



**Roll Call Number**

**Agenda Item Number**

31

**Date** November 19, 2012

An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 3201, 3211, and 3221 Forest Avenue and 1414 32<sup>nd</sup> Street from the C-1 Neighborhood Retail Commercial District, R1-60 One-Family Low-Density Residential District, and R-3 Multiple-Family Residential District to Limited NPC Neighborhood Pedestrian Commercial District classification",

which was considered and voted upon under Roll Call No. 12- 1726 of November 5, 2012; again presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED		APPROVED		

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 3201, 3211, and 3221 Forest Avenue and 1414 32<sup>nd</sup> Street from the C-1 Neighborhood Retail Commercial District, R1-60 One-Family Low-Density Residential District, and R-3 Multiple-Family Residential District to Limited NPC Neighborhood Pedestrian Commercial District classification.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, be and the same is hereby amended by rezoning and changing the district classification of certain property located in the vicinity of 3201, 3211, and 3221 Forest Avenue and 1414 32<sup>nd</sup> Street, more fully described as follows, from the C-1 Neighborhood Retail Commercial District, R1-60 One-Family Low-Density Residential District, and R-3 Multiple-Family Residential District to Limited NPC Neighborhood Pedestrian Commercial District classification:

South 60 feet of Lot 1, (except the North 80 feet) Lot 2, all Lot 3, (except the North 142 feet) Lot 4, Rutledge Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Section 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of the property and are binding upon the owners and their successors, heirs, and assigns as follows:

- (1) The following uses shall be prohibited:
  - a) taverns and nightclubs,
  - b) billiard parlor/game room,
  - c) communication tower/antenna (unless as an extension of 20 feet or less from the structure),
  - d) delayed deposit services,
  - e) pawn brokers,
  - f) gas stations/convenience stores,
  - g) off-premises advertising signs, and
  - h) liquor stores where gross revenues of tobacco and alcohol products exceed 40% of sales.

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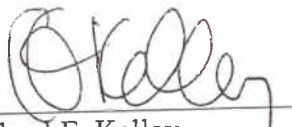
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- (2) The density of any future residential development shall be dependent upon Site Plan review and upon the traffic study required to be submitted with the Site Plan. However, the density of any development shall not exceed 40 dwelling units per acre (48 dwelling units on a 1.20-acre site).
- (3) Any development shall be in accordance with a Site Plan under the Design Guidelines for the NPC District.
- (4) Any development of a multiple-family residential use shall be in accordance with a Site Plan under the Design Guidelines for Multiple-Family Residential.
- (5) Any multiple-family residential structure shall have at least one primary entrance oriented toward Forest Avenue.
- (6) The entire ground floor of any structure shall be sided with brick or masonry materials, with the balance sided with brick, masonry, and/or cement board materials.
- (7) Any shingles shall be architectural style.
- (8) Any off-street parking shall be landscaped and screened in accordance with the City's Landscape Standards as applicable to the C-2 District.
- (9) Any development shall include a landscaped streetscape within adjoining Forest Avenue right-of-way in accordance with the City's Landscape Standards as applicable to the C-3 District.
- (10) Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 4. The City Clerk is hereby authorized and directed to cause a certified copy of the Acceptance of Rezoning Ordinance, this ordinance, a vicinity map, and proof of publication of this ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:

  
Michael F. Kelley  
Assistant City Attorney

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**HOGAN LAW OFFICE**  
3101 INGERSOLL AVENUE, SUITE 103  
DES MOINES, IOWA 50312  
(515) 279-9059  
FAX (515) 277-5836

TIMOTHY C. HOGAN  
LAWRENCE I. JAMES, JR.

Mayor Frank Cownie  
Des Moines City Council  
City of Des Moines  
400 Robert D. Ray Drive  
Des Moines, IA 50309

November 12, 2012

Re: Rezoning of 3201, 3211, and 3221 Forest Avenue and 1414 32<sup>nd</sup> Street

Dear Mayor Cownie,

I represent 3201 Forest, LLC, the developer of the properties located at 3201, 3211, and 3221 Forest Avenue and 1414 32<sup>nd</sup> Street (the "Property"). The developer seeks to rezone the Property from C-1, R-3 and R-1-60 to Neighborhood Pedestrian Commercial ("NPC") in order to pursue construction of an apartment building. My client could build a commercial or multifamily building on the site without a zoning change. However, NPC zoning is necessary to allow for a more pedestrian-friendly design pursuant to goals set forth in the 2011 Drake Neighborhood Plan (below). In addition, the use restrictions agreed to by my client as a condition of rezoning would actually limit the uses of the Property more than the current zoning.

