



**RESOLUTION TO DISMISS HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF 12<sup>TH</sup> 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, 12<sup>th</sup> 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, to allow for door swing encroachments and existing building encroachments into the vacated right-of-way; 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**, on June 14, 2021, by Roll Call No. 21-0897, the public hearing was 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 to allow the surveyor for Aust Real Estate, LLC to review apparent discrepancies in the legal descriptions of the property to be vacated; and

**WHEREAS**, due notice of said proposal to convey the Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, Aust Real Estate, LLC and the City of Des Moines Real Estate Division have been unable to finalize the terms of the Offer to Purchase for the purchase of the Permanent Easement for Building Encroachment and the Permanent Easement for Building Encroachment – Door Swing in City right-of-way adjoining 1201 Keosauqua Way, Des Moines, Iowa, and the Real Estate Division recommends that the Offer to Purchase be rescinded and the hearing dismissed until such time as all discrepancies in the legal descriptions of the property to be vacated are resolved and offer terms are finalized; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the recommendation of the City of Des Moines Real Estate Division to rescind the offer to purchase the Permanent Easement for Building Encroachment and a Permanent Easement for Building Encroachment – Door Swing in City right-of-way adjoining 1201 Keosauqua Way, Des Moines, Iowa, described as follows:

**Building Encroachment**



**Roll Call Number**

21-1025

**Agenda Item Number**

56

Date June 28, 2021

EASEMENT DESCRIPTION (A)

A PART OF VACATED KEOSAUQUA WAY RIGHT-OF-WAY LYING SOUTH AND ADJACENT TO THE SOUTHWESTERLY LINE OF LOTS 1 AND 2, FERRINGTON PLACE, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST 80 FEET OF LOT 18, BLOCK 1, WHITES ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°22'09" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF CROCKER STREET, 146.01 FEET TO THE NORTHEAST CORNER OF SAID LOT 2 AND ALSO THE WEST RIGHT-OF-WAY LINE OF 12TH STREET; THENCE SOUTH 00°20'33" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 172.27 FEET TO THE SOUTH CORNER OF SAID LOT 1 AND TO THE POINT OF BEGINNING; THENCE SOUTH 47°25'07" WEST, 3.00 FEET; THENCE NORTH 42°34'53" WEST, 126.54 FEET; THENCE NORTH 47°25'07" EAST, 3.00 FEET TO THE SOUTHWEST LINE OF SAID LOT 2 AND ALSO THE NORTHEAST RIGHT-OF-WAY LINE OF KEOSAUQUA WAY; THENCE SOUTH 42°34'53" EAST ALONG SAID NORTHEAST RIGHT-OF-WAY LINE, 126.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 380 S.F.

AND

EASEMENT DESCRIPTION (B)

A PART OF VACATED 12TH STREET RIGHT-OF-WAY LYING EAST AND ADJACENT TO THE EAST LINE OF LOTS 1 AND 2, FERRINGTON PLACE, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST 80 FEET OF LOT 18, BLOCK 1, WHITES ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°22'09" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF CROCKER STREET, 146.01 FEET TO THE NORTHEAST CORNER OF SAID LOT 2 AND TO THE POINT OF BEGINNING; THENCE SOUTH 89°22'09" EAST, 1.00 FOOT; THENCE SOUTH 00°20'33" EAST, 172.25 FEET; THENCE NORTH 89°39'27" EAST, 1.00 FOOT TO THE SOUTH CORNER OF SAID LOT 1 AND THE WEST RIGHT-OF-WAY LINE OF 12TH STREET; THENCE NORTH 00°20'33" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 172.27 FEET TO THE POINT OF BEGINNING AND CONTAINING 172 S.F.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

**Building Encroachment – Door Swing**

EASEMENT DESCRIPTION (A)

21-1025

56

**Date** June 28, 2021

A PART OF VACATED CROCKER STREET RIGHT-OF-WAY LYING NORTH AND ADJACENT TO THE NORTH LINE OF LOT 3, FERRINGTON PLACE, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST 80 FEET OF LOT 18, BLOCK 1, WHITES ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°22'09" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF CROCKER STREET, 234.42 FEET AND TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°22'09" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 30.00 FEET; THENCE NORTH 00°37'51" EAST, 6.00 FEET; THENCE SOUTH 89°22'09" EAST, 30.00 FEET; THENCE SOUTH 00°37'51" WEST, 6.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 180 S.F.

