



Date November 6, 2017

**RESOLUTION SETTING HEARING ON REQUEST FROM
TOBI PARKS TO REZONE PROPERTY AT 1159 24TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 19, 2017, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Tobi Parks d/b/a Harvey Parks Properties (purchaser), to rezone property locally known as 1159 24th Street (“Property”) from Limited “NPC” Neighborhood Pedestrian Commercial District to revised Limited “NPC” Neighborhood Pedestrian Commercial District, to remove the condition prohibiting a tavern and nightclub use to allow the applicant to seek a Conditional Use Permit for a business selling liquor, wine and beer as part of a proposed principal gallery use and event assembly use of the Property, subject to the following rezoning conditions:

- A. The following uses of structures and land shall not be permitted upon the Property:
1. Gas stations;
 2. Locker plant;
 3. Automotive and motorcycle accessory and parts store;
 4. Lawn mower repair shops;
 5. Radio stations;
 6. Animal hospitals, veterinary clinics, or kennels;
 7. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
 8. Ballrooms and dance halls;
 9. Billiards parlors, pool halls and game rooms;
 10. Carpenter and cabinet making shops for retail custom work;
 11. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
 12. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
 13. Drive-in theaters;
 14. Lumber yards;
 15. Mini-warehouse;
 16. Monument sales yards;
 17. Any business holding a liquor license, beer or wine permit which is not operated as either:



Date November 6, 2017

- a. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; or
- b. a gallery and performing arts assembly use that occupies no more than 3,000 square feet of gross floor area (considered a tavern under provisions of the Zoning Ordinance) that is operated in compliance with an approved Conditional Use Permit including, but not limited to, hours of operation, sales requirements, and parking arrangements;
- 18. Plumbing and heating shops;
- 19. Sheet metal shops;
- 20. Sign painting shops;
- 21. Mobile home parks;
- 22. Used car sales lots;
- 23. Garage for general motor vehicle repair;
- 24. Automobile washing establishments;
- 25. Adult entertainment businesses; and
- 26. Off-premises advertising signs.

B. Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District; and

WHEREAS, the Property to be rezoned is legally described as follows:

Lot 22, DRAKE UNIVERSITY 3RD ADDITION, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held at the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa, at 5:00 p.m. on November 20, 2017, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.



Roll Call Number

Agenda Item Number

18

Date November 6, 2017

MOVED BY _____ TO ADOPT.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(ZON2017-00142)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

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.

City Clerk



Date November 6, 2017
 Agenda Item 18
 Roll Call # _____

October 26, 2017

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their October 19, 2017 meeting, the following action was taken regarding a request from Tobi Parks (purchaser) dba Harvey Parks Properties to rezone property at 1159 24th Street. The subject property is owned by TTSR Holdings, LLC.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones				X
William Page	X			
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

APPROVAL of Part A) that the proposed rezoning be found in conformance with the existing PlanDSM Creating Our Tomorrow future land use designations and approval of Part B) rezoning the subject property to a Limited "NPC" District subject to the following conditions: (ZON2017-00142)

- A. The following uses of structures and land shall not be permitted upon the property:
1. Gas stations;
 2. Locker plant;
 3. Automotive and motorcycle accessory and parts store;
 4. Lawn mower repair shops;
 5. Radio stations;
 6. Animal hospitals, veterinary clinics, or kennels;
 7. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
 8. Ballrooms and dance halls;
 9. Billiards parlors, pool halls and game rooms;
 10. Carpenter and cabinet making shops for retail custom work;
 11. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
 12. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
 13. Drive-in theaters;
 14. Lumber yards;
 15. Mini-warehouse;
 16. Monument sales yards;
 17. Any business holding a liquor license, beer or wine permit which is not operated as either:
 - a. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; or
 - b. a gallery and performing arts assembly use that occupies no more than 3,000 square feet of gross floor area (considered a tavern under provisions of the Zoning Ordinance) that is operated in compliance with an approved Conditional Use Permit including, but not limited to, hours of operation, sales requirements, and parking arrangements;
 18. Plumbing and heating shops;
 19. Sheet metal shops;
 20. Sign painting shops;
 21. Mobile home parks;
 22. Used car sales lots;
 23. Garage for general motor vehicle repair;
 24. Automobile washing establishments;
 25. Adult entertainment businesses; and

26. Off-premises advertising signs.

B. Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District.

