

★ Roll Call Number

Agenda Item Number

11-0182

18B

Date February 14, 2011

**RESOLUTION AUTHORIZING AND APPROVING RELEASE OF RESTRICTIONS ON  
VACATED GEM STREET (LOT B) NORTH OF ARMY POST ROAD BETWEEN  
S.W. 5<sup>TH</sup> STREET AND S.W. 6<sup>TH</sup> STREET PREVIOUSLY CONVEYED TO  
THOMAS J. AKERS AND LOIS L. AKERS**

**WHEREAS**, on January 3, 1984, by Ordinance No. 10,416, the City Council of the City of Des Moines vacated the following legally described property located north of Army Post Road between S.W. 5<sup>th</sup> Street and S.W. 6<sup>th</sup> Street:

All of Gem Street (Lot B) right-of-way, lying south of and adjoining Block 2, of the Official Replat of Block K, Thomas Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa;

and

**WHEREAS**, on January 23, 1984, by Roll Call No. 84-333, the City Council approved the sale and conveyance of said vacated Gem Street (Lot B) property to Thomas J. Akers and Lois L. Akers ("Grantees") for the consideration of \$500.00, subject to certain restrictions including prohibition of direct vehicular access to Army Post Road, all as included in the Quit Claim Deed granting the property to the Grantees as filed on January 26, 1984 in Book 5319, Page 820 in the office of the Polk County Recorder; and

**WHEREAS**, the Grantees are in the process of developing the property described above, together with other adjacent real property, and the Grantees' lenders have requested that the City formally release the restrictions described in the Quit Claim Deed, in the form of Release as on file in the office of the City Clerk; and

**WHEREAS**, City Community Development, Traffic & Transportation, and Real Estate Division staff, in consultation with Des Moines Water Works (DMWW) staff, have determined that the deed restrictions are no longer applicable to the property; that additional compensation is not due to the City as consideration for this release; that vehicular access to Army Post Road should be allowed from vacated Gem Street in accordance with a site plan recently approved by City staff; and that the City will not be inconvenienced by the formal release of the restrictions contained in the Quit Claim Deed referenced above.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. The release of the property restrictions set forth in the Quit Claim Deed filed January 23, 1984 in Book 5319, Page 820 in the office of the Polk County Recorder, which Deed granted

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vacated Gem Street as described above to Thomas L. Akers and Lois L. Akers, be and is hereby approved.

2. The Mayor is authorized and directed to sign the Release of Deed Restrictions and the City Clerk is authorized and directed to attest to the Mayor's signature.
3. The City Clerk is authorized and directed to forward the original of said Release of Deed Restrictions to the Real Estate Division of the Engineering Department for the purpose of causing said document to be recorded.
4. Upon receipt of payment of recording costs from the Grantees, the Real Estate Division Manager is authorized and directed to forward the original of the Release of Deed Restrictions to the Polk County Recorder's Office for the purpose of causing this document to be recorded.
5. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Release of Deed Restrictions to the Grantees.

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	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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

MOTION CARRIED APPROVED  
T. M. Franklin Mayor