The request to rezone to NPC is only the first step my client needs to undertake before any work could begin. After rezoning, the developer will return to the DNA, City staff, and Drake University with a site plan, which will be the product of neighborhood input. Pursuant to NPC and multifamily design guidelines, any site plan would need to be reviewed and approved by the Plan and Zoning Commission.

Mike Nelson is one of the principals of 3201 Forest, LLC. As owner of Nelson Development, Mr. Nelson is one of the leading developers of high-quality multifamily housing in Des Moines. A sample of Nelson Development's recent multifamily projects include:

- **Liberty Building** (Hyatt Place Hotel, office and retail space, and condominiums).
- **e300 Grand** (Zombie Burger, retail, and 79 energy-efficient apartments).
- **AP Transfer Lofts** (70 loft apartments).
- **Fleming Building** (80 apartments).
- **The Des Moines Building** After a competitive process, the City of Des Moines chose Nelson Development and Foutch Brothers to renovate the historic Des Moines Building at 6<sup>th</sup> and Locust Avenue. Work has begun on a mix of 136 apartments, retail, office, and restaurant space, which will be completed in 2014.

In the Drake Neighborhood, the developer seeks to build a three-story, 48-unit apartment

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building with 68 parking spaces (the “Project”). I have attached a conceptual site plan and perspectives for your review. The building hugs the corner of 32<sup>nd</sup> Street and Forest Avenue, but is set back further from the corner than the existing building to allow for greater traffic visibility. The conceptual site plan includes parking tucked along the side and behind the building and a new 12-foot sidewalk and street trees along Forest Avenue.

As noted above, prior to creating this plan, the developer considered the goals, policies, and objectives set forth in the 2011 Drake Neighborhood Plan:

([http://drakeneighborhood.org/neighborhood\\_plan/drake\\_neighborhood\\_plan.pdf](http://drakeneighborhood.org/neighborhood_plan/drake_neighborhood_plan.pdf)).

The Drake Neighborhood Plan was created during a two-year process from 2009 to 2011 and included input from the DNA, Drake University, neighborhood residents and businesses, and City staff. I have attached several pages from the Drake Neighborhood Plan for your review. Each goal or policy that concerns this Project is addressed below.

## **Page 24**

Goal/Outcome 1.4: Provide a range of quality housing opportunities in the Drake Neighborhood

Action Step 1.4.1b: Encourage new, **affordable** multifamily developments to be located along neighborhood corridors such as University Avenue, **Forest Avenue**, MLK Jr. Parkway, etc.

**The Project meets the goal to locate new, mixed-income affordable multifamily housing on a neighborhood corridor, Forest Avenue.** Under Iowa Finance Authority guidelines, a portion of the apartments shall be reserved for households at or below 60% of median income (60 % median income = \$31,740 (single), \$36,240 (two people) in 2012). Rents are estimated at \$600 for a one-bedroom apartment and \$725 for a two-bedroom apartment. The remaining apartments will be offered at market rate.

## **Page 57**

Goal/Outcome 5.4: Develop the area along Forest Avenue between 30th Street and 33rd Street as a pedestrian-friendly “campustown” district.

Action Step 5.4.1a: The DNA and DABA will support the rezoning of property from C-1 to NPC on a case-by-case basis.

Strategy 5.4.2 Encourage redevelopment that provides **additional housing density** to support the area businesses.

Action Step 5.4.2a The DNA and DABA will support this type of development as it occurs.

**The Project meets the goal to help develop a pedestrian-friendly, “campustown”**

**district on Forest Avenue between 30<sup>th</sup> and 33<sup>rd</sup> Street.** This Project is located within the section of Forest Avenue described in the Drake Neighborhood Plan. Rezoning the Property to NPC will allow the addition of housing density to the area, which is necessary to support additional retail development on Forest Avenue.

