

UNIVERSITY HEIGHTS ZONING COMMISSION - OTHER COMMUNICATIONS

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From: Bauer, Patrick B
Sent: Monday, May 18, 2009 5:35 PM
To: wallacegay@mchsi.com; wallu@aol.com; jlane07@mchsi.com; wkrkar@aol.com
Cc: 'louisebob@mchsi.com'; 'Steve Ballard'
Subject: E-Mail Exchange with John Yapp (1/2) - Taxation/Zoning Control of UI/UI-Related Properties

I'm forwarding some e-mails I've exchanged with John Yapp (JCCOG) that bear upon some aspects of the Saint Andrew rezoning application.

John asked me to stress that whether taxes might be paid would depend on the specific use of a particular property by the University or an affiliate, and that the University generally would have no obligation to pay property taxes for any function related to its educational, research, or healthcare missions.

From: John Yapp [mailto:John-Yapp@iowa-city.org]
Sent: Wednesday, April 01, 2009 4:27 PM
To: Bauer, Patrick B
Cc: Kent Ralston; Sara Greenwood Hektoen
Subject: RE: University of Iowa Facilities Corporation - Subject to Zoning Restrictions?

Hello Pat -

We did a little research and thinking on this, just to confirm our beliefs. The State Code provision exempting the University from local zoning regulations is Iowa Code 262.9(4) which states the Board of Regents shall "manage and control the property, both real and personal, belonging to the institutions." We interpret "belonging to the institutions" to refer to property actually owned by the University/State, not an affiliated non-profit 501(c)(3) organization. Therefore, we believe that zoning regulations will apply to non-profit-owned properties just like any other non-profit entities.

It gets murky if the non-profit affiliate is located on state-controlled land in a University Building - in this case, I believe it would be tough to justify applying zoning restrictions.

On your tax question, it gets a little murkier. You are correct that in most instances, the non-profit University-affiliated entity will become exempt from property taxes. This has been a big issue for Iowa City in recent years for example, as the University has acquired many downtown buildings including Old Capitol Mall. Whether or not the property / building becomes exempt from property taxes depends on the actual use of the building, and whether that use is consistent with the University mission as an institution, or if the space is being rented out for other functions.

For example, the Jefferson Building which is owned by the University of Iowa Facilities Corporation but which rents space to commercial businesses (Herten and Stocker for one) pays property taxes. Plaza Center One, which is owned by the University and contains University employee offices, does not pay taxes.

On both the tax and zoning question, it comes down to the actual owner of the property and the use of the property.

Hope this helps.

Thanks to Kent Ralston and Sara Greenwood for their help with this.

From: Bauer, Patrick B [mailto:patrick-bauer@uiowa.edu]
Sent: Friday, March 20, 2009 11:23 AM
To: John Yapp
Subject: University of Iowa Facilities Corporation - Subject to Zoning Restrictions?

Dear John,

From looking at tax information (e.g., <http://www.johnson-county.com/ParcelSearch/taxes/default.aspx?Parcel=1010392003> & <http://www.johnson-county.com/ParcelSearch/taxes/default.aspx?Parcel=1010392001>), it seems that (perhaps consistent with its status as an Iowa nonprofit corporation under Iowa Code Ch. 504) the acquisition of a parcel by The University of Iowa Facilities Corporation ordinarily may move it from taxable to nontaxable.

It's my understanding that as an arm of the state, The University of Iowa is not subject to municipal zoning regulations, and I was wondering if you might now whether the same immunity exists for an "affiliated organization" like The University of Iowa Facilities Corporation.

If handing this inquiry by phone would be more convenient, I'll generally be available at 335-9014 during the day next week outside the times I'm in class (M-W, 8:40-10:00 a.m. & 12:40-2:00 p.m.).

Thanks in advance for any help you might be able to give me on this.

