

Staff Report

OPTIONS FOR LIMITING OCCUPANCY IN RENTAL UNITS

October 24, 2017

BACKGROUND:

With the recent change in the state law which prohibits cities from limiting occupancy in rental units based on non-familial status, the City Council has begun an exploration into what other alternative criteria might be utilized.

The following are a list of actions directed by the City Council that relate to the issue of limiting occupancy in single-family and two family dwellings:

- 1) July 18, 2017, requested a proposal for increasing enforcement and inspection efforts in the following neighborhoods: SCAN, Oak to Riverside, CCOAMS, and west of Campus.
- 2) On September 12, 2017, asked for a modification to the Rental Code that restricts occupancy to a maximum of three students in a single-family home.
- 3) September 12, 2017, sought possible options for rental concentration overlays and maps of potential neighborhoods defined by reasonable boundaries.
- 4) September 12, 2017, inquired about ideas for adding to the Rental Code the possibility for the City to revoke a property owner's Letter of Compliance when there have been a specified number of violations within a certain timeframe at rental property.
- 5) September 19, 2017, requested a memo regarding options to incentivize the transition of rentals to single-family dwellings.
- 6) September 26, 2017, requested options for limiting rental occupancy based on building size, number of bedrooms, and /or number of off-street parking spaces.

Based on the information provided regarding increased enforcement (Request 1), the City Council authorized the addition of one Rental Housing Inspector position to be hired in FY 2017-18. The extra position will allow us to engage in proactive enforcement and perform annual inspections for the single-family dwelling units in the four neighborhoods that abut the campus. In addition, it was agreed that the memo regarding methods to incentivize the transition of rentals to single-family dwellings (Request 5) could come later. **Therefore, the intent of this staff report is to respond to the remaining four issues highlighted above.**

LIMIT OCCUPANCY TO NO MORE THAN THREE STUDENTS:

The September 12th Staff report provided examples of communities that regulate the occupancy of a dwelling by the number of students that live in the dwelling. Examples included St. Paul, MN; State College, PA; Newark, DE; Philadelphia, PA, and Boston, MA. All were in other states, and none in Iowa. None of these ordinances appear to have been overturned by a court. Each definition varies in wording. Some definitions include the wording “unrelated” which can no longer be used given the new state law. As evidenced in Attachment I, defining students is done differently in these cities.

One possible definition of a student could be, *“an individual enrolled or accepted for enrollment on a full time or part time basis for post-secondary education with a school, college, or university in the current, prior, or upcoming semester.”*

Under this alternative you restrict the number of students, but not the total number of adults in a one and two family dwelling. This restriction would need to be combined with other occupancy information and disclosure requirements to assist in compliance at the time a lease is signed. Rental Code would need to require landlords to maintain records of all occupants of a dwelling and their enrollment status and for this information to be available for review by City staff upon request.

LIMIT OCCUPANCY BY BUILDING SIZE:

- Limit occupancy to the number of adult tenants by a specified amount of square feet of finished area in one and two family dwellings.

For example, Prince William County, Virginia has established the following maximum occupancy requirements for adult occupants.

Livable floor area of a dwelling unit (in square feet):	Maximum number of adult occupants*:
Up to 1,000 square feet	3
From 1,001 to 1,500 square feet	4
From 1,501 to 2,000 square feet	5
From 2001 to 2,500 square feet	6
From 2,501 to 3,000 square feet	7
From 3.001 to 3,500 square feet	8
From 3,501 to 4,000 square feet	9
Over 4,000 square feet	10

*Adult occupant means any individual 18 years of age or older, living or sleeping in a building, or having possession of space within a building.

Another example, Cobb County, Georgia requires at least 390 square feet of living space per adult in a single family rental dwelling.

LIMIT OCCUPANCY BY BEDROOM SIZE:

- Limit occupancy to the number of adult tenants by a specified amount of square feet in each bedroom.

