

December 1, 2014

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

Subject: Hiway Truck Equipment Right-of-Way Vacation



ACTION: Hold Public Hearing and First Reading for Vacation of Public Right-of-Way

Background

Hiway Truck Equipment is requesting vacation of 0.08 acres of right-of-way land directly south of their property. See attached map and legal description. The recent **construction of the retention pond directly west of Hiway Truck Equipment's property** has prompted this right-of-way vacation request, as the Company had previously utilized a portion of this City-owned retention pond area for vehicular use. The requested 0.08 acres of right-of-way land **directly south of Hiway Truck Equipment's property** will aid ensuring that the Company has sufficient land on-site to function as is. Hiway Truck Equipment presently utilizes a portion of this 0.08 acres of right-of-way area for on-site vehicle parking, and the remaining right-of-way area is currently used as an entrance to the site.

Analysis of Issue

When analyzing requests for the vacation of public rights-of-way, City Staff and the Plan and Zoning Commission consider the following:

- **abutting property owners' access, support and other impacts;**
- parking and transportation;
- liability, safety and maintenance;
- existing or proposed utilities and potential city improvement projects; and
- **consistency with the City's Land Use Plan.**

Abutting Property Owner Access & Support

Hiway Truck Equipment occupies the land directly north of this proposed vacation area. Public right-of-way consisting of the Veterans Bridge Underpass is located directly south and west of the lands proposed for vacation. Property owned by **Smitty's Lawn and Landscape**, whom was notified of the requested vacation, abuts the northeast corner of the proposed vacation area. There has **been no feedback received from Smitty's Landscape**.

Transportation & Parking Impacts

This right-of-way vacation will not impact the flow of traffic on-site, as this area is already used as an entrance and for purposes of parking.

Liability, Safety & Maintenance

Liability and safety are common concerns for emergency response. This vacation will **not hinder emergency responders' ability to maneuver this site.**

Utilities and City Improvement Projects

Each public and private utility was contacted; responses were as follows:

- Mediacom – No foreseen problems with the vacation.
- Frontier Communications – Frontier does not have any facilities in this area and has no objections to vacate the right-of-way.
- Iowa Network Services – No foreseen problems with the vacation.
- Fort Dodge Fire Department – No foreseen issues with the vacation.
- MidAmerican Energy – No comments received.
- City Utilities – There are no foreseen problems with the vacation.
 - No other City improvement projects are currently planned for this site.

Land Use

The Land Use Plan guides this area for commercial use; however, the subject property is currently zoned Light Industrial (LI). Parking lots are an allowable use in the LI district, which is how this proposed vacation area is utilized.

Based on the considerations noted above, no negative impacts are foreseen.

Budget Impact

Right-of-way vacation requests do not typically entail any City expenditures.

Strategic Plan Impact

N/A

Existing Plan Impact

N/A

Subcommittee or Commission Review / Recommendation

The Plan & Zoning Commission considered the request for right-of-way vacation at their meeting on November 25, 2014 and unanimously recommended approval of this right-of-way vacation request.

Staff Conclusions / Recommendations

Subject to City Council review, and comments received at the public hearing, staff recommends approval of the public right-of-way vacation request for the 0.08 acres of land directly south of Hiway Truck Equipment consisting of the area described in the legal description.

Alternatives

The alternative would be to not set the public hearing to review the vacation of the public right-of-way as requested by Hiway Truck Equipment.

Implementation and Accountability

If approved, the public hearing will be set for December 8th. If the vacation request is ultimately approved, the City will dispose of the right-of-way to Hiway Truck Equipment.

