

# AGENDA

**City of University Heights, Iowa**  
**Public Hearing & City Council Meeting**  
*Tuesday, Sept. 14, 2010*  
7:00 – 9:00 P.M. **University Athletic Club**  
Meeting called by Mayor Louise From

Time	Topic	Owner
7:00	Call to Order Public Hearing Roll Call	Louise From

## **Public Hearing on Proposed Amendments to City Zoning Ordinance (No. 79)**

### **Call to Order Public Hearing**

- Public hearing on proposed amendments to the City's Zoning Ordinance (No. 79). Two proposals have been submitted to the Council; both concern property owned by St. Andrew Presbyterian Church and property adjacent to the east, generally at the northwest corner of Melrose Avenue and Sunset Street. One proposal creates a Multiple-Family Commercial Zone that would establish a procedure for the property to be redeveloped as a mixed-use commercial and residential development comprising no more than 2 buildings, 95 dwelling units, and 20,000 square feet of commercial space, among other limitations and restrictions. The other proposal creates a Residential Redevelopment Planned Unit Development that would establish a procedure for the property to be redeveloped as a multiple-family residential development comprising no more than 2 buildings, 74 dwelling units, and no commercial space, among other limitations and restrictions.

Louise From

### Call to Order Regular Meeting

Approval of city council Minutes: August 10, and work session Minutes: August 24

Louise From

First consideration of Ordinance No. 180 amending the City's Zoning Ordinance (No. 79) to create a Multiple-Family Commercial Zone and establish a procedure for St. Andrew Presbyterian Church property, as

City council members

well as property adjacent to the east, to be redeveloped as a mixed-use commercial and residential development comprising no more than 2 buildings, 95 dwelling units, and 20,000 square feet of commercial space, among other limitations and restrictions.

- First consideration of Ordinance No. 181 amending the City's Zoning Ordinance (No. 79) to create a Residential Redevelopment Planned Unit Development and establish a procedure for St. Andrew Presbyterian Church property, as well as property adjacent to the east, to be redeveloped as a multiple-family residential development comprising no more than 2 buildings, 74 dwelling units, and no commercial space, among other limitations and restrictions

**Administration**

-Mayor	Mayor Report	Louise From
-City Attorney	Legal Report - Consideration of request by Paul Moore to place landscaping stone in small portion of city right-of-way near new patio of restaurant at 1006 Melrose Avenue	Steve Ballard
-City Clerk	City Clerk Report	Chris Anderson

**Committee Reports:**

<u>Finance</u>	Committee Report - Treasurer's Report/ Payment of Bills	Brennan McGrath Lori Kimura
<u>Community Protection</u>	Committee Report - Establishment of Lieutenant Role - Appointment of Officers - Lieutenant position - Sergeant position	Jim Lane/ Mike Haverkamp
	Police Chief report	Ron Fort
<u>Streets and Sidewalks</u>	Streets & Sidewalks Report - Consideration of Resolution 10-18, approving City of University Height's street report to be submitted by Steve Kuhl to the Iowa Department of Transportation for 2008-2009	Pat Yeggy
	Engineer Report	Josiah Bilskemper
<u>Building, Zoning &amp; Sanitation</u>	Committee Report	Stan Laverman
<u>E-Government</u>	Committee Report	Mike Haverkamp
<u>Johnson County Council of Governments (JCCOG)</u>	Committee Report	Louise From

<b>8:55</b>	Announcements	Anyone
<b>9:00</b>	Adjournment	Louise From

**Next Regular Council Meeting: Tuesday, October 12, 2010**

ORDINANCE NO. 180

AN ORDINANCE AMENDING ORDINANCE NO. 79 (ZONING) TO CREATE  
A MULTIPLE-FAMILY COMMERCIAL ZONE AND PERMIT DEVELOPMENT  
PURSUANT TO A MULTIPLE-FAMILY PUD

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS,  
JOHNSON COUNTY, IOWA:

**PART I. FINDINGS:**

Whereas, the University Heights City Council hereby makes, adopts, and ratifies the following findings relating to the rezoning of certain real property owned by and adjacent to St. Andrew Presbyterian Church (hereinafter "the property") for which a development application has been received that would require rezoning:

