memo

To: Hiawatha City Council

From: Patrick Parsley

CC: Kim Down, City Administrator
John Bender, City Engineer

Date: 1/27/2020

Re: Vacate 150' of Oak Street

In planning for the sale and development of the City-owned property around the Emmons Street / Robins Road intersection it was discovered additional existing right-of-way could be vacated and disposed. The west 150 feet of Oak Street is no longer needed for access to Robins Road and has become a dead-end street. This section of Oak Street also provides no required accesses to private property.

The property is adjacent to existing City-owned property which is for sale. If this portion of the ROW is vacated, it could be added to the legal description of the available land and disposed with the sale of the planned development. The City sewer and water mains on this property can be maintained with a utility easement if the property is vacated.

City Ordinance Chapter 137 outlines the public land "vacation and disposal" process. To initiate the process the Council must request the Planning and Zoning Commission study the property and assess the need to retain the land for public purpose. The Commission will make a recommendation to vacate or retain the property.

Given the location and the reconfiguration of Robins Road, Engineering and Community Development are recommending the land be vacated and subsequently disposed as part of the adjacent property. Council action is to refer this vacation request to the Planning and Zoning Commission for recommendation within 30 days.

The Planning and Zoning Commission's earliest consideration will be February 24, 2020. If the recommendation is for vacating the section of Oak Street a public hearing could be set for the March 4, 2020 Council meeting.

Attachment: Hiawatha Ordinance Chapter 137
Vacation Map

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

DRAFT

RESOLUTION NO. 20-
City Council

RESOLUTION REFERRING THE PROPOSAL TO VACATE A PORTION OF OAK STREET RIGHT OF WAY AS DESCRIBED IN THE LEGAL DESCRIPTION "EXHIBIT A" TO THE PLANNING AND ZONING COMMISSION FOR STUDY AND RECOMMENDATION TO CITY COUNCIL
West 150 feet of Oak Street

WHEREAS, the City of Hiawatha desires to vacate a portion of Oak Street right of way as described in the legal description "Exhibit A", city owned right of way (West 150 feet of Oak Street), for the purpose of adding to a city owned adjacent for re-development of City owned property and removing city responsibility for maintenance, and

WHEREAS, as per Code of Ordinances Chapter 137 Vacation and Disposal of Streets, Section 137.02 Planning and Zoning Commission, "Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for a study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission," and

WHEREAS, with the passage of this resolution, City Council formally refers the proposal to vacate city owned right of way to the Planning and Zoning Commission as directed in Section 137.02 of the Code of Ordinances, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HIAWATHA, IOWA to refer the request to vacate a portion of city owned right of way as legally described in "Exhibit A," as requested by the City of Hiawatha, to the Planning and Zoning Commission for a study and recommendation prior to further consideration by City Council. "The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission."

AYES:
NAYS:
ABSENT:

PASSED AND APPROVED this 5th day of February, 2020.

_____
Bill Bennett, Mayor

ATTEST:

_____
Kari Graber, City Clerk

EXHIBIT "A"

DESCRIPTION - RIGHT-OF-WAY VACATION

A PORTION OF OAK STREET IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 84 NORTH, RANGE 7 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, HIAWATHA, LINN COUNTY, IOWA, DESCRIBED AS FOLLOWS:

Beginning at the Northwest Corner of Lot 11 of Auditor's Plat No. 396 in Hiawatha, Iowa, in accordance with the Plat thereof Recorded in Book 9 at Page 114 of the Records of the Linn County Recorder's Office; Thence N00°23'28"W, along the Southerly Line of Parcel "A" of Plat of Survey #2321, in accordance with the Plat thereof Recorded in Book 10322 at Page 222 of the Records of the Linn County Recorder's Office, 30.00 feet; Thence N89°17'45"E, along said Southerly Line, 150.00 feet; Thence S00°42'15"E, 30.00 feet, to a Point on the North Line of said Lot 11; Thence S89°17'45"W, along said North Line, 150.16 feet, to the Point of Beginning. Said Right-of-Way Vacation contains 4,502 square feet, and is subject to easements and restrictions of record.