For example, the International Property Maintenance Code requires 70 square feet for the first occupant of a bedroom, and an extra 50 square feet for each additional person in the room.

LIMIT OCCUPANCY BY NUMBER OF BEDROOMS:

- Limit occupancy of adult tenants in one and two family dwellings to 1 per bedroom. Or
- Limit occupancy of adult tenants in one and two family dwellings to 1 per bedroom, up to a specified maximum number of tenants. Or
- Limit occupancy of adult tenants in one and two family dwellings to 1 more than the number of bedrooms. Or
- Limit occupancy of adult tenants of one and two family dwellings to one more than the number of bedrooms, up to a specified maximum number of tenants.

Under any of the options listed above, it will be very important to agree on the definition for *bedroom*. Currently, the Zoning Ordinance requires that any room exceeding 70 square feet and meeting the Building Code definition of a sleeping room must be counted as a bedroom. Bedrooms cannot be rooms that lead to other living spaces and they cannot be kitchens, living rooms, bathrooms, or foyers.

LIMIT OCCUPANCY BY THE NUMBER OF OFF-STREET PARKING SPACES:

- Limit occupancy of adult tenants in one and two family dwellings by requiring 1 off-street parking space per tenant. Or
- Limit occupancy of adult tenants in one and two family dwellings by requiring 1 off-street parking space per tenant, with a minimum of two parking spaces. Or
- Limit occupancy of adult tenants in one and two family dwellings by requiring a minimum of 2 off-street parking spaces and 1 additional parking space for every tenant over 3. *(This option is the most similar to current requirements of two parking spaces for rental of a single-family home to no more than 3 unrelated people)*

Note: the Staff is not proposing to change parking requirements for apartments or dwelling houses that are typically 1 parking space per bedroom.

Under this approach, the City Council will have to decide how to apply requirements for parking spaces. The Zoning Ordinance currently requires for single-family homes to provide two off-street parking spaces per home. Single-family homes may count up to two stacked parking spaces to meet this minimum parking requirement. For example, a home with a one car garage would be able to count the garage space and one space in the driveway to meet minimum parking requirements. Due to the stacked parking restriction, many homes would be restricted to two or three parking spaces to meet the occupancy standard. The Zoning Ordinance also requires paved surfaces, dimensional requirements, and a prohibition on front yard parking except when leading to the side or rear yard of a home. Some property owners could develop more parking areas in the side or rear yards to meet the standards.

Therefore, if any of the options listed above are pursued, the City Council will have to address two primary issues regarding parking requirements related to occupancy. The first is whether or not the City Council would be more flexible on stacked parking for rental purposes and allow for additional stacked spaces to count towards occupancy limits. Secondly, the City Council would need to clarify if all parking on site must conform to zoning standards for location, paving, access, and dimensions.

LIMIT CONCENTRATION OF RENTAL UNITS TO A SPECIFIED GEOGRAPHIC AREA:

City staff has reviewed registered rental properties in neighborhoods in close proximity to campus. Staff has calculated total rental properties within defined areas based upon zoning districts primarily established for single-family home purposes. Staff excluded high density zoned or commercially zoned areas from the calculations. Staff used neighborhood association boundaries where applicable, but for areas that had no defined association staff based the areas upon the street network to formulate logical boundaries.

Attachment II includes the boundaries analyzed by staff with the percentage of properties with low and medium density zoning that are registered rental properties with the City. The percentage of rental properties is between 3% and 90% for these sample areas. Prior analysis in September's staff report stated the city-wide average for rental percentages in RL areas was approximately 19% based upon 2014 data.

If the City Council chooses to establish a rental concentration restriction, it would need to provide direction on what are acceptable boundaries and what percentage of rental concentration would be acceptable with these areas. It

should be emphasized that changing boundaries can have a significant effect on either reducing or increasing the percentage of rental properties in a given area.