**Page 60**

In the introduction to the Land Use & Zoning section of the Drake Neighborhood Plan, “[t]he following policies are included in the future land use plan for the Drake neighborhood:

The Drake neighborhood recognizes the value of residential density, and the need for multiple family properties to house the University’s student population as well as to serve a broad range of resident needs. **Higher residential densities should be encouraged along the major corridors in order to support commercial districts and utilize mass transit routes. The Drake neighborhood supports the construction of high quality, multi-family development projects, particularly along University Avenue, Forest Avenue, and Martin Luther King, Jr. Parkway,** as well as land adjacent to Drake University. The Neighborhood Association would like to participate in site plan review for multi-family development proposals, to ensure they are of a scale and character that blends well with the neighborhood.” (emphasis added)

**Page 63**

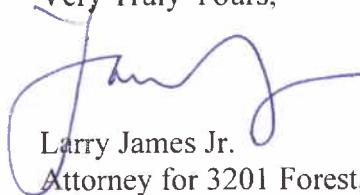
Goal/Outcome 6.3 Promote compact, pedestrian-friendly neighborhood commercial districts in the Drake neighborhood.

Action Step 6.3.1d Support rezoning requests along both sides of Forest Avenue between 30th and 33rd Streets from “C-1” Neighborhood Retail Commercial District to “NPC” Neighborhood Pedestrian Commercial District on a case- by-case basis as development is proposed.

**The Project meets the goal to promote compact, pedestrian-friendly neighborhood commercial districts in the Drake Neighborhood.** This Project is located within the section of Forest Avenue described in the Drake Neighborhood Plan. Rezoning the Property to NPC will allow the addition of housing density to the area, which is necessary to support additional retail development along Forest Avenue.

After you have had the opportunity to review the attached documents, please feel free to contact me at 279-9059, 205-2158 or [larry@hoganlawoffice.net](mailto:larry@hoganlawoffice.net) with any questions or concerns. I look forward to working with the City, Drake University, and the Drake Neighborhood on this exciting opportunity to revitalize a block of Forest Avenue

Very Truly Yours,

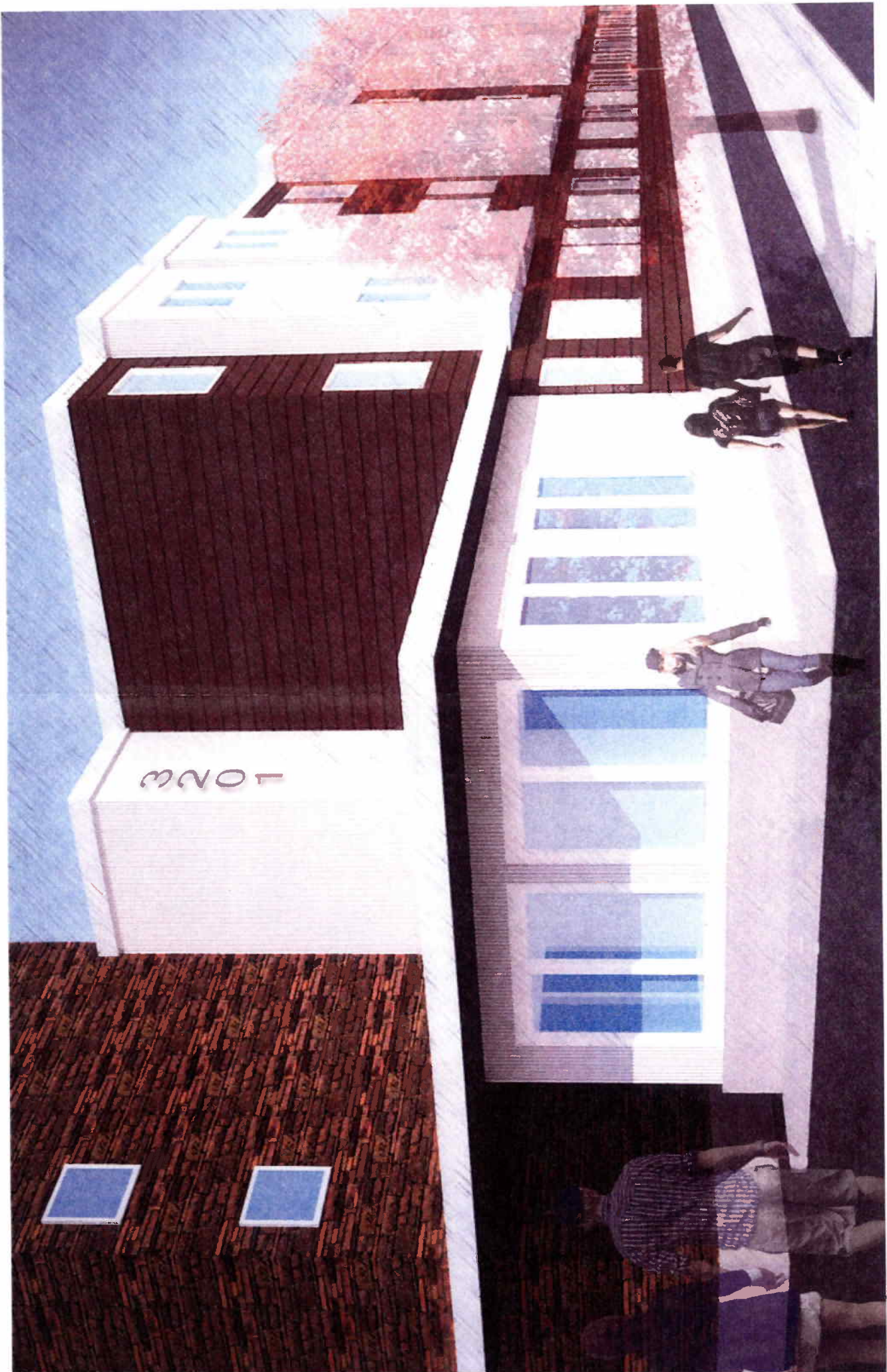
A handwritten signature in blue ink, appearing to read "Larry James Jr.", with a stylized flourish extending to the right.

