

## Staff Report

**Rental Concentration Exception Options**

May 22, 2018

**BACKGROUND:**

The City of Ames is in the process of adopting an ordinance that restricts the concentration of single-family home rental properties within specified areas. The draft ordinance sets a cap for 25% of properties registered as rental properties. If a neighborhood exceeds this threshold, then no new rental registrations could be approved. City Council has authorized temporary exceptions to the 25% cap to allow for Transitional Letters of Compliance for rental of property for up to two years. Additionally, owner occupied homes with up to one roomer are also exempt from the cap. The proposed third reading of the Concentration Cap ordinance is a separate item on this same agenda.

City Council received a staff report regarding examples of rental concentration limitations at the February 20<sup>th</sup> and March 20<sup>th</sup> workshops. Additional examples of other City's rental concentration ordinances were provided to the City Council at the April 10<sup>th</sup> meeting. At this meeting and at the recent May 8<sup>th</sup> City Council meeting, there was discussion of whether a permanent exception from the cap should be allowed. **Council decided to engage in a discussion of this topic immediately rather than wait until September 2018 as originally planned.**

If an option for a permanent exception is pursued, the City Council must first identify what is considered a hardship. The hardship could include individuals with immediate circumstances related to the sale of their property or it could include people that may have issues selling their property in the future. When considering a hardship related to the sale of property it will likely come down to considering how to evaluate return on investment and resale expectations in a specific neighborhood. **Due to the permanent exception of a hardship finding, the threshold of approval should be a high bar to maintain the integrity of the concentration cap.** In some ways this would be similar to evaluating the financial feasibility in conjunction with a demolition request in the University Impact Overlay or a use variance that has a hardship standard.

Based upon experience with variances and the fraternity/sorority demolition permit requests, staff drafted a process for a permanent exception as part of the April 10<sup>th</sup> staff report. The approach outlined by staff was designed to address the variability in the real estate market, long term property ownership, the seasonality of sales and time on the market for a home, the unique condition/repairs needed for a home, and a prerequisite

of abutting other rental properties. This original option is described as Option 1 below. Staff also has outlined two additional approaches as well for less restrictive time periods to apply for a hardship or to delay implementation of the cap restriction for current property owners.

### **OPTION 1: TWO YEAR SALE PROCESS WITH PERQUISITE OF ABUTTING REGISTERED RENTAL PROPERTY**

This option was first described as part of the April 10<sup>th</sup> staff report. Staff believes the delay in applying for a hardship exception is essential for ensuring the intent of the cap is met on maintaining ownership housing opportunities. Without a time on market standard, there would be no way to know the viability of the sale of the home for ownership purposes.

The standards in this approach also are designed to overlap with the option of a Transitional Letter of Compliance that allows for the renting of the property for up to two years if someone is unable to sell their home. This option also includes a prerequisite for abutting other rental properties. The proximity standard reflects earlier concerns expressed in April for hardships about selling property when properties are surrounded by other rental properties.

#### **Qualification Prerequisites:**

1. Evidence of offering/advertising the property for sale for a minimum a period of 24 months with disclosure of offers received for purchase of the property that have been rejected.
2. Evidence of the original purchase price, date of purchase, and current mortgage balance.
3. Current appraised value of the dwelling with comparable sales.
4. A home inspection report describing the condition of the property.
5. Rental Housing Code pre-inspection and cost estimate for compliance with the Rental Housing code.
6. Property must have been in ownership by the current property owner for a minimum of five years.
7. Prerequisite that the property has abutting registered dwelling units on a minimum of three sides (*Need direction on whether across the street counts as abutting, originally proposed without including across the street*)

#### **Decision Making Criteria (By City Council)**

- A. Determination that the preponderance of properties along the same block face are existing registered rental properties, not just the abutting properties.

