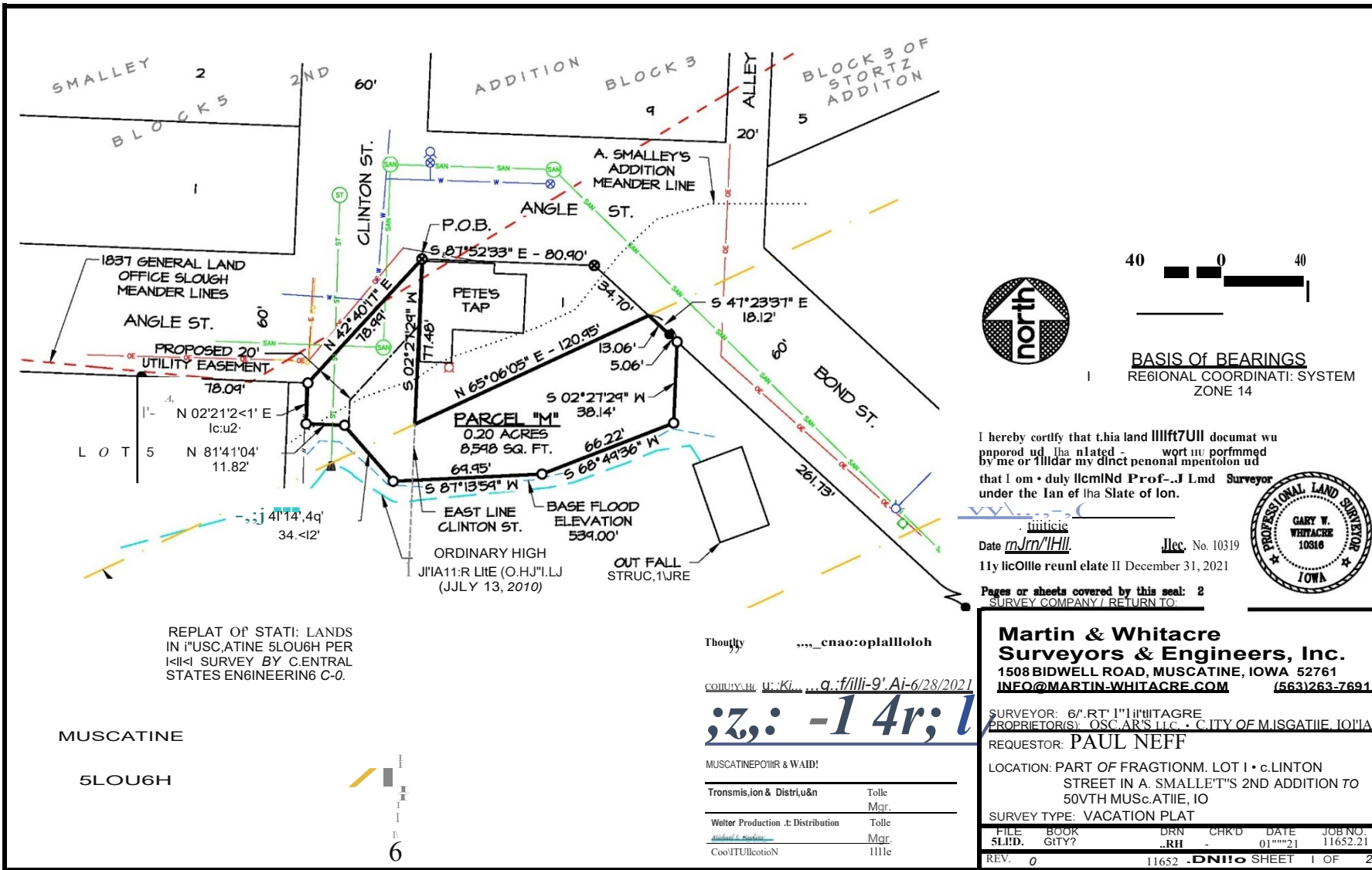
CITY FINANCIAL IMPACT

The financial impact of this action will be positive. The applicant will cover transactional costs. The vacation will make the property and any future improvements upon it subject to property tax.

