

**NOTICE OF REGULAR COUNCIL MEETING
CUMMING CITY COUNCIL
July 28, 2025 – 6:00 PM
Cumming City Hall, 649 N. 44th St., Cumming, IA***

ROLL CALL

APPROVAL OF AGENDA as presented and/or amended

PUBLIC COMMENT 5 minutes for items not on the current agenda. No action taken.

PUBLIC HEARING:

- A. Public hearing on Disposal/Vacation of City Owned Right of Way

CONSENT ITEMS

- A. Minutes from July 14, 2025, Regular Council Meeting

BUSINESS ITEMS

- A. First Reading of Ordinance No. 2025-04 On Vacation of City-Owned Right of Way
 - a. Motion to Waive Second and Third Readings of Ordinance No. 2025-04, Authorize Mayor to Execute and City Clerk to Publish.
- B. Resolution 2025-36 Conveyance of Subject Property to Adjacent Owner (HyVee, Inc. 5820 Westown Parkway, West Des Moines, IA 50266)

REPORTS:

- A. Mayor B. Council C. Attorney D. Engineer E. City Clerk F. City Administrator

ADJOURNMENT

UPCOMING ITEMS

*The City of Cumming welcomes public participation. If unable to attend this meeting in person, online and phone participation are available below. For questions, please contact City Hall at 649 N 44th Street, 515-981-9214 or email at nonstot@cumming.iowa.gov

Join Zoom Meeting
<https://us02web.zoom.us/j/2382663968> Meeting ID: 238 266 3968

**OFFICIAL PUBLICATION
CITY OF CUMMING
Regular Council Meeting 07/14/2025
To Be Approved at 07/28/2025 Meeting**

The regular City Council Meeting of the City of Cumming was held at Cumming City Hall 649 N. 44th St. on July 14, 2025, at 6:00PM. The meeting was called to order at 6:00 P.M. by Mayor Brent Highfill. Present at Roll Call: Charlie Ochanpaugh, Mayor Pro Tem; Kathie Hungerford via Zoom, Thomas Cackler, Larry “Dino” Goode, Jr. and Martin Squier. Motion by Cackler, seconded by Squier to approve the agenda. Approved 5-0.

Public Comment:

- A. None

Public Hearing:

- A. Motion by Cackler, seconded by Goode, Jr. to open the public hearing on a proposed development agreement with MB Main Investments at 6:01PM. 5-0.
- B. Motion by Squier, seconded by Cackler to close the public hearing on a proposed development agreement with MB Main Investments at 6:02PM. 5-0.

Consent Items:

Motion by Goode, Jr., seconded by Cackler to approve Consent Items: Minutes from June 23, 2025, Payment of Bills, June 2025 Sheriff’s Report, Block Party Permit for August 23, 2025, for the Cumming Tap & Iowa Distilling Company, Tobacco License for Hy-Vee Fast & Fresh, Payment to West Des Moines Library for FY26 Service Agreement in the amount of \$10,410, Resolution 2025-31 Iowa Community Assurance Pool (ICAP) Renewal, Resolution 2025-32 Approving FY26 Des Moines Metropolitan Wastewater Reclamation Authority (WRA) Participating Community Budget in the amount of \$56,185, and Resolution 2025-33 Set a Public Hearing on Consideration of Disposal of City Owned Right of Way. Approved 5-0.

Payment of Bills:

Type	Date	Name	Memo	Amount
Check	07/01/2025	ClerkBooks, Inc.	Closing Tools Renewal	-50.00
Check	07/02/2025	Veenstra & Kimm Inc.	Invoice 41235-86	-7,920.78
Check	07/02/2025	N/Warren Town & County	Minutes 05.12 & 05.19.25	-147.31
Check	07/07/2025	Skinner Law Office PC	Invoice 40172 & 40629	-1,163.75
Check	07/07/2025	City of Des Moines	July 2025 Invoice	-4,683.00
Check	07/07/2025	City of Norwalk	Invoice 339	-100.00
Check	07/07/2025	Elan Financial Services	June 2025	-84.11
Check	07/07/2025	US Bank	Invoice 558876876	-202.01
Check	07/07/2025	MidAmerican Energy	June 2025	-769.34
Check	07/07/2025	Iowa One Call	Invoice 272365	-57.60
Check	07/07/2025	MidAmerican Energy	June 2025 (Crosswalk)	-10.00
Check	07/07/2025	City of West Des Moines	2025-2026	-10,410.00
Check	07/07/2025	Mid-Iowa Association	Dues FY25-26	-600.00
Check	07/07/2025	Iowa City/County Mgrs	IaCMA Dues 2025-2026	-120.00
Check	07/08/2025	McClure Engineering	Invoice 160673	-2,611.25
Check	07/08/2025	McClure Engineering	Invoice 160674	-1,572.50
Check	07/08/2025	McClure Engineering	Invoice 160748	-2,618.85
Check	07/08/2025	Wellmark Blue Cross	Health Insurance - July 2025	-611.21
Check	07/08/2025	Waste Connections	July 2025	-3,938.63
Check	07/09/2025	Mike Pedersen MCP	Invoice 3 of 7	-6,036.00
Check	07/31/2025	Delta Dental of Iowa	August 2025	-43.88
Check	07/31/2025	Waste Solutions of Iowa	Invoice 22207	-121.00
			Total	-43,871.22

Business Items:

- A. Motion by Ochanpaugh, seconded by Cackler to approve Resolution 2025-34 Resolution Approving Development Agreement with MB Main Investments, LLC, Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement. Approved 5-0. RC Vote.
- B. Motion by Cackler, seconded by Goode, Jr to approve Resolution 2025-35 Rooster's Coffee Shop Amended Site Plan with the following amendments to the site plan as recommended by Planning & Zoning Commission, the amendments are as follows: Artificial turf proposed for the groundcover should be changed to live plant material, grass seed, sod, landscaping or combination; council approval of site plan to be followed by review and approval of lease of city alley at north end of site; and council will also review and act on the north-south alley west of the site to no longer exit traffic onto Cumming Ave. Alice Avenue alley entrance will also be the exit. This change will allow to remove an access onto Cumming Avenue as the exit only drive through is added. Approved as amended 5-0. RC Vote.
- C. Motion by Hungerford, seconded by Goode, Jr. to approve Task Order No. 2 for the Cumming Ave and 35th Street Improvements. Approved 5-0. RC Vote.
- D. Motion by Cackler, seconded by Squier to approve Task Order No. 3 for the Central Region Sanitary Sewer Study. Approved 5-0. RC Vote.
- E. Motion by Cackler, seconded by Squier to approve Task Order No. 4 for the Phase 1 Stormwater Drainage Study. Approved 5-0. RC Vote.

Reports:

- A. Mayor Highfill would like to have discussion on the updating N 44th St and S 44th St and rename them Main Street.
- B. No report.
- C. No report.
- D. No report.
- E. No report
- F. Conner reports that there are continued discussions with MidAmerican Energy regarding the Natural Gas project; the next meeting is on July 16.

Adjourn:

Motion by Cackler, seconded by Squier to adjourn the meeting at 7:55 PM. Approved 5-0.

NEXT CITY COUNCIL MEETING: July 28, 2025, at 6:00PM at City Hall

Brent Highfill, Mayor

Attest: Nichole Onstot, City Clerk

ORDINANCE 2025-04
City of Cumming

AN ORDINANCE AMENDING THE OFFICIAL ORDINANCE OF THE CITY OF CUMMING, IOWA, AS ESTABLISHED BY THE CITY CODE OF THE CITY OF CUMMING, FOR THE VACATION OF CITY OWNED RIGHT-OF-WAY (ROW)

BE IT ENACTED by the City Council of the City of Cumming, Iowa:

SECTION 1. SECTION ONE. VACATION: Iowa Code Chapter 354.23 provides municipalities in Iowa a process to consider the vacation and conveyance of public property with no identified public need. City Owned Right-of-Way (ROW) described below is hereby recognized as excess property with no current or anticipated public need. The subject property is part of Hy Vee Distribution Campus, Plat 1, generally located north of Cumming Avenue/Highway G-14, east of Interstate 35, west of N. 20th Avenue and is more specifically described below:

