

★ Roll Call Number
09-1636

Agenda Item Number
22B

Page 1

Date September 14, 2009

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

WHEREAS, during the process of purchasing the property at 104 Southwest 4th 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 4th 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 4th 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.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating an encroachment easement on portions of Southwest 4th Street and Market Street, more specifically described as follows:

A PART OF SOUTHWEST 4TH 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 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

★ Roll Call Number

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22B

Page 2

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102.05 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.004 ACRES (194 S.F.).

2. That if the City Council decides to vacate the above described rights-of-way, the City of Des Moines proposes to sell such encroachment easement, as described below, to the grantee and for the consideration identified below, subject to the prior condition that the grantee close on the purchase and demonstrate ownership of the abutting property:

To: Rumely Lofts Limited Partnership for \$1,746

A PART OF VACATED SOUTHWEST 4TH 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.).

3. That the meeting of the City Council at which the adoption of said ordinance and the conditional sale and conveyance of such real estate is to be considered shall be on September 28, 2009, said meeting to be held at 5:00 p.m., in the Council Chamber.

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

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Moved by Vlassis to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

pcw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>T. M. Franklin</u> 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