LOCATION:	SURVEY REQUESTED BY:
A PORTION OF OAK STREET IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 84 NORTH, RANGE 7 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, HIAWATHA, LINN COUNTY, IOWA	CITY OF HIAWATHA, IOWA 81 EMMONS ST. HIAWATHA, IOWA 52233
	PROPRIETOR OR OWNER:
	CITY OF HIAWATHA, IOWA 81 EMMONS ST. HIAWATHA, IOWA 52233
LAND SURVEYOR:	
JAMES E. LICHTY P.L.S MMS CONSULTANTS INC. 1917 SOUTH GILBERT STREET IOWA CITY, IOWA, 52240 PHONE: 319-351-8282	DATE OF SURVEY
	01-30-2020
	DOCUMENT RETURN INFORMATION:
	LAND SURVEYOR

FOR COUNTY RECORDER'S USE

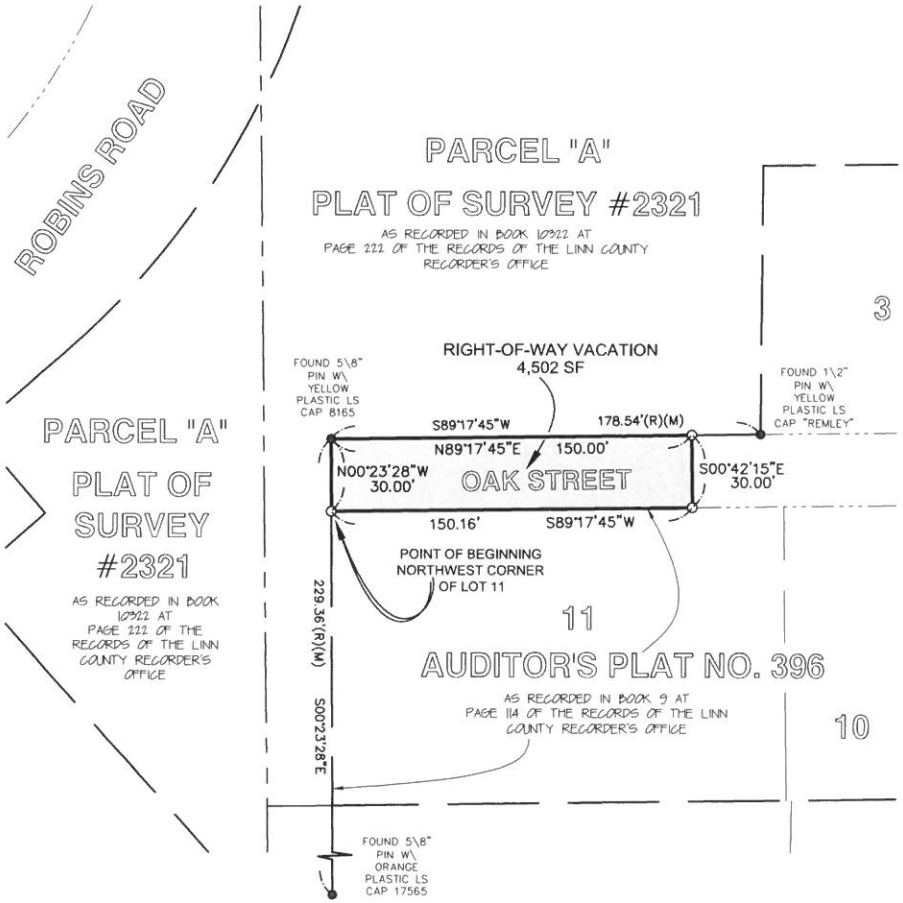
RIGHT-OF-WAY VACATION PLAT

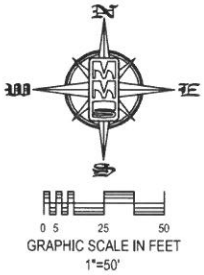
A PORTION OF OAK STREET

HIAWATHA, LINN COUNTY, IOWA

CIVIL ENGINEERS
LAND PLANNERS
LAND SURVEYORS
LANDSCAPE ARCHITECTS
ENVIRONMENTAL SPECIALISTS

1917 S. GILBERT ST.
IOWA CITY, IOWA 52240
(319) 351-8282
www.mmsconsultants.net





LEGEND AND NOTES

- ⊕ – CONGRESSIONAL CORNER, FOUND
- ● – PROPERTY CORNER(S), FOUND (as noted)
- ○ – PROPERTY CORNERS SET (5/8" Iron Pin w/ yellow, plastic LS Cap embossed with "MMS")
- ⊗ – CUT "X"
- PROPERTY &/or BOUNDARY LINES
- CONGRESSIONAL SECTION LINES
- RIGHT-OF-WAY LINES
- CENTER LINES
- LOT LINES, PLATTED OR BY DEED
- EASEMENT LINES, WIDTH & PURPOSE NOTED
- EXISTING EASEMENT LINES, PURPOSE NOTED
- (R) – RECORDED DIMENSIONS
- (M) – MEASURED DIMENSIONS

UNLESS NOTED OTHERWISE, ALL DIMENSIONS ARE IN FEET AND HUNDREDTHS

Date	Revision
01-30-20	PER JEL REVIEW - RLW

DESCRIPTION - RIGHT-OF-WAY VACATION

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LICENSED PROFESSIONAL LAND SURVEYOR
JAMES E. LICHTY
13287
IOWA

SEAL

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.