PROPERTY DESCRIPTION

A RIGHT-OF-WAY VACATION IN LOT 'B', HY-VEE DISTRIBUTION CAMPUS PLAT 1, AN OFFICIAL PLAT RECORDED IN INSTRUMENT #2021-15634 AT THE WARREN COUNTY RECORDERS OFFICE, CITY OF CUMMING, WARREN COUNTY, IOWA, THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF LOT 2, OF SAID HY-VEE DISTRIBUTION CAMPUS PLAT 1; THENCE S00°20'53"W, 28.69 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 60.00 FEET NORTH OF SAID LOT 'B', SAID NORTH LINE ALSO BEING THE NORTH LINE OF THE SOUTH 60.00 FEET OF SECTION 7, TOWNSHIP 79 NORTH, RANGE 25 WEST OF THE 5TH P.M.; THENCE S89°28'10"W, 331.23 FEET ALONG SAID NORTH LINE OF THE SOUTH 60.00 FEET OF SAID LOT 'B', TO A POINT ON SAID NORTH LINE OF SAID LOT 'B'; THENCE N56°43'22"E, 24.21 FEET ALONG SAID NORTH LINE TO A POINT; THENCE N86°35'58"E, 311.34 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 6,628 S.F. (0.15 ACRES).

AND

A PARCEL OF LAND IN LOT 'B' HY-VEE DISTRIBUTION CAMPUS PLAT 1, AN OFFICIAL PLAT RECORDED IN INSTRUMENT #2021-15634 AT THE WARREN COUNTY RECORDERS OFFICE, CITY OF CUMMING, WARREN COUNTY, IOWA, THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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AND

A PARCEL OF LAND IN LOT 'B', HY-VEE DISTRIBUTION CAMPUS PLAT 1, AN OFFICIAL PLAT

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SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. SEVERABILITY CLAUSE. 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 5. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the _____ day of _____, 2025, and approved this ____ day of _____, 2025.

Brent Highfill, Mayor

Attest:

Nichole Onstot, City Clerk

First Reading:
Second Reading:
Third Reading:

I certify that the foregoing was published as Ordinance 2025-03 on the ____ day of _____, 2025.

Nichole Onstot, City Clerk

PREPARED FOR:

HY-VEE INC
5820 WESTOWN PARKWAY
WEST DES MOINES, IA 50266
CO: JEFF STEIN
PHONE: 515-267-2819
EMAIL: JSTEIN@HY-VEE.COM

EXHIBIT

**LOT 'B', HY-VEE DISTRIBUTION
CAMPUS PLAT I
5237 CUMMING AVENUE, CITY
OF CUMMING, WARREN COUNTY,
IOWA**

PROPERTY OWNERS:

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5820 WESTOWN PARKWAY
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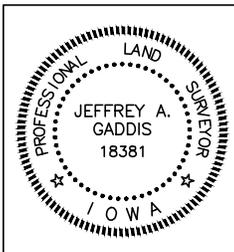
NOTES

- I. THIS PARCEL MAY BE SUBJECT TO EASEMENTS OF RECORD.
NO TITLE WORK WAS PERFORMED BY THIS SURVEYOR.

LEGEND

	VACATION LINES
	LOT LINES
	EASEMENT LINES
	FOUND PROPERTY CORNER
	SET 3/8" I.R. W/BBLUE CAP #18381
	I.P. IRON PIPE
	I.R. IRON ROD
	P.O.B. POINT OF BEGINNING
	M. MEASURED BEARING & DISTANCE
	P. PREVIOUSLY RECORDED BEARING & DISTANCE
	ADDRESS

CERTIFICATION



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.
3/26/2025
JEFFREY A. GADDIS, IOWA LICENSE NO. 18381 DATE MY LICENSE RENEWAL DATE IS DECEMBER 31, 2026
PAGES OR SHEETS COVERED BY THIS SEAL:
SHEETS 1 - 2



Civil Engineering Consultants, Inc.

