

OFFICE OF THE CITY ADMINISTRATOR

Johnston, Iowa

AGENDA COMMUNICATION



November 18, 2019

SUBJECT: Conduct public hearing and consider the following items related to the proposed rezoning of five acres and adjoining right-of-way approximately 600' east of Merle Hay Road and directly north of Pioneer Parkway:

- Resolution 19-297 approving a development agreement with David and Dorothy Winter limiting uses of the subject property to: Group Care Facility; Nursing and Convalescent Home; Assisted Living Facility; or "Housing for Older Persons" as defined by Section 807.b.2 [42 U.S.C. 3607] of the Fair Housing Act.
- First reading of Ordinance 1027 Amending the official zoning map for 5 acres and adjoining right-of-way from R-1A, Modified Single-Family Residential to R-4, High Density Residential.

ACTIONS REQUIRED:

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

SYNOPSIS:

The subject property is under ownership of David and Dorothy Winter who have assembled multiple properties for redevelopment. The Winters have been approached by Bradbury Stamm Construction with the prospect of developing a three-story senior housing facility with 48 independent living units, 36 assisted living units and 21 memory care units.

The facility will be constructed by Bradbury Stamm who has developed several similar facilities over the past 10 years including two facilities in Cedar Rapids Iowa. An L.L.C. has been established to purchase/own the facility (Johnston Senior Living LLC) which, in turn, will be managed by Cassia, a healthcare organization recently formed by the merger of two long term care groups that combined have over 210 years of senior experience. They currently manage more than 75 facilities in five states including 6 in Des Moines, Cedar Rapids and Newton, IA. Cassia will provide administrative staff, healthcare staff, dietary staff, maintenance staff, activity staff, and housekeeping staff.

Pending a successful rezoning, the applicant must submit a site plan and preliminary/final plats for consideration of the Planning and Zoning Commission and City Council. It is possible one or more phases of review/approval will run concurrently.

RECOMMENDATION:

This request was considered by the City of Johnston Planning and Zoning Commission on October 28, 2019 who voted to recommend approval by a vote of 4-0 subject to execution of a development agreement limiting uses

to: Group Care Facility; Nursing and Convalescent Home; Assisted Living Facility; or “Housing for Older Persons” as defined by Section 807.b.2 [42 U.S.C. 3607] of the Fair Housing Act.

RESOLUTION 19-297

A RESOLUTION APPROVING A DEVELOPMENT AGREEMENT WITH DAVID AND DOROTHY WINTER CONCERNING THE REZONING OF PROPERTY LOCATED NORTH OF NW 70TH AVENUE AND WEST OF NW 86TH STREET

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that:

The development agreement regarding allowed uses for approximately five acres east of Merle Hay Road and north of Pioneer Parkway by and between David and Dorothy Winter and the City of Johnston dated October 16, 2019 is hereby approved and the Mayor is authorized to execute the agreement on the City's behalf.

PASSED AND APPROVED this 18th day of November, 2019.

PAULA DIERENFELD, MAYOR

ATTEST:

CYNDEE RHAMES, CITY CLERK

	1 st Reading		2 nd Reading		3 rd Reading	
	Aye	Nay	Aye	Nay	Aye	Nay
Brown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cope	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Martin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Temple	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ORDINANCE 1027

AN ORDINANCE AMENDING THE JOHNSTON REVISED ORDINANCES OF 2007 BY AMENDING THE OFFICAL ZONING MAP FOR FIVE ACRES AND ADJOINING RIGHT-OF-WAY FROM R-1A, MODIFIED SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-4, HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICT FOR PROPERTY LOCATED NORTH OF NW 70TH AVENUE AND APPROXIMATELY 600' EAST OF MERLE HAY ROAD

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

SECTION 1. PURPOSE. The purpose of this ordinance is to change the Official Zoning Map of the City of Johnston, Iowa, under the provisions of Chapters 165 to 172 (Zoning Ordinance), Chapter 165 (General Provisions), Chapter 166.02 (Zoning District Boundaries and Official Zoning Map) of the Johnston Municipal Code.

SECTION 2. OFFICIAL ZONING MAP AMENDED FROM R-1A, MODIFIED SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-4, HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICT. The following legally described property is hereby rezoned from R-1A to R-4:

A PARCEL OF LAND IN LOT 23, FRUITLAND, AN OFFICIAL PLAT RECORDED IN BOOK 'E', PAGE 295 AT THE POLK COUNTY RECORDER'S OFFICE, AND PARCEL 'B' OF LOT 23, OF SAID FRUITLAND, BEING AN OFFICIAL PARCEL RECORDED IN BOOK 11245, PAGE 655 AT THE POLK COUNTY RECORDER'S OFFICE, AND THE FORMER DES MOINES & CENTRAL IOWA RAILWAY COMPANY RAILROAD RIGHT-OF-WAY, ALL IN THE SW 1/4 OF SECTION 07, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL IN THE CITY OF JOHNSTON, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF SAID PARCEL 'B' OF LOT 23; THENCE N00°05'24"E, 424.45 FEET ALONG A LINE THAT COINCIDES WITH THE WEST LINE OF SAID PARCEL 'B' OF LOT 23 TO A POINT; THENCE N89°08'38"E, 418.53 FEET TO A POINT ON THE EAST LINE OF WEST 25.00 FEET OF SAID FORMER DES MOINES & CENTRAL IOWA RAILWAY COMPANY RIGHT-OF-WAY, SAID POINT ALSO BEING ON THE EAST LINE OF THE DES MOINES & CENTRAL IOWA RAILWAY COMPANY RAILROAD RIGHT-OF-WAY QUIT CLAIM DEED RECORDED IN BOOK 5091, PAGE 507 AT THE POLK COUNTY RECORDER'S OFFICE; THENCE S24°05'52"E, 462.02 FEET ALONG SAID EAST LINE TO A POINT ON THE SOUTHERLY EXTENSION OF SAID LOT 23; THENCE S89°10'16"W, 286.78 FEET ALONG A LINE THAT COINCIDES WITH THE SOUTH LINE OF SAID LOT 23, SAID SOUTH LINE ALSO COINCIDING WITH THE NORTH LINE OF BEAVER FARMS, AN OFFICIAL PLAT RECORDED IN BOOK 'E', PAGE 271 AT THE POLK COUNTY RECORDER'S OFFICE, TO THE NE CORNER OF THE VILLAGE AT JOHNSTON STATION, AN OFFICIAL PLAT RECORDED IN BOOK 11399, PAGE 954 AT THE POLK COUNTY RECORDER'S OFFICE; THENCE S89°08'38"W, 321.08 FEET ALONG THE SOUTH LINE OF SAID LOT 23 AND SAID PARCEL 'B', SAID SOUTH LINE ALSO COINCIDING WITH THE NORTH LINE OF SAID THE VILLAGE AT JOHNSTON STATION, TO THE POINT OF BEGINNING AND CONTAINING 5.00 ACRES MORE OR LESS

SECTION 6. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. 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 8. 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 16th day of December, 2019.

PAULA DIERENFELD, MAYOR

ATTEST:

CYNDEE RHAMES, CITY CLERK

1st Reading: _____
2nd Reading: _____
3rd Reading: _____

Passed: _____
Signed: _____
Published: _____

	1 st Reading		2 nd Reading		3 rd Reading	
	Aye	Nay	Aye	Nay	Aye	Nay
Brown						
Cope						
Evans						
Martin						
Temple						

APPLICANT:

Johnston Senior Living, LLC (with permission of property owner)
340 South Hwy 10
St. Cloud, MN 56304

**BACKGROUND &
PRIOR
APPROVALS:**

The subject properties are large lot acreages east of Merle Hay Road occupied by three single-family homes constructed between 1940 to 1965.

Each lot predates incorporation of the City of Johnston, being split from Lots 23 and 24 of the Fruitland addition, recorded July 19, 1909.

On September 25, 2017 the City of Johnston Planning and Zoning Commission considered an official zoning map amendment for 9.14 acres [subject property and additional 4+ acres (west-adjacent parcel and north to NW 57th Avenue)] and adjoining right-of-way from R-1A, Modified Single-Family Residential to MUC-RO, Mixed Use Center for property located south of NW 57th Avenue and approximately 455 feet east of Merle Hay Road. The rezoning was requested to facilitate construction of three, three-story buildings housing 165 units of multi-family housing (18.05 units/acre). The Planning and Zoning Commission voted to recommend council approval of the request by a vote of four to two. A public hearing was scheduled at the council level for October of 2017; however, the item was removed from the agenda at the request of the property owner.

**CURRENT
ZONING
DISTRICT:**

Each parcel is currently zoned R-1A, Modified Single Family Residential District. The bulk regulations follow:

- Minimum Lot Area: 15,000 square feet
- Minimum Lot Width: 100 feet
- Front Yard Setback: 40 feet
- Side Yard Setback: 10/22 Feet
- Rear Yard Setback: 40 Feet
- Height: 40 feet

**PROPOSED
ZONING & BULK
REQUIREMENTS:**

The proposed zoning district is R-4, High Density Multi-Family Residential District. The bulk regulations for Senior Housing in the district follow

Use	Max Bldng Height	Min Lot Area	Min Lot Width	Front Yd Setback	Side Yd Setback	Rear Yd Setback
Nursing, Convalescent, or Assisted Living	50'	80,000'	200'	50'	25'/50'	55'
* Maximum density of 16.0 dwelling units per acre or 32 beds per acre						

Staff has asked the applicant to provide a development agreement restricting allowed uses of the property to:

- Group Care Facility (9 or more individuals)
- Nursing and Convalescent Home
- Assisted Living Facility
- “Housing for Older Persons” as defined by Section 807.b.2 [42 U.S.C. 3607] of the Fair Housing Act.