Larry James Jr.

Attorney for 3201 Forest, LLC









# Drake Neighborhood Plan 2011



Goal / Outcome	Strategy	Action Steps	Responsible Party / Timeline	Timeline for Completion	Focus Area
	1.3.4 Promote awareness of tools for home improvements and repair.	1.3.4a Post information on the DNA website on available grants, loans, and other tools for home repair (NFC, NCS, etc.)	DNA, Drake Housing Coalition	6 months; Ongoing	NHOOD
	1.3.5 Utilize NBSD staff assigned to Drake to enforce the City's existing codes.	1.3.5a Educate residents, through the DNA website, on the role of NBSD staff in the neighborhood.	DNA, City - NBSD	6 months; Ongoing	NHOOD
		1.3.5b NBSD officers will attend at least one quarterly DNA meeting per year to educate residents on City housing code.	City - NBSD, DNA	Ongoing	NHOOD
1.4 Provide a range of quality housing opportunities in the Drake neighborhood.	1.4.1 Encourage for-profit developers & not-for-profit housing providers to build quality housing units consistent with the existing neighborhood character.	1.4.1a Establish a Drake Housing Coalition.	City - CD, DNA, Drake Housing Coalition	1 year	NHOOD
		1.4.1b Encourage new, affordable multi-family developments to be located along neighborhood corridors such as University Ave, Forest Ave, MLK Jr. Parkway, etc. [See also Land Use & Zoning Section]	DNA, City - CD	Policy	NHOOD
1.5 Preserve, promote, and protect historic resources in the Drake neighborhood.	1.5.1 Identify historic districts and properties that exist in the Drake neighborhood.	1.5.1a Conduct a Historical and Architectural Resource Survey of the Drake neighborhood.	DNA	2 years	NHOOD
		1.5.1b Prepare the site inventory forms for historic eligibility and nominations for properties/districts to be listed on the Nat'l Register of Historic Places.	DNA	3 years	NHOOD
		1.5.1c Share findings from the historical and architectural survey via workshops and other association events, such as the annual house tour. In addition, all findings will be posted to the DNA website.	DNA	3 years	NHOOD
		1.5.1d Post data from the historic survey onto the DNA website, creating a searchable tool for property owners and history buffs. May include the creation of a photo database.	DNA	3 years	NHOOD