2400 86th Street . Unit 12 . Des Moines, Iowa 50322
515.276.4884 . Fax: 515.276.7084 . mail@ceclac.com

SCALE: 1" = 10'



NORTH



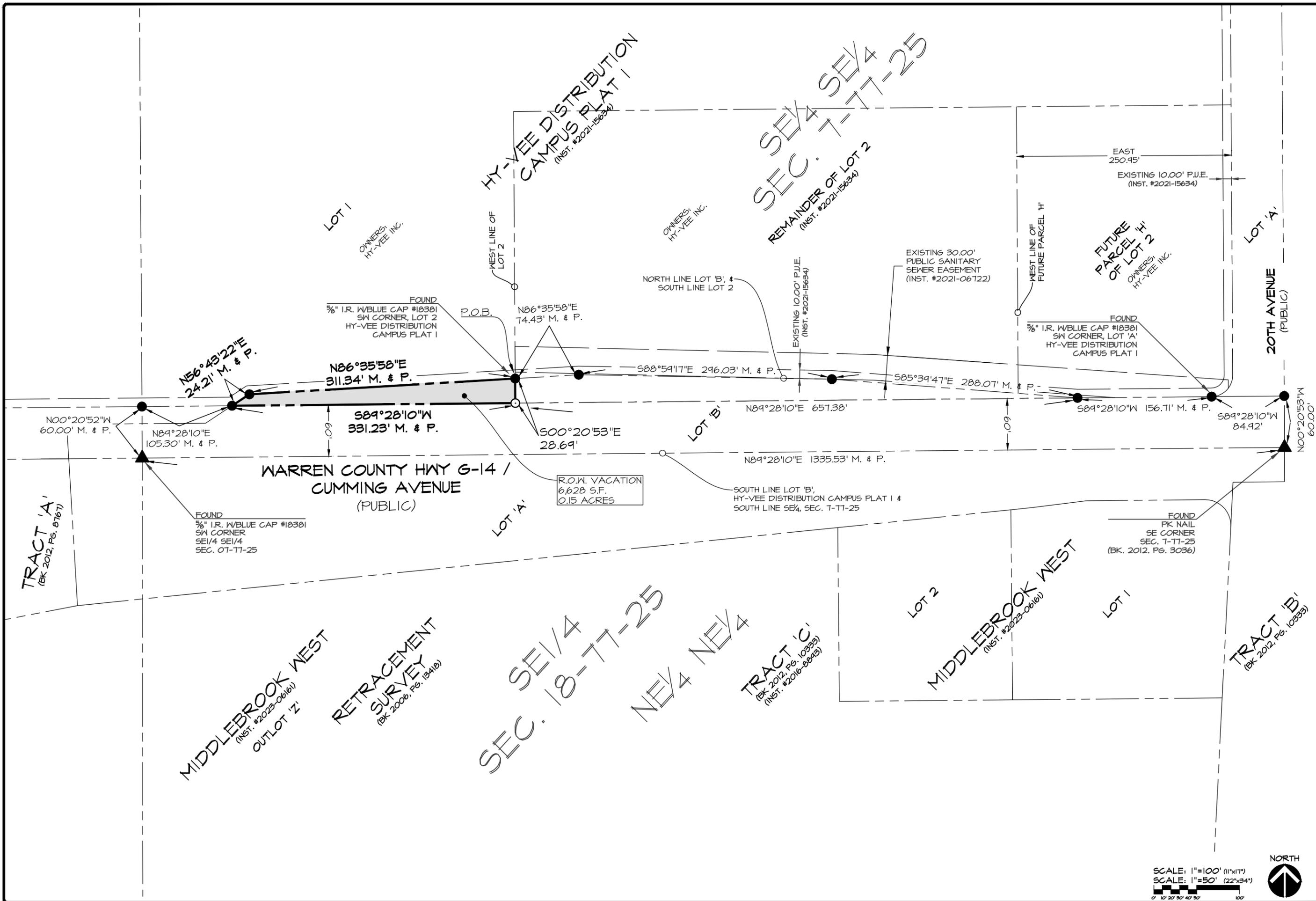
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OF 2

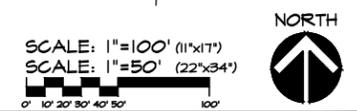
E9410

DATE: 06-08-2023
DESIGNED BY: JAG
DRAWN BY: LJH



DATE:	06-08-2023
DATE OF SURVEY:	JAN
DESIGNED BY:	JAG
DRAWN BY:	RRS

LOT 'B', HY-VEE DISTRIBUTION CAMPUS PLAT I
 5237 CUMMING AVENUE, CITY OF CUMMING, WARREN COUNTY, IOWA
RIGHT-OF-WAY-VACATION



