

ORDINANCE NO. 91389-0910

**AN ORDINANCE VACATING CERTAIN EASEMENTS AND
RIGHTS-OF-WAY
IN THE CITY OF MUSCATINE, IOWA.**

WHEREAS, the Planning and Zoning Commission of the City of Muscatine has recommended the vacation of certain easements and rights-of-way located in the Cedars First Addition and North Port Commons Additions; 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 I. The following described real estate be vacated by the City of Muscatine, Iowa:

Being a vacation of parts Commons Avenue, Lot 1 Cedar First Addition (Document No. 2005-01582) and Lot 1 North Port Commons Addition (Document No. 2004-07781) to the City of Muscatine, County of Muscatine and State of Iowa.

More particularly described as follows:

Commencing at the Southeast corner of Lot 1 of Cedars First Addition: thence, South 53°31'40" West, along the north right-of-way line of US 61, a distance of 85.22 feet to the point of beginning; thence, South 53°31'40" West, along said North line, a distance of 545.64 feet; thence North 00°46'05" West, a distance of 468.71 feet; thence, North 53°31'28" East, a distance of 12.31 feet; thence, South 00°46'05" East, a distance of 298.37 feet to the beginning of a curve, convex northeasterly, having a radius of 140.00 feet; thence northeasterly 38.43 feet on the arc of said curve, through a central angle of 15°43'45", the chord of which bears North 61°23'21" east for a distance of 38.31 feet; thence, North 53°31'28" East, a distance of 275.96 feet; thence, North 36°28'32" West, a distance of 267.52 feet; thence North 53°31'28" West, a distance of 12.31 feet; thence, North 53°31'28" East, a distance of 30.00 feet; thence, South 36°28'32" East, a distance of 90.00 feet; thence, North 53°31'28" East, a distance of 90.00 feet; thence, South 36°28'32" East, a distance of 265.63 feet; thence, North 53°31'40" East, a distance of 85.22 feet; thence, South 36°28'32" East, a distance of 25.00 feet; thence, South 53°31'40" West, a distance of 85.22 feet; thence, South 36°28'32" East, a distance of 20.00 feet to the point of beginning.

The above described parcel contains 2.193 acres more or less.


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 Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

PASSED, APPROVED AND ADOPTED this 2nd day of September, 2010.



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


Richard W. O'Brien, Mayor


Gregg Mandsager, City Clerk

1st Reading: September 2, 2010
2nd Reading: September 16, 2010
3rd Reading: September 16, 2010
Publication September 25, 2010

PROOF OF PUBLICATION

I, Jeff Lee, being duly sworn, on my oath, say that I am an advertising clerk at the *Muscatine Journal*, a newspaper of general circulation, published in the City of Muscatine, Muscatine County, Iowa; and that the following Notice:

Muscatine City Clerk
Ordinance 91389-0910

Of which the annexed printed slip is a true, correct and complete copy, was published in said *Muscatine Journal* one time having been made there in on:

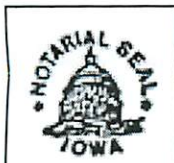
September 25, 2010

Jeff Lee

STATE OF IOWA
MUSCATINE COUNTY

Subscribed and sworn to before me this
27th day of September 2010

Beth Lester
Beth Lester, Notary Public



Beth Lester
Iowa Notarial Seal
Commission number 745921
My Commission Expires 03/20/2013

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PASSED, APPROVED AND ADOPTED this 2nd day of September, 2010.

