



**Roll Call Number**

22-1793

**Agenda Item Number**

23

**Date** November 21, 2022

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**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST WALNUT STREET AND EAST 4<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 321 EAST WALNUT STREET AND LEASE TO NORTHWESTERN HOSPITALITY, LLC FOR \$643.00 PER YEAR**

**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 4<sup>th</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> 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 East Walnut Street and East 4<sup>th</sup> Street 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 the portion of East Walnut Street and East 4<sup>th</sup> Street right-of-way adjoining 321 East Walnut Street, legally described as follows:

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



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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.

2. The City Council of the City of Des Moines, Iowa, further proposes to lease the vacated East Walnut Street and East 4<sup>th</sup> Street right-of-way adjoining 321 East Walnut Street, legally described as follows, to Northwestern Hospitality, LLC for a two-year term and a rent amount of \$643.00 per year, subject to any and all easements, restrictions and covenants of record.

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 December 12, 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.

Please check the posted agenda in advance of the December 12, 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.

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 and lease proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by Gatto to adopt. Second by Voss.

APPROVED AS TO FORM:

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL.

Handwritten signature of J. M. Frankel Cownie, Mayor, with 'MOTION CARRIED' and 'APPROVED' stamps.

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.

Handwritten signature of Laura Baumgartner.

Laura Baumgartner, City Clerk