1. Commercial uses within University Heights are concentrated in two areas along Melrose Avenue: the C Commercial Zone located on the western edge of the community, and the B Business Zone, located on the eastern edge of the community.
2. The property is bordered to the south by Melrose Avenue, an arterial street according to Johnson County Council of Governments ("JCCOG"), the regional traffic planning body, and the main traffic thoroughfare in University Heights.
2. The property is bordered to the west by a deep ravine. West of the ravine is a Planned Unit Development (PUD) containing single-family dwellings, and further to the west is the city's C Commercial Zone, the location of the University Athletic Club.
3. The property is bordered to the north by a parking lot and wooded area owned by the University of Iowa, and single-family dwellings in the R-1 Single Family Residential zone.
4. The property is bordered to the east by Grand Avenue and single-family dwellings in the R-1 Single Family Residential zone.
5. The property differs from surrounding single-family properties in its use and has for many years. The majority of surrounding properties are single-family homes, while the St. Andrew property comprises a church and a large parking lot. The property is one of few parcels in University Heights zoned R-1 and not occupied by single-family dwellings.
6. The comprehensive plan of the City of University Heights provides that the predominance of residential land uses creates a concern about future financial stability for the community, and that "[t]he potential for conversion to commercial or institutional uses" should be evaluated.
7. Rezoning of the property from R-1 Single Family Residential use to Multiple-Family Commercial use addresses this concern by allowing for mixed-use development.
8. During its deliberations of this Ordinance No. 180, the University Heights City Council considered all the following "smart planning principles", as required by Iowa Code § 18B.1:

- a. Collaboration;
- b. Efficiency, transparency, and consistency;
- c. Clean, renewable, and efficient energy;
- d. Occupational diversity;
- e. Revitalization;
- f. Housing diversity;
- g. Community character;
- h. Natural resources and agricultural protection;
- i. Sustainable design; and
- j. Transportation diversity.

**PART II. AMENDMENTS:**

Based upon these Findings, but subject to the contingencies and conditions set forth in Part III of this Ordinance No. 180, The University Heights Zoning Ordinance (No. 79) is amended as follows (additions are shown by underline; deletions by ~~strike through~~; omissions by "\*\*\*\*\*"):

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Section 5. Districts and Boundaries Thereof.

- A. In order to classify, regulate and restrict the location of residences, trades, industries, businesses, and other land uses and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereinafter erected or structurally altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards and other open spaces around such buildings, the City of University Heights, Iowa, is hereby divided into ~~Five (5)~~ Six (6) zones, to-wit:
  - 1. R-1 Single-Family residential.
  - 2. R-3 Multiple-Family residential.
  - 3. B Business.
  - 4. C Commercial.
  - 5. PUD Planned Unit Development.
  - 6. Multiple-Family Commercial.

\*\*\*\*

Section 6. Uses. Use of property in the City of University Heights shall be limited to those uses set forth as follows:

- A. Property in an R-1 Single-Family Residential zone shall be used for the following purposes only:
  - 1. One single-family dwelling per lot.
  - 2. Public schools, public libraries, public parks and public playgrounds.
  - 3. Churches and places of worship and parochial schools.

4. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity conducted as a business. Such accessory buildings shall not be used for human occupancy or living.
5. One person not a member of the family as defined herein may occupy the premises as part of the individual housekeeping unit.
6. Home occupations.

\*\*\*\*

F. Property in a Multiple-Family Commercial zone shall be used for the following purposes only:

1. All uses which are allowed in an R-1 Single-Family Residential Zone, subject to the height restrictions, yard regulations, lot regulations, and off-street parking regulations specified for the R-1 Single-Family Residential Zone in Sections 7, 8, 9, and 10 of this Ordinance.
2. As provided in or limited by the Development Agreement between the City of University Heights and the Developer pursuant to the Multiple-Family Commercial Planned Unit Development (PUD) regulations and requirements set forth in Section 13 of this Ordinance.
  - a. When development occurs pursuant to a Multiple-Family Commercial PUD, the provisions of this Ordinance regarding height restrictions, yard regulations, lot regulations, and off-street parking regulations (Sections 7, 8, 9, and 10) are superseded by the provisions of Section 13 and the Development Agreement between the City and Developer.
  - b. When development occurs pursuant to a Multiple-Family Commercial PUD, the following uses of the commercial space portion of the PUD are permitted:
    1. Professional offices.
    2. Bakeries.
    3. Drug Stores.
    4. Grocery Stores.
    5. Barber shops or beauty shops.
    6. Catering Businesses.
    7. Restaurants, tea rooms, cafés, coffee shops, or similar establishments but not including bars, saloons, taverns, or drinking establishments.
    8. Retail shops but not including liquor stores.

