

November 17, 2014

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

Subject: Hobby Lobby Easement Vacation



ACTION: Set Public Hearing for Vacation of a portion of an Easement

Brief History

The owner of the Fort Dodge Hobby Lobby is requesting to vacate a portion of an existing 70' x 115' easement, as shown on the attached map. This public utility easement was established by the City in 1985, when the final subdivision plat for the First National Bank Addition Extended was approved. The requested vacation consists of a 29.27' x 47.42' rectangular area on the southwest corner of the existing easement. The portion requested to be vacated consists of the area where the Hobby Lobby structure (originally a Walmart) encroaches upon this easement.

Analysis of Issue

When considering easement vacation requests, the City considers the same criteria for Right-of-Way vacation requests, which includes the following items:

- abutting property owners' access, support, and other impacts;
- transportation and parking impacts;
- 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

The owner of the Fort Dodge Hobby Lobby store is the entity which initiated this easement vacation request, and, as such, is in support of the proposed easement vacation. There are no other property owners adjacent to the area proposed for the easement vacation.

Transportation & Parking Impacts

No adverse transportation or parking impacts are anticipated, as the proposed easement vacation area consists of just the area where the building encroaches upon the existing easement.

Liability, Safety, & Maintenance

Liability and safety are common concerns for emergency response. This vacation will not hinder emergency responders' ability to maneuver the 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 – There are no Frontier cables/wires in the 29.27' x 47.22' proposed vacation area; thus, there are no foreseen issues with the vacation.
- Iowa Network Services – No foreseen problems with the vacation.
- Fort Dodge Fire Department – As long as the easement vacation is for the 29.27' x 47.22' area, there are no foreseen issues with the vacation.
- MidAmerican Energy – No foreseen issues with the vacation.
- City Utilities – As long as the easement vacation is for the 29.27' x 47.42' area, there are no issues regarding public utilities.
 - No other City improvement projects are planned for this encroachment area.

Land Use

Commercial uses at this site are consistent with the City's Land Use Plan. Further, commercial uses are an allowable use within the Arterial Commercial (AC) District, which is the current zoning class of the Hobby Lobby site.

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

Budget Impact

Easement vacation requests do not typically entail any City expenditures.

Strategic Plan Impact

N/A

Existing Plan Impact

N/A

Subcommittee or Commission Review / Recommendation

None. Easement vacation requests do not require consideration by the Plan & Zoning Commission.

Staff Conclusions / Recommendations

Subject to City Council review, and comments received at the public hearing, staff recommends approval of the easement vacation request for the 29.27' x 47.42' portion of the existing easement at 301 S. 29th Street.

Alternatives

The alternative would be to not set a public hearing to review the vacation of the easement as requested by the owner of the Fort Dodge Hobby Lobby store.

Implementation and Accountability

If approved, the public hearing will be set for December 8th, 2014. If the vacation request is ultimately approved, the City will forward an executed resolution to the owner's attorney.

Signed



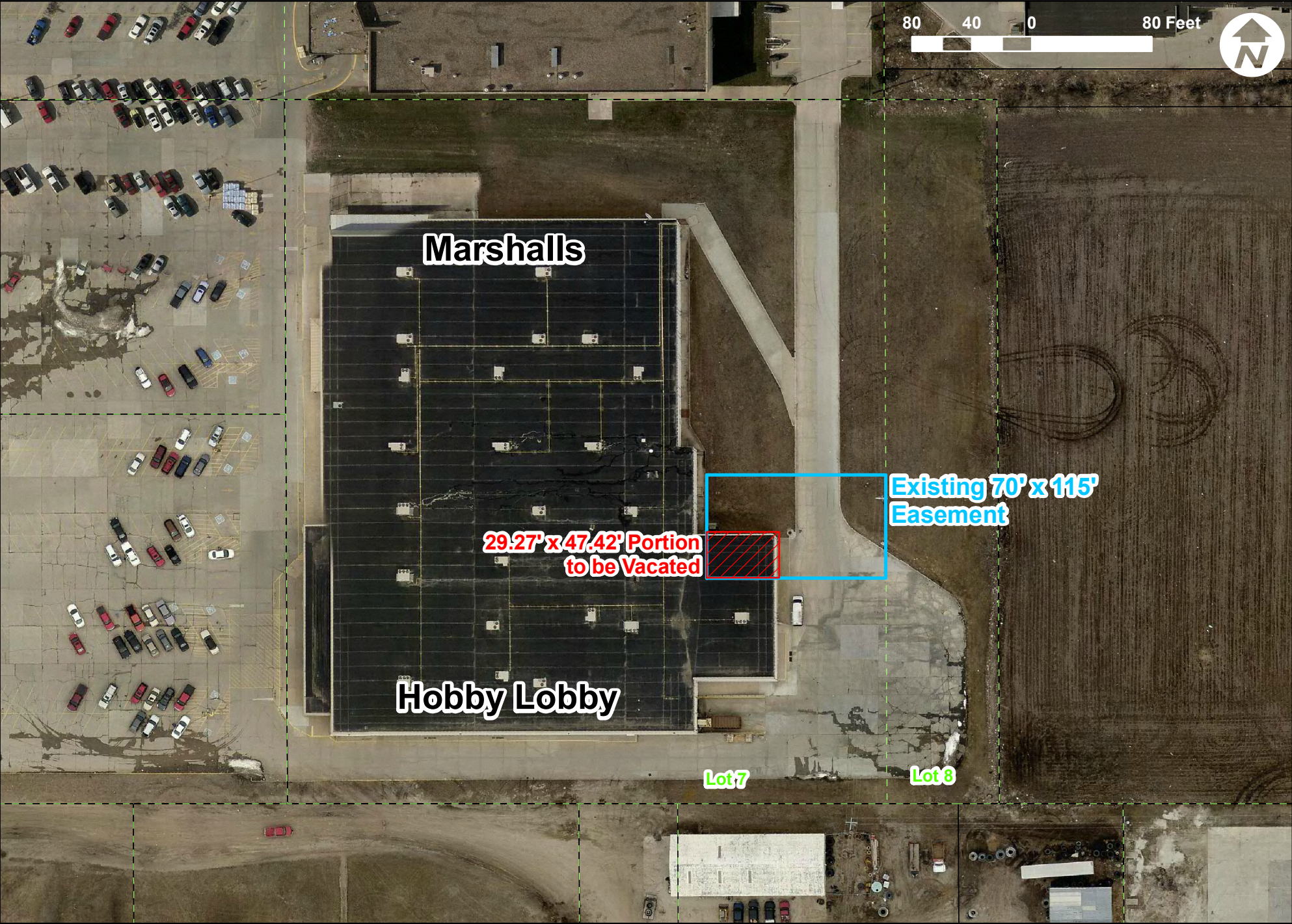
Maggie Carlin
Associate Planner
Department of Business Affairs &
Community Growth

