

**CITY OF URBANDALE  
BOARD OF ADJUSTMENT  
MINUTES**

**December 6, 2006**

The Urbandale Board of Adjustment met in regular session on Wednesday, December 6, 2006, at the Urbandale Administrative Offices Building, 3600 86<sup>th</sup> Street, with Chairperson Dave Russell calling the meeting to order at 6:00 p.m.

Board members present were John Pittman, Patrick Kirchner, Tom Muselman, and Dave Russell. Staff members present were Steve Franklin, Community Development Manager/Chief Planner, and Cheryl Vander Linden, Department Secretary.

There were no objections to the official publications as they appeared in the Polk County Press Citizen/Urbandale Press Citizen.

Mr. Russell said this is normally a 5-person Board. Tonight, there are only 3 members present but at least 3 favorable votes are still necessary to approve an appeal. We have one vacancy on the Board currently. If there is a desire on your part to have your appeal postponed or deferred until a time when all 5 Board members might be present, you may do so either at the beginning of the hearing or when your case is brought up, but prior to a motion being made. However, we don't have any knowledge as to when the Mayor might appoint someone to fill the vacancy.

The first item on the agenda was to defer action on the November 1, 2006 minutes.

Mr. Kirchner moved, and it was seconded by Pittman, to defer action on the November 1, 2006 meeting minutes until the next regular meeting. On roll call; Ayes: Kirchner, Pittman, Muselman, Russell; Nays: none. Passes: none. Motion carried.

The next item on the agenda was the "Urbandale Baptist Church Expansion Conditional Use Permit", 6501 Aurora Avenue/4208 65<sup>th</sup> Street, case number 011-1981-02.01.02.

Pastor Richard Dayton, 4300 NW Country Club Drive, said our former assistant pastor moved to Chicago to work with our press, leaving the parsonage unoccupied. Because of the growth in our Sunday school, we would like permission to use the parsonage for an adult Sunday school class on Sunday morning and a Wednesday night adult prayer time. It won't change the traffic flow, it won't change the number of cars, and we will not change the exterior of the building in any way. We're just putting classes in it, adult groups.

Mr. Russell asked will there be any internal changes?

Pastor Dayton said no, we don't plan on any, at this point. If we do that, we know we have to go through the building permit process.

Mr. Russell asked how many people will be meeting in there, perhaps at one time?

Pastor Dayton said on Wednesday night, there would probably be around 15 to 17. On Sunday, we'd put a group of about 10 to 15 in the upstairs, in the dining area, and a group of about 10 to 15 in the family room downstairs.

Mr. Russell said I trust that the parking will still be at the church?

Pastor Dayton said the parking will still be at the church. We have a beeper system for the nursery, many of these are parents of the kids who are over in the nursery in the main building.

Mr. Russell asked have you read the Staff recommendations?

Pastor Dayton said yes, I did read through it. I didn't see any issues.

Mr. Russell said you do see that on page 4 that they do recommend approval, however there were a couple of stipulations, and you're familiar with those, with respect to the Building and Fire Code requirements for assembly? Those would need to be complied with, and then also the parking.

Pastor Dayton said as I said, there's no change in parking. What would be the Fire Code issues?

Mr. Franklin said it would probably just be occupancy. We'd want to make sure, based on what the Fire Code required, that you wouldn't have more people in there than what they would allow you to have. We would just want to verify that.

Pastor Dayton said there is direct egress from the basement. Actually there three egresses for the two spaces.

Mr. Franklin said yes, and that would be their main concern, would be the egress points. They would probably have that covered.

Pastor Dayton said we'd never have any sleeping there, you know. Like, we're not going to have a class party or sleepovers.

Mr. Russell said there would not be any overnights?

Pastor Dayton said no overnight stays. I think one time somebody did do an overnight activity in the main building, and we made sure that there were smoke detectors

working for that. It will just be Sunday mornings, and Wednesday nights. He said I chatted with one of our neighbors, and she had no objections. It's not like we're going to have a younger age group making lots of noise or anything.

There was no one present who wished to speak in opposition to this request.

Mr. Franklin said the action required on this item is to approve or deny a conditional use permit to allow an existing single-family residence to be converted to meeting space for church groups.

The appellant, Urbandale Baptist Church, is requesting a conditional use permit to convert a single-family residence located at 4208 65<sup>th</sup> Street to meeting space for adult church groups. The residence is located immediately north of and adjacent to the church's parking. The residence has been owned by the church since 1967 and was previously used as a parsonage for an assistant pastor. The house is a split-foyer design and was constructed in 1964. It has 1,094 square feet on the main floor and 456 square feet of finished space in the lower level. There is also a two-car detached garage on the property that was built in 1964.

