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October 11, 2013

Chair and Members, University
Heights Zoning Commission
Via email only

Mr. Patrick Bauer - pbb338koser@aol.com
Ms. Alice Haugen - alice.haugen@gmail.com
Ms. Kris McLure - krismcclure@yahoo.com
Ms. Sylvia Quezada - smql30@hotmail.com
Mr. Larry Wilson - larry-wilson@uiowa.edu

**Re: Lot 115, University Heights First Addition -
Application for Zoning Amendment**

Ladies and Gentlemen:

The University Heights Zoning Commission will meet at 7:00 p.m. October 17, 2013, at the City Office, 1004 Melrose Avenue. The Commission will consider a request for an amendment to the zoning ordinance by the owners of Lot 115, University Heights First Addition. This property is located just south (and below) 62 Highland Drive.

The owners of the property, Reed and Sandy Carlson, propose to construct a single-family dwelling on this property. Of course, that use already is permitted by the zoning ordinance. The purpose for the rezoning request concerns location of the driveway and parking area only. The Carlsons propose to construct a driveway and parking area in the rear yard of this property, and those features would require a zoning change. I am enclosing a site plan prepared by MMS Consultants, Inc. that depicts the proposed driveway and parking area (shaded pink on the enclosed plan).

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Here is a brief history of the zoning ordinance as it concerns parking on rear yards:

- The ordinance defines "rear yard" as the area from one side lot line to the other between the rear of the main building and the rear lot line. In other words, if you extend a line from the rear of the building to each side lot line and then proceed to the back of the lot, you have outlined the "rear yard".
- When it was adopted in 1982, the University Heights Zoning Ordinance did not permit parking in rear yards. The original zoning ordinance permitted certain nonconforming uses that existed when the ordinance was adopted. Such uses are commonly referred to as having been "grandfathered".
- In 2009, the University Heights City Council amended the zoning ordinance to permit then-existing driveways, parking spaces, and parking areas in rear yards to continue if they had the following characteristics: 1) they lead to or provide access to a garage with a door or opening large enough to admit automobiles; 2) the door or opening faces the rear of the yard; 3) the door or opening was in place as of December 1, 2008; and 4) they are constructed of permanent, dust-free surface material such as concrete or asphalt. If the Carlson's planned home and proposed driveway and parking area had been constructed before December 1, 2008, they would have been permitted to continue by the 2009 zoning amendment.
- In 2013, at the recommendation of the Zoning Commission, the University Heights City Council further amended the zoning ordinance to permit certain driveways and parking areas in the rear yards of lots on the east side of Olive Court. I trust that you will recall these circumstances and discussions, given that the current Commission forwarded the recommendations on to the City Council. In a nutshell, the 2013 amendment acknowledged that lots along the east side of Olive Court were different than lots in nearly all other parts of the city because very few had vehicle access from the front. Thus, portions of the

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zoning ordinance, in place since it was adopted in 1982, permitting parking in front yards did these particular lots little good. The 2013 amendment permitted the Olive Court lots to locate parking and driveways in their rear yards.

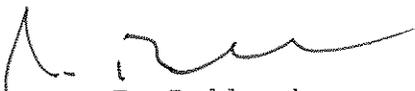
Aside from (1) the original "grandfathered" parking in rear yards, (2) the parking permitted by the 2009 amendment, and (3) the Olive Court lots, parking in rear yards remains prohibited by the zoning ordinance. Moreover, the zoning ordinance does not have any sort of feature or mechanism for the Commission, the Board of Adjustment, or the City Council itself to grant any sort of "variance" or "exception" that would permit the Carlsons to present their request more informally. Instead, an amendment to the zoning ordinance itself is required.

The ordinance amendment will concern only Lot 115, University Heights First Addition, unless the Zoning Commission or City Council directs otherwise. Although concerns about "spot zoning" may arise when a provision creates special rules for just one lot, in my opinion, the physical characteristics of this lot permit the Commission to recommend and the Council to adopt such changes.

Please call or email me if you have questions with respect to this matter. Otherwise, I will see you at 7:00 p.m. October 17.

Very truly yours,

LEFF LAW FIRM, L.L.P.



Steven E. Ballard

cc: Mr. Glen D. Meisner
Mr. Scott B. Pottorff
MMS CONSULTANTS, INC.
Mr. C. Joseph Holland
Mayor, Council, and Staff
CITY OF UNIVERSITY HEIGHTS, IOWA