9. Art galleries.

10. Personal fitness centers.

11. Such other and further uses as provided in or limited by the Development Agreement between the City of University Heights and the Developer pursuant to the Multiple-Family Commercial Planned Unit Development (PUD) regulations and requirements set forth in Section 13 of this Ordinance.

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Section 13. Multiple-Family Commercial PUD.

A. Intention. The Multiple-Family Commercial PUD regulations and requirements are intended to accommodate projects for which the specific architectural design and site layout of individual buildings and elements shall be subject to approval by the University Heights City Council. Development may occur provided that it is consistent with the overall design and development elements reviewed and approved by the University Heights City Council, all as provided in this Ordinance.

B. Development Regulations and Restrictions. Property may be developed as a Multiple-Family Commercial PUD Zone pursuant to the following regulations and restrictions:

1. No more than two (2) buildings may be constructed with combined footprints of no more than forty-five thousand (45,000) square feet.

2. No more than [insert number of units] ( 80 ) dwelling units may be constructed.

3. No more than twenty thousand (20,000) square feet of commercial space may be constructed.

4. No more than one person not a member of the family as defined in Section 3 of this Ordinance may occupy each dwelling unit as part of the individual housekeeping unit.

5. The front building of the development (closest to Melrose Avenue) shall not exceed thirty-eight (38) feet in height, and the rear building shall not exceed seventy-six (76) feet in height. "Height" is defined in Section 7 of this Ordinance.

6. A minimum of [insert number of parking spaces ( 185 ) off-street parking spaces, of which [insert number of parking spaces ( 55 ) may be above-ground, shall be provided for commercial and residential uses. "Parking space" is defined in Section 10 of this Ordinance.

7. The eaves or building projections, including screened porches or walls, of the front building shall not be less than thirty three (33) feet from the lot line along Melrose Avenue; the eaves or building projections, including screened porches or walls, of any other building or portion thereof shall not be less than twenty (20) feet from any lot line.

8. The University Heights City Council may impose additional reasonable conditions as it deems necessary to ensure that the development is compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

C. Procedure.

1. Any person or entity proposing development as a Multiple-Family Commercial PUD shall submit fifteen (15) copies of a Multiple-Family Commercial PUD Plan Application setting forth all the information specified in Section 13(D) of this Ordinance.

2. The University Heights City Council shall hold a public hearing regarding such Plan Application. The public hearing may occur as part of any regularly scheduled or special Council meeting.

3. The University Heights City Council in its sole discretion may approve, deny, or approve on condition any such Plan Application or any part thereof.

4. No building permit shall issue for development of any property pursuant to a Multiple-Family Commercial PUD until the University Heights City Council has approved a Plan Application pursuant to Section 13(D) and the Council and Developer have executed a Development Agreement pursuant to Section 13(E) of this Ordinance.

5. Once approved, a Plan Application may be modified by written instrument approved by the University Heights City Council and by the Developer.

6. Once approved, a Development Agreement may be modified by written instrument approved by the University Heights City Council and by the Developer.

D. Multiple-Family Commercial PUD Plan Application Requirements. A Multiple-Family Commercial PUD Plan Application must set forth or otherwise include all of the following:

1. Location, size, and legal description of the site.

2. Location and area of land uses.

3. Detailed site plan showing all existing or proposed easements.

4. Front, side, and rear yard setbacks.

5. Existing topography at two-foot intervals.

6. Grading plan at one-foot contours.

7. Location and description of major site features, including tree masses, drainageways, wetlands, and soils.

8. Erosion control plan.

9. Proposed type or types of development, e.g., commercial, multiple-family dwelling, etc.
10. Location and size of buildings or building footprints.
11. Design elevations showing all sides of every building, roofline, and perimeter fences.
12. Description of materials for all exterior building surfaces and perimeter fences.
13. Vertical and horizontal dimensions of the exterior of all buildings and perimeter fences.
14. Maximum height of proposed structures and perimeter fences.
15. Floor plans showing square footage of each commercial and each dwelling unit.
16. Location of existing and proposed utilities, sanitary sewers, storm water facilities, and water, gas, and electrical distribution systems.
17. Preliminary Plat, if applicable.
18. Final Plat, if applicable.
19. Deed restrictions, covenants, agreements, association bylaws and/or other documents controlling the use of the property and controlling the type of construction or development activities of future residents.
20. All other information reasonably required by the University Heights City Council or its designees to explain or illustrate the Plan Application.