Based upon review of other communities' rental limitations and the percentage of rental within the areas near campus, staff believes a 20% threshold would be appropriate for supporting a diverse mix of housing choices in an area with a preference for maintaining primarily ownership home choices. Staff recommends defining the area boundaries with a map and the calculated percentages for those areas at the time a rental concentration overlay is adopted by the City.

When creating the overlay, City Council will also need to provide direction on allowing for previously registered to renew their registration when an area exceeds the limitation. **Staff assumes the City Council would permit existing licensed properties to be renewed, but properties with transitional licenses would not be eligible, because they would need a new license. Any property owner that failed to maintain their licensing would also not be allowed to reestablish a rental property if the area is over the concentration limit.**

In addition, staff assumes that if a registered rental dwelling is torn down, the newly built structure would be required to register as a new rental. In this case, occupancy concentration limits may prohibit this dwelling from becoming a rental. City Council could provide alternative direction on how to accommodate existing rentals in areas that would be over concentrated.

PENALTIES FOR MULTIPLE CODE VIOLATIONS:

One of the options that Council directed staff to investigate was the possibility of revoking a Letter of Compliance after a certain number of multiple violations. In response to this request, staff has developed a plan that divides violations into two types: 1) Simple Misdemeanors; and 2) Municipal Infractions.

Staff is proposing the following point system:

- Simple Misdemeanors will be given two points per instance. Note: this means a nuisance party in which three tenants are issued citations will result in two points, not two points per citation.
- Municipal Infractions will be given one point per instance.
- An accumulation of five points between 8/1 and 7/31 of each year will result in a one year suspension of the LOC

Suspension of an LOC allows the property to remain registered, but not be rented for the specified amount of time. Staff believes that the proposed point system could be enough incentive to maintain a property so annual inspections in the Council established neighborhoods would not be warranted.

FEEDBACK FROM THE PROPERTY MAINTENANCE APPEALS BOARD:

Staff proposed a similar plan to enforce the suspension of letters of compliance on properties with multiple violations to the Property Maintenance Appeals Board. The Board was not supportive of this approach and felt the consequences were “quite severe and did not match the severity of the violation.”

In addition to the Board’s opinions on the enforcement plan, members also expressed their concern for annual inspections of rental properties. Members of the Board felt that the inspections “would not be effective” and would prefer that the City spend that time making sure that the *exterior* of the properties were maintained. The Board felt that we were penalizing all property owners with annual inspections. Instead, we should “be rewarding those owners that have no violations.” The Board would like to see more of a reward system than a penalty system. For example, all properties start with a one year LOC. If at the next inspection, there have been no violations a two, three, or four year LOC could be issued.

The Board’s recommendation is consistent with the philosophy reflected in the current Rental Code which rewards routinely compliant property owners with less frequent inspections. Currently, a rental property can receive only a one year LOC if they have had an over-occupancy violation, and a two year LOC with more than two property maintenance violations in the past year.

CITY COUNCIL ACTION REQUESTED:

As the January 1, 2018 deadline approaches it is critical that the City Council decides how to limit the number of adults in single and two-family dwelling units. Due to the impending deadline, Council must choose immediately to focus their attention on how to limit occupancy and address other issues raised in this report prior to the end of the moratorium (April 30, 2018).

Attachment I

Examples of ordinances limiting number of students in a dwelling unit:

State College, PA:

“Student Home. Any living arrangement within a 1-family dwelling, 1-family dwelling with an apartment, or 2-family dwelling by persons who are unrelated by blood, marriage or legal adoption and are attending undergraduate or graduate programs offered by colleges or universities or are on semester break or summer break from studies at colleges or universities, or any combination of such persons. The residents of a student home share living expenses and may live and cook as a single housekeeping unit. Student homes include living arrangements where the landowner(s) or landowner's family members are residents of the dwelling unit. Student homes do not include fraternities, sororities, rooming houses, townhomes, or multiple-family dwellings.”

