



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

COMMUNITY DEVELOPMENT

MEMORANDUM

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

To: Mayor and City Council Members

Cc: Carol Webb, City Administrator
Jodi Royal-Godwin, Community Development Director

Date: September 3, 2020

Re: An Ordinance Vacating A Portion of Street and Alley Right-Of-Way (Spring Street Between 2nd Street And 3rd Street • A Portion Of 3rd Street Between Mad Creek and the Railroad Track • Alley in Block 26 • Alley in Block 27)

INTRODUCTION: HNI Corporation has filed for the vacation of four areas of right of way, located in an area bounded by Oak Street, Mad Creek, 3rd Street, and 2nd Street. Specifically, Spring Street between 2nd Street and 3rd Street; the portion of 3rd Street that is located between Mad Creek and the railroad track; the alley located in Block 26; and the alley located in Block 27. Maps and legal description of the right of way proposed for vacation can be found on the following pages. Upon vacation of this right of way, HNI is requesting that the vacated right of way be deeded to HNI as the adjoining landowner.

BACKGROUND: The right of way that is the subject of this request has long been functioning as vacated and privately owned right of way. It was most likely vacated in the very beginning of the twentieth century. Sanborn Fire Insurance Maps for this area show that private development began to occupy the subject right of way between 1899 and 1919 (*see relevant excerpts of these Sanborn maps on page 4*). The non-public use of the subject right of way has continued to the present day.

For decades the subject right of way has been incorporated into the legal descriptions of many of the adjoining parcels which are now owned by HNI. Additionally, in 1957, as part of a levee improvement project, the City reacquired a small portion of the alley right of way in Block 26, the deed for this transaction describes this alley as having been previously vacated. All this strongly indicates that the right of way that is subject to this request was very likely vacated between 100 to 120 years ago.

An ordinance vacating public right of way is a required step in conveying title to public right of way to a private party. However, there are no ordinances vacating the subject right of way on file with the Muscatine Recorder's Office. Nor were any such ordinances located in search of records at City Hall, however City records from the late nineteenth and early twentieth century are organized in such a manner that searching for a record, without knowing exactly what year it occurred in, is extremely difficult.

The failure to record an ordinance vacating right of way is not an unprecedented occurrence. However, the lack of such a recorded ordinance clouds any claimed title to such right of way. To remove any uncertainty to their title to the subject area, HNI is requesting that the City take action to vacate these areas of right of way and deed them to HNI as the adjoining landowner.