- B. Sale of the property for an owner occupied home is not financially feasible when considering the condition of the home and market value. Deferred maintenance and actions of the property owner that diminished the value of the property are not presentable evidence in support of financial infeasibility.
- C. Sale of the property for an owner occupied home would deprive the owner of the property of reasonable use of, or economic return on, the property within the intent of the Rental Concentration Cap to preserve homeownership opportunities in a neighborhood.

## **OPTION 2: NINE-MONTH SALE PROCESS AND NO ABUTTING RENTAL PROPERTY PERQUISITE**

This option is the same as Option 1 with the exception of the amount of time the property needs to be for sale and whether the property abuts other rentals. The real estate market is highly seasonal and a short time of an on the market standard would not account for normal ebb and flow in market demand. Nine months would be longer than typical expectations for the sale of single-family home, but not to the degree as proposed with the 2-year process described above that assumes someone would rent home in the intervening period of time.

To provide some context to the nine months, the median days on the market for Ames was recently reported by the Central Iowa Board of Realtor statistics as 69 days in 2018 compared to 55 days in 2017 for the same time period. Days on the market is real estate industry term calculated commonly through the Multiple Listing Service (MLS). Staff also notes these numbers vary throughout the year and are subject to proprietary information through MLS and real estate listing agents. Due to permanency of the exception, a threshold greater than the market median and addressed that seasonality would be appropriate.

### **Qualification Prerequisites:**

1. Evidence of offering/advertising the property for sale for a minimum a period of nine months with disclosure of offers received for purchase of the property that have been rejected.
2. Evidence of the original purchase price, date of purchase, and current mortgage balance.
3. Current appraised value of the dwelling with comparable sales.
4. A home inspection report describing the condition of the property.
5. Rental Housing Code pre-inspection and cost estimate for compliance with the Rental Housing code.
6. Property must have been in ownership by the current property owner for a minimum of five years.

7. No prerequisite of abutting existing rental properties.

### **Decision Making Criteria (By City Council)**

- A. Sale of the property for an owner occupied home is not financially feasible when considering the condition of the home and market value. Deferred maintenance and actions of the property owner that diminished the value of the property are not presentable evidence in support of financial infeasibility.
- B. Sale of the property for an owner occupied home would deprive the owner of the property of reasonable use of, or economic return on, the property within the intent of the Rental Concentration Cap to preserve homeownership opportunities in a neighborhood.

### **OPTION 3: DEFER CAP REQUIREMENT FOR 6 MONTHS FOR CURRENT PROPERTY OWNERS.**

**This option does not consider proving a hardship, but would allow a current property owner to register the property and receive a Letter of Compliance within the next six months.** This option would essentially defer the 25% cap restriction for a limited time to allow for existing property owners that think it is financially advantageous to invest in registering a property and receiving a Letter of Compliance to do so.

This approach would provide be a one-time exception process for current owners and would not allow a new property owner that is buying into a neighborhood the option to register the property as a rental property. **If the property owner does not complete the Letter of Compliance within the 6-month timeframe, they would not be eligible for the exception.** City Council could also apply the minimum ownership standard of five years that is included in the previous two options.

### **Qualification Prerequisites: (By City Staff)**

1. Administrative review for registering a rental property.
2. Property owners of record on May 22, 2018 may register a property within a Rental Concentration Cap neighborhood as a rental property prior to September 1, 2018.
3. The property registration within a Rental Cap neighborhood allows for six months to obtain a Letter of Compliance from the time of the initial inspection for the Letter of Compliance. (This requires all necessary improvements to be completed by March 1, 2019)

4. If a property owner has not obtained a Letter of Compliance within six months, the property registration shall expire and may not be renewed or reapplied for under this exception.

### **STAFF COMMENTS:**

With any exception to a rental cap there is a question of maintaining the integrity of the neighborhood and the rationale for having a cap in the first place with an exception allowance. Many individuals presented concerns over the past nine months about the impacts on the quality of life caused by high levels of single-family rental properties due to the transitory nature of residents, higher levels of activity from an increased number of occupants, character and alterations of rental property compared to owner occupied homes, and impacts on availability of affordable ownership opportunities for homes near campus. At the same time, other property owners expressed concern about the potential effect on their property values if they choose to sell in the future or to rent the home as an investment property.