Written Responses

1 in Favor

0 in Opposition

STAFF RECOMMENDATION

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing PlanDSM Creating Our Tomorrow future land use designations.

Part B) Staff recommends approval of rezoning the subject property to a Limited "NPC" District subject to the following conditions:

- A. The following uses of structures and land shall not be permitted upon the property:
1. Gas stations;
 2. Locker plant;
 3. Automotive and motorcycle accessory and parts store;
 4. Lawn mower repair shops;
 5. Radio stations;
 6. Animal hospitals, veterinary clinics, or kennels;
 7. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
 8. Ballrooms and dance halls;
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 - a. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; or

- b. a gallery and performing arts assembly use that occupies no more than 3,000 square feet of gross floor area (considered a tavern under provisions of the Zoning Ordinance) that is operated in compliance with an approved Conditional Use Permit including, but not limited to, hours of operation, sales requirements, and parking arrangements;
- 18. Plumbing and heating shops;
- 19. Sheet metal shops;
- 20. Sign painting shops;
- 21. Mobile home parks;
- 22. Used car sales lots;
- 23. Garage for general motor vehicle repair;
- 24. Automobile washing establishments;
- 25. Adult entertainment businesses; and
- 26. Off-premises advertising signs.

B. Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** On March 10, 2014, the City Council rezoned the subject property from "C-1" District to a Limited "NPC" District subject to the prohibition of the following uses:

- a. Taverns and nightclubs;
- b. Billiard parlors/game rooms;
- c. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
- d. Delayed deposit services;
- e. Pawn brokers;
- f. Gas stations/convenience stores;
- g. Off premises advertising signs; and,
- h. Liquor stores.

The rezoning in 2014 allowed an existing music instrument repair business to expand into guitar manufacturing. Guitar making is considered a carpenter and cabinetmaking shop type use, which is not permitted in the "C-1" District.

The applicant is proposing to convert a portion of the building to gallery and performing arts assembly use. The use would include alcohol sales during events. This is considered a tavern use by the Zoning Ordinance. Therefore, the existing zoning condition prohibiting taverns and nightclubs must be removed if the venture is to move forward. Should the rezoning be approved, the applicant would be required to obtain a

Conditional Use Permit for a business selling liquor, wine and/or beer from the Zoning Board of Adjustment.

2. **Size of Site:** 40 feet by 160 feet (6,400 square feet).
3. **Existing Zoning (site):** Limited "NPC" Neighborhood Pedestrian Commercial District
4. **Existing Land Use (site):** The site contains a 40-foot by 160-foot (6,400 square feet) building that is occupied by a guitar business and recording studio.

5. **Adjacent Land Use and Zoning:**

North – "C-1"; Uses are professional offices.

South – "C-1"; Use is offices for Drake University Army ROTC.

East – "NPC"; Uses are multiple-family row house residential units.

West – University Square "PUD"; Use is off-street parking for both Holiday Inn Express hotel and Drake Legal Clinic.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the east side of 24th Street just south of University Avenue. The site is in an area that includes a mix of residential and commercial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Drake Neighborhood and within 250 feet of the Carpenter Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on August 21, 2017 and a Final Agenda on September 1, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on August 18, 2018 (20 days prior to public hearing) and August 28, 2017 (10 days prior to the public hearing) to the Drake Neighborhood Association, the Carpenter Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the October 19, 2017 meeting was mailed on October 13, 2017.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood Association mailings were sent to Kristina Johnson, 3523 University Avenue #12A, Des Moines, IA 50311. The Carpenter Neighborhood Association mailings were sent to Robert Gieber, 2315 Carpenter Avenue, Des Moines, IA 50311.

8. **Relevant Zoning History:** On March 10, 2014, by Roll Call Number 14-0423, the City Council approved Ordinance Number 15,265 rezoning the subject property from "C-1" District to a Limited "NPC" District subject to the prohibition of the following uses:
 - a. Taverns and nightclubs;
 - b. Billiard parlors/game rooms;
 - c. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);

- d. Delayed deposit services;
- e. Pawn brokers;
- f. Gas stations/convenience stores;
- g. Off premises advertising signs; and,
- h. Liquor stores.

