★R	oll Call Number	Agenda Item Number
Date	March 11, 2019	
	RESOLUTION ON REQUEST FROM FULL COURT EXISTING PLANDSM: CREATING OUR TOMORR DESIGNATION (3506 UNIVERSIT	OW PLAN FUTURE LAND USE
Pla	WHEREAS, on April 25, 2016, by Roll Call No. 1 anDSM: Creating Our Tomorrow Plan; and	16-0717, the City Council adopted the
Co Cr Un	WHEREAS, at a public hearing held on February ommission voted 9-0 in support of a motion to recomme purt Press, Inc. (owner), represented by Jeff Bruning (officeating Our Tomorrow Plan future land use designation for niversity Avenue, from Low/Medium Density Residential existing restaurant use to be reclassified to a tavern use.	end APPROVAL of a request by Full icer), to amend the existing PlanDSM: or real property locally known as 3506 at to Community Mixed Use, to allow
	NOW THEREFORE, BE IT RESOLVED, by oines, Iowa, that the proposed amendment to the PlanDs scribed above, is hereby approved / denied.	
pro	MOVED by to adopt a oposed amendment.	and APPROVE / DENY the
FO	RM APPROVED:	
Gl	enna K. Frank, Assistant City Attorney	(21-2018-4.25)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO			.1)	
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			API	PROVED

