

MEMORANDUM

TO: University Heights Mayor and City Councilors
(Louise From, Mike Haverkamp, Rosanne Hopson,
Jim Lane, Jan Leff, and Brennan McGrath)

DATE: February 10, 2013

FROM: Pat Bauer (Zoning Commission Chair)

RE: Recommendations for Council Action and Matters Still Under Consideration

At meetings on October 30, 2012 and January 29, 2013, the University Heights Zoning Commission discussed concerns outlined in circulated memos dated October 10, 2012 (previously forwarded to you in draft form) and January 24, 2013 (Attachment A). Although some of those matters will be considered further at another meeting on February 26, 2013, the Zoning Commission presently makes the following recommendations to the University Heights City Council.

Recommendations for Council Action

A. Adequacy of Existing Provisions for Dealing with Disorderly Houses

Based on assessments obtained from Police Chief Ron Fort and Housing Inspector Norm Cate (Attachment B), the Zoning Commission concluded that the existing provisions of Ordinance No. 109 (enacted in 1999/amended in 2001) and Ordinance No. 125 (enacted in 2002) provide sufficient authority for appropriate responses to problems presented by disorderly houses.

B. Enhanced Dissemination of Information Concerning Housing Enforcement Activity

The Zoning Commission concluded that some modest addition steps could usefully raise public awareness of the operation and extent of housing enforcement activity. Since housing enforcement is "complaint-driven," the Zoning Commission recommends (1) that the City Council ask the City Attorney to prepare a written statement of the extent to which confidentiality is and can be maintained in the receipt and processing of such complaints (see Attachment A, sec. 2). To provide clearer recognition of the aggregate extent and effects of housing enforcement activity and an occasion for any necessary adjustments thereof, the Zoning Commission further recommends (2) that the City Council ask the City Clerk and Housing Inspector to prepare a written annual summary of such activity for council review and consideration each June (corresponding to the end and beginning of successive rental cycles) (see Attachment A, sec. 1).

The Zoning Commission also recommends (3) that the City Council ask the City Attorney to review and update the "Rental Housing: Common Concerns/Community Solutions" brochure and (4) that such updated brochure be distributed (a) to all residents (on a one-time

basis) in conjunction with the next distribution of a city newsletter and (b) to all tenants (on an annual basis) in conjunction with the issuance of rental permits by including in the annual application form appropriate certifications of landlord delivery and/or tenant receipt.

Matters Still Under Consideration

C. Paving of Rear Yards

In considering concerns about the paving of rear yards of houses adjoining the public alley on the east side of lots along the east side of Olive Court, the Zoning Commission encountered issues of phrasing and framing presented by the circumstances of somewhat similarly situated houses elsewhere in University Heights (Attachment A, sec. 3 & Attachment C). Although it continues to work on comprehensive long-term solutions, the Zoning Commission suggested that the City Attorney determine whether Council action of some sort might function as a “stop gap” measure to prevent the possibility of further paving of the rear yards of houses along the east side of Olive Court during this year’s construction season.

D. Outside Parking of Motor Vehicles by Nonresidents

The Zoning Commission’s consideration of this matter (see Attachment A, sec. 5) included discussion of (i) the extent to which outside parking by non-residents might be mistakenly viewed as evidence of non-existent over-occupancy, (ii) the difficulty of treating paid instances of such parking as a prohibited “business” use in light of longstanding contrary treatment of paid parking on football weekends, and (iii) essentially aesthetic concerns involving no violation of any existing restrictions of our zoning or housing ordinances. Between concerns about the appropriateness of regulating aesthetic concerns and the lack of obstacles to doing so at some later point in time, the Zoning Commission concluded that it should seek further guidance from the City Council before pursuing this matter further.

E. Bicycle Parking

The Zoning Commission approved the draft of a letter for transmission by the City Attorney to owners of potentially-affected properties seeking input about available existing bicycle parking, the potential need for additional bicycle parking, and both any present plans to provide such additional parking and/or the nature and extent of any existing obstacles to so doing (see Attachment A, sec. 6 and Attachment D). Responses to such letter will provide a useful basis for further consideration of this matter at the Zoning Commission’s next meeting.

