



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 sewer 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.

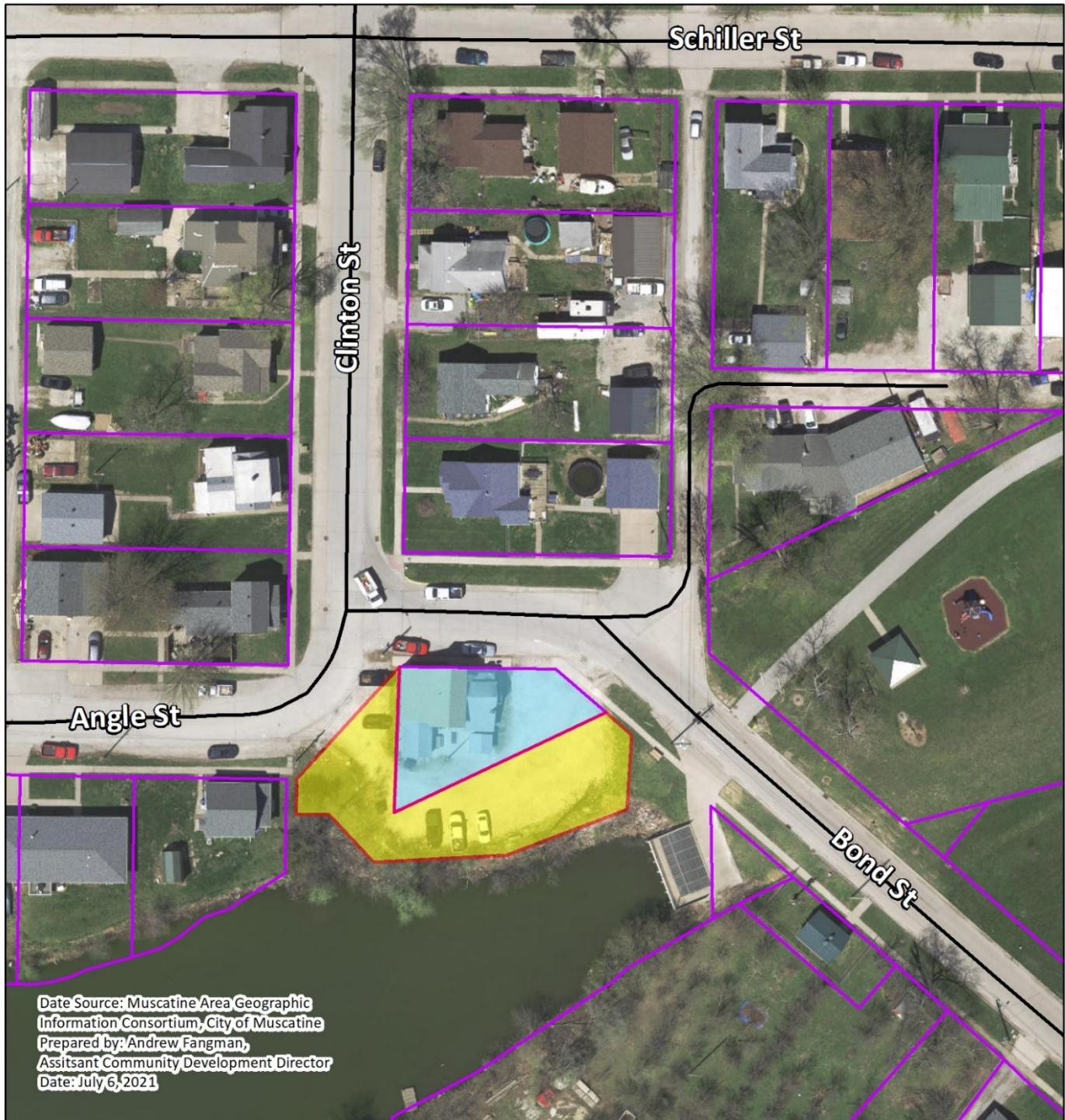
The right of way being proposed for vacation and sale is irregularly shaped, and did not have a valid legal description allowing it to be vacated and sold. For this reason, the purchase agreement required that the applicant, at their expense, hire a registered surveyor to prepare a right of way vacation 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



