

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 "*****"):

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.

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 eighty (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 one hundred eighty-five (185) off-street parking spaces, of which no more than fifty-five (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 14th day of December, 2010, and approved this 14th day of December, 2010.

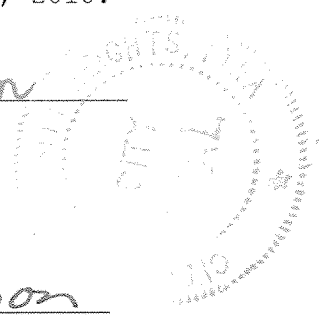


Louise From, Mayor

ATTEST:
(SEAL)



Christine Anderson, City Clerk



) SS:
COUNTY OF JOHNSON)

On the 14th day of December, 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.

[Signature]
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 4th day of March, 2011.

[Signature]
Christine Anderson

Signed and sworn to before me on the 8th day of March, 2011, by Christine Anderson, Clerk of the City of University Heights.






[Signature]
Notary Public in and for the
State of Iowa

Steve/UH/UHOrdinances/Ordinance 180 amending 079 Zoning StAndrew 101210



ZONING MAP

CITY OF UNIVERSITY HEIGHTS, IOWA
OCTOBER 2010

-  B (BUSINESS)
-  C (COMMERCIAL)
-  CM (MULTIPLE FAMILY COMMERCIAL)
-  R-3 (MULTIPLE FAMILY RESIDENTIAL)
-  R-1 (SINGLE FAMILY)

NOT TO SCALE



LEGAL DESCRIPTION FOR MULTIPLE-FAMILY COMMERCIAL ZONE

The Multiple-Family Commercial Zone shown on the preceding Zoning Map is described legally as follows:

Beginning at the Northeast Corner of Section 17, Township 79 North, Range 6 West of the 5th P.M.; thence North 89 degrees West along the North line of said Section 17, 402.6 feet, thence South 16 degrees East 490 feet to the Northerly line of Snook's Grove Road as now established; thence North 73 degrees East along the Northerly line of said road 291.3 feet; thence North 1 degree 40' West to the point of beginning, as shown by Plat recorded in Plat Book 4, Page 383.

and

That part of the northeast quarter of the northeast quarter of Section 17, Township 79 North, Range 6 West of the 5th P.M., described as Auditor's Parcel 96091 on plat of survey recorded in Book 38, Page 125, Plat Records of Johnson County, Iowa.

and

Auditor's Parcel 2005091 according to the Plat of Survey recorded in Book 49, Page 284, Plat Records of Johnson County, Iowa, being a portion of Outlot 1 and of Lot 238, University Heights, Second Subdivision, according to the plat thereof recorded in Book 2, Page 76, Plat Records of Johnson County, Iowa; EXCEPT beginning at the Southwest corner of Auditor's Parcel 2005091, thence North 0°00'00" East 19.48 feet along the West Line of said Auditor's Parcel (assumed bearing for this description only), thence North 74°40'39" East 8.58 feet to a point of intersection of the Westerly right-of-way line of Sunset Street, thence South 20°48'18" West 23.29 feet along said right-of-way to said point of beginning and containing 81 square feet more or less.