ATTACHMENTS

1. Map
2. Plat
3. Ordinance





REPLAT OF STATUTE LANDS
IN MUSCATINE SLOUGH PER
1837 SURVEY BY CENTRAL
STATES ENGINEERING CO.

MUSCATINE
SLOUGH

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COMPLYING WITH: K... a: f/lli-9' Aj-6/28/2021

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MUSCATINE POLICE & WAID!

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|---------------------------------|-------|
| Transmission & Distribution | Tolle |
| | Mgr. |
| Water Production & Distribution | Tolle |
| | Mgr. |
| Construction | Tolle |
| | Mgr. |

I hereby certify that this land plat document was prepared and related to the work 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.

Date: 11/11/21
Lic. No. 10319
My license renews on December 31, 2021

Pages or sheets covered by this seal: 2
SURVEY COMPANY / RETURN TO:



Martin & Whitacre
Surveyors & Engineers, Inc.
1508 BIDWELL ROAD, MUSCATINE, IOWA 52761
INFO@MARTIN-WHITACRE.COM (563)263-7691

SURVEYOR: GARY W. WHITACRE
PROPRIETOR(S): OSCAR S. LLC • CITY OF MUSCATINE, IOWA
REQUESTOR: PAUL NEFF

LOCATION: PART OF FRAGMENT LOT 1 • CLINTON
STREET IN A. SMALLEY'S 2ND ADDITION TO
50TH MUSCATINE, IO

SURVEY TYPE: VACATION PLAT

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|-------|------|-------|-------|----------|----------|
| FILE | BOOK | DRN | CHRD | DATE | JOB NO. |
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| REV. | 0 | 11652 | -DNIT | SHEET | 1 OF 2 |

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| 0 | SET • X 36' REBAR | GAP 1110316 |
| 8 | SETGILT 'X' | |
| 0 | FOUND REBAR | |
| 0 | SANITARY SB'ER MANHOLE | |
| @ | STORM MANHOLE | |
| A | STORM APRON | |
| 0 | LI<SHT POLE | |
| U' | HYDRANT | |
| @ | WATER VALVE | |
| ----- | PROPOSED 20' UTILITY EASEMENT | |
| --- | SANITARY SB'ER MAIN | |
| -- or-ST -- | 18' RGP STORM 5B'ER | |
| --- | OVERHEAD ELEGTRIG | |
| -- • -- | UNDERGROUND ELEGTRIG | |
| --- | UNDERGROUND FISER OPTIG | |
| --- | UNDERGROUND WATER MAIN | |
| --- | FENCE | |
| - - - - - | BASE FLOOD 'ZOIE AE' ELEVATION | |
| | COMMA-ITY - PANEL NO. 11131C081D | |
| | EFFECTIVE, APRIL 16, 2014 | |
| | A. SMALLEY'S 2ND ADDITION SLOUGH MEANDER LINE | |
| - - - - - | 1831 61..0 SURVEY SLOUGH MEANDER LINE | |
| - - - - - | 11111 CENTRAL STATES SURVEY SLOUGH BOUNDARY LINE | |
| ----- | ORIGINAL HIGH WATER LINE (O.H.Yti.) | |