_____ 20____

JAMES E. LICHTY
P.L.S. Iowa Lic. No. 13287

My license renewal date is December 31, 20____.

Pages or sheets covered by this seal:

DRAFT

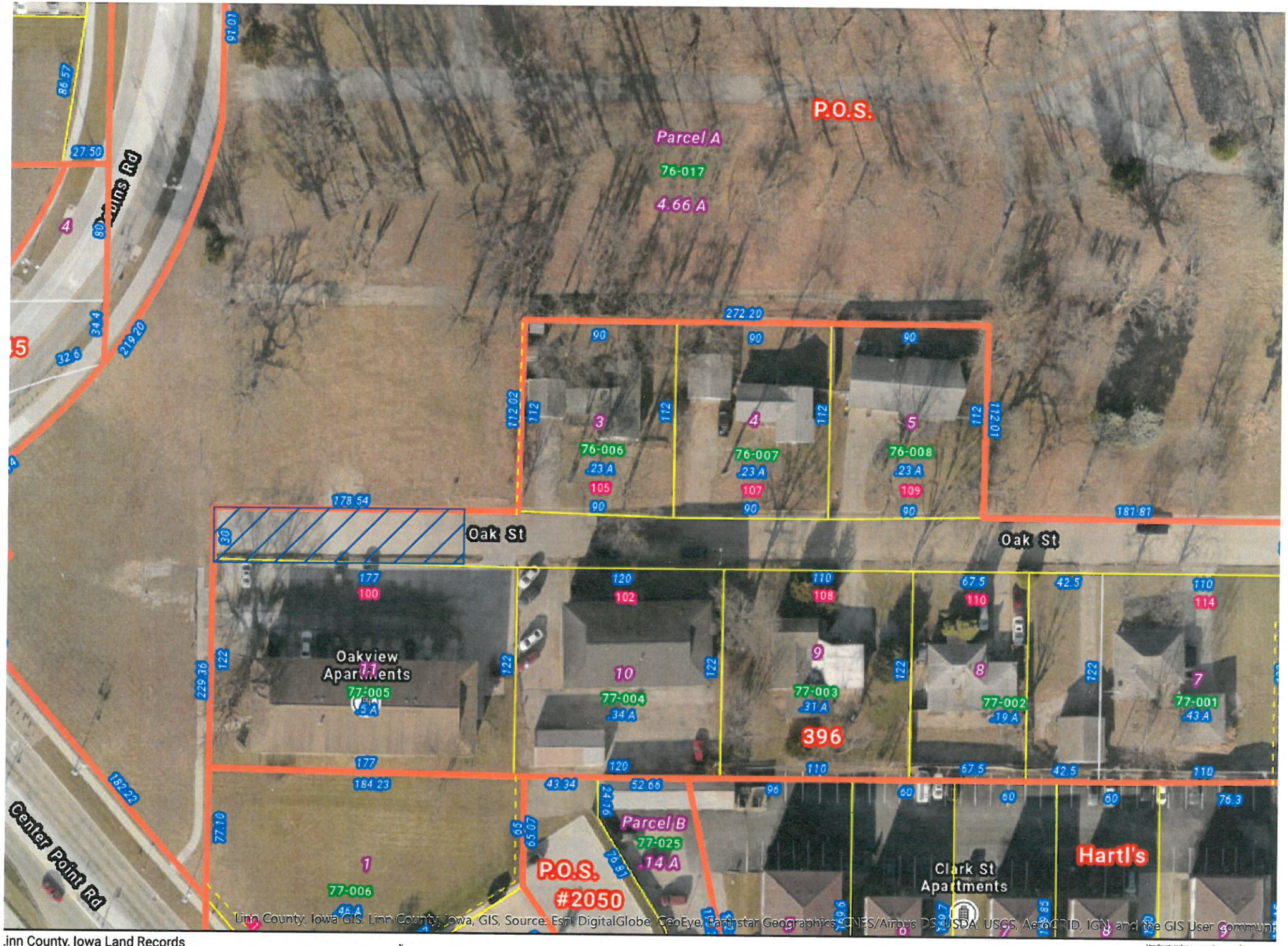
RIGHT-OF-WAY
VACATION PLAT

A PORTION OF OAK STREET IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 84 NORTH, RANGE 7 WEST, OF THE FIFTH PRINCIPAL MERIDIAN

HIAWATHA
LINN COUNTY
IOWA

MMS CONSULTANTS, INC.

Date: 01-30-2020	
Designed by: SPB	Field Book No: 1237
Drawn by: RLW	Scale: 1"=100'
Checked by: JEL	Sheet No: 1
Project No: IC 5671-002	of: 1



Linn County, Iowa Land Records
Linn County, Iowa Auditor's Office
Real Estate Division

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