F. Regulation of Infill Redevelopment

After reviewing 2008 housing census spreadsheet and accompanying memo prepared by Zoning Intern Kevin Hochhalter, the Zoning Commission expressed an interest in further consideration of the possibility of “Floor Area Ratio” limitations and regulation of both lot consolidation and demolition of existing structures (see Attachment A, sec. 7). Drafts of possible zoning amendment provisions addressing those circumstances are to be prepared as a basis for discussion of such matters at the Zoning Commission’s next meeting.

MEMORANDUM

TO: Kris McLure, Alice Haugen, Silvia Quezada, and Larry Wilson

DATE: January 24, 2013

FROM: Pat Bauer

RE: Matters Up for Consideration at Next Tuesday's Zoning Commission Meeting
(Tues., Jan. 29 – 7:00 p.m. – City Hall)

I've previously forwarded to our two new members (Larry Wilson (succeeding Karl Robertson) and Kris McLure (succeeding Bill Gay) draft minutes our last meeting (October 30, 2012) and the underlying audio file (both being e-mailed to Alice and Silvia separately because of the size of the audio file). In this memo, I'll attempt to recap things done, things in need of doing, and things to be thinking about.

THINGS DONE

1 Annual Summary of Housing Enforcement Activity

Our last meeting identified both (i) a “rhythm” of housing enforcement activity (i.e., some “rough patches” in the period following the turnover of leases/tenants in rental properties in July and August followed by improvement as community norms become better understood) and (ii) potentially misleading perceptions by residents that “nothing is being done” because of the interval between the receipt of a complaint and follow-through on enforcement actions. It's not clear whether “reporting back” to individual complainants is done and/or would be appropriate, and the timing and placement of existing public recountings of housing enforcement activity in the clerk's monthly reports may not effectively communicate the full breadth and depth of such activities.

Commissioners thought that some sort of “annual report of housing enforcement activities” submitted to the Council and subsequently posted at some suitable location on the city's web site might better convey to both Councilors and residents the incidence of difficulties and the extent of achieved compliance (and perhaps also usefully serve as a basis for regular Council review of “how things are going” and the need for anything further). Conceivably such a report could be scheduled for late spring/early summer to obtain useful perspectives in looking back over the rental cycle of the academic year then coming to end and looking forward to the one about to begin.

Further Action Needed: Obtaining input from housing enforcement officials concerning the soundness of this idea, followed by a formal recommendation to Council for its implementation.

2 Posted Written Statement of Extent of Confidentiality in Receipt of Complaints

The seemingly generally-accepted notion that enforcement of housing regulations are and should be “complaint-driven” can present obstacles to achieving desirable levels of compliance if concerned residents are reluctant to communicate complaints because of uncertainty over the

extent to which their identity will be shared with the persons who are subjects of their complaint. Addressing this circumstance is complicated by the fact that it cannot be answered without various qualifications about enforcement officers generally not sharing with others the identity of persons making a complaint in the absence of some fairly substantial need (e.g., witness testimony regarding commission of a criminal acts), but doing so in writing might reduce (i) resident apprehension about making complaint, (ii) the need for repeated oral explanations of such things, and (iii) the resulting potential for misunderstandings of such explanations.

Further Action Needed: With Steve Ballard having indicated that he views this suggestion as sound and doable, a formal recommendation of appropriate Council direction would seem to be all that's needed.

II. THINGS IN NEED OF DOING

3 Paving of Rear Yards

There was consensus at our last meeting of the need for (i) an appropriate restriction of rear yard paving going forward and (ii) some suitable regulation of parking on paved areas in circumstances where extensive paving already has occurred. I'm aiming to get out to you a draft of suitable specific provisions in advance of our next meeting.

Further Action Needed: We'll have to review the draft language to assure that it achieves what it's aimed at accomplishing, and once we've determined that it does, a formal recommendation to Council for a change in Ordinance No. 79 will result in subsequent process that will include required legal notice and the likelihood of three separate readings. Please be thinking about whether the Zoning Commission might wish to send mail notification to owners of the "epicenter" properties adjoining the alley to the east of Olive Court to solicit input from them at our previously scheduled "follow-up" meeting on Tuesday, February 26.

