



Date June 28, 2021

RESOLUTION HOLDING HEARING ON REQUEST FROM LEGACY PARK, LLC TO REZONE PROPERTY LOCATED AT 1315-1325 9TH STREET AND 1322-1332 8TH STREET

WHEREAS, on June 14, 2021, by Roll Call No. 21-0861, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on June 3, 2021, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Legacy Park, LLC (owner), represented by Russ Frazier (officer), to rezone the real property locally known as 1315-1325 9th Street and 1322-1332 8th Street (collectively "Property") from N5 Neighborhood District to N5-2 Neighborhood District, to allow use of the Property for two-household residential structures including rebuilding following destruction due to fire; and

WHEREAS, on June 14, 2021, by Roll Call No. 21-0861, it was duly resolved by the City Council that the request to rezone the Property be set down for hearing on June 28, 2021 at 5:00 P.M., in the 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 proposed rezoning; and

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

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the Property locally known as 1315-1325 9th Street and 1322-1332 8th Street, legally described as:

LOTS 15, 16, 17, 29, 30, 31, 32 AND THE SOUTH 25 FEET OF LOT 18 NORTH PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

from N5 Neighborhood District to N5-2 Neighborhood District, to allow use of the Property for two-household residential structures including rebuilding following destruction due to fire.

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 rezoning of the Property to N5-2 Neighborhood District are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property, as legally described above, to N5-2 Neighborhood District, is hereby found to be in conformance with the PlanDSM: Creating Our Tomorrow Land Use Plan and is approved, subject to final passage of an ordinance rezoning the Property as set forth herein.



Roll Call Number

Agenda Item Number

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Date June 28, 2021

MOVED BY _____ TO ADOPT.

FORM APPROVED:

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

(ZON2021-00062)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and 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



June 8, 2021

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their June 3, 2021 meeting, the following action was taken regarding a request from Legacy Park, LLC (owner) represented by Russ Frazier (officer) for the following regarding the property located at 1315-1325 9th Street and 1322-1332 8th Street.

- A) Determination as to whether the requested rezoning is in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.
- B) Rezone property from "N5" Neighborhood District to "N5-2" Neighborhood District, to allow a two-household dwelling at 1323/1325 9th Street to be rebuilt after destruction by fire, and to allow the other existing two-household living uses on the subject property to be brought into compliance.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low-Medium Density Residential.”

Part B) **Approval** of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District. (ZON2021-00062)

Written Responses

5 in Favor
3 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to “N5-2” District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Low-Medium Density Residential.”

Part B) Staff recommends approval of rezoning the subject property from “N5” Neighborhood District to “N5-2” Neighborhood District.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow use of the property for two-household living uses and bring the subject property into full zoning compliance. The property is currently only allowed to be used for a one-household dwelling.
2. **Size of Site:** 49,256 square feet.
3. **Existing Zoning (site):** “N5” Neighborhood District.
4. **Existing Land Use (site):** A series of six parcels that each include a two-household dwelling.
5. **Adjacent Land Use and Zoning:**
 - North** – “N5”; Use is a one-household dwelling.
 - South** – “N5”; Use is a one-household dwelling.
 - East** – “N5”; Use is a one-household dwelling.
 - West** – “N5”; Use is a one-household dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the east side of 9th Street and the west side of 8th Street, mid-block between Forest Avenue and Indiana Avenue in an area that contains a mix of residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the River Bend Neighborhood. The association was notified of the Commission meeting by mailing of the Preliminary Agenda on May 14, 2021 and the Final Agenda on May 28, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on May 14, 2021 (20 days prior to the hearing) and on May 24, 2021 (10 days prior to the hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested design alternative.

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 Association notices were mailed to Chris Chiramonte, 409 Franklin Avenue, Des Moines, IA 50314.

The applicant mailed the required neighborhood outreach letter and will be available to provide a summary of those communications at the hearing.

8. **Relevant Zoning History:** N/A.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low-Medium Density Residential within a Community Node.

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 subject property is designated as “Low-Medium Density Residential” on the Future Land Use Map. Plan DSM describes this designation as follows:

Low-Medium Density Residential: Areas developed with primarily single family and two family residential units with up to 12 dwelling units per net acre.

The applicant is proposing to rezone the property from “N5” Neighborhood District to “N5-2” Neighborhood District. The “N5-2” District allows for one- and two-household dwellings that are in accordance with “House D” building types.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance (Chapter 135 of City Code). The proposed “N5-2” District allows for one- and two-household dwellings that are in accordance with the “House D” building type. The provisions for this building type is contained in City Code Section 135-2.16. Any deviation from these

requirements would be subject to the consideration of any necessary future Type 1 or Type 2 Design Alternative(s).

