

## Staff Report

**Rental Concentration Limits For Low Density Zones**

February 24, 2015

**BACKGROUND:**

During the City Council meeting on August 26, 2014, Council moved to evaluate low-density housing and its use as rental property. It was clarified that the intent of the referral was to have staff present a report describing methods used to limit the concentration of rental properties within certain zoning areas, specifically within the residential low-density zones.

The City of Ames defines uses of property by zoning and administers the construction type and occupancy of structures through its Rental Housing and Building Codes. Chapter 29 of the Ames Municipal Code (Zoning Code) includes zoning regulations for the type of residential uses allowed in a low-density zoning district and the occupancy limit of related and/or unrelated persons within a housing unit. The Residential Low Density (RL) zoning district permits only new single-family detached housing, and two-family housing if pre-existing. There are currently some non-conforming attached single family units and apartment structures within this zone, which is allowed to remain under a nonconforming status. However, if those sites were to redevelop only new single-family detached structures could be permitted to be rebuilt. The Floating Suburban Residential Low Density (FS-RL) zone allows for new single-family detached and single family attached housing.

The Zoning Code does not regulate whether a unit is owner-occupied or not. Municipal Code Chapter 13 Rental Housing describes the requirements for housing units to be licensed as a rental and the process to receive a Letter of Compliance (LOC). The Rental Housing Code allows for any property to be rented if the standards of the Code are met and the property owner is issued a LOC.

Across the city there are approximately 12,406 properties of all types identified as rentals through LOCs. (See Attachment A January 2015) Of the 12,406 rental properties, 1,243 are classified as Single Family on their LOC application form. Staff estimates that in 2010 there were 836 LOCs declared by the applicant as single family. This equates to an increase of approximately 407 single-family LOCs in the past 5 years, for an average increase of 81 a year.

When looking at properties within the low density zoning districts of RL and FS-RL zones, a total of 1,540 properties (19.75%) are identified as rentals of all types. (See Attachment B) Single family rentals in the RL and FS-RL zones comprise approximately 595 properties for 6.82% of the total number of properties or 8.2% of the single-family home properties. Proximately 650 other single-family home rentals are properties in zoning districts other than RL and FS-RL.

Zone	Rental Properties	Rental Properties in Zone	Single Family Rental Properties	SF Rental in Zone
RL	1502	19.27%	560	7.18%
FS-RL	38	4.09%	35	3.77%
Village	501	47.04%	37	3.47%
RM*	542	56.11%	34	3.52%
UCRM	342	19.64%	183	10.51%

When considering low density housing in the community, Council may wish to also consider looking at the RM (Residential Medium Density) and UCRM (Urban Core Medium Density) zones. While described as Medium Density zones, many of the properties within RM and UCRM zones are single family oriented and located in neighborhoods either surrounding the ISU Campus or Downtown where the highest concentration of rental properties are located.

The majority of the RM zoned properties within the city is concentrated north of downtown and comprises the Single Family Conservation Overlay District. The purpose of the overlay zone as stated in the purpose statement of the Zoning Code is to “protect single-family neighborhoods while guiding the transition to higher density and compatibility with the surrounding uses where intensification is permitted.” Rental properties account for 56.11% of the properties in the RM Zone and 19.64% of the properties in the UCRM Zone. Rentals properties classified as single family make up 3.52% (34) of the total properties in the RM zone and 10.51% (183) of the total properties in the UCRM Zone. (See Attachment C)

### **OPTIONS FOR RENTAL CONCENTRATION LIMITING REGULATIONS:**

#### **Apply Rental Density Restrictions in Certain Zones:**

Create a new residential zoning district or an overlay zoning district to limit the percentage of rental properties. Regulations could be written so rental housing could not make up more than a certain percentage of the properties in the district or on a block. In this option, the determination on the definition of a district or block will need to be defined. A question to consider with this option is whether the restriction should regulate the actual concentration of rental units in a defined area or a general percentage of rentals within a specified zone. Regulating just a general percentage of rental units in an area, could still allow for a very concentrated area of rental properties in a specified district or on a block. Staff would need to track and map LOC to review new requests in low density areas.

In Winona, MN, the rental housing chapter of the city code regulates that no more than 30% of the houses on a block may be eligible for a rental housing certificate, including those homes that take in roomers or boarders by a resident family. Temporary rentals (up to 12 months) are permitted if the property is actively being marketed for sale and meets certain other requirements. A block is defined as “a group of properties bounded entirely by streets, public land, railroads rights of way, zoning district lines, corporate limit lines, or physical features...”. In essence this equates to a “square block” rather than block faces.

