



**Roll Call Number**

**Agenda Item Number**

15 A

**Date** January 27, 2020

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM ND DRAKE MULTIFAMILY, LLC FOR VACATION OF NORTH/SOUTH ALLEY RIGHT-OF-WAY AND AIR RIGHTS AND SUBSURFACE RIGHTS IN RIGHT-OF-WAY ADJOINING 2530 UNIVERSITY AVENUE AND 1157, 1159 AND 1161 26<sup>TH</sup> STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on January 16, 2020, its members voted 13-0 to recommend **APPROVAL** of a request from ND Drake Multifamily, LLC (owner), represented by Michael Nelson (officer), to vacate the following segments of right-of-way:

1. Adjoining north/south alley between 25<sup>th</sup> Street and 26<sup>th</sup> Street from University Avenue to a point 281 feet to the south;
2. Adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26<sup>th</sup> Street; and
3. Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26<sup>th</sup> Street;

Subject to the following conditions to vacation:

1. Reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacated right-of-way shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review.

**MOVED** by \_\_\_\_\_ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

  
\_\_\_\_\_  
Glenna K. Frank, Assistant City Attorney

(11-2019-1.30)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, P. KAY CMELIK, 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

January 21, 2020

Date January 27, 2020

Agenda Item 15A

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 January 16, 2020 meeting, the following action was taken regarding a request from ND Drake Multifamily, LLC (owner) represented by Michael Nelson (officer) for vacation of the following: 1) Adjoining north/south alley between 25<sup>th</sup> Street and 26<sup>th</sup> Street from University Avenue to a point 281 feet to the south, 2) Adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26<sup>th</sup> Street and 3) Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26<sup>th</sup> Street.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

**RECOMMEND APPROVAL** of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review. (11-2019-1.30)

### Written Responses

0 in Favor

0 in opposition

## **RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed rezoning would allow construction of a 4-story mixed-use development on the proposed site. The mixed-use development is proposed to consist of 136 residential units (65 micro, 43 studios, 12 one-bedroom, and 16 two-bedroom) and 6,000 square feet of commercial space. The proposed vacations would facilitate the development of the site.
2. **Size of Site:** 47,372 square feet (1.1 acre).
3. **Existing Zoning (site):** "MX1" Mixed Use District and "N5" Neighborhood District.  
  
**MX1** is intended for the mixed-use, neighborhood-scale nodes and corridors within the city, where daily uses are accessible by walking from surrounding neighborhoods.  
  
**N5** is intended to preserve the scale and character of neighborhoods developed with a mix of bungalow and two-story houses, predominantly in the Victorian Revival, and Arts and Crafts styles pursuant to House D building type.
4. **Existing Land Use (site):** The site consists of vacant land, a small metal structure, and public alley right-of-way.

## 5. Adjacent Land Use and Zoning:

**North** – “P2”; Use includes Drake University.

**South** – “N5”; Uses include single- and multiple-household residential.

**East** – “P2”; Use includes First Christian Church and parking lot.

**West** – “MX1”; Use includes a development under construction as a new hotel.

**6. General Neighborhood/Area Land Uses:** The subject property is located in Drake Neighborhood, which is an area consisting of a mix of single-household residential, multiple-household residential, office, commercial, religious, educational, and institutional uses.

**7. Applicable Recognized Neighborhood(s):** The subject property is located in the Drake Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on December 27, 2019 and by mailing of the Final Agenda on January 10, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior to public hearing) and January 6, 2020 (10 days prior to public hearing) to the Downtown Des Moines 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 on the date of the mailing. The Drake Neighborhood Association notices were mailed to Jennifer Sayers, 1129 28<sup>th</sup> Street, Des Moines, IA 50311.

**8. Relevant Zoning History:** None.

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Neighborhood Mixed Use.

**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 vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

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 is requesting that the future land use designation for the property at 1157 26th Street to be amended from “Low-Medium Density Residential” to “Neighborhood Mixed Use”. Plan DSM describes these designations as follows:

*Low-Medium Density Residential: Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.*

*Neighborhood Mixed Use: Small scale mixed use development typically located at the intersection 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.*

Staff believes it is appropriate to amend this subject property from Low-Medium Density Residential to Neighborhood Mixed Use as the proposed development indicates details that allow transition from University Avenue to the mix of single-household and multiple-household units within the neighborhood.

2. **Site Plan Requirements:** Any development would require compliance with all applicable site plan requirements. Applicable requirements include stormwater management, landscaping, and screening of adjoining residential properties. Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.
3. **Utilities:** While no utilities have been identified within the requested ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
4. **Alley System:** The subject north/south alley right-of-way provides access to one-household and multiple-household units between University Avenue and Cottage Grove Avenue and is accessed from both streets. The proposed vacation would impact the ability to provide adequate access to the properties with vehicular access via this alley. The provided site sketch indicates that the developer intends to keep access open to the alley south of the proposed development to Cottage Grove Avenue and via a new paved driveway from 26<sup>th</sup> Street. Staff recommends approval of the requested vacations subject to reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
5. **Streets/Sidewalk:** There are no structures or individual property owners that would be impacted by the proposed vacation and restricted access. Any future use of the property is subject to compliance with zoning, site plan, and building regulations.
6. **Parking:** Staff notes that the currently proposed number of parking spaces is not compliant with the zoning Ordinance. Staff recommends rezoning of the property to MX2 (already a part of this request) and discussions with the city’s engineering staff on how to achieve compliance.

