

**UNIVERSITY HEIGHTS ZONING COMMISSION COMMUNICATIONS
(through July 11, 2009)**

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1	E-Mail from Pat Bauer to Other Commissioners	07/06/10
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21	E-Mail from Pat Bauer to Other Commissioners	07/09/10
22	Attachment - SF 2389 - §§ 16-17 & 22-23.pdf	07/01/10

Bauer, Patrick B

From: pbb338koser@aol.com
Sent: Tuesday, July 06, 2010 9:53 PM
To: wallacegay@mchsi.com; wallu@aol.com; cathlane07@gmail.com; wkrkar@aol.com
Cc: louisebob@mchsi.com; ballard@lefflaw.com
Subject: Thoughts About How We Should Be Proceeding
Attachments: SAPC Letter to Mayor From - Mar. 31, 2010.pdf; Land Use & Finance Segments of Revised UH Comprehensive Plan.pdf; Exchange of E-Mails About Architectual Massing Model & Need for Entrance Onto Sunset.pdf

Dear Commissioners,

Following are my thoughts about how we should be proceeding. Steve Ballard's on vacation this week, so please understand that my thinking is subject to whatever contrary views he might have about anything below.

Formal Action To Be Taken on Both Proposals at Second Meeting

As indicated in my memo of last Tuesday (available in full at < <http://www.university-heights.org/BuildZoneSanit/zoning/StAndrewAlternativeProposal.pdf> >),

"[t]he Zoning Commission recommends to the City Council approval or rejection of submitted rezoning petitions, but on its own initiative the Zoning Commission may also independently propose recommended zoning ordinance changes to the City Council." See University Heights Ordinance No. 79, § 17 (available in full at < <http://www.university-heights.org/ord/ord079amend.pdf> >:

The boundaries of districts as now established and the regulations thereof may be amended, supplemented, changed, or repealed by the City Council from time to time, either [1] upon its own motion, or [2] upon a petition therefore, or [3] upon recommendation of the Zoning Commission as hereinafter provided:

- 1. Any petition for a proposed amendment, supplement, change, modification or repeal of any section of this zoning ordinance shall be filed with the City Clerk ... and the Clerk shall deliver the same to the Zoning Commission for its recommendations and report. If the Zoning Commission makes no report within 45 days from the date of filing of the petition, it shall be considered to have made a report approving the proposed amendment, supplement, modification or change.*
- 2. The Zoning Commission shall file its recommendations and report to the City Clerk*
- 3. If the Zoning Commission recommends against, ... such amendment, supplement, change, modifications or repeal shall not become effective except by the favorable vote of three-fourths (3/4ths) of the members of the Council.*

In the case of a petition for rezoning, my reading of these provisions is that the Commission is expected to either (i) recommend Council approval (either by affirmative vote or by non-action within 45 days) or (ii) recommend against Council approval of the applicant's petition for rezoning. Somewhat differently, in determining whether the Commission shall on its own initiative independently recommend zoning ordinance changes to the City Council, it would seem that the Commission's choice is either (i) to recommend or (ii) not to recommend such changes.

Bringing those readings to bear on the matters at hand, I would think that the Commission could (1) recommend approval of Jeff Maxwell's petition and decline to recommend my proposed alternative (i.e., the Commission endorses Jeff Maxwell's proposal), (2) recommend against approval of Jeff Maxwell's petition and recommend my proposed alternative (i.e., the Commission endorses my proposed alternative (3) recommend approval of Jeff Maxwell's petition and recommend my proposed alternative (i.e., the Commission endorses both Jeff Maxwell's proposal and my proposed

alternative), (4) recommend against approval of Jeff Maxwell's proposal and decline to recommend my proposed alternative (i.e., the Commission does not endorse either Jeff Maxwell's proposal or my proposed alternative).

I would propose that our determination of these matters be done by means of two separate votes (i.e., one on Jeff Maxwell's proposal and a second on my proposed alternative) at the "formal action" phase of our second meeting on July 22.

Outline of Possible Contents of Agendas for Both Meetings

The agendas we followed last year at our two meetings on the prior proposal are available here < http://www.university-heights.org/misc_pdf/Zoning_Agenda_042909.pdf > and here < http://www.university-heights.org/misc_pdf/Zoning-Commission-Agenda-052009.pdf >. As a general matter, I'd propose something similar this time around:

First Meeting [120 minutes total]

Approval of Minutes of Prior Meeting and Overview of Rezoning Procedures and Proceedings [10 minutes]
Presentation of Rezoning Petition by Jeff Maxwell (with Questions by Commissioners) [20 minutes]
Presentation of Possible Alternative by Pat Bauer (with Questions by Commissioners) [10 minutes]
Questions/Comments by JCCOG (John Yapp/Kent Ralston) [10 minutes]
Questions/Comments by City Attorney/City Engineer [10 minutes]
Public Input/Comments [60 minutes]

Second Meeting [90 minutes total]

Approval of Minutes of Prior Meeting and Overview of Rezoning Procedures and Proceedings [5 minutes]
Additional Presentation by Jeff Maxwell [10 minutes]
Additional Presentation by Pat Bauer [5 minutes]
Additional Questions/Comments by JCCOG & City Attorney/Engineer [10 minutes]
Additional Public Input/Comments [30 minutes]
Discussion/Action by Commissioners [30 minutes]

Please let me know if you have concerns about these agenda outlines or suggestions for doing things differently.

Proposed Inclusion of Prior Submissions from Last Year's Proceedings

Last time around, the extent of public participation at four earlier "non-official" public meetings conducted by the applicant prompted a provision in the public notice of the first Zoning Commission meeting about the necessity for "resubmission" of previously submitted written and oral comments (full notice available at <http://www.university-heights.org/misc_pdf/Zoning-Meeting-Notice042009.pdf>):

Prior community meetings (March 5 and 12 at St. Andrew and March 26 and April 7 at the University Athletic Club) were organized by the proposed developers to solicit feedback from residents. Comments from those meetings will not be available to or considered by the Zoning Commission. Any oral communication the applicant or residents desire to have considered must be presented at the Zoning Commission meeting(s). Any written or email communication should be dated April 15 or after and submitted no later than the beginning of the public meeting(s).

In contrast, in an effort to avoid unnecessary duplication of effort this time around the public notice of our first meeting mentioned my intent to ask you to incorporate those prior submissions as part of the

formal record of this year's proceeding (full notice available at < <http://www.university-heights.org/BuildZoneSanit/zoning/NoticeZoning-7-2-10.pdf>>):

Both proposals involve some development features and zoning implications that were involved in an earlier rezoning application considered by the Zoning Commission at meetings on April 29, 2009 and May 20, 2009 and by the University Heights City Council at a meeting on June 9, 2009. Without in any way limiting the submission of any and all further communications about either proposal, please note that the Chairperson will ask the Zoning Commission to incorporate into the formal record of its consideration of the present proposals all materials in connection with those earlier meetings currently posted on the City's website. If persons who previously submitted written or electronic comments are comfortable relying on their prior submissions, they do not need to [] resubmit comments now. They are, however, certainly welcome to do so. The materials currently posted on the City's webpage may be viewed at the following locations:

Zoning Commission Proceedings
<http://www.university-heights.org/zoning.html>

City Council Proceedings
<http://www.university-heights.org/UHCC-SAC.html>
<http://www.university-heights.org/minutes/06-09-09UHCC.pdf>

Because incorporating prior submissions probably obligates us to review them as part of our deliberative processes this time around, when the matter is brought up I hope you will raise any concerns you might have about what such review appropriately should entail.