In West Saint Paul, MN, rentals may comprise no more than 10% of the single-family dwellings on a block. There is a grandfathering clause for non-conforming blocks, but if a rental license is not renewed on a non-conforming block, it may not be reinstated unless the density of rentals on that block falls below the 10% threshold.

In both Winona and West Saint Paul, the restriction is regulating strictly the number of rentals based on a defined percentage of lots within a defined block, not the concentration of rentals in any given area. Council will need to determine how refined of an area is considered concentrated and if the ordinance should be to regulate strictly the number of rentals in an area or the actual concentration of rentals. (See attachment D for an examples)

### **Separation Distance between Rentals:**

This would involve the City Council identifying a minimum distance that rental properties must be from one another. This option could be established through a restriction in the Rental Housing Code indicating a minimum separation distance. Staff would need to track and map LOC to review new requests in low density areas. Ames has employed this type of restriction for certain types of businesses, such as payday lenders and adult-oriented businesses to help mitigate potential issues of concentration.

A separation restriction is in place in St. Paul, MN where a separation ordinance was passed in 2012. The ordinance in St. Paul specifically defines “student dwellings” within a “student housing neighborhood impact overlay district” within the zoning code. The area was established due to the number of student dwellings focused in the neighborhood between Macalester College and the University of St. Thomas. Concordia University and the College of St. Catherine are also in the area, just outside of the actual overlay district boundaries. Student dwellings within the overlay district may not be within 150 feet of each other and must be regularly reviewed and registered as a “student dwelling” much like a rental property, meeting specific fire and inspection requirements.

This option is focused on regulating the actual concentration of rentals in relation to each other, by requiring a distance that each rental must be separated from one another. Council would need to determine what that limit is and is it only on a street frontage or does the distance span all sides of a property, meaning no rental property should abut another from any direction. A 150 foot separation of properties would generally be a two to three lot separation of units from one another. (See Attachment E for an example.)

### **Annual Quota for New Rental Permits:**

This concept would be in response to a concern about the overall growth in the number of single-family home rentals, rather than in response to a concern about neighborhood concentration at the block level. In this option, the City would identify an annual allocation for new rental units based on factors such as university enrollment, existing housing stock, and development projects underway. If there are more requested rental units than the annual quota, those properties could be placed on a waitlist and be awarded their permit either as existing permit holders leave the rental market or in the following year.

This method has been used in the context of growth management for issuance of building permits, but staff was unable to find any examples of this method for controlling the influx of rental housing.

This option would allow Council to establish annually a quota for new rental properties. This could be regulated through an overall citywide cap on the number of rentals for the community or through a percent increase in rentals on an annual basis.

**Allow Neighborhoods to Petition for a Rental-Free Zoning Overlay:**

A group of property owners could be permitted to petition the City Council to create a rental restriction overlay district in their neighborhood. This may involve gathering signatures of support from a defined portion of the neighborhood, or from the entirety of the neighborhood. Determination of ownership consent versus occupancy consent will need to be determined and a minimum size would need to be established, either based on the number of properties/owners or the percentage of land area within the defined neighborhood. Ultimately, the petition would initiate a rezoning process with public hearing before the Planning and Zoning Commission and the City Council to determine the appropriateness of the request.

This process is in use in East Lansing, MI. If owners of at least 2/3 of the parcels within a proposed area approve, the City Council may consider whether to adopt the rental restriction overlay for that area. If adopted, no new rental permits could be approved within that district. Existing rental properties within that district would be grandfathered in, provided that they do not lapse in maintaining a rental license for a period of longer than 12 months. At any time after one year, the same neighborhood may petition the Council to dissolve the overlay with signatures from 2/3 of the affected property owners.

This option takes the initiation of the restriction somewhat out of the hands of the city, in that the residents of the neighborhood are petitioning the city for such a limitation. Staff would have to verify compliance with a set of criteria that would establish what percentage of the property owners or land area would be needed to establish an overlay area, what percentage of owners/land area is needed to agree with the petition before Council could approve an overlay, and what notice requirements are needed for non-consenting owners before application/approval could be made. The downside of this type of regulation is that City Council is not initiating any regulation; it is strictly up to the property owners and neighborhoods to petition the city for rental restriction.

