



Date February 8, 2021

**RESOLUTION SETTING HEARING ON REQUEST FROM JC AM GROUP, LLC (OWNER) TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 1503 5<sup>TH</sup> AVENUE**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on January 21, 2021, its members voted 12-1 in support of a motion to recommend **APPROVAL** of a request from JC AM Group, LLC (Owner), represented by John Cheng (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 1503 5th Avenue (“Property”) from Low Density Residential to Low-Medium Density Residential to allow rezoning to ‘N5-2’ Neighborhood District to allow the property to be converted to a Two-Household use (duplex); and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on January 21, 2021, its members voted 12-1 in support of a motion to recommend **APPROVAL** of a request from JC AM Group, LLC (Owner), represented by John Cheng (officer), to rezone the Property from ‘N5’ Neighborhood District to ‘N5-2’ Neighborhood District for the above-stated purpose subject to the following conditions:

1. Vehicular access to on-site parking shall be provided from the alley. A driveway to the street is prohibited; and
2. The site shall be brought into conformance with the Maximum Impervious Area requirements of Chapter 135 to the satisfaction of the Planning Administrator

**WHEREAS**, the Property is legally described as follows:

LOT 14 AND THE SOUTH ½ OF LOT 15 IN BATES ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, 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 amendment to the comprehensive plan future land use designation and proposed rezoning are to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposals, shall be held at 5:00 p.m. on February 22, 2021, by electronic means to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location.
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

**Date** February 8, 2021

414.4 of the Iowa Code. The City Clerk is instructed to provide this notice including information about participation in the electronic meeting as indicated above.

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED: Judy K. Parks-Kruse  
 Judy K. Parks-Kruse  
 Assistant City Attorney

(21-2021-4.02)  
 (ZON2020-00164)

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

Date February 8, 2021  
 Agenda Item 23  
 Roll Call # \_\_\_\_\_

February 2, 2021

Honorable Mayor and City Council  
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their January 21, 2021 meeting, the following action was taken regarding a request from JC AM Group, LLC (owner) represented by John Cheng (officer) to rezone property located at 1503 5<sup>th</sup> Avenue from "N5" Neighborhood District to "N5-2" Neighborhood District, to allow the property to be converted a Two-Household Living use (duplex).

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	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			

**APPROVAL** of Part A) the proposed rezoning to "N5-2" Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential to Low-Medium Density Residential and Part C) **APPROVAL** of rezoning the subject property

from “N5” Neighborhood District to “N5-2” Neighborhood District subject to the following conditions:

1. Vehicular access to on-site parking shall be provided from the alley. A driveway to a street is prohibited.
2. The site shall be brought into conformance with the Maximum Impervious Area requirements of Chapter 135 to the satisfaction of the Planning Administrator.  
(ZON2020-00164)

### Written Responses

1 in Favor

0 in opposition

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

Part A) Staff recommends that the proposed rezoning to “N5-2” Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential.

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential to Low-Medium Density Residential.

Part C) Staff recommends approval of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District subject to the following conditions:

1. Vehicular access to on-site parking shall be provided from the alley. A driveway to a street is prohibited.
2. The site shall be brought into conformance with the Maximum Impervious Area requirements of Chapter 135 to the satisfaction of the Planning Administrator.

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

### **I. GENERAL INFORMATION**

- 1. Purpose of Request:** The proposed rezoning is necessary for the existing house to be occupied as a duplex. The application indicates that the building was previously converted from a one-household dwelling to a three-household building. There are no records of it being converted and having legal non-conforming zoning rights. Therefore, the property can only be used for a one household dwelling unless it is rezoned.

The applicant purchased the property in September 2019 and began renovating the property shortly thereafter. They were advised of the need to obtain a building permit by inspection staff in November 2019. The applicant obtained a permit and continued renovations. The building permit was issued based on the building being used as a one household dwelling. During the follow-up inspection process staff became aware of the applicant’s intent to convert the building to a duplex.

- 2. Size of Site:** 75 feet by 125 feet (9,375 square feet or 0.215 acre).