E. Development Agreement. The Multiple-Family Commercial PUD Plan shall also include a Development Agreement establishing development requirements and addressing certain other items, including the following:

1. Design standards applicable to the project.
2. Development covenants, easements, and restrictions, including a prohibition on further subdivision of the property developed pursuant to the Multiple-Family Commercial PUD. Restrictions may also include the types of businesses and hours of operation of businesses located in the commercial space portion of the Multiple-Family Commercial PUD and whether and on what conditions some or all dwelling units may be leased.
3. Site improvements, including sidewalks, that will be constructed following approval of the Site Development Plan.
4. Timing of commencement and completion of construction of buildings and improvements pursuant to the Multiple-Family Commercial PUD Plan.
5. Payment by the Developer of the costs and fees, including engineering, legal, administrative, publication and recording

fees, incurred by the City of University Heights in considering the PUD Plan.

Current Sections 13 through 22 will be renumbered 14 through 23.

**PART III. REVIEW OF ZONING CHANGE – AUTHORITY TO AMEND, MODIFY, OR REVERSE**

If upon the sixth anniversary of the effective date of this Ordinance, the real estate in the Multiple-Family Commercial Zone is not already being used or developed as a Multiple-Family Commercial PUD or if there is neither (i) a documented plan of the then owner or owners of such real estate to use or develop such real estate for other permitted Multiple-Family Commercial Zone purposes within the subsequent three years, or (ii) a written agreement of any then owner of such real estate to sell it to others intending to develop or use such real estate within the subsequent three years for other permitted Multiple-Family Commercial Zone purposes, then the City Council (with any requested and permitted input from the Zoning Commission) shall review the City's Comprehensive Plan then in effect and other relevant facts and circumstances at such time affecting such real estate to determine if the Multiple-Family Commercial Zone classification (a) remains appropriate, or (b) should be then modified in accordance with applicable state laws and City ordinances. Nothing in this provision is intended nor should be construed as a limitation of any other responsibility or authority the Zoning Commission and/or City Council has under state law and City ordinances, including the authority, subject to state law and City ordinances, including but not limited to the authority to earlier or later conduct such a review and possible modification to the zoning classification.

**PART IV. EFFECTIVE DATE.**

This Ordinance shall become effective upon its passage and publication as provided by law.

Adopted by the University Heights City Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2010, and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Louise From, Mayor

ATTEST:  
(SEAL)

\_\_\_\_\_  
Christine Anderson, City Clerk

STATE OF IOWA        )  
                              )        SS:  
COUNTY OF JOHNSON )

On the \_\_\_\_ day of \_\_\_\_\_, 2010, before me, a notary public in and for the state of Iowa, personally appeared Louise From, Mayor, and Christine Anderson, Clerk of the City of University Heights, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk of the City of

University Heights, Iowa; that the seal affixed to this instrument is the corporate seal of the City; and that said instrument was acknowledged and sealed on behalf of the City, and that Louise From and Christine Anderson acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of the City, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the  
State of Iowa

STATE OF IOWA        )  
                          )        SS:  
COUNTY OF JOHNSON )

I, Christine Anderson, being first duly sworn, certify that the above ordinance was published in the Iowa City Press-Citizen the \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Christine Anderson

Signed and sworn to before me on the \_\_\_\_ day of \_\_\_\_\_, 2010, by Christine Anderson, Clerk of the City of University Heights.

