



City of Chicago



O2020-2742

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 5/20/2020
Sponsor(s): Burnett (27)
Type: Ordinance
Title: Release of restrictive use covenant regarding vacation of portions of W Carroll Ave and N Sangamon St within area bounded by N Morgan St, W Kinzie St, N Peoria St and W Wayman St
Committee(s) Assignment: Committee on Transportation and Public Way

500,000.00

Five Hundred Thousand



CHICAGO DEPARTMENT OF TRANSPORTATION
CITY OF CHICAGO

April 27, 2019

Mark A. Flessner
Corporation Counsel
Room 600 - City Hall
Chicago, IL 60602-1289

Attention: Lisa Misher, Deputy Corporation Counsel

Re: Proposed Release of Industrial Covenant for Nealey Foods
Commercial Vacation File: 08-27-19-3929

Dear Mr. Flessner:

Pursuant to a request from Mr. Eric Nealey, we are transmitting herewith for your review and approval as to form and legality an original and three (3) copies of a proposed release of Industrial Program Restrictive Covenant on portions of W. Carroll Avenue and N. Sangamon Street. The original Industrial Program Vacation was processed under CDOT File: 08-27-07-3028 for Nealey Foods in 2007. Copies of the recorded ordinance and covenant have been forwarded to your office previously. The property is located in the 27th Ward.

Nealey Family Limited Partnership is the current owner of record to the properties adjoining the vacated streets upon which the restrictive covenant is held. The new owner has applied to be released from the industrial limitations of the covenant, and is prepared to pay the appraised value at this time. The people to contact in connection with this proposed ordinance are Attorney Michael Ezgur at 312-327-3350 or Mr. Eric Nealey at 312-829-0856.

Sincerely,

A handwritten signature in black ink, appearing to read "GB", is written over a circular stamp or seal.

Gia Biagi
Commissioner

GB: WH: RD

cc: Alderman Walter Burnett
Alderman Howard Brookins
Sandra Foreman/w Attach. Dwg.-s.f. & Ord. (3) file copies
(2) Maps & Plats

**ORDINANCE
FOR RELEASE OF
USE RESTRICTION COVENANT**

WHEREAS, on May 14, 2008, the City Council of the City of Chicago ("City Council") passed that certain ordinance, which was published in the Journal of the Proceedings of the City Council for such date at pages 28132 through 28136 (referred to hereafter as the "Vacation Ordinance"), which ordinance provided for an Industrial Program street vacation ("Vacation") of portions of W. Carroll Avenue and N. Sangamon Street ("Full Vacation Area"); and

WHEREAS, the Vacation Ordinance provided that the Vacation of the Full Vacation Area was conditioned upon the recording of a restrictive use covenant running with the land ("Restrictive Use Covenant"), that required the Full Vacation Area to be used for "manufacturing (including production, processing, cleaning, servicing, testing and repair) of materials, goods or products only, and for those structures and additional uses which are reasonably necessary to permit such manufacturing use including the location of necessary facilities, storage, employee and customer parking, and other similar uses and facilities"; and

WHEREAS, the Restrictive Use Covenant was recorded on September 18, 2008 with the Office of the Cook County Recorder of Deeds as Document Number 0826245110, and is attached hereto as Exhibit A; and

WHEREAS, the Vacation Ordinance was recorded on September 18, 2008 with the Office of the Cook County Recorder of Deeds as Document No. 0826245111, and is attached hereto as Exhibit B; and

WHEREAS, Section 5 of the Vacation Ordinance sets forth that the Restrictive Use Covenant "may be released or abandoned by the City only upon approval of the City Council which may condition its approval upon the payment of such additional compensation which it deems to be equal to the benefits accruing because of the release or abandonment"; and

WHEREAS, the Vacation Ordinance included multiple owners and the division of the Full Vacation Area among them, and

WHEREAS, a portion of the Restrictive Covenant on the Full Vacation Area has already been lifted by one owner and recorded at the Cook County Recorder of Deeds on December 26, 2018, as Document 1836006189 ("Partial Release of Covenant"); and

WHEREAS, Nealey Family Limited Partnership, an Illinois limited partnership ("Developer"), is the owner adjacent to the balance of the Full Vacation Area ("Developer") still subject to the Restrictive Covenant and now wishes to have the covenant restrictions lifted on its respective portions of the Full Vacation Area ("Subject Property"); and ~

WHEREAS, the Developer intends to assemble his parcels and continue to use as parking the Subject Property, and has requested a release of the Restrictive Use Covenant; and

WHEREAS, the City, upon due investigation and consideration, has determined that the public interest now warrants a release of the Restrictive Use Covenant reserved in Section 5 of the Vacation Ordinance for the payment of such additional compensation which it deems to be equal to the benefits accruing to the Developer because of the release of the Restrictive Use Covenant; now, therefore,

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The recitals above are incorporated herein.

SECTION 2. The release of the remaining portion of the Restrictive Use Covenant, as depicted in the Plat of Partial Release contained herein, and made a part of this ordinance as Exhibit C, and as included within the Full Vacation Area area of Section 1 of the Vacation Ordinance, is hereby approved upon the express condition that within one hundred eighty (180) days after the passage of this ordinance, the Developer shall pay or cause to be paid to the City of Chicago as compensation for the benefits which will accrue to the Developer the amount of Five Hundred Thousand and 00/100 Dollars (\$500,000), which sum in the judgment of this body will be equal to such benefits.

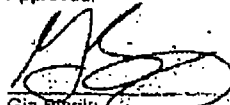
SECTION 3. The release of the Restrictive Use Covenant herein provided for is made upon the express condition that within one hundred eighty (180) days after the passage of this ordinance, the Developer, shall file or cause to be filed in the Office of the Recorder of Deeds of Cook County, Illinois a certified copy of this ordinance, the associated Plat of Partial Release as approved by the Chicago Department of Transportation's Superintendant of Maps, and the release of covenant agreement as approved by the Chicago Department of Law as to form and legality.

SECTION 4. The Commissioner of the Department of Transportation is hereby authorized to execute, subject to the approval of the Corporation Counsel, a "Release of Restrictive Use Covenant," in substantially the form attached as Exhibit D, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Release of Restrictive Use Covenant, with such changes, deletions and insertions as shall be approved by the persons executing the Release of Restrictive Use Covenant.

SECTION 5. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 6. This ordinance shall take effect upon its passage and approval.

Release of Restrictive Use Covenant
Approved:



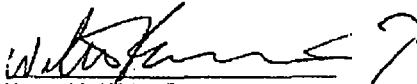
Gia Braggi
Commissioner
Department of Transportation

Approved as to Form and Legality



Arthur Dolinsky
Senior Counsel

Introduced By:



Honorable Walter Burnett
Alderman, 27th Ward