LAND DESCRIPTION - TO BE VACATED

FRACTIONAL LOT 1 LYING SOUTH OF BLOCK 3 AND ALSO PART OF CLINTON STREET, ALL IN A. SMALLEY'S 2ND ADDITION TO SOUTH MUSCATINE, AN ADDITION TO THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA. BEGINNING AT THE NORTHWEST CORNER OF LOT 1; THENCE SOUTH 02°27'29" WEST 77.48 FEET ALONG THE EAST RIGHT-OF-WAY OF CLINTON STREET TO THE NORTHERLY BOUNDARY OF THE MUSCATINE SLOUGH FROM THE REPLAT OF STATE LANDS IN MUSCATINE SLOUGH PER 1919 SURVEY BY CENTRAL STATES ENGINEERING CO.; THENCE ALONG SAID SLOUGH BOUNDARY NORTH 65°06'05" EAST 120.95 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF BOND STREET; THENCE SOUTH 47°23'37" EAST 18.12 FEET ALONG SAID RIGHT-OF-WAY; THENCE SOUTH 02°27'29" WEST 38.14 FEET; THENCE SOUTH 68°49'36" WEST 66.22 FEET; THENCE SOUTH 87°13'59" WEST 89.95 FEET; THENCE NORTH 41°14'49" WEST 34.92 FEET; THENCE NORTH 87°41'04" WEST 17.62 FEET; THENCE NORTH 02°27'29" EAST 19.12 FEET; THENCE NORTH 42°40'17" EAST 78.99 FEET TO THE POINT OF BEGINNING. PARCEL -y- CONTAINS 0.20 ACRES AND SUBJECT TO EASEMENTS OF RECORD.

SURVEY COMPANY I RETURN TO:

Martin & Whitacre
Surveyors & Engineers, Inc.
1508 BIDWELL ROAD, MUSCATINE, IOWA 52761
INFO@MARTIN-WHITACRE.COM (563)263-7891

SURVEYOR: 61>R(K Y++ITAGRE

PROPRIETOR(S): OSCAR'S LLC f CITY OF MUSCATINE, I

REQUESTOR: PAUL NEFF

LOCATION: PART OF FRACTIONAL LOT 1 IN A. SMALLEY'S
2ND ADDITION TO SOUTH MUSCATINE, IN THE
CITY OF MUSCATINE, IOWA

FILE BOOK SCALE ORN CHKD DATE I JOB NO.

SURVEY TYPE: VACATION PLAT

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REV. 0 1st of 52 SURVEYDI161 SHEET 2 OF 2

ORDINANCE NO. 2021-0263

**AN ORDINANCE VACATING CERTAIN RIGHT-OF-WAY ADJOINING 1820
ANGLE STREET**

WHEREAS, the Planning and Zoning Commission of the City of Muscatine, on July 13, 2021 recommended approval of the vacation of a certain right of way that adjoins 1820 Angle Street in the City of Muscatine, Iowa; and

WHEREAS, the City Council of the City of Muscatine, on August 5, 2021, 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 I. The following described real estate be vacated by the City of Muscatine, Iowa:

**FRACTIONAL LOT 1 LYING SOUTH OF BLOCK 3 AND ALSO PART OF CLINTON STREET,
ALL IN A. SMALLEY'S 2ND ADDITION TO SOUTH MUSCATINE, AN ADDITION TO THE
CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA.**

**BEGINNING AT THE NORTHWEST CORNER OF LOT 1; THENCE SOUTH 02°27'29" WEST
77.48 FEET ALONG THE EAST RIGHT-OF-WAY OF CLINTON STREET TO THE
NORTHERLY BOUNDARY OF THE MUSCATINE SLOUGH FROM THE REPLAT OF STATE
LANDS IN MUSCATINE SLOUGH PER 1919 SURVEY BY CENTRAL STATES ENGINEERING
CO.; THENCE ALONG SAID SLOUGH BOUNDARY NORTH 65°06'05" EAST 120.95 FEET TO
THE SOUTHERLY RIGHT-OF-WAY OF BOND STREET; THENCE SOUTH 47°23'37" EAST
18.12 FEET ALONG SAID RIGHT-OF-WAY; THENCE SOUTH 02°27'29" WEST 38.14 FEET;
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THENCE NORTH 41°14'49" WEST 34.92 FEET; THENCE NORTH 87°41'04" WEST 17.82 FEET;
THENCE NORTH 02°27'29" EAST 19.12 FEET; THENCE NORTH 42°40'17" EAST 78.99 FEET
TO THE POINT OF BEGINNING. PARCEL "M" CONTAINS 0.20 ACRES AND SUBJECT TO
EASEMENTS OF RECORD.**

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 2nd day of September, 2021.