\_\_\_\_\_  
Notary Public in and for the  
State of Iowa

Steve/UH/UHOrdinances/Ordinance 180 amending 079 Zoning StAndrew 091010

## September ' 10 – City Attorney's Report – St. Andrew Rezoning Proposals

### Revised Proposed Ordinance 180 - Attached

- I sent a draft version of proposed Ordinance 180 previously and made some comments about changes that had been made. I have since revised the proposed ordinance a bit more, and the most recent version is attached for your reference.
- The “new” changes are as follows:
  1. F(2)(b)(8) has been changed to read “Retail Shops but not including liquor stores”; the underlined portion is new..
  2. 13(E)(2) has been changed to clarify that, as part of a later development agreement, the Council may restrict the number, if any, of dwelling units that can be leased to non-owners.
  3. Part III has been amended – last sentence only, which concerns the Council’s authority to change the zoning back (or again) after the change under consideration now.
- I’ll also repeat the description of the changes from my email Friday, just so you have them in the same document:
  1. I changed the square-footage back to what was originally proposed and considered by the Zoning Commission. I deleted the changes previously requested by counsel for the developer to provide a bit of leeway in case dimensions weren’t precise. I think you’ll recall this discussion; if not, call Stan. The changes are in sec. 13(B)(1, 3, and 5).
  2. I left the number of dwelling units (sec. 13(B)(2)) and the number of parking spaces – overall and above-ground (sec. 13(B)(6)) – blank. I think you were still discussing these issues.
  3. I inserted in a sec. 6(F)(2) that lists permitted commercial uses. As the comments note, most of these came from other portions of the zoning ordinance – uses for B Business and C Commercial zones.
  4. You’ll see that sec. 13(E) provides that in the development agreement, the Council may further restrict types of businesses and hours of operation once a PUD application is presented.
  5. The language in Part III represents the product of my meeting w/Pat Bauer and Tom Gelman (as changed again – see above).

- I have been circulating the various drafts of Ordinance 180 to Pat Bauer and Tom Gelman. They, or others on their behalf, may request other changes as the Council considers the proposed ordinance.

### **Comments on the Amended Proposed Ordinance**

- **Permitted Commercial Uses – Sec. 6(F)(2)**
  - I included some uses that would be permitted in the commercial portion of a PUD development.
  - Many of these came from the permitted uses already in the zoning ordinance for the B Business and C Commercial zones.
  - I thought specifying some of the uses in the current ordinance might give a future Council and the developer some parameters about what would be permitted.
    - I think this approach might be more prudent than just telling a developer that a proposed use would be subject to the Council’s approval.
    - If a developer challenged that portion of the ordinance, a court would probably determine whether the Council’s restrictions were reasonable; a court is less likely to permit the Council, in its sole and absolute discretion, to say what uses may or may not be permitted when the terms of a development agreement are being negotiated.
  - If the Council prefers to specify additional or different uses, the Council may do so by amending the proposed ordinance before it is adopted.
  - If the Council includes a list of specified uses in the zoning ordinance, a developer will be able to rely on that list.
    - In other words, a future Council could not simply refuse to permit a grocery store (if that’s in the list) as part of negotiating a development agreement.
    - Other details, including hours of operation, signage, etc., could be restricted) but if a use is included in the ordinance, a developer will be able to rely on that use unless the ordinance is later changed by this or a future Council.
- **Restrictions on Leasing – Sec. 13(E)(2)**
  - Language has been included to clarify that the Council may restrict whether and on what conditions dwelling units may be leased.
  - The notion is to provide a future Council considering that PUD application with flexibility regarding rental property and whether it will be permitted.
- **Future changes – Part III**
  - Part III of the ordinance represents the product of my meeting with Pat Bauer and Tom Gelman, as well as some follow up emails.
  - As the provision now reads, there is no automatic change ‘back’ to R-1 if the Maxwell development does not occur.
  - To the contrary, the proposed ordinance changes the zoning regardless of who owns or controls or is developing the property.

- The proposed ordinance says that if there's not a Multiple-Family Commercial use in place 6 years after adoption of the ordinance or if there's not a plan for such a use within 3 years of that 6-year anniversary, then the Council shall revisit this to see if it still makes sense to maintain the zoning as Multiple-Family Commercial.
  - So, if the proposed ordinance is adopted in December 2010 and if there's not a multiple-family commercial use by December 2006 and no plan for such a use, then the Council will reconsider the zoning.
  - Of course, the Council will follow the normal channels to reconsider the zoning then – Zoning Commission, public hearing, etc.
- The last sentence of the proposed ordinance clarifies that, at any point before the called-for review (in 6 years), the Council may reconsider the zoning, as provided by Iowa law.
  - If the Council adopts the proposed ordinance this year, the question remains whether a future Council (say, in January 2012) can change the zoning back to R-1 or to some other designation.
  - The answer is “it depends” – mostly, it depends upon whether a property owner has acquired a “vested right” in the Multiple-Family Commercial zoning.
  - To determine whether a vested right has been acquired, Iowa courts ask whether the property owner has made “substantial expenditures” in reliance on the zoning.
    - So the courts would look at what occurred from the time the Multiple-Family Commercial zoning was adopted until it was changed again.
    - Expenditures made before final adoption of the zoning do not count because they weren't made in reliance on the zoning change...it hadn't yet occurred.
    - Some cases say that the expenditures must be in the form of actual construction – preparatory items like fees for things like engineers, architects, lawyers, and financing may not count.
    - Iowa cases focus on expenditures by the property owner. There is no clear answer whether expenditures by one who is not an owner (for example, Mr. Maxwell) may acquire a vested right in a particular zoning classification.
  - Generally, based upon the current information available, I would say that if the Council adopts the proposed change now and wants to change the zoning back before closing on sale of the property, the Council probably is in a fairly strong position to do so. That conclusion will be impacted, of course, by other factors that may appear between now and then.
  - If closing on the property sale occurs, I think the Council's ability to change the zoning back will be less clear. Presumably, if a further change were to occur, the purchaser of the property would at least challenge a change.

