

City of Bloomington Common Council

Legislative Packet

**17 September 2014
Regular Session**

*For legislation and material regarding Ordinance 14-17
please consult the [03 September 2014 Legislative Packet](#).*

All other material contained herein.

Office of the Common Council
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Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Resolutions and Legislation for Second Reading:

- **Ord 14-17** To Amend Title 20 of the Bloomington Municipal Code Entitled “Unified Development Ordinance” - (Revising the Definition of “Standardized Business” Under BMC 20.11.020 [Defined Words])
Contact: Tom Micuda, 349-3423 or micudat@bloomington.in.gov
 - Please see the [Council Weekly Legislative Packet](#) Issued for the September 3, 2014 Regular Session for the Legislation and Related Information and Summaries

- **Res 14-15** To Confirm Resolution 14-14 which Designated an Economic Revitalization Area, Approved Two Statements of Benefits, and Authorized Periods of Tax Abatement for Real Property Improvements and Personal Property - Re: Properties at 304 W. Kirkwood Avenue (Elmore Y Orrego, LLC, Petitioner)
 - Insert describing the initial materials regarding this tax abatement proposal and where to find them
 - **Am 01** (Cm. Ruff, Sponsor) – removing the two penthouse condominiums on the top floor from eligibility for the tax abatement*Contact: Danise Alano-Martin, 349-3477 or alanod@bloomington.in.gov*
 - Please see the [Council Weekly Legislative Packet](#) Issued for the August 27, 2014 Regular Session and Committee of the Whole for the Legislation and Related Information and Summaries

Legislation and Background Material for First Reading:

None

Minutes from Regular Session:

None

Memo

Two Items Ready for Second Reading and No Items Ready for Introduction at the Regular Session on Wednesday, September 17th

The agenda for next Wednesday's Regular Session includes two pieces of legislation under Second Reading and Resolutions, but no legislation under First Reading. The legislation to be considered that night includes an ordinance which was discussed at the Committee of the Whole last Wednesday and a resolution which confirms a resolution passed on September 3rd. The ordinance and related information can be found online as indicated above; the confirming resolution is included in this packet and briefly mentioned herein (with more information on the resolution it confirms available as indicated in various places in this memo and packet).

New Item under Second Reading and Resolutions

Item Two – Res 14-15 (Confirming Res 14-14 which Designated an Economic Revitalization Area (ERA), Approved Two Statement of Benefits, and Authorized a 5-Year Abatement on Real Estate and a 10-Year Abatement on Information Technology Equipment – Re: 304 West Kirkwood (Elmore Y Orrego, LLC, Petitioner)

The second item under Second Readings and Resolutions is Res 14-15. It is known as a confirmatory resolution and affirms Res 14-14 (known as the declaratory resolution), which designated an economic revitalization area, approved two statement of benefits, and authorized two periods of tax abatement for the redevelopment of the property located at 304 West Kirkwood Avenue at the request of Elmore Y Orrego, LLC. The redevelopment would entail demolition of the existing one-story building and construction of a multi-story, mixed use office, retail, and residential building adjacent to the B-Line Trail. Please see the [Weekly Legislative Packet](#) for the August 27th Regular Session and Committee of the Whole for information relating to Res 14-14. Please also note that the public comment on this agenda item serves as the legally advertised public hearing on this legislation.

Proposed Amendment

During the course of the deliberation on the declaratory resolution, Councilmember Ruff indicated his intent to sponsor an amendment to the confirmatory resolution. That amendment (Am 01) is included in this packet and would remove the two penthouse condominium units on the top floor from eligibility for this tax abatement.

NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, SEPTEMBER 17, 2014
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: *None*

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Ordinance 14-17 To Amend Title 20 of the Bloomington Municipal Code Entitled “Unified Development Ordinance” (Revising the Definition of “Standardized Business” Under BMC 20.11.020 [Defined Words])

Committee Recommendation:

Do Pass: 9 – 0 – 0

2. Resolution 14-15 To Confirm Resolution 14-14 which Designated an Economic Revitalization Area, Approved Two Statements of Benefits, and Authorized Periods of Tax Abatement for Real Property Improvement sand Personal Property – Re: Properties at 304 W. Kirkwood Avenue (Elmore Y Orrego, LLC, Petitioner)

Committee Recommendation:

None

September 03, 2014 Regular Session action on Resolution 14-14

Adopt: 8 – 0 – 1

Note: The public comment on this item serves as the statutorily-required public hearing on this legislation.