**Other Options**

A couple of other options have been review by staff regarding the limitation of rental concentrations; however, they have been eliminated as viable options for the City. One such option is through a restriction on the number of rental units operated by any one entity. Any person, partnership, business entity, or corporation would be limited in the number of units it would be permitted to operate. Certain exceptions might apply, such as for properties that are managed by a professional management company. The goal of this regulation would be to prevent absentee landlord situations. In East Saint Paul, MN, no property owner is permitted to operate more than three single-family residences as rentals unless the property owner (1) hires a property management company

licensed by the Commerce Department, (2) is a public housing agency, or (3) obtains a special exemption from the City Council. This regulation could be easily circumvented through establishment of separate entities for ownership of properties and does not directly address issue of concentration or quality of management.

Another option could be to impose more stringent requirements on single-family homes used as rentals. This would involve imposing additional standards on single-family homes used as rental properties, with the intent that complying with such standards would be less attractive than keeping the house as an owner-occupied home. This could involve meeting crime-free housing requirements, greater property maintenance restrictions, or other requirements. Another approach used in some communities is to reduce the number of unrelated persons who constitute a family in some zones (e.g., limit certain zones to two unrelated persons instead of three), however, the family definition in Ames is already limited to a standard many communities are moving to with three unrelated persons constituting a family.

#### **Ramifications of using strategies to limit rental units in single-family zones**

Limiting the supply of additional rental housing in neighborhoods could increase pressure to construct multi-family apartments. Because available high-density residential property is limited, this pressure may result in an increase in rental rates if the demand remains high due to ISU enrollment growth. Understanding the effects of this would require additional market study that staff is not prepared to offer at this time. The other concern is that limiting the number of rentals could bring about a larger enforcement issue with an increase in the number of non-registered rentals across the community.

Staff has also been unable to find any examples in Iowa of any of these options being employed to restrict rental properties in neighborhoods; Ames would be the first. If any of these options was implemented, Ames would not be able to rely on local examples if challenged.