- If a future Council desired to change zoning and a court concluded the property owner did have a vested right, then the City would be required to pay just compensation for the property rights “taken” from the owner. Presumably that would be measured as the difference in property value with the Multiple-Family Commercial zoning and the value of the same property with the proposed change in zoning.
- I would not advise the Council to change the zoning as proposed now with the notion that it could always be changed back. That notion may not be accurate, and the City might at a minimum have a substantial tangle on its hands to make a further change.
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**Amending the Proposals During the Meeting [THIS IS A REPEAT FROM PRIOR REPORT EXCEPT WHERE UNDERLINED]**

- The Council may amend the proposed ordinances during the meeting. The procedure would look something like this:
  - Someone moves adoption of one of the proposed ordinances.
  - Someone else seconds the motion.
  - Discussion ensues.
  - During discussion, someone moves to amend the ordinance, for example to specify the number of dwelling units or permitted uses, etc.. It would be very helpful if there was a written amendment or at least something very specific (i.e., “strike these words” and/or “add these words”), as opposed to offering an amendment in “idea” form.
  - Someone else seconds the motion to amend.
  - Discussion ensues on the motion to amend.
  - Vote occurs on the motion to amend. Only a majority vote (3 of 5) is required; not 4 of 5.
  - Further discussion on the main motion (either as amended or not, depending on the vote on the amendment).
  - Vote occurs on the main motion.
- Keep in mind that the proposed ordinance must be adopted 3 times in identical form. So, if there was adoption in September, the Council couldn’t amend in October without starting the 3 readings over (or suspending the rules to collapse 3 readings into 2 or 3 readings into 1).

**Communication Asserting Conflict of Interest**

- I received a letter from Webb Wassmer, a lawyer representing Jerry Zimmerman. A copy is attached.
- I disagree with Mr. Wassmer’s conclusion. I do not believe Jim Lane has conflict of interest under Iowa law based upon his communications in support of the

Maxwell proposal before he was appointed to the Council or based upon Catherine Lane's service on the Zoning Commission.

- As I have indicated previously, even if no conflict of interest exists under Iowa law, any Council members who believe they cannot set aside private advantage to perform their public duty have a conflict of interest and should not participate in either the vote on the rezoning or the discussion that precedes it. Similarly, if Council members believe for any other reason they should not participate based upon conflict of interest, they should not participate.
- From my standpoint, however, I do not believe Jim Lane or any other Council member has a conflict of interest based upon information made available to me.

### **Required Vote [THIS IS A REPEAT FROM PRIOR REPORT]**

- Because the Zoning Commission has recommended against Jeff Maxwell's proposed zoning change, the Council may adopt the proposed change (Ordinance No. 180) only by a majority vote of 4 of the 5 Council members.
- Because the Zoning Commission has recommended approval of Pat Bauer's proposed zoning change, the Council may adopt the proposed change (Ordinance No. 181) by a majority vote of 3 of the 5 Council members.
- If either proposal is adopted, that proposal will be considered twice more and will need to be approved each time (by the majorities noted above) to become law, just like other ordinances. Thus, the Maxwell proposal would only be adopted if the Council voted affirmatively at 3 separate meetings (4 out of 5 members voting "yes" at each meeting). The Bauer proposal would require 3 out of 5 members voting "yes" at each of the 3 meetings. If either ordinance fails any vote, then it will not be adopted; so, for example, if neither passes in August, there will be no further consideration of either in September or October.

