



Roll Call Number

22-1915

Agenda Item Number

52

Date December 12, 2022

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST WALNUT STREET AND EAST 4TH STREET RIGHT-OF-WAY ADJOINING 321 EAST WALNUT STREET AND CONVEYANCE OF A SIDEWALK CAFÉ LEASE TO NORTHWESTERN HOSPITALITY, LLC FOR \$643.00

WHEREAS, Jeff Link, Member/Manager of Northwestern Hospitality, LLC, a tenant in the building located at 321 East Walnut Street, has submitted an application for a sidewalk café lease in a portion of East Walnut Street and East 4th Street right-of-way adjoining his restaurant at 321 East Walnut Street; 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 Walnut Street and East 4th Street right-of-way adjoining 321 East Walnut Street (hereinafter Leased Premises); and

WHEREAS, the City’s Real Estate Division has negotiated a Lease Agreement with Northwestern Hospitality, LLC, the owner of The New Northwestern Cocktail and Wine Bar located in the building at 321 East Walnut Street, for lease of the Leased Premises for use as an outdoor serving area by The New Northwestern Cocktail and Wine Bar, which Agreement will include a two-year term and a rent amount of \$643.00 per year; and

WHEREAS, the vacation of the portion of East Walnut Street and East 4th Street right-of-way adjoining 321 East Walnut Street 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 November 21, 2022, by Roll Call No. 22-1793, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and lease of East Walnut Street and East 4th Street right-of-way adjoining 321 East Walnut Street be set for hearing on December 12, 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 Walnut Street and East 4th Street 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.



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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, any and all objections to the proposed vacation and lease of a portion of East Walnut Street and East 4th Street right-of-way adjoining 321 East Walnut Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the portion of East Walnut Street and East 4th 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 Walnut Street and East 4th Street right-of-way adjoining 321 East Walnut Street, legally described as follows, and said vacation is hereby approved:

A VACATION AREA IN THE EXISTING PUBLIC RIGHT-OF-WAY OF E WALNUT AVENUE & E 4TH STREET AS THEY ARE PRESENTLY ESTABLISHED LYING DIRECTLY ADJACENT TO BLOCK 2 OF SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 103 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE SE CORNER OF THE N1/2 OF LOT 11 OF SAID BLOCK 2 OF SCOTT & DEAN'S ADDITION; THENCE N14°54'03"W, 198.91 FEET ALONG THE EAST LINE OF SAID BLOCK 2, SAID EAST LINE ALSO BEING THE WEST RIGHT-OF-WAY LINE OF SAID E 4TH STREET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SAID E WALNUT AVENUE, SAID POINT BEING THE POINT OF BEGINNING; THENCE S79°32'38"W, 38.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO A POINT; THENCE N10°27'22"W, 6.00 FEET TO A POINT; THENCE N79°32'38"E, 43.55 FEET ALONG A LINE THAT IS PARALLEL TO SAID SOUTH RIGHT-OF-WAY LINE TO A POINT; THENCE S14°54'03"E, 23.55 FEET ALONG A LINE THAT IS PARALLEL TO AND 6.00 FEET EASTERLY OF SAID WEST RIGHT-OF-WAY LINE OF E 4TH STREET TO A POINT; THENCE S75°05'57"W, 6.00 FEET TO A POINT ON THE EAST LINE OF SAID BLOCK 2 AND SAID WEST RIGHT-OF-WAY LINE OF E 4TH STREET; THENCE N14°54'03"W, 18.00 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING AND CONTAINING 369 SQUARE FEET MORE OR LESS.

3. The proposed lease of such vacated East Walnut Street and East 4th Street right-of-way, legally described as follows, to Northwestern Hospitality, LLC for \$643.00, subject to any and all easements, restrictions and covenants of record, is hereby approved:

A LEASE AREA IN THE VACATED EXISTING PUBLIC RIGHT-OF-WAY OF E WALNUT AVENUE & E 4TH STREET AS THEY ARE PRESENTLY ESTABLISHED LYING DIRECTLY ADJACENT TO BLOCK 2 OF SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 103 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE SE CORNER OF THE N1/2 OF LOT 11 OF SAID BLOCK 2 OF SCOTT & DEAN'S ADDITION; THENCE N14°54'03"W, 198.91 FEET ALONG THE EAST LINE OF SAID BLOCK 2, SAID EAST LINE ALSO BEING THE WEST RIGHT-OF-WAY LINE OF SAID E 4TH STREET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF



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SAID E WALNUT AVENUE, SAID POINT BEING THE POINT OF BEGINNING; THENCE S79°32'38"W, 38.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO A POINT; THENCE N10°27'22"W, 6.00 FEET TO A POINT; THENCE N79°32'38"E, 43.55 FEET ALONG A LINE THAT IS PARALLEL TO SAID SOUTH RIGHT-OF-WAY LINE TO A POINT; THENCE S14°54'03"E, 23.55 FEET ALONG A LINE THAT IS PARALLEL TO AND 6.00 FEET EASTERLY OF SAID WEST RIGHT-OF-WAY LINE OF E 4TH STREET TO A POINT; THENCE S75°05'57"W, 6.00 FEET TO A POINT ON THE EAST LINE OF SAID BLOCK 2 AND SAID WEST RIGHT-OF-WAY LINE OF E 4TH STREET; THENCE N14°54'03"W, 18.00 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING AND CONTAINING 369 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.
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 Gatto to adopt. Second by Mandelbaum

APPROVED AS TO FORM:

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

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL. Includes handwritten signatures and 'MOTION CARRIED' stamp.

CERTIFICATE
I, LAURA BAUMGARTNER, 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, City Clerk