PREPARED FOR:

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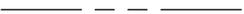
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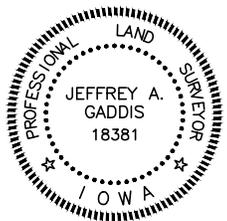
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LEGEND

	VACATION LINES
	LOT LINES
	EASEMENT LINES
	FOUND PROPERTY CORNER
	SET 3/8" I.R. W/BBLUE CAP #18381
	I.P. IRON PIPE
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MY LICENSE RENEWAL DATE IS DECEMBER 31, 2026

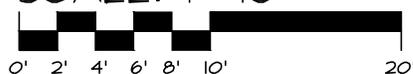
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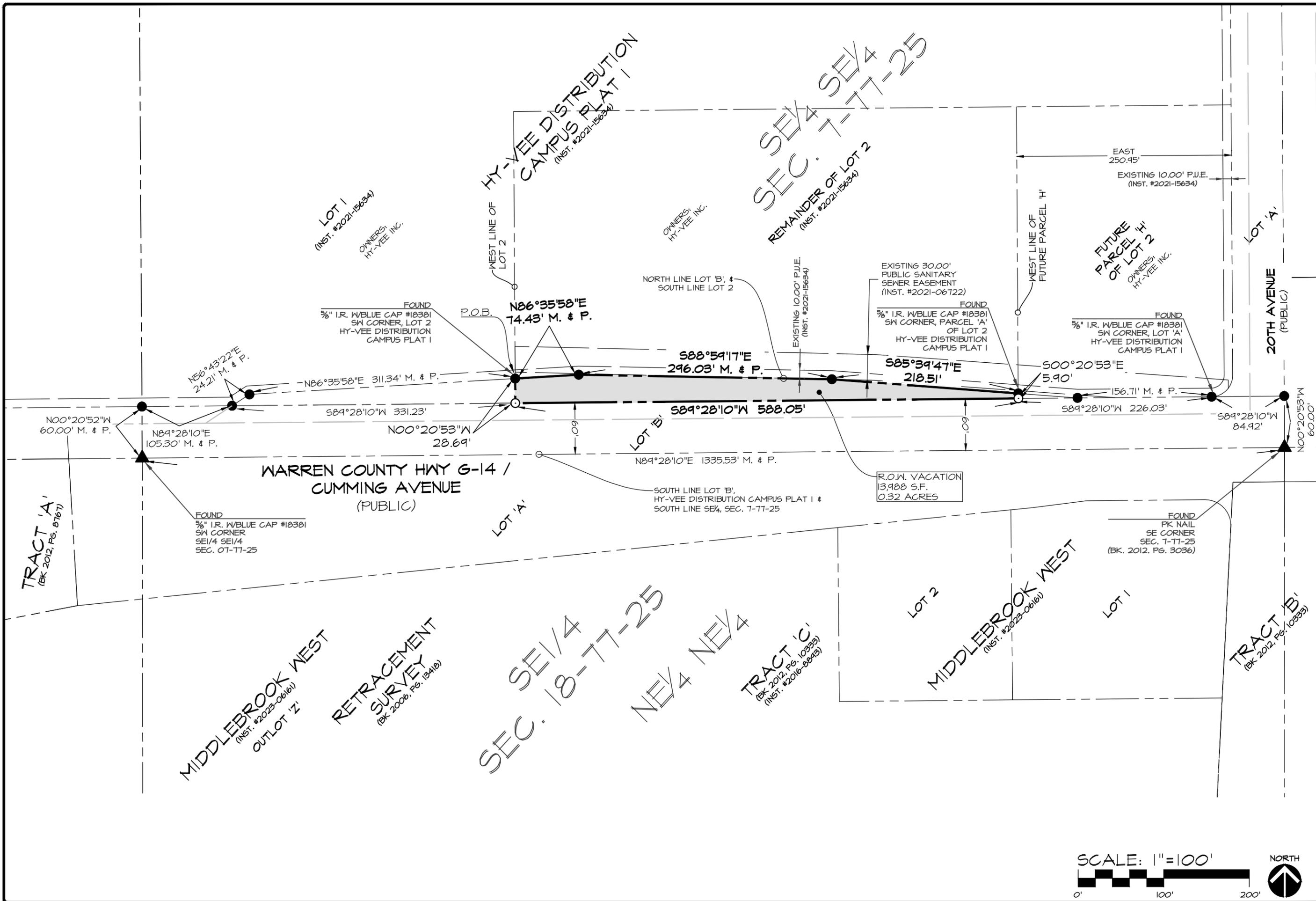
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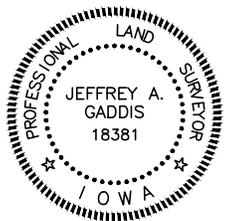
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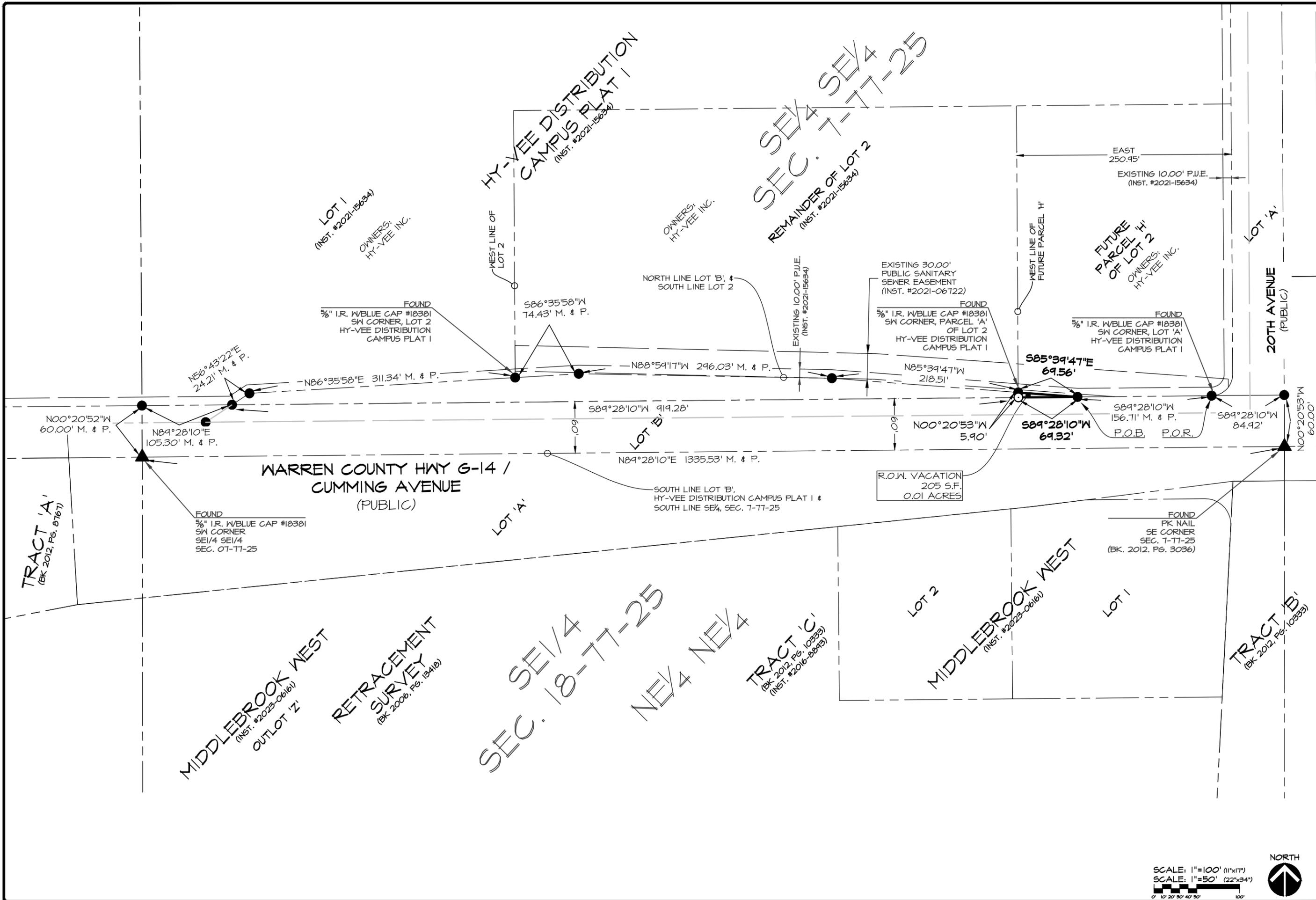
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E9410

