



Date June 23, 2014

RESOLUTION SETTING HEARING ON REQUEST FROM DRAKE UNIVERSITY (OWNER), REPRESENTED BY DEBORAH NEWSOME (OFFICER), TO REZONE PROPERTY LOCATED AT 2700 UNIVERSITY AVENUE FROM LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT TO AN AMENDED LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT TO PERMIT ACCESSORY ALCOHOLIC BEVERAGE SALES AND SERVICE RELATED TO PRIVATE EVENTS OPERATED BY DRAKE UNIVERSITY

WHEREAS, on July 24, 2000, by Roll Call No. 00-3209, the City Council adopted Ordinance 13,840 to rezone property located at 2700 University Avenue ("Property") and multiple surrounding properties from "R-3" Multiple-Family Residential District to a Limited "NPC" Neighborhood Pedestrian Commercial District, subject to various conditions including Condition No. A(16) that prohibits any business holding a liquor license, beer or wine permit which is not operated as either a grocery store or pharmacy at least half of whose gross income is derived from the sale of merchandise other than liquor, wine or beer, or a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; and

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 5, 2014, its members voted 10-1 in support of a motion to recommend APPROVAL of a request from Drake University (owner), represented by Deborah Newsome (officer), to rezone the Property from Limited "NPC" Neighborhood Pedestrian Commercial District to an amended Limited "NPC" Neighborhood Pedestrian Commercial District to permit accessory alcoholic beverage sales and service related to private events operated solely by Drake University or its approved vendor, and to amend the property zoning to reflect the current City Code requirements related to limited retail and food establishments, by amending Condition No. A(16) of Ordinance 13,840 as follows, with all other conditions of Ordinance 13,840 continuing to apply to the Property:

- 16. Any business holding a liquor license, beer or wine permit which is not operated as either:
a. a grocery store or pharmacy at least half of whose gross income is derived from the sale of merchandise other than liquor, wine or beer; or a limited retail or food establishment at least 40% of whose gross income is derived from the sale of merchandise other than liquor, wine, beer or tobacco products; or
b. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services; or
c. an assembly/reception hall use limited to private events operated solely by Drake University, or its approved vendor, considered a tavern under provisions of the Zoning Ordinance.

**Date** June 9, 2014

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WHEREAS, the Property is more specifically described as follows:

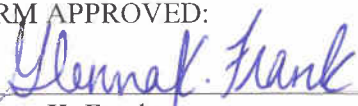
The South 41 feet of Lot 37, and all of Lots 38, 39, and 40 of DRAKE UNIVERSITY ADDITION, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

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

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on July 14, 2014, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. 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.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
Glenna K. Frank  
Assistant City Attorney

(ZON2014-00078)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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

Date \_\_\_\_\_

Agenda Item 26

Roll Call # \_\_\_\_\_



June 12, 2014

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held June 5, 2014, the following action was taken regarding a request from Drake University (owner) represented by Deborah Newsome (officer) to rezone property located at 2700 University Avenue.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Dann Flaherty	X			
Jann Freed				X
John "Jack" Hilmes				X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee		X		
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

**APPROVAL** of staff recommendation to find the proposed rezoning in conformance with the existing Des Moines' 2020 Community Character Plan future land use designations of Commercial: Pedestrian-Oriented Commercial Corridor and **APPROVAL** of the requested rezoning to revise the current "NPC" zoning condition A (16) to prohibit the following uses:  
(ZON2014-00078)

*16. Any business holding a liquor license, beer or wine permit which is not operated as either:*

- a. a limited retail or food establishment at least 40% of whose gross income is derived from the sale of merchandise other than liquor, wine, beer or tobacco products; or
- b. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services;
- c. an assembly/reception hall use limited to private events operated solely by Drake University, or its approved vendor, considered a tavern under provisions of the Zoning Ordinance.

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning in conformance with the existing Des Moines’ 2020 Community Character Plan future land use designations of Commercial: Pedestrian-Oriented Commercial Corridor.

Part B) Staff recommends approval of the requested rezoning to revise the current “NPC” zoning condition A (16) to prohibit the following uses:

- 16. Any business holding a liquor license, beer or wine permit which is not operated as either:
  - a. a limited retail or food establishment at least 40% of whose gross income is derived from the sale of merchandise other than liquor, wine, beer or tobacco products; or
  - b. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services;
  - c. an assembly/reception hall use operated solely by Drake University, or its approved vendor, considered a tavern under provisions of the Zoning Ordinance.