Both the residence and church property are zoned "R-1S" Suburban Density Single Family District. Churches are a conditional use in the "R-1S" District, and any modification or expansion requires approval of a conditional use. The conditional use application requests permission to use the former parsonage for adult prayer groups on Wednesdays, and adult Sunday school classes on Sundays. The application indicates the exterior of the residence will not be modified.

The residential lot has 70 feet of frontage on 65<sup>th</sup> Street and a lot area of 9,800 square feet (0.22 acre). As noted above, it adjoins the north boundary of the church property, which has 780 feet of frontage on Aurora Avenue and 231 feet of frontage on both 65<sup>th</sup> and 66<sup>th</sup> Streets, and a total area of 1.48 acres. There are single-family residences to the north, northeast, west, and south of the church and former parsonage that are also zoned "R-1S" Suburban Density Single Family District. There are multi-family condominiums to the east of the church and former parsonage that are zoned "R-3" Low Density Multi-family District.

The church building has a total area of 15,816 square feet, including a building expansion in 2004 that added 10,300 square feet to the 5,516 square-foot building that existed previously. The original church was constructed in 1966. The church was originally established in about 1966, and a conditional use was approved in 1981 for an expansion but only a small portion of the approved expansion was actually constructed, in 1995. A conditional use permit was approved in 2003 to allow the 2004 expansion of the church building and parking lot. The 2004 expansion included a new sanctuary with a calculated occupancy of 225 persons. A variance to allow a wall sign identifying the

church was approved in 2005 (the Sign Ordinance does not have any provisions allowing wall signs for a church located in a residential district).

Mr. Franklin said Staff analysis is as follows:

1. Standards, all of which must be met prior to approval of a Conditional Use Permit, are as follows:
  - (a) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - (b) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish and impair property values within the neighborhood;
  - (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
  - (d) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
  - (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
  - (f) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified as provided in Section 6.
  - (g) That the proposed use shall be consistent with the Comprehensive Plan. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational controls, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Board upon finding that these are necessary to fulfill the purpose and intent of this Ordinance.
2. It appears that all of the above standards will be satisfied if the conversion conforms to all Building and Fire Code requirements for assembly uses, and if no parking occurs on the property that would exceed customary use by a single-family residence, i.e. within the existing garage and to a limited extent within the existing driveway.

3. The parking requirement for a church is based upon the amount of seating in the sanctuary, the expectation being that the sanctuary determines the maximum parking need, and class/group activities will likely entail the same individuals who have attended a service in the sanctuary, or in the event of being separate from a sanctuary event, will be fair fewer in number than the capacity of the sanctuary. In addition, the church parking adjoins the subject property. Therefore, it appears unlikely that the conversion of the house for group/classroom use will increase the parking demand and/or result in additional parking on the subject property.

If, at some future time the property is needed for additional parking, another conditional use permit would be required, and the parking would need to comply with site plan and buffer yard requirements at that time.

Therefore, the Board could find that the proposed Conditional Use does not satisfy the standards required for approval of a Conditional Use, and that the request therefore must be denied. Or, the Board could find that with certain modifications and stipulations, that the proposed Conditional Use would not create a negative impact upon the character of the neighborhood, would satisfy the required standards and the intent of the Ordinance, and that the requested Conditional Use be approved subject to such modifications and stipulations.

Staff recommends approval of a conditional use permit to allow the existing single-family residence to be converted to meeting space for church groups subject to:

1. Compliance with all Building and Fire Code requirements for an assembly use.
2. No parking being allowed on the property other than in the existing garage and not more than two vehicles within the existing driveway.

Mr. Russell asked would they need any special occupancy permits, or would the Fire Department come in and inspect it first?

Mr. Franklin said as far as I am aware that would not be a requirement. I think we'll check with Maurice Dudney, our Building Official, just to make sure. But, really, this is akin to having a birthday party or a Christmas party, or something like that, where at any given time you might have 15 to 20 people in the home for a period of a couple of hours. And because that's the only times that they would be using it, on Wednesday evenings and Sunday mornings, we really didn't have any concern about that.

Mr. Russell asked does Maurice Dudney attend this church?

Pastor Dayton said yes, he does, which is why any time we were in the building process, he always made sure that someone else came over to do the inspection.

Mr. Russell said that's what I thought, when Mr. Franklin mentioned Mr. Dudney.

