

Date February 10, 2014

RESOLUTION APPROVING TAX ABATEMENT APPLICATION FOR THE ADDITIONAL VALUE ADDED BY THE CONSTRUCTION OF A NEW HOUSE AT 1424 E. COUNTY LINE ROAD NOT SERVED BY THE PUBLIC SEWER SYSTEM

WHEREAS, the Iowa Urban Revitalization Act, Chapter 404, Code of Iowa (the "Act"), provides for partial exemption from property tax for the actual value added by improvements to property located in a designated urban revitalization area which are consistent with the urban revitalization plan for such area; and

WHEREAS, the Act provides that persons making improvements may apply to the City Council for tax abatement, and the City Council shall approve the application by resolution, subject to review by the County Assessor, if it finds: (a) the project is located in a designated urban revitalization area; (b) the project is in conformance with the urban revitalization plan for such area; and (c) the improvements were made during the time the area was so designated; and,

WHEREAS, on December 5, 2011, by Roll Call No. 11-2085, the City Council approved the 2011-1 Omnibus Amendment to the City's urban revitalization plans whereby all the territory within the City of Des Moines as of January 1, 2012, was consolidated into the City-wide Urban Revitalization Area, and any territory thereafter annexed into the City is added to the City-wide Urban Revitalization Area effective upon annexation; and,

WHEREAS, the City-wide Urban Revitalization Plan provides that to be eligible to receive tax abatement, the improvements must be completed in accordance with all applicable zoning and other regulations of the City, including the following requirement:

- 7. Improvements consisting of the construction of a new building shall be served by the public sewer system. EXCEPTIONS: In the event that:
i) public sewer is not available within 100 feet of the boundaries of the parcel of land upon which the improvement is made;
ii) the improvement is assessed as residential property;
iii) the parcel of land upon which the improvement is made was created prior to July 1, 1999, and not thereafter voluntarily reduced in size; and,
iv) the owners of the property have entered into an agreement in recordable form acceptable to the City Legal Department agreeing to connect to the public sewer system when it becomes available and waiving the right to protest the assessment for such sewer;

then the use of a private sewage disposal system may be utilized if:

- a) the lot is two acres or less in size; or,
b) the City Council has by resolution made a determination that the improvements will not jeopardize future development and improvements in the vicinity considering the following factors:

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- (1) the location of the improvements on the lot must allow for future development to urban densities;
- (2) the location of the improvements must not interfere with the logical extension of streets, water, sewer and other public infrastructure to serve future development in the vicinity; and,
- (3) the improvement is reasonably accessible by emergency vehicles. Any private bridge or culvert use for such access must be of width and load bearing capacity sufficient to carry a fire truck and other emergency vehicles.

WHEREAS, John D. Kemper has applied for tax abatement upon his new home at 1424 E. County Line Road which is not served by the public sanitary sewer system; and,

WHEREAS, Mr. Kemper has entered into an agreement in recordable form acceptable to the City Legal Department agreeing to connect to the public sewer system when it becomes available and waiving the right to protest the assessment for such sewer; and,

WHEREAS, the City staff have determined that subject to the City Council approving the special findings of fact identified in paragraph 2(b), below, the improvements to Mr. Kemper's property at 1424 E. County Line Road qualify for tax abatement.

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

- 1) The application for tax abatement filed by John D. Kemper for improvements to his property at 1424 E. County Line Road is hereby received.
- 2) The following findings are hereby adopted:
 - a) The application was filed with the City on or before February 1st of the assessment year for which the exemption (tax abatement) is claimed.
 - b) The house qualifies for an exemption from the requirement that any new building be served by the public sanitary sewer system, because:
 - i. The location of the house on the lot allows for future development to urban densities;
 - ii. The location of the house does not interfere with the logical extension of streets, water, sewer and other public infrastructure to serve future development in the vicinity;
 - iii. The house is reasonably accessible by emergency vehicles; and,
 - iv. The house does not jeopardize future development and improvements in the vicinity.
 - c) The application is for a project located in the City-wide Urban Revitalization Area; the project is in conformance with the Urban Revitalization Plan for the City-wide

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Urban Revitalization Area; and the improvements described in the application were made during the time the Area was so designated.

- 3) The application is approved subject to review by the County Assessor under Section 404.5 of the Act, for exemption under the 5-year 100% abatement schedule.
- 4) The City Clerk shall forward a certified copy of this resolution and the application to the County Assessor.
- 5) The City Clerk is hereby further authorized and directed to cause the Declaration of Covenants signed by John Kemper for the property at 1424 E. County Line Road to be recorded in the office of the Polk County Recorder.

(Council Communication No. 14- 054)

MOVED by Hensley to adopt.

FORM APPROVED:

Roger K. Brown
Roger K. Brown
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
VOSS	✓			
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