### **Mechanism for Redevelopment [THIS IS A REPEAT FROM PRIOR REPORT]**

- Both Ordinance No. 180 and 181 set forth a mechanism or outline for redevelopment of the St. Andrew property.
- The ordinances do not address a great many details of a proposed development. Rather, the ordinance sets some broad parameters and provides that a developer may make application for a Multiple-Family Commercial Planned Unit Development (in the case of Ordinance No. 180) or a Residential Redevelopment Planned Unit Development (in the Case of Ordinance No. 181). Any such application would require the developer to specify a great many additional features of the project, including, for example, site plan, topography, design elevations, and locations of utilities. The mechanism established by the proposed ordinances is very similar to the mechanisms adopted when the Zoning Ordinance was amended to permit the Birkdale Condominiums and Grand View Court Condominiums.

**Procedure on Application [THIS IS A REPEAT FROM PRIOR REPORT]**

- If the Council were to approve either ordinance, then a developer could submit a PUD application. That application would be set for a public hearing and considered by the Council thereafter. The many particulars related to the project (those set forth below and others) would be negotiated and agreed to by the City and the developer as a part of the process. If no agreement could be reached, then development would not go forward until such time as an agreement was reached. For the PUD application to move forward, the developer would be required to agree to the restrictions and limitations specified by the Council before the public hearing on the application.

**Development Agreement [THIS IS A REPEAT FROM PRIOR REPORT EXCEPT WHERE UNDERLINED]**

- As a part of approving a PUD application, the Council would enter into an agreement with the developer that would address even more specific elements of the development. For example, the agreement may specify building materials, particular building appearance, restrictions concerning commercial space (for example, hours of operation, types of businesses aside from those specified as permitted in the Multiple-Family Commercial portion of the zoning ordinance, and so forth), landscaping, tax-increment financing (TIF), and many other conditions that the Council may wish to impose. The City has great latitude in specifying development features that will or will not be allowed.

**Enforcement of Agreement [THIS IS A REPEAT FROM PRIOR REPORT]**

- The development agreement would include terms providing that it would be specifically enforceable by each party – the City and the developer. It could not be changed without the written agreement of both parties.

**Timing [THIS IS A REPEAT FROM PRIOR REPORT]**

- Assuming the Council votes in favor of one of the proposed ordinances 3 times, then the developer could then submit an application, a public hearing will be set on the application, and the City and the developer will work toward an agreement that would govern additional particulars concerning the development.

## Treasurer's Report

August 2010

Our total revenue for the month of August was \$50,778.84 comprised of the following amounts:

Property Taxes	\$19,685.98
Local Option Sales Tax	\$ 8,137.97
Parking fines	\$ 180.00
Traffic Fines from Clerk of Court	\$ 7,044.63
Interest on bank accounts	\$ 94.27
Road Use Funds	\$10,065.99
Rental permits	\$ 3,800.00
Police reports	\$ 25.00

I'm not including the loan proceeds above in the revenue totals. On the Profit & Loss Report the loan shows up on the bottom page of the report under Other Financing Sources. At the time the budget was set it was tentatively planned that we would get a general obligation bond to pay for the sidewalk project. Last month we decided to go the loan route instead. When we do the budget amendments in March or April next year it will be changed to reflect what was done.

Balances in the bank accounts as of 8/31/10 (even after the \$150,000 loan):

MidwestOne Bank Checking Account	\$ 52,534.57
Hills Bank Money Market Account	\$ 23,384.36
CD at UICCU (due 2/28/2011)	\$ 39,652.07
Forfeiture Fund	\$ 3,088.75

The city is now set up with online banking. A big thank you to Pat Yeggy for all her help getting copies of the easement checks and other checks to Josiah to file the DOT claim for reimbursement.



