

Date June 14, 2021

CONTINUANCE OF HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF 12TH STREET AND KEOSAUQUA WAY RIGHT-OF-WAY ADJOINING 1201 KEOSAUQUA WAY AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT-DOOR SWING TO AUST REAL ESTATE, LLC FOR \$11,280

WHEREAS, on May 10, 2021, by Roll Call No. 21-0690, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Aust Real Estate, LLC, owner of property at 1201 Keosauqua Way, to vacate portions of Crocker Street, 12th Street and Keosauqua Way right-of-way adjoining 1201 Keosauqua Way, Des Moines, Iowa, subject to the reservation of any easements for all existing utilities until such time that they are abandoned or relocated; and

WHEREAS, Aust Real Estate, LLC is negotiating an Offer to Purchase with the City of Des Moines for purchase of a Permanent Easement for Building Encroachment and a Permanent Easement for Building Encroachment – Door Swing adjoining 1201 Keosauqua Way, Des Moines, Iowa (hereinafter “Property”), to allow for door swing encroachments and existing building encroachments into the vacated right-of-way; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Building Encroachment – Door Swing therein; and

WHEREAS, on May 24, 2021, by Roll Call No. 21-0773, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Permanent Easement for Building Encroachment and a Permanent Easement for Building Encroachment – Door Swing be set for hearing on June 14, 2021, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate the street right-of-way and convey a Permanent Easement for Building Encroachment and a Permanent Easement for Building Encroachment – Door Swing in such vacated right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, a continuance of the public hearing is needed until the Council meeting on June 28, 2021, to allow the surveyor for Aust Real Estate, LLC to review apparent discrepancies in the legal descriptions of the property to be vacated.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the public hearing for vacation of portions of Crocker Street, 12th Street and Keosauqua Way right-of-way adjoining 1201 Keosauqua Way, Des Moines, Iowa and conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Building Encroachment – Door Swing in such vacated right-of-way be and is hereby continued to June 28, 2021 at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