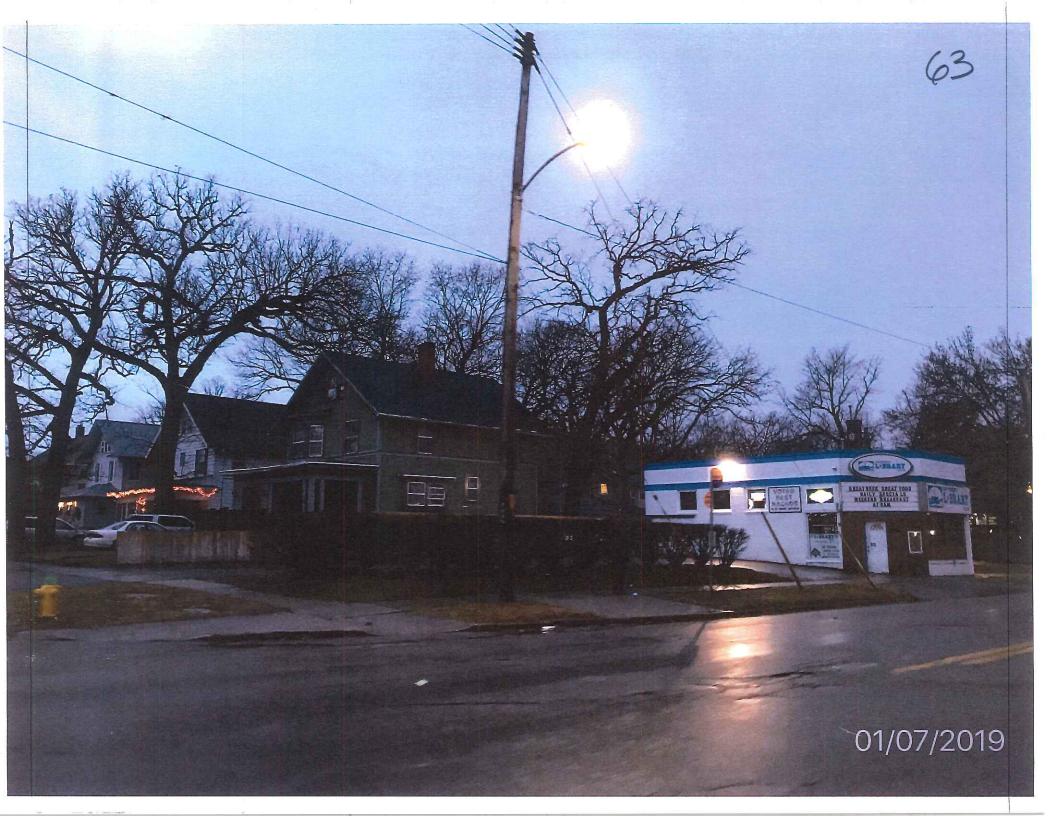
Mayor

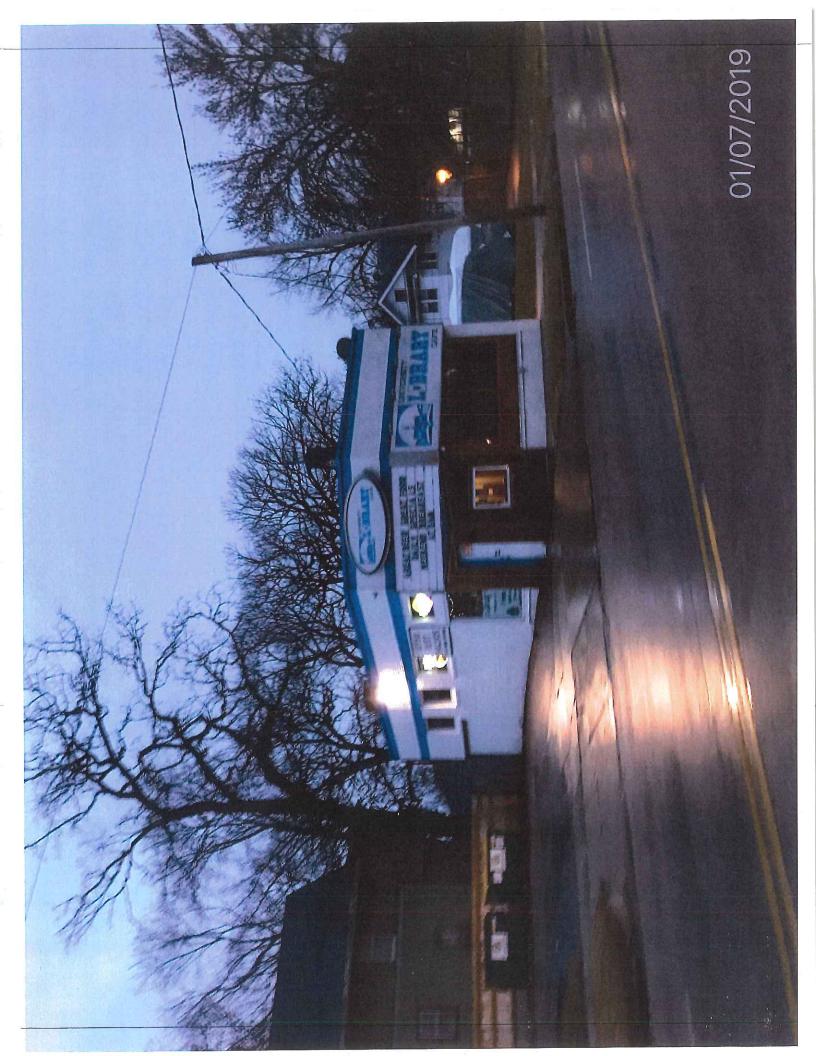
CERTIFICATE

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
377	







February 19, 2019	February	19,	201	19
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Date	10
Agenda Item_	65
Roll Call #	

Honorable Mayor and City Council City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their February 7, 2019 meeting, the following action was taken regarding a request from Full Court Press, Inc. (owner) represented by Jeff Bruning (officer) to rezone property at 3506 University Avenue from "R-3" Multiple-Family Residential District to "NPC" Neighborhood Pedestrian Commercial District, to allow conversion of the existing restaurant use to a tavern use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	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) the Commission find the requested rezoning NOT in conformance with PlanDSM: Creating Our Tomorrow Plan future land use designation of Low/Medium Density Residential; to recommend APPROVAL of Part B) to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Low/Medium Density Residential to Community Mixed Use; and to recommend APPROVAL of Part C) to rezone the subject property to a Limited "NPC" District, subject to the following conditions:

to rezone 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. Any business holding a liquor license, wine permit, or beer permit that is not operated as either:
 - a. a restaurant where at least half of whose gross income is derived from the sale of prepared food and food-related services; or
 - a tavern, which has a kitchen and offers a full menu for food service at all times that the business is open to customers, so long as the Zoning Board of Adjustment grants a Conditional Use Permit allowing and further regulating such use;
 - 2. Gas stations;
 - 3. Locker plant;
 - 4. Automotive and motorcycle accessory and parts store;
 - 5. Lawn mower repair shops;
 - 6. Radio stations;
 - 7. Animal hospitals, veterinary clinics, or kennels;
 - 8. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
 - 9. Ballrooms and dance halls;
 - 10. Billiards parlors, pool halls and game rooms;
 - 11. Carpenter and cabinet making shops for retail custom work;
 - 12. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
 - 13. Communication towers/antennas (excluding an extension of 20 feet or less from an existing building);
 - 14. Drive-in theaters;
 - 15. Lumber yards;
 - 16. Mini-warehouse;
 - 17. Monument sales yards;
 - 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.

(ZON2018-00248) & (21-2018-4.25)

Written Responses
10 in Favor
1 in Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with PlanDSM: Creating Our Tomorrow Plan future land use designation of Low/Medium Density Residential.

Part B) Staff recommends approval of the request to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Low/Medium Density Residential to Community Mixed Use.

Part C) 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. Any business holding a liquor license, wine permit, or beer permit that is not operated as either:
 - a. a restaurant where at least half of whose gross income is derived from the sale of prepared food and food-related services; or
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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.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request: The proposed rezoning would allow the appellant to seek a Conditional Use Permit from the Zoning Board of Adjustment that would allow the existing business to be reclassified from a restaurant use to a tavern use. As a restaurant, the business is currently required to derive at least half of its gross income from the sale of prepared food and food-related services. The applicant has indicated that they have had difficulty complying with this requirement.
- 2. Size of Site: 50 feet by 108 feet (5,400 square feet or 0.12-acre).
- **3. Existing Zoning (site):** "R-3" Multiple-Family Residential District and "FSO" Freestanding Sign Overlay District.
- **4. Existing Land Use (site):** The property contains a 40-foot by 23-foot (888 square feet) one-story commercial building, which is occupied by the University Library Café, which has been operating as a restaurant, and an off-street parking lot containing six (6) parking spaces.

5. Adjacent Land Use and Zoning:

North – "R-3", Uses include University Avenue, single-family dwellings, and multiple-family residential.

South - "R1-60", Use is a single-family dwelling.

East – "R-3", Uses include 35th Street and a multiple-family dwelling.

West - "R-3", Use is an undeveloped lot.

- **6. General Neighborhood/Area Land Uses:** The subject property is located at the southwest corner of University Avenue and 35th Street. The University Avenue consists of a mix of residential and commercial uses that back up to low-density residential neighborhoods.
- 7. Applicable Recognized Neighborhood(s): The subject property is located in the Drake Neighborhood. This neighborhood association was notified of the public hearing by mailing of the Preliminary Agendas on December 28, 2018 and January 22, 2019, and Final Agendas on January 11, 2019 and February 1, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on December 28, 2018 (20 days prior to the January 17, 2019 public hearing) and January 7, 2019 (10 days prior to the January 17, 2019 public hearing) to the Drake Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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 notices were mailed to Jennifer Sayers, 1129 28th Street, Des Moines, IA 50311.

The appellant held their neighborhood meeting on January 9, 2019. They will be available to provide a summary at the public hearing.

- 8. Relevant Zoning History: N/A.
- 9. PlanDSM Future Land Use Plan Designation: Low-Medium Density Residential Use, which is defined as "Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre."
- 10. Applicable Regulations: Taking into the consideration of the criteria set forth in Chapter 18B of the Iowa Code, 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. 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. PlanDSM Creating Our Tomorrow: The applicant has requested that the future land use designation be amended from "Low-Medium Density Residential" to "Community Mixed Use". Plan DSM describes this designation as follows:

Small- to medium-scale mixed-use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

Staff finds that the "Community Mixed Use" designation is appropriate given the property's location along University Avenue and that the proposed "NPC" Neighborhood Pedestrian Commercial District is in conformance with this designation. However, given the limited size of the property and the close proximity of residential uses, Staff finds that it is necessary to limit the permitted use on the property contained in the Staff Recommendation section of this report. As noted, Staff recommends that any tavern use tavern on the property be required to have a kitchen and offer a full menu for food service at all times that the business is open to customers, as well comply with all requirements of the necessary Conditional Use Permit granted by the Zoning Board of Adjustment.