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

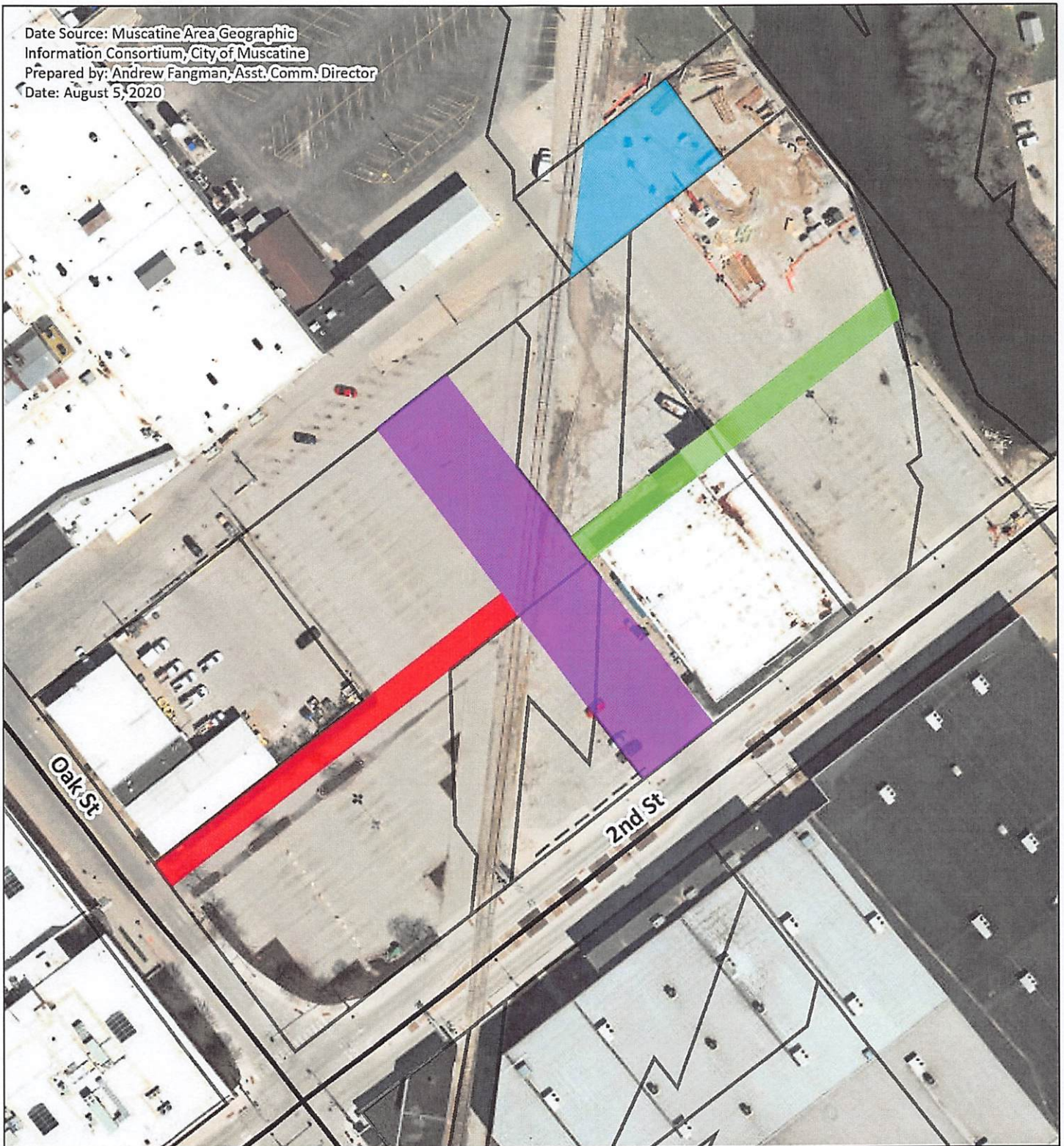
The subject right of way has not been developed as public streets or alleys. HNI is the owner of the adjoining parcels, and no parcels owned by someone other than HNI can be accessed using the right of way subject to this request.

RECOMMENDATION/RATIONALE: The Planning and Zoning Commission 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 current public purpose, nor is there any foreseen future use of this right of way for any public purpose. The subject was very likely already vacated decades ago, approval of this vacation will removal all uncertainty about its status as public right of way.

BACKUP INFORMATION:

1. Ordinance

Date Source: Muscatine Area Geographic
Information Consortium, City of Muscatine
Prepared by: Andrew Fangman, Asst. Comm. Director
Date: August 5, 2020



