



Roll Call Number

22-0875

Agenda Item Number

27

Date June 13, 2022

Page 1

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST 2<sup>ND</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 right-of-way proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a portion of East 2<sup>nd</sup> Street right-of-way located north of and adjoining 111 East Grand Avenue, Suite 111, legally described as follows, and subject to any and all easements, restrictions and covenants of record:

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.

2. The City Council of the City of Des Moines, Iowa, further proposes to lease the vacated East 2<sup>nd</sup> Street right-of-way located north of and adjoining 111 East Grand Avenue, Suite 111, as legally described and to the Lessee and for the consideration identified below, subject to reservation of easements therein:

Grantee: 111 East Grand, LLC

Consideration: 641.00

Legal Description: 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.

3. That the meeting of the City Council at which the adoption of said ordinance and the approval of such lease of the vacated right-of-way is to be considered shall be on June 27, 2022, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. June 23, 2022 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

Please check the posted agenda in advance of the June 27, 2022 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

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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.

5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt. Second by Voss.

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	6			1

MOTION CARRIED APPROVED  
J. M. Franklin Cownie 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  
 Laura Baumgartner, Acting City Clerk