

COMMUNITY DEVELOPMENT
MEMORANDUM

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

To: Mayor and City Council Members
From: Andrew Fangman, City Planner
Cc: Gregg Mandsager, City Administrator
Dave Gobin, Community Development Director
Date: August 17, 2017
Re: Resolutions Vacating and Conveying to the Adjoining Property Owner of the Lakeview Avenue Right-of-Way; Vacating Certain Utility in Lots 7 and 8 and of the North Port Commons Subdivision; Vacating a Drainage Easement on Lot 8 North Port Commons Subdivision; and Accepting a Drainage Easement.

INTRODUCTION: A request has been filed to vacate the Lakeview Avenue right-of-way, and certain utility and drainage Easements in Lots 7, 8, and of the North Port Commons Subdivision.

BACKGROUND: Beaver Builders Inc. has filed a combined Preliminary/Final Plat for Muscatine Landing Subdivision a 28.4-acre four lot subdivision on the north side of North Port Drive which is zoned S-3 (Mixed Use District). To accommodate the proposed subdivision, the Lakeview Avenue right-of-way and certain utility and drainage easements in Lots 7, 8, and of the North Port Commons Subdivision must first be vacated and the Lakeview Avenue right-of-way deeded back to the adjoining property owner. Comparable but differently configured right-of-way and easements are being proposed as part of the Muscatine Landing Subdivision. Before City Council can act on the proposed right-of-way and easement vacations, a public hearing must be held.

The proposed development that will be supported by the proposed vacations and subsequent plat will consist of approximately 100 two- and three-bedroom townhomes on 7.5 acres located on the north side of North Port Drive approximately across the street from the existing Unity Point Clinic. The developer intends for the townhomes to be market rent units of about 1,380 square feet per housing unit with each unit also having a 2-car attached garage.

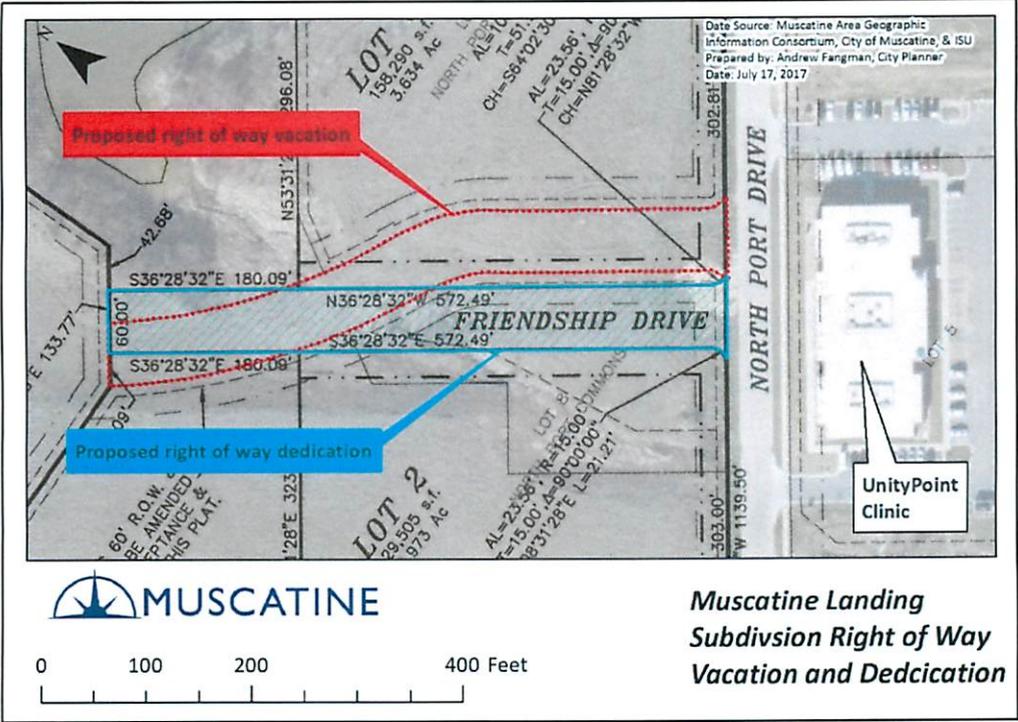
The developer has done a similar project in Rock Island and is currently working in Clinton on a larger project. The applicant also intends to establish each unit as condo, which would allow for the future individual sale of the housing units should market conditions warrants. The applicant has submitted the following pictures of a project that they have recently constructed in Clinton, Iowa. The applicant intends to build nearly identical units in the proposed Muscatine Landing Subdivision.



