

Date June 27, 2022

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST 2ND STREET RIGHT-OF-WAY LYING NORTH OF AND ADJOINING 111 EAST GRAND AVENUE AND LEASE TO 111 EAST GRAND, LLC FOR \$641.00

WHEREAS, Jeff Rains, owner of Clyde’s Fine Diner, a tenant in the building located at 111 East Grand Avenue, has submitted an application for a sidewalk café lease in a portion of East 2nd Street right-of-way located north of and adjoining his restaurant at 111 East Grand Avenue, Suite 111; and

WHEREAS, the City’s Planning Division has reviewed and approved the lease application and the outdoor patio design plan and recommended the vacation and lease of the portion of East 2nd Street right-of-way located north of and adjoining 111 East Grand Avenue, Suite 111 (hereinafter Leased Premises); and

WHEREAS, the City’s Real Estate Division has negotiated a Lease Agreement with 111 East Grand, LLC, the owner of 111 East Grand Avenue, for lease of the Leased Premises for use as an outdoor serving area by Clyde’s Fine Diner, which Agreement will include a one-year term and a rent amount of \$641.00; and

WHEREAS, the vacation of a portion of East 2nd Street right-of-way located north of and adjoining 111 East Grand Avenue, Suite 111 was not presented to the City’s Plan and Zoning Commission for review and has instead been determined to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

WHEREAS, there is no known current or future public need for the portion of right-of-way proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property; and

WHEREAS, on June 13, 2022, by Roll Call No. 22-0875, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and lease of East 2nd Street right-of-way located north of and adjoining 111 East Grand Avenue, Suite 111 be set for hearing on June 27, 2022, 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 and lease the portion of East 2nd right-of-way was given to all necessary parties 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 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:

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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and lease of a portion of East 2nd Street right-of-way located north of and adjoining 111 East Grand Avenue, Suite 111, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the portion of East 2nd Street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of East 2nd Street right-of-way located north of and adjoining 111 East Grand Avenue, Suite 111, legally described as follows, and said vacation is hereby approved:

A PARCEL OF LAND IN THE EAST 2ND STREET PUBLIC RIGHT OF WAY LYING EAST OF AND DIRECTLY ADJACENT TO PARCEL 2016-20 OF BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AS A POINT OF REFERENCE AT THE NE CORNER OF SAID PARCEL '2016-20'; THENCE S15°21'53"E, 3.17 FEET ALONG THE EAST LINE OF SAID PARCEL '2016-20' TO THE POINT OF BEGINNING; THENCE CONTINUING S15°21'53"E, 34.00 FEET ALONG SAID EAST LINE TO A POINT; THENCE N74°38'07"E, 8.80 FEET TO A POINT; THENCE N15°21'53"W, 34.00 FEET ALONG A LINE THAT IS 8.80 FEET EAST OF AND PARALLEL TO SAID EAST LINE OF PARCEL '2016-20' TO A POINT; THENCE S74°38'07"W, 8.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 299 SQUARE FEET MORE OR LESS.

3. The proposed lease of such vacated East 2nd Street right-of-way, legally described as follows, to 111 East Grand, LLC for \$641.00, subject to any and all easements, restrictions and covenants of record, is hereby approved:

A LEASE AREA IN THE VACATED EAST 2ND STREET PUBLIC RIGHT OF WAY LYING EAST OF AND DIRECTLY ADJACENT TO PARCEL 2016-20 OF BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AS A POINT OF REFERENCE AT THE NE CORNER OF SAID PARCEL '2016-20'; THENCE S15°21'53"E, 3.17 FEET ALONG THE EAST LINE OF SAID PARCEL '2016-20' TO THE POINT OF BEGINNING; THENCE CONTINUING S15°21'53"E, 34.00 FEET ALONG SAID EAST LINE TO A POINT; THENCE N74°38'07"E, 8.80 FEET TO A POINT; THENCE N15°21'53"W, 34.00 FEET ALONG A LINE THAT IS 8.80 FEET EAST OF AND PARALLEL TO SAID EAST LINE OF PARCEL '2016-20' TO A POINT; THENCE S74°38'07"W, 8.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 299 SQUARE FEET MORE OR LESS.

4. The Mayor is authorized and directed to sign the Lease Agreement as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

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5. Upon proof of payment of the consideration, the City Clerk is authorized and directed to forward the original of the Lease Agreement, 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.
6. The Real Estate Division Manager shall mail the original of the Lease Agreement and a copy of the other documents to the Lessee.
7. Non-project related land sale and lease proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____				Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Laura Baumgartner, Acting City Clerk

