



**Date** October 3, 2022

**RESOLUTION HOLDING PUBLIC HEARING REGARDING REQUEST FROM COLE LOPEZ AND LIA GUERRA (OWNERS), FOR PROPERTY LOCATED AT 2800 BRATTLEBORO AVENUE, TO REZONE THE PROPERTY FROM “N5” NEIGHBORHOOD DISTRICT TO “N5-2” NEIGHBORHOOD DISTRICT TO ALLOW REUSE OF THE EXISTING STRUCTURE FOR DUPLEX USE**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on September 1, 2022, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Cole Lopez and Lia Guerra (Owners), to rezone the Property from “N5” Neighborhood District to “N5-2” Neighborhood District, to allow reuse of the existing structure for duplex use, and determined the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan:

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

Lot 51 in Kingman Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

**WHEREAS**, on September 12, 2022, by Roll Call No. 22-1414, it was duly resolved by the City Council that the request for approval of the proposed amendment and rezoning be set down for hearing on October 3, 2022, at 5:00 p.m., at the City Council Chambers; and

**WHEREAS**, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposals; and

**WHEREAS**, in accordance with said notice, those interested in said proposals, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed amendment and rezoning are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, from “N5” to “N5-2”, to allow reuse of the existing structure for duplex use, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.



## Roll Call Number

Agenda Item Number

59

Date October 3, 2022

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

FORM APPROVED:

/s/ Gary D. Goudelock Jr.

Gary D. Goudelock Jr.

Assistant City Attorney

(ZONG-2022-000071)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED		APPROVED		

### CERTIFICATE

I, LAURA BAUMGARTNER, 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 October 3, 2022  
Agenda Item 59  
Roll Call # \_\_\_\_\_

September 6, 2022

Communication from the City Plan and Zoning Commission advising that at their September 1, 2022 meeting, the following action was taken regarding a request from Cole Lopez and Lia Guerra (owner) to rezone property located at 2800 Brattleboro Avenue from "N5" Neighborhood District to "N5-2" Neighborhood District, to allow reuse of the existing structure for a duplex use.

#### COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dan Drendel	X			
Leah Rudolphi	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Todd Garner	X			
Johnny Alcivar	X			
Justyn Lewis				X
Carolyn Jenison	X			
William Page	X			
Andrew Lorentzen	X			
Emily Webb	X			

**APPROVAL** of Part A) The requested rezoning be found in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the rezoning of the subject property from "N5" Neighborhood District to "N5-2" Neighborhood District.

#### Written Responses

4 in Favor

0 in opposition



## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the rezoning of the subject property as “N5-2” Neighborhood District, to allow re-use of the dwelling as a duplex.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The subject dwelling previously operated as a duplex. However, it was vacant for more than one (1) year which resulted in loss of approval to operate as more than a single household use. The applicant is proposing to rezone the subject property to allow reuse of the existing structure as a duplex.
2. **Size of Site:** 0.152 acres (6,600 square feet).
3. **Existing Zoning (site):** “N5” Neighborhood District.
4. **Existing Land Use (site):** The subject property consists of a dwelling with off-street parking at the rear of the property accessed via the alley.
5. **Adjacent Land Use and Zoning:**
  - North** – “MX2”; Uses are Drake University.
  - South** – “N5”; Uses are low density or low-medium density residential.
  - East** – “N5”; Uses are low density or low-medium density residential.
  - West** – “N5”; Uses are low density or low-medium density residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located at the intersection of Brattleboro Avenue and 28<sup>th</sup> Street. It is located in the Drake Neighborhood, which is an area consisting of a mix of one-household residential, two-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 Association. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on August 12, 2022 and by mailing of the Final Agenda on August 26, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on August 12, 2022 (20 days prior to the public hearing) and August 22, 2022 (10 days prior to the 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 on the date of the mailing. The Drake Neighborhood mailings were sent to Lori Calhoun, 2808 Cottage Grove Avenue, Des Moines, IA 50311.

The applicant will provide a summary of the neighborhood meeting at the public hearing.

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

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low-Medium 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 area 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 subject property has a future land use designation of "Low-Medium Density Residential". Plan DSM describes the designation 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.

Staff notes that the predominant character of the neighborhood is a mix of duplexes, house conversions, and apartment buildings on smaller-scaled parcels in a highly walkable area. Staff believes that the proposed duplex use would be consistent with the existing land use designation as it is included in the Low-Medium Density Residential definition.

The subject parcel 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, predominantly in the Victorian, Revival, and Arts and Crafts styles pursuant to House D building type in section 135-2.16 of this code."

The applicant is proposing to rezone the parcel to the "N5-2" District. For N district locations labeled with a "-2 extension, the maximum number of household units permitted per lot is two, pursuant to section 134-3.1.2 of this code". The proposed "N5-2" District is consistent with the Low-Medium Density Residential designation since it allows for duplex uses.

**2. Planning and Design Ordinance:** Any future construction or development of the site must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). Should the rezoning be approved, the

applicant would be required to prepare a site plan and building elevations for any proposed additions or modifications.

## **SUMMARY OF DISCUSSION**

Emily Webb asked if any member of the public or commission desired to speak on the item. No one requested to speak.