9. PlanDSM Land Use Plan Designation: Neighborhood Mixed Use.

Neighborhood Mixed Use: Small-scale mixed use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service oriented development. Low-medium density residential may be included in mixed use development.

10. Applicable Regulations: The Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code, and taking into consideration the criteria set forth in Chapter 18B of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Plan DSM Land Use Plan Designation:** The subject property is designated as “Neighborhood Mixed Use” on the Future Land Use Map. The “NPC” District is consistent with this designation. However, the property is located at the edge of the commercial development along the University Avenue corridor. Not all uses allowed by the “NPC” District are appropriate for a site in an area that is a transition point to an adjoining residential area. Therefore, staff recommends approval subject to the conditions listed in Section III of this report. These conditions are based on the conditions that were applied to the Drake Alumni House (2700 University Avenue) in 2014. This rezoning was referenced during the October 5, 2017 meeting as being a similar example.
- 2. Parking & Access:** The Zoning Ordinance requires 1 parking space per 150 square feet of gross floor area for the proposed use. This would equate to 15 parking spaces for the proposed 2,174 square feet of tavern space. The parking standards for the “NPC” District allows for a 40% reduction to the required off-street parking. This provision would reduce the required number of space to 9 for the proposed use. The building encompasses the entire property and on-site parking is no possible. Should the rezoning be approved, the applicant would be required to submit a Site Plan and building elevations for review by the Plan and Zoning Commission in accordance with the NPC Design Guidelines.
- 3. Permit & Development Center Comments:** Any renovation of the building must be in compliance with applicable Building and Fire Codes, with issuance of any necessary permits by the Permit and Development Center.

4. **NPC Design Guidelines:** Should the rezoning be approved, the applicant would be required to submit a Site Plan and building elevations for review by the Plan and Zoning Commission in accordance with the NPC Design Guidelines for the project to move forward. The project would be evaluated against the following standards at that time.

1. Buildings should frame the street and maintain a minimal setback from the street.
2. The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street facade.
3. The front entrance should be oriented to the street. On a corner lot, the building should have a well-defined entrance on the primary commercial street.
4. Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches. Two-story buildings are encouraged.
5. Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.
6. Building frontage should occupy at least 50 percent of the primary street frontage.
7. Off-street loading and parking spaces should be provided in compliance with sections 134-1376 and 134-1377 of the zoning chapter, subject to the following modifications:
 - a. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).
 - b. Parking should not exceed the amount otherwise required by section 134-1377 of this Code.
 - c. Parking should not use the front yard but should be concentrated along the side and behind the building in the predominant pattern of character defining buildings.
 - d. Shared parking among businesses or between business and residential projects will be allowed, provided a shared parking plan is presented at the time of application, signed by the property owners, ensuring non-duplication of parking. The shared parking must be within 300 feet of the business or dwelling.
 - e. On-street parking directly adjacent to the occupant frontage shall count toward the minimum off-street parking requirement. Elimination of such on-street parking by the city shall have no effect on an approved Site Plan.

- f. Tandem parking spaces shall count toward the minimum off-street parking requirement if a parking plan demonstrates that the parking will be for employees and will be occupied for over four hours between changes.
 - g. An emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.
8. The following bulk regulations should be observed:
- a. Minimum lot area Mixed-use project, 10,000 square feet, no minimum requirement for permitted nonresidential uses.
 - b. Minimum lot area per dwelling unit multiple dwellings, 2,000 square feet.
 - c. Front yard: minimum of zero feet.
 - d. Side yards: minimum of zero feet.
 - e. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet.
 - f. Height: minimum of 15 feet, maximum of 45 feet.
 - g. Number of stories:
 - Residential uses, a maximum of four stories.
 - All other permitted uses, a maximum of two stories.
 - h. Signs, which are attached or projecting from the building and designed for the character of the building, are preferred. Monument signs are allowed.
 - i. Any extension of parking into an adjoining residential district shall support the intent of the NPC neighborhood pedestrian commercial district and conform with the guidelines in this section.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