Circulation and Posting of Additional Submissions in Connection with This Year's Proceedings

The public notice of this year's initial meeting includes the following provision about new written submissions:

Zoning Commission meetings include ample (but not unlimited) time for oral comments by any interested persons. If you are unable to attend, prefer written communication, or wish to say more than time may permit, please mail or email your remarks to the Zoning Commission Chairperson at the addresses listed below. All communications so submitted will be circulated to all Commissioners and assembled for posting on the City's web site.

I'm planning on circulating and posting mid-day next Monday (July 12) all submissions I've received through the end of the prior day (Sunday, July 11) and will do the same mid-day next Thursday (July 15) for all further submissions received through the end of the day on Wednesday, July 14. So that those sets of messages will include all relevant communications, please forward to me anything coming to you directly that seems not to have been copied to me unless you think the communication was not directed to you for purposes of being considered as part of our determination of these matters.

Initial Background Information

Attached are the following three items:

Saint Andrew Presbyterian Church Session 2010 Letter to Mayor From.

Extracted pages from our newly revised Comprehensive Plan concerning land use and financial concerns that should be considered in evaluating rezoning requests (the changes made earlier this year can be separately viewed at < <http://www.university-heights.org/BuildZoneSanit/zoning/NoticeZoning-7-2-10.pdf> >, and a number of documents reflecting the process leading up to the adoption of such revisions are available at <http://www.university-heights.org/CompPlan10/process.html>

E-mail correspondence with John Yapp concerning the potential utility of an architectural massing model and the impact particular changes (i.e., elimination of commercial uses,

reduction in density) might have on the need for and location of a second entrance/exit onto Sunset.

Please let me know if there are any other items that you think should be circulated in conjunction with our consideration of these matters.

Best regards,

Pat



SAINT ANDREW PRESBYTERIAN CHURCH

1300 Melrose Avenue (319) 338-7523
Iowa City, Iowa 52246-1726 (319) 338-8599 - Fax

www.saintandrew-ic.org

March 31, 2010

Mayor Louise From
City of University Heights
1004 Melrose Ave
University Heights, IA 52246

Dear Mayor From,

On behalf of the Session at St. Andrew Presbyterian Church, I would like to thank you and the University Heights City Council for the invitation, via Councilman McGrath, to participate in upcoming City Council meetings regarding the potential rezoning of our property at 1300 Melrose Ave.

After giving this matter great consideration, it was the consensus of Session, that we continue our policy of respectful non-intervention in this political process. While we appreciate that normally a property owner would have both the right and desire to be deeply involved in the process of rezoning, we instead wish that whatever decisions Council makes on this issue will be the result of the thoughtful consideration of your members, and not because of our influence.

That being said, our Session certainly wants to ensure you have whatever information you need from us to make your decisions. Madame Mayor, if your Council has any questions, please feel free to forward them to me via email and I will bring them to Session and then respond directly to you.

Peace,

Allan Mebus
On behalf of St. Andrew Presbyterian Church Session 2010
ramcrash@mchsi.com

City of University Heights

THE HEIGHT OF GOOD LIVING: 2035



A COMPREHENSIVE PLAN FOR THE CITY OF UNIVERSITY HEIGHTS, IOWA

NOVEMBER 2006

AMENDED MAY 2010

LAND USE

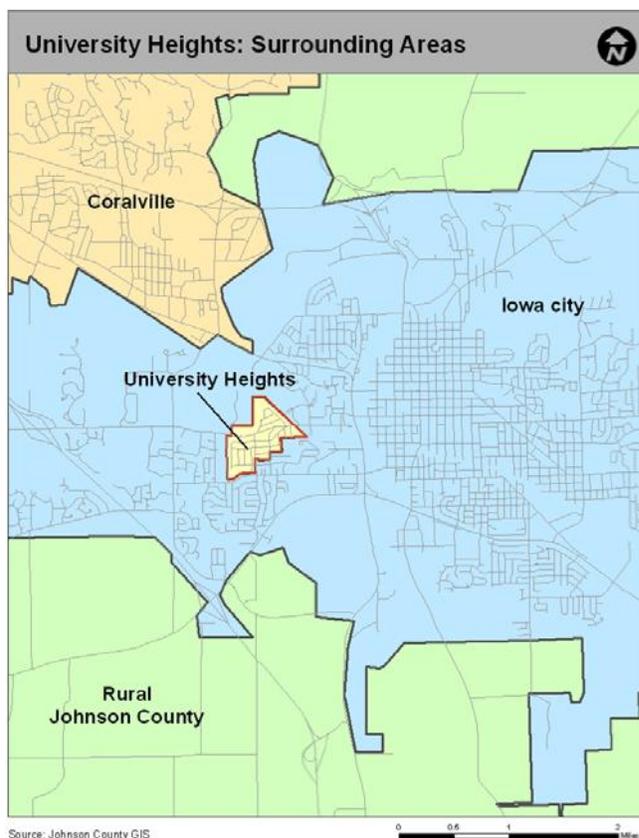
The City of University Heights occupies approximately 170 acres at the highest elevation in Johnson County. It is located half a mile west of the Iowa River and is bordered by the University of Iowa on the northeast and northwest and by Iowa City on its remaining sides. The Cedar Rapids and Iowa City Railway (CRANDIC) separates the city from the University of Iowa. Major thoroughfares of the community include Melrose Avenue and Sunset Street.

RESIDENTIAL

University Heights is almost entirely residential in nature. Over 91% of the community is devoted to the R1 Single Family Residential Zone. At present this zone is largely composed of single-family detached dwellings. The housing stock represents two distinct time periods of development. In the eastern portions of the community, homes date back to the 1930s. Western University Heights, however, consists of homes constructed during the 1960s. Significant differences in architectural styles and lot types exist between these areas.

Public and religious institutions also occupy a significant portion of the R1 zone. These include Ernest Horn Elementary School, which occupies approximately 8.1 acres in southwest University Heights and St. Andrew Presbyterian Church, which occupies approximately 3.4 acres.

In addition to the R1 Single Family Residential Zone, there are also two Planned Unit Developments (PUDs). These consist of Birkdale Court, a 1.6 acre development of semi-detached single-family units, and Grandview Court, a 5.6 acre multi-family complex. Grandview Court is currently undergoing significant renovation and redevelopment.



In addition to the existing Planned Unit Developments, other PUD proposals have been submitted to the University Heights City Council. It is important for the comprehensive plan to provide a context in which to consider planned unit development proposals.

