

Date September 28, 2009

Page 1

**HOLD HEARING FOR VACATION AND CONVEYANCE OF AN ENCROACHMENT EASEMENT TO ALLOW FOR ENCROACHMENT OF THE EXISTING BUILDING AT 104 SW 4<sup>TH</sup> STREET TO RUMELY LOFTS LIMITED PARTNERSHIP FOR \$1,746**

**WHEREAS**, during the process of purchasing the property at 104 Southwest 4<sup>th</sup> Street, the future owners, Rumely Lofts Limited Partnership, discovered that the building located on the property currently encroaches slightly into the City rights-of-way on Southwest 4<sup>th</sup> and Market Streets, and in order to address the situation, the purchasers are requesting that the City grant them an encroachment easement; and

**WHEREAS**, City staff has determined that the vacation and conveyance of this encroachment easement will have no significant impact upon the public use of the adjoining rights-of-way; and

**WHEREAS**, the grantee identified below is the purchaser of the property at 104 Southwest 4<sup>th</sup> Street and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of the encroachment easement described below; and

**WHEREAS**, on September 14, 2009, by Roll Call No. 09-1636, it was duly resolved by the City Council that the proposed vacation and conveyance of such rights-of-way be set down for hearing on September 28, 2009, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey 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 conveyance, 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need for the rights-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a portion of City right-of-way on Southwest 4<sup>th</sup> and Market Streets, more specifically described as follows:

A PART OF SOUTHWEST 4<sup>TH</sup> STREET RIGHT-OF-WAY LYING ADJACENT TO LOTS 7 AND 8 IN BLOCK 19 AND A PART OF MARKET STREET RIGHT-OF-WAY LYING ADJACENT TO SAID LOT 7 IN BLOCK 19, ALL BEING IN FORT DES MOINES, AN

Date September 28, 2009

OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 8; THENCE SOUTH 15°(DEGREES) 24'(MINUTES) 31"(SECONDS) EAST ALONG THE EASTERLY LINE OF SAID LOT 8, A DISTANCE OF 30.90 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°04'44" EAST, 0.46 FEET TO THE NORTHEAST CORNER OF THE EXISTING BUILDING; THENCE SOUTH 15°26'12" EAST, 103.01 FEET TO THE SOUTHEAST CORNER OF THE EXISTING BUILDING; THENCE SOUTH 74°00'46" WEST, 133.07 FEET TO THE SOUTHWEST CORNER OF THE EXISTING BUILDING; THENCE NORTH 15°31'10" WEST, 1.21 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 7; THENCE NORTH 74°07'20" EAST ALONG SAID SOUTHERLY LINE OF LOT 7, A DISTANCE OF 132.56 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7; THENCE NORTH 15°24'31" WEST ALONG THE EASTERLY LINE OF SAID LOT 7 AND ALONG THE EASTERLY LINE OF SAID LOT 8, A DISTANCE OF 102.05 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.004 ACRES (194 S.F.).

3. That the sale and conveyance of such encroachment easement to Rumely Lofts Limited Partnership for \$1,746.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, and subject to the prior condition that the grantee close on the purchase and demonstrate ownership of the abutting property, be and is hereby approved:

A PART OF VACATED SOUTHWEST 4<sup>TH</sup> STREET RIGHT-OF-WAY LYING ADJACENT TO LOTS 7 AND 8 IN BLOCK 19 AND A PART OF VACATED MARKET STREET RIGHT-OF-WAY LYING ADJACENT TO SAID LOT 7 IN BLOCK 19, ALL BEING IN FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 8; THENCE SOUTH 15°(DEGREES) 24'(MINUTES) 31"(SECONDS) EAST ALONG THE EASTERLY LINE OF SAID LOT 8, A DISTANCE OF 30.90 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°04'44" EAST, 0.46 FEET TO THE NORTHEAST CORNER OF THE EXISTING BUILDING; THENCE SOUTH 15°26'12" EAST, 103.01 FEET TO THE SOUTHEAST CORNER OF THE EXISTING BUILDING; THENCE SOUTH 74°00'46" WEST, 133.07 FEET TO THE SOUTHWEST CORNER OF THE EXISTING BUILDING; THENCE NORTH 15°31'10" WEST, 1.21 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 7; THENCE NORTH 74°07'20" EAST ALONG SAID SOUTHERLY LINE OF LOT 7, A DISTANCE OF 132.56 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7; THENCE NORTH 15°24'31" WEST ALONG THE EASTERLY LINE OF SAID LOT 7 AND ALONG THE EASTERLY LINE OF SAID LOT 8, A DISTANCE OF 102.05 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.004 ACRES (194 S.F.).