Best regards,

Pat Bauer
(University Heights Zoning Commission Chair)

From: Bauer, Patrick B
Sent: Monday, May 18, 2009 5:35 PM
To: wallacegay@mchsi.com; wallu@aol.com; jlane07@mchsi.com; wkrkar@aol.com
Cc: 'louisebob@mchsi.com'; 'Steve Ballard'
Subject: E-Mail Exchange with John Yapp (2/2) - Alteration of Sunset Intersection/Ability to Control Nature/Identity of Commercial Uses

From: John Yapp [mailto:John-Yapp@iowa-city.org]
Sent: Thursday, May 14, 2009 10:21 AM
To: Bauer, Patrick B
Cc: louisebob@mchsi.com; Steve Ballard; Kent Ralston
Subject: RE: Questions About Two Statements in April JCCOG Staff Report

Good morning Pat:

Is the statement directed towards (1) this particular redevelopment (or something of similar density/size) or (2) any and all potential redevelopments of the St. Andrew property?

The issue is not so much due to traffic volumes; it is more due to the skewed intersection and limited visibility. There is not a high collision history at this intersection currently, due to the very low traffic volumes using this leg of the intersection. Any increase in traffic volumes will correspond to an increase in traffic collisions - this is true of all intersections, and we typically see an even greater increase in collisions at poorly-designed intersections.

We recommend that with any redevelopment, the opportunity be seized to improve the geometry of this intersection to some extent.

“While University Heights cannot restrict the specific use of the property (any use allowed in the adopted Zoning Ordinance would be allowed on the commercial portion of the property), you may restrict the hours of operation of the site to mitigate against any late-night noise issues.”

Our point here is that any use allowed in the code will be allowed, and UH cannot restrict specific uses within the category. For example, it appears restaurants are allowed in your Business and Commercial Zones. Because restaurants are a permitted use, you cannot restrict the *type* of restaurant. There could be a Taste on Melrose, a Subway or a Buffalos Wild Wings. You may, however, be able to restrict things like size, hours of operation, exterior lighting, sign standards etc. through a conditional zoning agreement.

Hope this helps,

John Yapp

From: Bauer, Patrick B [mailto:patrick-bauer@uiowa.edu]
Sent: Wednesday, May 13, 2009 4:17 PM
To: John Yapp; Kent Ralston

Cc: 'louisebob@mchsi.com'; 'Steve Ballard'

Subject: Questions About Two Statements in April JCCOG Staff Report

At bottom of page 7: "If the subject property is redeveloped, the issue with the skewed geometry of the [Sunset/Melrose] intersection should be resolved."

Is the statement directed towards (1) this particular redevelopment (or something of similar density/size) or (2) any and all potential redevelopments of the St. Andrew property?

Discussions of possibilities along the lines of "another Birkdale" sometimes have seemed to involve the assumption that something smaller/less dense than the proposed project might eliminate the need for any significant reconstruction of the intersection.

I appreciate the difficulties of dealing in matters of degree, but is there some point where the need to resolve this circumstance wouldn't be presented, and if so, is it possible to articulate that point (or its general vicinity) in a way that could be brought to bear on our evaluation of the proposal we have before us?

At start of third main paragraph on page 8: "While University Heights cannot restrict the specific use of the property (any use allowed in the adopted Zoning Ordinance would be allowed on the commercial portion of the property), you may restrict the hours of operation of the site to mitigate against any late-night noise issues."

As an initial matter, the uses allowed in our existing "Business" (structure at northeast corner of Melrose/Golfview intersection) and "Commercial" (University of Iowa Athletic Club) zoning districts are themselves rather narrowly drawn (Ordinance 79, section 6(C)-(D):

C. Property in a B Business Zone shall be used for the following purposes only:

1. All uses which are allowed in an R-1 Single-Family Residential Zone, and an R-3 Multiple-Family Residential Zone.
2. Professional offices.
3. Bakeries.
4. Drug Stores.
5. Grocery Stores.
6. Barber shop or Beauty shop.
7. Contractor's Offices, and shops and storage uses incidental thereto.
8. Catering businesses.
9. Restaurants.