## **COMMISSION ACTION:**

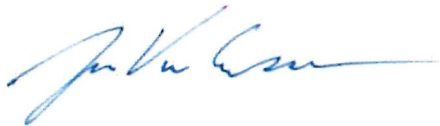
Francis Boggus made a motion for:

Part A) The requested rezoning be found in conformance with PlanDSM: Creating Our Tomorrow Comprehensive Plan.

Part B) Approval of the rezoning of the subject property from "N5" Neighborhood District to "N5-2" Neighborhood District.

Motion passed: 13-0

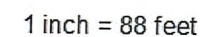
Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

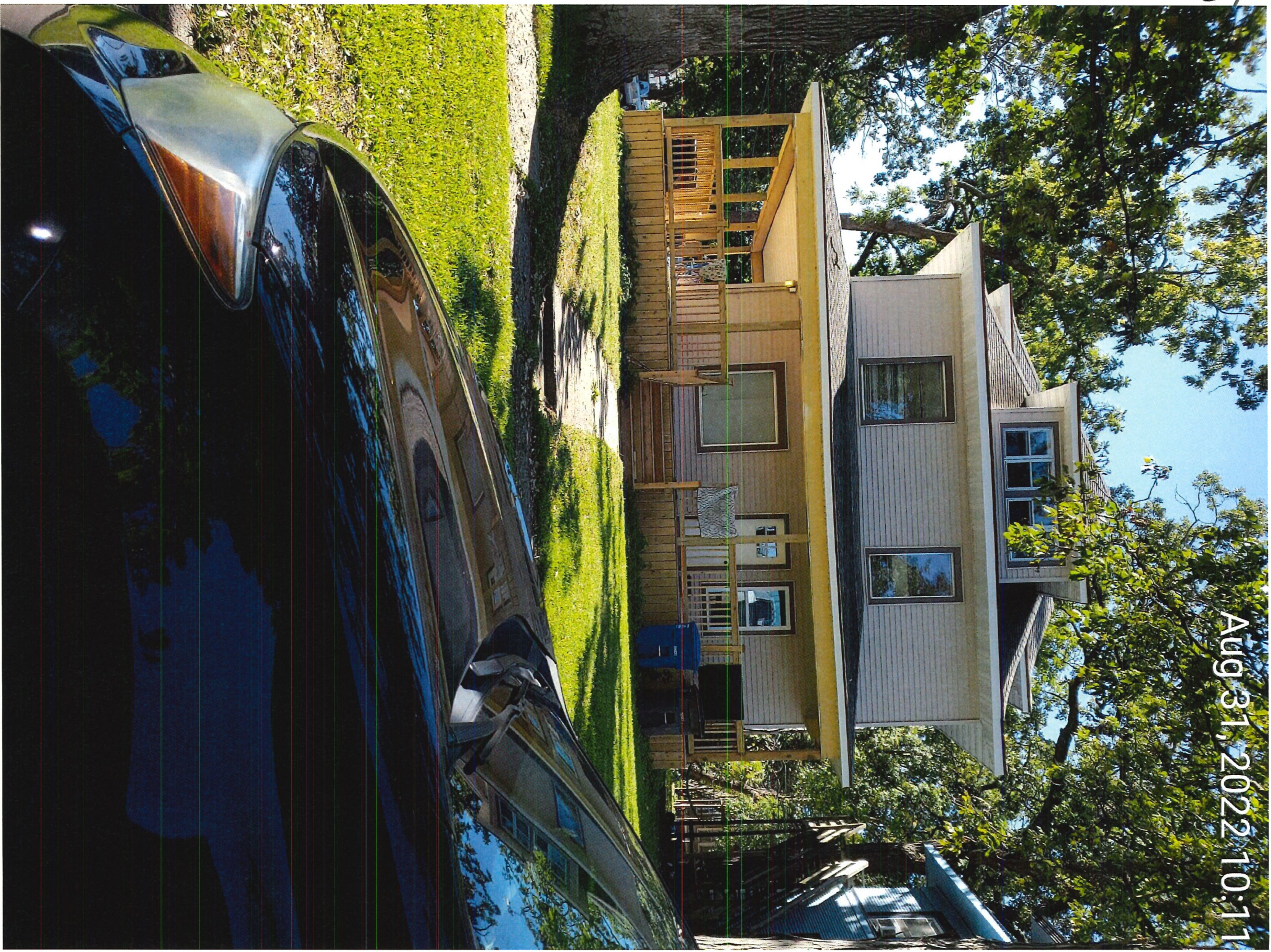
Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh











