

Date.....November 19, 2012

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on November 1, 2012, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Katning, Inc. (owner) 2102 Southeast 14th Street, represented by Timothy Neugent, for vacation of an irregular shaped segment of right-of-way from the south edge of Gratis Avenue extending from Southeast 14th Street to a point approximately 115 feet to the west, to allow for an ongoing encroachment of a vehicle display lot that occurred circa 2001. The segment of right-of-way proposed for vacation is entirely south of the existing travelled width and sidewalk in Gratis Avenue and is subject to the following:

1. Any paving within the vacated right-of-way shall provide a 5-foot wide landscape area along the north and east perimeters.
2. Reservation of any necessary easements for all utilities in place, including the water line, until such time that they are abandoned or relocated.
3. Adequate right-of-way shall be maintained between the resulting property line and the existing curbs along Gratis Avenue and Southeast 14th Street, including any right-of-way necessary for a future widening of Southeast 14th Street.

MOVED by _____ to receive and file and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:



 Michael F. Kelley
 Assistant City Attorney

(11-2012-1.19)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ Mayor

_____ City Clerk

November 7, 2012

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held November 1, 2012, the following action was taken regarding a request from Katning, Inc. (owner) 2102 Southeast 14th Street, represented by Timothy Neugent, for vacation of an irregular shaped segment of right-of-way from the south edge of Gratis Avenue extending from Southeast 14th Street to a point approximately 115 feet to the west. (11-2012-1.19)

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Dann Flaherty	X			
John "Jack" Hilmes				X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdill	X			

APPROVAL of the requested vacation subject to the following:

1. Any paving within the vacated right-of-way shall provide a 5-foot wide landscape area along the north and east perimeters.
2. Reservation of any necessary easements for all utilities in place, including the water line, until such time that they are abandoned or relocated.
3. Adequate right-of-way shall be maintained between the resulting property line and the existing curbs along Gratis Avenue and Southeast 14th Street, including any right-of-way necessary for a future widening of Southeast 14th Street.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to the following:

1. Any paving within the vacated right-of-way shall provide a 5-foot wide landscape area along the north and east perimeters.



CITY PLAN AND ZONING COMMISSION
 ARMORY BUILDING
 602 ROBERT D. RAY DRIVE
 DES MOINES, IOWA 50309 -1881
 (515) 283-4182

ALL-AMERICA CITY
 1949, 1976, 1981
 2003

2. Reservation of any necessary easements for all utilities in place, including the water line, until such time that they are abandoned or relocated.
3. Adequate right-of-way shall be maintained between the resulting property line and the existing curbs along Gratis Avenue and Southeast 14th Street, including any right-of-way necessary for a future widening of Southeast 14th Street.

Written Responses

2 In Favor

0 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The request would allow the adjoining property (2102 Southeast 14th Street) to acquire a portion of Gratis Avenue right-of-way that includes paving and landscaping. The improvements within the right-of-way have been used in common with a vehicle display lot on the adjoining property since approximately 2001. No permits or certificates of occupancy were required for the adjoining property at that time since a vehicle display lot was a permitted use so long as the property provided the minimum required 5-foot landscaped setback along front property lines. It was only recently discovered that a portion of the existing pavement and the required landscaping are within Gratis Street right-of-way.

The structure on the property (currently known as 2102 Southeast 14th Street) was developed in accordance with a Site Plan approved July 5, 1996 for a property formerly known as 1231 Gratis Avenue. A Certificate of Occupancy was issued to Bill Polson on April 1, 1998 to allow this building to be occupied as an "auction assembly" use. The 2000 aerial photograph shows this use, as well as a tavern structure on the parcel adjacent to the east that was built up to the front property lines along Southeast 14th Street and Gratis Avenue. The 2002 aerial photograph shows that the tavern building on the east parcel was demolished and replaced with a parking lot, and the two parcels were combined. The 2002 aerial photograph also shows the parking lot in its current configuration encroaching into Gratis Street right-of-way. No new Certificate of Occupancy was necessary when the property converted to a vehicle display lot use from auction assembly and tavern uses.