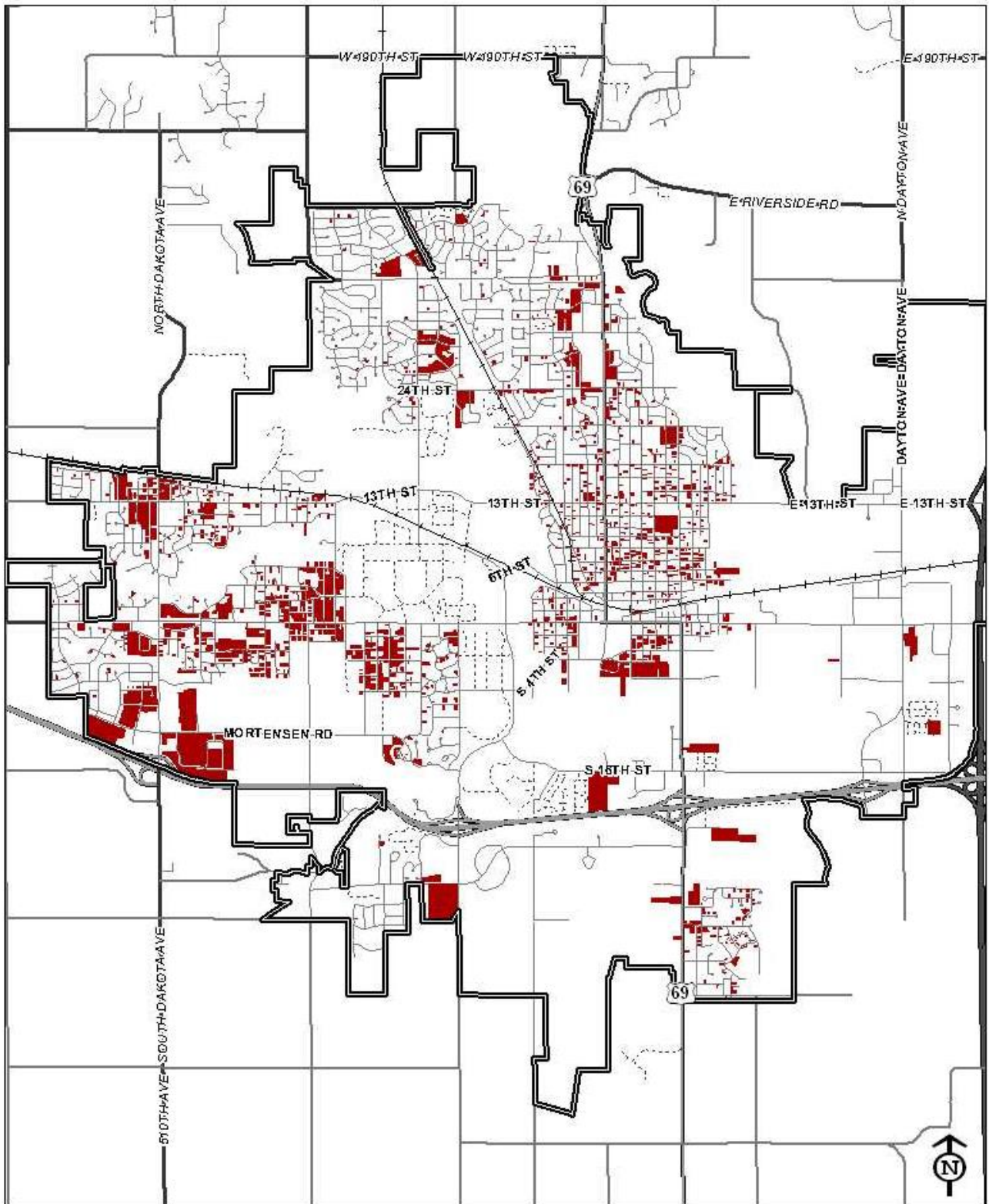
#### **STAFF COMMENTS:**

It should be noted that the legality of at least one of these options is being challenged in court. The Winona, MN, ordinance was challenged by a group of residential property owners in October 2011. The challenged claimed the ordinance exceeded the City's zoning power and was unconstitutional under the Minnesota Constitution on several grounds. This litigation has made its way through the trial court and lower appellate court levels, with the ordinance being upheld thus far. It is now on the docket to be considered by the Minnesota Supreme Court. A ruling is expected sometime later this Spring.

The four options described above are different approaches to the issue of rental concentration. If Council believes there are concerns about rental concentrations and wants to further pursue creating an ordinance, Council will need to focus on specific issues and provide direction to staff on how to proceed. Staff would further refine a concept, consider addition information that may support a code change, and prepare draft language for Council consideration.

At this time should Council choose to refer any of the above options to Staff for further work, Council needs to consider the prioritization of this referral with the other Planning and Housing work plan projects and demands on the City Attorney. Council will review the Planning and Housing Department's workplan on March 10, 2015. One of the major considerations for moving ahead with this issue is public outreach. To help prioritize this type of project Council would need to determine what amount of public outreach should be sought prior to initiation and processing of an amendment(s) to the Municipal Code.