D. Property in a C Commercial Zone shall be used for the following purposes only:

1. All uses which are allowed in an R-1 Single Family Residential Zone.
2. Restaurants, tea rooms, cafes, taverns, and similar establishments.
3. Private clubs and accessory facilities, such as tennis courts, swimming pools, and athletic facilities.

The next subsection also provides for further specification of uses in the circumstances of the PUD through which Birkdale occurred:

E. Property in a PUD Planned Unit Development Zone shall be used as provided in the Development Agreement between the City of University

Heights and the Developer pursuant to the PUD regulations and requirements set forth in Section 11 of this Ordinance.

I understand there may be both policy and practical reasons to steer clear of particularly detailed specification of permissible uses, but would like to know whether the quoted language is pointing towards some technical restriction of our ability to consider the possibility of doing so.

The usual thanks in advance for anything further you may be able to provide on these two points.

MEMORANDUM

TO: Bill Gay, Wally Heitman, Catherine Lane,
and Karl Robertson

DATE: May 17, 2009

FROM: Pat Bauer

RE: Tentative Thoughts About Saint Andrew Rezoning Application

Having gone through everything received to date, I spent the afternoon putting fingers to keyboard in an effort to sort out my thoughts about the Saint Andrew Presbyterian Church rezoning application. As indicated in the subject line, my thinking is tentative and subject to revision in light of any additional information presented to us before or at our meeting Wednesday evening and (as importantly) in view of my hearing your thoughts about various matters affecting the ways in which I currently am viewing various considerations. At least for me, however, the volume of material presented to us required more digestion than probably is realistically possible “on the fly” at Wednesday’s meeting.

This memo turned out substantially longer than I originally had anticipated. Part of its length is a function of the interrelated nature of the issues presented and the way I have gone about thinking them through. The conclusion you and I ultimately must reach obviously will have to be expressed in the succinct form of a “yes” or “no” vote, but for me the path to that vote includes a number of discrete and sometimes complex steps. The decision to present my thoughts in writing followed not only from the time limitations of our meeting, but also (and perhaps more so) from the detailed nature of the comments we have received from so many of our neighbors. Land use decisions obviously touch people (quite literally) where they live, and many written and oral communications have encompassed both strong feelings and detailed reasoning. Either outcome will disappoint one side or the other, but I hope laying out how I’ve gotten to where I’ve come out at this point in the proceedings will provide explanations of how I’ve gone about processing the major points that have been presented to us.

The Dynamics of Upzoning

Probably the most important circumstance affecting my thinking is that the Saint Andrew parcel is surrounded on three sides by about a dozen single family homes and a pair of duplexes. The combination of modest separations provided by ravines and street and the parcel’s current use as a church initially makes thinkable the possibility of allowing some rezoning that might permit uses beyond those allowed by the provisions of our existing zoning ordinance (currently “[o]ne single-family dwelling per lot”, “[p]ublic schools, public libraries, public parks and public playgrounds”, or “[c]hurches and places of worship and parochial schools” Ordinance No. 79, Sec. 6.A.1-.3). To me, however, it seems rather clear that any such change in permitted uses should be rather attentive to the interests and concerns of the owners of adjacent parcels.

In perhaps revealing ways, the dynamics of upzoning (where a parcel is rezoned to allow uses not presently permitted by existing regulations) may not be as readily discernible as the dynamics of downzoning (where a parcel is rezoned to prohibit uses presently permitted by existing

regulations). With downzoning, most observers appreciate that the right to use the property in a presently permitted manner is being taken from the owner of the rezoned parcel in a way that involves the unfairness of changing rules after a game has started, and that realization also extends to the circumstance that some equivalent advantage is being transferred to the owners of adjacent properties who are obtaining an essentially costless benefit at the expense of the owner of the downzoned property. In contrast, upzonings entail the opposite dynamics with substantial advantages being realized most immediately by the owner of the upzoned parcel at the expense of adjacent property owners who suffer a decline in the desirability of their property (either objectively (in terms of decreased market value) or (as importantly) subjectively (in terms of enjoyment of homes purchased in circumstances where permissible uses of an adjacent parcel were limited by longstanding provisions of an existing zoning ordinance)).