Goal / Outcome	Strategy	Action Steps	Responsible Party (Primary in Bold)	Timeline for Completion
5.3 Revitalize the Forest Avenue "East" Corridor with a mix of housing and neighborhood commercial services.	5.3.1 Continue implementation of the Forest Avenue Corridor Strategy.	5.3.1a Identify private development partners willing to invest in the Forest Avenue corridor.	<b>DABA</b> , DNA, City - CD, City - OED	1 year
		5.3.1b Work to find good quality tenants to locate in redevelopment projects and stabilize the corridor.	<b>City - OED</b> , DABA, DNA	Ongoing
		5.3.1c Explore opportunities for additional redevelopment along the corridor.	<b>NDC</b> , City - CD, City - OED	Ongoing
		5.3.1d Develop the NDC-owned site at 2104 Forest Avenue.	<b>NDC</b> , City - CD, City - OED	3 years or as determined by market demand.
5.4 Develop the area along Forest Avenue between 30th Street and 33rd Street as a pedestrian-friendly "campustown" district.	5.3.2 Remove slum and blight.	5.3.2a Form a partnership with Anawim, Polk County, the City of Des Moines and Iowa CCI to encourage the property owners along the north side of Forest Avenue, between 21st and 22nd Street, to clean up their properties [See also Crime & Safety Goals].	<b>DNA</b> , Anawim, Polk County, City - CD, City - OED, CCI	1 year
		5.4.1a The DNA and DABA will support the rezoning of property from C-1 to NPC on a case-by-case basis. [See Land Use & Zoning Section].	<b>DNA</b> , DABA	Policy
	5.4.1 Encourage redevelopment that activates the street and provides dining or entertainment venues.	5.4.1b Restripe Forest Avenue with bicycle lanes, as outlined in the Drake Streetscape Plan. [See also Parks, Trails & Open Space Goals].	<b>City - T&amp;T</b> , City - Parks	1 year
		5.4.2a The DNA and DABA will support this type of development as it occurs.	<b>DNA</b> , DABA	Policy
5.4.2 Encourage redevelopment that provides additional housing density to support the area businesses.				

the City's current 2020 Community Character Plan land use plan. Establishing the future land use is an important part of the implementation of this plan because it will serve as a guide for development and redevelopment in the neighborhood. It should be considered a guideline and not a strict determinant so that it can be flexible enough to allow for changing environments in acceptable development practices and other needs that cannot be foreseen at this time.

The following policies are included in the future land use plan for the Drake neighborhood:

- The Drake neighborhood recognizes the value of residential density, and the need for multiple family properties to house the University's student population as well as to serve a broad range of resident needs. Higher residential densities should be encouraged along the major corridors in order to support commercial districts and utilize mass transit routes. The Drake neighborhood supports the construction of high quality, multi-family development projects, particularly along University Avenue, Forest Avenue, and Martin Luther King, Jr. Parkway, as well as land adjacent to Drake University. The Neighborhood Association would like to participate in site plan review for multi-family development proposals, to ensure they are of a scale and character that blends well with the neighborhood.

- Mixed-use projects with commercial uses on the first floor and residential units on the upper floors are encouraged adjacent to Drake University, on University Avenue between 21<sup>st</sup> Street and 25<sup>th</sup> Street

(Downtown) and along Forest Avenue. Retail uses should be clustered in the Dogtown Area. Along Forest Avenue, between Martin Luther King, Jr. Parkway and 24<sup>th</sup> Street, commercial uses of a general business nature, such as offices, medical offices, and business services, are more appropriate based on market conditions and lack of connectivity with University Avenue.

- Commercial areas in the Drake neighborhood have multiple purposes and are discussed in-depth in a separate section of this plan. In general, new commercial uses should have a positive influence on the neighborhood by serving the needs of residents or providing destination points that draw patrons from other parts of the City and Metro. New development should maintain the compact, pedestrian-oriented nature of the existing commercial buildings in order to activate the street and encourage walking and bicycling. Rezoning to "NPC" Neighborhood Pedestrian Commercial District is encouraged on a case-by-case basis as development is proposed, so that appropriate limitations may be included.

The Plan recommends several rezonings to support both existing uses and preferred future development patterns. It is the responsibility of the Neighborhood Association to request, in writing, that City Council initiate the rezonings contained in the plan. If the City Council initiates any rezonings, City staff will assist the Neighborhood Association throughout the rezoning process.