Signed



Maggie Carlin
Associate Planner
Business Affairs & Community Growth

Approved



David R. Fierke
City Manager

PREPARED BY: TERRY COADY, SNYDER & ASSOCIATES, INC., 2727 SW SNYDER BLVD, ANKENY, IA 50023 (515)964-2020

RETURN TO: TERRY COADY, SNYDER & ASSOCIATES, INC., 2727 SW SNYDER BLVD, ANKENY, IA 50023 (515)964-2020

VACATION PLAT

RIGHT-OF-WAY VACATION DESCRIPTION:

A PART OF LOT 3 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE COUNTY AUDITOR'S SUBDIVISION OF THE NW1/4-SW1/4, NE1/4-SW1/4, SE1/4-SW1/4 AND SW1/4-SW1/4 OF SECTION 21, TOWNSHIP 89 NORTH, RANGE 28 WEST OF THE 5TH P.M. AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF FORT DODGE, WEBSTER COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE NORTH 89° 51' 49" EAST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 485.24 FEET; THENCE SOUTH 0° 04' 57" EAST, 75.00 FEET TO THE NORTHEAST CORNER OF A PLAT OF SURVEY RECORDED IN BOOK 63 ON PAGE 297 OF THE WEBSTER COUNTY RECORDER'S OFFICE; THENCE SOUTH 89° 52' 21" WEST ALONG THE NORTH LINE OF SAID PLAT OF SURVEY, 184.95 FEET TO THE NORTHWEST CORNER OF SAID PLAT OF SURVEY; THENCE SOUTH 0° 04' 03" EAST ALONG THE WEST LINE OF SAID PLAT OF SURVEY, 317.53 FEET TO THE SOUTHWEST CORNER OF SAID PLAT OF SURVEY AND TO THE POINT OF BEGINNING; THENCE NORTH 72° 08' 00" EAST ALONG THE SOUTH LINE OF SAID PLAT OF SURVEY, 194.32 FEET TO THE SOUTHEAST CORNER OF SAID PLAT OF SURVEY; THENCE SOUTH 00° 04' 57" EAST, 12.71 FEET; THENCE SOUTH 46° 19' 27" WEST, 25.07 FEET; THENCE SOUTH 75° 45' 19" WEST, 172.11 FEET; THENCE NORTH 00° 04' 03" WEST, 12.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.08 ACRES (3,416 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

BASIS OF BEARING

THE NORTH LINE OF LOT 3,
COUNTY AUDITOR'S SUBDIVISION
OF THE NW1/4 OF THE SW1/4 OF
SECTION 21-89-20 IS ASSUMED
TO BEAR S 89° 51' 53" W

DATE OF SURVEY

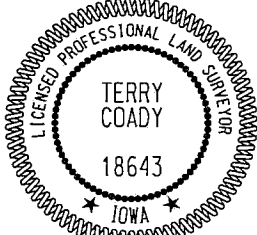
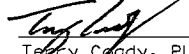
11-28-12

OWNER

CITY OF FORT DODGE

LEGEND

Survey	Found	Set
Section Corner	▲	△
1/2" Rebar, Yellow Cap # 18643 (Unless Otherwise Noted)	●	○
ROW Marker	■	□
ROW Rail	I	II
Control Point	⊙ CP	
Bench Mark	⊙	
Platted Distance	P	
Measured Bearing & Distance	M	
Recorded As	R	
Deed Distance	D	
Calculated Distance	C	
Minimum Protection Elevation	MPE	
Centerline	-----	
Section Line	-----	
1/4 Section Line	-----	
1/4 1/4 Section Line	-----	
Easement Line	-----	

	I hereby certify that this land surveying document was prepared and the related survey work was 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.
	 Terry Coady, PLS 11-6-2014 Date
	License Number 18643 My License Renewal Date is December 31, 2015
	Pages or sheets covered by this seal: Sheets 1 and 2