Pastor Dayton said he never signed off on anything.

Mr. Russell said he's a wise man.

Pastor Dayton said well, it was the only proper thing to do. Regarding parking, on Sunday mornings, I park in the driveway just so that I don't take up a space in the parking lot. So usually there's only one vehicle in the driveway, that's just on Sunday mornings.

Mr. Muselman moved, and it was seconded by Kirchner, to approve the Urbandale Baptist Church Expansion Conditional Use Permit, subject to Staff recommendations, based on the fact that it does not create a negative impact upon the character of the neighborhood and it does satisfy the required standards and intent of the Ordinance. On roll call; Ayes: Muselman, Kirchner, Pittman, Russell; Nays: none. Passes: none. Motion carried.

The next item on the agenda was the "Eastman Home Occupation Conditional Use Permit", 3380 156<sup>th</sup> Street, case number 011-2006-02.10.

Mr. Jody Eastman, 3380 156<sup>th</sup> Street, said my wife Dawn Eastman is also present here tonight with me. We are here to address the conditional use for a home occupation. We have an acreage of 4.4464 acres, as you can see on the layout here, our home is located on the furthest south. We have a long, it's about a 30-foot wide easement that goes from off of 156<sup>th</sup> Street back to the west to our acreage. We have our house residing on it, we have a detached garage there, and then we have a 42 by 72 outbuilding that, when we purchased it, it was basically an indoor gymnasium. It has three very nice glass backboards and rims, carpeted, heated, insulated, very, very nice situation for children. Also on the premises, that you can kind of see a little outline of, the prior owner let it go to weeds a little bit, but there is a softball diamond complete with backstop. That's to the northwest corner, just a little northwest of that big outbuilding. He said our primary intention is we have had very numerous requests....in the past the usage had been for some sports activities. It just has been one of those things that hasn't been taken care of. I talked to Mr. Franklin, and we wanted to do things correctly, under the guidelines, and not do anything against City Code or anything. So we thought it would be best to address this situation. And we talked to all of our neighbors that are involved. The main area that I think would be the concern would be the traffic coming in off of 156<sup>th</sup> Street. There is primarily about three or four main properties there that would have the most impact, if anybody would complain, the complaints would come from those. It so happens that a couple of those families are the ones that are using it and want to use it for team practices, and everything else! But

I just told them, in the meantime, it would be best to do things according to procedure and City Code. So our request was to try to get a conditional use on this property.

Mr. Russell asked how long has that building been there?

Mr. Eastman said we just bought it last year. I think it was built somewhere around September 2000.

Mr. Russell said the previous homeowner built this?

Mr. Eastman said he built it. He had an athletic background. He did it, more or less, for his kids. He's had practices there, he's had some Drake athletes conduct some practices for their children there, and just more or less athletic practices. It's more for practice for their kids. It was kind of a unique concept, I guess, but we are trying to maybe take that a step further. My background, before I got into real estate, which is what I'm doing now, I have my degree from Iowa State University in a recreational field. I was executive director through Boys and Girls Clubs of America, I did that for about 8-1/2 years. I worked for the City of Phoenix Parks and Recreation as a coordinator, as a handicap coordinator, but did a lot of different activities. It's just something that I have a very strong interest in, and also my wife played basketball in college. It's just an interest of ours. Not only of ours, but also from the neighborhood families and anybody else who would want to use it. We didn't want to give them permission to go ahead and do it without verifying if that was okay or not.

Mr. Russell said you say that the maximum number that you're applying for is to allow 12 students?

Mr. Eastman said typically it will not be that much, but there are times when a basketball team would have from 8 to 12 people, if they're scrimmaging, on a team. They may have 5 against 5 with a couple on the sidelines, or something like that.

Mr. Russell asked do you anticipate that there would be tournaments that would attract, as a spectator sport?

Mr. Eastman said no, there would just not be sufficient parking, for one thing. There's not enough parking here. There is, as you see in the diagram, it is a circular drive that goes around the detached garage, which is in that horseshow shape. It's all cement, it's not gravel or anything. What we have tried to do is suggest to people that they carpool. In fact, some of the neighbors who are using it, their kids would come to their house and park, and just basically walk in the backyard and back to our property. He said we really don't anticipate having more than 4 to 5 cars. Typically it's supposed to be the coaches, but a lot of parents are very involved with their kids, and you do see parents, which we don't mind. So far we have talked to the neighbors involved and, to my knowledge, there are no complaints or objection to this.