This property is located in the S-3 district which allows for any use permitted in any residential zoning district or in the M-1 Light Industrial Zoning District, subject to the approval by the Planning and Zoning Commission of a development plan that details the specific layout and uses of the subject property. The original development plan for this parcel was for commercial development similar to what has occurred on the south of North Port Drive. At their July 11th meeting the Planning and Zoning Commission approved the attached development plan, which accommodates the applicants proposed development.

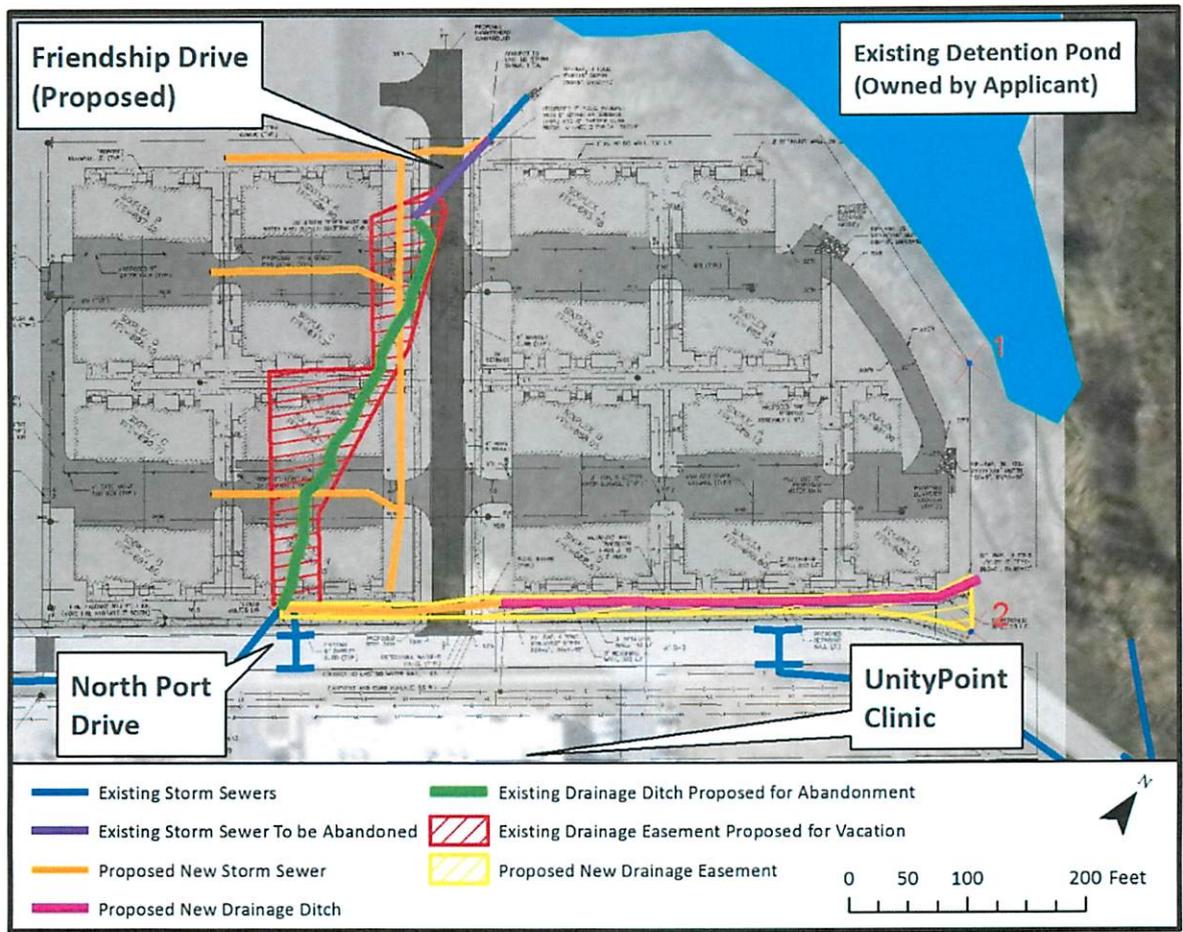
The proposed subdivision is necessary to implement the approved development plan, to create the lots necessary for the proposed townhomes, and to make some adjustments to the plated rights of way and easements in the area. However, to do this first right-of-way for Lakeview Avenue, a platted, but unbuilt street, needs be vacated and deeded back to the adjoining property owner. It will be replaced by a dedication of right-of-way for Friendship Drive. The proposed Friendship Drive is located approximately 60 feet to the southwest of the platted right of way for Lakeview Avenue (see the map below). The applicant is proposing to construct Friendship Drive as a new public street running north from North Port Drive and would provide access to the proposed development with access to each individual town house coming off of one of two private streets that would intersect with Friendship. No direct access to the proposed development would be permitted from North Port Drive.