Date June 14, 2021

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

RSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

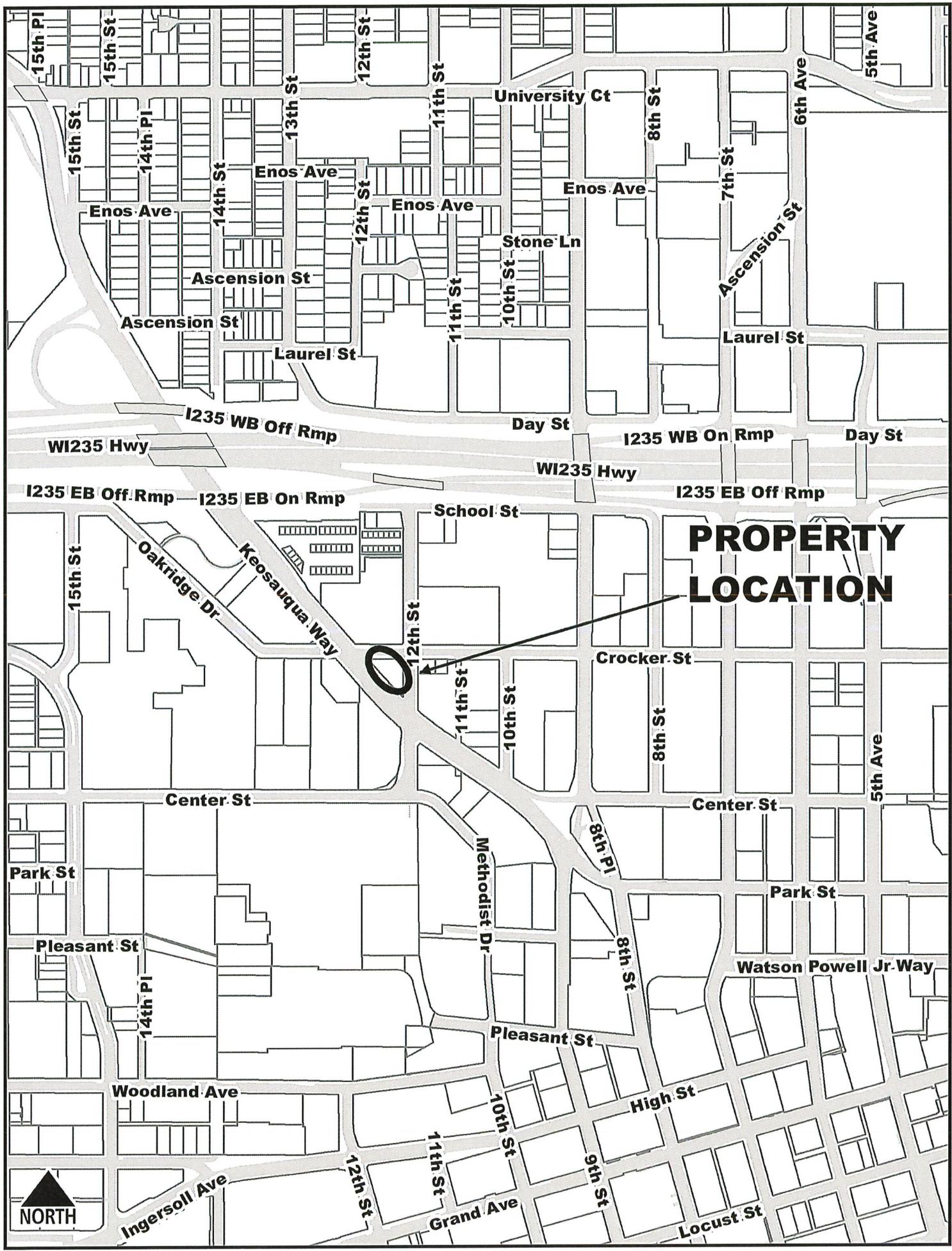
MOTION CARRIED APPROVED
 _____ Mayor

CERTIFICATE

I, P. Kay Cmelik, 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.

_____ City Clerk



**PROPERTY
LOCATION**

NORTH



May 4, 2021

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their April 15, 2021 meeting, the following action was taken regarding a request from Aust Real Estate, LLC (owner), 1201 Keosauqua Way, represented by Mindy Aust for vacation of various adjoining surface/subsurface rights.

- A) A 6-foot wide by 30-foot long segment of adjoining Crocker Street for surface rights to allow door swings for proposed trash enclosures.
- B) A 5-foot by 5-foot segment of adjoining Crocker Street for surface/subsurface rights for a door swing and landing.
- C) A 5-foot by 5-foot segment of adjoining 12th Street for surface/subsurface rights for a door swing and landing.
- D) A 5-foot by 69.13-foot long segment of adjoining Keosauqua Way for surface/subsurface rights to accommodate four (4) door swings and landings.
- E) A 3-foot by 126.54-foot long segment of adjoining Keosaugua Way for subsurface encroachment of the exiting building.
- F) A 1-foot by 172.25-foot long segment of adjoining 12th Street for subsurface encroachment of the exiting building.

COMMISSION RECOMMENDATION:

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

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles				X
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed				X
Johnny Alcivar	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

APPROVAL of the requested right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense. (11-2021-1.05)

Written Responses

4 in Favor
0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The proposed vacations would facilitate redevelopment of the existing building.
- 2. Size of Site:** The requested segments of Right-of-Way encompass a total 1,128 square feet of area.
- 3. Existing Zoning (site):** “ROW” Public Right-of-Way. The subject ROW segments would be zoned “MX2” Mixed Use District upon vacation.
- 4. Existing Land Use (site):** The subject areas consist of public street rights-of-way.
- 5. Adjacent Land Use and Zoning:**

North – “MX2”; Use is multiple-tenant retail building.

South – “MX2”, Use is vacant auto service and office building.

East – “DX2”; Uses are Earlham Bank building and surface parking lots.

West – “MX2”; Use is Git-n-Go fuel station/convenience store.

6. **General Neighborhood/Area Land Uses:** The applicant’s property is irregularly shaped and bordered by Crocker Street to the north, 12th Street to the east, and Keosauqua Way to the southwest. The surrounding area consists of a mix of residential and commercial uses.
7. **Applicable Recognized Neighborhood(s):** The subject areas are not located within a recognized neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on March 26, 2021 and by mailing of the Final Agenda on April 9, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on April 5, 2021 (10 days prior) to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way.
8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Downtown Mixed Use.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, 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:** Identified utilities located in or near the impacted area may include water valves, water hydrants, distribution water mains, sanitary sewer conduit, sanitary sewer manholes, and non-city-owned street lights. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
2. **Traffic/Access:** The requested vacations would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

Emily Webb asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jension made a motion for approval of the requested right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

