



Roll Call Number

10-450

Agenda Item Number

33

Date March 22, 2010

RESOLUTION CLOSING HEARING AND APPROVING VACATION AND LEASE OF RIGHT-OF-WAY FOR A SIDEWALK CAFE ADJOINING THE ALBA RESTAURANT AT 519 DES MOINES STREET

WHEREAS, the City has received an application from Jason Simon, d/b/a Alba Restaurant at 519 Des Moines Street, for a Sidewalk Cafe Lease upon a portion of the adjoining Des Moines Street right-of-way more specifically described below; and,

WHEREAS, the Des Moines Street right-of-way adjoining the Alba Restaurant at 519 Des Moines Street must first be vacated before the City may approve the proposed Sidewalk Café Lease; and

WHEREAS, on March 8, 2010, by Roll Call 10-349 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 March 22, 2010, at 5:00 P.M., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacated and lease public Right of Way was published 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 a 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 the interested persons, the objections to the said proposed vacation and lease of the 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 the reason of the vacation of the Des Moines Street right-of-way adjoining the Alba Restaurant at 519 Des Moines Street, more specifically described as follows:

Except the subsurface area below grade, the South 6.5 ft of the Des Moines Street right-of-way lying North of and adjoining the West 55.0 feet of the East 65.0 feet of Lot 1, Block 17, East Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (containing 357.5 sq. ft).

(continued)

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3. Subject to final passage and publication of the ordinance vacating such right-of-way, the lease of such vacated rights of way to Jason Simon for a sidewalk cafe serving alcoholic beverages is hereby approved, and the Permit and Development Center Administrator is hereby authorized and directed to sign a Sidewalk Cafe Lease with Jason Simon in the approved standard form.

(Council Communication No. 10- 147)

MOVED by Meyer to adopt.

FORM APPROVED:

Roger K Brown

Roger Brown

Assistant City Attorney

C:\rog\vacate\cafe\pending\519 Des Moines St - RC Vacate & Lease.doc

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

MOTION CARRIED

APPROVED

T. M. Franklin 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