The annual "Polk City Directories" list 2102 Southeast 14th Street as occupied by "Cheers" until 2000. The 2001 (and subsequent) Polk City Directories list 2102 Southeast 14th Street as occupied by Des Moines Auto Sales or Americ Auto.

If the requested right-of-way is vacated and assembled with the adjoining property, the applicant must maintain a 5-foot wide landscaped setback between the resulting property line and the edge of the pavement. If the requested right-of-way is not vacated and assembled with the adjoining property, the applicant must remove the paving within the public right-of-way and the paving within 5 feet of the existing property line.

The existing paving is located 19 feet south of the curb along Gratis Avenue and 20 feet west of the curb along Southeast 14th Street. Since the vacation would include the required 5-foot landscape area surrounding the parking lot, the resulting property line would be located approximately 14 feet south of the curb along Gratis Avenue and 15 feet west of

the curb along Southeast 14th Street.

2. **Size of Site:** Triangular area measuring approximately 115 feet by 25 feet (1,438 square feet).
3. **Existing Zoning (site):** “C-2” General Retail and Highway-Oriented Commercial District, with “VDL” Vehicle Display Lot and “GGP” Gambling Games Prohibition Overlay Districts.
4. **Existing Land Use (site):** Right-of-way that contains a 5-foot wide landscaped area and approximately 430 square feet of paving. The paving is located 19 feet south of the curb along Gratis Avenue and 20 feet west of the curb along Southeast 14th Street.
5. **Adjacent Land Use and Zoning:**
 - North** – “R1-60”, Use are a single-family dwelling and vacant land.
 - South** – “R1-60”, Use is a vacant land.
 - East** – “R1-60”, Use are single-family dwellings.
 - West** – “R1-60”, Uses are a single-family dwellings and vacant land.
6. **General Neighborhood/Area Land Uses:** The subject portion of undeveloped 24th Drive right-of-way is located in a low-density residential area.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Indianola Hills neighborhood. The Indianola Hills was notified of the Commission meeting by mailing of the Preliminary Agenda on October 12, 2012. Additionally, on October 22, 2012, separate notifications of the hearing were mailed to the neighborhood association contact and the primary titleholder on file with the Polk County Assessor for each property adjacent to the right-of-way. A Final Agenda was mailed to the neighborhood association on October 26, 2012.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Ingersoll Hills Neighborhood Association notices were mailed to Nancy Watson, 326 East Broad Street, Des Moines, IA 50315.
8. **Relevant Zoning History:** On September 28, 2009, the City Council rezoned the properties along Southeast 14th Street to the Vehicle Display Lot Overlay District. However, the requested vacation of right-of-way to allow retention of an existing portion of a vehicle display lot is not considered an expansion.
9. **2020 Community Character Land Use Plan Designation:** Commercial Corridor: Small-Scale Strip Development.
10. **Applicable Regulations:** The Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** An easement must be provided for the existing water line along Gratis Avenue. Easements must also be provided for any other existing utilities until such time they are relocated at the applicant's expense.
2. **Access/Traffic:** The requested vacation would not adversely impact the surrounding street network so as adequate right-of-way is maintained between the resulting property line and the existing curbs along Gratis Avenue and Southeast 14th Street.

The City's Traffic & Transportation Division has indicated that in the future, Southeast 14th Street may be widened to three lanes in each direction. Therefore, it may be necessary retention of the right-of-way within 25 feet of the west curb along Southeast 14th Street. The paving and required landscaping within this area could potentially be leased to the adjoining property.

SUMMARY OF DISCUSSION

There was no discussion

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor or in opposition of the applicant's request

CHAIRPERSON CLOSED THE PUBLIC HEARING


COMMISSION ACTION:

Shirley Daniels moved staff recommendation to approve the requested vacation subject to the following:

1. Any paving within the vacated right-of-way shall provide a 5-foot wide landscape area along the north and east perimeters.
2. Reservation of any necessary easements for all utilities in place, including the water line, until such time that they are abandoned or relocated.
3. Adequate right-of-way shall be maintained between the resulting property line and the existing curbs along Gratis Avenue and Southeast 14th Street, including any right-of-way necessary for a future widening of Southeast 14th Street.