The attached resolution will vacate the Lakeview Avenue right-of-way and convey it to applicant. It should be noted that all property adjoining the Lakeview Avenue right-of-way is owned by the applicant, and it was the applicant who originally dedicate this right-of-way to the City of Muscatine in 2004.



In addition to vacation of the Lakeview Avenue right-of-way, certain utility easements in Lots 7 and 8 will be vacated. The vacated utility easements will be replaced with new utility easements in the proposed Muscatine Subdivision that accommodate the development as proposed. An attached resolution will vacate these easements.

To accommodate the proposed development, the applicant has requested that the City vacate an existing drainage easement on Lot 8 of the North Port Commons Subdivision. Currently, storm water drainage from the south side of North Port Drive is discharged into a ditch that runs within this easement. The storm water then flows northeasterly through this drainage easement and then enters a short length of storm sewer, which the applicant is proposing be abandoned, that discharges into a pond that is owned by the applicant. As an alternative, the applicant is proposing to construct a short extension to the existing underground storm sewer, which then will discharge into a new ditch that would be within a newly dedicated drainage easement that will convey storm water to the east and into the same pond (see figure below). The City Engineer has reviewed and approved this change in how drainage from the south side of North Port Drive is handled. Storm water originating on the north side of North Port Drive will be handled by a new storm water drainage system that will be installed as part of the proposed development. City Staff has also reviewed and approved this drainage plan. A drainage agreement with the applicant has been prepared. This agreement will ensure that adequate drainage is maintained during construction of the proposed storm water infrastructure. This agreement has been reviewed and recommended for approval by City Staff. The resolution vacating the existing drainage easement is contingent on the applicant signing and recording the attached new drainage agreement. A resolution accepting the new drainage easement is also attached.



RECOMMENDATION/RATIONALE:

Planning and Zoning Commission and Staff both recommend approval the attached resolutions. Their approval is necessary to allow for development proposed by the applicant to proceed. The next step in this process will be for council to action on the proposed preliminary plat at a future meeting. However, before a plat can be acted upon, the vacations and dedications contained within the attached resolutions must be completed.

The proposed Muscatine Landing development is supported by the City of Muscatine Comprehensive Plan, is compatible with surrounding land uses, and adds housing to an area of the City that currently lacks housing options.