Newark, DE:

"Student home: A single-family detached dwelling occupied by three post-secondary students, regardless of age, unrelated by blood or legal adoption, attending or about to attend a college or university, or who are on a semester, winter, or summer break from studies at a college or university, or any combination of such persons. Student homes shall not include RM zoning-permitted boarding houses or rooming houses; nor shall they include the taking of nonstudent, non-transient boarders or roomers in any residence district; nor shall they include single-family detached, semi-detached, or row dwellings located within the following subdivisions or fronting on the following streets:"

Philadelphia, PA:

“Student Home. A living arrangement for two or more students unrelated by blood, marriage or legal adoption attending or planning to attend either undergraduate colleges or universities, or attending or planning to attend graduate programs at colleges or universities, or who are on a semester or summer break from studies at colleges or universities, or any combination of such persons. The residents of a student home share living expenses and may live and cook as a single housekeeping unit but may also only share access to cooking facilities and not live and cook as a single housekeeping unit. A Student Home shall not include any living arrangement within a Student Residence Hall or a fraternity or sorority.”

Boston, MA:

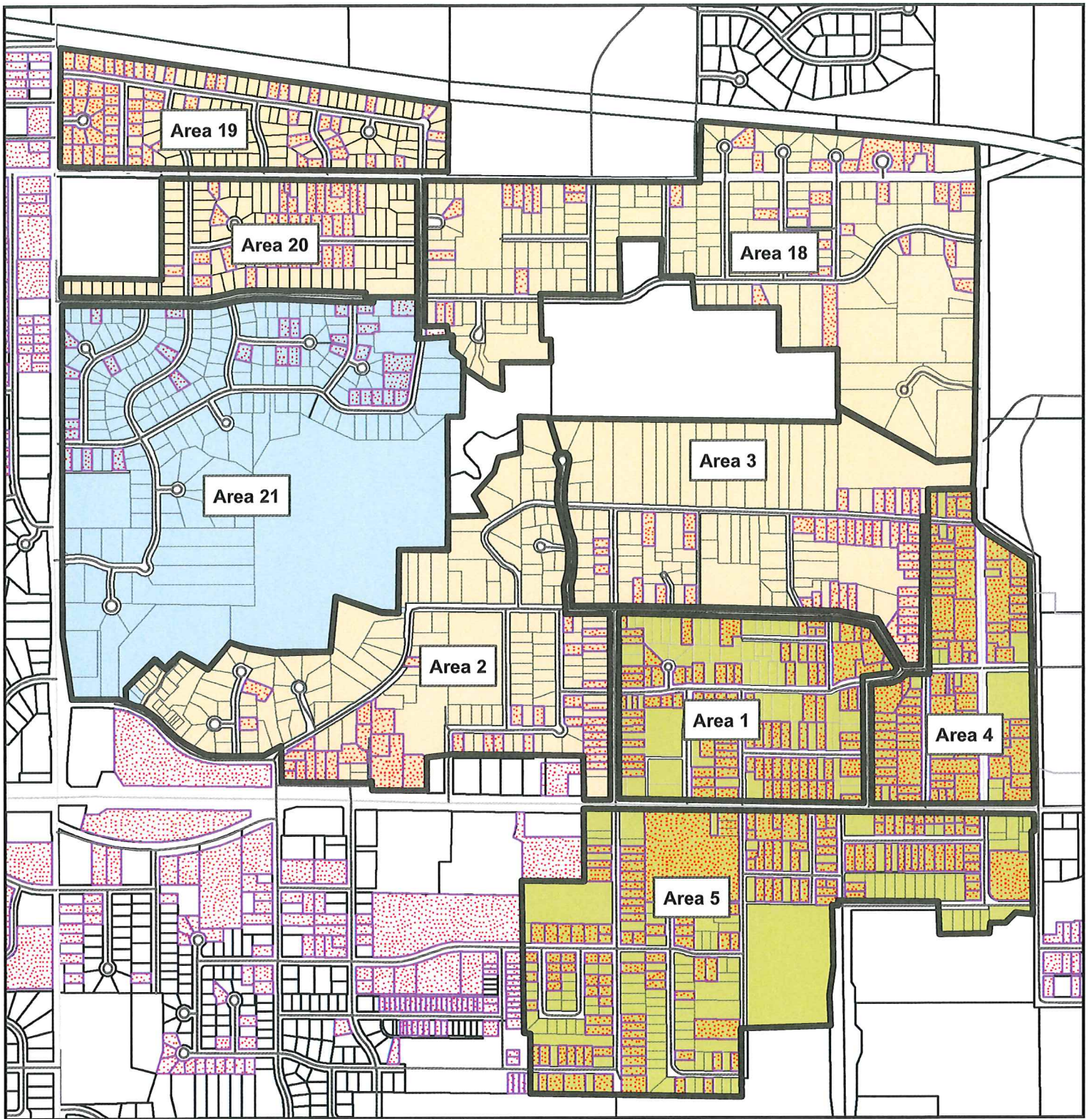
[As part of a definition of the term “family”] ...”provided that a group of five or more persons who are enrolled as full-time, undergraduate students at a post-secondary educational institution shall not be deemed to constitute a family.”