- 2. Conditional Use Permit Requirements: Should the rezoning be approved, any future use of the property for a tavern would be contingent upon the Zoning Board of Adjustment granting a Conditional Use Permit for such use. The subject property currently satisfies the separation distance requirements for a tavern since there is not a church, school, public park or licensed child care facility within 150 feet. The Zoning Board of Adjustment would evaluate such a request against the following standards:
 - 1. The business conforms with the conditions identified in City Code Section 134-954(a).
 - 2. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area.
 - 3. The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses.
 - 4. The business will not unduly increase congestion on the streets in the adjoining residential area.
 - 5. The operation of the business will not constitute a nuisance.
- 3. NPC Design Guidelines: Should the rezoning be approved, any future redevelopment of the property would be subject to review and approval by the Plan and Zoning Commission of a Site Plan and building elevations in accordance with the following NPC District Design Guidelines:
 - 1. Buildings should frame the street and maintain a minimal setback from the street.

- 63
- 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 in back of 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.
- 4. 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

SUMMARY OF DISCUSSION

<u>Jacqueline Easley</u> noted that the applicant for item #4 has agreed to the staff recommendations. She asked if any members of the audience or the Commission requested to speak regarding moving the item to the consent agenda. None were present or requested to speak.

Jann Freed made a motion to move item #4 to the consent agenda.

<u>Jacqueline Easley</u> asked if any member of the audience or the commission desired to speak regarding approval of the item. None were present or requested to speak.

COMMISSION ACTION:

John "Jack" Hilmes made a motion to APPROVE Part A) the Commission find the requested rezoning NOT in conformance with PlanDSM: Creating Our Tomorrow Plan future land use designation of Low/Medium Density Residential; to recommend APPROVAL of Part B) to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Low/Medium Density Residential to Community Mixed Use; and to recommend APPROVAL of Part C) to rezone the subject property to a Limited "NPC" District, subject to the following conditions:

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 - 2. Gas stations;
 - 3. Locker plant;
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 - 5. Lawn mower repair shops;

- 6. Radio stations;
- 7. Animal hospitals, veterinary clinics, or kennels;
- Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
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- 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 Carried: 9-0

Respectfully submitted,

Michael Ludwig, AICP Planning Administrator

MGL:tjh

Full Court Press (owner) represented by Jeff Brun					runi	ing (officer) for	r 3506 Unive	ersity		File#
Avenue.						93			ZC	N2018-00248
Description of Action									borhood se to a tavern	
PlanDSM Future Land Use				Current: Low/Medium Density Residential. Proposed: Community Mixed Use.						
Mobilizing Tomorrow Transportation Plan			No pla	No planned improvements.						
Current Zoning District				"R-3" Multiple-Family Residential District and "FSO" Freestanding Signs Overlay District.						
Proposed Zoning District				"NPC" Neighborhood Pedestrian Commercial District and "FSO" Freestandi Signs Overlay District.				" Freestanding		
Consent Card	Respon	ses	In Fav	In Favor Not		t In Favor	or Undetermine		% 0	position
Subject Property			10		1					
Outside Area (200 feet)										
	Plan and Zoning Appro		oval X			Required 6/7 Vote of the City Council		Yes		
Commission A	ction	Denia						No		Х