The Future Land Use Plan of the City of Muscatine Comprehensive Plan designates this area as General Mixed Use. This designation calls for the broadest mix of uses, including light industrial, office, commercial, and residential use. While the proposed development is not mixed use in and of itself, it does for the first time make the North Port Drive area a truly mixed-use area, as currently it is composed solely of commercial development and undeveloped land. The manner in which the proposed residential development is laid out would not create any conflicts with existing or potential future commercial uses.

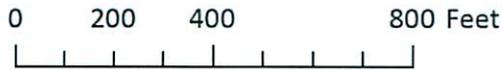
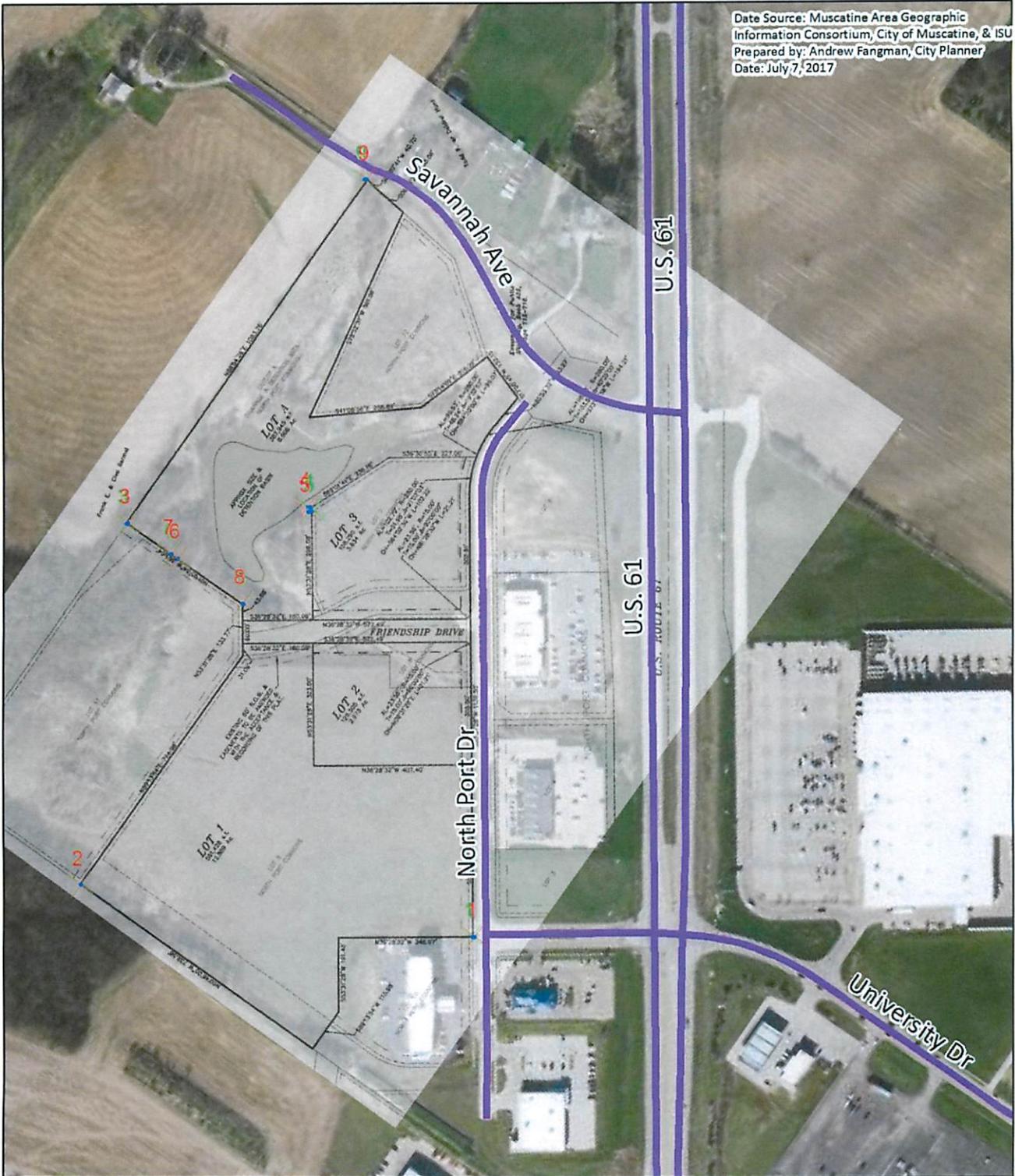
Previous developers have created a major shopping and employment center in the area of the City north of Highway 61 and east of Highway 38; however, no housing has been developed in this area. This development would for the first time create the opportunity for some of the great many who work and shop in this area to also live close by. This closer integration of housing, shopping, and employment opportunities will help build a stronger more vibrant community.