VII. LEGISLATION FOR FIRST READING

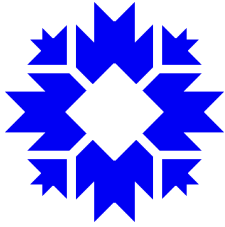
None

VIII. ADDITIONAL PUBLIC COMMENT* (A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

* Members of the public may speak on matters of community concern not listed on the agenda at one of the two *Reports from the Public* opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak



**City of Bloomington
Office of the Common Council**

To Council Members
From Council Office
Re Weekly Calendar – 15 - 20 September 2014

Monday, 15 September

12:00 pm Bloomington Entertainment and Arts District, McCloskey
5:30 pm Bloomington Farmers' Market Advisory Council, Parks Conference Room
5:30 pm Bicycle and Pedestrian Safety Commission, Hooker Room

Tuesday, 16 September

9:30 am Tree Commission, Bryan Park North Shelter, 1001 S Henderson St.
11:30 am Plan Commission Work Session, Kelly
4:00 pm Bloomington Community Farmers' Market – Madison St. between 6th and 7th
4:00 pm Board of Public Safety, McCloskey
5:00 pm Redevelopment Commission, Kelly
5:30 pm Commission on the Status of Children and Youth, Hooker Room
5:30 pm Animal Control Commission, McCloskey

Wednesday, 17 September

2:00 pm Hearing Officer, Kelly
4:00 pm Board of Housing Quality Appeals, McCloskey
6:00 pm Council of Neighborhood Associations, Hooker Room
7:30 pm Common Council Regular Session, Council Chambers

Thursday, 18 September

8:00 am Bloomington Housing Authority Board – 1007 N Summit St.
5:15 pm Monroe County Solid Waste Management District Citizens' Advisory Council, McCloskey
7:00 pm Environmental Commission, McCloskey

Friday, 19 September

12:00 pm Domestic Violence Task Force, McCloskey

Saturday, 20 September

8:00 am Bloomington Community Farmers' Market – Showers Common, 401 N Morton St.

Posted and Distributed: Friday, 12 September 2014

RESOLUTION 14-15

**TO CONFIRM RESOLUTION 14-14 WHICH DESIGNATED AN
ECONOMIC REVITALIZATION AREA, APPROVED TWO STATEMENTS OF BENEFITS,
AND AUTHORIZED PERIODS OF TAX ABATEMENT
FOR REAL PROPERTY IMPROVEMENTS AND PERSONAL PROPERTY
- Re: Properties at 304 W. Kirkwood Avenue
(Elmore Y Orrego, LLC, Petitioner)**

- WHEREAS, Elmore Y Orrego, LLC, (“Petitioner”) has filed an application for designation of the properties at 304 W. Kirkwood Avenue, Bloomington, Indiana, comprised of four parcels identified by Parcel Numbers listed below, as an “Economic Revitalization Area” (“ERA”) for removal of an aging structure and construction of a new building pursuant to IC 6-1.1-12.1 et. seq.; and
- WHEREAS, the subject site is currently identified by the following Monroe County Parcel Numbers:
53-05-33-310-260.000-005; (Alt Parcel Num 013-08290-00)
53-05-33-310-120.000-005; (Alt Parcel Num 013-44860-00)
53-05-33-310-139.000-005; (Alt Parcel Num 013-44850-00)
53-05-33-310-112.000-005; (Alt Parcel Num 013-08300-00); and
- WHEREAS, the Petitioner has also submitted statement of benefits forms to the Common Council;
- WHEREAS, according to this material, the Petitioner wishes to remove a one-story office building and invest \$11.5 million in the construction of a new multi-story, mixed use office, retail and residential building and wishes to acquire new information technology equipment with an estimated investment of \$400,000, all of which will enable the retention of 53 full-time permanent positions and two part-time permanent positions with an annual payroll of \$3,637,099, excluding benefits and overtime, and will create 10 new full-time positions and two new part-time positions with an additional annual payroll of \$825,000, (the “Project”); and
- WHEREAS, as required by Indiana Code, Bloomington Municipal Code and a Memorandum of Understanding to be executed pursuant to the City of Bloomington Tax Abatement General Standards, the Petitioner shall agree to provide information in a timely fashion each year to the County Auditor and the Common Council showing the extent to which the Petitioner has complied with the Statement of Benefits, complied with the City of Bloomington’s Living Wage Ordinance (B.M.C. 2.28), and complied with commitments specified in the Memorandum of Understanding; and
- WHEREAS, the Economic Development Commission has reviewed the Petitioner’s application and Statement of Benefits and passed Resolution 14-02 recommending that the Common Council designate the area as an ERA, approve both Statement of Benefits forms, and authorize a five-year period of abatement for the real estate improvements and a ten-year abatement for the personal property; and
- WHEREAS, the Common Council has investigated the area and reviewed the Application and Statement of Benefits, which are attached and made a part of Resolution 14-14 and has found the following:
- A. the estimate of the value of the redevelopment or rehabilitation is reasonable;
 - B. the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation;
 - C. the estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation;
 - D. the redevelopment or rehabilitation has received approval from the Planning Department, is consistent with the Growth Policies Plan, is expected to be developed and used in a manner that complies with local code, and provides housing in the downtown area; and
 - E. the totality of benefits is sufficient to justify the deduction; and
- WHEREAS, the Common Council has further found that the Project will not negatively impact the ability of the Downtown Tax Increment Finance (TIF) district to meet its debt obligations; and
- WHEREAS, the property described above has experienced a cessation of growth; and
- WHEREAS, the Common Council adopted Resolution 14-14 on September 3, 2014, which designated the above property as an "Economic Revitalization Area," approved both Statement of Benefits forms, and authorized a five (5) year period of tax abatement for real estate improvements and a ten (10) year period of tax abatement for the new information technology equipment;
- WHEREAS, the City Clerk published notice of the passage of that resolution, which requested that persons having objections or remonstrance to the designation, statement of benefits submission, and findings of fact appear before the Common Council at its meeting on September 17, 2014; and