Goal / Outcome	Strategy	Action Steps	Responsible Party (Primary in Bold)	Timeline for Completion	Map Key*
6.3 Promote compact, pedestrian-friendly neighborhood commercial districts in the Drake neighborhood.	6.3.1 The Drake Neighborhood Association will request that the City Council initiate rezoning to support the preferred commercial use types and development pattern.	<p>6.3.1a Rezone properties on the north side of University Avenue from 23<sup>rd</sup> Street to Martin Luther King, Jr. Parkway from "C-2" General Retail &amp; Highway-Oriented Commercial District to "C-1" Neighborhood Retail Commercial District. Support future rezoning requests in this area from "C-1" District to "NPC" Neighborhood Pedestrian Commercial District on a case-by-case basis. [See Commercial Areas Section for further information].</p> <p>6.3.1b Support future rezoning requests on the north side of University Avenue from 23<sup>rd</sup> Street to Martin Luther King, Jr. Parkway from "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District on a case-by-case basis. [See Commercial Areas Section for further information].</p> <p>6.3.1c Rezone 1301 and 1245 21<sup>st</sup> Street and properties on the west side of Martin Luther King, Jr. Parkway between University Avenue and Forest Avenue from "C-2" General Retail &amp; Highway-Oriented Commercial District to "C-1" Neighborhood Retail Commercial District.</p> <p>6.3.1d Support rezoning requests along both sides of Forest Avenue between 30<sup>th</sup> and 33<sup>rd</sup> Streets from "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District on a case-by-case basis as development is proposed. Drake University should be engaged in this discussion. [See Commercial Areas section for further information].</p>	<b>DNA</b> , City - CD, City Council	2 years	6
			<b>DNA</b> , City - CD, City Council	Policy	6
			<b>DNA</b> , City - CD, City Council	2 years	7
			<b>DNA</b> , City - CD, City Council	Policy	8
6.4 Protect existing "public/semi-public" land uses in the Drake neighborhood.	6.4.1 Ensure that the 2020 Community Character Land Use Plan designations are consistent with the existing land use.	6.4.1a Amend parcels on both sides of 30 <sup>th</sup> Street between University Avenue and Carpenter Avenue from "Low/Medium Density Residential" to "Public/Semi-Public".	<b>City - CD</b>	Upon Plan Adoption	H

\*Letters correspond to the Land Use Map (Map 9); Numbers correspond to the Zoning Map (Map 10).



Daniel Flaherty  
Chairman  
Planning and Zoning Commission  
City of Des Moines  
400 Robert Ray Drive  
Des Moines, IA 50309

Dear Chairman Flaherty,

On September 4<sup>th</sup> Larry James Jr. contacted us to speak at the Drake Neighborhood Association meeting to seek support for a planned project on four lots at the 3200 block of Forest Avenue. This block has sat vacant for a number of years. In our neighborhood plan, approved in 2011, we called for redevelopment of this block. We were therefore quite excited to hear the plan Mr. James and his client, Mike Nelson, had to present. The Drake Neighborhood Association members heard the plan on September 12<sup>th</sup>, and the residents near this proposed development gathered again to further discuss this with Mr. James and the developers on September 25<sup>th</sup>.

The plan calls for the rezoning of four lots to NPC, and the development of an apartment building of 48 units. The vast majority of the neighborhood fully supports redevelopment of this block. The owner, Mike Nelson, does have a good reputation for development projects in the city. The basic concept of the plan meets the redevelopment goals set forth in our neighborhood plan. However, the size and nature of the development still gives the neighborhood cause for concern. Though we believe that this redevelopment has the potential to vastly improve the Western half of Forest Avenue, it also has the potential to further harm the neighborhood if some of our concerns are not addressed in the site plan. Our main concern is in a development that could add up to 100 people living at or below 60% of median income on one block. Though we fully support affordable housing options in our neighborhood, we worry about large concentrations of it in one spot. There are also concerns about parking that we feel can be addressed in the site plan approval process.

At this time, we support the rezoning of the lots to NPC provided bars and liquor licensing normally a part of NPC zoning be excluded. We are excited to work with the developers to create a site plan that addresses our concerns and allows us to fully support the site plan.

Thank you.

Deric Gourd  
President  
Drake Neighborhood Association

October 3, 2012

Mr. Bert Drost, Sr. Planner  
Plan and Zoning Department  
City of Des Moines  
602 Robert D. Ray Drive  
Des Moines, Iowa 50309

Dear Mr. Drost,

Drake University has been made aware, through meetings with a representative of a developer who wishes to build a three story 48 unit apartment complex with one and two bedroom apartments in the 3200 block of Forest Avenue. Drake University is enthusiastically in favor of the project because it will contribute to the revitalization of the neighborhood.

If rezoning is approved for the project, the developer has promised to work closely with surrounding neighbors, the Drake Neighborhood Association, and Drake University on a site plan that is both attractive and functional.

Drake University is pleased to provide support for this project.

Sincerely,

Dolph Pulliam, Director  
Community Outreach & Development  
Drake University  
2507 University Avenue  
Des Moines, IA 50311  
[Dolph.pulliam@drake.edu](mailto:Dolph.pulliam@drake.edu)  
515-271-3084

CC: David Maxwell, President  
Drake University