59

Aug 31, 2022 10:12

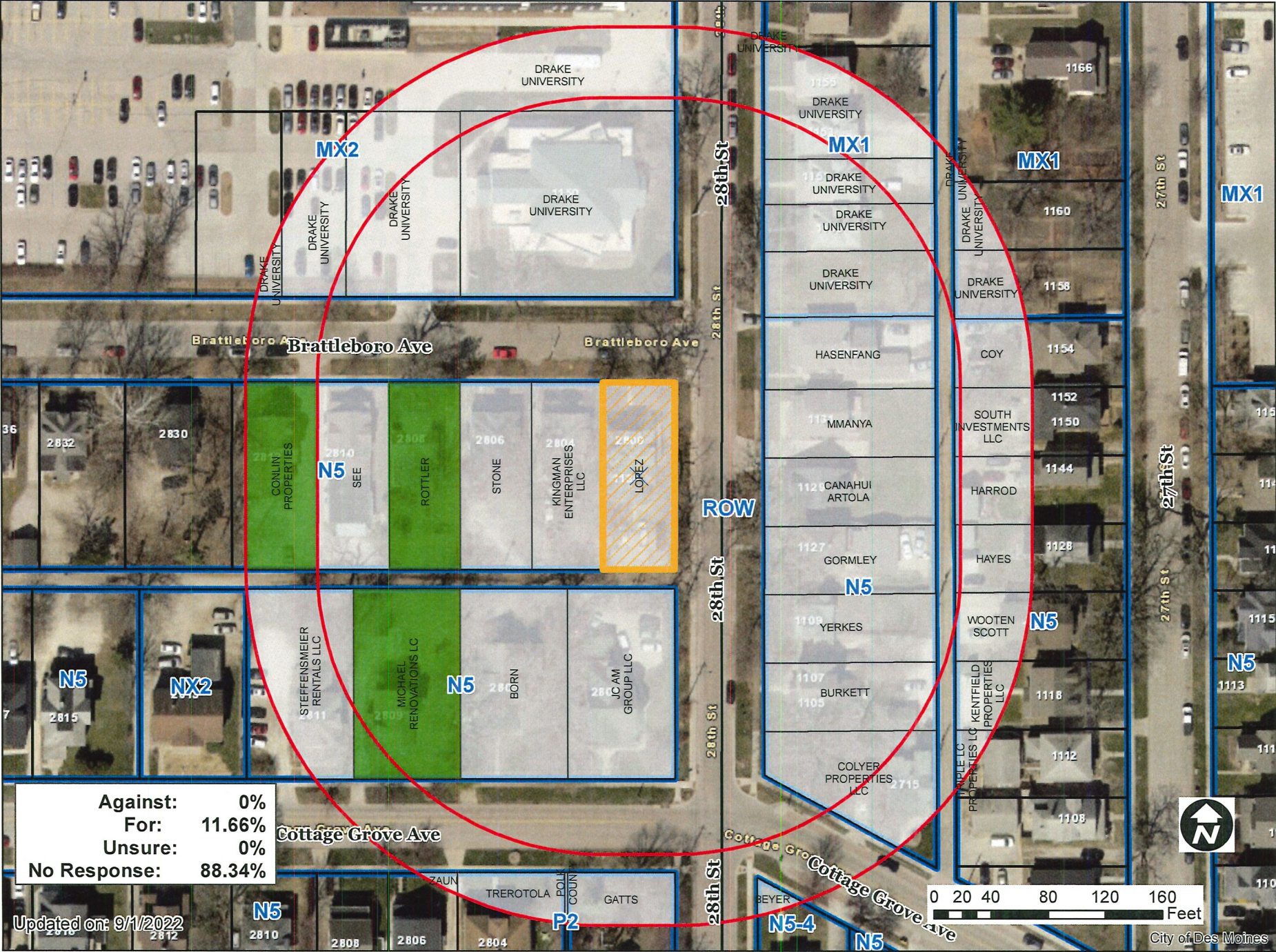




Aug 31, 2022 10:12







Against: 0%  
For: 11.66%  
Unsure: 0%  
No Response: 88.34%

Updated on: 9/1/2022

0 20 40 80 120 160 Feet



City of Des Moines

1 inch = 89 feet



Item: ZONG-2022-000071

Date: 8/26/22

59

Please mark one of the following:



I am in favor of the request



I am not in favor of the request

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

SEP 01 2022

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

Item: ZONG-2022-000071

Date: 8/30/2022

Please mark one of the following



I am in favor of the request



I am not in favor of the request

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

RECEIVED  
COMMUNITY DEVELOPMENT

SEP 01 2022

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

As a representative of the Drake Neighborhood Association,  
I have met with the owners and discussed any potential  
issues and concerns with satisfactory responses. We  
appreciate the improvements on the property and have no  
concerns zoning as a duplex.

Item: ZONG-2022-000071

Date:

8/29/22 59

Please mark one of the following



I am in favor of the request



I am not in favor of the request

Signature: M. Grundberg

Name: Michael Grundberg

Address: 2809 College Grove

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

SEP 01 2022

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

2800 Brattleboro Ave + 1130 28th St. have been  
a duplex for decades.

Item: ZONG-2022-000071

Date:

8/26/22

Please mark one of the following



I am in favor of the request



I am not in favor of the request

Signature: B. Carsten

Name: B. Carsten

Address: 7812 Brattleboro

Worcester, MA 01601

Staff Use Only

RECEIVED  
COMMUNITY DEVELOPMENT

AUG 30 2022

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



Cole Lopez and Lia Guerra, 2800 Brattleboro Avenue

ZONG-2022-000071



1 inch = 88 feet