### Written Responses

- 2 In Favor
- 1 In Opposition

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant has recently renovated the property to house the alumni relations office. As part of the typical operations of that office, events are held periodically which would involve service and sales of liquor, wine, and beer. The applicant is seeking to modify the existing zoning conditions to allow for this function.
2. **Size of Site:** 22,000 square feet (0.51 acres).
3. **Existing Zoning (site):** Limited “NPC” Neighborhood Pedestrian Commercial District.
4. **Existing Land Use (site):** The property contains a 5,558-square foot building that is occupied as the Drake University Alumni Relations Office and a single-family dwelling. The property is located at the southwest corner of University Avenue and 27th Street. It

is directly across University Avenue from the Drake University campus and directly across 27th Street from an off-street parking lot owned by Drake University.

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

**North** - “R-3”, Use is the Drake University main campus.

**South** – “NPC”, Use is vacant property owned by Drake University used for community gardening.

**East** – “NPC”, Use is off-street parking accessory to the Drake University campus.

**West** – “NPC”, Uses are offices for the Drake University Wesley Foundation and single-family dwellings.

**6. General Neighborhood/Area Land Uses:** The property is located along the University Avenue corridor within the Drake University campus area.

**7. Applicable Recognized Neighborhood(s):** The subject property is within the Drake Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on May 20, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on May 16, 2014 (20 days prior) and May 23, 2014 (13 days prior to the originally scheduled hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site and the affected neighborhood association contact. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on May 30, 2014. The Drake Neighborhood mailings were sent to Deric Gourd, 2422 Drake Park Avenue, Des Moines, IA 50311.

The applicant was obligated to schedule and conduct neighborhood meeting and will be available to provide a summary of the meeting at the public hearing.

**8. Relevant Zoning History:** On July 24, 2000, the City Council adopted Ordinance 13,840 to rezone the subject property and multiple surrounding properties from “R-3” Multiple-Family Residential District to a Limited “NPC” Neighborhood Pedestrian Commercial 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;*
- 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. Drive-in theaters;
13. Lumber yards;
14. Mini-warehouse;
15. Monument sales yards;
16. **Any business holding a liquor license, beer or wine permit which is not operated as either:**
  - a. **a grocery store or pharmacy at least half of whose gross income is derived from the sale of merchandise other than liquor, wine or beer;**  
or
  - b. **a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services;**
17. Plumbing and heating shops;
18. Sheet metal shops;
19. Sign painting shops;
20. Mobile home parks;
21. Used car sales lots;
22. Garage for general motor vehicle repair;
23. Automobile washing establishments;
24. Adult entertainment businesses; and
25. Off-premises advertising signs.

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

C. Prior to the demolition of any residential structure upon the Property by Drake University, and prior to the sale of any portion of the Property by Drake University which contains a residential structure, Drake University shall provide notice of such demolition or sale at least 120 days in advance to the City of Des Moines and to the Drake Neighborhood Association to allow interested parties an opportunity to negotiate with Drake University for the purchase and moving of the structures.

On March 26, 2014, the Zoning Board of Adjustment approved a Conditional Use Permit to allow the Alumni House to have a business selling liquor, wine, and beer for a reception/assembly hall considered a tavern under the definitions in the Zoning Ordinance. This action was subject to approval of the requested rezoning to amend the existing zoning condition A(16).

**9. 2020 Community Character Land Use Plan Designation:** Commercial: Pedestrian-Oriented, Commercial Corridor.

**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. 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. Access and Parking:** Access to the site would continue to be provided from the existing north/south alley adjoining the west property line. The on-site parking is limited to an accessible parking space. Parking is generally provided for the site through nearby campus off-street parking. There are not any site improvements proposed other than accessibility improvements for better pedestrian access. Any future site improvements would require review and approval of a Site Plan under design guidelines in “NPC” Districts by the Plan and Zoning Commission.
- 2. 2020 Community Character Plan:** The base zoning of “NPC” Neighborhood Pedestrian Commercial would remain in place. Staff believes therefore that the proposal to revise the zoning conditions would remain consistent with the existing, future land use designation of Commercial: Pedestrian-Oriented Commercial Corridor.
- 3. Staff Rationale:** The property has already been reviewed by the Zoning Board of Adjustment under criteria for granting a Conditional Use Permit for a business selling liquor, wine, and beer. Staff believes that the only modification necessary to the existing zoning conditions would be to add the allowance that the subject property could be used for a reception/assembly hall with sales of liquor, wine, and beer sponsored only by Drake University. The grocery store and pharmacy exemption should also be revised to reflect existing designations of limited food and retail contained in the Conditional Use provisions for business selling liquor, wine, and beer.

## SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

*Jacqueline Easley joined the meeting @ 6:05 p.m.*

Dann Flaherty asked if it was the applicant’s intent to use the property for a tavern and even if the zoning was changed would they be able to use it for a tavern.

Mike Ludwig suggested viewing this application as a limited tavern use. The limited tavern use is a reception hall.

Will Page noted the staff recommendation states the facility is to be operated solely by Drake University or its approved vendor. Can staff explain what an approved vendor means?

Mike Ludwig stated the intent with that wording is if they have someone under an annual contract to operate the facility that is not specifically a Drake University employee but is a contractual vendor of the facility that they could operate the reception hall on the property.

CJ Stephens asked if this facility will serve as a place for an alumni that wants to stop by for a drink or will it serve specific events that are sponsored by Drake University.

Jason Van Essen stated it will serve specific events that are sponsored by Drake University.

Mike Ludwig stated if there is a basketball game for example occurring that night they could have a function with the bar opened at the facility before the game. It could also be Drake University hosting a one night event at the property.

CJ Stephens stated she would like to hear from the neighborhood.

JoAnne Corigliano stated she would like to know what the applicant will be modifying, especially the exterior of this building.

Jason Van Essen stated there are no exterior modifications proposed. This is about the use of the interior space.

Mark Chambers Director Facility for Drake University 37 30<sup>th</sup> Street stated their intent is specifically for alumni for pregame events. They have spent a great deal of money renovating that facility for the University prior to it becoming the Alumni House. The Alumni House use was just designated this year.

Will Page asked if there will be residential units also.

Mark Chambers stated this house does not have the capability for residential use anymore. There are offices on the second floor. Rooms that were formal bedrooms have been converted to offices.

Greg Wattier asked if food will be prepared in the facility or will it be catered.

Mark Chambers stated the house does not have a kitchen. It has a little refrigerator for staff to use. It is all catered events. Also Drake University's liquor license is managed by an outside vendor now and the reason for that wording is that vendor would bring liquor in specifically for an event.

Mike Ludwig asked for clarification of whether the facility be able to be rented by alumni to have a private event.

Mark Chambers stated no.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Jennifer Sayres 1129 28<sup>th</sup> Street stated she lives around the corner from this property and she is also on the Drake Neighborhood Association Board. She states she has been working with staff and the neighborhood was not thrilled about this property being rezoned because of this tavern issue. They have discussed at length with the alumni people, staff and the neighborhood. She asked that the restriction include the word "Private" to eliminate public events.



Deric Gourd 2422 Drake Park, President of the Drake Neighborhood Association stated he is for Drake University and their partnership with the Drake Neighborhood and believes this house is a beautiful renovation. The neighborhood association met with the alumni association people and believe they have the best intentions. The neighborhood's concern is when a zoning change is made it runs with the land, not the owner. This is actually a very busy area where there are a lot of NPC restrictions about alcohol sales. The alcohol sales are their biggest concerns whether it is related to the university or privately in the neighborhood. Once there is a building that has a more open planning and zoning restrictions suddenly this becomes attractive to other people. The neighborhood association wants to make sure it fills the need of the alumni association but at the same time does not make it attractive to big public events or bars/tavern events where people are coming into the neighborhood. They would like to see language added that it is restricted to private events or that it has to be managed by Drake University or their vendors so they know that it is opened for the use of the alumni but it does not become a cash flow generator for the university.

### *Rebuttal*

Mark Chambers stated it is not within his power to make any claims or guarantees that things will not change in the future. Drake University has owned this property for a very long time. Their intent is not to add a tavern to the neighborhood. They have dealt with this issue for years and it would be counterproductive to everything they have done and believed in. The intent is just to provide the service to their alumni and friends at Drake University and not to be selling liquor to the general public or to be opened up for that type of use.

Ted Irvine asked if the applicant would have any difficulties with the language the neighborhood association has asked to be included.

Mark Chambers stated no, it is more in sync with their intentions anyway.

CJ Stephens asked if the vendor holds the liquor license.

Mark Chambers stated yes, they are their food service vendor.

CJ Stephens expressed concern about scenario where Drake University has this popular event where tickets are sold out and there is probably an opportunity to put some big screen T.V. up and folks can stay there and drink and watch the events on T.V. Also another concern is some students graduate early which makes them alums and maybe they are not old enough to drink. How is that controlled?

Mark Chambers stated they check identification. The house is not that big anyway and the reception hall is limited to the first floor of this house so the event in this house could not house more than 40 people.