John "Jack" Hilmes moved staff recommendation Part A) the proposed rezoning be found in conformance with the existing PlanDSM Creating Our Tomorrow future land use designations and approval of Part B) rezoning the subject property to a Limited "NPC" District subject to the following conditions:

- A. The following uses of structures and land shall not be permitted upon the property:
 - 1. Gas stations;
 - 2. Locker plant;
 - 3. Automotive and motorcycle accessory and parts store;

4. Lawn mower repair shops;
5. Radio stations;
6. Animal hospitals, veterinary clinics, or kennels;
7. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
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13. Drive-in theaters;
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22. Used car sales lots;
23. Garage for general motor vehicle repair;
24. Automobile washing establishments;
25. Adult entertainment businesses; and
26. Off-premises advertising signs.

B. Signage upon the Property shall be limited to that allowed in the "C-1"
Neighborhood Retail Commercial District.

Motion Passed: 13-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

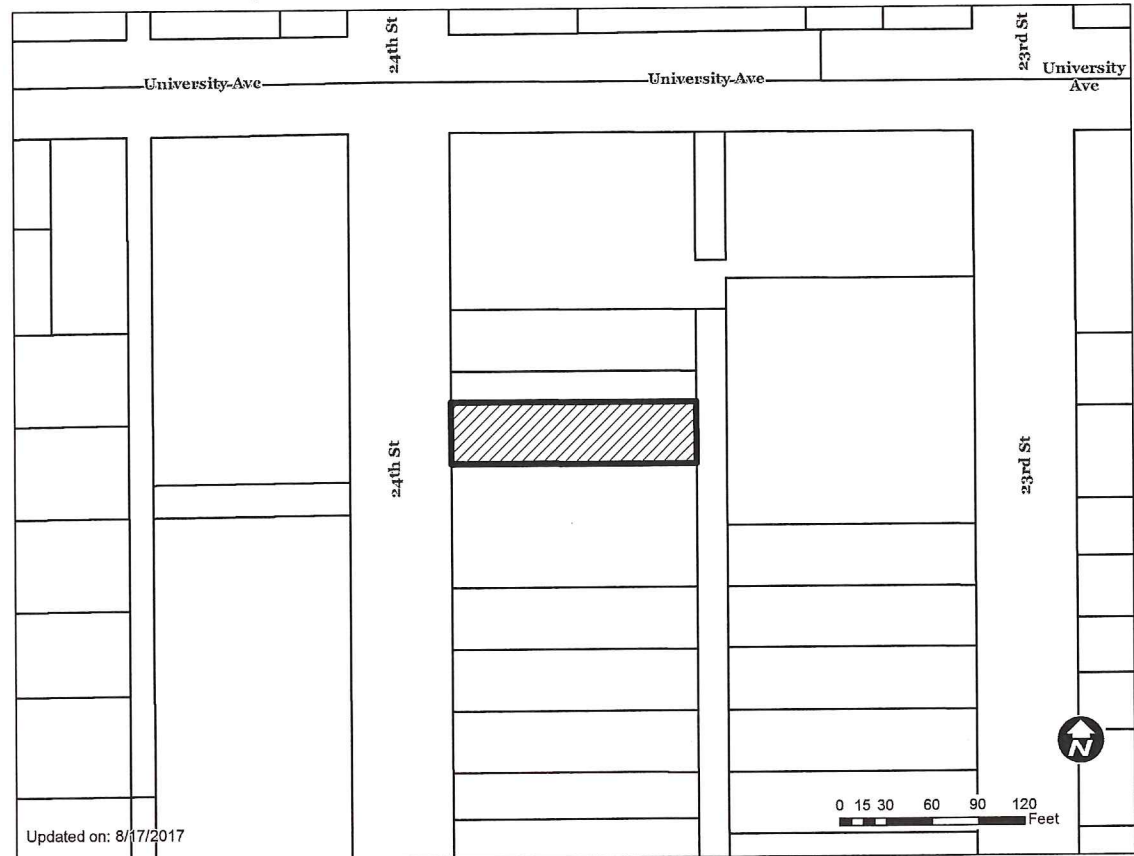
MGL:tjh
Attachments

18

Tobi Parks (purchaser) dba Harvey Parks Properties for property at 1159 24th Street. The subject property is owned by TTSR Holdings, LLC.			File # ZON2017-00142	
Description of Action	Approval of rezoning of property from Limited "NPC" Neighborhood Pedestrian Commercial District to Limited "NPC" Neighborhood Pedestrian Commercial District whereby the condition prohibiting a Tavern & Nightclub Use is removed, to allow the owner to seek a Conditional Use Permit for a business selling liquor, wine and beer as part of a proposed principal gallery use and event assembly use of the premises, subject to conditions.			
PlanDSM Future Land Use	Current: Neighborhood Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	Limited "NPC" Neighborhood Pedestrian District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	Revised Limited "NPC" Neighborhood Pedestrian District and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property		0		
Outside Area (200 feet)	1			
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Tobi Parks dba Harvey Parks Properties, 1159 24th Street

ZON2017-00142



Updated on: 8/17/2017

1 inch = 73 feet

Item ZON2017-00142 Date 9-6-17 18

I (am) (am not) in favor of the request.