St. Paul, MN:

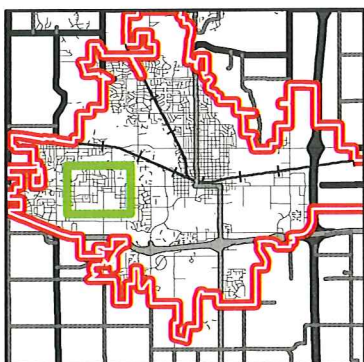
“Within the SH student housing neighborhood impact overlay district, a student dwelling is a one- or two-family dwelling requiring a fire certificate of occupancy in which at least one unit is occupied by three (3) or four (4) students. For the purposes of this article, a student is an individual who is enrolled in or has been accepted to an undergraduate degree program at a university, college, community college, technical college, trade school or similar and is enrolled during the upcoming or current session, or was enrolled in the previous term, or is on a scheduled term break or summer break from the institution.





Attachment 2

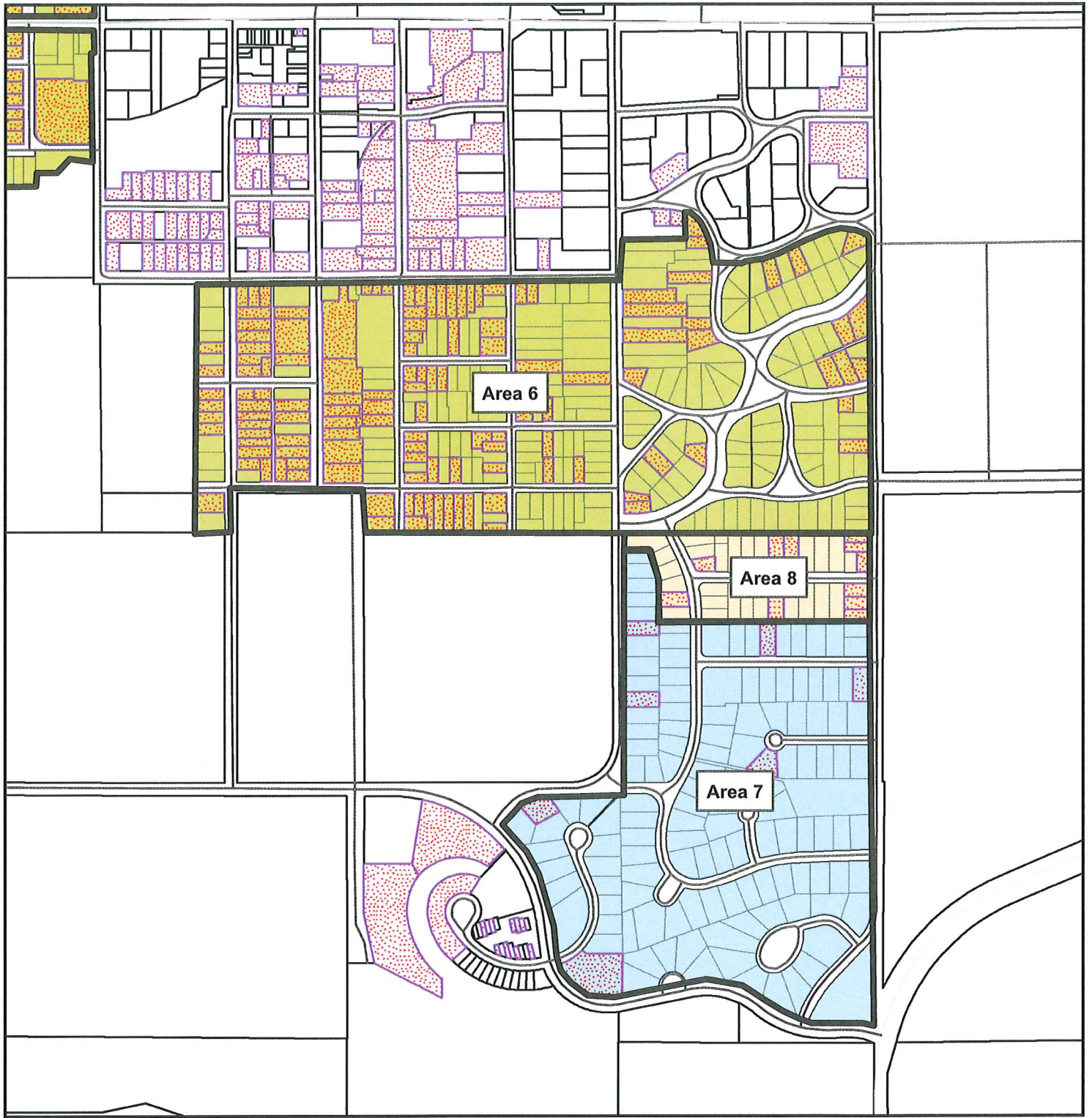
Area	Neighborhood	Total Parcels	RL Parcels	2017 RL Rentals	% RL Rentals	UCRM Parcels	2017 UCRM Rentals	% UCRM Rentals	RM	2017RM Rentals	% RM Rentals
1	Westside NA	164	156	93	60%						
2	Edwards NA	230	155	36	23%						
