

Date May 7, 2007

WHEREAS, the City has received an application from EK Foods Inc., represented by Enosk Kelly, for a Sidewalk Cafe Lease for a portion of the sidewalk adjoining Bistro Montage at 2716 Ingersoll Avenue; and,

WHEREAS, the right-of-way adjoining Bistro Montage at 2716 Ingersoll Avenue has not been previously vacated; and,

WHEREAS, the affected portion of the public right-of-way must first be vacated before the City may approve the proposed Sidewalk Cafe Lease; NOW THEREFORE,

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a portion of the 28th Street right-of-way adjoining Bistro Montage at 2716 Ingersoll Avenue, more specifically described as follows:

That part of 28th Street right-of-way lying West of and adjoining the North 115 feet of Lot 19, of the Official Plat of SW 1/4 of Section 5, Township 78 North, Range 24 West of the 5th p.m., in the City of Des Moines, Polk County, Iowa, more specifically described as follows:

Commencing at the southeast corner of the intersection of Ingersoll Avenue and 28th Street, thence S00°33'57"W along the East right-of-way line of 28th Street a distance of 10.19 feet to the Point of Beginning; thence continuing S00°33'57"W along said East right-of-way line a distance of 31.33 feet; thence N89°26'03"W, a distance of 6.26 feet; thence N00°33'57"E, a distance of 31.33 feet; thence S23°26'03"E, a distance of 6.26 feet, to the Point of Beginning (containing 196.1 sq. ft, more or less).

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines proposes to lease such vacated right-of-way to EK Foods Inc., for use as a sidewalk cafe

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such real estate is to be considered shall be on May 21, 2007, said meeting to be held at 5:00 p.m., in the Council Chambers.

(continued)

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4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

MOVED by _____ to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....
Mayor

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.

City Clerk