

★ Roll Call Number
09-1792

Agenda Item Number
55B

Date September 28, 2009

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HOLD 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; 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 4th and Market Streets, 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

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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 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.).

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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 Hensley 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	6			1

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.

T. M. Franklin
 Mayor

Diane Rauh
 City Clerk