3. **Staff Rationale:** The proposed rezoning would allow the existing two-household dwellings to be considered permitted uses by the Zoning Code as opposed to being legal non-conforming as they are now. The application would also allow a new duplex to be constructed on the lot that is currently vacant. It previously contained a duplex but was demolished after suffering significant fire damage. A two-household residential dwelling would fill a need identified in PlanDSM to provide medium density, missing middle housing. The location of the subject property within a community node lends itself to this type of use.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

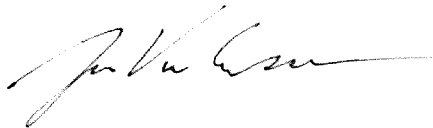
Carolyn Jension made a motion for:

Part A) The proposed rezoning to "N5-2" District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Low-Medium Density Residential."

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

Motion passed: 10-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

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Legacy Park, LLC (owner) represented by Russ Frazier (officer) property located at 1315-1325 9th Street and 1322-1332 8th Street.		File # ZON2021-00062		
Description of Action	Rezone property from "N5" Neighborhood District to "N5-2" Neighborhood District, to allow a two-household dwelling at 1323/1325 9th Street to be rebuilt after destruction by fire, and to allow the other existing two-household living uses on the subject property to be brought into compliance.			
PlanDSM Future Land Use	Current: Low-Medium Density Residential within a Community Node. Proposed: N/A.			
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)	5	3		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Legacy Park, LLC, 1315-1325 9th Street & 1322-1332 8th Street

ZON2021-00062



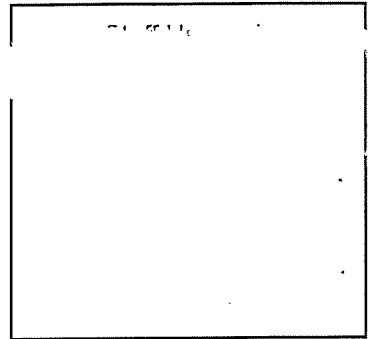
1 inch = 100 feet

Item: ZON2021-00062 Date: 5/27/21

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: [Handwritten Signature]
 Name: S. Mitt
 Address: 1535 Linden St



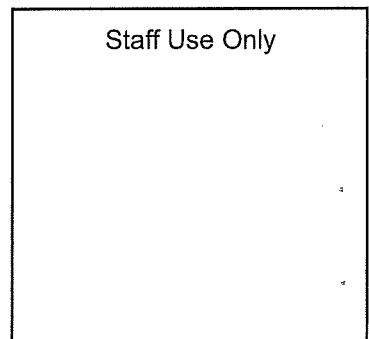
Reason for opposing or approving this request may be listed below:

Item: ZON2021-00062 Date: 5/27/21

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: [Handwritten Signature]
 Name: S. Mitt
 Address: 1535 Linden St Ste 100A



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

Item: ZON2021-00062 Date: _____

Please mark one of the following

- I am in favor of the request ← (FF)
- I am not in favor of the request

Staff Use Only

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Signature: _____

Name: Angela Thorne

Address: 1330 9th St

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

ONLY is they do historic Design Required
Maintenance Property - Properties trashy
Must Do Historic Design!!!

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Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Staff Use Only

Signature: _____

Name: R. Mitch Coluzzi for Coluzzi Construction

Address: 1312 9th, 1308 9th, 1259th

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

Side by side duplexes in existing BMDA Reason this should even
require a formal rezoning given previous zoning and use!

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Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Staff Use Only

Signature: [Handwritten Signature]

Name: JOTTIE MADISON

Address: 1331 8th St DSA

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

Need to Rebuild

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Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Staff Use Only

Signature: [Handwritten Signature]

Name: Kim Harrison

Address: 1334 9th St.

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

A new duplex would not be in keeping with historic preservation

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Date: 5/25/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

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Signature: Barbara Orth

Name: Barbara Orth

Address: 1345 9th St

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

I want neighbors not more dentists,
I want people living here who are
in my neighborhood, it has
with all the dentists.

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Date: _____

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

Signature: DRS Investments LLC

Name: DAVID R See

Address: 1324 9th St

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

There is no other multi family housing except
the other one by them and behind them. there
is a history list. And I see no new
multi housing being put in. The other multi is
grandfather in but it needs to stay the same.