Planned Unit Developments are typically established to permit flexibility in the use and design of structures on a parcel. PUD's should be used to: provide flexibility in the design of buildings, encourage the preservation of natural features, promote energy efficiency, provide attractive living environments, and encourage infill development. In order to ensure that PUD's are not contrary to the look and feel of the surrounding neighborhood, it is important that certain elements of PUD's be addressed during the development process. Elements that should be considered include:*

- Land-use and general site layout
- Building materials and design
- Building mass and scale
- Lot Density
- Streetscaping
- Environmental issues
- Transportation issues & traffic generation
- Negative externalities such as, noise, lighting, signage, and business hours of operation
- Utility provisions
- Fire and Police protection

*Details on each element are provided on Page 9

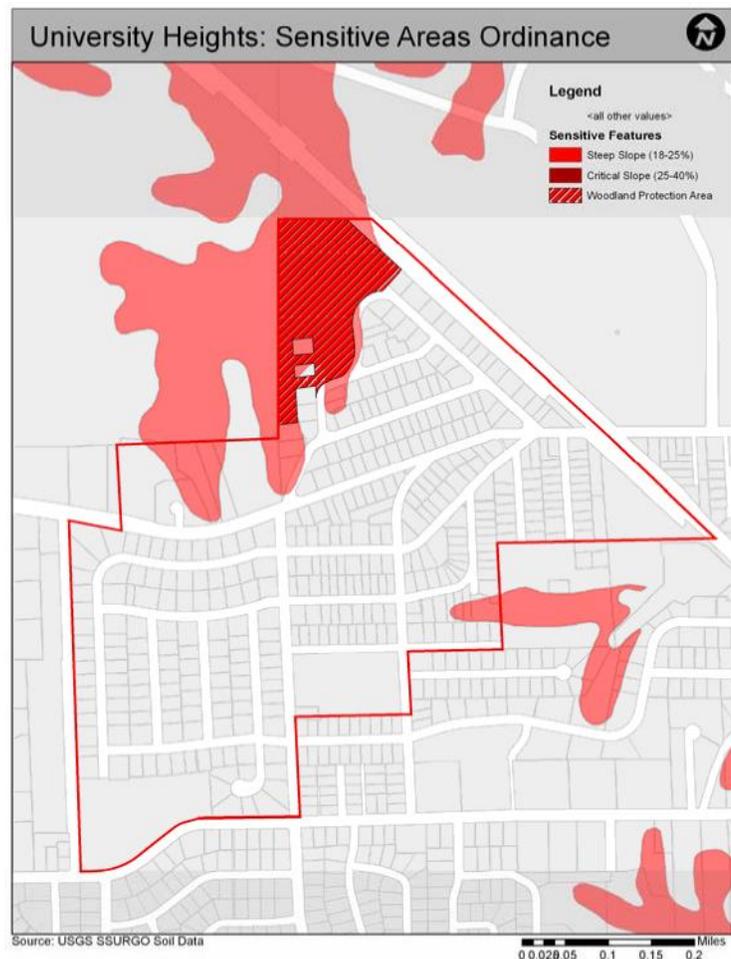
COMMERCIAL

Commercial uses within University Heights are concentrated in two areas. The C Commercial Zone is located on Melrose Avenue at the western edge of the community. This is solely occupied by the University Athletic Club, which occupies approximately 3.8 acres. At the eastern edge of the community, also on Melrose Avenue, several businesses occupy the B Business Zone. This zone consists of about 0.8 acres and includes University Heights City Hall.

OPEN SPACE

Only one large parcel in University Heights remains undeveloped. This parcel is approximately 12.5 acres in size and is located in a steep, heavily wooded portion of the community. This area occupies about 9.5% of University Heights and is located in the northeastern corner of the city. A few small lots remain undeveloped; however new development on most is restricted because of size or difficult terrain.

In order to preserve community natural resources, University Heights established a sensitive areas ordinance in 2003. The ordinance mandates sensitive area development plans and site reviews for areas with sensitive natural features, based upon preserving steep slopes and wooded areas. As a strategy to preserve remaining community open space, the city may wish to seek donations of land or work with property owners to establish conservation easements. In addition, any development of the large parcel in the northeastern corner of the city should be clustered to maximize the retention of open space.

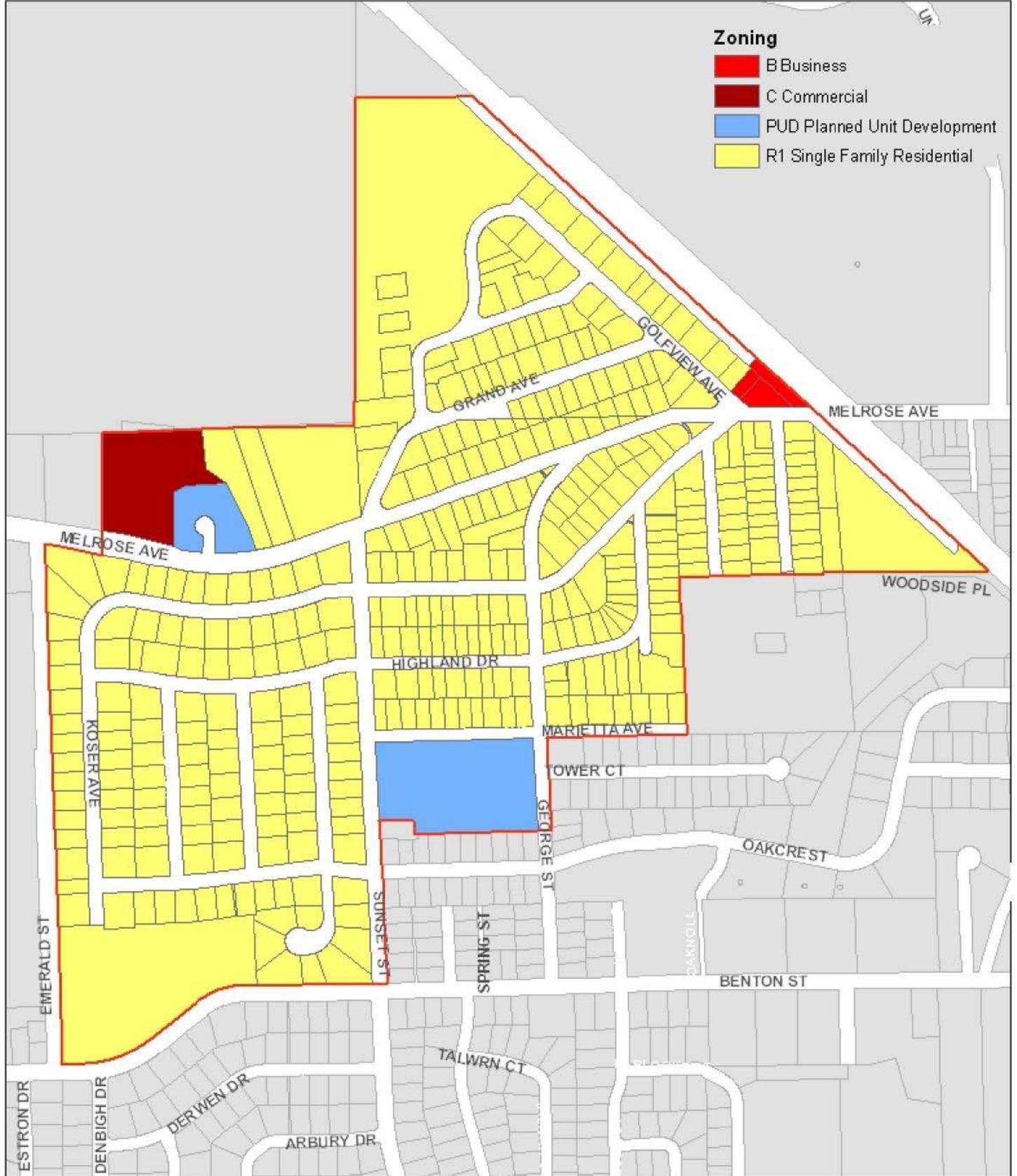


University Heights: Zoning



Zoning

- B Business
- C Commercial
- PUD Planned Unit Development
- R1 Single Family Residential



Source: Johnson County GIS

0 0.05 0.1 0.2 Miles

FUTURE LAND USES

Since University Heights is almost entirely developed, few major changes in land use patterns are anticipated in the immediate future. However, the community must decide the most appropriate use of the large parcel in northeastern University Heights, as well as several larger residential lots. The potential for conversion to commercial or institutional uses must also be evaluated. As pressure builds for the development of the Neuzil tract in Iowa City and as housing stock ages along the adjacent streets, complicated and far-reaching discussions regarding the future of those neighborhoods as small lot single family residences will need to be conducted.