BY THE CITY COUNCIL OF THE
CITY OF MUSCATINE, IOWA
Richard W. O'Brien, Mayor

Attest:
Gregg Mandsager, City Clerk

1st Reading: September 2, 2010
2nd Reading: September 16, 2010
3rd Reading: September 16, 2010
Publication: September 24, 2010



City Hall, 215 Sycamore St.
Muscatine, IA 52761-3840
(563) 262-4141
Fax (563) 262-4142

PLANNING, ZONING AND BUILDING SAFETY

Public Health,
Housing Inspections &
Inspection Services

MEMORANDUM

To: Mayor and City Council Members

Cc: Gregg Mandsager, City Administrator

From: Steven Boka, Director of Community Development

Date: August 31, 2010

Re: Vacation Request – Northport Commons and Cedars First Additions

INTRODUCTION: A request has been submitted on behalf of VMI North Port Commons LLC to vacate portions of existing easements and rights-of-way within Cedars First Addition and North Port Commons to accommodate future retail development. If the vacation is approved, as submitted, the Owners will file a replat of the property proposing new rights-of-way that will more closely reflect the 2004 Snyder & Associates traffic study that recommends the use of frontage and backage roads in the area. The newly platted property will provide ample real estate for the intended retail development and dedicate rights-of-way which provide the potential for two separate connections to Oak View Drive.

BACKGROUND: The original subdivision for North Port Commons followed the voluntary annexation of approximately 105 acres in 2003. Concurrent with the annexation, the Owners filed a request to zone the real estate S-3, Mixed Use Development. The S-3 zoning designation required the submission of a development plan for the area. The development plan was approved and the zoning changed to S-3, as requested in 2004. As a part of the development plan for the area, the Owners dedicated rights-of-way for future road construction and the required utility easements. Several changes to that plan to have been approved to accommodate a variety of factors such as market conditions, lot area modifications to support a specific request, topography, and available financing to name a few. Recently, the Owners have worked with city staff to propose a vacation of easements and rights-of-way that will provide a 2.5-acre site for construction of a new retail business and parking lot. A part of that discussion involved the vacation of some existing rights-of-way and the proposed dedication of new easements and rights-of-way that support proposed and future development for the property. As a result of those discussions, the Owners filed the vacation request and a proposed replat of the real estate affected by the vacation request. The Owners have a current

*"I remember Muscatine for its sunsets. I have never seen any
on either side of the ocean that equaled them" — Mark Twain*

buyer for the real estate that is interested in beginning construction as soon as approval can be obtained. The Planning Commission conducted an on-site viewing of the subdivision and vacation requests on August 4th. On August 10th, the Commission unanimously voted to approve the subdivision and vacation requests, as submitted. The City Council acted on a resolution establishing a public hearing on the request during their August 19, 2010 meeting. Following the scheduled public hearing on September 2, 2010, the City Council will have the opportunity to consider the vacation by ordinance, as required. If the vacation is approved, the subdivision will be submitted for City Council consideration at the appropriate time.

RECOMMENDATION/RATIONALE: There was a concern raised by the abutting property owner (Culver's) regarding the vacation of an existing easement that would have provided a third public access from their property. The Commission did not feel the vacation imposed any particular hardship on that business since the elevation between the two properties was approximately 20-feet. The Owners of the car dealership (Krieger's) expressed concern that the new right-of-way proposed for the frontage road would affect a portion of their parking area and require the potential relocation of signage. The Commission unanimously concluded that the proposed road alignment was simply another way that traffic could be connected to Oak View Drive; but not the only way. They agreed that the City and Krieger's should continue to explore options for the connection but that discussion should not prevent approval of the vacation request to accommodate the new retail development under consideration. It is recommended that the City Council approve the attached ordinance on first reading to vacate certain easements and rights-of-way located within North Port Commons and Cedars First Addition to the City of Muscatine.

BACKUP INFORMATION:

1. Ordinance

September 8, 2010

City of Muscatine
City Hall
215 Sycamore Street
Muscatine, IA 52761

Attn: Mr. Gregg Mandsager

Dear Gregg,

I have been working very closely with City staff on the revised Final Plat and associated Vacation exhibit for VMI Northport Commons, Cedar's Second, (the ALDI Project). Based on the last council meeting and lack of resistance from any of the public and subsequent unanimous vote by Council on the Vacation exhibit and previous unanimous approval on both the plat and vacation exhibit by P and Z, I respectfully request that the City consider waiving the second reading and approve on final reading the Vacation exhibit and approve the Final Plat at the next Clouncil meeting on Sept. 16th.

I sincerely appreciate your consideration of this request.

Thank you,

Jason Harder, PE