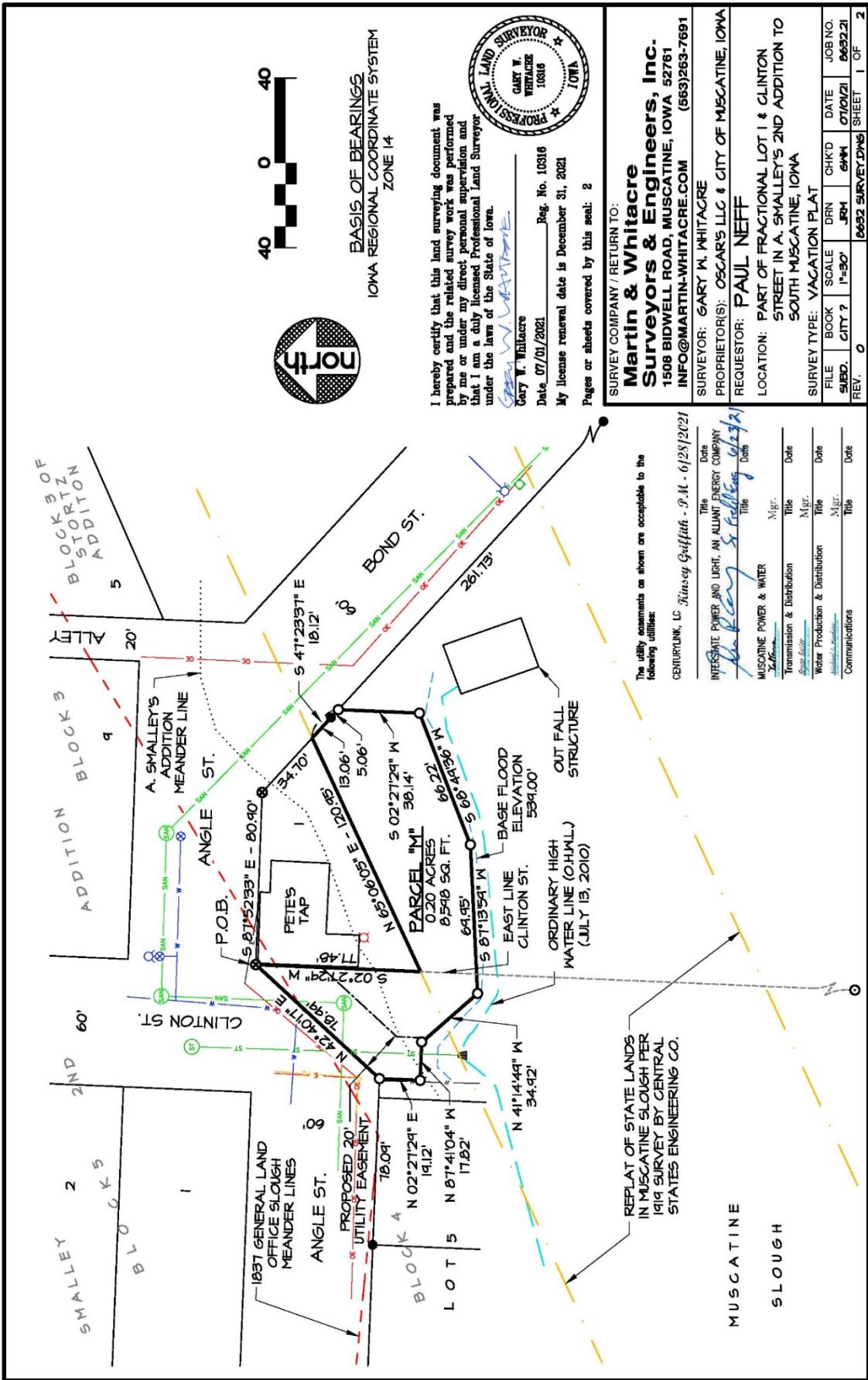
Legend

- Right of Way Proposed for Vacation
- Parcel Containing 1820 Angle St
- Parcel Lines



Proposed Vacation of Certain Right of Way Adjoining 1820 Angle Street





LEGEND

- SET 1/2" X 36" REBAR W/YELLOW CAP #10316
- SET CUT "X"
- FOUND REBAR
- SANITARY SEWER MANHOLE
- STORM MANHOLE
- ▲ STORM APRON
- LIGHT POLE
- HYDRANT
- WATER VALVE
- PROPOSED 20' UTILITY EASEMENT
- SANITARY SEWER MAIN
- 18" RCP STORM SEWER
- OVERHEAD ELECTRIC
- UNDERGROUND ELECTRIC
- UNDERGROUND FIBER OPTIC
- UNDERGROUND WATER MAIN
- FENCE
- BASE FLOOD "ZONE AE" ELEVATION
- PER COMMUNITY - PANEL NO. 1030007D
- EFFECTIVE: APRIL 16, 2014
- A. SMALLEY'S 2ND ADDITION SLOUGH MEANDER LINE
- 1837 GLO SURVEY SLOUGH MEANDER LINE
- 1919 CENTRAL STATES SURVEY SLOUGH BOUNDARY LINE
- 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.
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°06'06" 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 69.95 FEET; 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.