All development proposals submitted to the City of University Heights should include consideration of proposed elements. Consideration of these elements should be given by the City Council and/or professional staff when appropriate. The examination of these elements will ensure that the integrity of the existing neighborhoods and character of the City of University Heights will be preserved and/or enhanced to the degree possible.

With any rezoning or planned unit development proposal, the Planning and Zoning Commission and City Council should consider the proposal in the context of the following criteria. If there is a desire to establish minimum regulatory standards, it would be appropriate for those standards to be outlined in the zoning code.

At a minimum, elements of development to be considered include:

- Land-use and general site layout – Land-use and the general layout of a proposed development should minimize, to the degree possible, any aspect of development that would place an undue burden on the existing developed neighborhood. Such issues could be related to noise, light, traffic, safety, incompatible land-uses, or otherwise. Attention should be given to details that would enhance the compatibility of the proposed land-use with the existing developed neighborhood. Details may include sidewalks, landscaping, setbacks, rooflines, and any other element related to the perimeter of the property that would help incorporate the proposed development with its surroundings. Zoning codes must be strictly adhered to with respect to setbacks and other land-use regulations.

- Building materials and design – Building materials and design should be compatible with the surrounding community and provide energy efficiencies when possible. Aspects of building designs to consider include, but should not be limited to, the location of doorways, the number and size of windows, the roof line and building articulation, awnings, balconies, and other exterior elements.
- Building mass and scale – Building mass and scale are important determining factors of how a building will blend in with its surroundings. If the mass and scale of a proposed building differs from its surroundings, certain design strategies should be employed by a developer to reduce this contrast. The perceived mass of buildings may be minimized by adjusting setbacks, offsets, and other methods to articulate both the horizontal and vertical planes of a building. Any new construction or reconstruction should employ these tools when the mass and scale of a building are of concern.
- Lot Density – The number of dwelling units per unit area of land should be analyzed with the development or redevelopment of any parcel(s). Density of dwelling units, whether too high or low, can affect neighborhood character, traffic and noise levels, the provision of adequate public utilities, the provision of fire and police protection, and can present other issues for the community. To ensure compatibility with the surrounding neighborhood, city officials should analyze the appropriateness of lot density as planned unit development or rezoning proposals are received. On large parcels, higher density development may be appropriate. However, the effects of higher density development on adjacent properties can be minimized by reducing the number of bedrooms per dwelling unit, providing underground parking, requiring increased screening and landscaping on-site, and by providing strategically placed open space. Appropriate lot densities are defined in the adopted University Heights Zoning Code.
- Streetscaping – The perimeter of a site is an important element to consider during any new development or redevelopment in that it serves as the transition from the development to its surroundings. Elements such as planting street trees and other landscaping, installing street furniture, providing vegetative screening and buffering from parking lots and buildings, installing pedestrian scale lighting, sidewalks, trails, and other functional elements, should all be examined with any development proposal. Adequate thought to streetscaping is vital to the success of any development being received by the community.

- Environmental issues – During any development or redevelopment, environmental aspects such as slope, drainage, runoff, and vulnerable species and habitat loss should be evaluated. While all development is disruptive, the applicant/designer should show how the development will minimize erosion, replace any loss of trees and other vegetation, and stabilize slopes where necessary. Any other pollution or environmental issues that may be caused as a result of development and pose a threat to the health of the community should also be considered when appropriate.
- Transportation issues – All issues regarding transportation should be considered with the proposal of any new development or redevelopment. Transportation issues that should be examined include, but are not limited to, traffic generation and circulation, adequacy of road infrastructure, traffic safety, transit, sidewalk and/or trail construction, general pedestrian and bicycle access/accommodation, and ADA accessibility. Successful developments will include discussion of said transportation issues and accommodate all modes of transportation when feasible. Where new development will increase the amount of traffic turning into a driveway, for example, it may be appropriate to require a turn lane(s) as a condition of the development approval.
- Negative externalities – All new developments or redevelopments should limit negative externalities that would affect the surrounding neighborhood to the extent possible. Such externalities may include excess noise, odor, lighting, signage, or other ‘externalities’ that would be a nuisance to the community. Externalities can often be reduced or mitigated with good site design and planning. For example, exterior lighting in the development should not ‘spill-over’ past the property line, beyond ambient light levels found in a residential area, and noise levels may be minimized by restricting the hours of operation for commercial businesses. These issues should be addressed by University Heights officials during the redevelopment process.
- Utility provisions – Prior to any development or redevelopment, the developer’s engineer or site designer should confirm that the water, sewer, and electrical utilities present will be adequate for the proposed development. University Heights officials should require a letter from the Iowa City Public Works Department outlining any capacity upgrades that would be necessary as a result of any development or redevelopment proposal.

Requiring said letter will ensure that any strain placed on utilities 'downstream' of the development can be identified and become part of the negotiation process.

- Fire and Police protection – Prior to any development or redevelopment, the developer should produce a letter from the University Heights Police Department and the Coralville Fire Department indicating that they can provide adequate service and protection to the property. This action will ensure that the community remains a safe and secure environment.

FINANCES

The City of University Heights faces a unique financial situation. As a small community, with a limited commercial base, the city is dependent upon residential property taxes for its revenue. In comparison to surrounding communities, University Heights has lower tax levies. Fortunately, University Heights' location allows for a substantial amount of appreciation in property values and a potential for significant redevelopment.

The City presently is constrained by the State of Iowa property tax rollback. As the residential neighborhoods increase in value a substantial portion of this appreciation is unavailable to the city. In many communities this limitation shifts property tax burdens over to commercial or industrial properties. Given the small amount of commercial space available in University Heights, this way of accommodating the financial effect of the residential property rollback clearly is not an option.

University Heights is also unique in that it contracts with other cities and private companies for essential community services, such as fire protection, water, sewer, bus, library, garbage collection, snow removal, etc. These costs are a significant part of the community's budget, and the city is vulnerable to rate increases by contract providers. Furthermore, the city appears to spend a disproportionately large amount of its budget on public safety.

In addition to being vulnerable to rate increases for contracted services, University Heights is also vulnerable due to the ever-increasing costs of providing public infrastructure that is not covered by contract. As University Heights is forced to replace aging infrastructure as capital improvements projects, the costs of such infrastructure may affect the City's financial stability.

With construction costs increasing, even the reconstruction of small segments of local streets may prove cost prohibitive for the City. For instance, the reconstruction and paving of one mile of a typical two-lane road would cost roughly \$550,000 to \$750,000 with construction costs expected to increase 4%-5% a year for the foreseeable future¹. Given that the City has modest cash reserves, the likelihood that the City could fund such a project locally is unlikely. Even with the use of bonding to fund public works projects, the City may have difficulty paying the requisite debt service.