FORT DODGE EAST REGION STORM SEWER

SHEET 1 OF 2

PARCEL 200 - CITY OF FORT DODGE

PN: 1120558

PM: TLC



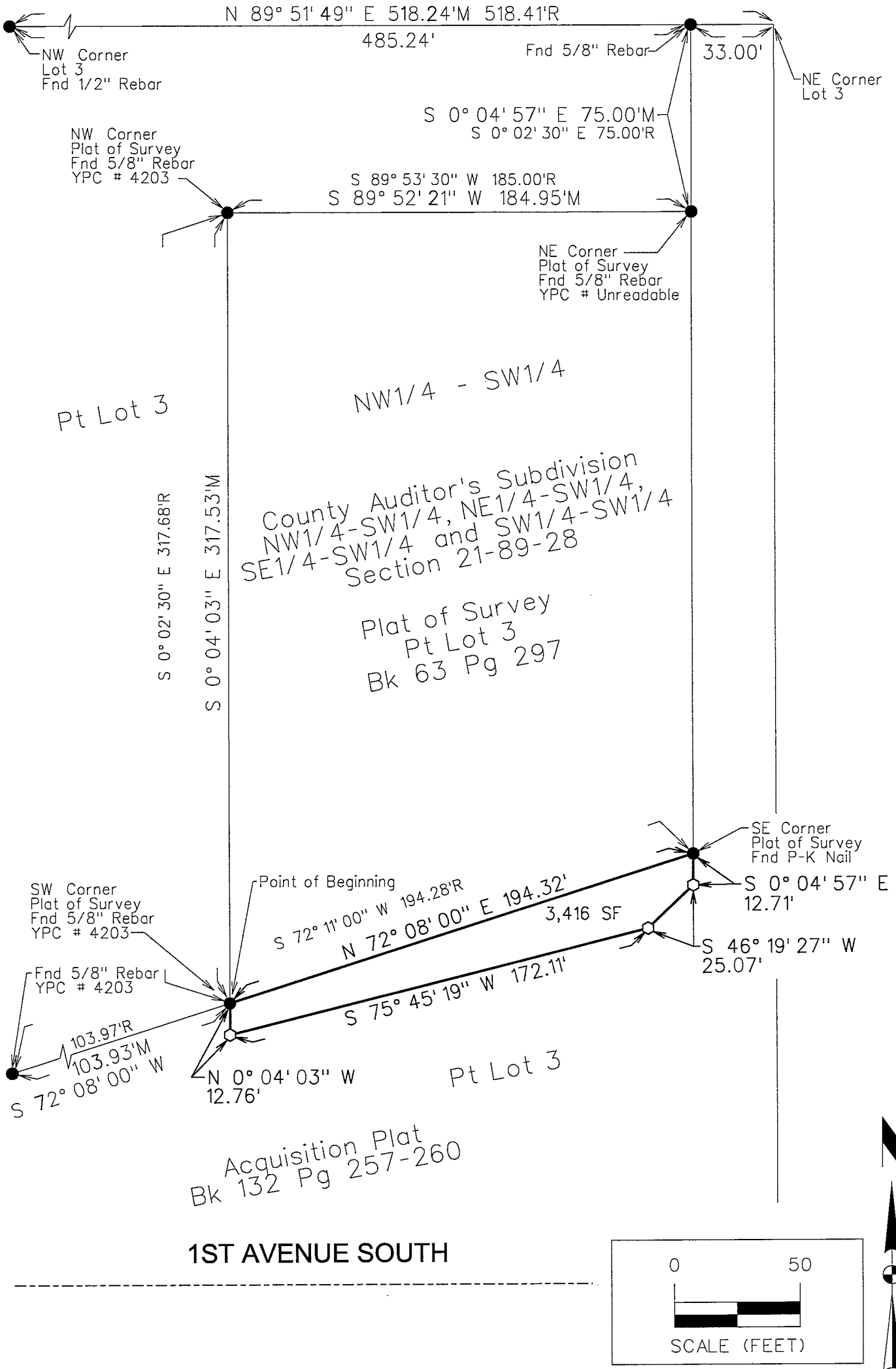
SNYDER & ASSOCIATES, INC.
Engineers and Planners

