



ITEM NO. \_\_\_\_\_

**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa

AGENDA COMMUNICATION

September 15, 2008

SUBJECT: Consider Ordinance 789 amending Chapter 166.35 of the Johnston Revised Ordinances of 2007 regarding architectural standards for structures abutting or within 300 feet of Merle Hay Road, NW 86<sup>th</sup> Street and NW 62<sup>nd</sup> Avenue.

**ACTION REQUIRED:**

- Ordinance
- Resolution
- Approval
- Receive/File
- Attorney Review

**SYNOPSIS:**

At the September 2<sup>nd</sup> Council meeting, a public hearing was held in conjunction with the first reading of an ordinance to amend the architectural standards of Chapter 166.35 of City Ordinance. The proposed amendment will allow the use of stone on a case-by-case basis in lieu of/in combination with brick to satisfy the 50% wall area materials requirements for nonresidential buildings abutting Merle Hay Road, NW 86th Street, and NW 62nd Avenue.

Following discussion of the issue, council passed the first reading with discussion indicating some members accept the amendment as written, others do not wish to change the original ordinance at all, and still others wish to expand the amendment language to include additional masonry materials.

At the public hearing, Aaron Steele with the Heartland Brick Council urged the City Council to consider adding definitions to the amendment for the terms “stone” and “brick” or substituting the terms “natural stone” and “clay brick” in the amendment. However, staff feels such definitions would restrict the ordinance in a way that contradicts the proposed changes.

For instance, defining brick as “clay fired” would eliminate the use of some products that exhibit the same appearance and durability of brick, but are not made of clay. An example of such a product is that which was approved for use on the new Kum and Go – a brick made from recycled glass which will help the convenience store obtain LEED certification.

Substituting the term “natural stone” could have a similar effect. The popularity of stone as a building material is, in part, due to the increased availability and lower cost of synthetic stone as compared to natural stone. Because synthetic stone can be manufactured locally, it is a cheaper alternative to natural stone which must be quarried and transported from the quarry destination, often times a significant distance. Allowing only the use of “natural stone” could induce a cost measure that indirectly excludes the use of stone altogether.

As illustrated above, such changes could make the ordinance more restrictive than the current version, contradicting the purpose of the ordinance (which is to expand the list of acceptable materials).

Conversely, by requiring a case-by-case approval of stone substitutions by P&Z and the Council, the applicant is afforded a wider variety of building materials choice while they must still prove the selected material exhibits the same aesthetic appeal and durability of natural stone

In addition, with no definitive recommendations for changing the proposed amendment staff has not prepared alternate language and recommends approval of the amendment as originally proposed.

PROPOSED  
AMENDMENT  
(CHANGES  
UNDERLINED):

Nonresidential Buildings Abutting Merle Hay Road, NW 86th Street, and NW 62nd Avenue. In order to achieve continuity along these arterial street corridors, buildings abutting or within 300 feet of these arterial streets shall be designed in conformance with paragraph C and in addition, shall have brick constitute at least 50 percent of the wall area that faces the arterial street, excluding glass. Stone may be substituted for, or used in combination with, brick to meet the above-listed requirement. Such substitutions must be aesthetically comparable to, and exhibit the same characteristics of material permanency as, the use of brick. Approval of substitutions as described above will be considered on a case-by-case basis subject to review of the Planning and Zoning Commission and City Council.

RECOMMENDATION:

Staff recommends approval and provides the following motion for the commission's consideration:

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to approve the 2<sup>nd</sup> reading of Ordinance 789 amending Chapter 166.35 of the Johnston Revised Ordinances of 2007 regarding architectural standards for structures abutting or within 300 feet of Merle Hay Road, NW 86<sup>th</sup> Street and NW 62<sup>nd</sup> Avenue.

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Attachments: Chapter 166.35 with changes underlined  
Ordinance 789

ORDINANCE NO.789

**AN ORDINANCE AMENDING CHAPTER 166.35 OF THE JOHNSTON REVISED ORDINANCES OF 2007 REGARDING ARCHITECTURAL STANDARDS FOR STRUCTURES ABUTTING OR WITHIN 300 FEET OF MERLE HAY ROAD, NW 86<sup>TH</sup> STREET AND NW 62<sup>ND</sup> AVENUE**

**Be It Enacted by the City Council of the City of Johnston, Iowa that:**

**SECTION 1. PURPOSE.** The purpose of this ordinance is to amend chapter 166.35 of the Johnston Municipal Code.

**SECTION 2. AMENDMENT.** Chapter 166.35.2.D. is hereby deleted and replaced with the following:

D. Nonresidential Buildings Abutting Merle Hay Road, NW 86th Street, and NW 62nd Avenue. In order to achieve continuity along these arterial street corridors, buildings abutting or within 300 feet of these arterial streets shall be designed in conformance with paragraph C and in addition, shall have brick constitute at least 50 percent of the wall area that faces the arterial street, excluding glass. Stone may be substituted for, or used in combination with, brick to meet the above-listed requirement. Such substitutions must be aesthetically comparable to, and exhibit the same characteristics of material permanency as, the use of brick. Approval of substitutions as described above will be considered on a case-by-case basis subject to review of the Planning and Zoning Commission and City Council.

**SECTION 4. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 5. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 6. WHEN EFFECTIVE.** This ordinance shall be in full effect from and after its final passage, approval, and publication as provided by law.

Passed and approved by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2008.

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PAULA DIERENFELD, MAYOR

ATTEST:

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CYNDEE RHAMES, CITY CLERK

1st Reading: \_\_\_\_\_

2nd Reading: \_\_\_\_\_

3rd Reading: \_\_\_\_\_

Passed: \_\_\_\_\_

Signed: \_\_\_\_\_

Published: \_\_\_\_\_

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Clabaugh	___	___	___	___
Culbert	___	___	___	___
Hibbs	___	___	___	___
Kallen	___	___	___	___
Tingley	___	___	___	___