¹ Cost estimates are for paving only and do not include grading or other related infrastructure; cost estimates from locally completed projects (2009) and the Asphalt Paving Association of Iowa 2009.

Increases in the City's revenues have varied over the last few years but have not outpaced expenditures required of the City. Like most cities, the municipal cash balance fluctuates over time. While the amount of cash reserves per capita is similar to that of many communities, the total fund balance remains relatively small. It is important the University Heights officials give thought to these circumstances prior to making decisions that would affect the City's revenues and expenditures.

To remain financially viable, the City of University Heights should remain open to discussions regarding expansions to its tax base, increases in property levies, and/or decreasing expenses when possible. Through the use of any combination of these tools, the City of University Heights can maximize its ability to remain a financially sound community.

To ensure that both city officials and the public have access to the most current financial information, it would be appropriate to update the financial section of the adopted University Heights Comprehensive Plan every two years. It would be logical for the revision cycle to coincide with City Council election years so that the public can make informed decisions regarding financial matters.

Table 7: 2006 Tax Levies for Selected Municipalities in the Iowa City School District

City	County	Assessor	Ag Extension Council	Area School	State of Iowa	School Total	City Total	Total Levy
University Heights	6.09139	0.32458	0.06224	0.64894	0.004	13.58191	10.6156	31.32866
Coralville	6.09139	0.32458	0.06224	0.64894	0.004	13.58191	12.51888	33.23194
Iowa City	6.09139	0.23765	0.06224	0.64894	0.004	13.58191	17.7292	38.35533

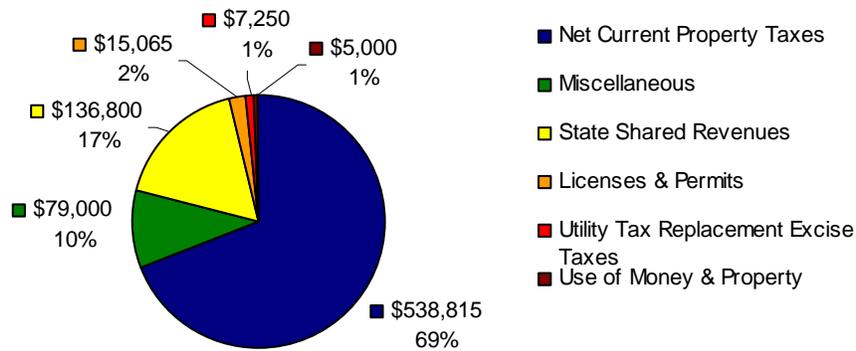
Notes: Taxes based upon 2004 assessed property value
 Table does not reflect taxation within parts of selected municipalities located outside of the Iowa City School District, or special taxation zones located within each municipality.

Data Source: Johnson County Auditor

BUDGET AND REVENUE.

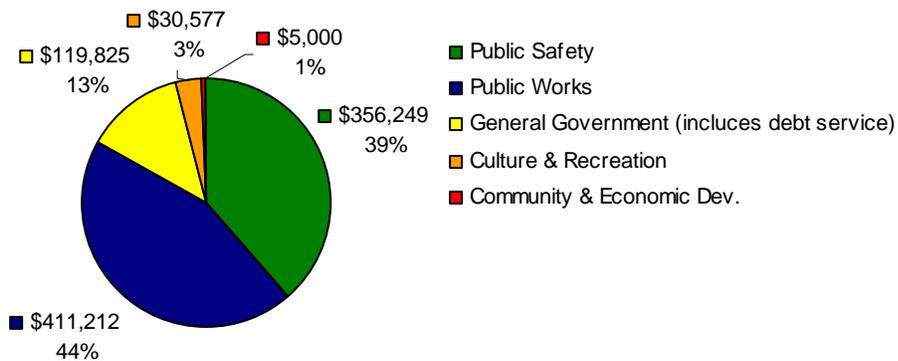
For the 2010 fiscal year the City of University Heights budget indicated expected revenues of \$781,930. This represents an increase of almost \$79,000 over the 2009 fiscal year. By comparison, the 2008 fiscal year increased approximately \$252,000 from 2007. For all three years property taxes represented between 47% and 69% of all revenue

Figure 11: FY10 Budget - Sources of Revenue



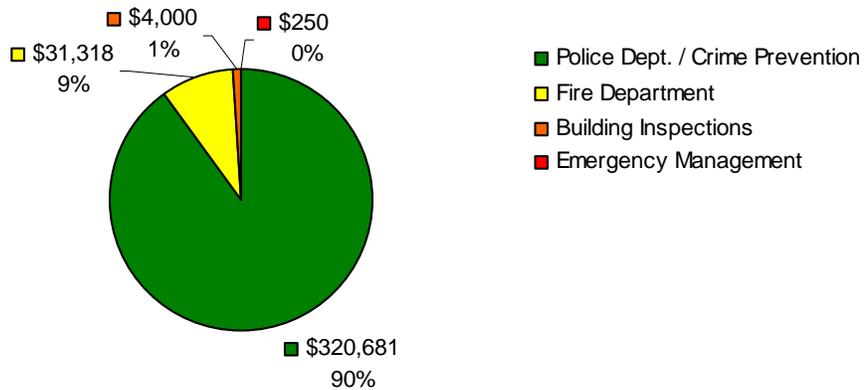
Source: FY2010 University Heights Budget

Figure 12: FY10 Budget - Expenditures



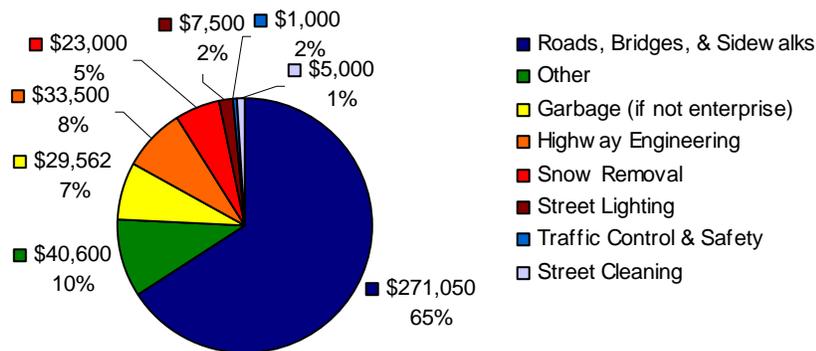
Source: FY2010 University Heights Budget

Figure 13: FY10 Budget - Public Safety



Source: FY2010 University Heights Budget

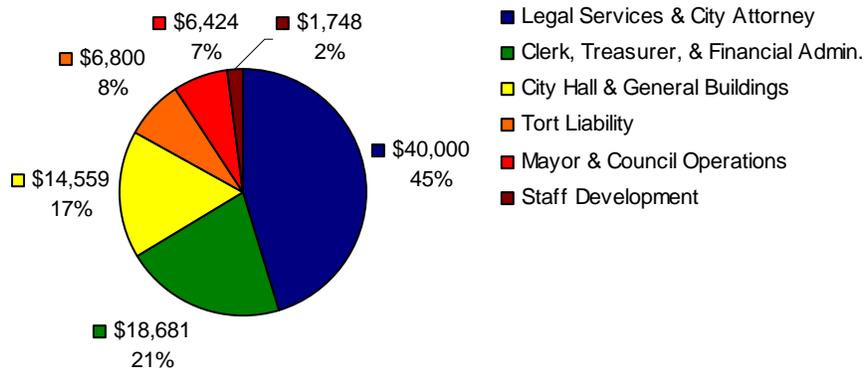
Figure 14: FY10 Budget - Public Works



Source: FY2010 University Heights Budget

For fiscal years 2008 to 2010, the largest share of the University Heights budget was allocated to public safety and public works. In 2010 this amounted to \$356,249 for public safety and \$411,212 for public works (39% and 45% of the total budget respectively).