Approved



David R. Fierke
City Manager

Easement Vacation Request



RESOLUTION NO. _____

**RESOLUTION PROPOSING VACATION OF A PORTION OF AN
EASEMENT AND AFFIXING A DATE FOR A PUBLIC HEARING**

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

That the City Council of the City of Fort Dodge, Iowa, hereby proposes to vacate that portion of an easement located in Webster County, Iowa, as described as follows:

THE SOUTH 29.27 FEET OF THE WEST 47.42 FEET OF AN EXISTING
70 FEET BY 115 FEET PUBLIC UTILITY EASEMENT LOCATED IN LOT
7, FIRST NATIONAL BANK ADDITION EXTENDED, TO FORT DODGE,
WEBSTER COUNTY, IOWA AS DISPLAYED ON THE RECORDED
FINAL PLAT.

A public hearing will be held on the 8th day of December, 2014 AD, at 6:00 p.m. in the Council Chambers of the Municipal Building, Fort Dodge, Iowa, at which time the Council will hear objections to the vacation of said easement.

The City Clerk is hereby directed to publish notice of said hearing, as by law required.

Passed and approved by the City Council of the City of Fort Dodge, Iowa, this 24th day of November 2014, AD.

Ayes: _____

Nays: _____

Other: _____

CITY OF FORT DODGE

BY: _____
Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk

PUBLIC NOTICE

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Fort Dodge, Iowa, hereby proposes to vacate that portion of an easement located in Webster County, Iowa, as described as follows:

THE SOUTH 29.27 FEET OF THE WEST 47.42 FEET OF AN EXISTING 70 FEET BY 115 FEET PUBLIC UTILITY EASEMENT LOCATED IN LOT 7, FIRST NATIONAL BANK ADDITION EXTENDED, TO FORT DODGE, WEBSTER COUNTY, IOWA AS DISPLAYED ON THE RECORDED FINAL PLAT.

A public hearing will be held on the 8th day of December, 2014 AD, at 6:00 p.m. in the City Council Chambers of the Municipal Building, Fort Dodge, Iowa, at which time the Council will hear objections to the vacation of said easement from any interested party.

DAWN SIEBKEN,
ACTING CITY CLERK

Published in the Fort Dodge Messenger this ____day of November, 2014.

Prepared By: Maggie Carlin, City of Fort Dodge, 819 1st Ave S, Fort Dodge, Iowa 515-576-8191
Return To: City of Fort Dodge, 819 1st Ave S., Fort Dodge, Iowa 50501, 515-576-8191

RESOLUTION NO. _____

**A RESOLUTION APPROVING THE DISPOSITION OF AN INTEREST
IN REAL ESTATE BY VACATION OF AN EASEMENT**

WHEREAS, the City is proposing to dispose of an interest in real estate by the vacation of the following described easement:

THE SOUTH 29.27 FEET OF THE WEST 47.42 FEET OF AN
EXISTING 70 FEET BY 115 FEET PUBLIC UTILITY EASEMENT
LOCATED IN LOT 7, FIRST NATIONAL BANK ADDITION
EXTENDED, TO FORT DODGE, WEBSTER COUNTY, IOWA AS
DISPLAYED ON THE RECORDED FINAL PLAT.

WHEREAS, a Public Hearing was held on the 8th day of December, 2014, at 6:00 p.m. in the Council Chambers of the Municipal Building, Fort Dodge, Iowa to consider the proposed disposal of the above-referenced easement.

WHEREAS, it is deemed in the public interest to dispose of said interest in real estate by vacation of said easement.

NOW, THEREFORE, BE IT RESOLVED, that the above-referenced easement is hereby vacated.

Be it further resolved that the Mayor and Clerk be and they are hereby directed and authorized to execute all documents necessary to effectuate this resolution.

PASSED AND APPROVED by the City Council of the City of Fort Dodge, Iowa this ____ day of _____, 2014.

AYES _____

NAYES _____

OTHER _____

ATTEST:

BY: _____
Matt Bemrich, Mayor

Jeff Nemmers, City Clerk

(CITY SEAL)

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