There was no one present who wished to speak in opposition.

Mr. Franklin said the action required on this item is to approve or deny a Conditional Use Permit to modify certain restrictions of Section 5.47 of the Zoning Ordinance that pertain to Home Occupations.

This is an application by Ms. Connie Eastman, owner, for a Conditional Use Permit to allow a home occupation providing instruction to a maximum of twelve (12) students at a time; to allow a maximum of twelve (12) students per hour on the premises at any one time; to allow increased hours of instruction from 7:00 am to 6:00 pm Monday through Friday, and until 8:00 pm Monday, Tuesday and Thursday; to allow the home occupation to be conducted in an accessory building; and to allow instruction to be provided by persons who aren't members of the immediate family. The appellant intends to utilize a large accessory building (42 feet wide and 72 feet long, 3,024 square feet in area) for youth athletic practices and instruction, with coaches and instructors NOT being members of the household.

Specifically, the appellant requests permission to use the accessory building for basketball and volleyball team practice, with teams consisting of 8 to 12 members, and for instruction of 4 to 12 individuals with not more than 4 students/instructor on Monday/Tuesday/Thursday. The appellant also requests that the hours be extended to allow before and after school for instruction from 7:00 a.m. to 6:00 p.m. on weekdays, and for team lessons/practice Monday/Tuesday/Thursday until 8:00 p.m., in addition to the hours customarily allowed on Saturday.

The property is zoned "A-1" Agricultural District. Home occupations in the "A-1" District and all of the residential districts are regulated by Section 5.47 of the Zoning Ordinance, which was adopted in its present form on December 29, 2003 (prior regulations for home occupations were more strict than the current regulations). The Zoning Ordinance does not allow home occupations to be conducted by a non-family member or to be located in an accessory building other than an attached garage. It also limits instruction to not more than 4 students at any one time nor more than 8 in any given hour; limits hours of instruction to between nine (9) o'clock A.M. and five (5) o'clock P.M. Monday through Friday and ten (10) o'clock A.M. through four (4) o'clock P.M. on Saturdays. The regulations for Home Occupations in their entirety are as follows:

*5.47. Home Occupations. The regulations of this ordinance are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities, when properly limited and regulated, can take place in a residential structure without changing the character of either the neighborhood or the residential structure. Any question of whether a particular home occupation is permitted shall be determined by the Zoning Administrator pursuant to the provisions of this ordinance.*

A. Performance Standards. *In addition to complying with setbacks, height restrictions, parking requirements, and all other regulations of the district in which it is located, no home occupation shall be permitted unless it complies with the following standards and criteria:*

1. *No person other than members of the immediate family occupying the dwelling unit shall be engaged in the home occupation.*
2. *The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit or 500 square feet, whichever is less, shall be used in the conduct of the home occupation.*
3. *No products, stock, or goods shall be displayed or sold on the premises.*
4. *There shall be no change in the outside appearance of the dwelling or premises or other visible evidence of the conduct of a home occupation to adjoining residences or to any street other than the display of one non-illuminated sign, not exceeding two square feet in area and mounted flat against the wall of the principal building.*
5. *No home occupation shall be conducted in any accessory building except an attached garage.*
6. *Equipment and materials used in a home occupation shall not be stored outdoors.*
7. *The traffic generated by a home occupation shall not exceed the volume, type, and peaking that would normally be expected in a residential neighborhood.*
8. *Any need for parking generated by the conduct of a home occupation shall be met on-site and in a manner that does not create a nonresidential appearance by reason of excessive paving, especially in the front yard and the side yard adjoining the street in the case of a corner lot. It thereby is the intent of this ordinance that not more than one additional parking space generally be permitted in the front yard or street side yard, provided that the Zoning Administrator may allow up to three spaces to be provided in the case of exceptionally large properties that substantially exceed the customary lot size in the neighborhood, or if the property is set back from the street by 40 feet or more. Inability to meet this criterion shall be deemed a finding that the home occupation is too large or unsuited for that specific residential property.*
9. *The home occupation shall not cause, involve or result in the use of commercial vehicles for deliveries to or from the premises, excluding a vehicle not to exceed three-quarter (3/4) ton capacity registered to the*

*operator of the home occupation.*

10. *No equipment or process shall be used in a home occupation that creates noise, vibration, glare, heat, humidity, fumes, smoke, dust or other particulate matter, or odorous matter that is detectable to the normal senses off the lot if the occupation is conducted in a detached single-family residence, or outside the dwelling unit if conducted in other than a detached single-family residence.*
11. *Mechanical, electrical, or other equipment used in the home occupation shall not be permitted to cause visual, electrical, magnetic, or audible interference, or fluctuations in line voltage, to affect any radio, television, computer, or telecommunication equipment on other premises.*