Figure 15: FY10 Budget - General Government



Source: FY2010 University Heights Budget

The last major portion of the FY10 budget was allocated to general government expenses. In fiscal year 2010 this represented 10% (\$88,212) of the total City budget.

The community is, in many ways, in a financial situation unlike that found anywhere else in Iowa. The following are the goals, strategies, and action steps that should be utilized to strengthen the financial base of University Heights:

GOALS

- Increase municipal revenues or reduce municipal expenditures.
- Encourage maintenance, or where appropriate, redevelopment and new development of housing.
- Encourage more business development, consistent with the commercial makeup the community desires.

IMPLEMENTATION

- Negotiate with Iowa City and Coralville officials for more favorable contractual terms.
- Consider requiring permits for parking operations to subsidize public services such operations necessitate on football game days.
- Develop a capital improvement plan.
- Increase property tax levies to support city services and infrastructure development.
- Increase building, demolition, and other associated permit fees

From: [John Yapp](#)
To: [Bauer, Patrick B](#); [Kent Ralston](#)
Cc: [louise-from@university-heights.org](#); [stan-laverman@university-heights.org](#); [ballard@lefflaw.com](#)
Subject: RE: Two Questions
Date: Friday, June 04, 2010 10:02:50 AM

Good morning Pat – I'll respond in red below

From: Bauer, Patrick B [mailto:patrick-bauer@uiowa.edu]
Sent: Tuesday, June 01, 2010 8:39 PM
To: John Yapp; Kent Ralston
Cc: louise-from@university-heights.org; stan-laverman@university-heights.org; ballard@lefflaw.com
Subject: Two Questions

Dear John and/or Kent,

Re-reading the revised portions of the University Heights Comprehensive Plan has got me thinking about the components of an application package that might facilitate Commission and Council consideration of some of the specified criteria for assessment of a proposed planned unit development of the St. Andrew parcel. Although I'd welcome your suggestion of any others, one particular thing that has come to mind is an "architectural massing model" as an aid to evaluation of "building mass and scale."

I may not be using the right term to describe what I have in mind, but essentially it would include scale models of both the proposed buildings and existing structures on some appropriate set of adjacent properties (perhaps those falling within two hundred feet of the exterior boundaries of the four parcels included in the proposal). I recall the usefulness of something like this being mentioned at some point along the line in connection with the prior application, and am wondering if some advanced identification of it as an appropriate component of a resubmission might have some advantages over it being something that doesn't come up until after a resubmission is in hand. I have no idea of the relative cost of something like this, but would stress that my thinking is along the lines of "little white boxes" rather than "detailed representations" of either the proposed buildings or existing structures. **Yes, the Planning and Zoning Commission are well within their rights to request this type of model to help clarify issues and address issues raised by a rezoning application, particularly if the rezoning application is for a structure not normally permitted without a rezoning process. Architects will usually have done this type of model already for their clients, for significant buildings. A Zoning Commission is able to request additional information which will assist their analysis – you may wish to make this part of your application form for structures above a certain height and/or square-footage (in order to give the applicant a 'heads up' this may be requested)**

Thinking about at least three other criteria ("environmental issues," "transportation issues," and "negative externalities") also brought to mind the effects of (i) creating a second "full service" entrance/exit onto Sunset and (ii) "straightening: the north segment of Sunset at the Melrose intersection. Alone or in combination, these changes would seem to necessitate substantial impacts on environmentally sensitive portions of the existing ravine, a significant alteration of the front yard of a neighboring property, and a substantial increase in traffic on Sunset and Grand. The existing alignment of the north segment of Sunset runs along the eastern edge of the existing ravine, and while geometrically skewed, has worked reasonably well for a number of years.

A somewhat similar alignment involving a considerably higher volume of traffic also exists at Koser and Melrose, with a driver on the side street able to look backward to the left for the near lane and forward to the right for the far lane.

In e-mails we exchanged last year (excerpted below), you mentioned interactions between increased traffic volumes and improving the geometry of the intersection. In view of the difficulties both involve, I'm wondering if protecting both the ravine and the adjacent neighborhood could be sufficient grounds to justify shifting down to a "limited use/emergency" entrance/exit closer to the Melrose intersection that might lessen the need to building back into the existing ravine. I certainly appreciate the difficulties in dealing in matters of degree, but is there some point (e.g., elimination of commercial uses, a smaller number of residential units) at which the need to fill in the ravine to create a second "full service" entrance/exit onto Sunset possibly could be avoided? **A few thoughts:**

- We definitely recommend a second access (in the context of the Maxwell proposal), due to the height of the proposed building and the density. The building height and density will require multiple emergency response providers if there are issues, as well as delivery vehicles, utility service vehicles, etc. Whether or not this is a full access or minor access depends on the design of the development and of the Melrose/Sunset intersection [the Maxwell proposal did not include a full access to Melrose nor Sunset – it was a right-turn-out only on Sunset to limit the traffic volumes on Sunset to the north of the development]
- It certainly can be designed for the access to Sunset to be the minor access, and for any improvements to Sunset to minimize disturbance to the ravine. Sunset does not necessarily need to be altered significantly (that would be up to University Heights), but we would recommend taking the opportunity to straighten it at least moderately, if something of this density is proposed.
- Compared to Koser (at Melrose) for example, Koser appears to meet Melrose closer to a 90-degree angle, which helps with sight-distance for the driver. Incidentally, if there is an opportunity we would recommend straightening Koser or any skewed intersection.
- The less Sunset is straightened, the closer an access from the development will need to be to the Sunset/Melrose intersection (or the need for a bridge/culvert over the ravine). We typically recommend 100-150 feet between an arterial street intersection and a medium-to-high volume access point, to allow for vehicle queuing at the intersection.
- Straightening Sunset I think would benefit the residential property on the east side of Sunset by creating more of a separation and deeper front yard? I guess that is a subjective viewpoint.
- Re the desire to protect the ravine, it might be valuable to have Josiah or somebody take a closer look at the ravine – is it eroding and would benefit from stabilization; are there ways it can be enhanced? Or is it a stable already?
- Finally, if most traffic is focused on the access to Melrose, it may be worth having us do a traffic signal study for that access. I'd be concerned at having too much traffic focused on one access point without some kind of traffic control. If and when you receive a development application, we can take a look at this.
- Be happy to get together a look over development plans when you receive them. . .

Have a good weekend,

John Yapp

Bauer, Patrick B

From: pbb338koser@aol.com
Sent: Friday, July 09, 2010 11:32 AM
To: wallacegay@mchsi.com; wallu@aol.com; cathlane07@gmail.com; wkrkar@aol.com
Cc: louisebob@mchsi.com; ballard@lefflaw.com
Subject: New State Law
Attachments: SF 2389 - §§ 16-17 & 22-23.pdf

Dear Commissioners,

Attached are §§ 16-17 & 22-23 of S.F. 2389 (effective July 1, 2010).