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



Diana L. Broderson

Diana L. Broderson (Sep 3, 2021 09:53 CDT)

Diana Broderson, Mayor

Attest:

Carol Webb

Carol Webb (Sep 3, 2021 10:20 CDT)

Carol Webb, City Clerk

1st Reading August 5, 2021

2nd Reading August 19, 2021

3rd Reading September 2, 2021

LEGEND

- SET 1/2" x 36" REBAR W/YELLOW CAP #10316
 ⊗ SET CUT "X"
 ○ FOUND REBAR
 (S) SANITARY SEWER MANHOLE
 (ST) STORM MANHOLE
 ▲ STORM APRON
 ⚡ LIGHT POLE
 ⚙ HYDRANT
 ⚙ WATER VALVE
 PROPOSED 20' UTILITY EASEMENT
 SANITARY SEWER MAIN
 16" RCP STORM SEWER
 OVERHEAD ELECTRIC
 UNDERGROUND ELECTRIC
 UNDERGROUND FIBER OPTIC
 UNDERGROUND WATER MAIN
 FENCE
 BASE FLOOD "ZONE AE" ELEVATION
 PER COMMUNITY - PANEL NO. 14139C087D
 EFFECTIVE: APRIL 16, 2014
 A. SMALLEY'S 2ND ADDITION SLOUGH MEANDER
 10317 GLO SURVEY SLOUGH MEANDER LINE
 10114 CENTRAL STATES SURVEY SLOUGH BOUNDARY
 ORIGINAL HIGH WATER LINE (OHWL)

LAND DESCRIPTION - TO BE VACATED

FRACTIONAL LOT 1 LYING SOUTH OF BLOCK 3 AND ALSO PART OF CLINTON STREET, ALL IN A. SMALLEY'S 2ND ADDITION TO SOUTH MUSCATINE, AN ADDITION TO THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA.

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SURVEY COMPANY / RETURN TO:

Martin & Whitacre
Surveyors & Engineers, Inc.
1508 BIDWELL ROAD, MUSCATINE, IOWA 52761
INFO@MARTIN-WHITACRE.COM (563)263-7611

INFORMATION@WHITACHE.COM

SURVEYOR: GARY W. WHITACRE

CONVEYOR: OSCAR'S LLC & CITY OF MUSCATINE, IOWA

REQUESTOR: PAUL NEFF

LOCATION: PART OF FRACTIONAL LOT 1 IN A. SMALLEY'S 2ND ADDITION TO SOUTH MUSCATINE, IN THE CITY OF MUSCATINE, IOWA

SURVEY TYPE: VACATION PLAT

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|-----------------|--------|--------|-----|-------|----------|---------|
| FILE | BOOK | SCALE | DRN | CHK'D | DATE | JOB NO. |
| SUBD. | CITY ? | 1"=30' | JRM | SMW | 06/23/21 | 0632.21 |
| EV. | 0 | | | | | |
| 0632 SURVEY.DWG | | | | | SHEET | 2 OF 2 |

*** 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.

CITY OF MUSCATINE- Legals account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 105011

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



NOTICE

AN ORDINANCE VACATING CERTAIN
RIGHT-OF-WAY ADJOINING 1820
ANGLE STREET

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WHEREAS, the City Council of the City of Muscatine, on August 5, 2021, conducted a public hearing on said vacation request.

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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 2nd day of September, 2021.

Section: Notices & Legals

Category: 2635 Legal Ordinance

PUBLISHED ON: 09/09/2021

TOTAL AD COST: 28.75

FILED ON: 9/9/2021

Subscribed and sworn to before me by said affiant this 9 day of Sept 2021.



Notary Public in and for Scott County, Iowa

