

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: October 24, 2011
	Agenda Item No. 32 Roll Call No. <u>11-1792</u> Communication No. <u>11-665</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Amend Restrictive Covenant on property at 3132 Kingman Boulevard between Denis Marchand and City of Des Moines to allow demolition of existing building and new construction of residential property.

SYNOPSIS:

On January 24, 2011 by Roll Call No. 11-0135, the City Council held a public hearing and approved an “Agreement for Purchase of Real Estate” with Denis Marchand whereby the City agreed to acquire the tax deeds for 3132 Kingman Boulevard and 1147 27th Street. Mr. Marchand hired a Special Council to represent the City in acquiring the tax deeds and paid all associated costs and expenses. On June 13, 2011 by Roll Call 11-0984 the City Council waived special assessments and city inspection fees prior to transferring the tax deeds to Denis Marchand.

After inspection of 3132 Kingman, Denis Marchand found the house at 3132 Kingman is in extremely poor condition and should be demolished rather than rehabilitated. This roll call amends the restrictive covenants filed with the deed on the property to allow demolition and include additional design criteria.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

By Roll Call No. 10-921 on June 14, 2010 and Roll Call No. 10-1280 on August 9, 2010, the City Council requested the tax sale certificates for 1147 27th Street and 3132 Kingman Boulevard to proceed with acquisition pursuant to Iowa Code 446.19A with the intent that such certificates be assigned to a redeveloper. The Community Development Staff sent out Requests for Proposals for redevelopment of the properties per Council direction. Denis Marchand submitted proposals for both properties that best satisfied the terms of the Request for Proposal.

The City Council set a date of public hearing on the conveyance of the real estate at its January 10, 2011 meeting by Roll Call 11-0026 and at its January 28, 2011 meeting the Council approved “An Agreement for Purchase of Real Estate” with Denis Marchand. The developer was required to hire Special Council to work through the tax sale certificate process including researching the title, serving notices, and filing an affidavit. Mr. Marchand hired Joe Coppolla Wasker, Dorr, Wimmer & Marcouiller, P.C. 4201

Westown Parkway - Suite 250 West Des Moines, Iowa 50266 as Special Council. At its June 13, 2011 meeting by Roll Call 11-0984, the City Council waived special assessments and City inspection fees on the properties prior to transferring the tax deeds Denis Marchand.

The process of acquiring a property under Iowa Code 446.19a does not include the right to complete an interior inspection. Upon inspecting the interior of the property, the owner concluded the property was not viable for repair either structurally or financially. In the western portion of the building a roof has been open for many years and the water damage has caused decay, rot and a now instable structure. Staff from the Permit and Development Division also went through the structure and concurs that it is unsound. Specifically, the building has a crumbling brick foundation in which the brick itself is disintegrated, and structural members above the ground which are water damaged and further weakened through termite infestation.

Mr. Marchand notified the Drake Neighborhood Association of the building's condition and asked for its support for demolition. Although the neighborhood is supportive of demolition, they are concerned about what will be built in its place. Mr. Marchand has not decided what he will rebuild at the current time but wants to demolish the structure prior to the winter because of the building's condition and because squatters have been occupying the building regardless of efforts to make it inaccessible.

Legal staff has developed a new covenant which allows for subdividing the lot into two 50' lots and building two single family homes with a minimum square footage of 1,350 sq. ft., building a duplex, or a bi-attached "double" house. The 20,000 sq. ft. lot is currently zoned R-3. Nothing in the covenants would pre-empt action by the Zoning Board of Adjustment and city subdivision and site plan regulations must be met. Under current zoning, Mr. Marchand, or a future owner, could build an eight-plex on the site but such is not allowed in the restrictive covenants.

Although not included in the covenants, the Community Development Department consults with the neighborhood on design issues. The community development director has the authority to issue a permit after such consultation in conformance with the restrictive covenants.

PREVIOUS COUNCIL ACTION(S):

Date: June 13, 2011

Roll Call Number: [11-0984](#)

Action: Approving waiver of special assessments and City inspection fees to allow for redevelopment of 3125 Kingman Blvd. and 1147 27th Street. ([Council Communication No. 11-347](#)) Moved by Moore to adopt. Motion Carried 7-0.

Date: January 24, 2011

Roll Call Number: [11-0135](#)

Action: On agreement for acquisition of tax sale deeds to 3132 Kingman Boulevard and 1147 27th Street and conveyance to Denis Marchand for development of housing. ([Council Communication No. 11-042](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: January 10, 2011

Roll Call Number: [11-0026](#)

Action: On agreement for acquisition of tax sale deeds to 3132 Kingman Boulevard and 1147 27th Street and conveyance to Denis Marchand for development of housing, (1-24-11). ([Council Communication No. 11-006](#)) Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: August 9, 2010

Roll Call Number: [10-1280](#)

Action: Request to Polk County Treasurer for 2010 Tax Sale Certificate on abandoned property at 3132 Kingman Boulevard. ([Council Communication No. 10-478](#)) Moved by Moore to adopt. Motion Carried 7-0.

Date: June 14, 2010

Roll Call Number: [10-921](#)

Action: City Manager to remove two requested properties from the Polk County tax sale certificate for future development of housing. ([Council Communication No. 10-328](#)) Moved by Moore to adopt; refer to the City Manager to identify any City-owned property that is buildable/usable. Also, work with Polk County to jointly market the lots. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.