The proposed vacations of right-of-way, utility easements, and drainage easements, and the proposed preliminary plat have been reviewed and recommended for approval by the Planning and Zoning Commission.

BACKUP INFORMATION:

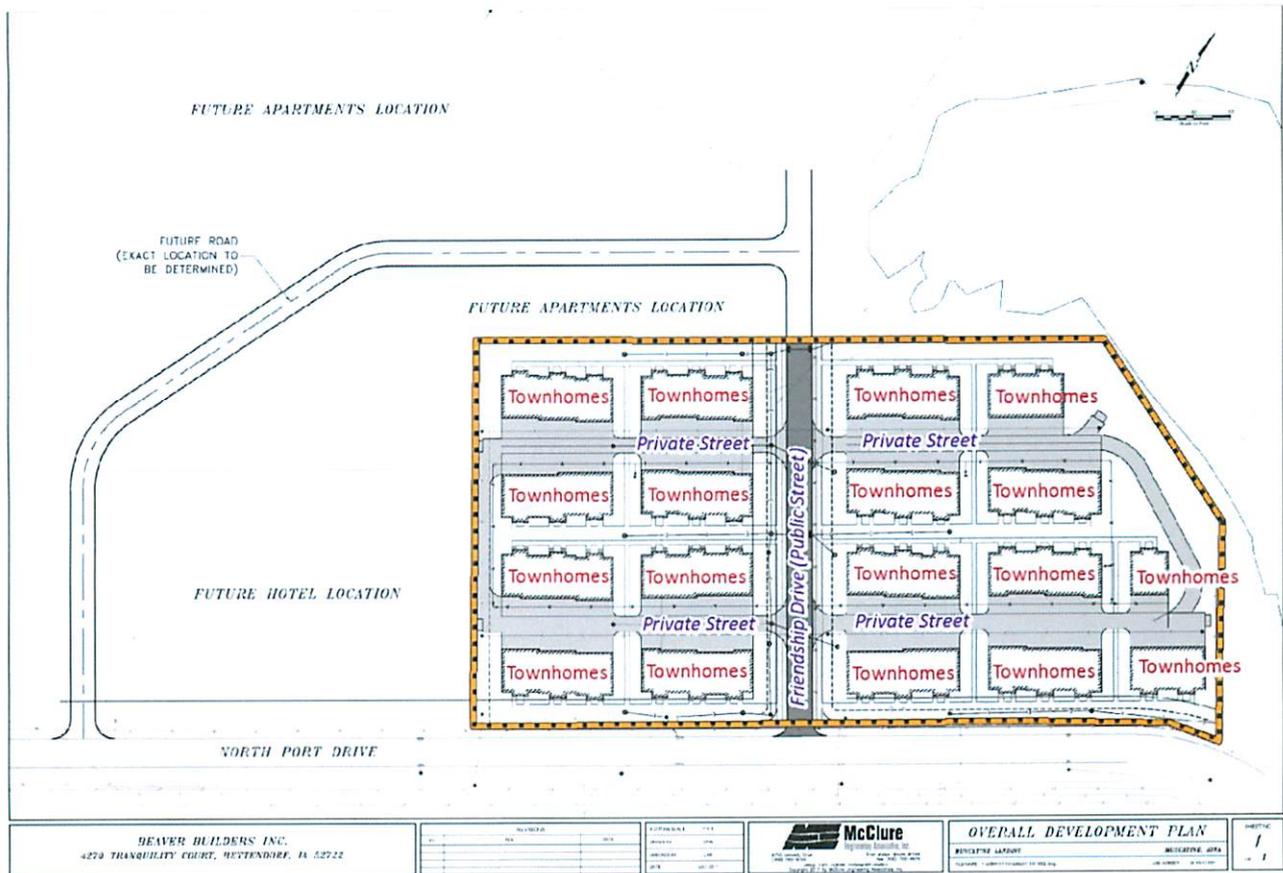
- 1. Resolution Vacating the Lakeview Avenue Right of Way, and Conveying it to the Adjoining Property Owner**
- 2. Quit Claim Deed to Lakeview Avenue Right-of-Way**
- 3. Certificate of True Copy**
- 4. Resolution Vacating Certain Utility Easements in Lots 7 and 8 and of the North Port Commons Subdivision.**
- 5. Resolution Vacating a Drainage Easement in Lot 8 of the North Port Commons Subdivision**
- 6. Drainage Agreement**
- 7. Resolution Accepting Dedication of a Drainage Easement**
- 8. Vacation Exhibit**
- 9. Draft of Proposed Muscatine Landing Subdivision Plat**
- 10. Plat Vicinity Map**
- 11. Approved Development Plan**