As you'll see, these sections (1) establish ten "smart planning principles" that "local governments [] and other public entities *shall* consider and *may* apply ...during deliberation of all appropriate ... zoning ... decisions" [new Iowa Code § 18B.1 (emphasis added)] and (2) set forth thirteen categories of information that "a municipality ... *may* include ... when amending ... local land development regulations" [new Iowa Code § 18B.2(2) (emphasis added)].

Although the recent revision of our Comprehensive Plan was completed before they became effective, these provisions apparently are applicable going forward to both Zoning Commission and Council consideration of Jeff Maxwell's petition and my proposed alternative. Subject to contrary directions from JCCOG staff and/or our City Attorney, however, it may well be that these newly applicable provisions are to some substantial extent effectively subsumed within the various criteria recently added to our Comprehensive Plan and the accompanying direction that "[w]ith any rezoning or planned unit development proposal, the ... Zoning Commission and City Council *should* consider the proposal in the context of [such] criteria" [May 2010 Comprehensive Plan, p. 9 (emphasis added)].

Best regards,

Pat

Senate File 2389 - Reprinted

SENATE FILE 2389
BY COMMITTEE ON APPROPRIATIONS
(SUCCESSOR TO SSB 3258)

(As Amended and Passed by the Senate March 27, 2010)

A BILL FOR

1 An Act relating to and making, reducing, and transferring
2 appropriations to state departments and agencies from
3 the rebuild Iowa infrastructure fund, the technology
4 reinvestment fund, the revenue bonds capitals fund, the
5 revenue bonds capitals II fund, the FY 2009 prison bonding
6 fund, and other funds, creating the Iowa jobs II program,
7 and the revenue bonds federal subsidy holdback fund,
8 providing for related matters, and providing an effective
9 date.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION VII
SMART PLANNING

Sec. 16. NEW SECTION. 18B.1 Iowa smart planning principles.
State agencies, local governments, and other public entities shall consider and may apply the following principles during deliberation of all appropriate planning, zoning, development, and resource management decisions, except that nothing in this section shall be construed to expand the eminent domain authority of a state agency, local government, or other public

1 entity beyond that which is authorized under chapter 6A or 6B:

2 1. *Collaboration.* Governmental, community, and individual
3 stakeholders, including those outside the jurisdiction of the
4 entity, are encouraged to be involved and provide comment
5 during deliberation of planning, zoning, development, and
6 resource management decisions and during implementation of such
7 decisions. The state agency, local government, or other public
8 entity is encouraged to develop and implement a strategy to
9 facilitate such participation.

10 2. *Efficiency, transparency, and consistency.* Planning,
11 zoning, development, and resource management should be
12 undertaken to provide efficient, transparent, and consistent
13 outcomes. Individuals, communities, regions, and governmental
14 entities should share in the responsibility to promote the
15 equitable distribution of development benefits and costs.

16 3. *Clean, renewable, and efficient energy.* Planning, zoning,
17 development, and resource management should be undertaken to
18 promote clean and renewable energy use and increased energy
19 efficiency.

20 4. *Occupational diversity.* Planning, zoning, development,
21 and resource management should promote increased diversity
22 of employment and business opportunities, promote access to
23 education and training, expand entrepreneurial opportunities,
24 and promote the establishment of businesses in locations near
25 existing housing, infrastructure, and transportation.

26 5. *Revitalization.* Planning, zoning, development, and
27 resource management should facilitate the revitalization
28 of established town centers and neighborhoods by promoting
29 development that conserves land, protects historic resources,
30 promotes pedestrian accessibility, and integrates different
31 uses of property. Remediation and reuse of existing
32 sites, structures, and infrastructure is preferred over new
33 construction in undeveloped areas.

34 6. *Housing diversity.* Planning, zoning, development, and
35 resource management should encourage diversity in the types

1 of available housing, support the rehabilitation of existing
2 housing, and promote the location of housing near public
3 transportation and employment centers.

4 7. *Community character.* Planning, zoning, development, and
5 resource management should promote activities and development
6 that are consistent with the character and architectural style
7 of the community and should respond to local values regarding
8 the physical character of the community.

9 8. *Natural resources and agricultural protection.*
10 Planning, zoning, development, and resource management should
11 emphasize protection, preservation, and restoration of natural
12 resources, agricultural land, and cultural and historic
13 landscapes, and should increase the availability of open spaces
14 and recreational facilities.

15 9. *Sustainable design.* Planning, zoning, development, and
16 resource management should promote developments, buildings, and
17 infrastructure that utilize sustainable design and construction
18 standards and conserve natural resources by reducing waste and
19 pollution through efficient use of land, energy, water, air,
20 and materials.

21 10. *Transportation diversity.* Planning, zoning,
22 development, and resource management should promote expanded
23 transportation options for residents of the community.
24 Consideration should be given to transportation options that
25 maximize mobility, reduce congestion, conserve fuel, and
26 improve air quality.

27 Sec. 17. NEW SECTION. 18B.2 Local comprehensive planning
28 and development guidelines.

29 1. For the purposes of this chapter, unless the context
30 otherwise requires:

31 a. (1) "Development" means any of the following:

32 (a) Construction, reconstruction, renovation, mining,
33 extraction, dredging, filling, excavation, or drilling activity
34 or operation.

35 (b) Man-made changes in the use or appearance of any

1 structure or in the land itself.

2 (c) The division or subdivision of land.

3 (d) Any change in the intensity of use or the use of land.

4 (2) "Development" does not include any of the following:

5 (a) Activities on or uses of agricultural land, farm houses,
6 or agricultural buildings or structures, unless such buildings
7 or structures are located in the flood plain of a river or
8 stream.

9 (b) Installation, operation, and maintenance of soil and
10 water conservation practices.

11 (c) The choice of crops or a change in the choice of crops
12 on agricultural land.

13 b. "Land development regulations" means zoning, subdivision,
14 site plan, corridor map, floodplain or storm water ordinances,
15 rules, or regulations, or other governmental controls that
16 affect the use of property.

17 c. "Municipality" means a city or a county.

18 2. A municipality shall consider the smart planning
19 principles under section 18B.1 and may include the following
20 information, if applicable, when developing or amending
21 a comprehensive plan under chapter 335 or chapter 414 or
22 when developing or amending other local land development
23 regulations:

24 a. Information relating to public participation during
25 the creation of the comprehensive plan or land development
26 regulations, including documentation of the public
27 participation process, a compilation of objectives, policies,
28 and goals identified in the public comment received, and
29 identification of the groups or individuals comprising any work
30 groups or committees that were created to assist the planning
31 and zoning commission or other appropriate decision-making body
32 of the municipality.

33 b. Information relating to the primary characteristics
34 of the municipality and a description of how each of those
35 characteristics impacts future development of the municipality.

1 Such information may include historical information about
2 the municipality, the municipality's geography, natural
3 resources, natural hazards, population, demographics, types of
4 employers and industry, labor force, political and community
5 institutions, housing, transportation, educational resources,
6 and cultural and recreational resources. The comprehensive
7 plan or land development regulations may also identify
8 characteristics and community aesthetics that are important to
9 future development of the municipality.