4 Adequacy of Existing Provisions for Dealing with "Disorderly Houses"

Although it appears that existing provisions may enable our housing enforcement officials to address the challenge of "disorderly houses," at our last meeting we decided that we seek verification of that impression with our housing enforcement officials and also consider any suggestions for improvements they might make to us. I'll be getting contacting our housing enforcement officials and attempting to obtain responses from them in time to be considered by us on the 29th.

III. THINGS TO BE THINKING ABOUT

5 Outside Parking of Motor Vehicles by Nonresidents

This subject elicited a range of views about the existence/extent of such a difficulty and/or the need for/nature of appropriate responsive action. It was suggested that concerns might not involve circumstances at one or two houses on streets closest to campus, but instead could be focusing on the greater concentration of such situations along Melrose perhaps most evidently apparent during working hours.

There was discussion whether “outside parking by nonresidents” might be fueling potentially misleading perceptions of “over-occupancy” and also the appropriateness of distinguishing between situations involving “gratuitous” and “paid” parking. It was recognized, however, that further consideration would be helped by asking appropriate officials about their perceptions of the nature and extent of this circumstance and the challenges of enforcing either a permit requirement or some substantive prohibition. I’ll be directing such inquiries to the appropriate persons in the hope of obtaining responses in time for consideration by us on the 29th.

6. Bicycle Parking

Although this item was initiated by the receipt of a model ordinance amendment directed towards new construction, it generally was recognized that in the circumstances of University Heights any meaningful requirement might have to be applied to existing uses (with appropriate period of time for bringing of existing uses into compliance with the new requirement). Between the lack of any imperative need for quick action and the obvious benefits of obtaining reliable information from the owners of potentially affected properties, it was agreed that such owners should be contacted to determine the extent of any existing bicycle parking, the perceived extent of existing demand for additional bicycle parking, possible plans to provide additional bicycle parking sometime down the line, and the existence and nature of any impediments to advancing such plans (e.g., cost, space available for location, etc.). While I committed to drafting a letter for distribution in time for responses before our upcoming meeting, my not having gotten to this until now has me aiming to prepare a draft for the Commission’s review and approval to assure that it’s asking for the right things in a way that’s striking the right tone.

My own thinking about this item was helped by some materials brought up by a very rudimentary web search that I’ll be getting to you separately. In addition to things considered previously, we may wish to discuss (i) including Horn School as a potentially affected property and (ii) expanding the scope of possible recommended action to include the city’s provision (or facilitation) of bicycle parking on city property (e.g., Koser/Melrose park, parking/right of way, traffic signs/parking meters).

7. Regulation of Infill Redevelopment

A discussion including both the need for any regulation and the possible nature of any needed regulation included mention of the analysis and underlying survey of UH housing conducted a few years back by Zoning Intern Kevin Hochhalter. The circumstances he considered generally were reflected in the excerpt included as an attachment to the memo you received in advance of our last meeting, but some further details were contained in the full report being distributed to you.. By way of a simplified overview, however, Kevin calculated “Land/Value Ratios” that are regarded as indicators of the potential for infill redevelopment and also existing and potential “Floor Area Ratios” measuring both existing and potential mass and scale.

Because it may be the best way of obtaining a sense of how a FAR-based regulation might operate, I’ll be getting you both PDFs and the underlying spreadsheet Kevin prepared. in late 2008. Although in a small number of instances it may not reflect intervening developments,

it would seem to be an entirely adequate basis for us to determine whether further pursuit of anything along these lines might be profitable.

Conceivably a “FAR” requirement could be formulated not as an inflexible outer limit but instead as a threshold triggering some sort of “closer look” to avoid designs involving objectionable elements of mass and scale. A suggestion also has been made that requiring a permit for the demolition of existing structures might separately provide an occasion for some assessment of the implications of both the removal of an existing structure and the construction of something in its place.

From: Ron Fort <ron.fort@uhpolice.org>
To: pbb338koser <pbb338koser@aol.com>
Sent: Fri, Jan 25, 2013 10:02 am
Subject: Re: Request for Views on Matters Being Considered by UH Zoning Commission

I am trapped at home for the next few weeks <> Just had my right knee replaced.

As far as the Police are concerned the Disorderly House Ordinance on the books is working well. There is also another section where we can charge everyone at a disorderly house. UHPD has had no 2nd events at any house in a long time. I will start a log on any house we have to visit and a second log on any house that gets a Disorderly House Citation. That way the council can act if they wish.

