



Date May 10, 2021

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM AUST REAL ESTATE LLC FOR VACATION OF VARIOUS SURFACE AND SUBSURFACE RIGHTS ADJOINING 1201 KEOSAUQUA WAY

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 15, 2021, its members voted 11-0 to recommend APPROVAL of a request from Aust Real Estate LLC (Owner), represented by Mindy Aust for vacation of the following surface and subsurface rights:

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

to facilitate redevelopment of the existing building locally known and addressed as 1201 Keosauqua Way, all subject to reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

MOVED by _____ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED: [Signature]
Judy K. Parks-Kruse
Assistant City Attorney

(11-2021-1.05)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and 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



Date May 10, 2021
Agenda Item 23
Roll Call # _____

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 Keosauqua Way for subsurface encroachment of the existing building.
- F) A 1-foot by 172.25-foot long segment of adjoining 12th Street for subsurface encroachment of the existing 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,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

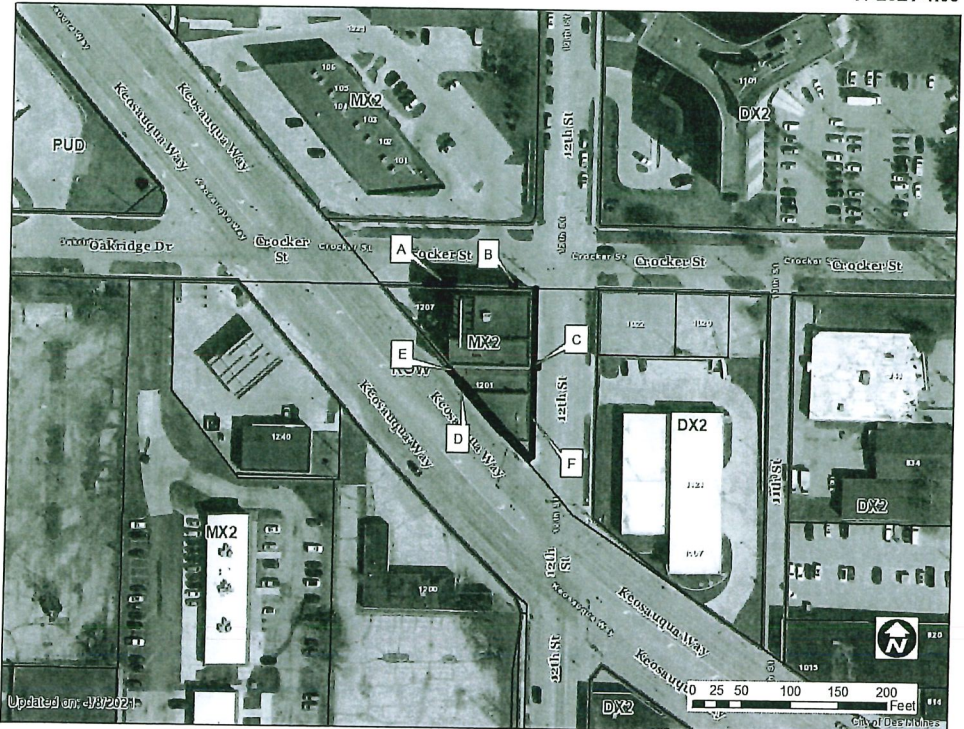
Jason Van Essen, AICP
Planning & Urban Design Administrator

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.			
	<ul style="list-style-type: none"> 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 Keosauqua 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. 			
PlanDSM 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	% Opposition
	4	0		
Outside Area (200 feet)				
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Aust Real Estate, LLC, 1201 Keosauqua Way

11-2021-1.05



1 inch = 98 feet



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: *Garret W Hulse*

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: *Reguelina A Nickolaus*

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: *Ramin Hoss, President*

Name: Git-N-Go Stores, Inc

Address: 2716 Indiana Ave.
Oshtemo, Iowa 50215

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 W

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