Unchecked
(Circle One)

RECEIVED

Print Name Ben Lyggett

COMMUNITY DEVELOPMENT

Signature [Signature]

SEP 11 2017

Address 1156 23rd Street
2300/2328 University Ave.

Reason for opposing or approving this request may be listed below.

* Worried about customers using our Apartment &
Commercial Tenant parking. Worried about
loud music/drinking outdoors at night causing
a possible safety issue for our tenants.

Item ZON2017-00142 Date 8/31/17

I (am) (am not) in favor of the request.

Checked
(Circle One)

RECEIVED

Print Name Mark Vest

COMMUNITY DEVELOPMENT

Signature [Signature]

SEP 06 2017

Address 1155 23rd St

Reason for opposing or approving this request may be listed below.

Sounds like it would add to the
overall culture in the area.



October 2, 2017

To the Des Moines Plan and Zoning Commission and City Council,

Tobi Parks attended the Drake Neighborhood Association's (DNA) monthly meeting on September 13th and presented plans for the use of the property at 1159 24th Street. Tobi expressed interest in using this building to further the goals of a nonprofit working to help give a leg up to young artists in the music business, with part of the plan being to open a mid-sized performing venue in the building. However, to do this, they would like to be able to sell alcohol, which is not allowed under the current NPC zoning.

The DNA supports this plan, provided that the alcohol sales are only to people who have purchased tickets to see the show, that they comply with City noise ordinances and do their best to reduce noise coming from concerts, and that they work to disperse outdoor crowds after shows have finished. Ms. Parks confirmed their intention to do so, and the DNA board voted unanimously to support removing the "no tavern" restriction from the zoning for that site.

Sincerely,

A handwritten signature in black ink, appearing to read "David Courard-Hauri", is written over a horizontal line.

David Courard-Hauri
Secretary, Drake Neighborhood Association

for

Kristina Johnson
President, Drake Neighborhood Association

September 27, 2017

City of Des Moines
Planning & Zoning Commission
602 Robert D Ray Drive
Des Moines, IA 50309

Dear Planning & Zoning Commission:

I am writing this letter on behalf of Drake University, which currently owns the property at 1153 24th Street which abuts the subject property located at 1159 24th Street.