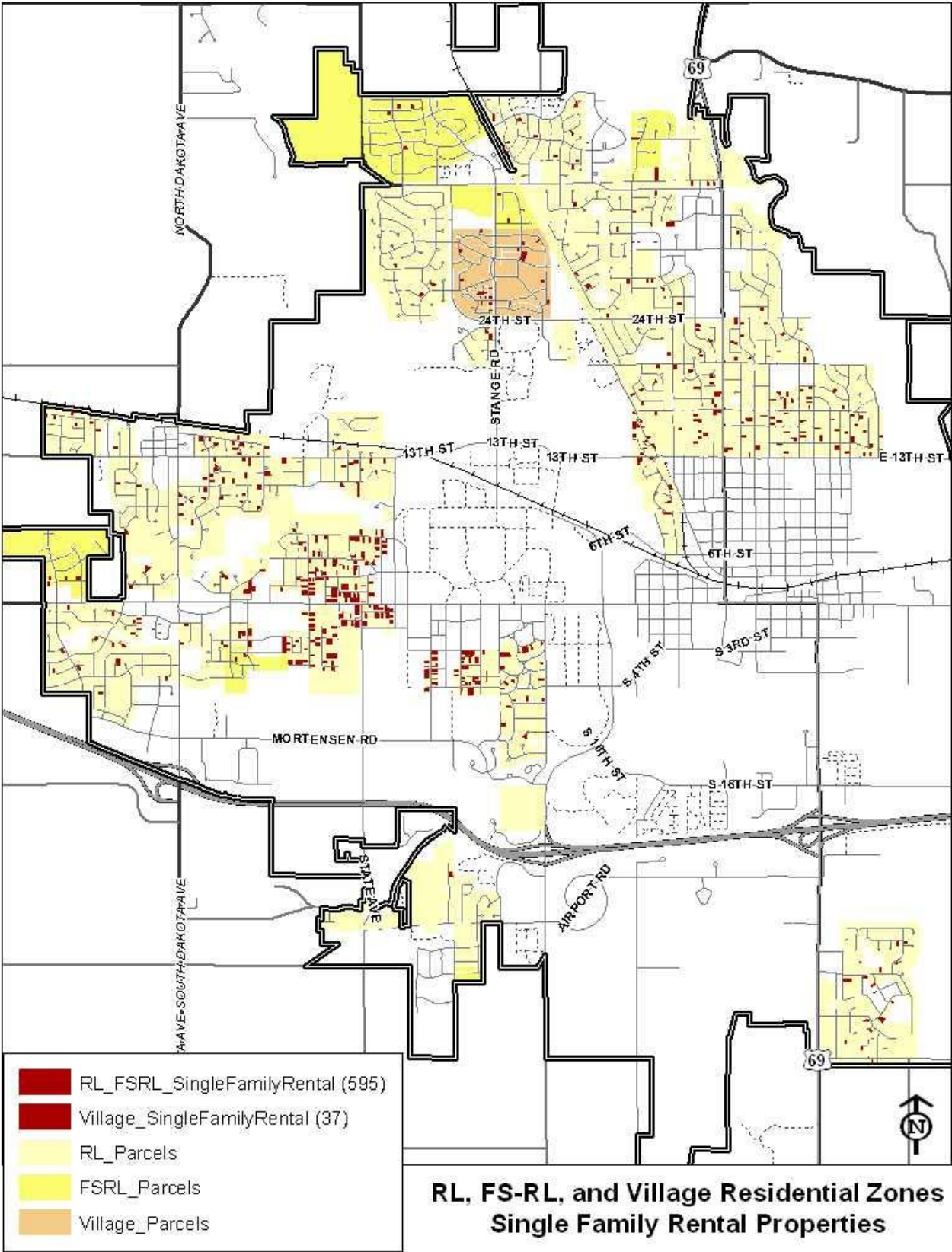
## Attachment A



## Ames Rental Properties

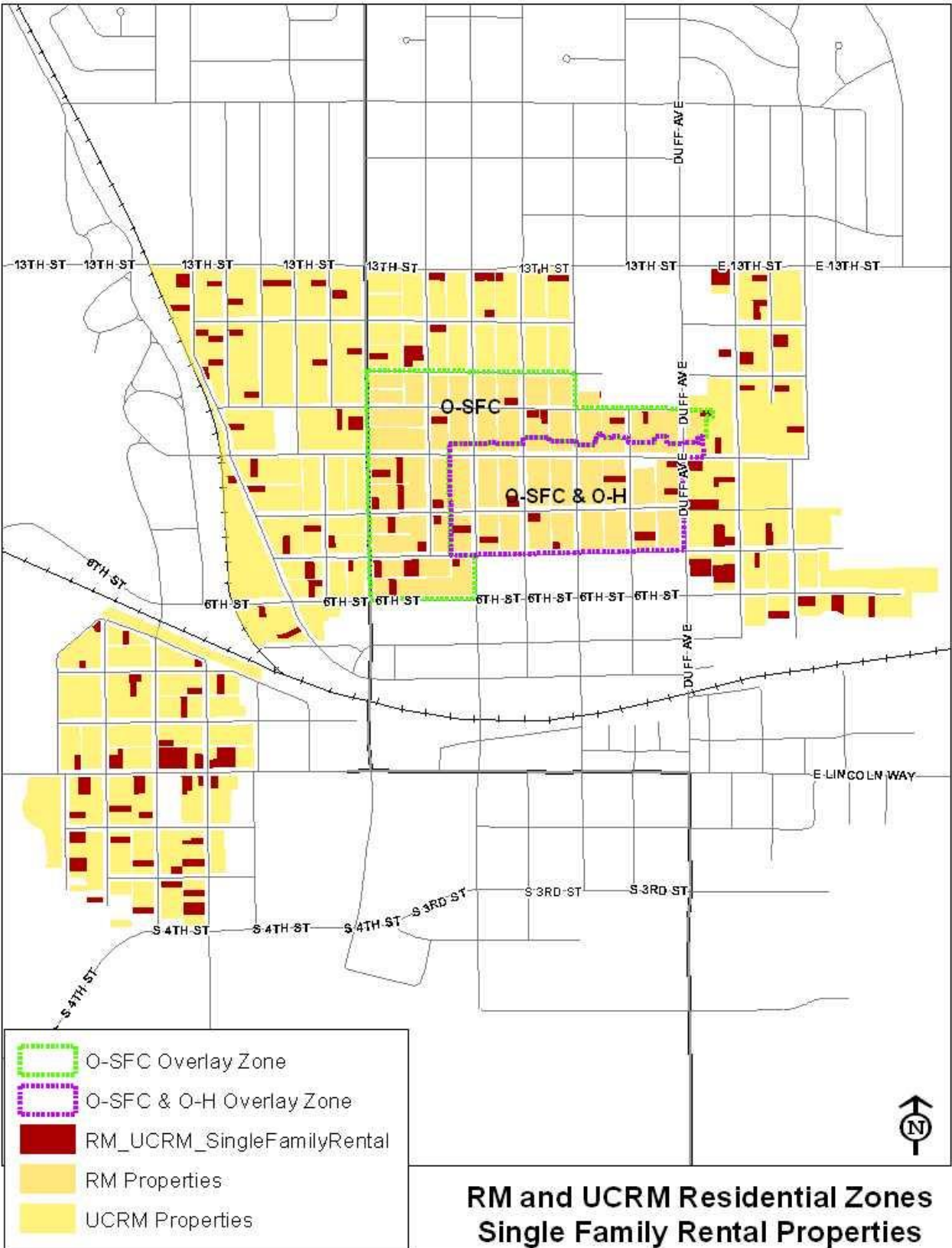


Attachment B