Full Court Press, Inc., 3506 University Avenue

ZON2018-00248

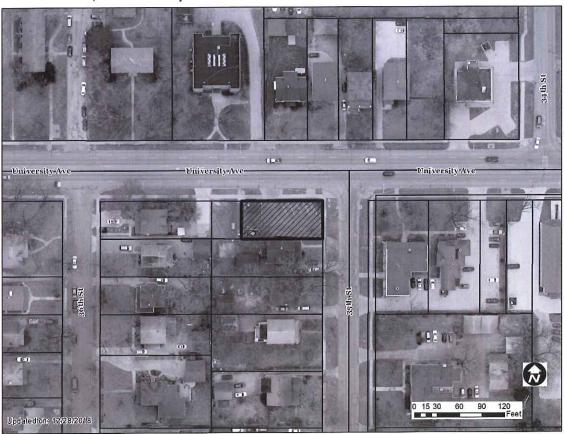


1 inch = 75 feet

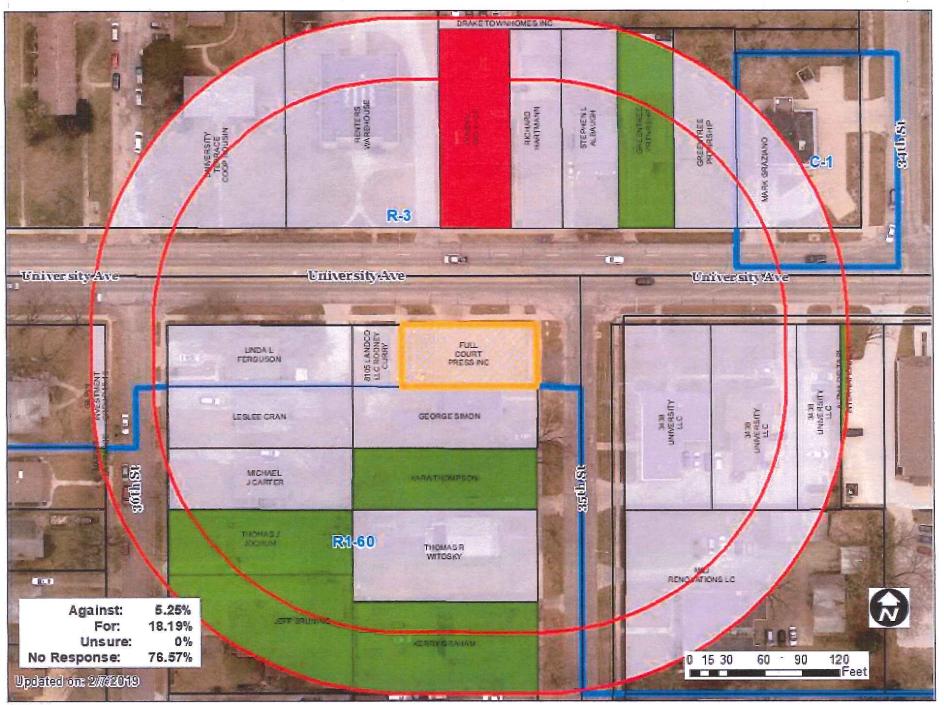
Full Court Press (owner) represented by Jeff Brun					runi	ing (officer) for	3506 Unive	ersity		File #
Avenue.									2	21-2018-4.25
Description of Action			the PlanDSM future land use classification from Low/Medium Density Community Mixed Use.						ensity	
PlanDSM Future Land Use				Current: Low/Medium Density Residential. Proposed: Community Mixed Use.						
Mobilizing Tomorrow Transportation Plan				No planned improvements.						
Current Zoning District				"R-3" Multiple-Family Residential District and "FSO" Freestanding Signs Overlay District.						
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Consent Card	Respons	ses	In Fav	In Favor N		ot In Favor Undetermin		ned	% 0	pposition
Subject Property		0	0							
Outside Area (200 feet)										
Plan and Zonir	Plan and Zoning Appro		val	Х		Required 6/7 Vote of		Yes		
Commission A	mmission Action Denial			the City Council		No		х		