Whenever a purchaser of a property in our community expresses surprise at the existence of restrictions on occupancy by more than two unrelated persons, we quite properly invoke the principle that all persons are charged with knowledge of the contents of our municipal ordinances. For analogous reasons, residents may invoke the protection of existing zoning provisions and require that those wishing to change such provisions be held to a fairly high burden of clearly establishing that any proposed change in use will be both reasonable and fair.

Actions Upon Prior Rezoning Applications in University Heights

A requirement that an applicant demonstrate that a proposed change in existing zoning restrictions will be both reasonable and fair certainly is not an insurmountable obstacle to clearly appropriate changes in size and use. By way of example, in 1998 the Zoning Commission recommended (and the City Council subsequently approved) a relaxation of minimum lot requirements allowing the development of Quarterback Court and a like consensus between Commission and Council existed five years later when the shift over to Birkdale Court was accomplished by separate actions permitting duplexes. A couple of years after that, the Zoning Commission and City Council again concurred in various changes (including a fairly substantial increase in density) to allow redevelopment of the Grandview Court Apartments into the Grandview Condominiums.

Along the way, on two separate occasions the Zoning Commission unanimously recommended denial of applications for redevelopment of portions of the University Athletic Club property and both applications subsequently were withdrawn in advance of any consideration by the City Council. In one remaining instance, the Zoning Commission and City Council divided over (by respective 4-1 votes against and for) a planned redevelopment of the Grandview Court Apartments that the developer subsequently abandoned for financial reasons.

Actions upon prior rezonings in University Heights thus have varied depending on the magnitude of the proposed change, with more modest changes garnering general acceptance and more substantial changes generating significant opposition. Contentions that our community is reflexively opposed to any change are simply mistaken, and our record of action on rezoning applications demonstrates a rather consistent pattern of selectivity involving both acceptance of changes deemed to be appropriate and rejection of changes deemed to be inappropriate.

The Primary Issue of Appropriate Size and Use

Redevelopment of the Saint Andrew parcel in ways that more substantially recognize the legitimate reliance interests of adjacent property owners might present different issues, but I've tentatively concluded that the large size and allowed uses of the proposed development presently before us warrant a Zoning Commission recommendation that the application for rezoning be denied.

Various expressions of support for the proposal advance principles of smart growth and livable communities that may well point towards the desirability of something like the proposed development at other locations. The issue, however, is not some abstract proposition whether something like this is a good idea in complete isolation from surrounding circumstances, but rather whether it is a good idea in the concrete circumstances of this particular parcel.

The contents of the legal notice for our first meeting provide a concise statement of the magnitude of the change the proposed rezoning would permit: the "construction of a 93-unit residential condominium development comprising two buildings [six stories (76 feet) and three stories (54 feet)], including some commercial use" in a location where current limitations would allow "about 9 single-family residential homes [not] exceeding 35 feet in height." The JCCOG staff report also emphasizes the need to determine whether the "scale of building is appropriate for this site given the height, character and setback of the building" (JCCOG Final Staff Report, p. 4).

Approaching the issue of scale in a vacuum is rather difficult, and I've tried to obtain context by looking at structures of seemingly similar size (e.g., although it is approximately fifty percent longer and wider than the proposed rear building, the height of the red "terra cotta" parking structure at the northwest corner of Grand and Melrose appears to fall approximately halfway between the height of the proposed rear and front buildings). Coming at things from a somewhat different direction, I've thought about potentially subjective elements like "scale" and "mass" in light of the rather overwhelming predominance of opinion communicated to the Commission either in writing or orally at our first meeting.