AND

EASEMENT DESCRIPTION (B)

A PART OF VACATED CROCKER STREET RIGHT-OF-WAY LYING NORTH AND ADJACENT TO THE NORTH LINE OF LOT 2, FERRINGTON PLACE, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST 80 FEET OF LOT 18, BLOCK 1, WHITES ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°22'09" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF CROCKER STREET, 160.38 FEET AND TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°22'09" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 5.00 FEET; THENCE NORTH 00°37'51" EAST, 5.00 FEET; THENCE SOUTH 89°22'09" EAST, 5.00 FEET; THENCE SOUTH 00°37'51" WEST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 25 S.F.

AND

EASEMENT DESCRIPTION (C)

A PART OF VACATED 12TH STREET RIGHT-OF-WAY LYING EAST AND ADJACENT TO THE EAST LINE OF LOT 2, FERRINGTON PLACE, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST 80 FEET OF LOT 18, BLOCK 1, WHITES ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°22'09" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF CROCKER STREET, 146.01 FEET TO THE NORTHEAST CORNER OF SAID LOT 2 AND ALSO THE WEST RIGHT-OF-WAY LINE OF 12TH STREET; THENCE SOUTH



**Roll Call Number**

21-1025

**Agenda Item Number**

50

**Date** June 28, 2021

00°20'33" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 86.72 FEET AND TO THE POINT OF BEGINNING; THENCE NORTH 89°39'27" EAST, 5.00 FEET; THENCE SOUTH 00°20'33" EAST, 5.00 FEET; THENCE SOUTH 89°39'27" WEST, 5.00 FEET TO SAID WEST RIGHT-OF-WAY LINE; THENCE NORTH 00°20'33" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 25 S.F.

AND

EASEMENT DESCRIPTION (D)

A PART OF VACATED KEOSAUQUA WAY RIGHT-OF-WAY LYING SOUTH AND ADJACENT TO THE SOUTHWESTERLY LINE OF LOTS 1 AND 2, FERRINGTON PLACE, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST 80 FEET OF LOT 18, BLOCK 1, WHITES ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°22'09" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF CROCKER STREET, 146.01 FEET TO THE NORTHEAST CORNER OF SAID LOT 2 AND ALSO THE WEST RIGHT-OF-WAY LINE OF 12TH STREET; THENCE SOUTH 00°20'33" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 172.27 FEET TO THE SOUTH CORNER OF SAID LOT 1, THENCE NORTH 42°34'53" WEST ALONG THE SOUTHWEST LINE OF SAID LOT 1 AND ALSO THE NORTHEAST RIGHT-OF-WAY LINE OF KEOSAUQUA WAY, 34.20 FEET AND TO THE POINT OF BEGINNING; THENCE SOUTH 47°25'07" WEST, 5.00 FEET; THENCE NORTH 42°34'53" WEST, 69.13 FEET; THENCE NORTH 47°25'07" EAST, 5.00 FEET TO SAID NORTHEAST RIGHT-OF-WAY LINE; THENCE SOUTH 42°34'53" EAST ALONG SAID NORTHEAST RIGHT-OF-WAY LINE, 69.13 FEET TO THE POINT OF BEGINNING AND CONTAINING 346 S.F.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

this hearing is hereby dismissed.



**Roll Call Number**

21-1025

**Agenda Item Number**

56

**Date** June 28, 2021

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

*FIN*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED	APPROVED			

J. M. Franke Cownie  
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.

P. Kay Cmelik

City Clerk