

**COUNCIL ACTION FORM**

**SUBJECT: AMENDMENT TO ZONING LIMITATIONS OF 100% OVER 55-YEARS OF AGE OR OLDER RESIDENCE REQUIREMENT FOR 415 STANTON AVE ZONED RH (RESIDENTIAL HIGH DENSITY).**

**BACKGROUND:**

In January 2018, City Council approved a contract rezoning for 415 Stanton Avenue (Attachment A: Location Map). This contract rezoning agreement had four conditions (Attachment B). The conditions were agreed upon to facilitate the rezoning of the site to High Density Residential after a number of meetings with neighborhood representatives and City staff. Three of the four conditions were related to design and reuse of the existing building. All three of these conditions have been met. **The fourth condition restricted the age of residents to at least one occupant of each unit being at least 55 years of age.** This limitation was intended at that time to exceed federal housing standards for *Housing for Older Persons Act* (HOPA) that allow for certain housing projects to be “senior” only housing.

Since approval of the rezoning and site development permit for the project, the developer had created a condominium regime for individual ownership. At this time there are eleven different owners. The majority owner, Crawford Ames, LLC, also the developer, submitted the application for rezoning. The original zoning contract states that all successors and assigns of Crawford Ames, LLC must sign off on any changes, meaning all eleven properties owners will need to sign the new zoning contract to allow for the requested change to the age restriction.

**AGE RESTRICTION TO 55 OR OLDER:**

**The rezoning request is to amend the resident age limitation to reduce the number of age-restricted units from 100 percent to 80 percent of the units.** The proposed change would meet minimum criteria for categorizing a project as Housing for Older Persons. The minimum percentage requirement under HOPA is 80% of occupied dwelling units.

The developer’s statement says that only 6 of the 30 units in the building would be without the age restriction (Attachment C). The developer seeks this change to expand their marketing ability for the units. The developer indicated that they have met with some of the residents of the surrounding neighborhood to discuss the proposal. Staff has not received any comments on the proposal.

At a public hearing on August 7, 2019, the Planning and Zoning Commission voted (5-0) to recommend that the City Council approve the request to amend the contract rezoning agreement to specify the use is limited to Senior Living with one occupant per dwelling

as 55 or older in a minimum of 80 percent of the units, in compliance with the federal Housing and Urban Development (HUD) standards for Housing for Older Persons.

The Commission and a member of the public questioned how the age restriction would be monitored and verified. The applicant/property owner clarified that that every 24 months there is a survey that the Association is required to complete to achieve the 80 percent over/20 percent under the age of 55 years of age requirement. He stated that at any time someone from Housing and Urban Development (HUD) can inventory their records. Staff confirmed that the City is not part of the age verification process.

The Commission also questioned how sales would occur if the number of age-restricted units is already filled. The applicant/property owner explained that the Association would have an interview process and have the discretion to approve buyers that would potentially be purchasing units in the 20 percent of units that are not age restricted.

### **ALTERNATIVES:**

1. The City Council can do the following:
  - A. Open the public hearing to discuss the proposal.
  - B. Direct the applicant to provide signatures authorizing the proposed amendment by all owners subject to the current agreement to allow for a use limitation of Senior Living with one occupant per dwelling as 55 or older in a minimum of 80 percent of the units, in compliance with the federal Housing and Urban Development (HUD) standards for Housing for Older Persons Act.
  - C. Continue the public hearing until September 10<sup>th</sup> to allow receipt of the signed agreement before first reading on a rezoning ordinance.
2. The City Council can deny the request to amend the contract rezoning agreement to specify the use is limited to Senior Living with one occupant per dwelling as 55 or older in a minimum of 80 percent of the units, in compliance with the federal Housing and Urban Development (HUD) standards for Housing for Older Persons.
3. The City Council can defer action on the request to amend the contract rezoning agreement and request additional information from the applicant.