The process might have entailed an occasional error, but by my count approximately 85% of both persons (195/228) and properties (141/167) who have formally expressed their views to us are opposed to approval of the proposed rezoning. Perhaps even more significantly, the proposed rezoning is opposed by the owners of 19 properties in the surrounding 200-foot "immediate impact" zone that is reflected in both state law and our zoning ordinance and is supported by the owner of only one property (with owner-occupied dwellings accounting for only three of the remaining properties in such zone that have to this point not expressed any opinion to us).

If I was absolutely certain of the correctness of a contrary personal aesthetic preference or felt that opposition to the development was based on illegitimate concerns, I might be open to the possibility of reaching a decision at odds with such a sizable majority of expressed views. Where widespread opposition seems entirely legitimate, however, I believe it is entirely appropriate for me to factor communicated opinions on issues of appropriate size and use into the decision I will be making as a member of the Commission.

Countervailing Concerns About The Adequacy of Municipal Revenues

Many expressions of support for the rezoning application have stressed the need for expansion of our city’s tax base. Many cite the desirability of lower taxes, others mention the need to avoid reductions in desirable city services, and some suggest that an expansion of our tax base is necessary to ensure our survival as an independent municipality.

The need to expand the city’s tax base, however, obviously is a matter of degree. The idea of imposing unreasonable and unfair burdens on immediately adjacent property owners might have some plausibility if it was the only feasible way to avoid severe municipal funding difficulties. The obvious injustice of neighbors sacrificing their neighbors to lower their own taxes, however, ought to limit the case for allowing otherwise inappropriate development to circumstances where doing so is in some very real sense a financial necessity.

The details of our municipal finances are not simple and any consideration of available revenues cannot be conducted in isolation from considerations of the nature and extent of appropriate expenditures. Furthermore, some substantial portion of our city budget (presently approximately \$200,000) comes from sources other than property taxation (e.g., state road use revenues, traffic and parking citations). At the present time, however, state law establishes ceilings on revenues raised through property taxation that municipalities are not free to exceed. Thus, the perhaps otherwise commendable two-to-one support shown in the 2007 Citizens Survey for “increas[ing] revenue to maintain services” (76 responses) as the preferred alternative to “reduc[ing or] eliminat[ing] services” (32 responses) is unrealistic in circumstances where property tax levies are already at maximum permissible limits.

Within the boundaries of state limitations, however, the combined effects of appreciation in the value of existing properties, significant additions to or improvements of such properties, and the construction of new structures have over the course of this decade resulted in rather sizable increases in the amount of city revenues provided by property taxes (see following table).

University Heights Revenues from Property Taxes (2001-2009)

Assessment Date	Tax Year	Assessed Value (derived)	Rollback (percentage)	Taxable Value (w/o utilities)	City Tax Rate (per thousand)	City Tax Revenues (derived)
Jan. 1, 2000	2001-2002	\$61,162,140	56.2651	\$34,412,939	9.36835	\$322,392
Jan. 1, 2001	2002-2003	\$66,768,946	51.6676	\$34,497,912	9.89355	\$341,307
Jan. 1, 2002	2003-2004	\$67,536,178	51.3874	\$34,705,086	10.44133	\$362,367
Jan. 1, 2003	2004-2005	\$72,939,541	48.4558	\$35,343,438	10.46292	\$369,796
Jan. 1, 2004	2005-2006	\$73,485,837	47.9642	\$35,246,894	10.61560	\$374,167
Jan. 1, 2005	2006-2007	\$88,060,512	45.9960	\$40,504,313	10.39247	\$420,940
Jan. 1, 2006	2007-2008	\$88,564,665	45.5596	\$40,349,707	10.52988	\$424,878
Jan. 1, 2007	2008-2009	\$101,690,674	44.0803	\$44,825,554	11.08593	\$496,933
Jan. 1, 2008	2009-2010	\$106,206,184	45.5893	\$48,418,656		