MUSCATINE Right of Way Vacation PZROW-6

 Area A -Alley in Block 27

 Area D - A Portion of 3rd Street

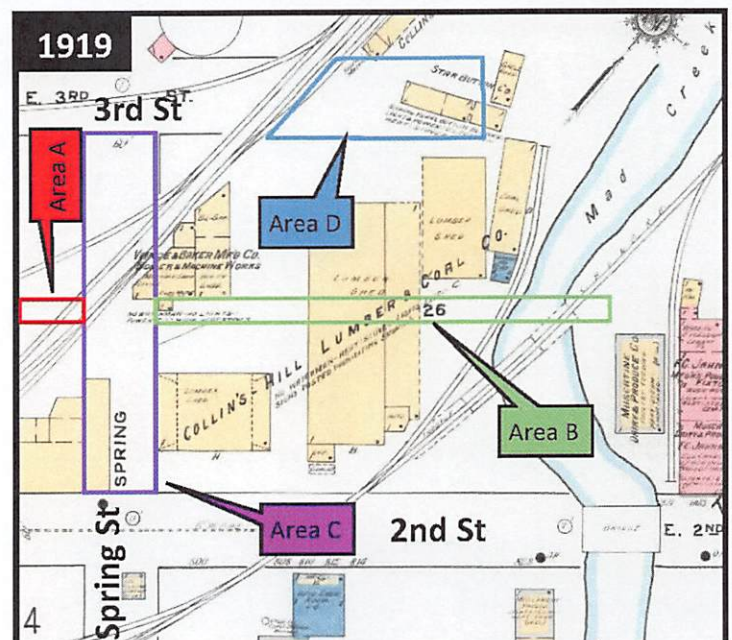
