



Council Communication

Office of the City Manager

Date	February 26, 2007
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Agenda Item No.	18
Roll Call No.	<u>07-</u>
Communication No.	<u>07-097</u>
Department: Larry Hulse, Community Development Director	

AGENDA HEADING:

Approving denial of a tax abatement application for commercial property at 7400 Fleur Drive for a use that does not qualify for tax abatement in the area in which it is located.

RECOMMENDATION:

Recommend denial of the tax abatement application for 7400 Fleur Drive. The application is for a medical office and does not meet the requirements for tax abatement in the Airport Crossroads business park.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The application is for property at 7400 Fleur Drive within the Airport Crossroads business park that was developed by Fleur Properties, L.C., represented by Michael Barnes, President. Limited commercial tax abatement was extended to Airport Crossroads by the 15th Amendment to the City-wide Urban Revitalization Plan by an expansion of the adjacent Airport Commerce Park South Urban Revitalization Area. The City agreed to extend commercial tax abatement to Airport Crossroads upon the same conditions as apply within the Airport Commerce Park South business park developed by Knapp Properties. Fleur Properties, L.C., agreed to the imposition of those limitations by a Declaration of Covenants that was signed by Michael Barnes and Steven Smith on behalf of Fleur Properties, and recorded in the land records of the Polk County Recorder on March 7, 2005, in Book 10963, commencing at Page 518.

The Declaration of Covenants is binding upon all owners of property within Airport Crossroads, including the subject property at 7400 Fleur Drive, and provides as follows:

Section 4. Limitations on Tax Abatement.

A. Fleur Properties agrees on behalf of itself and each and every one of its successors and assigns that it shall be entitled to apply only for the 3-year, 100% exemption from taxation on the actual value added by any future improvements to the Real Estate as set forth in Iowa Code §404.3(3) and the corresponding schedule in the applicable urban revitalization plan. In the event that at the time the construction of any improvements to the Real Estate occurs, 3-year 100% exemption from taxation on the actual value added by such construction is no longer available under the applicable Revitalization Plan and Iowa Code §404.3(3), Fleur Properties shall be entitled to apply for any form of tax abatement then existing which provides tax abatement having a value equal to or less than a 3-year 100% exemption from taxation on the actual value added by such construction.

B. Owners agree on behalf of themselves and each and every one of their successors and assigns that they shall be entitled to apply for 3-year, 100% exemption from taxation on the actual value added by only those improvements which by their design and manner of construction are intended for a use which would be a principal permitted use in the "PBP" Planned Business Park District under the Zoning Ordinance of the City of Des Moines, excluding however all support commercial uses. Owners, their successors and assigns shall not apply for, nor seek, any exemption from taxation under Iowa Code Chapter 404, for the value added by any improvements which by their design and manner of construction are intended for a use which would be a support commercial use under the "PBP" Planned Business Park District regulations or an allowed principal permitted use in the "C-1" Neighborhood Retail Commercial District.

The pending application seeks tax abatement for a medical office, which is a use that is specifically identified in the "PBP" Planned Business Park District regulations as a support commercial use. The application was filed in violation of the specific terms of the Declaration of Covenant identified above.

This specific development previously came before the City Council on an application to amend the approved "PUD" Conceptual Plan for Airport Crossroads to permit the applicant to use asphalt shingles which were prohibited by the approved Plan. On April 10, 2006, the City Council denied the application. At that time, the applicant was informed of the situation that this property would not be eligible for abatement unless an application for a change in the abatement requirements was made and approved by the City Council.

PREVIOUS COUNCIL ACTION(S):

Date: December 18, 2006

Roll Call Number: 06-2451

Action: [Approving](#) Tax Abatement applications (194) for additional value added by improvements made during 2006. ([Council Communication No. 06-777](#)) Moved by Vlassis to adopt. Motion Carried 6-0.

Date: August 21, 2006

Roll Call Number: 06-1664

Action: Approving 97 tax abatement applications for improvements made to property within the last 2 years ([Council Communication No. 06-519](#)) Moved by Vlassis to adopt. Motion Carried 4-1-1.

Date: April 10, 2006

Roll Call Number: 06-687

Action: Hearing [on](#) request from Fleur Properties, LLC for an amendment to the design standards of the approved PUD conceptual plan "Airport Crossroads Conceptual Plan" located west of Fleur Drive, north of County Line Rd., (Plan and Zoning Commission recommends DENIAL). Moved by Hensley to adopt. Motion Carried 6-1.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

The tax abatement program on new improvements currently ends on December 31, 2008, unless the City Council extends the program beyond that date. Any application received by February 1, 2009 and approved by the City Council will receive abatement for the number of years applied for. It is anticipated that there will be numerous submittals of tax abatement applications on a yearly basis until the program ends.