

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> January 24, 2011
	<b>Agenda Item No.</b> 52 <b>Roll Call No.</b> <u>11-0135</u> <b>Communication No.</b> <u>11-042</u> <b>Submitted by:</b> Phil Delafield Community Development Director

**AGENDA HEADING:**

Public hearing for approval of an agreement for purchase of real estate with Denis Marchand whereby City agrees to acquire 3132 Kingman Boulevard and 1147 27th Street by tax sale deed and convey for rehabilitation or construction as housing.

**SYNOPSIS:**

By Roll Calls 10-921 and 10-1280 on June 14 and August 9, the City Council requested the tax sale certificates for two abandoned residential properties from the Polk County Treasurer. 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 public hearing is on the conveyance of the real estate and to approve the agreement conveying the property to the developer if such properties are successfully redeemed on behalf of the city. If the item is approved at public hearing, Mr. Marchand will secure special counsel to research the title, serve notices and file affidavits of notice for the tax sale certificate to obtain the tax deed on behalf of the City.

**FISCAL IMPACT:**

Amount: \$30,331 (If successful in taking ownership)

Funding Source: Community Development Block Grants – SP020 CDD04990 page 68 of 2011 Operating Budget

**ADDITIONAL INFORMATION:**

Polk County issues tax sale certificates for delinquent tax properties at tax auction. Iowa Code 446.19A permit cities to acquire tax sale certificates for abandoned structures and vacant lots assessed as residential property without paying the taxes due, and allows the City to utilize an expedited redemption period, all for the purpose of encouraging the development of housing. To obtain the tax certificate pursuant to State Code 446.19A, the City Council must send an affidavit to the Polk County Treasurer that the properties meet the following conditions:

1. The property is a residentially assessed vacant lot or structure,
2. If the tax sale certificate involves an existing structure, it will be rehabilitated for housing. The City cannot tear down the property and rebuild for another purpose.
3. The structure or lot is considered abandoned, and

4. The structure is a public nuisance or is in danger of becoming a public nuisance.

The City of Des Moines has utilized this process in recent years with some success. It has enabled the acquisition of some properties with clouded titles and has enabled affordable housing providers to acquire buildable lots at a cost substantially below market value.

The process for acquisition of 3132 Kingman Boulevard and 1147 27th Street is different than the City has used in the past because of the large amount of taxes and special assessments owed against the properties. Under Iowa Code Section 446.19A, the City must take ownership in order for the taxes, liens and specials to be forgiven. The Legal Department has developed an agreement with the recommended developer that includes restrictive covenants on the use and design of the properties.

The City Council set a date of public hearing on the conveyance of the real estate at its January 10th meeting by Roll Call 11-0026. At the Council meeting of January 28 the Council may approve the agreement and convey the property to the developer if the developer can successfully obtain the property on behalf of the City. The developer hires an attorney to work through the tax sale certificate process including researching the title, serving notices, and filing an affidavit. After proper notices and expiration of all time periods required under Iowa Code 449.19A, the developer's attorney notifies the City that it should take the tax deed and the tax deed for the property is recorded in the City's name. All costs with the County Treasurer are released according to state legislation. The City then conveys the property to the developer by special warranty deed for the cost of any expenses for acquisition minus any documented legal costs.

Vacant lot: 1147 27th Street, Drake Neighborhood

The vacant lot at 1147 27th Street is located south of University Avenue in the Drake Neighborhood. It measures 48' by 120' and is considered a lot of record. It is zoned R1-60 and has residential properties on both the south and the north. It is currently assessed at \$5,400. The most recent owner of the property was SSW, LLC and previous to that Michael Schumacher.

On September 13, 2004 by Roll Call 04-1978, the City Council acting as the Board of Health declared the structure on this lot a public nuisance and authorized proceeding with court authority to abate the structure. The City tore down the structure in October 2007 using federal CDBG funds.