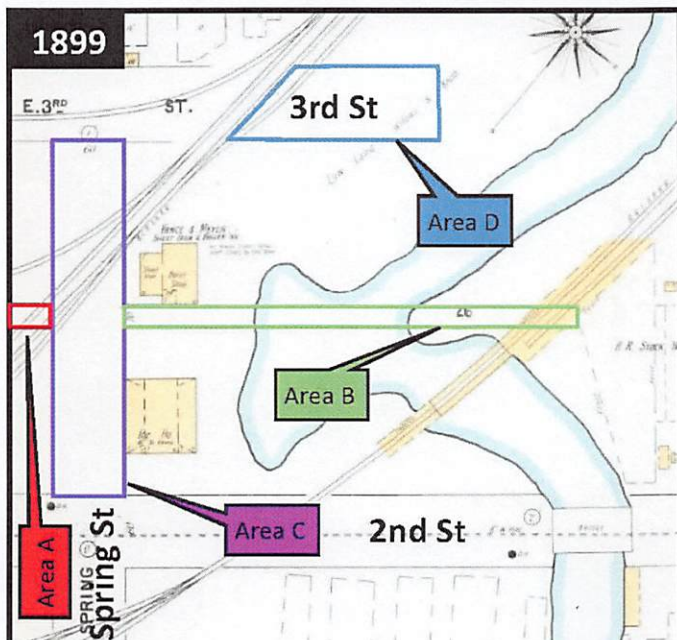
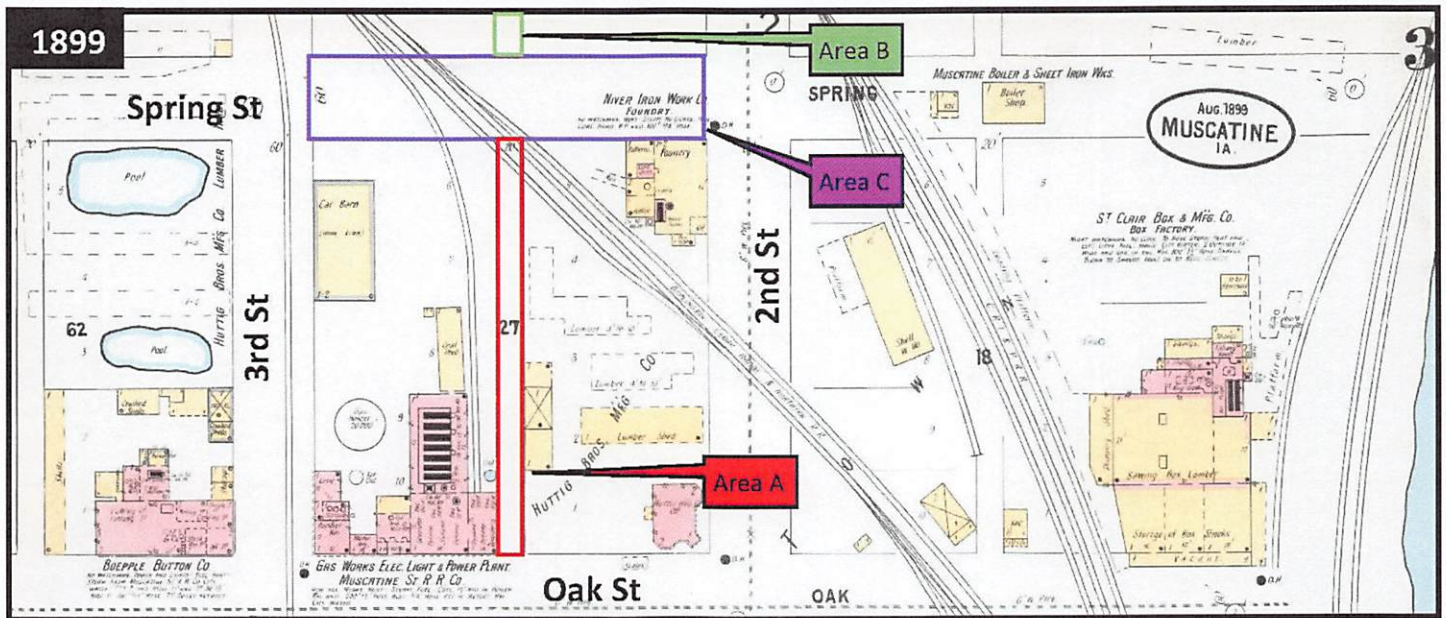
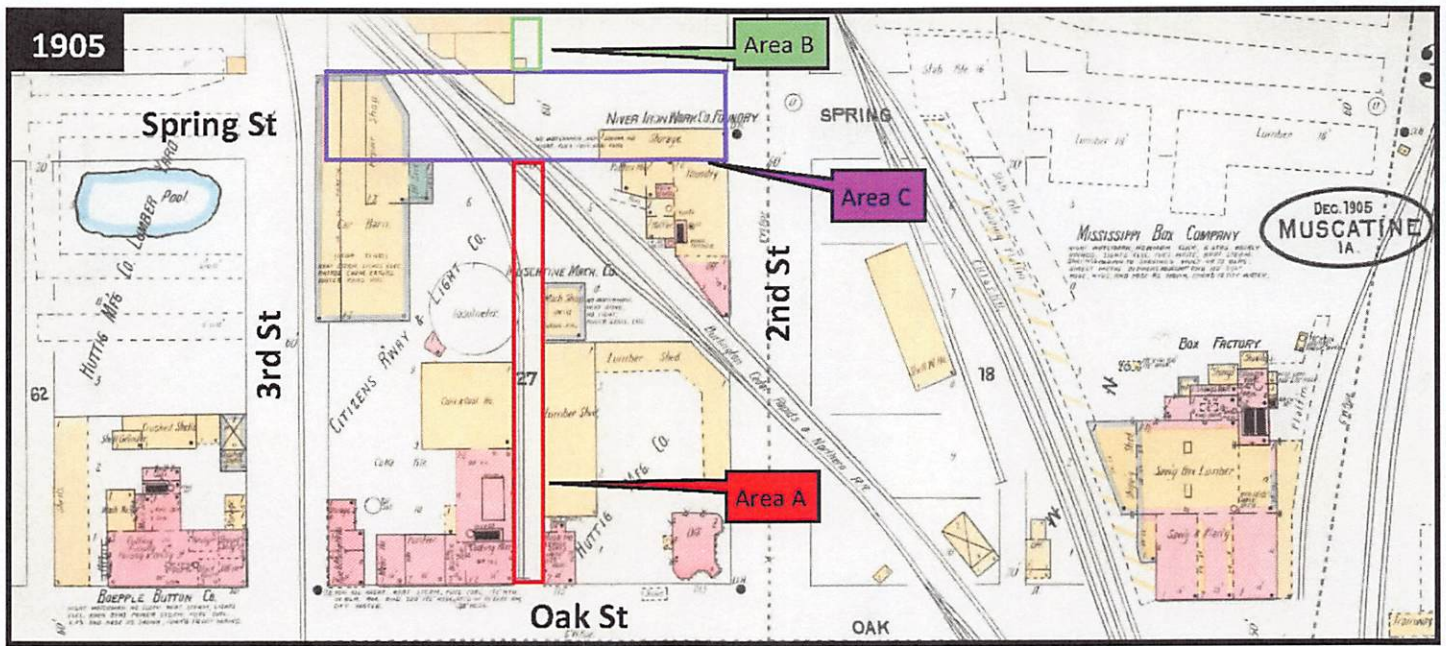
 Area B - Alley in Block 26

