RESOLUTION 2016-085

AUTHORIZING A POOL IN A 35’ GREENWAY AREA EASEMENT IN THE HERITAGE RIDGE – PHASE III SUBDIVISION, AND AUTHORIZING CITY STAFF TO APPROVE FUTURE ACCESSORY STRUCTURE PERMITS IN THE SUBDIVISION'S GREENWAY AREA EASEMENT THAT OTHERWISE COMPLY WITH CITY ORDINANCES.

WHEREAS the DeKalb City Council approved the Final Plat of Heritage Ridge Phase III Subdivision, duly recorded by the DeKalb County Recorder on June 29, 1995 as Document Number 95006215 (herein referred to as “Plat”); and

WHEREAS, the Plat designates “Greenway Area Easements” (herein referred to as “Easement”) on Sheet 2 of 2 on certain lots, that are described and regulated by an “Open Space Covenant” (herein referred to as “Covenant”) shown on Sheet 1 of 2; and

WHEREAS, the Covenant provides that no structures or other artificial facilities shall be constructed within the Easement without the express consent and authorization of the City Council of the city of DeKalb; and

WHEREAS, permits for accessory structures that include pools and sheds have been permitted over the years without knowledge of the easement; and

WHEREAS, an application requesting a permit for a pool at 2275 Cambridge (herein referred to as (“Pool Permit”) was received on May 31, 2016, and included a copy of the Plat showing the Easement; and

WHEREAS, construction of the pool in the Easement will not negatively impact drainage, and otherwise complies with the requirements of the City of DeKalb Unified Development Ordinance (herein referred to as UDO’); and

WHEREAS, the City of DeKalb City Council determines it would be in the best interest of the City to approve said permit for a pool to be located in the Easement; and

WHEREAS, the City of DeKalb City Council further determines in would be in the best interest of the City to authorize City staff to approve future permits for construction of accessory structures in the Easement if they otherwise comply with the requirements of the UDO and good engineering practices.

THEREFORE BE IT RESOLVED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

Section 1. The recitals set forth in the preamble are hereby incorporated herein by reference and made a part of this Resolution.
Section 2. City Staff is hereby authorized to issue Pool Permit in substantial compliance with the specifications shown in Exhibit 1 after review and approval of a building permit by the Building Division of the Community Development Department.

Section 3. The City Council observes that the recorded Final Plat for the development incorporates language requiring City Council approval of the construction of similar structures within the specified easement. The City Council hereby delegates review and approval of such matters to the City Manager or a designee thereof for similar future accessory structures to be located in the Greenway Easement Area if they otherwise comply with the UDO and other City Ordinances, are consistent with unintentional past practice, and there are no significant issues perceived.

Section 4. All ordinances or portions thereof in conflict with this resolution, including prior versions, are hereby repealed.

Section 5. Should any provision of this Resolution be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Resolution.

Section 6. This Resolution shall be in full force and effect after passage and publication pursuant to law. Publication date: July 12, 2016, 2016. Effective date: July 22, 2016.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 11th day of July, 2016 and approved by me as Mayor on the same day. Passed by a roll call vote of 8-0. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre. Rey.

ATTEST:

JENNIFER JEEP JOHNSON, City Clerk

JOHN A. REY, Mayor
Exhibit 1
2275 Cambridge
DeKalb, IL
Exhibit 1 (Continued)
Subject Property Identified in
Final Plat of Heritage Ridge Phase III Subdivision