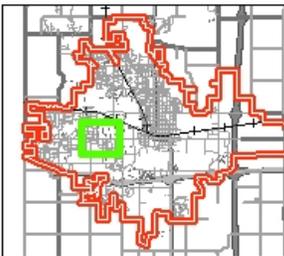
### **CITY MANAGER'S RECOMMENDATION:**

The applicant requests the change of the use limitation of the property to align directly with the federal HOPA standards compared to exceeding the HOPA requirements with the current obligation to have 100% of the units with a resident that is 55 or older. Staff believes the request is consistent with the intent of the original rezoning request and can be found to be appropriate for the site. However, at this time the developer has not obtained written authorization from all known property owners (condominium owners) to

proceed with City Council approval of the requested change. State law requires that written agreement for conditions must be provided prior to conclusion of a public hearing for a rezoning amendment. To move forward with the project, City Council would need to direct the applicant to proceed with obtaining signatures and continue the hearing to September 10<sup>th</sup>.

**Therefore, it is the City Manager's recommendation that the City Council provide direction to staff on Alternative #1.**

**ATTACHMENT A: LOCATION MAP**



**Location Map  
415 Stanton Avenue**

**ATTACHMENT B: EXISTING ZONING CONTRACT**

Instrument #: 2018-00901  
02/01/2018 08:43:31 AM Total Pages: 4  
00 OTHER  
Recording Fee: \$ 22.00  
Stacie Herridge, Recorder, Story County Iowa



**S P A C E A B O V E R E S E R V E D F O R O F F I C I A L U S E**

Legal description: See page 4.

Return document to: City Clerk, 515 Clark Avenue, Ames IA 50010

Document prepared by: Victoria A. Feilmeyer, City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010 – 515-239-5146

**CONTRACT REZONING AGREEMENT PERTAINING TO THE  
LAND AT 415 STANTON AVENUE**

**THIS AGREEMENT**, made and entered into this 23 day of January, 2018, by and between the City of Ames, Iowa (hereinafter called "City") and The Crawford Ames, LLC, an Iowa limited liability company (hereinafter called "Developer"), its successors and assigns.

**WITNESSETH THAT:**

**WHEREAS**, the Developer owns real property which had formerly been used by the Ames Community School District for an elementary school and later for school district offices, legally described as set out on Attachment A and locally addressed as 415 Stanton Avenue, Ames, Iowa, (hereinafter called the "Property"); and

**WHEREAS**, the Developer desires to redevelop the property so that it may be intended and operated for occupancy as Housing for Older Persons aged 55 years or older; and

**WHEREAS**, the City approved a Minor Map Amendment to the Land Use Policy Plan (LUPP) designation for the subject real property by Resolution 17-676, which changed its designation from Low-Density Residential/Governmental Lands to High Density Residential to provide for a LUPP designation compatible with the proposed Housing for Older Persons; and

**WHEREAS**, the Developer has applied for a zoning designation of RH (Residential High Density) for the subject property in order to advance its plan of renovating the site to be used as Housing for Older Persons; and

**WHEREAS**, as contemplated by Iowa Code section 414.5, the City desires to impose certain additional conditions on the property owner in addition to existing regulations in connection with granting the base zoning; and

**WHEREAS**, both City and the Developer expressly agree that said additional conditions are reasonable and imposed to satisfy public needs which are directly caused by the requested zoning change to RH (Residential High-Density).

**NOW, THEREFORE**, the parties hereto have agreed and do agree as follows:

**I. INTENT AND PURPOSE**

A. It is the intent of this Agreement to:

1. Recognize that the Developer, The Crawford Ames, LLC, is the owner of the real property being rezoned and expressly agrees to the imposition of additional conditions as authorized by Iowa Code section 414.5.
2. Confirm and document that the Parties recognize and acknowledge that a substantial benefit to the public will be realized by imposition of the additional conditions for rezoning.
3. Grant rezoning of the real property from Government/Airport Lands (S-GA) to Residential High Density (RH) subject to these additional conditions:
  - a. The residential use of the site is age restricted to Housing for Older Persons with each unit having at least one occupant who is 55 years of age or older.
  - b. The existing Crawford School Building will be retained and adapted to residential use.
  - c. New development shall be restricted to a maximum of three stories no more than 50 feet in height in the aggregate.
  - d. Prior to the approval of the third reading of the Ordinance rezoning the property, this rezoning agreement must be signed by the Developer and delivered to the City.