Date Source: Muscatine Area Geographic Information Consortium, City of Muscatine, & ISU
Prepared by: Andrew Fangman, City Planner
Date: July 7, 2017



Muscatine Landing Subdivision





Muscatine Landing Development Plan



RESOLUTION NO. _____

**A RESOLUTION VACATING AND CONVEYING THE
LAKEVIEW AVENUE RIGHT-OF-WAY TO THE ADJOINING PROPERTY
OWNER IN THE NORTH PORT COMMONS SUBDIVISION**

WHEREAS, a request has been to vacate and then convey to the adjoining property owner existing right-of-way for Lakeview Avenue, a platted, but unbuild street, situated within in the City of Muscatine, Iowa; and

WHEREAS, Beaver Development, L.L.C. acting as the agent for VMI - North Port Commons L.L.C., has requested, to facilitate a residential development, the vacation and conveyance of the Lakeview Avenue right of way that is described as follows:

All of the Lakeview Avenue right of way as dedicated by the North Port Commons Subdivision, an addition to the City of Muscatine Iowa, situated in part of the NW fractional ¼ of Section 19, Township 77 N., Range 1 W. of the 5th PM, recorded as Document No. 2004-07781 in the Muscatine County Recorder's Office.

and;

WHEREAS, Beaver Development, L.L.C. acting as the agent for VMI - North Port Commons has submitted a plat to the City of Muscatine which will dedicate to the City of Muscatine, a new public street, Friendship Drive, in location approximately 60t to the southwest of the platted right of way for Lakeview Avenue and of comparable length; and

WHEREAS, there is no public benefit for said right of way and said right of way only adjoins parcels owned by VMI - North Port Commons LLC; and

WHEREAS, the Planning and Zoning Commission of the City of Muscatine, after a public hearing at its July 13, 2017 meeting, has recommended approval of the vacation and conveyance to the adjoining property owner of the said right-of-way; and

WHEREAS, as Resolution was adopted by the City Council of Muscatine, Iowa, on August 3, 2017, concerning the proposed vacation of said right of way and the conveyance to the adjoining property owner of all the City's right, title, and interest in and to the real property described in the copy of the Deed attached to this Resolution and incorporated by reference; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance to the adjoining property owner of said right of way, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Muscatine, Iowa; and.