*B. Permitted Home Occupations. The following home occupations shall be permitted subject to the limitations set forth by this ordinance.*

1. *Care for six or fewer children by a resident of the dwelling unit who is not the parent, guardian, or custodian of the children, for periods of less than 24 hours per day per child on a regular basis, usually for compensation and that is not required to be licensed by the State of Iowa.*
2. *Providing instruction to not more than four (4) students at a time. In the case of swimming instruction, instructions may be only given between the hours of nine (9) o'clock A.M. and five (5) o'clock P.M. Monday through Friday and ten (10) o'clock A.M. through four (4) o'clock P.M. on Saturdays, and not more than four (4) students may be on the premises at any one time with a maximum of eight (8) students per hour.*
3. *Office facilities for accountants, architects, brokers, engineers, lawyers, physician, surgeon, dentists, engineers, lawyers, and similar professionals including incidental emergency consultation or treatment by medical professionals but not general on-site client services, reception, or meetings by any professional, it being the intent of this ordinance that the professional will meet clients or deliver services at the clients' place of business or some other off-site location and not at the residence.*
4. *Office facilities for individual insurance and real estate agents but not general on-site client services, reception, or meetings, it being the intent of this ordinance that the agent will meet clients or deliver services at the clients' residence, place of business, or some other off-site location and not at the agent's residence.*
5. *Office facilities for ministers, priests, rabbis, and other clergy including incidental counseling but not for group sessions or general counseling practice on-site.*
6. *Office facilities for salespeople, sales representatives, and manufacturer's representatives when no retail or wholesale sales are made or transacted on*

*the premises, and not including display or storage of any products, stock, or goods.*

7. *Studio of an artist, sculptor, writer, or composer.*
8. *Dressmaker or tailor.*
9. *Any use that is found by the Zoning Administrator to be a use similar to one of the named uses and to conform to the intent of this section.*

C. *Prohibited Home Occupations.* *The following uses are specifically prohibited as home occupations.*

1. *Child care centers for seven or more children or otherwise requiring licensing by the State.*
2. *Beautician, hair stylist, or barber.*
3. *Pet boarding, grooming, or training; commercial stables, whether for riding or boarding; or kennels.*
4. *Repair or maintenance of vehicles, appliances, motorcycles, lawn mowers or garden equipment, snow blowers, small engines, radios, televisions, or other electronics. Rebuilding, repair, or reconstruction of more than two (2) vehicles per year, whether owned by the occupant or not, shall be construed to be an illegal home occupation.*
5. *Brokerages or offices for multiple insurance and real estate agents, or any office engaging employees who are not family members, that hold meetings on premise, have clients come to the premises, or display or store products, stock, or goods on the premises.*
6. *Dance instruction.*
7. *Photographic studios.*

Mr. Franklin said the appellant acquired the property in September of 2005. The property has a total area of 4.38 acres. The property is a "pan handle lot" that has about 30 feet of frontage on 156<sup>th</sup> Street, from which it is accessed by a driveway that is about 450 feet long. 156<sup>th</sup> Street is classified as an arterial street. The property is irregular in shape but generally is about 490 feet wide (north/south dimension) and 300 feet deep (east/west) with the exception of the driveway access and some "protrusions".

The single-family residence was originally constructed in 1960 in another city, and moved onto this property and renovated in 1995. The large shed where the home occupation is proposed to be located was constructed by the prior owner in 2000 and is located about 95 feet to the north of the residence; about 190 feet north of the south property line; and about 60 feet west of the east property line.

There are single-family residential estates adjoining to the east and north that are also zoned "A-1" Agricultural District. There is public open space adjoining to the west. The new single-family residences that adjoin to the south, the first of which were constructed in 2003, are zoned "R-1S" Suburban Density Single Family District.