DATE: 3/26/2025
DESIGNED BY: JAG
DRAWN BY: LJH



Civil Engineering Consultants, Inc.
 2400 86th Street, Unit 12, Des Moines, Iowa 50322
 515.276.4884, mail@cecinc.com

CEC

DATE:	06-08-2023
DATE OF SURVEY:	JAG
DESIGNED BY:	JAG
DRAWN BY:	RSV

LOT 'B', HY-VEE DISTRIBUTION CAMPUS PLAT I
 5237 CUMMING AVENUE, CITY OF CUMMING, WARREN COUNTY, IOWA

RIGHT-OF-WAY-VACATION

SHEET 2 OF 2

E4410

RESOLUTION 2025-36
City of Cumming

**Conveyance of Subject Property to Adjacent Owner (HyVee, Inc. 5820
Westown Parkway West Des Moines, Iowa 50266)**

WHEREAS, The Code of Iowa Section 364.7 requires cities to hold a public hearing on consideration of the disposal of City owned property; and

WHEREAS, City of Cumming City Council set public hearing for July 28, 2025, to consider the disposal, vacation and conveyance of City owned property to HyVee, Inc; and

WHEREAS, the description of the subject property accompanies this Resolution and is included in Ordinance 2025-04 on this agenda.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Cumming, Iowa, as follows:

Section 1. Council hereby approves the vacation of the subject property and its conveyance to HyVee, Inc for one (1) dollar.

Section 2. Council hereby directs the City Administrator and City attorney to complete the necessary documents to convey the property to HyVee Inc.

Passed and approved this 28th day of July 2025.

Brent Highfill, Mayor

Attest:

Nichole Onstot, City Clerk/Finance Officer

Return To: Hy-Vee, Inc, 5820 Westown Parkway, West Des Moines, IA 50266

Taxpayer: Hy-Vee, Inc, 5820 Westown Parkway, West Des Moines, IA 50266

Preparer: Cameron K. Wright, 160 Adventureland Dr. NW, Suite B, PO Box 367, Altoona, IA 50009, Phone: 515-967-4264

QUIT CLAIM DEED

For the consideration of Ten Dollar(s) and other valuable consideration, City of Cumming, an Iowa municipal corporation, does hereby Quit Claim to Hy-Vee, Inc., an Iowa corporation, all our right, title, interest, estate, claim and demand in the following described real estate in Warren County, Iowa:

See Exhibit "A"

Subject to easements of record.

There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code Section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.

This deed is exempt according to Iowa Code 428A.2(6).

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate. Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, 2025.

City of Cumming, Iowa

By _____
Brent Highfill, Mayor

By _____
Nichole Onstot, City Clerk

STATE OF IOWA, COUNTY OF WARREN

On this _____ day of _____, 2025, before me, a Notary Public in and for the State of Iowa personally appeared Brent Highfill and Nichole Onstot, to me personally known and who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Cumming, Iowa; that the foregoing instrument was signed and sealed on behalf of the corporation by authority of its City Council as contained in Resolution _____ passed by the City Council on _____ and attached hereto as Exhibit "B", and that Brent Highfill and Nichole Onstot acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the City, by it voluntarily executed.