Staff additionally notes that the proposed driveway from the parking lot to University Avenue does not include a pedestrian walkway and only two feet are available to provide that space. Staff notes that it is very likely even without a designated pedestrian walkway, pedestrians would still use this access regardless of provided safety measures. Staff recommends discussions with the city's engineering staff regarding appropriate design elements to facilitate safe use of this space by pedestrians.

## **SUMMARY OF DISCUSSION**

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

## **COMMISSION ACTION:**

Greg Jones made a motion for approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review.

Motion passed: 13-0

Respectfully submitted,

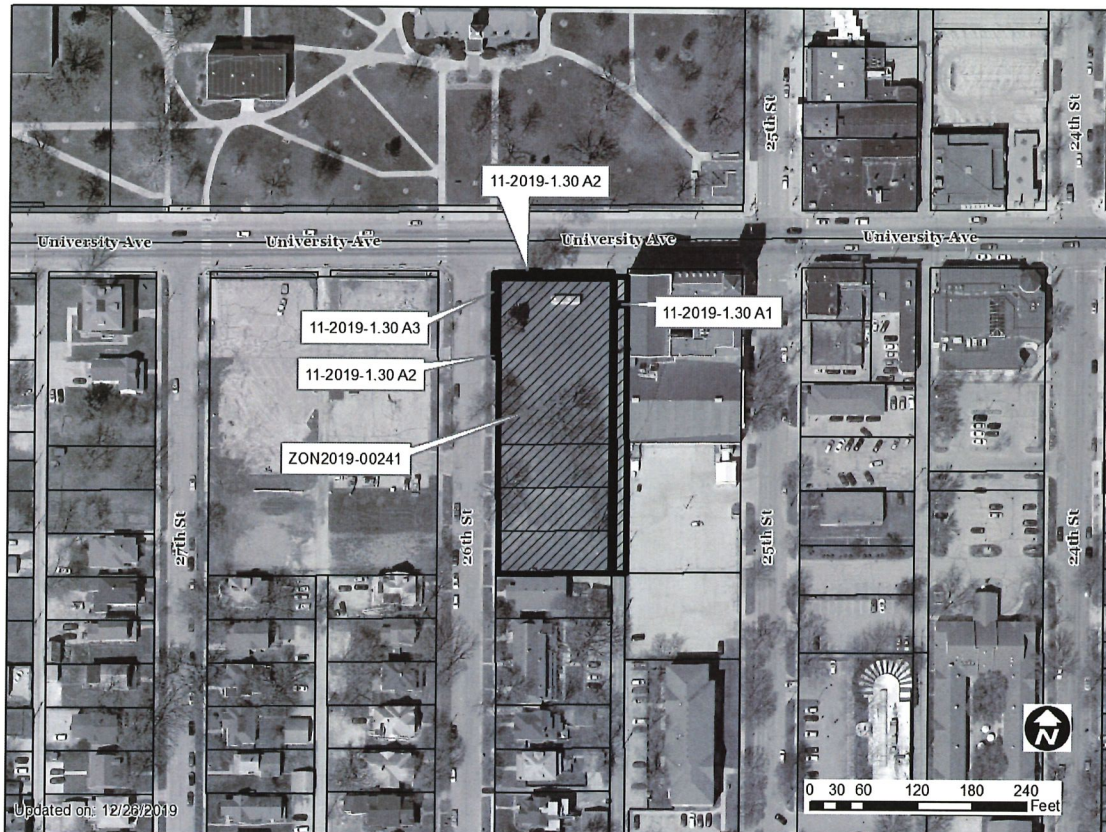


Erik Lundy, AICP  
Senior City Planner

EML:tjh  
Attachments

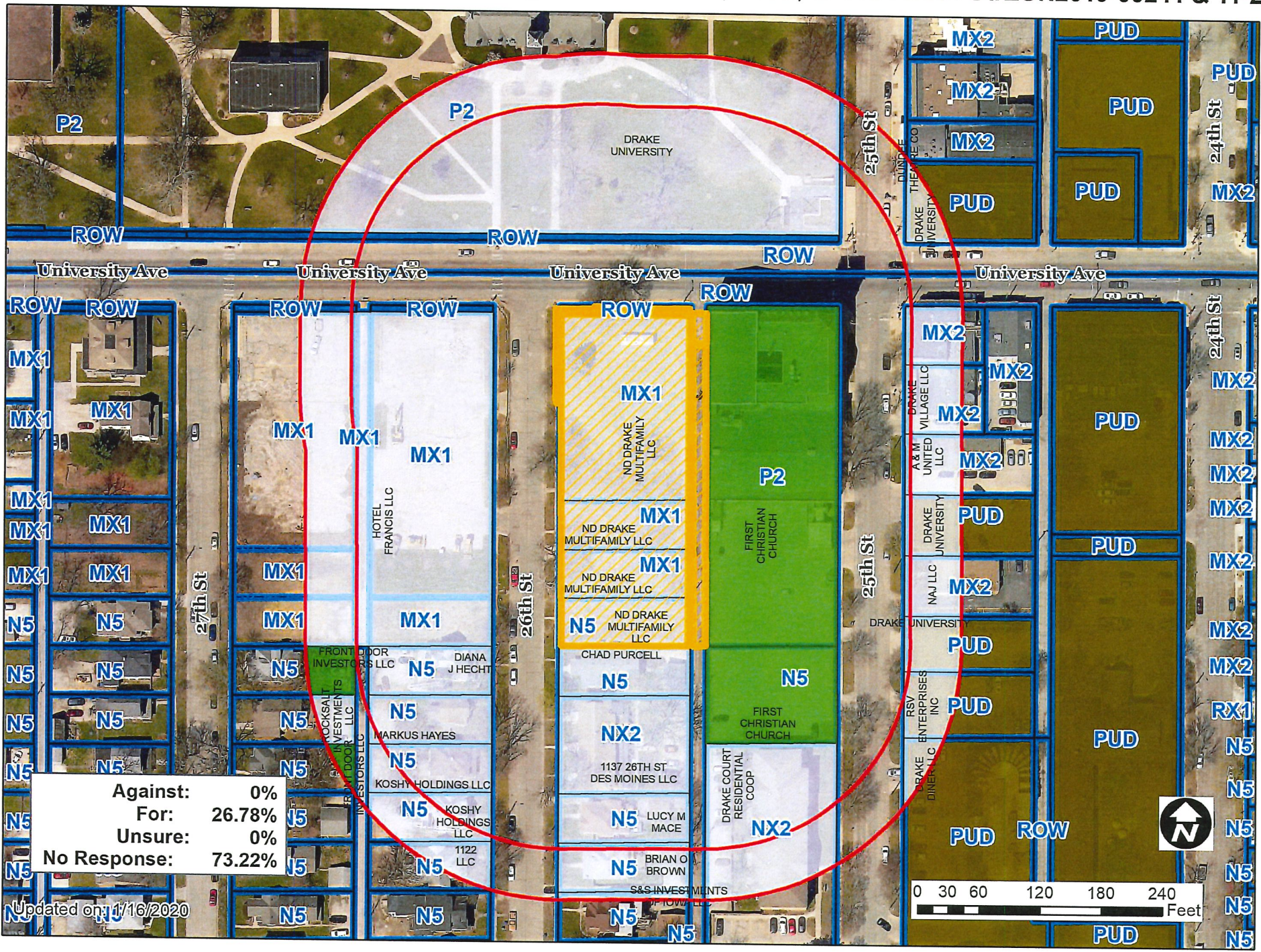
Request from ND Drake Multifamily, LLC (owner) represented by Michael Nelson (officer) for property located at 2530 University Avenue and 1157, 1159, & 1161 26th Street.		File # 11-2019-1.30		
Description of Action	Vacation of the following: 1) Adjoining north/south alley between 25th Street and 26th Street from University Avenue to a point 281 feet to the south. 2) Adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26th Street. 3) Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26th Street.			