3. **Existing Zoning (site):** “N5” Neighborhood District.
4. **Existing Land Use (site):** The property contains a house style residential building.
5. **Adjacent Land Use and Zoning:**
  - North** – “I1”; Uses are one household residential.
  - South** – “I1”; Uses are one household residential.
  - East** – “I1”; Use are one household residential.
  - West** – “EX”; Use are one household residential.
6. **General Neighborhood/Area Land Uses:** The subject property is in an area that contains a mix of residential uses and densities.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the River Bend Neighborhood. All neighborhood associations were notified of the hearing by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed December 30, 2021 (20 days prior to the hearing) and January 11, 2021 (10 days prior to the hearing) to the applicable 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 River Bend Neighborhood mailings were sent to Jon Royal, 1830 8th Street, Des Moines, IA 50314.
8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.
10. **Applicable Regulations:** Taking into consideration 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 be amended from “Low Density Residential” to “Low-Medium Density Residential.” This is necessary as the proposed number of units represents a density of 9.3 units per acre. Plan DSM describes these designations as follows:

Low Density Residential: Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.

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

The subject property is currently zoned "N5" District. The Zoning Ordinance describes this district as "intended to preserve the scale and character of neighborhoods developed with a mix of bungalow and two-story houses, predominately in the Victorian, Revival, and Arts and Crafts styles pursuant to House D building type in section 135-2.16 of this code."

- 2. Planning and Design Ordinance:** If the rezoning be approved, the applicant will be required to obtain a Type 2 Design Alternative from the Plan and Zoning Commission to allow a House D building type that was originally constructed as a one household dwelling to be converted to a duplex per Section 135-2.16.3.E.4. Chapter 135 only allows multiple units within a House D building if it was originally constructed to house multiple units.

Much of the rear yard and the perimeter around the house was recently paved. The Planning and Design Ordinance allows no more than 50% of the site to be covered by buildings and pavement. The property appears to significantly exceed this maximum. Excess hard surface increases stormwater runoff and negatively impacts the visual character of a property and the surrounding area. Staff believes that no more than 50% of the property should consist of impervious surfaces (buildings & pavement) and that excess pavement should be removed.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.

David Miller 178 County Line Rd, Runnells, IA stated Mr. Cheng has invested \$300,000 in renovation and property improvements. He believes Mr. Cheng will be a very attentive and active landlord with a great looking property. Mr. Cheng did go ahead with construction in hopes the zoning would be changed. He doesn't want to reduce concrete on the property as the sidewalks sever as a convenience to the residents and their entry doors. He would be willing to remove some concrete from the North park of the parking area and replace it with gravel if necessary for compliance.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

## CHAIRPERSON CLOSED THE PUBLIC HEARING

Carolyn Jension stated this property used to be a daycare center and that is probably why there is concrete on the backside of the property. She does know the neighborhood association did work hard to prevent houses from becoming duplexes in the past.

Jason Van Essen stated the applicant attended a neighborhood meeting and there was mixed emotion about it. At the time they were told there wasn't a staircase in the house and has already been converted. Some of the recent concerns were work being done without permits and past efforts of avoiding duplexes in the neighborhood.

Carolyn Jension stated she has experience with sitting on a commission where they feel sympathetic to a buyer being uneducated about the property being a duplex. The neighborhood has worked hard to educate the buyer.

Mike Ludwig stated he does recall the down-zoning the City did in the River Bend Neighborhood. The area was rezoned from R-3 down to a single family residential zoning. Part of that was due to concerns about single family homes being carved into multiple units. Even after a similar down-zoning of the Drake neighborhood, there has been some support for large houses being converted into 2 units. As far as taking this property back to what it was, the previous zoning allowed multi-family residential, which was based on the lot area. No more than 2 units would be allowed with this zoning change.

Will Page asked if City staff's recommendation was made to reach a compromise?

Jason Van Essen stated staff tried to see if there was anything needed to mitigate impact. With any case that comes before the Commission, staff looks at impact that needs to be mitigated and how you achieve that.

## COMMISSION ACTION:

Will Page made a motion for approval of Part A) the proposed rezoning to "N5-2" Neighborhood Mix Use District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Low Density Residential, Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential to Low-Medium Density Residential and Part C) **APPROVAL** of rezoning the subject property from "N5" Neighborhood District to "N5-2" Neighborhood District subject to the following conditions:

1. Vehicular access to on-site parking shall be provided from the alley. A driveway to a street is prohibited.
2. The site shall be brought into conformance with the Maximum Impervious Area requirements of Chapter 135 to the satisfaction of the Planning Administrator.

