

Date July 23, 2007

WHEREAS, the City has received an application from Ed Boesen, Manager of Boesen Midland, L.L.C., owner of the property at 206-6th Avenue, for a Sidewalk Cafe Lease for a portion of the sidewalk adjoining the Amici Espresso cafe at 206 – 6th Avenue; and,

WHEREAS, the right-of-way adjoining the Amici Espresso 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; and,

WHEREAS, on July 9, 2007, by Roll Call No. 07-1284, 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 July 23, 2007, 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 given 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 portions of 6th Avenue and Mulberry Street adjoining 206 – 6th Avenue, more specifically described as follows:

A portion of the Mulberry Street right-of-way lying South of and adjoining Lot 5, Block 11, Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of said Lot 5; thence South 74°(degrees) 14'(minutes) 03"(seconds) West along the South line of said Lot 5, said line also being the North right-of-way line of said Mulberry Street as it is presently established, a distance of 15.50 feet to the Point of Beginning; thence South 15°45'57" East, a distance of 4.25 feet; thence South 74°14'03" West, a distance of 45.00 feet; thence North 15°45'57" West, a distance of 4.25 feet to the south line of said Lot 5; thence North 74°14'03" East along the South line of said Lot 5, a distance of 45.00 feet to the Point of Beginning (containing 191.25 square feet more or less); and,

(continued)

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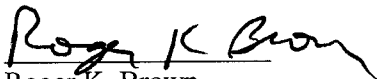
A portion of the 6th Avenue right-of-way lying East of and adjoining Lot 5, Block 11, Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of said Lot 5; thence North 15°(degrees) 30'(minutes) 00"(seconds) West along the East line of said Lot 5, said line also being the West right-of-way line of said 6th Avenue as it is presently established, a distance of 19.00 feet to the Point of Beginning; thence continuing North 15°30'00" West along the East line of said Lot 5, a distance of 38.00 feet; thence North 74°30'00" East, a distance of 4.11 feet; thence South 15°30'00" East, a distance of 38.00 feet; thence South 74°30'00" West, a distance of 4.11 feet to the Point of Beginning (containing 156.18 square feet more or less).

- Subject to final passage and publication of the ordinance vacating such right-of-way, the lease of such vacated right-of-way to Boesen Midland, L.L.C., 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 Boesen Midland in the approved standard form.

(Council Communication No. 07- 459)

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