

★ Roll Call Number

10-1763

Agenda Item Number

52

Date October 25, 2010

WHEREAS, the City has received an application from Riley Drive Entertainment VII, Inc., represented by Marc A. Mundt, President, for a Sidewalk Cafe Lease for a portion of the sidewalk adjoining the Saints Pub & Patio at 4041 Urbandale Avenue; and,

WHEREAS, the right-of-way adjoining the Saints Pub & Patio at 4041 Urbandale Avenue must first be vacated before the City may approve the proposed Sidewalk Cafe Lease; and,

WHEREAS, on October 11, 2010, by Roll Call No. 10-1645, 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 October 25, 2010, 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 portion of the Urbandale Avenue right-of-way adjoining 4041 Urbandale Avenue, more specifically described as follows:

A PART OF URBANDALE AVENUE RIGHT-OF-WAY BEING IN THE SOUTH ½ OF THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 29, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 9, BEAVER GLEN, AN OFFICIAL PLAT; THENCE SOUTH 65°38'13" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 9, A DISTANCE OF 225.23 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 65°38'13" EAST ALONG SAID SOUTHERLY LINE, 62.37 FEET; THENCE SOUTH 69°21'47" WEST, 2.17 FEET; THENCE NORTH 65°38'13" WEST, 4.47 FEET; THENCE SOUTH 69°21'47" WEST, 6.39 FEET; THENCE NORTH 65°38'13" WEST, 35.26 FEET; THENCE NORTH

( continued )

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20°38'13" WEST, 6.32 FEET; THENCE NORTH 65°38'13" WEST, 10.50 FEET;  
THENCE NORTH 20°38'13" WEST, 2.29 FEET TO THE POINT OF BEGINNING  
AND CONTAINING 274 S.F.

3. Subject to final passage and publication of the ordinance vacating such right-of-way, the lease of such vacated right-of-way for a sidewalk cafe is hereby approved, and the Permit and Development Center Administrator is hereby authorized and directed to sign a Sidewalk Cafe Lease with Riley Drive Entertainment VII, Inc., in the approved standard form.

( Council Communication No. 10- 625 )

MOVED by Griess to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin Cownie  
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.

Diane Rauh  
City Clerk