3	Oak-Wood-Forest NA	127	122	39	32%						
4	West Street area - Non NA	336	20	18	90%						
5	College Creek NA	283	236	129	55%				9		
6	SCAN - North	413	291	105	36%						
7	SCAN - South	150	99	5	5%						
8	Colonial Village	37	37	11	30%						
9	Oak-Riverside NA	305				288	89	31%			
10	South Brookside	60	60	2	3%						
11	North Brookside	98	97	7	7%						
12	Emanon NA and surrounding	263				262	28	11%			
13	6th/9th/Grand/RR	116				116	25	22%			
14	North Old Town NA	171				123	24	20%	43		
15	Historic Old Town NA	176							175	47	27%
16	Downtown	169							123	51	42%
17	West of Main St	46							31	9	29%
18	Ross Rd	222	216	47	22%						
19	North of Ontario	146	114	30	26%				16		
20	Garfield-Ontario	109	109	31	28%						
21	N Dakota - Ross	217	214	31	14%						



Percentage of Rental Properties in Low and Medium Density Zoning Districts



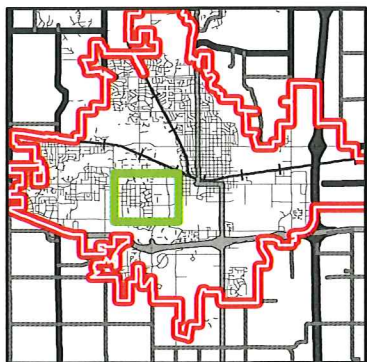
-  Less than 20%
-  21% - 34%
-  35% or More
-  Current Rentals All