A supposedly more pointed instance of financial exigency has been advanced in the form of observations about the effects of the recent sale of the University Athletic Club to the University of Iowa Facilities Corporation. From a couple of different directions, however, this development seems less dire than some have suggested. Prior to the transfer in ownership, the property had an assessed value of less than \$2.4 million and the resulting revenue to our city of was less than \$27,000. The new owner, however, has indicated that it will be paying a comparable amount to the city in the form of “payments in lieu of taxes” and that such payments could continue until such later time as the property may be converted to a materially different use.

Moreover, even if and when such payments cease (and fully accounting for the circumstance that a negligible rollback causes commercial property to produce almost twice as much property tax revenue as identically valued residential property), the amount then lost amount will have been offset almost four-fold by expansions of the tax base attributable to previously approved rezoning applications allowing the development of Birkdale Court (\$3.3 million assessed valuation) and development of the Grandview Court Apartments into the Grandview Condominiums (\$5.3 million assessed valuation of new building, approximately \$2.7 million increased assessed valuation of three refurbished buildings, and projected \$1.9 increase in assessed valuation of two building presently undergoing refurbishment).

University Heights Property Values - Particular Components

(assessed valuations - January 1, 2007)

University Athletic Club	\$ 2,302,940
Birkdale Court Condominiums	\$ 3,280,500
Grandview Condominiums	\$ 12,917,400
<i>Unit 6 (new)</i>	<i>\$ 5,292,900</i>
<i>Units 3-5 (refurbished)</i>	<i>\$ 5,679,500</i>
<i>Units 1-2 (unrefurbished)</i>	<i>\$ 1,945,000</i>

Perhaps the most telling rejoinder to the tax base expansion justification for an approval of this particular project, however, is a fiscal echo to the physical proposition that the proposed development is simply too big. The developer’s informal presentations to city residents included a projected assessed value for the development of \$78 million that almost exactly 75% of the total assessed valuation of all other properties in the remainder of the entire city.

University Heights Property Values - Overall Composition

(assessed valuations - January 1, 2007)

Single Family (358 parcels)	\$ 81,447,340
Condominiums (137 parcels)	\$ 16,197,900
Commercial (6 parcels)	\$ 3,234,239
Duplexes (12 parcels)	\$ 2,646,840
Vacant Residential (15 parcels)	\$ 483,270
<u>TOTAL</u>	<u>\$ 104,039,589</u>

In the absence of some dramatically extravagant increase in public expenditures, such a striking expansion of our tax base obviously would lead to some equally striking reduction in the rate of city taxes. Although we presently tax ourselves at levels roughly comparable to levels others pay in neighboring communities, a dramatic change in the circumstance presumably would be widely touted as basis for marketing the newly constructed units to prospective purchasers. The previously mentioned injustice of lowering taxes by unfairly burdening the owners of adjacent parcels would be compounded by contentions that our city is merely a tax island and not a community that values its independence precisely because it is free to preserve its traditional character in the face of the tempting financial incentives inappropriate development often is able to provide.

Our revenue needs seemingly can be met by something considerably less substantial than the proposed development. One significant group of more proportionate increases could come from some more modest redevelopment of the St. Andrew parcel and possible redevelopment at other suitable locations (see subsequent section concerning revision of Comprehensive Plan). Another more gradual (but perhaps as important) type of growth may come from residents undertaking major improvements to their homes. Amidst the unsettled economic conditions of the past eighteen months, our city has issued building permits for eight remodeling projects involving indicated expenditures of more than \$300,000. Such investments presumably are encouraged by the steady application of sensible principles to confine rezoning applications to development that is compatible with the stability of our community, and conversely ill-considered approvals of inappropriate rezonings may affirmatively discourage owners from maintaining and improving neighboring properties.