Mr. Franklin said Staff analysis is as follows:

1. Standards, all of which must be met prior to approval of a Conditional Use Permit, are as follows:
  - (a) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - (b) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish and impair property values within the neighborhood;
  - (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
  - (d) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
  - (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
  - (f) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified as provided in Section 6.
  - (g) That the proposed use shall be consistent with the Comprehensive Plan. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational controls, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Board upon finding that these are necessary to fulfill the purpose and intent of this Ordinance.
2. The subject property, being a residential estate, is somewhat larger than the majority of properties in Urbandale, and the shed where the home occupation is proposed to be located is somewhat larger than most accessory buildings and farther removed from surrounding properties than would be customary for most residential properties. The shed is currently configured for athletic use.
3. There appears to be ample area on the property to park vehicles belonging to

parents, coaches, and instructors without adversely affecting other residential properties in the area. All practices and instruction sessions will occur indoors, so sound should be reasonably contained and in addition the shed is separated from other residential properties, so it appears that sound from the home occupation will not be detrimental to other properties. Light, odors, or electrical interference do not appear to be likely impacts created by the home occupation.

4. The primary impact appears to be from vehicles entering/exiting the site in greater numbers than would be customary for a single-family residence and fully compliant home occupation. This impact would appear to primarily affect 3 or 4 residences located to the south of the driveway, and the residential estate located to the north of the driveway, because of the lot's configuration ("panhandle" or "flag" lot with a long driveway in the "handle" or "flag pole" that passes behind the residences to the south and residential estate to the north).

The amount of traffic generated by the "expanded" home occupation is somewhat difficult to quantify since it depends on a number of variables such as whether team members/students travel individually to the site or in groups.

Generally, team practices or individual instruction sessions would be expected to run for approximately one hour each, perhaps longer for older teams/students, which would generally allow two additional instruction sessions each weekday (one morning, one late afternoon) and one additional team lesson/practice per Monday/Tuesday/Thursday evening. The additional traffic for the additional sessions would be expected to range from 2 cars/session if teams/students arrived in groups (therefore 4 trips) to as many as 15 cars (54 trips, assuming parents dropped off individuals and returned to pick them up at the end of a session while instructors arrived and did not leave until the end of the session). Therefore, the additional sessions could generate between 8 and 108 additional vehicle trips per evening Monday/Tuesday/Thursday, and between 4 and 54 additional trips for the additional morning session, for a total of 12 to 162 trips/day excluding the larger groups that would be possible during the hours normally allowed.

The 12 to 162 additional trips approximately equal the number of trips generated by one to 16 single-family residences, or about equal to the amount of traffic on a standard residential cul-de-sac street.

Therefore, the Board could find that the proposed Conditional Use does not satisfy the standards required for approval of a Conditional Use, and that the request therefore must be denied. Or, the Board could find that with certain modifications and stipulations, that the proposed Conditional Use would not create a negative impact upon

the character of the neighborhood, would satisfy the required standards and the intent of the Ordinance, and that the requested Conditional Use be approved subject to such modifications and stipulations.

Mr. Franklin said Staff recommends approval of the requested conditional use modifying the home occupation restrictions as requested and as limited to the number and hours requested, subject to running only with the appellant and not with the land and expiring if and when the appellant no longer resides on the property.

Mr. Russell said to the Eastmans, you understand that last portion, that, in essence, the Staff's recommendation is to give the conditional use to you individually, so long as you live in the property and you operate, then the conditional use permit would be allowed, under the Staff's recommendations. If you were to sell the home, then you could not represent to the new buyer that they could also have the use of the outbuilding for these purposes.

The Eastmans indicated that they understood.

Mr. Russell asked Mr. Franklin was there any stipulation or restriction concerning any of the parking, number of cars at one time?

Mr. Franklin said no, at this time, we didn't feel like that would be necessary just because of the limited space on the property, and the numbers and hours that they're requesting didn't seem like that would generate enough vehicles to where we would need to worry about that.

Mr. Russell asked then were we going to tie it to that number of hours, by the way?

Mr. Franklin said yes, that's correct. You would want to tie it to the hours that have been requested and the number of students that have been requested.

Mr. Russell said can we clarify, for the record, exactly what those hours are going to be?

Mr. Franklin said hours of instruction would be from 7:00 a.m. to 6:00 p.m. Monday through Friday, and until 8:00 p.m. Monday, Tuesday and Thursday. So there would be three days a week that they could actually go a little bit longer, until 8:00 p.m.

Mr. Russell said so this doesn't have a Friday or weekends?

Mr. Franklin said Monday through Friday, they could go from 7:00 a.m. until 6:00 p.m. So it would really be daily. The Saturday hours would stay in place as is, which I believe are 10:00 a.m. to 4:00 p.m. And then Monday through Friday, in an effort to

allow before school and after school instruction, the request would be from 7:00 a.m. to 6:00 p.m., except that on Monday, Tuesday and Thursday, they could go until 8:00 p.m.