Luckly the police are not involved with how may cars can park at a home as long as they do not park on the grass. AS the fine for parking on the grass is high is seldom happens.

I work with the housing inspectors as needed if they feel there may be an issue when they inspect a home. So far no real issues.

When the police feel there is an issue with a house either by to may people living there, garbage, etc. if it does not fall under our authority I pass it on to the inspectors. This seems to work well.

If you need additional information please let me know.

R. Fort
Chief of Police
University Heights
Office/Fax: 319-887-6800
Website: uhpolicy.org

From: Norm Cate <norm.cate@gmail.com>
To: pbb338koser <pbb338koser@aol.com>
Cc: ron.fort <ron.fort@uhpolice.org>; louise-from <louise-from@university-heights.org>
Sent: Sun, Jan 27, 2013 11:34 am
Subject: Re: Request for Views on Matters Being Considered by UH Zoning Commission

Hi Pat,

As for the feasibility and usefulness of an annual summary of housing enforcement activity to the zoning commission, I think that can be easily accomplished by combining the monthly reports given by me to the city council that includes all the properties inspected and the complaints, if any, that have been investigated in the previous month.

The disorderly house language cited in your memo, in my opinion, is strong and to the point. Two disorderly citations within a 12 month period may result in up to a year rental permit revocation. That is strong incentive for an owner to engage with his/her tenants to resolve whatever issues are causing the problem.

As for the issuance of disorderly house citations, that obviously is a police action. If a disorderly house citation is issued, the housing official should be notified that such an event occurred and then duly record the activity, as well as notify the property owner of the event and the possible repercussions if similar events occur. If a 2nd offense does occur at the same property within the following 365 days, the housing official may move to seek revocation of the permit. Again, I think that is a pretty strong incentive for property owners to correct the problem. The housing official should also be notified whenever there is a charge of the sale, use, or possession of any controlled substance in violation of Iowa or Federal law in a rental property as this is also an event that may lead to revocation of the rental permit.

As for parking regulations and parking enforcement, I think those assessments should be left to others more qualified than me on such matters.

Norm

POSSIBLE AMENDMENTS OF ORDINANCE NO. 79

(pbb draft - 1/28/13)

Preliminary Identification of Drafting Difficulty Presented by Circumstances of Lots Along East Side of Olive Court, Along East Side of Alley East of Olive Court, and Comparable Circumstances Elsewhere in University Heights

Ten lots along the east side of Olive Court (i.e., 16, 20, 24, 28, 32, 36, 40, 46, 52, & 58 Olive Court) face both Olive Court and the unnamed alley behind those lots; The first seven listed lots presently do not have driveways on Olive Court but do have driveways on the alley, whereas the last three listed lots have driveways on Olive Court but do not have driveways on the alley.

An eleventh lot on the east side of Olive Court (909 Melrose) also faces both Melrose Avenue and the alley, has a driveway on the alley, but does not have driveways on either Olive Court or Melrose Avenue.

Three lots along the east side of the aforementioned alley (905, 903, & 900 Melrose) face no other public street and only have driveways on the alley.

Comparable circumstances are presented by the lots along the north and west sides of Koser Avenue west of Sunset Street, the lots along the east side of Mahaska Drive and Mahaska Court, and the lots along the south side of Mahaska Court. At least one of those lots (375 Koser) has driveways in the yards adjoining both public streets.]

FINDINGS:

CHANGES:

Section 3. Definitions. For the purpose of this ordinance certain terms of words used herein shall be interpreted or defined as follows:

* * *

14. "Front Yard" is the area from one side lot line to the other side lot line and between any overhang or projection of the front of the main building and the front lot line adjacent to the street right-of-way. On corner lots, the front yard may face either street; provided, however, that the front yard for Horn Elementary School faces both Benton Street and Emerald Street such that the areas to the north and to the east of the school building are rear yards (with a required minimum depth of 30 feet) and not side yards. On lots along the east side of Olive Court, along the north and west sides of Koser Avenue west of Sunset Street, along the east side of Mahaska Drive and Mahaska Court, and along the south side of Mahaska Court, the front yards shall be yards facing such named streets. [Note: This language does not address the circumstances of the three lots along east side of the unnamed alley east of Olive Court.]