Full Court Press, 3506 University Avenue

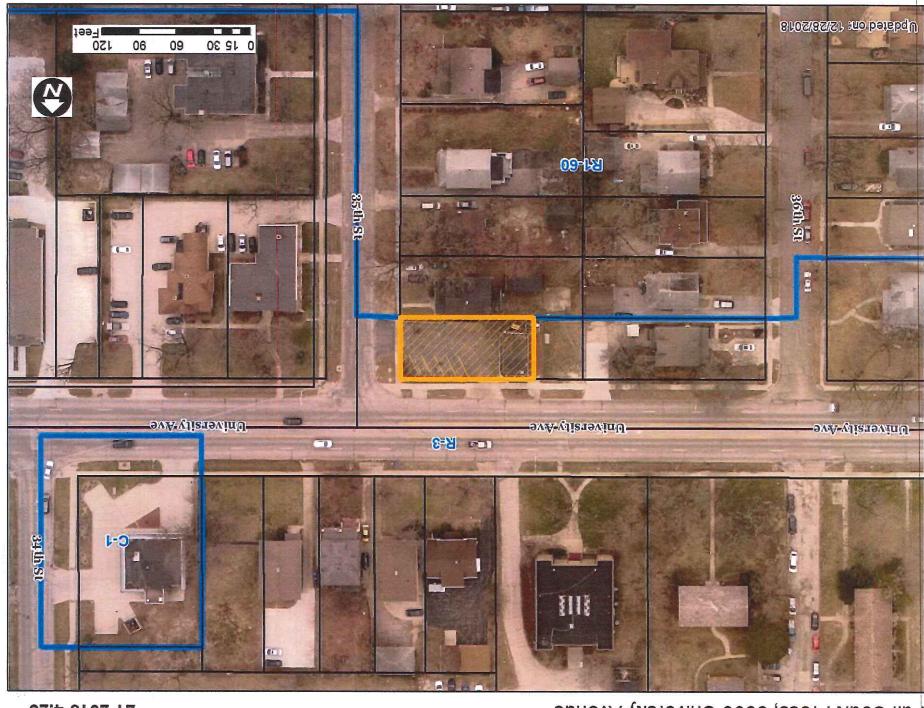
21-2018-4.25



1 inch = 75 feet



1 inch = 75 feet



ZON2018-00248 Date 1/15/19
(am) (am not) in favor of the request. ALPHA DELTA PI INT'L
Print Name Cassanava Onerry
COMMUNITY EVELOPMENT Signature CASSUMULA S NOTUY
JAN 17 2018 Address 1386 Ponce ck Jeon Ave, WE
Reason for opposing or approving this request may be listed below:
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Item ZON2018-00248 Date 1-13-19
DRAKE NEIGHBURHOUR
(Circle One)
RECEIVED Print Name Jennifer Sayers
COMMUNITY DEVELOPMENT Signature Su 190 Signature
JAN 1.6 2018 Address 1129 2845 St DSM
Reason for opposing or approving this request may be listed below:
The Drake Lleighborhood association voted in favor
of Supporting the rezoning of the hibrary oak
at this Junuary 9, 2019, board meeting to
NPC. We look forward to working with them
in he peture.