NOW, THEREFORE, BE IT RESOLVED, by the City Council for the City of Muscatine, as follows:

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

All of the Lakeview Avenue right of way as dedicated by the North Port Commons Subdivision, an addition to the City of Muscatine Iowa, situated in part of the NW fractional ¼ of Section 19, Township 77 N., Range 1 W. of the 5th PM, recorded as Document No. 2004-07781 in the Muscatine County Recorder's Office.

2. The Mayor is authorized and directed to sign the Quit Claim Deed, attached hereto as Exhibit A, for the conveyance to the adjoining property owner of the vacated right of way as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

PASSED, APPROVED AND ADOPTED this 17th day of August, 2017.

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

Diana L. Broderson, Mayor

Attest:

Gregg Mandsager, City Clerk

Prepared by: Andrew Fangman, 215 Sycamore Street, Muscatine, IA 52761; 563.262.4141
Return and Tax Statement to: VMI - North Port Commons L.L.C, 408 1117 Pineacre Dr, Bettendorf, IA 52722

QUIT CLAIM DEED

THIS QUITCLAIM DEED, executed this 17th day of August 2017, by City of Muscatine, the first party, whose address is 215 Sycamore St, Muscatine, Iowa, and VMI - North Port Commons L.L.C, the second party, whose address is 1117 Pineacre Dr, Bettendorf, Iowa

WITNESSETH, that the said first party, for good consideration and for the sum of one Dollar (\$1) paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim unto the said second party forever, all the right title, interest and claim which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto in the County of Muscatine, State of Iowa, to wit:

LAND DESCRIPTION —

All of the Lakeview Avenue right of way as dedicated by the North Port Commons Subdivision, an addition to the City of Muscatine Iowa, situated in part of the NW fractional ¼ of Section 19, Township 77 N., Range 1 W. of the 5th PM, recorded as Document No. 2004-07781 in the Muscatine County Recorder's Office.

Exempt from transfer tax per Iowa Code Section 428A.2 (6).

IN WITNESS WHEREOF, the City of Muscatine, Iowa has caused this instrument to be executed in its corporate name by its Mayor and City Clerk and its seal to be affixed on August 17, 2017.

CITY OF MUSCATINE, IOWA

(SEAL)

Diana L. Broderson, Mayor

ATTEST:

Gregg Mandsager, City Clerk

STATE OF IOWA, MUSCATINE COUNTY, ss:

On this 17th day of August, before me _____, a Notary Public in and for the State of Iowa, personally appeared Diana L. Broderson and Gregg Mandsager, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Muscatine, Iowa; and that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council under Roll Call No. _____ of the City Council on the 17th of August, 2017, and that Diana L. Broderson and Gregg Mandsager acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public in and for the State of Iowa

Prepared by/Return to: Andrew Fangman, City Planner, 215 Sycamore St, Muscatine, IA 52716 563.262.4141

STATE OF IOWA)
) ss:
MUSCATINE COUNTY)

CERTIFICATE

I, Nancy Lueck, Director of Finance of the City of Muscatine, Iowa, certify that true copies of the following documents are attached to this Certificate:

- a. Affidavit of Published Ordinance.
- b. Resolution No. _____ concerning the vacation and conveying to adjoining property owner of the Lakeview Avenue right of way
- c. Affidavit of Published Notice.
- d. Original Deed.

These documents relate to the vacation and sale of property in the City of Muscatine, Iowa; the Ordinance and Resolutions were duly adopted and approved by the City Council of Muscatine, Iowa; and the originals are on file at City Hall in Muscatine, Iowa.

(CITY SEAL)

Nancy Lueck, Director of Finance

Signed and sworn to before me on _____, 2017.

Notary Public in and for the
State of Iowa