WHEREAS, the Common Council has reviewed and heard all such objections and remonstrance to such designation;

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

1. Pursuant to Indiana Code 6-1.1-12.1-1 et seq., the Common Council hereby affirms its determination made in Resolution 14-14 that the area described above, including subsequent new parcel identification numbers created by condominium subdivision within the mixed-use development project, is an "Economic Revitalization Area" and that the totality of benefits of the Project entitle the owner of the property or its successor(s) to a deduction from the assessed value of the real estate improvements for a period of five (5) years and a deduction from the assessed value of the personal property for a period of ten (10) years.

2. Pursuant to Indiana Code 6-1.1-12.1-17, the Common Council hereby sets the following abatement schedules for the Project:

- a. For real estate improvements for the Project, a period of abatement for five (5) years with the following deduction schedule, pursuant to IC 6-1.1-12.1-17:

Year 1	100%
Year 2	80%
Year 3	60%
Year 4	40%
Year 5	20%
- b. For new information technology equipment as described in the application, a personal property abatement with a period of ten (10) years, with the following deduction schedule, pursuant to IC 6-1.1-12.1-17:

Each Year, 1 through 10	100%
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3. In granting this designation and deduction the Common Council incorporates I.C. 6-1.1-12.1-12. It also expressly exercises the power set forth in I.C. 6-1.1-12.1-2(I)(5) to impose additional, reasonable conditions on the rehabilitation or redevelopment beyond those listed in the Statement of Benefits. In particular, failure of the property owner to make reasonable efforts to comply with the following conditions is an additional reason for the Council to rescind this designation and deduction:

- a. the capital investment of at least \$11.5 million for real estate improvements and an estimated \$400,000 for new information technology equipment as described in the application shall be completed before or within twelve months of the completion date as listed on the application; and
- b. the land and improvements shall be developed and used in a manner that complies with local code; and
- c. Petitioner will comply with all compliance reporting requirements in the manner described by Indiana Code, Bloomington Municipal Code, and by the Memorandum of Understanding.

4. This designation shall expire no later than December 31, 2027, unless extended by action of the Common Council and upon recommendation of the Bloomington Economic Development Commission.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this day of _____, 2014.

DARRYL NEHER, President
Bloomington Common Council

SIGNED and APPROVED by me upon this ___ day of _____, 2014.

MARK KRUZAN, Mayor
City of Bloomington

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

SYNOPSIS

This resolution confirms Resolution 14-14 and designates four parcels and their subsequent subdivided parcels collectively owned by Elmore Y Orrego LLC and known as 304 W. Kirkwood Street as an Economic Revitalization Area (ERA). This designation was recommended by the Economic Development Commission and will enable the proposed mixed use redevelopment project, which includes newly constructed office, retail and upper-story market-rate residential units and condominiums, to be eligible for tax abatement. The resolution also approves a five-year period of abatement for real property improvements and a ten-year period for personal property abatement and sets deduction schedules for each.

