

Date June 24, 2013

RESOLUTION CLOSING HEARING ON THE VACATION OF A PORTION OF THE WALNUT STREET RIGHT-OF-WAY ADJOINING THE KIRKWOOD COMMONS CONDOMINIUMS AT 400 WALNUT STREET AND ON THE LEASE OF SUCH VACATED RIGHT-OF-WAY FOR TWO SIDEWALK CAFES

WHEREAS, the City has received an application from Zen Restaurants LLC, represented by Mike Hutchison to vacate right-of-way to accommodate applications from The Gramercy Tap LLC (Mike Hutchison) and Wasabi Tao (Chang Jie Wang) for Sidewalk Cafe Leases upon a portion of the sidewalk within the Walnut Street right-of-way adjoining the Kirkwood Commons Condominiums at 400 Walnut Street; and,

WHEREAS, the public right-of-way proposed to be used for the sidewalk cafes has not been previously vacated and must first be vacated before the City may approve the proposed Sidewalk Cafe Leases;

WHEREAS, on June 10, 2013, by Roll Call No. 13-0895, 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 June 24, 2013, 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 Walnut Street adjoining the Kirkwood Commons Condominiums at 400 Walnut Street, more specifically described as follows:

The South 6.33 feet of the Walnut Street right-of-way lying North of and adjoining Lot 12, Block 21, Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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- Subject to final passage and publication of the ordinance vacating such right-of-way, the lease of portions of such vacated right-of-way to The Gramercy Tap LLC (Mike Hutchison) and Wasabi Tao (Chang Jie Wang) for sidewalk cafes is hereby approved, and the Permit and Development Center Administrator is hereby authorized and directed to sign a Sidewalk Cafe Lease with the owner of each in the approved standard form.

(Council Communication No. 13- **325**)

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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

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.

MOTION CARRIED

APPROVED

Mayor

City Clerk