City of University Heights, Iowa  
**Warrants for Council Approval**  
 August 11 through September 14, 2010

Aug 11 - Sep 14, 10	Date	Name
	08/13/2010	City of Iowa City
	08/15/2010	Fort, Matthew A
	08/15/2010	Fort, Ronald R
	08/15/2010	Lord, Benjamin M
	08/15/2010	Reinhard, Brad
	08/15/2010	Strong, Donald K.
	08/17/2010	McLeod USA/PAETEC
	08/25/2010	MidAmerican Energy
	08/25/2010	MidAmerican Energy
	08/26/2010	MidAmerican Energy
	08/26/2010	MidAmerican Energy
	08/31/2010	Anderson, Christine M.
	08/31/2010	Fort, Matthew A
	08/31/2010	Fort, Ronald R
	08/31/2010	Kimura, Lori D.
	08/31/2010	Reinhard, Brad
	08/31/2010	Strong, Donald K.
	08/31/2010	Lord, Benjamin M
	08/31/2010	Wellmark BC/BS
	08/31/2010	Strong, Donald K.
	08/31/2010	IOWA PUBLIC EMPLOYEES RETIREMENT SYS
	08/31/2010	IOWA PUBLIC EMPLOYEES RETIREMENT SYS
	08/31/2010	MidwestOne Bank
	09/01/2010	Paul J. Moore, Melrose Avenue Building
	09/10/2010	City of Iowa City
	09/14/2010	ABC Solutions
	09/14/2010	SEATS
	09/14/2010	City of Iowa City
	09/14/2010	Andrew Dahl
	09/14/2010	Reinhard, Brad
	09/14/2010	Fesler's Inc.
	09/14/2010	Freeman Lock
	09/14/2010	Galls Incorporated
	09/14/2010	Guardian ID Services, Inc.
	09/14/2010	Iowa City Press-Citizen
	09/14/2010	Treat America Dining
	09/14/2010	Johnson County Refuse, Inc.
	09/14/2010	Johnson County Treasurer
	09/14/2010	Leff Law Firm, L.L.P.
	09/14/2010	Mediacom
	09/14/2010	MPH Industries, Inc.
	09/14/2010	Norm Cate
	09/14/2010	Terry Goerd
	09/14/2010	O'Reilly Auto Parts
	09/14/2010	Pyramid Services Inc.
	09/14/2010	Safeguard Business Systems
	09/14/2010	Racom Corporation
	09/14/2010	Staples

<b>Date</b>	<b>Name</b>
09/14/2010	Verizon Wireless
09/14/2010	Paul J. Moore, Melrose Avenue Building
09/14/2010	MidAmerican Energy
09/14/2010	Laser Technology Inc

**Aug 11 - Sep 14, 10**

City of University Heights, Iowa  
**Warrants for Council**  
 August 11 through September 14

09/13/2010

	<u>Memo</u>	<u>Amount</u>
Aug 11 - Sep 14, 10		
	City Hall water/sewer automatic payment	-18.09
		-1,471.02
		-1,042.86
		-645.09
		-1,448.60
		-1,455.36
	Phone service	-135.26
	1301 Melrose stop light	-39.11
	1011 Melrose stop light	-33.35
	street lights	-611.02
	City Hall electricity	-125.30
		-310.51
		-1,268.34
		-1,154.57
		-319.85
		-1,559.17
	VOID:check done at old insurance rate	0.00
		-766.45
	monthly insurance payment	-1,528.72
		-1,148.06
	STEM	-2,816.03
	STEM	-92.72
	42-1109342	-4,227.88
	City Hall Rent	-867.00
	City Hall water/sewer automatic payment	-14.26
	Monthly fee for city website/email service	-24.95
	Seats Payment	-703.66
	July fuel for police vehicles/August bus service/p	-3,783.53
	hazard assessment of trees on Prospect Pl	-150.00
	reimbursement for docking station for car compu	-174.95
	4 containers of pepper spray	-59.80
	new lock & keys for evidence room	-46.00
	uniforms/name tags	-176.87
	new photo id cards	-118.50
	August publications	-316.47
	prepaid meals for Reinhard during ILEA training	-17.01
	August recycling	-1,738.50
	property taxes on parcel at 10 Koser	-11.00
	Legal fees 6/2/10-9/9/10	-32,635.48
	online service 9/3/10-10/2/10	-69.95
	rpl remote control for in car radio units	-203.11
	inspection services for August	-980.00
	inspection services for August	-1,820.00
	wiper blades/fuses	-83.95
	oil change/rpr brake light	-139.04
	citation books/parking tickets	-1,495.29
	Police computer access fee	-79.60
	printer cartridge/monitor/paper/ink cartridge	-562.33

<b>Memo</b>	<b>Amount</b>
monthly wire service	-90.02
Garage rent for August & September	-70.00
street lights at 113 Golfview	-5.33
bal owed for laser handheld radar	-807.85

**Aug 11 - Sep 14, 10**