For Material Regarding the Proposed Tax Abatement for the Mixed Use Project at 304 West Kirkwood (Elmore Y Orrego, LLC, Petitioner), which Includes:

- Memo to Council from Danise Alano-Martin, Director of Economic Development and Jason Carnes, Assistant Director for Small Business;
 - Aerial Photo of Site;
 - Application for Tax Abatement;
 - Statement of Benefits for Abatement on 1) Real Estate and 2) Personal Property (IT Equipment); and
 - Estimate of Property Tax Calculations
-
- **Res 14-14** To Designate an Economic Revitalization Area, Approve the Statements of Benefits, and Authorize Periods of Abatement for Real Property Improvements and Personal Property - Re: Properties at 304 W. Kirkwood Avenue (Elmore Y Orrego, LLC, Petitioner)
 - EDC Res 14-02

 - **Ord 14-16** To Designate an Economic Development Target Area (EDTA) - Re: Property Located at 304 W. Kirkwood Avenue and Identified by the Monroe County Parcel ID Numbers 013-08290-00, 013-44860-00, 013-44850-00, 013-08300-002300 (Elmore Y Orrego, LLC, Petitioner)
 - EDC Res 14-01

Please see the [Council Weekly Legislative Packet](#) Issued for the August 27, 2014 Regular Session and Committee of the Whole

***** Amendment Form *****

Resolution #: Res 14-15
Amendment #: Am 01
Submitted By: Councilmember Ruff, At-Large
Date: September 12, 2014

Proposed Amendment:

1. The title of this ordinance shall be amended by inserting the words “modify and” before the word “confirm” so that the title shall read as follows:

**TO MODIFY AND CONFIRM RESOLUTION 14-14 WHICH DESIGNATED AN
ECONOMIC REVITALIZATION AREA, APPROVED TWO STATEMENTS OF BENEFITS,
AND AUTHORIZED PERIODS OF TAX ABATEMENT
FOR REAL PROPERTY IMPROVEMENTS AND PERSONAL PROPERTY
- Re: Properties at 304 W. Kirkwood Avenue
(Elmore Y Orrego, LLC, Petitioner)**

2. Section 2 of Res 14-14 shall be amended by inserting a new part “c.” and re-lettering the current and subsequent parts. The new part “c.” shall read as follows:

c. the two penthouse condominium units proposed for the top floor of this project shall not be eligible for a tax abatement; and

3. The synopsis shall be amended to insert the words “modify and” before the word “confirm” as it appears in the first sentence.

Synopsis

This amendment is sponsored by Councilmember Ruff. It would remove the penthouse condominiums proposed for the top floor of this project from eligibility for this tax abatement. The amendment is coming forward pursuant to IC 6-1.1-12.1-2(I)(2), which allows the Council to impose additional reasonable conditions on a tax abatement by resolution that are consistent with purposes in statute and local guidelines, and IC 6-1.1-12.1-2.5, which gives the Council authority to confirm, modify and confirm, or rescind the declaratory resolution.

9/17/14/14 Regular Session Action: *Pending*

(September 12, 2014)

AMENDMENT 01 – CHANGES TO SECTION 2 - (SEE BOLD FONT FOR ADDITIONAL TEXT)

SECTION 2. In granting this designation and deductions the Common Council incorporates I.C. 6-1.1-12.1-12 and also expressly exercises the power set forth in I.C. 6-1.1-12.1-2(I)(5) to impose additional, reasonable conditions on the rehabilitation or redevelopment beyond those listed in the Statement of Benefits forms, and authorizes the City of Bloomington to negotiate a Memorandum of Understanding with the Petitioner specifying substantial compliance terms and consequences and remedies for noncompliance. In particular, failure of the property owner to make reasonable efforts to comply with the following conditions is an additional reason for the Council to rescind this designation and deduction:

- a. the capital investment of at least \$11.5 million for real estate improvements and an estimated \$400,000 for new information technology equipment as described in the application shall be completed before or within twelve months of the completion date as listed on the application; and
- b. the land and improvements shall be developed and used in a manner that complies with local code; and
- c. **the two penthouse condominium units proposed for the top floor of this project shall not be eligible for a tax abatement; and**
- d. Petitioner will comply with all compliance reporting requirements in the manner described by Indiana Code, Bloomington Municipal Code, and by the Memorandum of Understanding.