Area 6

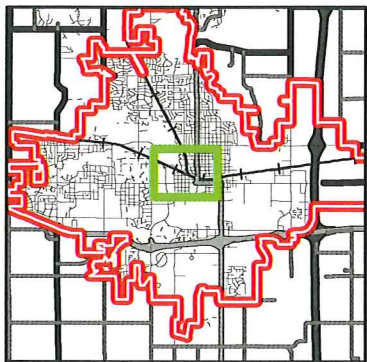
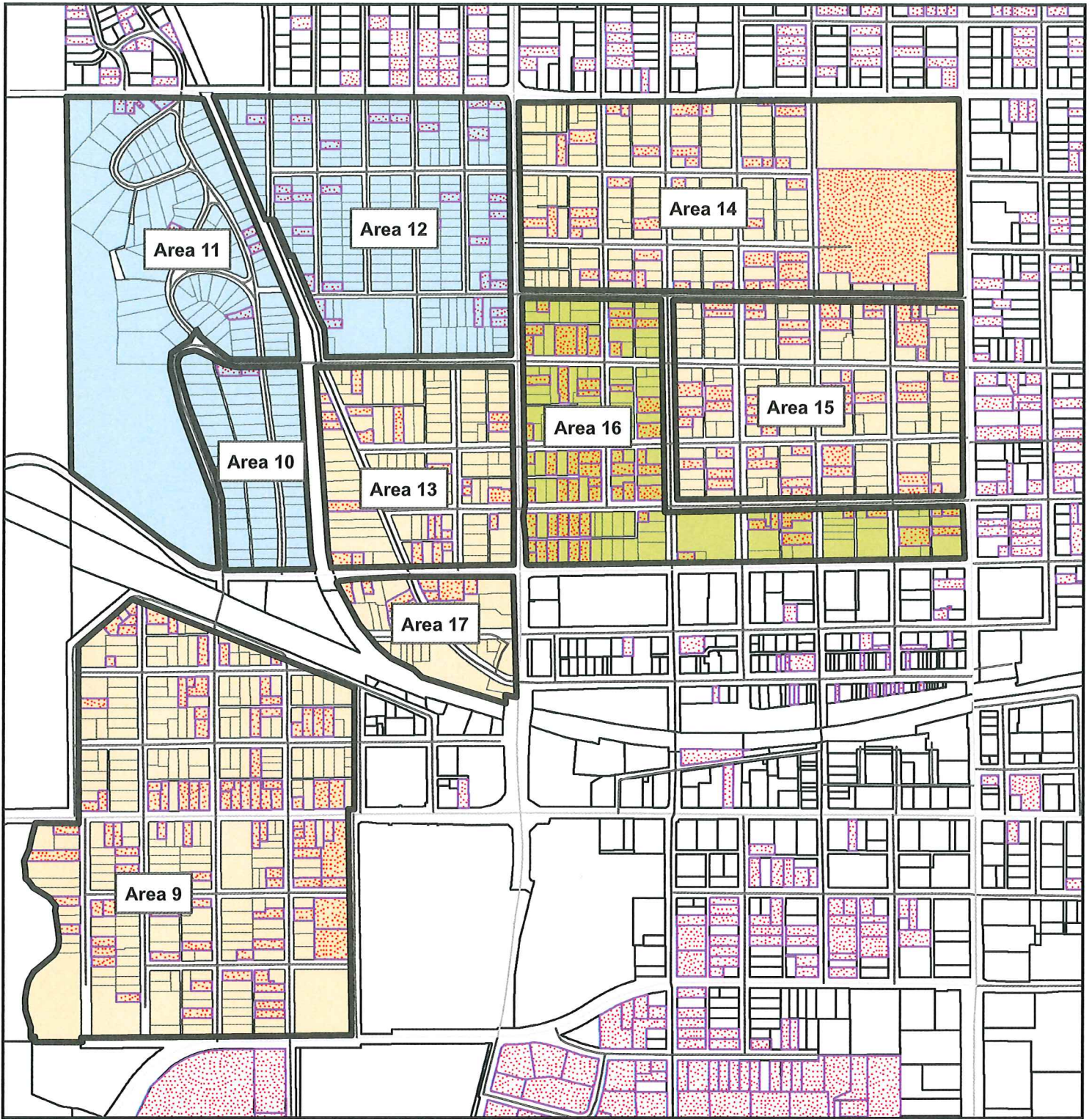
Area 8