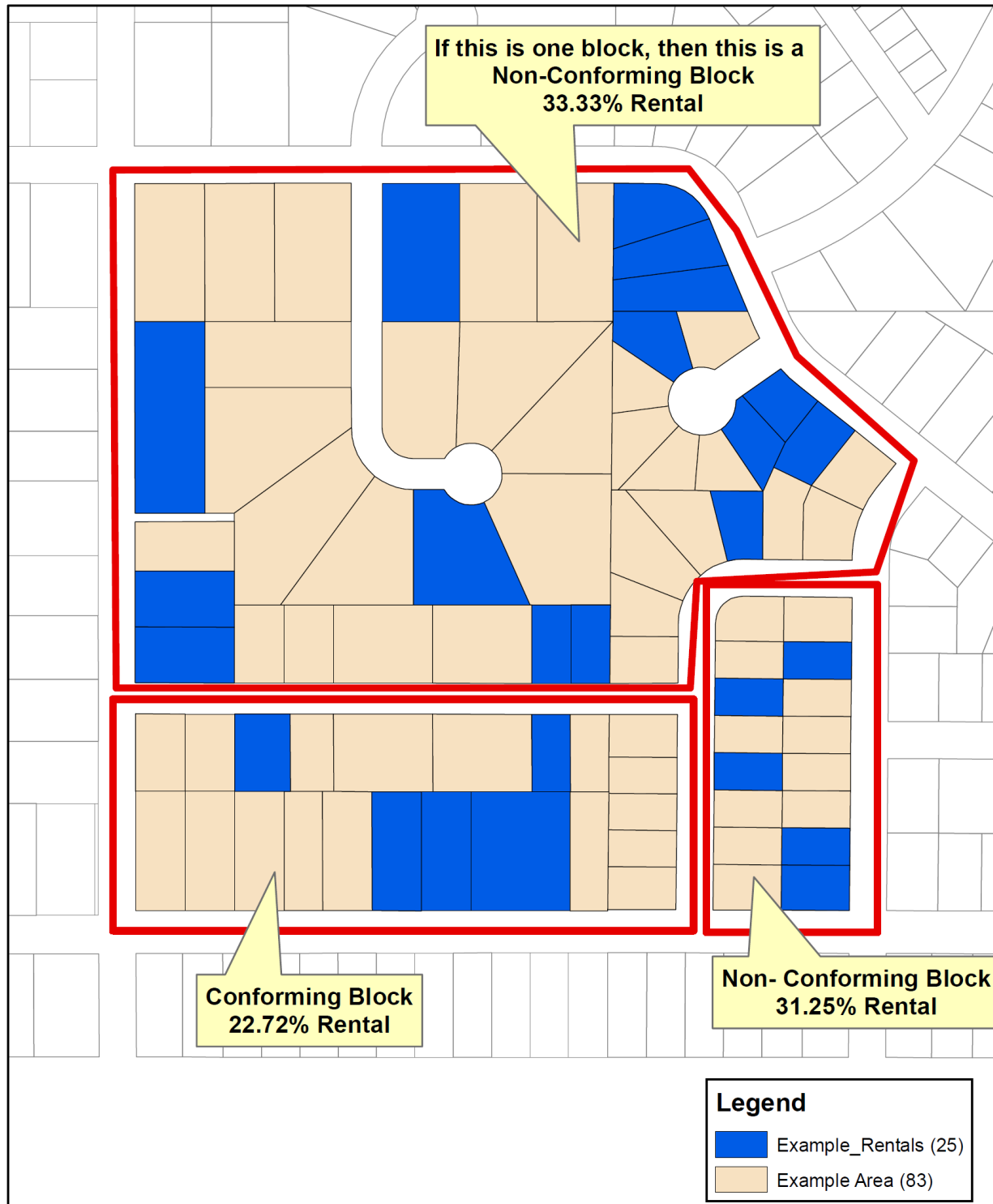




# Attachment C

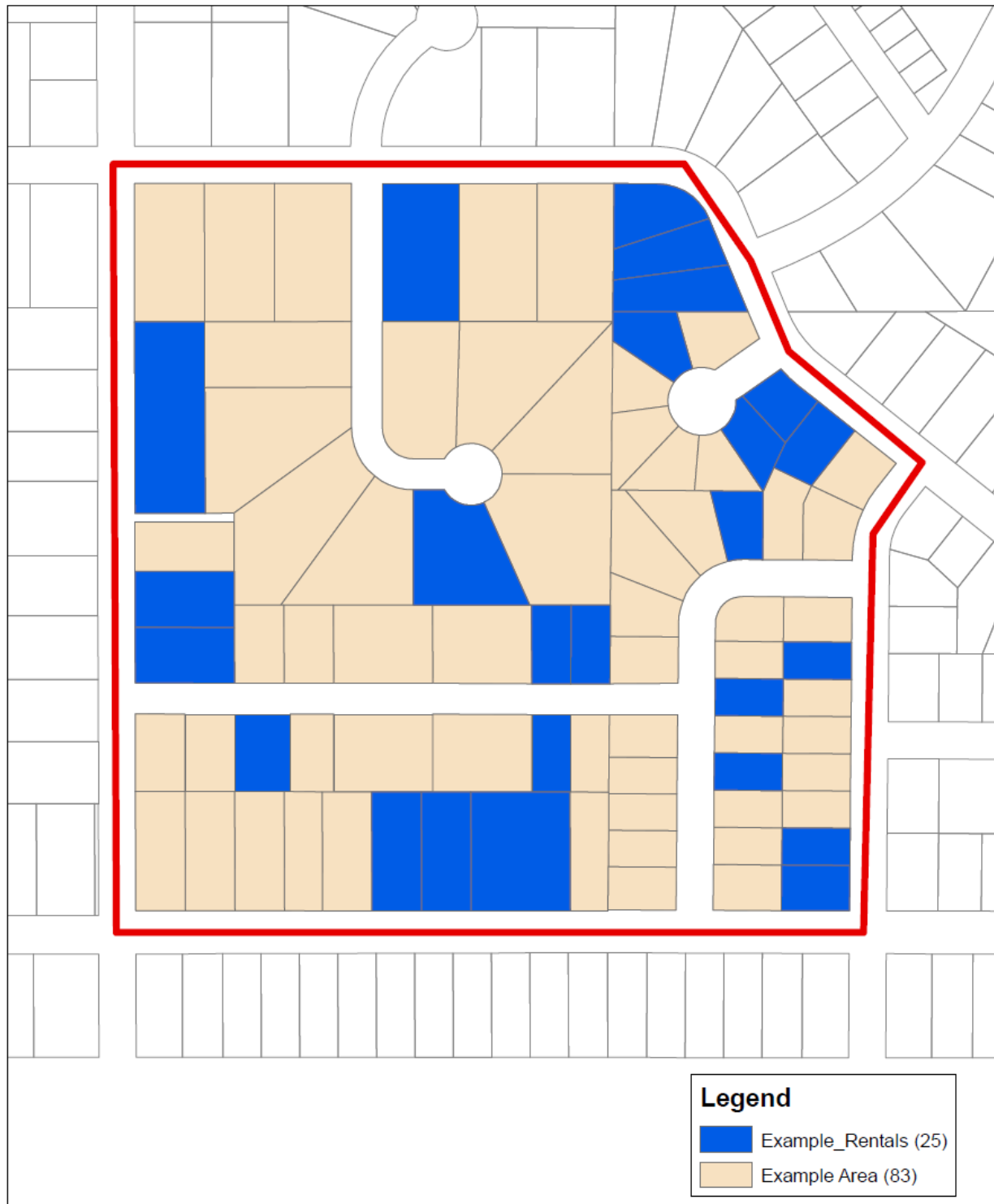


## Attachment D



**Option 1 Example:  