PlanDSM Future Land Use	Current: Neighborhood Mixed Use and Low-Medium Density Residential. Proposed: Neighborhood Mixed Use.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"MX1" Mixed Use District and "N5" Neighborhood District.			
Proposed Zoning District	"MX2" Mixed Use District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	0	0		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

ND Drake Multifamily, LLC, 2530 University Ave. and 1157, 1159, & 1161 26th St.ZON2019-00241 & 11-2019-1.30



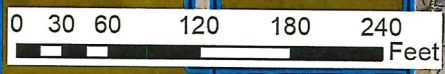
1 inch = 123 feet

ND Drake Multifamily, LLC, 2530 University Ave. and 1157, 1159, & 1161 26th St. ZON2019-00241 & 11-2019-1.30



Against:	0%
For:	26.78%
Unsure:	0%
No Response:	73.22%

Updated on: 1/16/2020



15A

1 inch = 123 feet



Item ZON2019-00241 & 11-2019-1.30 Date 1-9-2020 15A

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

RECEIVED  
COMMUNITY DEVELOPMENT

JAN 13 2020

Print Name Suzanne Start, minister

Signature [Handwritten Signature]

Address 2500 University Ave 50311

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item ZON2019-00241 & 11-2019-1.30 Date 1/8/2020

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

(Circle One)  
RECEIVED  
COMMUNITY DEVELOPMENT

JAN 14 2020

Print Name Front Door Investors

Signature Ross L. Peterson mgr.

Address 1151-27th St. DM, IA

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

In Favor only if off-street parking  
is adequate for apartments and  
retail.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_