10 c. Objectives, information, and programs that identify
11 current land uses within the municipality and that guide the
12 future development and redevelopment of property, consistent
13 with the municipality's characteristics identified under
14 paragraph "b". The comprehensive plan or land development
15 regulations may include information on the amount, type,
16 intensity, and density of existing land use, trends in
17 the market price of land used for specific purposes, and
18 plans for future land use throughout the municipality. The
19 comprehensive plan or land development regulations may identify
20 and include information on property that has the possibility
21 for redevelopment, a map of existing and potential land use
22 and land use conflicts, information and maps relating to
23 the current and future provision of utilities within the
24 municipality, information and maps that identify the current
25 and future boundaries for areas reserved for soil conservation,
26 water supply conservation, flood control, and surface water
27 drainage and removal. Information provided under this
28 paragraph may also include an analysis of the current and
29 potential impacts on local watersheds and air quality.

30 d. Objectives, policies, and programs to further the
31 vitality and character of established residential neighborhoods
32 and new residential neighborhoods and plans to ensure an
33 adequate housing supply that meets both the existing and
34 forecasted housing demand. The comprehensive plan or land
35 development regulations may include an inventory and analysis

1 of the local housing stock and may include specific information
2 such as age, condition, type, market value, occupancy, and
3 historical characteristics of all the housing within the
4 municipality. The comprehensive plan or land development
5 regulations may identify specific policies and programs that
6 promote the development of new housing and maintenance or
7 rehabilitation of existing housing and that provide a range of
8 housing choices that meet the needs of the residents of the
9 municipality.

10 *e.* Objectives, policies, and programs to guide future
11 development of sanitary sewer service, storm water management,
12 water supply, solid waste disposal, wastewater treatment
13 technologies, recycling facilities, and telecommunications
14 facilities. The comprehensive plan or land development
15 regulations may include estimates regarding future demand for
16 such utility services.

17 *f.* Objectives, policies, and programs to guide the future
18 development of a safe, convenient, efficient, and economical
19 transportation system. Plans for such a transportation system
20 may be coordinated with state and regional transportation
21 plans and take into consideration the need for diverse modes
22 of transportation, accessibility, improved air quality, and
23 interconnectivity of the various modes of transportation.

24 *g.* Objectives, policies, and programs to promote the
25 stabilization, retention, or expansion of economic development
26 and employment opportunities. The comprehensive plan or land
27 development regulations may include an analysis of current
28 industries and economic activity and identify economic growth
29 goals for the municipality. The comprehensive plan or land
30 development regulations may also identify locations for future
31 brownfield or grayfield development.

32 *h.* Objectives, policies, and programs addressing
33 preservation and protection of agricultural and natural
34 resources.

35 *i.* Objectives, policies, and programs to assist future

1 development of educational facilities, cemeteries, health
2 care facilities, child care facilities, law enforcement and
3 fire protection facilities, libraries, and other governmental
4 facilities that are necessary or desirable to meet the
5 projected needs of the municipality.

6 *j.* Objectives, policies, and programs to identify
7 characteristics and qualities that make the municipality unique
8 and that are important to the municipality's heritage and
9 quality of life.

10 *k.* Objectives, policies, and programs that identify the
11 natural and other hazards that have the greatest likelihood of
12 impacting the municipality or that pose a risk of catastrophic
13 damage as such hazards relate to land use and development
14 decisions, as well as the steps necessary to mitigate risk
15 after considering the local hazard mitigation plan approved by
16 the federal emergency management agency.

17 *l.* Objectives, policies, and programs for joint planning
18 and joint decision making with other municipalities or
19 governmental entities, including school districts and drainage
20 districts, for siting and constructing public facilities and
21 sharing public services. The comprehensive plan or land
22 development regulations may identify existing or potential
23 conflicts between the municipality and other local governments
24 related to future development of the municipality and may
25 include recommendations for resolving such conflicts. The
26 comprehensive plan or land development regulations may
27 also identify opportunities to collaborate and partner with
28 neighboring jurisdictions and other entities in the region for
29 projects of mutual interest.

30 *m.* A compilation of programs and specific actions necessary
31 to implement any provision of the comprehensive plan, including
32 changes to any applicable land development regulations,
33 official maps, or subdivision ordinances.

34 3. A municipality's comprehensive plan developed using the
35 guidelines under this section shall address prevention and

S.F. 2389

1 mitigation of, response to, and recovery from a catastrophic
2 flood.

5 Sec. 22. Section 414.3, Code 2009, is amended to read as
6 follows:

7 **414.3 Basis of regulations.**

8 1. The regulations shall be made in accordance with a
9 comprehensive plan and designed to preserve the availability of
10 agricultural land; to consider the protection of soil from wind
11 and water erosion; to encourage efficient urban development
12 patterns; to lessen congestion in the street; to secure safety
13 from fire, flood, panic, and other dangers; to promote health
14 and the general welfare; to provide adequate light and air; to
15 prevent the overcrowding of land; to avoid undue concentration
16 of population; to promote the conservation of energy resources;
17 to promote reasonable access to solar energy; and to facilitate
18 the adequate provision of transportation, water, sewerage,
19 schools, parks, and other public requirements. However,
20 provisions of this section relating to the objectives of energy
21 conservation and access to solar energy do not void any zoning
22 regulation existing on July 1, 1981, or require zoning in a
23 city that did not have zoning prior to July 1, 1981.

24 2. ~~Such~~ The regulations shall be made with reasonable
25 consideration, among other things, as to the character of the
26 area of the district and the peculiar suitability of such area
27 for particular uses, and with a view to conserving the value
28 of buildings and encouraging the most appropriate use of land
29 throughout such city.

30 3. The regulations and comprehensive plan shall be made with
31 consideration of the smart planning principles under section
32 18B.1 and may include the information specified in section
33 18B.2, subsection 2.

34 4. a. A comprehensive plan recommended for adoption by
35 the zoning commission established under section 414.6, may be

1 adopted by the council. The council may amend the proposed
2 comprehensive plan prior to adoption. The council shall
3 publish notice of the meeting at which the comprehensive plan
4 will be considered for adoption. The notice shall be published
5 as provided in section 362.3.

6 b. Following its adoption, copies of the comprehensive plan
7 shall be sent or made available to the county in which the city
8 is located, neighboring counties and cities, the council of
9 governments or regional planning commission where the city is
10 located, and public libraries within the city.

11 c. Following its adoption, a comprehensive plan may be
12 amended by the council at any time.

13 Sec. 23. Section 414.6, Code 2009, is amended to read as
14 follows:

15 **414.6 Zoning commission.**

16 1. In order to avail itself of the powers conferred by
17 this chapter, the council shall appoint a commission, to be
18 known as the zoning commission, to recommend the boundaries of
19 the various original districts, and appropriate regulations
20 and restrictions to be enforced therein. Where a city plan
21 commission already exists, it may be appointed as the zoning
22 commission. Such commission shall, with due diligence, prepare
23 a preliminary report and hold public hearings thereon before
24 submitting its final report; and such council shall not hold
25 its public hearings or take action until it has received the
26 final report of such commission. After the adoption of such
27 regulations, restrictions, and boundaries of districts, the
28 zoning commission may, from time to time, recommend to the
29 council amendments, supplements, changes, or modifications.

30 2. The zoning commission may recommend to the council for
31 adoption a comprehensive plan pursuant to section 414.3, or
32 amendments thereto.