Motion passed: 12-1

Respectfully submitted,



Michael Ludwig, AICP  
Deputy Director of Development Services

MGL:tjh



JC AM Group, LLC (owner) represented by John Cheng (officer) for the following regarding the property at 1503 5 <sup>th</sup> Avenue.				File #	
				21-2021-4.02	
Description of Action	Amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Low Density Residential to Low-Medium Density Residential.				
PlanDSM Future Land Use	Current: Low Density Residential Proposed: Low-Medium Density Residential.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"N5" Neighborhood District				
Proposed Zoning District	"N5-2" Neighborhood 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	X

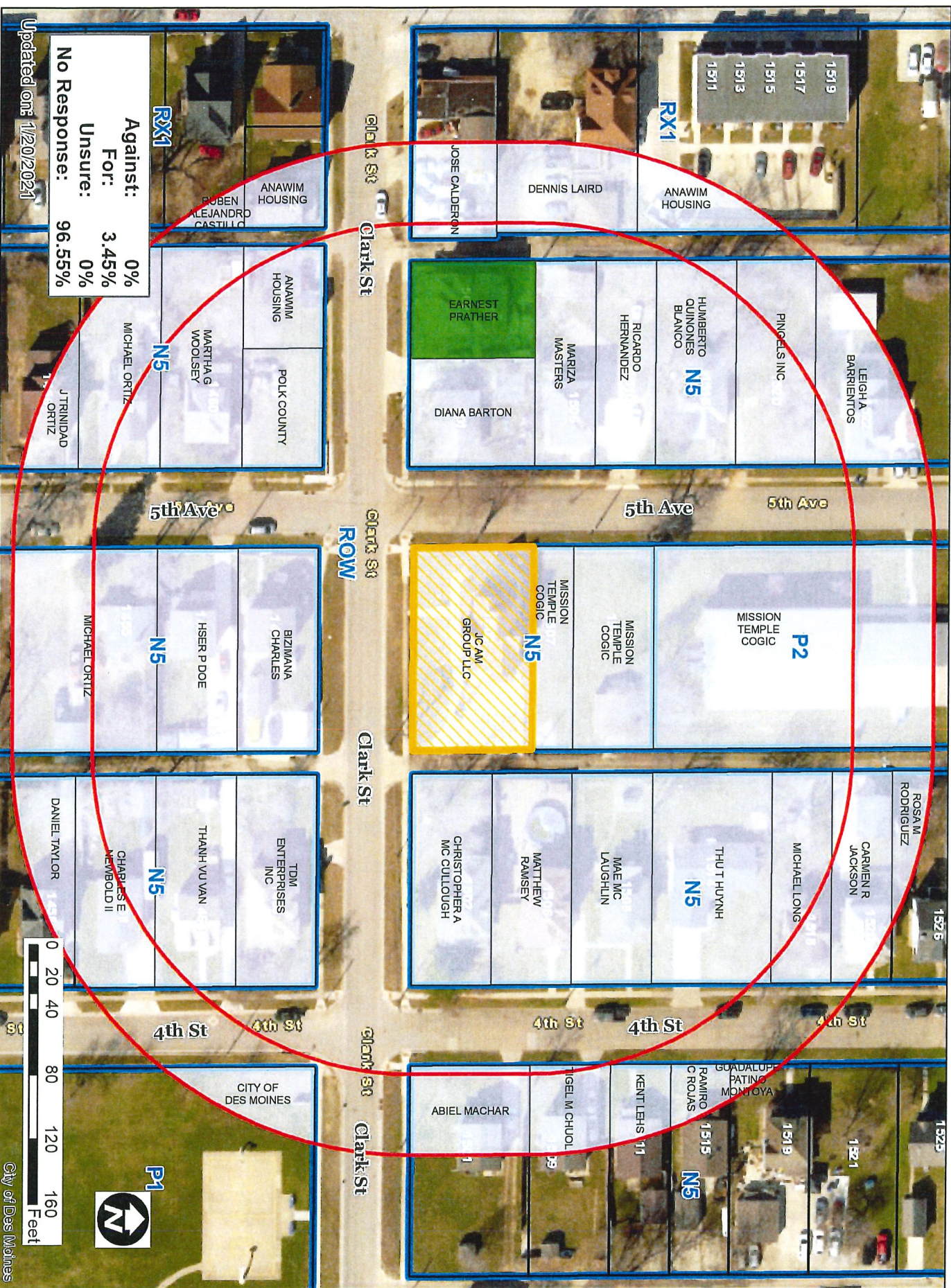
JC AM Group, LLC, 1503 5th Avenue

21-2021-4.02



1 inch = 79 feet





1 inch = 79 feet

Item: ZON2020-00164

Date: 1-15-2021

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Dianne Prather

Name: DIANNE PRATHER

Address: 511 CLARK ST DM, LA 50314

Staff Use Only
<b>RECEIVED</b>
COMMUNITY DEVELOPMENT
JAN 19 2021

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

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