Motion passed: 11-0

Respectfully submitted,



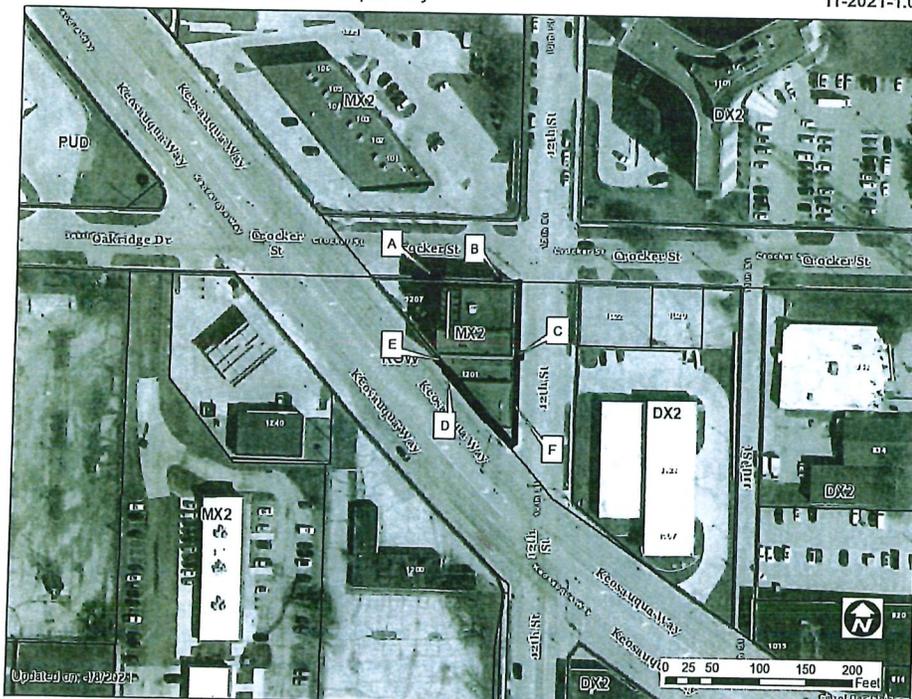
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Request from Aust Real Estate, LLC (owner), represented by Mindy Aust for property located at 1201 Keosauqua Way.		File #	
		11-2021-1.05	
Description of Action	Vacation of various adjoining surface/subsurface rights. A) A 6-foot wide by 30-foot long segment of adjoining Crocker Street for surface rights to allow door swings for proposed trash enclosures. B) A 5-foot by 5-foot segment of adjoining Crocker Street for surface/subsurface rights for a door swing and landing. C) A 5-foot by 5-foot segment of adjoining 12 th Street for surface/subsurface rights for a door swing and landing. D) A 5-foot by 69.13-foot long segment of adjoining Keosauqua Way for surface/subsurface rights to accommodate four (4) door swings and landings. E) A 3-foot by 126.54-foot long segment of adjoining Keosauqua Way for subsurface encroachment of the exiting building. F) A 1-foot by 172.25-foot long segment of adjoining 12 th Street for subsurface encroachment of the exiting building.		
Plan/DSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.		
Mobilizing Tomorrow Transportation Plan	No planned improvements.		
Current Zoning District	"MX2" Mixed Use District.		
Proposed Zoning District	N/A.		
Consent Card Responses	In Favor	Not In Favor	Undetermined
Outside Area (200 feet)	4	0	
Within Subject Property			
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council
	Denial		
			No
			X

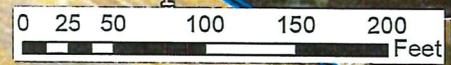
Aust Real Estate, LLC, 1201 Keosauqua Way

11-2021-1.05





Updated on: 4/14/2021



1 inch = 98 feet

Item: 11-2021-1.05

Date: 4/8/2021 23

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: _____

Name: Garret W Hulse

Address: 7300 Lake Dr. WDM IA

Staff Use Only

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

Item: 11-2021-1.05

Date: 4.7.21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: _____

Name: Reguelina A Nickolaus

Address: 1251 keo

Staff Use Only

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

Item: 11-2021-1.05

Date: 4/7/21

23

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

Signature: *Penn Lee*, President

Name: Git-N-Co Stores, Inc

Address: 2716 Indiana Ave,
Des Moines, Iowa 50315

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

Item: 11-2021-1.05

Date: _____

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

Signature: *Mark Clark*

Name: Mark Clark

Address: 1100 Co

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