2727 S.W. SNYDER BLVD.
ANKENY, IA 50023 (515) 964-2020

DATE: 11/06/14

TECH: KRG

VACATION PLAT



FORT DODGE EAST REGION STORM SEWER
PARCEL 200 - CITY OF FORT DODGE

SHEET 2 OF 2
 PN: 1120558
 PM: TLC
 DATE: 11/06/14
 TECH: KRG



SNYDER & ASSOCIATES, INC.
 Engineers and Planners

2727 S.W. SNYDER BLVD.
 ANKENY, IA 50023 (515) 964-2020

Right-of-Way Vacation Request - Hiway Truck Equipment



Legend

 Area of proposed ROW Vacation and Disposition

ORDINANCE NO. _____

**ORDINANCE PROVIDING FOR THE VACATION OF PUBLIC RIGHT-OF-WAY
CITY OF FORT DODGE, WEBSTER COUNTY, IOWA**

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT DODGE, IOWA:

SECTION I. PURPOSE.

The purpose of this Ordinance is to vacate that portion of public right-of-way located in Webster County, Iowa, described as follows:

A PART OF LOT 3 OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE COUNTY AUDITOR'S SUBDIVISION OF THE NW $\frac{1}{4}$ -SW $\frac{1}{4}$, NE $\frac{1}{4}$ -SW $\frac{1}{4}$, SE $\frac{1}{4}$ -SW $\frac{1}{4}$ AND SW $\frac{1}{4}$ -SW $\frac{1}{4}$ OF SECTION 21, TOWNSHIP 89 NORTH, RANGE 28 WEST OF THE 5TH P.M. AN OFFICAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF FORT DODGE, WEBSTER COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE NORTH 89° 51' 49" EAST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 485.24 FEET; THENCE SOUTH 0° 04' 57" EAST, 75.00 FEET TO THE NORTHEAST CORNER OF A PLAT OF SURVEY RECORDED IN BOOK 63 ON PAGE 297 OF THE WEBSTER COUNTY RECORDER'S OFFICE; THENCE SOUTH 89° 52' 21" WEST ALONG THE NORTH LINE OF SAID PLAT OF SURVEY, 184.95 FEET TO THE NORTHWEST CORNER OF SAID PLAT OF SURVEY; THENCE SOUTH 0° 04' 03" EAST ALONG THE WEST LINE OF SAID PLAT OF SURVEY, 317.53 FEET TO THE SOUTHWEST CORNER OF SAID PLAT OF SURVEY AND TO THE POINT OF BEGINNING; THENCE NORTH 72° 08' 00" EAST ALONG THE SOUTH LINE OF SURVEY; THENCE SOUTH 00° 04' 57" EAST, 12.71 FEET; THENCE SOUTH 46° 19' 27" WEST, 25.07 FEET; THENCE SOUTH 75° 45' 19" WEST, 172.11 FEET. THENCE NORTH 00° 04' 03" WEST, 12.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.08 ACRES (3,416 S.F.).

SECTION II.

The City Council of the City of Fort Dodge, Iowa, hereby makes the following findings:

1. The proposed vacation of the above-described portion of public right-of-way does not negatively impact abutting property owners, parking, transportation, safety, public utilities, or land use;
2. upon vacation, the property will be disposed to the neighboring property owner; and
3. no utilities were found to be present within the vacated property; therefore, no easements are necessary; and
4. the Public Notice of this intended vacation and the dates, time, and place on which the Council would first consider the vacating Ordinance has been heretofore published, as by law required.

SECTION III.

The public right-of-way, above described, is hereby declared vacated.

SECTION IV.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION V.

If any Section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any Section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION VI.

This Ordinance shall be in effect after its final passage, approval, and publication, as by law provided. Passed and approved by the City Council of the City of Fort Dodge, Iowa, this _____ day of _____, AD, 2014.

First consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

Second consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

Third consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

(City Seal)

CITY OF FORT DODGE

BY: _____
Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk

STATE OF IOWA, WEBSTER COUNTY, ss:

On this _____ day of _____, 2014 before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation, that the seal affixed thereto is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Dawn M. Siebken, Notary Public