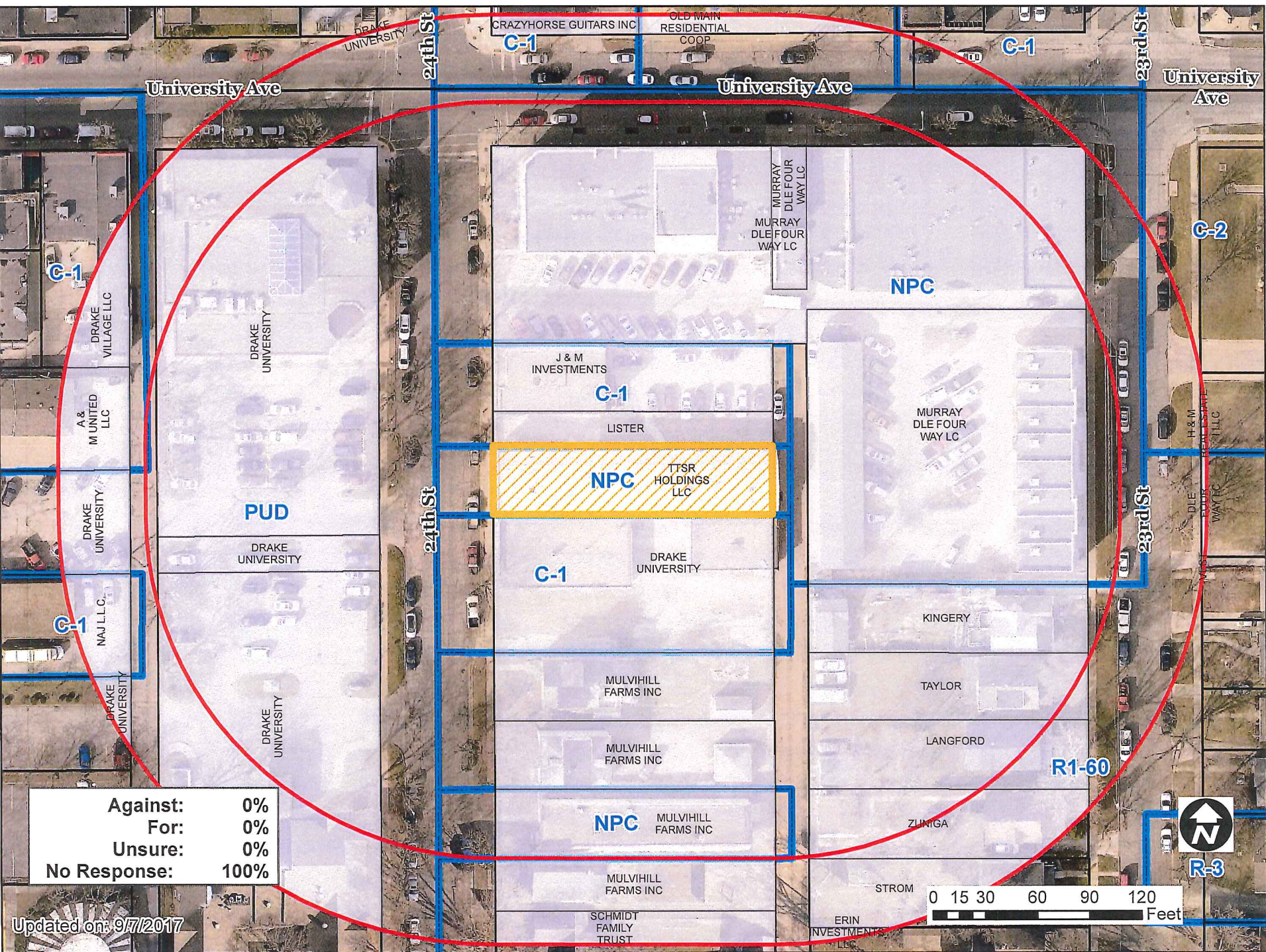
Drake University supports lifting the restriction prohibiting taverns and nightclubs for the property located at 1159 24th Street where Tobi Parks and Harvey Parks Properties propose to open the performing arts venue, xBk. The type of endeavor is exactly the type of business we need in the Drake neighborhood – a business that will bring more life to our community through the performing arts.

Ms. Parks and her organization, Station 1 Records, have been affiliated with Drake University since 2015. She has shown her dedication to our community and the arts through her work with our students, as well as by the investments she has made both personally and through her organization. Not only will this new venture be a benefit to the Drake neighborhood, but it will be a welcome addition for those of our students interested in performing at the venue and others who will be able to experience additional arts and culture just down the street from Drake.

Drake University respectfully requests that the Commission approve the variance and remove the restriction prohibiting taverns and nightclubs so Ms. Parks can continue pursuing her vision of expanding arts and culture offerings in the Drake neighborhood.

Sincerely,


Marty Martin
President



Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 9/7/2017