The use of such an agreement includes a reversion of zoning clause and has been standard practice for all rezonings conducted in relation to senior housing projects in the last ten years (approx.). The development agreement is intended to provide protections in the event the senior housing project does not manifest.

**COMPREHENSIVE
PLAN:**

The affected properties are shown on the Johnston 2030 Comprehensive Plan Land Use Map as High Density Residential, defined as housing at densities exceeding eight units per acre. Housing types in this category may include townhouses, rowhomes, apartments, condominiums and senior housing. Staff has determined the vision for the subject properties has been High Density Residential going back to at least the 1998 Comprehensive Plan.

The proposed use supports policies for High Density Residential housing established in the Johnston 2030 Comprehensive Plan by:

- “Encouraging a balance of attached housing forms as an alternative to single-family detached developments” (HDP.1 p. 43); and,
- “Provides sites for high density housing in locations that are convenient to commercial services, major roadways and park and recreation areas” (HDP.2 p. 43).

The first bullet point above needs no elaboration. With regard to the second bullet point, the location of the facility puts residents within walking distance of mass transit routes and retail opportunities along the Merle Hay Road corridor, including two grocery stores, coffee shops, and multiple restaurants. The facility is also approximately ¾ of a mile from recreational opportunities at Terra Park and Crown Point Community Center (which offers multiple activities for seniors) and will exhibit a direct connection to the Interurban Trail.

**ADJACENT LAND
USES:**

South of the subject properties are the Triton Townhomes (approx. 12 units/acre) and single-family homes at 5525 and 5465 NW 55th Avenue (2.9 and 2.8 acres respectively). East of the subject properties opposite the interurban trail right-of-way is a single-family home on 3.07 acres at 5490 NW 57th Avenue. North of the subject property are two residential homes at 5550 and 5590 NW 57th Avenue. These homes will remain and will be re-platted to create the subject five-acre lot. West of the subject properties is a single-family home under ownership of David and Dorothy Winter as well as the St.

James Lutheran Church.

BUFFERING:

No buffering will be required adjacent to the Triton Townhomes as there is no code requirement mandating buffering between opposing high-density residential land uses; however, it should be noted the applicant intends to preserve the majority of existing plantings on the property adjacent to Triton Townhomes. In addition, the Triton property was developed with a buffer requirement as it was adjacent to single-family land uses to the north at the time.

A 20' buffer will be required along the north, south and west property boundaries as the adjacent land uses are single-family residential. The land use to the east is Conservation District (Interurban Trail Right-of-Way). The code of ordinances states buffer width contiguous to a conservation district shall be flexible as determined on case-by-case basis. With that said, the owner opposite the trail is large lot single-family residential. The site plan submitted by the developer appears to be planted to the densities of a 20' buffer in recognition of this fact. Buffering will be reviewed as part of the site plan review/approval process.

IMPROVEMENTS TO ADJACENT ROADWAYS:

The site plans depict one entrance/exit to Pioneer Parkway. Pioneer Parkway was reconstructed with the development of the Village at Johnston Station and Triton Townhomes in/around 2005. The road segment is built to current standards and provides access to a traffic signal at the intersection with Merle Hay Road. The depicted driveway location will be reviewed as part of the site plan review/approval process.

Traffic Generation: The institute of Transportation Engineers publishes trip generation data based on land use classification. This data has shown trip generation rates for senior housing developments are generally 2/3 that of a typical single-family housing development and the peak hour rates can be 1/2 to 1/4 that of other residential land uses:

Land Use Classification	Daily Rate Per Unit
Single Fam Residential	9.44
Multi Fam Residential	7.32
Attached Senior Adult Hsg	3.7
Congregate Care Facility	2.02
Assisted Living	4.24
Continuum Care Community	2.4

Anecdotally speaking, seniors typically drive less than younger age groups due to multiple factors. For instance, seniors own fewer automobiles on account of household downsizing and/or voluntary surrender of licensure. Other seniors may not be allowed to drive for medical reasons (memory care residents are not allowed to drive). Those seniors who choose to maintain a license and/or automobile tend to drive during off-peak periods, usually late morning and

early afternoon.

PUBLIC NOTICE:

A notice of the P&Z meeting was mailed to residents within 320' of the proposed rezoning area. In addition, a notice was posted on the city's website. A copy of the mailing notice and distribution list is also attached.

Johnston Senior Living, LLC hosted a public information meeting on Monday, October 21st at the St. James Lutheran Church. City staff provided a mailing list of property owners within 250' of the subject property for invitation to the aforementioned meeting. Mike Schoenecker of Johnston Senior Living, LLC reported that 16 persons were in attendance.

The east-adjacent property owner (opposite the interurban trail), Bruce Ostrander, shared the attached public comment prior to consideration by the Johnston Planning and Zoning Commission. Mr. Ostrander was also present at the Planning Commission meeting and offered public comment (see attached meeting minutes).