SURVEY COMPANY / RETURN TO:

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

SURVEYOR: GARY W WHITACRE

PROPRIETOR(S): OSCARS 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

FILE SHELF	BOOK	SCALE	DRN	CHKD	DATE	JOB NO.
REV. 0	BOOK 2	1"-30'	5MM	OK	04/23/21	04/23/21
						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
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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 5th day of August, 2021.

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

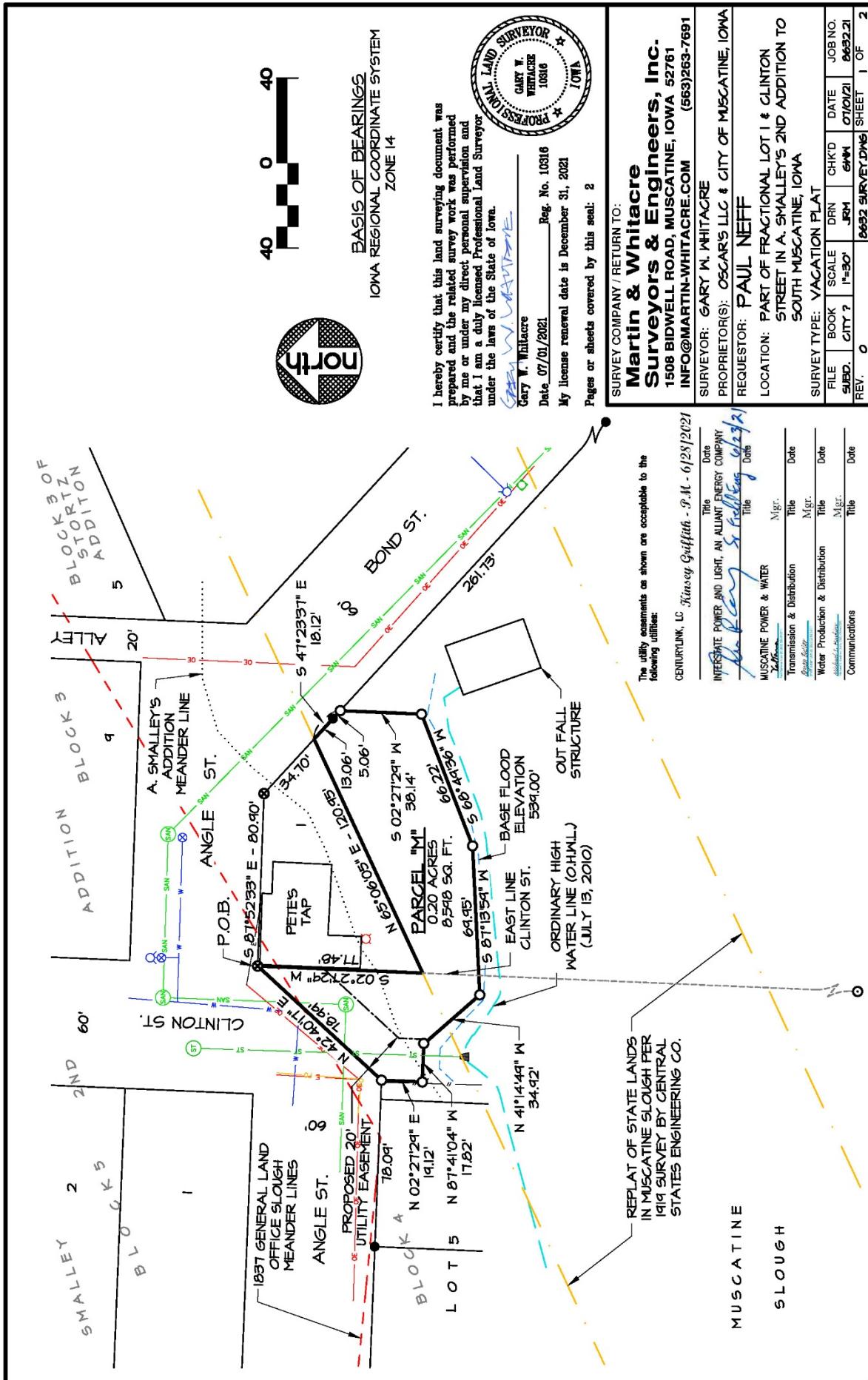
Diana Broderson, Mayor

Attest:

Carol Webb, City Clerk

1st Reading _____
2nd Reading _____
3rd Reading _____

Exhibit A



LEGEND

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- SET CUT "X"
- FOUND REBAR
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SURVEY COMPANY / RETURN TO:

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

SURVEYOR: GARY W. WHITTACRE

PROPRIETOR(S): OSCARS 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
 FILE # BOOK SCALE DRN CHKD DATE JOB NO.
 SUBD. CHTT? 1-30' JUN 26/1 06/29/14 8632-21
 REV. O 8632 SURVEY DMS SHEET 2 OF 2