CJ Stephens asked does the fire department have a maximum restriction for the number of occupants at one time.

Mark Chambers stated yes and he will have to check on the number.

Mike Ludwig stated that the applicant has to comply with all building codes and fire codes for the occupancy of the building. As a condition of any liquor license issued by the Council, they must comply with all state codes on disbursement of alcohol. They run the risk of not getting a renewal of their license. If Drake University chose to sell this property and the new owner wanted to operate a reception hall on the property they would be back in front of the City for a rezoning of the property. This limits it to Drake's ownership and operation. Also, staff is not sure limiting to alumni is the way to regulate this because they may have their spouses with them for an event and their spouses are not alumni. If the Commission wants to add private events by Drake University so be it. He believes the other concerns are covered by the existing liquor regulations and licenses that the Council issues.

Dann Flaherty asked what would the difference between public events held by Drake University and private events held by Drake University under this particular provision.

Glenna Frank stated public event would be anyone not solely invited by Drake University. A private event would be only persons invited by Drake University.

Will Page asked does Drake University own the adjoining house.

Mark Chambers stated yes they do. It is a house that Drake University rents to students.

Will Page asked if that house is zoned "NPC".

Mark Chambers stated that is correct and the property south of that which Drake University owns has been dedicated to the Community Garden.

Mike Ludwig clarified under the zoning code there are use categories that allow sale of beer, wine and liquor a reception hall is not limited food sales, as they are not selling food; a reception hall is not limited retail sales, as they are not having retail items sold; a reception hall is not a grocery store or pharmacy. The only other option is classification as a tavern under the code to have liquor license. It is limited to a reception hall by Drake University.

Ted Irvine asked if there was anything today preventing Drake University from selling alcohol at this facility, and could money change hands.

Mark Chambers stated customers purchase a service from their vendors.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

CJ Stephens moved staff recommendation with the addition to adding a provision that it be restricted to private events.

Vicki Stogdill asked for clarification of staff recommendation.

Mike Ludwig stated "a" and "b" are what is allowed on the property today. The City is adding "c" to have the ability to have a reception hall on the property.

**COMMISSION ACTION:**

CJ Stephens moved staff recommendation for approval of the requested rezoning in conformance with the existing Des Moines' 2020 Community Character Plan future land use designations of Commercial: Pedestrian-Oriented Commercial Corridor and approval of the requested rezoning to revise the current "NPC" zoning condition A (16) to prohibit the following uses:

- 16. *Any business holding a liquor license, beer or wine permit which is not operated as either:*
  - a. *a limited retail or food establishment at least 40% of whose gross income is derived from the sale of merchandise other than liquor, wine, beer or tobacco products; or*
  - b. *a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services;*
  - c. *an assembly/reception hall use limited to private events operated solely by Drake University, or its approved vendor, considered a tavern under provisions of the Zoning Ordinance.*

Motion passed 10-1 (Christine Pardee voted in opposition).

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

Drake University (owner) represented by Deborah Newsome (officer) on property located at 2700 University Avenue		<b>File #</b> ZON2014-00078			
<b>Description of Action</b>	Approval to rezone from Limited "NPC" Neighborhood Pedestrian Commercial District to Limited "NPC" Neighborhood Pedestrian Commercial with allowance for a business selling liquor, wine, and beer defined as a tavern, to permit accessory alcoholic beverage sales and service limited to private events operated solely by Drake University or its approved vendor, considered a tavern under provisions of the Zoning Ordinance.				
<b>2020 Community Character Plan</b>	Commercial: Pedestrian-Oriented, Commercial Corridor (current & no change proposed).				
<b>Horizon 2035 Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	Limited "NPC" Neighborhood Pedestrian Commercial District.				
<b>Proposed Zoning District</b>	Limited "NPC" Neighborhood Pedestrian Commercial District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	1			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	10-1	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Drake University, 2700 University Avenue

ZON2014-00078



Item ZON2014-00078 Date 5-28-14

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

**RECEIVED**  
COMMUNITY DEVELOPMENT  
COMMUNITY DEVELOPMENT

JUN 03 2014  
DEPARTMENT  
DEPARTMENT

Print Name Jennifer Sayers  
Signature Jennifer Sayers  
Address 1129 28th St. DSM 50311

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

This property should not be rezoned to a  
business selling liquor - defined as a tavern.  
If the property sold, it could become a tavern in  
a residential area, which does not fit into the  
neighborhood plan.