Motion passed 11-0.

Respectfully submitted,



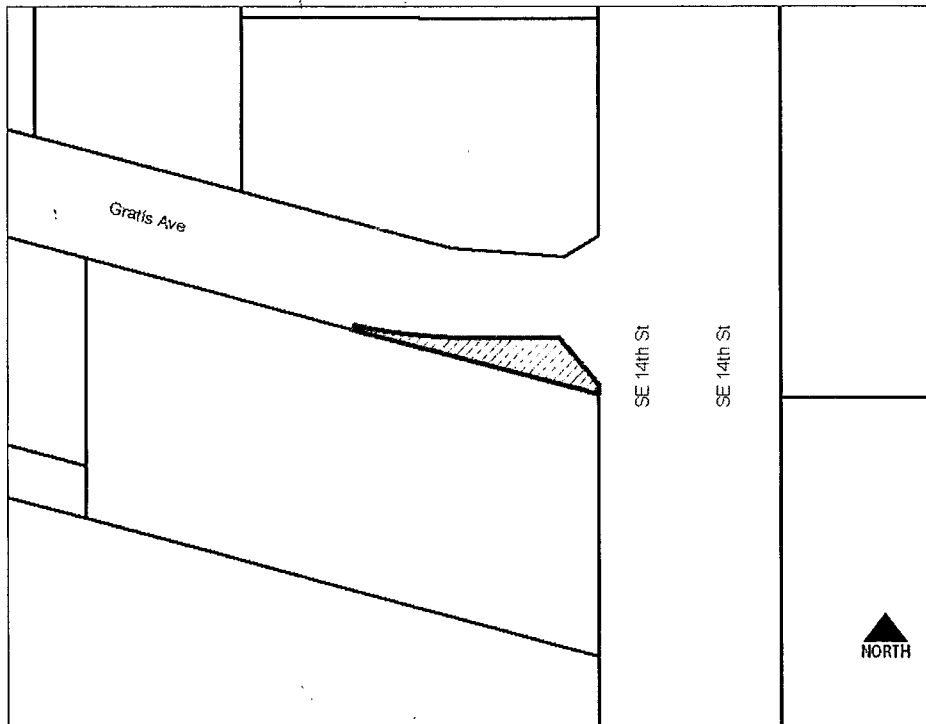
Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Request from Katning, Inc. (owner) 2102 Southeast 14 th Street, represented by Timothy Neugent, for vacation of an irregular shaped segment of right-of-way from the south edge of Gratis Avenue extending from Southeast 14 th Street to a point approximately 115 feet to the west.				File # 11-2012-1.19	
Description of Action	Approval for vacation of an irregular shaped segment of right-of-way from the south edge of Gratis Avenue extending from Southeast 14 th Street to a point approximately 115 feet to the west, to allow for an ongoing encroachment of a vehicle display lot that occurred circa 2001. The proposed segment of right-of-way is entirely south of the existing travelled width and sidewalk in Gratis Avenue.				
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development				
Horizon 2035 Transportation Plan	SE 14 th Street from E 15 th Street Extension to Park Avenue to widen from 4 lanes divided to 6 lanes divided				
Current Zoning District	"C-2" General Retail and Highway Oriented Commercial District				
Proposed Zoning District	"C-2" General Retail and Highway Oriented Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	0			
Outside Area					
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes	N/A
	Denial			No	

Katning Inc - vicinity of SE 14th Street & Gratis Avenue

11-2012-1.19



Item 11-2012-1.19 Date 10/23/12

I (am) (am not) in favor of the request.

(Circle One)

Print Name Mike Burch

Signature Mike Burch

Address 2028 S.E. 14th St.

Reason for opposing or approving this request may be listed below:

Item 11-2012-1.19 Date 10-25-12

I (am) (am not) in favor of the request.

(Circle One)

Print Name America Auto Financy LLC

Signature [Signature]

Address _____

Reason for opposing or approving this request may be listed below:

Have been at this property for
over 11 years. This property has
been financed with 2 banks and have
never been notified that the city owns
this piece of property !!

11-2012-1.19

Katning Inc - vicinity of SE 14th Street & Gratis Avenue

