



Roll Call Number

21-1752

Agenda Item Number

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Date November 15, 2021

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF CROCKER STREET, 12TH STREET AND KEOSAUQUA WAY RIGHT-OF-WAY ADJOINING 1201 KEOSAUQUA WAY AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT-DOOR SWING TO AUST REAL ESTATE, LLC FOR \$5,760

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 has offered to the City of Des Moines (“City”) the purchase price of \$5,760.00, for the purchase of a Permanent Easement for Building Encroachment – Door Swing in the vacated Crocker Street, 12th Street and Keosauqua Way right-of-way adjoining 1201 Keosauqua Way, Des Moines, Iowa (hereinafter “Property”), to allow for door swing encroachments into the vacated right-of-way, which price reflects the fair market value of the Property as determined by the City’s Real Estate Division; 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 – Door Swing therein; and

WHEREAS, on November 1, 2021, by Roll Call No. 21-1655, 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 – Door Swing be set for hearing on November 15, 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 – 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, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of street right-of-way as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of portions of Crocker Street, 12th Street and Keosauqua Way right-of-way adjoining 1201 Keosauqua Way, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

A PART OF 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

A PART OF 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

A PART OF 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

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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, 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

A PART OF 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.

- 3. The proposed conveyance of a Permanent Easement for Building Encroachment – Door Swing, as legally described below, to Aust Real Estate, LLC for \$5,760.00 is hereby approved:

EASEMENT DESCRIPTION (A)

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

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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:

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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:

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AND

EASEMENT DESCRIPTION (D)

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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:

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PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Building Encroachment – Door Swing for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Building Encroachment – Door Swing, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of Permanent Easement for Building Encroachment – Door Swing, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Building Encroachment – Door Swing and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED				
<u>P. M. Franklin Cownie</u> 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