Item ZON2014-00078 Date 5/28/2014

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

**RECEIVED**  
COMMUNITY DEVELOPMENT  
COMMUNITY DEVELOPMENT

JUN 03 2014  
DEPARTMENT

Print Name Ross L Peterson  
Signature Ross L Peterson  
Address 7926 NW 103 LN, Grimes,  
IA 50111

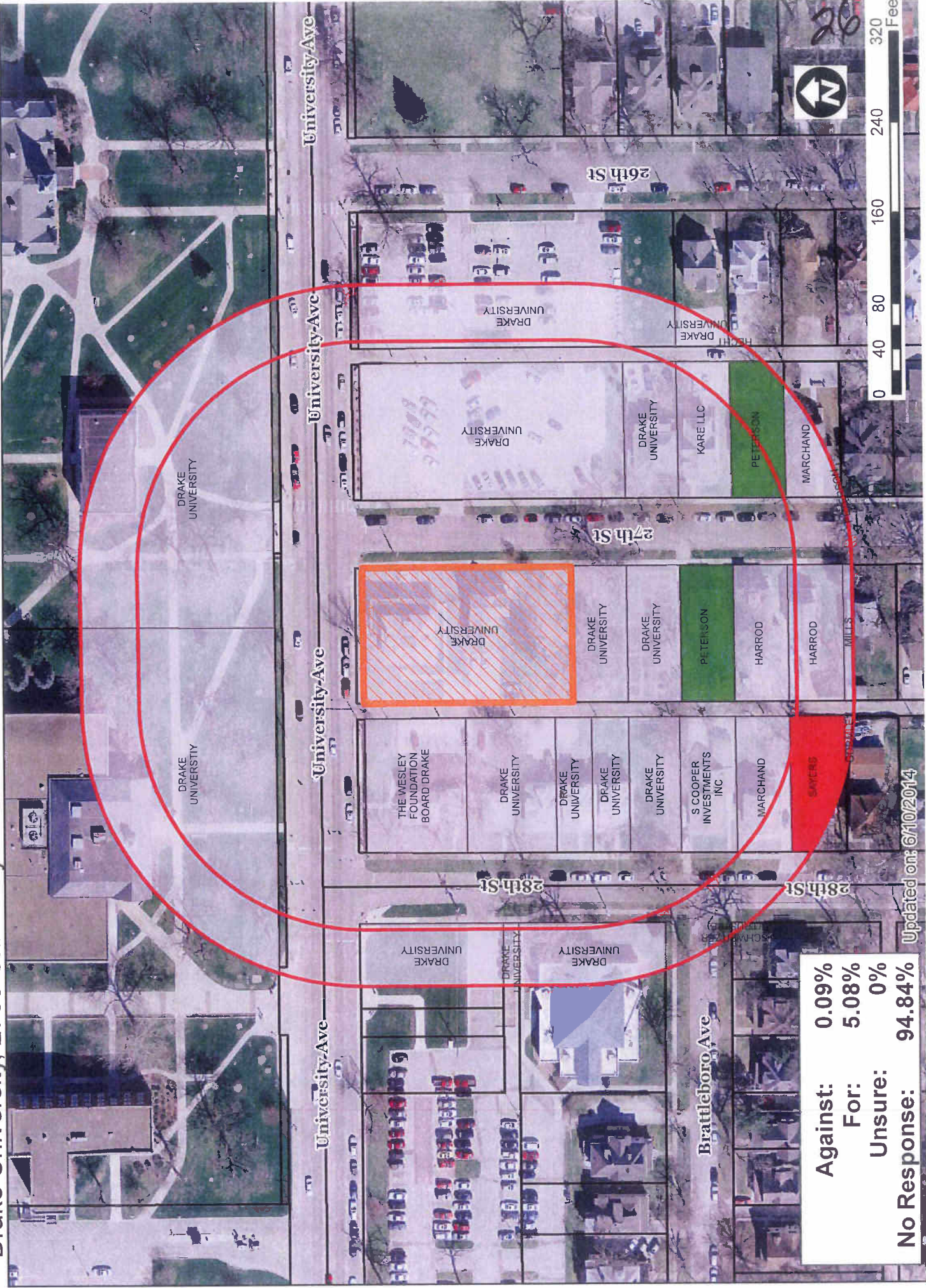
Reason for opposing or approving this request may be listed below:

I own three properties on 27<sup>th</sup> Street,  
(1143, 1151, 1154). My wife and I strive  
to maintain the yard and houses in good  
condition. We do not oppose Drake's  
request.



# Drake University, 2700 University Avenue

ZON2014-00078



Against:	0.09%
For:	5.08%
Unsure:	0%
No Response:	94.84%

Updated on: 6/10/2014