**II. GENERAL PROVISIONS**

A. Modification. The parties agree that this Agreement may be modified, amended or supplemented only by written agreement of the parties, and their successors and/or assigns.

B. General Applicability of Other Laws and Ordinances. The Developer understands and agrees that all work done by or on its behalf shall be made in compliance with Iowa Code, the Ames Municipal Code, Iowa Statewide Urban Design and

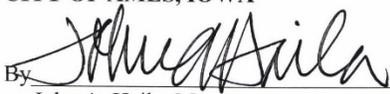
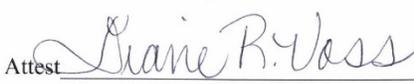
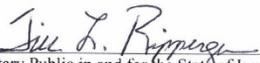
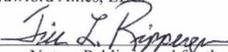
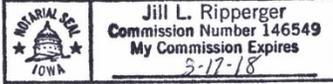
Specifications and all other federal, state and local laws of general application (including the Fair Housing Act as applicable), whether or not such requirements are specifically stated in this agreement. All ordinances, regulations and policies of the City now existing, or as may hereafter be enacted, shall apply to activity or uses on the site.

C. Incorporation of Recitals and Exhibits. The recitals, together with any and all exhibits attached hereto, are confirmed by the parties as true and incorporated herein by reference as if fully set forth verbatim. The recitals and exhibits are a substantive contractual part of this agreement.

### III. COVENANTS RUN WITH THE LAND

This Agreement shall run with the site and shall be binding upon the Developer, its successors, subsequent purchasers and assigns. Each party hereto agrees to cooperate with the other in executing a Memorandum of Agreement that may be recorded in place of this document.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective as of the date first above written.

<p><b>CITY OF AMES, IOWA</b></p> <p>By <u></u> John A. Haila, Mayor</p> <p>Attest <u></u> Diane R. Voss, City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this <u>23</u> day of <u>January</u>, 201<u>8</u> before me, a Notary Public in and for the State of Iowa, personally appeared John A. Haila and Diane R. Voss, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation by authority of its City Council, as contained in Resolution No. <u>16-046</u> adopted by the City Council on the <u>25</u> day of <u>January</u>, 201<u>7</u>, and that John A. Haila and Diane R Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.</p> <p><u></u> Notary Public in and for the State of Iowa</p>	<p><b>THE CRAWFORD AMES, LLC</b></p> <p>By <u></u></p> <p>STATE OF IOWA, COUNTY OF STORY, ss: This instrument was acknowledged before me on <u>January 8</u>, 201<u>8</u> by <u>LUKE JENSEN</u>, as Manager, of The Crawford Ames, LLC</p> <p><u></u> Notary Public in and for the State of Iowa</p> <div data-bbox="876 1270 1209 1354"></div>
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**ATTACHMENT C: APPLICANT'S STATEMENT**

**415 Stanton Rezoning Request**  
July 16, 2019

**Reason for Requesting Rezoning:** The development team would like to amend the developer agreement to allow for adherence to Housing For Older Persons Act (HOPA). This change would allow for expanded residential opportunities for owners/occupants under the age of 55 (maximum of 20% or 6 units could be under age 55).

**Consistency of this rezoning with the LUPP:** The request is consistent with LUPP. The property is zoned RH with a contract. The contract stipulates that all units must have one occupant age 55 or older. This rezone would still be consistent with the RH zone, but would amend the contract language.

**Current Zoning:** Residential High Density

**Proposed Zoning:** Residential High Density

**Proposed Use:** 55+ Adult Community that follows HOPA standards

**Legal Description:**

Lot Seven (7), except the South Five (5) Feet and the West Fifteen (15) Feet thereof; also the South Five (5) Feet of Lot Six (6); except the West Fifteen (15) Feet thereof, all in W.T. Smith's Addition to Ames, Iowa (to be confirmed by abstract).

The Crawford Condominiums Units #101-106, #201-216, #308-315

**Land Area:** 1.67 Acres

**RECEIVED**

JUL 23 2019

CITY OF AMES, IOWA  
DEPT. OF PLANNING & HOUSING