 Parcel Lines

 Area C- A Portion of Spring St

0 20 40 80 120 160
 Feet

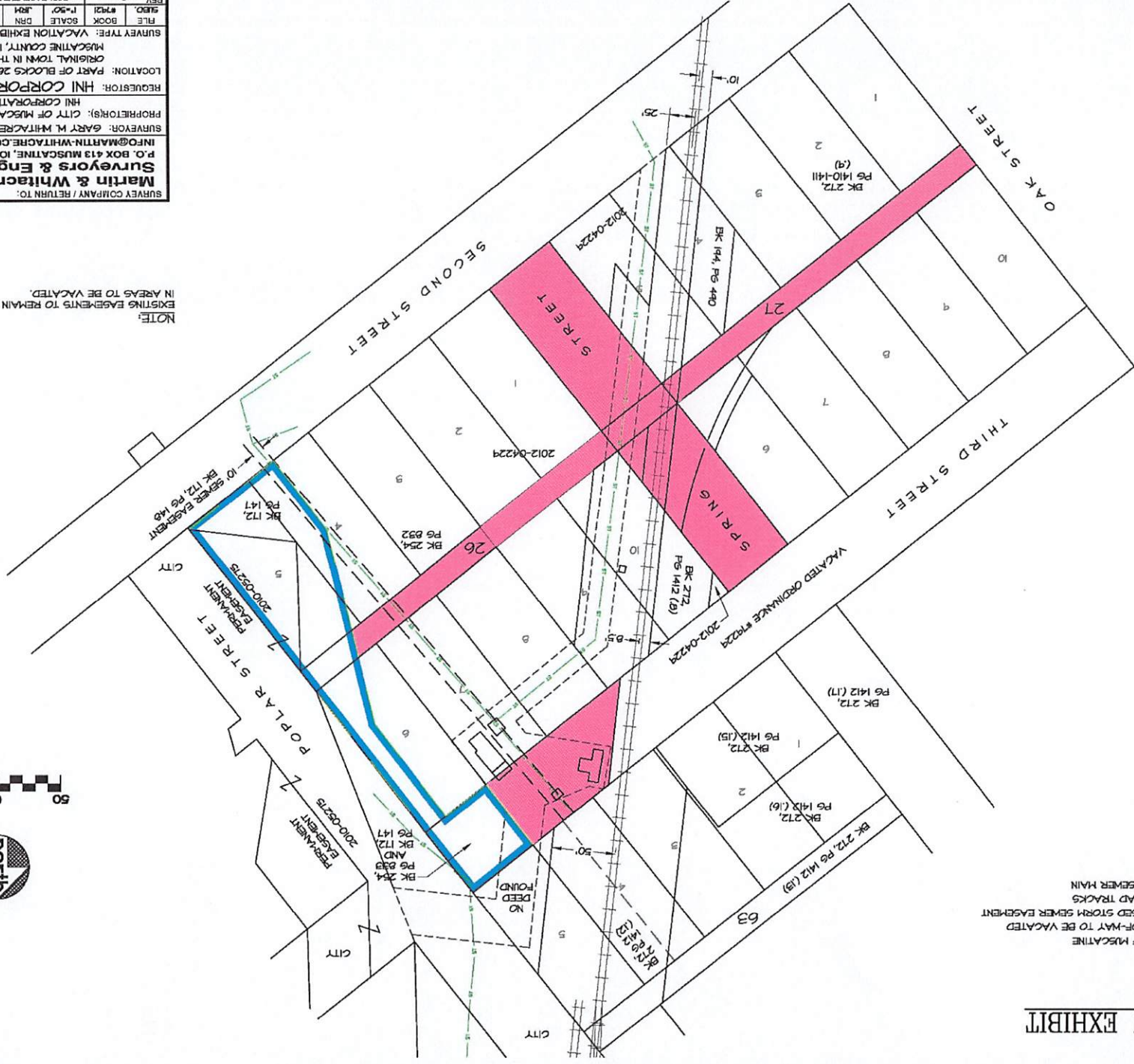




VACATION EXHIBIT

LEGEN

-  CITY OF MUSCATINE
 RIGHT-OF-WAY TO BE VACATED
 PROPOSED STORM SEWER EASEMENT
 RAILROAD TRACKS
 STORM SEWER MAIN



NOTE:

EXISTING EASEMENTS TO REMAIN
IN AREAS TO BE VACATED.

REV.	DATE	BY	DESCRIPTION	SHEET	OF
0					
FILE	SCALE	BOOK	DATE	DATE	JOB NO.
1	1"=50'	1041	05/20/00	05/20/00	17415

SURVEY TYPE: VACATION EXHIBIT

LOCATION: PART OF BLOCKS 26, 27 & 66 OF ORIGINAL TOWN IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA

REQUESTOR: HNI CORPORATION

PROPRIETORS: CITY OF MUSCATINE, IOWA & SURVEYOR: GARY W. WHITACRE

INFORM@MARTIN-WHITACRE.COM (562)263-7691

P.O. BOX 413 MUSCATINE, IOWA 52761

Martin & Whitacre
SURVEY COMPANY / RETURN TO:

Surveyors & Engineers, Inc.

DESCRIPTIONS TO BE VACATED FOR HNI –

BLOCK 27

ALL OF THE ALLEY IN BLOCK 27 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA.

BLOCK 26

ALL OF THE ALLEY IN BLOCK 26 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA, EXCEPT FOR THAT PART CONVEYED TO THE CITY OF MUSCATINE AS DESCRIBED AT BOOK 172 PAGE 147, OFFICE OF THE RECORDER, MUSCATINE COUNTY, IOWA.

SPRING STREET

ALL OF SPRING STREET BETWEEN SECOND STREET AND THIRD STREET ADJACENT TO BLOCKS 26 AND 27 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA.

3RD STREET

ALL OF THIRD STREET ADJACENT TO BLOCKS 26 AND 63 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA, EAST OF THAT PART PREVIOUSLY VACATED AND DESCRIBED AT ORDINANCE #79229 AND WEST OF THAT PART DESCRIBED AT BOOK 254 PAGE 833.

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF STREET AND ALLEY RIGHT-OF-WAY (SPRING STREET BETWEEN 2ND STREET AND 3RD STREET • A PORTION OF 3RD STREET BETWEEN MAD CREEK AND THE RAILROAD TRACK • ALLEY IN BLOCK 26 • ALLEY IN BLOCK 27) IN THE CITY OF MUSCATINE, IOWA

WHEREAS, HNI Corporation has requested that the City of Muscatine vacate and then sell a portion of street and alley right-of-way situated within in the City of Muscatine, Iowa; and

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

WHEREAS, on September 3, 2020, 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:

ALL OF SPRING STREET BETWEEN SECOND STREET AND THIRD STREET ADJACENT TO BLOCKS 26 AND 27 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA.

and

ALL OF THIRD STREET ADJACENT TO BLOCKS 26 AND 63 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA, EAST OF THAT PART PREVIOUSLY VACATED AND DESCRIBED AT ORDINANCE #79229 AND WEST OF THAT PART DESCRIBED AT BOOK 254 PAGE 833.

and

ALL OF THE ALLEY IN BLOCK 26 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA, EXCEPT FOR THAT PART CONVEYED TO THE CITY OF MUSCATINE AS DESCRIBED AT BOOK 172 PAGE 147, OFFICE OF THE RECORDER, MUSCATINE COUNTY, IOWA

and

ALL OF THE ALLEY IN BLOCK 27 OF THE ORIGINAL TOWN, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA.

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 3rd day of September, 2020.

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

Diana Brodersen, Mayor

Attest:

Carol Webb, City Clerk

1st Reading _____

2nd Reading _____

3rd Reading _____