15. "Rear Yard" is the area from one side lot line to the other side lot line and between any overhang or projection of the rear of the main building and the rear lot line. The rear yard is always on the opposite end of the lot from the front yard.

* * *

Section 8. Yard Regulations.

- A. The following minimum yards shall be provided for each building, as follows:

| <u>ZONE</u> | <u>ONE FRONT YARD HAVING A DEPTH OF</u> | <u>TWO SIDE YARDS HAVING A DEPTH OF</u> | <u>ONE REAR YARD HAVING A DEPTH OF</u> |
|-------------|---|---|--|
| R-1 | 25 ft. | 5 ft. | 30 ft. |

* * *

- D. Open terraces, patios, or concrete slabs that do not extend above the level of ground may project into a required yard, provided these projections remain at least 2 feet from the adjacent lot line, ~~and provided further that the such~~ terraces, patios, or concrete slabs shall not be used for parking of motor vehicles, and that such terraces, patios, or concrete slabs shall not exceed one-third (1/3) of the required rear yard.

Section 10. Off-street Parking Regulations.

* * *

- D. Location of Parking Spaces:

All yards shall remain open space free of parking and driveways unless otherwise provided as follows:

1. In single-family residential (R-1) zones - required parking spaces may be located in the front yard provided that a minimum of two-thirds (2/3rds) of the required front yard area shall remain open space, free of parking spaces and driveways. Provided, however, that required parking spaces may be located in the rear yard of lots along the east side of Olive Court so long as two-thirds of the required rear yard remains open space, free of parking spaces and driveways.

* * *

Section 16. Non-conforming Uses and Buildings.

9. Any driveways, parking spaces, or parking areas in place and in use as of December 1, 2008, that project into a rear

yard may continue to be used if they lead to or provide access to a garage with a door or opening large enough to admit automobiles; and if the door or opening faces the rear yard; and if the door or opening was in place as of December 1, 2008); and if they are constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free surface material. Such non-conforming driveways, parking spaces, or parking areas may be repaired or replaced, but they may not be enlarged. In the event the garage door or opening that faces the rear yard is ever closed off or otherwise abandoned, the non-conforming driveways, parking spaces, or parking areas must be removed and the rear yard shall thereafter conform to the provisions of this ordinance.

10. Any driveways, parking spaces, or parking areas in place and in use as of March 1, 2013, that project into a rear yard may continue to be used if they are directly accessible from a public street adjacent to such rear yard and they are constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free surface material. Such non-conforming driveways, parking spaces, or parking areas may be repaired or replaced, but they may not be enlarged.
11. Any open terraces, patios, or concrete slabs in place and in use as of March 1, 2013 that exceed one-third (1/3) of the required rear yard may continue to be used but any portion thereof cannot be used for parking of motor vehicles must visibly demarcated by distinctive coloring or texturing or by some other equivalent means of above-ground indication.

Dear Owners of Non-Single Family Properties in University Heights:

Last summer the City of University Heights received draft zoning code amendments for bicycle parking from Kristopher Ackerson, MPOJC Assistant Transportation Planner (enclosure, pp. 1-3).

Last fall the University Heights Zoning Commission discussed the advisability of some sort of action at some point time, and in particular considered the appropriateness of provisions eventually affecting existing uses in view of the limited effect of requirements confined to new uses in the circumstances of our mostly built-out community (enclosure, pp. 4-5).

Before proceeding any further, however, the Zoning Commission would like to receive and consider the view of owners of potentially affected properties concerning (i) the extent of any existing bicycle parking, (ii) the perceived extent of existing demand for additional bicycle parking, (iii) possible plans to provide additional bicycle parking sometime down the line, and (iv) the existence and nature of any impediments to advancing such plans (e.g., cost, space available for location, etc.)(enclosure, pp. 5).

You are welcome to provide such input either in writing before the Zoning Commission's next meeting (Tuesday, February 26 in City Hall at 7:00 p.m.) or orally at that meeting. If you have any questions about this request, please don't hesitate to contact me by phone at 338-7551 or by e-mail at ballard@lefflaw.com or Zoning Commission Chair Pat Bauer at 335-9014 or pbb338koser@aol.com.