Date September 28, 2009

4. Upon satisfaction of the above-listed prior condition, the Mayor is authorized and directed to sign the Offer to Purchase and the Easement for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Easement, 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 for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement and copies of the other documents to the grantee.

8. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

(Council Communication No. 09-688)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

*Glenna K. Frank*  
 \_\_\_\_\_  
 Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ 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.

\_\_\_\_\_ City Clerk

270  
SS A+B

August 25, 2009

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held August 20, 2009, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 9-0 as follows:



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309 -1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Ted Irvine				X
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern				X

**APPROVAL** of the request from Rumely Lofts, L.P. (owner), 104 Southwest 4<sup>th</sup> Street, represented by George E. Sherman (officer), for vacation of the north/south alley between Southwest 4<sup>th</sup> Street and Southwest 5<sup>th</sup> Street between Vine Street and Market Street subject to the following conditions: 11-2009-1.13

1. Conveyance shall be subject to the execution of the applicant's purchase agreements for 104 SW 4<sup>th</sup> Street and 101 SW 5<sup>th</sup> Street, and to the alley being developed in conjunction with the conversion of the Rumely Building, 104 SW4th Street into multiple-family dwelling units.
2. The brick paver alley shall be repaired and incorporated into the redevelopment of the adjoining parcels unless the Community Development Director determines that it is not practical. The brick pavers shall be salvaged in accordance with the City's Brick Salvage Policy as approved by the City Council on October 7, 2002 by Roll Call Number 02-2471 if the pavers are removed.
3. Reservation of easements for any existing utilities as necessary

Written Responses

- 2 In Favor
- 0 In Opposition

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacation subject to the following conditions:

1. Conveyance shall be subject to the execution of the applicant's purchase agreements for 104 SW 4<sup>th</sup> Street and 101 SW 5<sup>th</sup> Street, and to the alley being developed in conjunction with the conversion of the Rumely Building, 104 SW4th Street into multiple-family dwelling units.
2. The brick paver alley shall be repaired and incorporated into the redevelopment of the adjoining parcels unless the Community Development Director determines that it is not practical. The brick pavers shall be salvaged in accordance with the City's Brick Salvage Policy as approved by the City Council on October 7, 2002 by Roll Call Number 02-2471 if the pavers are removed.
3. Reservation of easements for any existing utilities as necessary

## **STAFF REPORT**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is requesting the vacation to allow the alley to be incorporated with the surrounding properties to facilitate the development of a parking lot to serve the Rumely Building to the east. The applicant is proposing to convert the Rumely Building into residential dwelling units.
2. **Size of Site:** Approximately 94 lineal feet.
3. **Existing Zoning (site):** "C-3R" District.
4. **Existing Land Use (site):** Brick paver alley.
5. **Adjacent Land Use and Zoning:**  
  
    **East** – "C-3R", Use is vacant warehouse building (Rumely Building).  
  
    **West** – "C-3R", Use is vacant warehouse building.
6. **General Neighborhood/Area Land Uses:** The subject property is located to the north of the Science Center of Iowa in the Court Avenue district. The area includes a mix of commercial, industrial and residential uses.
7. **Applicable Recognized Neighborhood(s):** Downtown Des Moines Neighborhood.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Downtown/ Support Commercial.
10. **Applicable Regulations:** The Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

## **II. ADDITIONAL APPLICABLE INFORMATION**

- 1. Utilities:** Easements must be maintained for any existing utilities unless other arrangements are approved by the affected utility.
- 2. Traffic/Street System:** The proposed vacation should have no impact on traffic or vehicular access as the applicant intends to redevelop the adjoin parcels in common with the alley.
- 3. Urban Design:** The subject alley is constructed of brick pavers and appears to be in fair condition. Staff believes that the alley could be repaired and incorporated into the proposed parking lot. This would be prudent given the limited number of historic brick alleys that remain in the downtown. If it is found that it is not practical to repair the alley, staff believes that the bricks should be salvaged in accordance with the City's Brick Salvage Policy.

### **SUMMARY OF DISCUSSION**

*There was no discussion.*

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one in the audience to speak in opposition.*

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

*There was no discussion.*

### **COMMISSION ACTION**

Greg Jones moved staff recommendation to approve the proposed amendment for vacation of right-of-way subject to the following conditions:

1. Conveyance shall be subject to the execution of the applicant's purchase agreements for 104 SW 4<sup>th</sup> Street and 101 SW 5<sup>th</sup> Street, and to the alley being developed in conjunction with the conversion of the Rumely Building, 104 SW4th Street into multiple-family dwelling units.
2. The brick paver alley shall be repaired and incorporated into the redevelopment of the adjoining parcels unless the Community Development Director determines that it is not practical. The brick pavers shall be salvaged in accordance with the City's Brick Salvage Policy as approved by the City Council on October 7, 2002 by Roll Call Number 02-2471 if the pavers are removed.
3. Reservation of easements for any existing utilities as necessary.

