

Date..... May 18, 2009

WHEREAS, the City has received an application from Tommy Mauro, owner of the Pelican Bar at 208 3rd Street, for a Sidewalk Cafe Lease upon a portion of the adjoining sidewalk; and,

WHEREAS, the 3rd Street right-of-way adjoining the Pelican Bar at 208 3rd Street must first be vacated before the City may approve the proposed Sidewalk Cafe Lease; and,

WHEREAS, Tommy Mauro seeks to lease space that would leave a clear space open to pedestrian travel around an existing power pole less than 6 feet in width which is:

- i) contrary to the Design Standards for Sidewalk Cafes adopted by the City Council on July 10, 2006, by Roll Call No. 06-1362; and
- ii) cannot be approved as requested without opportunity for review and recommendation by the City Plan and Zoning Commission pursuant to Section 102-286(b) of the City Code; and,

WHEREAS, on May 4, 2009, by Roll Call No. 09-735, it was duly resolved by the City Council that the proposed vacation and lease of such right-of-way be set down for hearing on May 18, 2009, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of said proposal to vacate and lease public right-of-way was published as provided by law, setting forth the time and place for hearing on said proposal; and,

WHEREAS, in accordance with said notice, those interested in said proposed vacation and lease, 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and lease of public right-of-way as described below are hereby overruled and the hearing is closed.
2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of the 3rd Street right-of-way adjoining the Pelican Bar at 208 3rd Street, more specifically described as follows:

Except the subsurface area below grade, the West 5.00 feet of the 3rd Street right-of-way lying East of and adjoining the South 27.00 feet of the North one-third of Lot 8, in Block 24, Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

(continued)

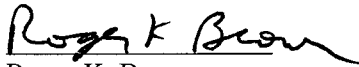
Date May 18, 2009

3. Subject to final passage and publication of the ordinance vacating such right-of-way, the lease of such vacated rights-of-way to Tommy Mauro for a sidewalk cafe serving alcoholic beverages is hereby approved, and the Permit and Development Center Administrator is hereby authorized and directed to sign a Sidewalk Cafe Lease with Tommy Mauro in the approved standard form, **subject to** the maintenance of a 6 foot wide clear path for pedestrian travel upon the remaining public sidewalk, or such lesser width as may be hereafter allowed by the City Council after receiving a report and recommendation from the City Plan and Zoning Commission as required by Section 102-286(b) for a sidewalk cafe lease that does not conform with the approved Design Standards for Sidewalk Cafes.

(Council Communication No. 09- **322**)

MOVED by _____ to adopt.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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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

69

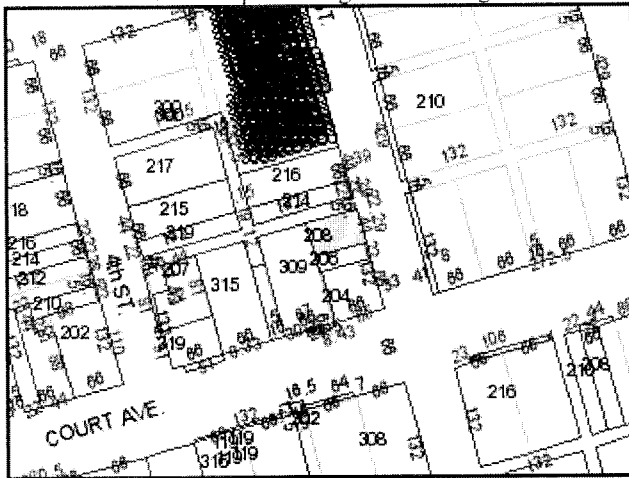
Polk County Assessor
Iowa

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District/Parcel	GeoParcel	Map	Nbhd	Jurisdiction	Status
020/01300-001-000	7824-04-463-011	0880	DM91/Z	DES MOINES	ACTIVE
School District	Tax Increment Finance District	Bond/Fire/Sewer/Cemetery			
1/Des Moines	3/Des Moines UR	Bond=DSM Downtown SSMID			
Street Address			City State Zipcode		
208 3RD ST			DES MOINES IA 50309		

Click on parcel to get new listing

Get Bigger Map



Approximate date of photo 03/04/2008

Mailing Address

FTM, INC
3611 SW 35TH ST
DES MOINES, IA 50321-1835

Legal Description

N 1/3 LOT 8 BLK 24 FORT DES MOINES

Ownership	Name	Transfer	Book/Page	RevStamps
Title Holder #1	FTM, INC	2007-11-30	12464/757	469.60

Assessment	Class	Kind	Land	Bldg	AgBd	Total
Assmt Roll	Commercial	Full	82,000	281,000	0	363,000

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Zoning	Description	SF	Assessor Zoning