30% Rental Properties By Block**

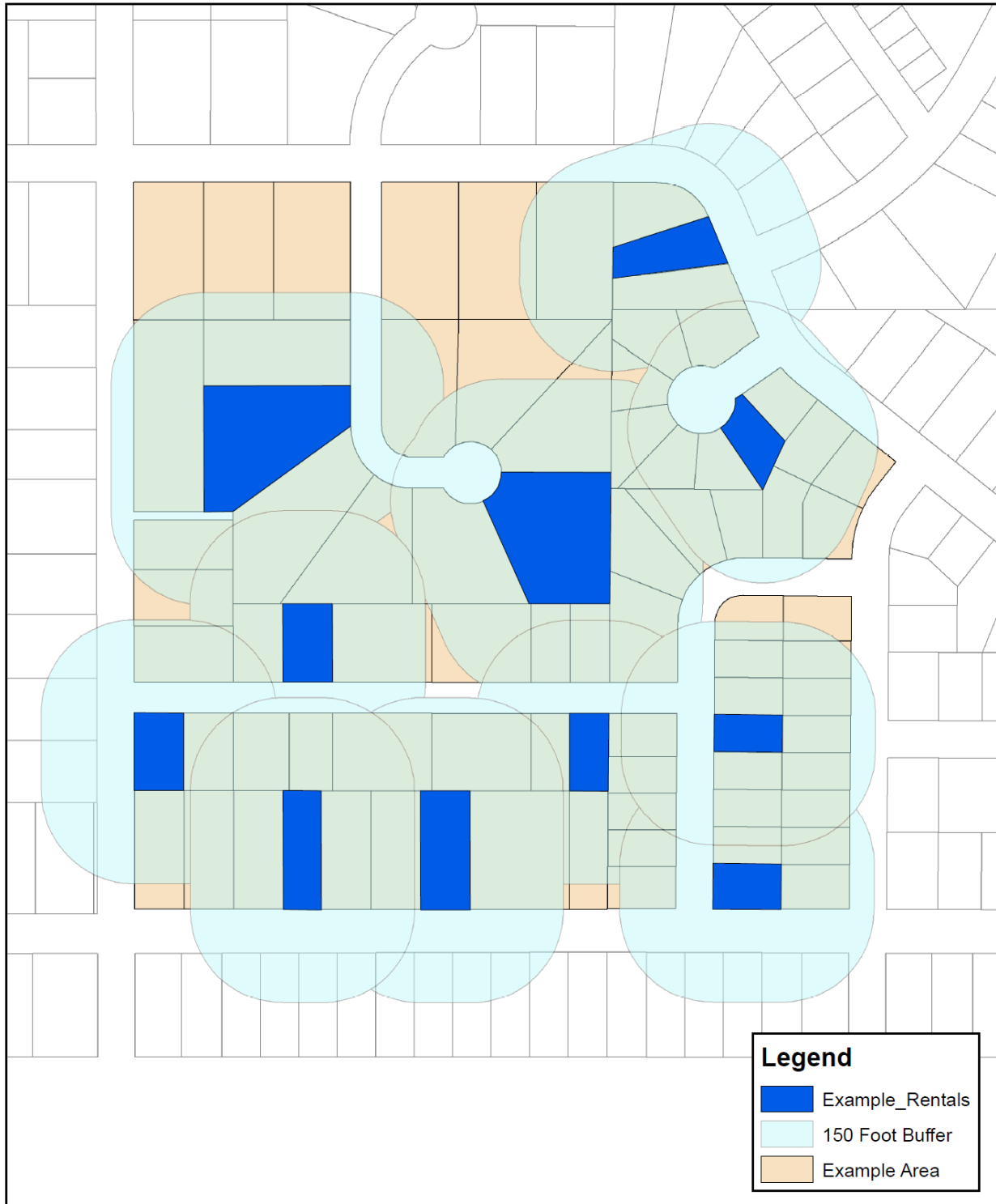
## Attachment D



0 100 200 400 Feet

**Option 1 Example:**  
**30% Rental Properties Across a District**

## Attachment E



0 100 200 400 Feet

**Option 2 Example,  
Separation Distance of 150 Feet  
13.25% Rental**