Motion passed 9-0.

Respectfully submitted,



Erik Lundy, AICP  
Senior Planner

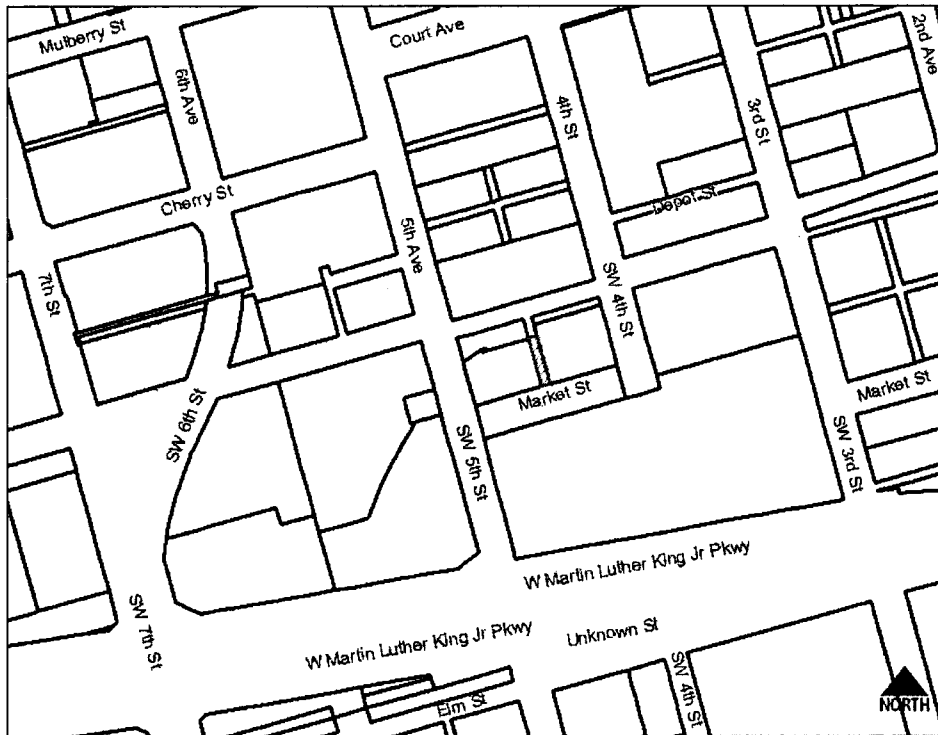
EML:clw

Attachment

Request from Rumely Lofts, L.P. (owner), 104 Southwest 4 <sup>th</sup> Street, represented by George E. Sherman (officer), for vacation of the north/south alley between Southwest 4 <sup>th</sup> Street and Southwest 5 <sup>th</sup> Street between Vine Street and Market Street.				<b>File #</b>	
				11-2009-1.13	
<b>Description of Action</b>	Vacation of the north/south alley between Southwest 4 <sup>th</sup> Street and Southwest 5 <sup>th</sup> Street between Vine Street and Market Street.				
<b>2020 Community Character Plan</b>	Downtown: Support Commercial				
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"C-3R" Central Business District Mixed-Residential				
<b>Proposed Zoning District</b>	"C-3R" Central Business District Mixed-Residential				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	0		N/A	
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	9-0	<b>Required 6/7 Vote of the City Council</b>	Yes	N/A
	Denial			No	N/A

Runley Lofts LP - SW 4th Street & Market Street

11-2009-1.13



Item 11-2009-1.13

Date 8-12-09

I  (am) (am not) in favor of the request.

**RECEIVED**

AUG 14 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name CHRIS COPPOLA

Signature [Signature]

Address 99-5th Street

Reason for opposing or approving this request may be listed below:

Item 11-2009-1.13

Date 8-12-09

I  (am) (am not) in favor of the request.

**RECEIVED**

AUG 17 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name M. F. BACH

Signature [Signature]

Address 1020 NE 18th Ave

Reason for opposing or approving this request may be listed below:

Item 11-2009-1.13

Date 8-12-09

I  (am) (am not) in favor of the request.

(Circle One)  
**RECEIVED**

AUG 17 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name M. F. BACH

Signature [Signature]

Address 1020-NE 18th Ave

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