Mr. Russell said do there need to be any pre-inspections to make sure that the Fire Code is complied with?

Mr. Franklin said, at this point, that wouldn't seem to be necessary. It is private property and we do have some pictures of the inside of the facility, and it seems to be in good condition. So I don't think we have any concerns there.

Mr. Muselman asked are we concerned with any insurance policies, as far as the City goes?

Mr. Franklin said we discussed that in our pre-application meeting, and we advised them that they certainly would want to take a look at and make sure that they are covered.

Mr. Russell said you might get some crazy lawyer that might want to sue the City because we've granted them a conditional use permit and, as a result, some child got hurt, so they're looking to sue everybody and they'd come after the City since we are the ones that approved the conditional use.

Mr. Muselman said given that the definition of a "home occupation" is kind of long and drawn out, but we're okay there, right?

Mr. Franklin said we are. In essence what that does is limit you to the existing structure, and then it limits hours and number of children that would be involved. Because this is a privately owned property and the accessory structure is adjacent to the home, we thought this is appropriate, in this instance. And then their request for the additional numbers and the additional hours, given the specifics, we feel, is appropriate.

Mr. Russell asked are you requiring that the instruction remain within the building itself or could they spill out into that baseball diamond area, and have 12 kids out there playing softball?

Mr. Franklin said the way that we have written this is that everything would occur inside the structure itself.

Mr. Russell asked Mr. Eastman if that was his understanding also?

Mr. Eastman said that's probably how it was emphasized, and it's my fault if I did not clarify that. We have had some people state to us that, since there is a shortage of diamonds, and this little diamond would probably only be big enough, the outfield, for up to 8 or 9-year-olds. It's my fault if I did not include that in this request. It was our hope,

or intention, that if there was a group of the appropriate age, that they might be able to hold a practice out there. Not two teams or anything, not a scrimmage, but it's a nice infield with a backstop and everything else. But I guess if we wanted to do that, we could always come back.....?

Mr. Franklin said I don't think that we have any objection to that.

Mr. Muselman said I wouldn't have any objection.

Mr. Franklin said those hours, obviously, would be in the summer, that's when they're going to be able to use it. They cap off at 8:00 p.m. three nights a week, and that's certainly a reasonable time.

Mr. Russell said just a point of clarification, then...so they can have instruction outside of the building?

Mr. Franklin said I would not object to that.

Mr. Kirchner asked is the field lit?

Mr. Eastman said no.

Mr. Franklin said given that there is no lighting and the fact that the ball field itself is even farther away from those residences, I don't think it would cause any problems.

Mr. Russell said but if we allow it outside of the building, then, in theory, they could string up a volleyball net, and have volleyball practices starting up too.

Mr. Franklin said yes, you could certainly consider restricting it to the ball field only.

Mr. Eastman said we are getting these requests, also, from Urbandale residents and others that facilities are at a premium. There is a lack of facilities in not only Urbandale, but in Clive, West Des Moines, etc. And to have practice time at reasonable hours has been very difficult for a lot of families and coaches, and they've more or less come to me. That's the only thing that I've told them, is that I just can't do this without the approval of the City of Urbandale. And that's the reason behind this, too, is the lack of facilities. And, again, it's for our youth. That's the main thing.

Mr. Russell said as you know, the ordinance does allow us to put additional stipulations, if we care to, in addition to those recommended by the Staff. We of course are not bound by the Staff's recommendations, either to approve it or to put restrictions on it. We can make it more restrictive, less restrictive, remove some restrictions, or clarify some. Generally speaking, as a general rule, home occupations, as those of us who have been on the Board for a few years know, are usually something that are pretty

much frowned upon because it usually generates more noise in a residential area, it generates more traffic, it generates just more commercial clutter, if you will, typically, in a residential neighborhood. So we've had dog grooming businesses and all sorts of stuff being operated out of the backs of houses. And of course they come in, and the Ordinance won't allow them to continue to do that. My thought is hey, this thing is sitting out there, it's 4 acres and it isn't like it's going to be in a residential neighborhood that's going to increase the amount of commercial activity. The nature of the use is a little bit different. It's not like it is a retail business that is open several days a week and late hours.

Mr. Pittman asked the land that is directly west of this, is that owned by the City?

Mr. Franklin said I don't believe so, but I'm not sure?

Mr. Pittman said on our map here, it just says that it is "public open space".

Mr. Eastman said through my prior conversations with the previous owner, I believe he said that a section of that he has donated to the City.