Since 2005, the property was held up in the bankruptcy of SSW, LLC. The property was assessed as a commercial property so the annual taxes were substantial and no taxes have been paid since 2005. Consequently, the taxes and special assessments against this property total \$43,000 and the City costs for demolition and unpaid rental inspections total \$30,128.33. The special assessments include those issued by the Waterworks and Public Works Sewer and Solid Waste Fees and Weed Commissioner.

By Roll Call 10-921 on June 14, 2010 the City Council requested the tax sale certificate for 1147 27th Street. The County removed the tax sale certificate from the annual sale and assigned it to the City. Staff mailed an RFP to developers with the requirement that the lot be developed as a two-story single family house following design guidelines. Denis Marchand submitted a proposal to develop a two-story house similar to one he constructed at 651 27th Street and 1521 29th Street. He also has a house under construction at 1131 28th Street. Mr. Marchand has notified the Drake Neighborhood Association of his desire to build on the new lot and has agreed to design covenants on size, porch and siding materials.

The City will take ownership of the lot under 446.19A so that special assessments and taxes will be abated, but the developer will hire an attorney and pay upfront legal costs. The property can be acquired

by May 1, 2010 unless the existing owner redeems the taxes on the house which staff feels is unlikely. Mr. Marchand will pay the assessed value of the lot \$5,400 minus any documented legal costs and city costs.

Abandoned Structure: 3132 Kingman Boulevard, Drake Neighborhood

The tax sale certificate was sold on this property in 2007. The owner of the tax sale certificate continued to pay the taxes but did not take tax deed to the property under the time restrictions of state code so the certificate expired. The taxes due in September 2009 and March 2010 were in the tax sale auction on August 19th, 2010 and the City Council requested the certificate by Roll Call 10-1280 on August 9, 2010.

The Community Development Department sent out a request for proposal for rehabilitation of the structure to developers. The rehabilitation RFP had an emphasis on preservation and the developer needed to include evidence of financing, examples of similar work completed in the Des Moines area, and a binding agreement in a form satisfactory to the Legal Department for use as single family or multi-family housing.

Denis Marchand submitted a proposal for the rehabilitation of the structure. His proposal is to evaluate the property and determine if it was originally a single family or duplex structure. If the structure is sound he will rebuild to its original state adding today's amenities and energy efficiency improvements. He will have the exterior shingles removed by a licensed contractor and either restore or replace the original siding depending upon condition. He will most likely gut much of the structure. Mr. Marchand has notified the Drake Neighborhood Association of his desire to rehabilitate the structure and has agreed to design covenants on size, porch and siding materials. Estimate of rehabilitation cost is \$160,000 to \$225,000.

The City will proceed with taking ownership of the property under 446.19A so that special assessments and taxes will be abated, but the developer will hire an attorney and pay upfront legal costs. The property can be acquired by May 1, 2010 unless the existing owner redeems the tax sale certificate by paying back taxes. The taxes are approximately \$10,000 so redemption by the owner is possible.

The City has notified the neighborhood organization of the public hearing and provided a copy of the restrictive covenants. Some neighborhood residents have expressed a desire to rezone 3132 Kingman Boulevard to R1-60. Staff feels that is premature. Until Mr. Marchand determines that is financially feasible for the property to be single family or duplex structure, staff does not want to proceed with a rezoning. If the property has to be changed to a three or four-plex to be feasible to rehabilitate, the restrictive covenants will need to be amended by City Council action. While it is the developer's intention and goal to sell both properties, due to current market conditions the developer may choose to rent the properties until market conditions improve. The neighborhood has expressed some concern over this but staff feels that further restricting these to owner-occupied may cause the delay in redevelopment of these properties.

#### **PREVIOUS COUNCIL ACTION(S):**

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: 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.

Date: September 13, 2004

Roll Call Number: 10-1978

Action: Court authority to abate the public nuisance at the following locations: 1147 27<sup>th</sup> Street, Titleholder: Michael Schumacher d/b/a SSW, LLC, Contract Buyer: J & C Properties, Mortgage Holder: Commercial Federal Bank, FSB. Moved by Vlassis to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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