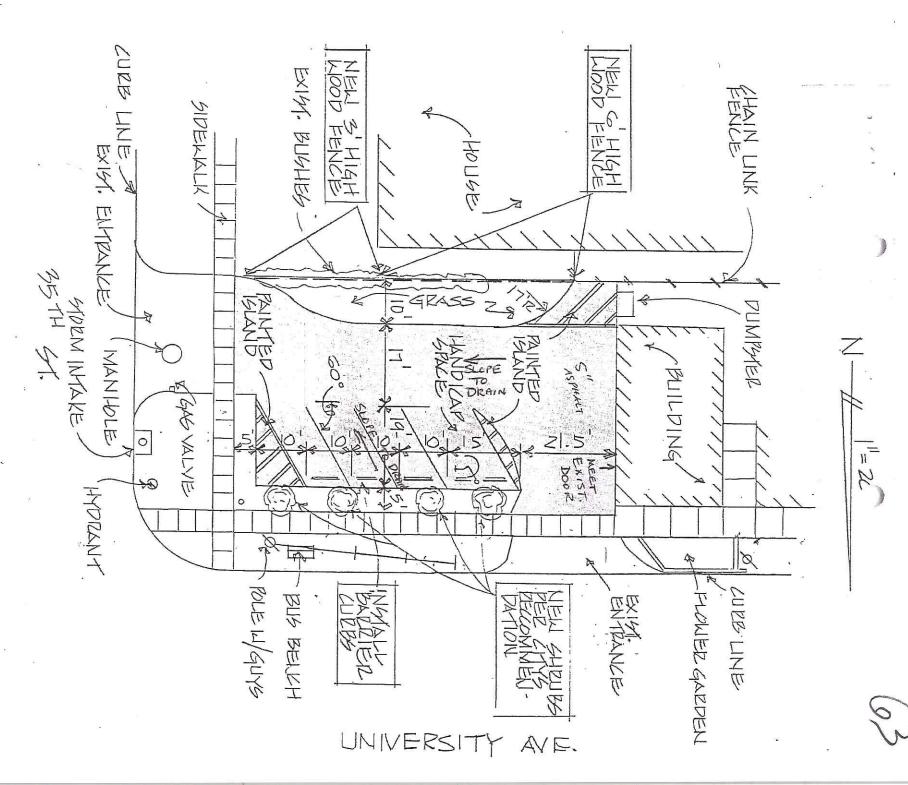
	Address \	(Circle One) Print Name Kerry Graham RECEIVED Work Manager Received:	ZON2018-00248 Date 1-11-2019	COMMUNITY JAN Reason for (Circ REC COMMUNITY JAN Reason for The L JISTAN THE STAN THE
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Item 20N2018-00248 Date 190.19
((am))(am not) in favor of the request. GREENTREE PARTNERSHIP
(Circle One) RECEIVED Print Name R. TREG WALKER COMMUNITY DEVELOPMENT Signature R. My Walker
JAN 14 2018 Address 3419 UNIVERSITY AVE.
Reason for opposing or approving this request may be listed below:
ZON2018-00248 Date 1-10-19
(am) (am not) in favor of the request
(Circle One) Print Name Month Latoman
COMMUNITY DEVELOPMENT Signature Marie La France
Address 1144 (1th)+
JAN 1 4 2018
Reason for opposing or approving this request may be listed below.
Reason for opposing or approving this request may be listed below. The Library Cafe R a great spot within walking
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Reason for opposing or approving this request may be listed below. The library Cafe is a great spot within walking distance to meet a friend or just go to relay

Reason for opposing or approving this request may be listed below: We've lived here for over 20 7/3. The interpretation and assert to the new here here Since its transition under the pre- Ownership it is an even more attraction. We strongly support this change.	Item ZON2018-00248 (Circle One) RECEIVED COMMUNITY DEVELOPMENT Signature JAN 1 4 2018 Address
We've lived here for over 20 yrs, The cafe has been an assert to the neighborhood and some its transition under the present and ownership it is an even more attractive place. We strongly support this change.	Print Name Thomas & AM-1 Jose hun Signature 13736th 58511

(am not) in favor of the request.
(Circle One)
RECEIVED Print Name UVV / WW / SIV
COMMUNITY DEVELOPMEN Bignature
Address 4515 DIVIDOUS
FEB 0.6 Reason for opposing or approving this request may be listed below:
reason for opposing or approving this request may be issed below.
- II THE BE INDIVITED BUT FREEDING
ZON2018-00248
Item Date
(am) (am not) in favor of the request.
(Circle One) Print Name Mana La Tranca
(Circle One) Print Name RECEIVED Signature (Am) (am not) in favor of the request.
(Circle One) Print Name Mana Latrance RECEIVED COMMUNITY DEVELOPMENT Signature Address 1144 Sb H 5 5811
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(Circle One) Print Name Mana Latrance RECEIVED COMMUNITY DEVELOPMENT Signature Address 1144 36 th \$\frac{1}{2} 50311 FEB 06 Reason for opposing or approving this request may be listed below: Good For the neighborhood to have this wall-run establishment within
(Circle One) Print Name Mana Latrance RECEIVED COMMUNITY DEVELOPMENT Signature Address 1144 36 th \$\frac{1}{2} 50311 Reason for opposing or approving this request may be listed below: GODD To the Neighborhood to have
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NEW ASPHALT SUBFACES