Signature of Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION

A RIGHT-OF-WAY VACATION IN LOT 'B', HY-VEE DISTRIBUTION CAMPUS PLAT 1, AN OFFICIAL PLAT RECORDED IN INSTRUMENT #2021-15634 AT THE WARREN COUNTY RECORDERS OFFICE, CITY OF CUMMING, WARREN COUNTY, IOWA, THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF LOT 2, OF SAID HY-VEE DISTRIBUTION CAMPUS PLAT 1; THENCE S00°20'53"W, 28.69 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 60.00 FEET NORTH OF SAID LOT 'B', SAID NORTH LINE ALSO BEING THE NORTH LINE OF THE SOUTH 60.00 FEET OF SECTION 7, TOWNSHIP 79 NORTH, RANGE 25 WEST OF THE 5TH P.M.; THENCE S89°28'10"W, 331.23 FEET ALONG SAID NORTH LINE OF THE SOUTH 60.00 FEET OF SAID LOT 'B', TO A POINT ON SAID NORTH LINE OF SAID LOT 'B'; THENCE N56°43'22"E, 24.21 FEET ALONG SAID NORTH LINE TO A POINT; THENCE N86°35'58"E, 311.34 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 6,628 S.F. (0.15 ACRES).

AND

A PARCEL OF LAND IN LOT 'B' HY-VEE DISTRIBUTION CAMPUS PLAT 1, AN OFFICIAL PLAT RECORDED IN INSTRUMENT #2021-15634 AT THE WARREN COUNTY RECORDERS OFFICE, CITY OF CUMMING, WARREN COUNTY, IOWA, THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF LOT 2 OF SAID HY-VEE DISTRIBUTION CAMPUS PLAT 1; THENCE N86°35'58"E, 74.43 FEET ALONG THE SOUTH LINE OF SAID LOT 2, SAID SOUTH LINE ALSO BEING THE NORTH LINE OF SAID LOT 'B', TO A POINT; THENCE S88°59'17"E, 296.03 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE S85°39'47"E, 218.51 FEET ALONG SAID SOUTH LINE TO THE SW CORNER OF THE EAST 250.95 FEET OF SAID LOT 2; THENCE S00°20'53"E, 5.90 FEET ALONG A LINE THAT COINCIDES WITH THE WEST LINE OF SAID EAST 250.95 FEET OF SAID LOT 2 TO A POINT ON THE NORTH LINE OF THE SOUTH 60.00 FEET OF SAID LOT 'B'; THENCE S89°28'10"W, 588.05 FEET ALONG SAID NORTH LINE OF THE SOUTH 60.00 FEET OF LOT 'B' TO A POINT ON A LINE THAT COINCIDES WITH THE WEST LINE OF SAID LOT 2; THENCE N00°20'53"E, 28.69 FEET ALONG SAID LINE THAT COINCIDES WITH THE WEST LINE OF SAID LOT 2 TO THE POINT OF BEGINNING AND CONTAINING 13,988 S.F. (0.32 ACRES) MORE OR LESS.

AND

A PARCEL OF LAND IN LOT 'B', HY-VEE DISTRIBUTION CAMPUS PLAT 1, AN OFFICIAL PLAT RECORDED IN INSTRUMENT #2021-15634 AT THE WARREN COUNTY RECORDERS OFFICE, CITY OF CUMMING, WARREN COUNTY, IOWA, THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF LOT 'A' OF SAID HY-VEE DISTRIBUTION CAMPUS PLAT 1, SAID SE CORNER ALSO BEING ON THE NORTH LINE OF SAID LOT 'B'; THENCE S89°28'10"W, 156.71 ALONG SAID NORTH LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S89°28'10"W, 69.32 FEET ALONG THE NORTH LINE OF THE SOUTH 60.00 FEET OF SAID LOT 'B' TO A POINT ON A LINE THAT COINCIDES WITH THE WEST LINE OF THE EAST 250.95 OF LOT 2 OF SAID HY-VEE DISTRIBUTION CAMPUS PLAT 1; THENCE N00°20'53"W, 5.90 FEET ALONG SAID WEST LINE TO THE SW CORNER OF SAID EAST 250.95 FEET OF LOT 2 OF SAID HY-VEE DISTRIBUTION CAMPUS PLAT 1, SAID SW CORNER ALSO BEING ON SAID NORTH LINE OF LOT 'B'; THENCE S85°39'47"E, 69.56 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 205 SQUARE FEET (0.01 ACRES) MORE OR LESS.

EXHIBIT "B"
RESOLUTION

[See Attached]