Finally, mention should be made of the temporary (but hardly insubstantial) addition to city revenues provided by the recently approved Local Option Sales Tax. Specific amounts may be further affected by the outcomes of possible revotes, but last Tuesday's City Council meeting included mention of an estimated amount of more than \$100,000 in each of the next four years.

Countervailing Concerns About Possible Purchase of the Parcel by The University of Iowa

A second major element of various communications in support of the present rezoning application involves predictions (expressed with varying degrees of certainty) that a rejection of the application will necessarily result in the parcel being purchased by The University of Iowa. Some such possibility undoubtedly exists, but prior experience with other rezoning applications suggests the value of a healthy skepticism about what the future will in fact hold.

The Zoning Commission certainly had no idea that two applications for a rezoning of the University Athletic Club parcel and a third application for a rezoning of the St. Andrew parcel would follow so shortly upon our approval of the rezoning requests that permitted construction of the Birkdale Court Condominiums. Somewhat differently, firm assertions that refurbishment of the Grandview Court Apartments was economically infeasible and that approval of the first rezoning application would result in the construction of the proposed project were both contradicted by a sale of the parcel to another party who submitted a second rezoning application that involved a course of action the first applicant repeatedly had insisted was economically undoable. More recent events involving financial difficulties of the second developer and a sale to and completion of the project by a third developer suggest the wisdom of caution in basing land use decisions on firm notions that future circumstances are knowable with any degree of real certainty.

Any approval of the present request for rezoning obviously may not lead to the construction of the proposed project if the church eventually decides not to move, and a decision by the church to move may itself not prevent the property from being sold either to another developer or to The University of Iowa if the present developers are able to secure a price from either source in excess of the necessarily uncertain returns the rezoning applicant expects the proposed development otherwise might yield. If a sale of the parcel to The University of Iowa actually were to come to pass through some means, however, it might involve some possibilities of a loss of land use control and/or an absence of prospective property tax revenues (with “absence” perhaps being a more appropriate term than “loss” in circumstances where church use presently results in no payment of property taxes on the parcel).

As previously explained, any absence of prospective property tax revenue may be qualified by payments in lieu of taxes absent a position that such payments are inappropriate in circumstances where the property had not previously been paying any taxes. The risk of losing land use control somewhat similarly involves an intermediate possibility that land use restrictions that are not enforceable against The University of Iowa might be enforceable against a legally separate entity like The University of Iowa Facilities Corporation.

Absent such intermediate possibilities, an absence of prospective property taxes may be offset by circumstances discussed in an earlier section (i.e., appreciation and improvement of other existing properties and/or subsequent development of rezoned parcels at other suitable locations). Somewhat differently, the possibility of lost land use control involves a suggestion that The University of Iowa might develop the parcel in ways that might be more inappropriate than the proposed development. While that circumstance certainly is theoretically possible, The University of Iowa has not shown itself to be fundamentally insensitive to the interests of the communities in which it functions. While The University of Iowa obviously considers its own interests, it perhaps could be more able and willing to be responsive to community concerns than might hold true for a private businessperson who may have various financial responsibilities to other investors.

The Imperative Need For A Thorough Review of the Land Use Segment of the Comprehensive Plan

Considerable attention has been given to the Comprehensive Plan the City Council adopted in November 2006. Although it was the result of a commendable effort to “get out in front of” the difficulties of confronting consequential land use decisions in the strained dynamics of specific rezoning applications, the value of the Comprehensive Plan as a basis for the decision presently before us has been affected by various circumstances. For starters, the “three alternate scenarios ... created to illustrate what direction future redevelopment and new development might take” were expressly formulated “without the benefit of any professional analysis of [their] merits or feasibility.” (Comprehensive Plan, p. 5) Moreover, as noted by the JCCOG staff report, “[w]hen the Comprehensive Plan was created, the fact that the St. Andrew church property may be sold for redevelopment [and] the possibility that the University of Athletic Club would be sold to the University of Iowa Facilities Corporation [were] not considered,” and “these two factors are valid reasons to revisit the Comprehensive Plan guidance for this portion of University Heights.” (JCCOG Final Staff Report, p. 3)