**The issue of rental concentration limitations is not unlike other issues of neighborhood integrity addressed by prior City Councils with Hospital/Medical area expansion, Single-family Conservation Overlay District north of Downtown, and the University Impact Area standards. Exceptions or variances in these areas have a high bar of approval due to the permanency of the decision. The approach for the rental cap exception should be similar.**

**City Council has been presented with three options to address concerns about hardships while attempting to support the intent of a rental cap. If there is a desire to pursue this strategy, the City Council will need to provide direction on one of the three options described above or give direction on the following specific issues so that staff can draft an alternative option.**

1. One-time exception process for 2018 or hardship process for future
2. Proximity to current rental property as a prerequisite
3. Approval authority (City Council or other)
4. Criteria for approval, quantitative or qualitative

**If the City Council can agree on an approach to an exception policy option, a draft ordinance reflecting the preferred hardship process will be brought for review to the June 12<sup>th</sup> meeting.**

**Staff believes that with direction to draft hardship standards the City Council could proceed with adopting the Concentration Cap ordinance on third reading, approving specific neighborhoods for the cap, and allow the moratorium to expire. The benefit of this approach is that the extension of the moratorium, which is a broader area than proposed for the concentration limits, will no longer**

**be needed as the Concentration Cap ordinance would address the concerns included with the moratorium. Any new hardship standards reviewed on June 12<sup>th</sup> would then be an amendment to the Concentration Cap ordinance after it is adopted.**

Al Warren  
3121 Maplewood Road  
Ames IA 50014

May 17, 2018

Dear Mayor and Council,

I would like a hardship appeal to finish two bedroom and have them counted for occupancy at the house I own at 2334 Storm St. This house was built in 2016. I tore down an old falling apart, abandoned house and built a 4,200 square foot house in its place. The basement area is 2,130 square foot and has 9-foot ceilings. This house was designed to have two bedrooms in the basement with large egress windows in place. A large finished bathroom is already in use. To complete these bedrooms, we just need to add one wall to each and frame in a closet, (not required by Ames City Code).

However, we didn't finish these two bedrooms in 2016 because the City Code did not allow 5 unrelated people to occupy a house. I knew if these bedrooms were finished they would be occupied. I gave Council Member Gloria Betcher a tour of the house and told her that if the law changed we would finish these two bedrooms. Council Member Betcher commented it was a very nice house and fit in the neighborhood well.

Then in 2017, the Iowa Legislature changed the rules on how the code could be applied to occupancy. There were various meetings dealing with the number of people in a house. It ranged from the current number of 3 with different restrictions to no firm top number of people.

Last Fall when the City Council took up the issue, I was looking for direction on how many people could occupy a house. Instead, with each meeting it got more confusing. Many different proposals were presented; one per bedroom plus one roomer, one per bedroom up to four plus one roomer, SCAN proposed only 3 unrelated people plus parking. Then it was five unrelated people plus parking. I was wanting and needing direction from the City; do I add one bedroom or two because I have off street parking for 5 cars? During this time a moratorium was put in place not allowing any additional bedrooms. So, I am caught in the middle wanting to go by City Code, (which still isn't final) and being able to add and count my bedrooms. The City

Council needed to give direction before freezing everything. I was trying to follow code and be respectful of the neighborhood which I have owned property in for 40 years.

A house two doors East of mine was built at the same time with 6 bedrooms and rented as such. They had the extra and filled them against code. They are currently legal for 5 and 2334 Storm is legal for 3.

