



Roll Call Number

11-1792

Agenda Item Number

32

Date October 24, 2011

**RESOLUTION AMENDING RESTRICTIVE COVENANTS ON PROPERTY AT
3132 KINGMAN BOULEVARD TO ALLOW DEMOLITION OF EXISTING
BUILDING AND NEW CONSTRUCTION OF RESIDENTIAL PROPERTY**

WHEREAS, the real estate at 3132 Kingman Boulevard, more specifically described as follows (the "Property"):

Lot 2, in Subdivision of Block "A" in Replat of Lyon's Park, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

was acquired by the City of Des Moines by tax sale deed pursuant to Iowa Code §446.19A, on the basis that the property contains a dwelling, that had been determined to be a nuisance, that was believed to be suitable for rehabilitation for housing use; and,

WHEREAS, on January 24, 2011, by Roll Call No. 11-0135, the City Council approved the conveyance of the Property to Denis Marchand by a Quit Claim Deed that reserved to the City of Des Moines the beneficial interest in certain restrictive covenants which required that the building on the Property be rehabilitated for single or two-family use; and,

WHEREAS, after conveyance of such real estate to Denis Marchand and further investigation into the condition of the building, it has been determined that the building is in such a deteriorated condition that it is structurally unsound and cannot feasibly be rehabilitated for residential use; and,

WHEREAS, Denis Marchand has requested that the City agree to the release of the restrictive covenants contained in the Quit Claim Deed identified above, and to the replacement of those covenants with the Amended Declaration of Covenants which is on file in the office of the City Clerk; and,

WHEREAS, the Amended Declaration of Covenants restricts the use of the Property to the construction of two dwelling units, either attached or freestanding, having a design and exterior materials that are compatible with and complimentary to the existing dwellings in the neighborhood, and with the elevations, design and exterior materials of the dwelling being subject to review and approval by the Community Development Director at the time of issuance of any building permit.

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

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1. The Amended Restrictive Covenants for the Property described above is hereby approved and accepted as a satisfactory replacement for the original restrictive covenants contained in the Quit Claim Deed for the Property.
2. The Mayor is hereby authorized and directed to sign the Release of Covenants releasing and discharging the Property from the original restrictive covenants contained in the Quit Claim Deed from the City to Denis Marchand.

(Council Communication No. 11- 665)

MOVED by MaHaffey to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin
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