



**Council
Communication**
Office of the City Manager

Date	December 8, 2008
Agenda Item No.	11
Roll Call No.	08-
Communication No.	<u>08-715</u>
Submitted by: Matthew A. Anderson, Office of Economic Development	

AGENDA HEADING:

Approve Amendment to Covenant Regarding Tax Abatement for Medical/Dental Office Uses in the Airport Commerce Park South and Airport Business Park Urban Revitalization Areas.

SYNOPSIS:

On the December 8th agenda is a resolution which allows for the provision of tax abatement for medical/dental offices in the Airport Commerce Park South and Airport Business Park tax abatement areas. Specifically, the resolution waives a restriction in the Declaration of Covenants, executed by the various property owners in these areas which previously limited tax abatement for medical/dental offices. This change has been requested by the owners of the Airport Crossroads Subdivision (Fleur Properties, L.C., represented by Mike Barnes, 4521 Fleur Dr., Des Moines, Ia.).

Staff is recommending the covenant language be amended to allow tax abatement for the construction of/or improvements to a building designed and used as a medical/dental office building which is at least 5,000 square feet of finished floor area. The building size requirement is recommended to provide a desirable base level of investment.

FISCAL IMPACT:

Amount: See note below.

Funding Source: --

Note: Permitting tax abatement in the Airport Commerce Park South Urban Revitalization Area for the medical/dental office use, at this time, appears to apply to a single property located at 7400 Fleur Drive which would become eligible for 3 year/100% abatement on the assessed value for the \$2.75M in improvements recently constructed. The city, county and school district will forgo about \$123,000 annually in taxes for the three years of abatement. The property owners will pay about \$21,000 annually in taxes for the land portion of the property tax assessment.

Other properties in the future may be able to use the tax abatement; no other projects are known at this time.

ADDITIONAL INFORMATION:

Willham Properties, L.L.C., represented by Dr. O. Lee Willham, purchased property at 7400 Fleur Drive in the Airport Crossroads Subdivision/Fleur Properties, LLC for the development of a dental office building. Willham Properties reportedly thought the building would be eligible for tax abatement and

proceeded with construction of an 18,000 square foot building in 2006 and applied for tax abatement in 2007.

However, as a condition to the City's extension of commercial tax abatement to Airport Crossroads Subdivision, the prior owner, Fleur Properties, signed and recorded a Declaration of Covenants where the owner agreed for itself and all future owners that tax abatement would not be sought for support commercial and "C-1" commercial uses such as the proposed new medical/dental office building. Therefore, unless the City Council consents to waive this restriction in the Declaration of Covenants for Airport Crossroads Subdivision, the City should deny tax abatement for this new medical/dental office building.

Background:

The Airport Crossroads Subdivision is being developed by Fleur Properties, L.C., represented by Mike Barnes. It is located west of Fleur Drive and immediately south of the Airport Commerce Park South development.

The Airport Commerce Park South and Airport Business Park developments received limited commercial tax abatement for their properties located south of the airport in 1995. (Airport Commerce Park South is being developed by Airport Commerce Park, L.C., represented by Gerard Neugent of Knapp Development, L.C. and Airport Business Park , L.C. represented by Richard Margulies of ABC Partners).

The three areas south of the airport eligible for commercial tax abatement are shown in the map.



The availability of commercial tax abatement in Airport Commerce Park South and Airport Business Park is governed by a declaration of covenants which limits commercial tax abatement to the 3-year 100% schedule and only allows principal permitted uses in the "PBP" Planned Business Park District zoning classification.

Support commercial uses are only permitted in extremely limited circumstances which mainly occur as add-on use(s) to a principal permitted use building.

In 2004, Fleur Properties requested that commercial tax abatement be extended to the Airport Crossroads development with requirements and limitations similar to those imposed on the adjacent airport business park areas. In response to that request, the City Council approved the Fifteenth Amendment to the Restated Urban Revitalization Plan which extended commercial tax abatement to the Airport Crossroads development subject to an execution of a Declaration of Covenants which limits tax abatement to the same restrictions imposed on the adjacent airport business park developments.

Airport Crossroads (then Fleur Properties, L.C.) executed a Declaration of Covenants which limits tax abatement to the 3 year/100% schedule and imposed the following zoning restrictions in order to be eligible for tax abatement for the following limitations on commercial tax abatement:

Section 4.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.

[Underline added for emphasis]

PREVIOUS COUNCIL ACTION(S):

For this specific area

Date: February 28, 2005

Roll Call Number: 05-475 and 05-476

Action: City Plan Commission recommendation regarding the 15th Amendment to the City-Wide Urban Revitalization Plan, expanding the Airport Commerce Park sub-area to include an additional 40 acres extending south to County Line Road west of Fleur Drive. Moved by Kiernan to receive and file. Motion Carried 6-1. Absent: Vlassis.

(A)Hearing on the 15th Amendment to the Restated Urban Revitalization Plan for the City-wide Urban Revitalization area known as the Airport Crossing development. (Council Communication No. 05-076) Moved by Kiernan to adopt. Motion Carried 6-1. Absent: Vlassis.

Date: November 22, 2004

Roll Call Number: 04-2525

Action: Regarding request from Barnes Properties that commercial tax abatement be extended to the "Airport Crossroads" development area located north of County Line Road on the west side of Fleur Drive, south of the Airport Commerce Park South Urban Renewal Area. (Council Communication No. 04-603) Moved by Vlassis to approve and direct City Manager and City Attorney to draft the necessary documents to extend commercial tax abatement for this area with similar development requirements and limitations that are imposed on the adjacent Airport Commerce Park South area. Motion Carried 6-1. Nays: Brooks.

For tax abatement in general

Date: September 28, 1987

Roll Call Number: 87-4009

Action: Approval of Original Urban Revitalization Plan for the City-Wide Urban Revitalization Area

Over 50 amendments have been made to the tax abatement plan. The most recent amendment was:

Date: July 28, 2008

Roll Call Number: 08-1321

Action: On 21st Amendment to the Restated Urban Revitalization Plan for the City-Wide Urban Revitalization Area, (8-11-08). (Council Communication No. 08-430) Moved by Kiernan to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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