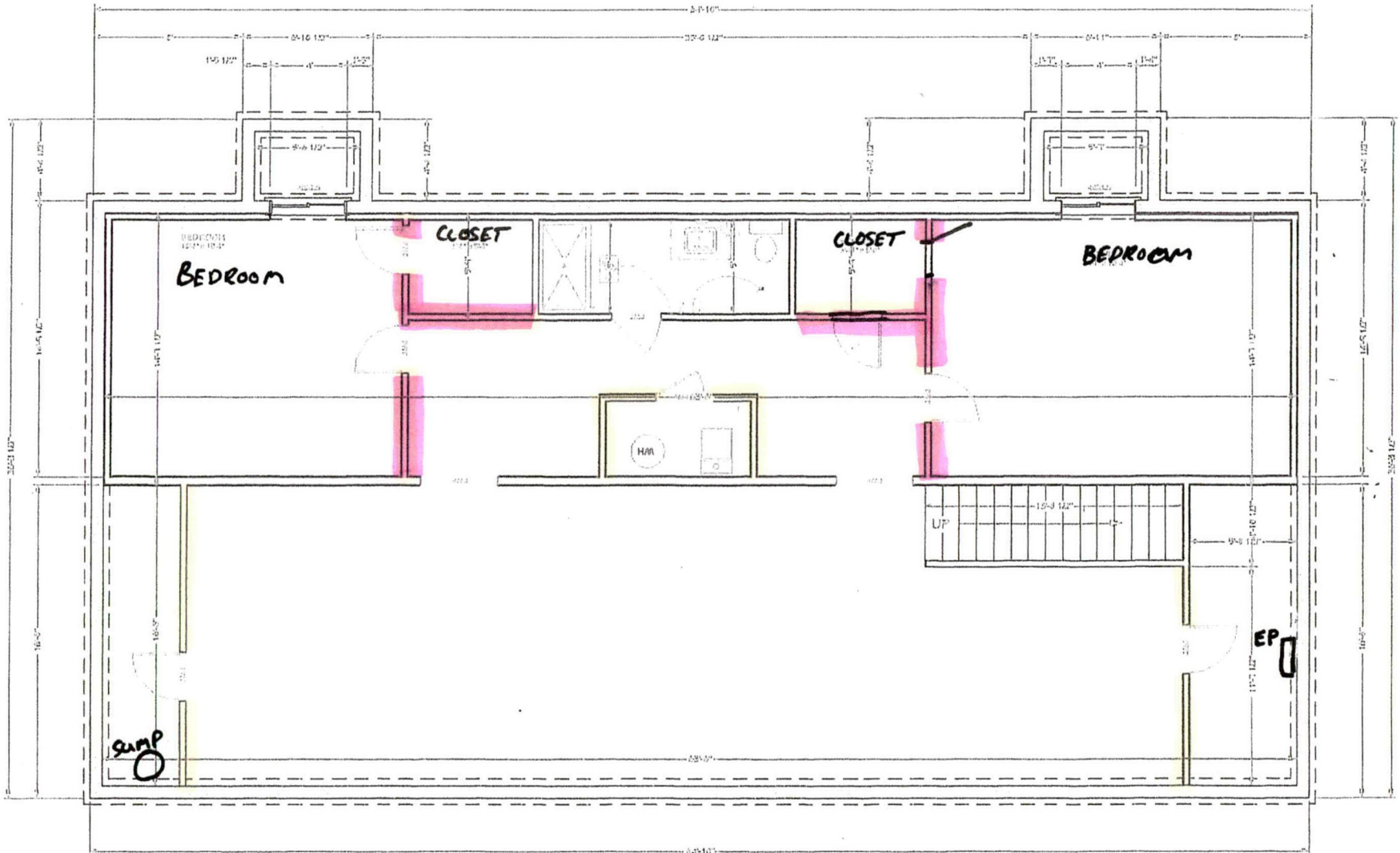
I am requesting that I be allowed to add the two bedrooms and have them be counted given that the City gave no clear direction on the code and how it would be applied.

Respectfully,

A handwritten signature in blue ink that reads "Al Warren". The signature is written in a cursive style with a long horizontal stroke at the end.

Al Warren





LIVING AREA  
2130 sq ft

2130 sq ft

BASEMENT AREA

2334 STORM STREET

- NEW WALLS
- 9' CEILINGS