The need to reconsider the contents of the Comprehensive Plan’s land use segment (material on pages 5-12) in light of various changed circumstances should not undercut its continuing importance as a framework for carefully contemplating the “direction future redevelopment and new development might take.” The Comprehensive Plan approached such concerns in the context of the city as a whole in a way that usefully demonstrates the various ways one part over here necessarily interacts with other parts over there. Furthermore, the results of the subsequent Citizen Survey also demonstrate that the breadth and depth of presently expressed concerns about the current proposal reflect longstanding and genuine concerns about higher densities and more intensive uses, and not merely recently arising pretextual responses to development on this particular site.

Although to some extent qualified by the effects of intervening events, text and images in the Comprehensive Plan identified the following as significant components in assessing present and possible future land uses:

University Athletic Club	3.8 acres
Saint Andrew Presbyterian Church	3.4 acres
Grandview Court	5.6 acres
Birkdale Court	1.6 acres
Swisher Tract	12.5 acres
Ernest Horn Elementary School	8.1 acres
1002 Melrose (Business Zone)	0.8 acres
901 Melrose	3.75 acres
Melrose Corridor	35 parcels
Olive Corridor	22 parcels
Leamer Corridor	16 parcels

Either approval or denial of the present application would seem to present a need for a truly comprehensive reconsideration of the Comprehensive Plan’s land use segment. A decision to allow the proposed development to proceed based on the desirability of certain kinds of commercial or residential alternatives or an imperative need for increased municipal revenues certainly should not fail to face up to the consequences such decision will have in affecting the desirability and need for similar developments at other sites which might constitute equally (if not more) suitable locations for similar rezoning applications. For somewhat opposite reasons, a decision not to allow the proposed development to proceed based on inappropriateness of size and use at this location should be followed by careful consideration of the desirability and need for some other sort of development at this site or the desirability and need for similar or different sorts of development at other suitable sites.

At a minimum, a decision to approve the project should encompass some immediate consideration of the general appropriateness of requests for rezonings of adjacent parcels. A significant change in uses permitted on the St. Andrew parcel quite logically may lead to requests

for changes in the uses permitted on adjacent properties, and some indication of whether such requests might be entertained or steadfastly rejected would seem only fair in response to the sorts of concerns the owners of such properties are raising.

Concluding Thoughts

Written and oral submissions have involved passionate concerns based on deep affection for our community. The ranks of supporters and opponents include lifelong residents and recent arrivals equally interested in ensuring that our city continue in ways that conform to the circumstances which prompted them to make their homes here rather than someplace else.

These shared values have not led to universal consensus over the merits of the present rezoning application. Some believe the application must be approved to ensure our city's continued existence, and others believe such action would result in our city ceasing to be the sort of place it should be.

It may be naive to think that such strong divisions will not persist for some time after a decision either way, but a hopeful note might be that all of us presumably would agree with the admittedly self-evident proposition that our town will be served best by the right decision. I've attempted to set forth at length and in detail my thinking about why I presently think the right decision will be recommendation that the present application for rezoning be denied. As mentioned at the outset, however, I welcome and will endeavor to remain open to additional facts and considerations that might take me to the opposite conclusion.

I hope everyone involved in these proceedings will not question that all participants have been acting on the basis of their own sincere assessment of the course of action that will prove best for our community to pursue. On the far side of this decision, we will continue to be residents of a community requiring considerably more volunteer effort than probably is the case elsewhere. On the near side of this decision, we should commit ourselves to ensuring that our immediate differences over this one rezoning proposal do not overshadow the many other instances where our concerns are considerably more common.