Mr. Franklin said Mr. Dekker actually prepared this map and did put that on there, I honestly don't know the answer to that question. But the fact that Mr. Dekker has put that on there and he would have had to place that there, I would say that that is, in fact, a true statement.

Mr. Russell said I think he refers to this as open public land, or open land.

Mr. Eastman said to my knowledge, I think it is owned by the City of Urbandale.

Mr. Franklin said you can tell that there is obviously a creek running through there, I would say that that is the case.

Mr. Kirchner said I agree with your thoughts, Mr. Russell. It's such a unique piece of property, so large, I don't have any concerns.

Mr. Russell said I like the idea that it's going to run with the Eastmans because, to me, I feel much more comfortable in listening to Mr. Eastman, hearing his background, certainly he's got qualifications in this area. I don't have a concern that it's not going to be a well-run facility and things of that nature. And if they were to move, then it ceases, too. The only thing that I might consider, if we were to add any restrictions, if they would subdivide that lot, because I look at 4 acres sitting out there, and if they were to come in and you could easily cut that lot into 4 chunks. And now what we've done is we've put people nearby, and it's not a 4-acre lot any more, but a 1-acre lot. And that may not be the intention now but once we grant this, then we're granting it based upon the 4 acres, but that doesn't necessarily mean that it will always stay 4 acres.

Mr. Eastman said I'd like to address that comment, just for knowledge. We originally checked into our options. We were told by Heather Mac Bean in the City of Urbandale planning office, that in order for us to do anything with this property, to subdivide it or whatever, you need 60 feet of frontage of any of this property here, to attach to it. So right now, we're basically land-locked and we cannot divide that.

Mr. Russell said unless you're to come in from the north.

Mr. Franklin said the Zoning Ordinance does stipulate that any lot in Urbandale does need to have a minimum of 60 feet of frontage on a public street. So it would be very difficult for them to subdivide it.

Mr. Russell said but I thought it was just something to point out to the Board, as well, that we're looking at 4 acres here which certainly is adequate for what they want to do, as long as it stays 4 acres.

Mr. Muselman asked can we make it subject to proof of adequate insurance on what they're going to do, because I am concerned with this conditional use and that we're standing liable as a city for doing that. So if something does happen, I would like to at least know that they've got adequate insurance coverage.

Mr. Franklin said you might want to discuss this with the City's legal staff and see what an appropriate amount would be.

Mr. Russell said I would certainly think that if I had a bunch of 9, 10 or 12 year olds running around on my property, I'd want to make sure that I was covered and that my insurance agent knew that and he knew what was going on, to cover myself. But if you can check on that.....

Mr. Franklin said we sure can.

Mr. Russell said then we can make that subject to verification that there is adequate insurance coverage, because that does protect the City in case somebody were to come back.

Mr. Kirchner moved, and it was seconded by Muselman, to approve the Eastman Home Occupation Conditional Use Permit, subject to Staff recommendations, as limited to the number and hours requested, subject to the applicants maintaining adequate insurance on the facility and subject to the property remaining intact and not being subdivided, and, further, subject to running only with the appellant and not with the land, and expiring if and when the appellant no longer resides on the property. On roll call; Ayes: Kirchner, Muselman, Pittman, Russell; Nays: none. Passes: none. Motion carried.

Mr. Russell said it seems like a great location. I look at that, and I didn't even realize that was out there in Urbandale! He said make sure that you coordinate with the legal staff and make sure that you're covered.

Mr. Eastman said we do have insurance coverage, but we'll check with how much is recommended as adequate, and make sure we have it.

Regarding Staff reports, Mr. Franklin said I have nothing to mention.

Mr. Russell said we want to welcome Mr. John Pittman to the Board. He's agreed to serve a 5-year term, beginning now. Did I see somewhere that we were going to approve the meeting schedule for 2007? This is December and we normally lay out the schedule for the next year. I'm assuming that that's been looked at so it's not going to conflict with any holidays?

Mr. Franklin said we thought it was good in that respect, but wanted to send it to you and make sure that you didn't find anything. But we have looked at that, and it seems like something that should work.

Mr. Muselman said I know I won't be here for the July meeting, because I think the meeting is on July 5.

Mr. Russell said if we know that July 5 is going to be a problem, even now, because we have met on the second week of the month, if we have to. Can that be an agenda item next month? We'll get everybody here and then just ratify the schedule. The only questionable one might be the July 5<sup>th</sup> meeting.

Mr. Franklin said sure. We'll make that an item next time.

The meeting adjourned at 6:40 p.m.