Area 7







Percentage of Rental Properties in Low and Medium Density Zoning Districts

-  Less than 20%
-  21% - 34%
-  35% or More
-  Current Rentals All



Percentage of Rental Properties in Low and Medium Density Zoning Districts

-  Less than 20%
-  21% - 34%
-  35% or More
-  Current Rentals All

Dear Mayor and City Council Members:

Upon further reflection and after speaking with several Council members individually, we have come to the conclusion that, in the near term, the City must focus on its citywide occupancy ordinance before turning to the complicated issue of rental percentage caps in certain neighborhoods. We feel that portions of the proposal we sent on October 14 can be adopted for citywide use by the January 1 deadline and then, during the moratorium, the City can take the time necessary to focus on rental caps in neighborhoods where that would be appropriate. Our revised proposal follows.

Citywide Rental Occupancy Proposal:

1. The number of adults allowed in low-density (R-L) rental housing will be equal to the number of legal bedrooms in a property. The number of bedrooms will be determined as of the most recent rental inspection report filed prior to January 1, 2018. If the property has not previously been registered as rental, then the number of bedrooms will be determined by the listing on the Assessor's webpage, with no bedrooms counted that have received building permits subsequent to January 1, 2018. (Note: We are willing to compromise and allow landlords to have the "number of bedrooms" occupancy limit they have pressed for but only if that number is frozen. Our ultimate goal is to prevent the addition of bedrooms that would in fact circumvent the intent of the rule.)

A) The allowable number of adult renters may be reduced from number of bedrooms listed as described above if a subsequent inspection determines that the number of legal bedrooms is actually lower than originally reported. In such cases, the number of allowable adult tenants will be adjusted to reflect the more recent inspection. Under no circumstances can the number of adult renters be increased. And,

B) The number of allowable adult tenants may also be reduced due to insufficient off-street parking spaces as is outlined in Section 2, below.

2. Off-street parking must accommodate a number of vehicles equal to the number of adult tenants. Such parking must be confined to the garage, driveway, or City-designated alley. Back and side yards are not to be used for parking and will not be counted for purposes of this provision. The number of allowable adult tenants will be the lesser of the number of legal bedrooms or the number of permissible parking spaces.

If the above proposal is adopted citywide, it would then be relatively easy to identify the neighborhoods that need the additional protection of a "Campus-Impacted" zoning overlay.

Additional Requirements for SCAN and CC/OAMS:

1) We have argued in the past that allowing more renters per property will increase the housing stock that is financially attractive to purchase for rental investment. This will further accelerate the continuing conversion of owner-occupied to rental property we are currently experiencing.

That is why it is crucial that if we allow occupancy to be based on number of bedrooms, SCAN and other campus-impacted areas must have a zoning overlay designation that specifies a reasonable rental percentage cap (we request 25%). Developing guidelines for the cap is not a simple task; in part because we are finding that the City's data on rental properties in SCAN and Colonial Village are incomplete. The moratorium allows the City time to make good decisions on which neighborhoods should be considered for an overlay, to precisely articulate neighborhood boundaries, and to determine the appropriate cap for each respective overlay.

2) Also as part of the overlay, SCAN in particular needs a provision that if a rental property is demolished, no rental LOC can be issued for anything built in its place. This will help maintain the historic nature of the SCAN neighborhood and will prevent a small house from being torn down so a mini-dorm can be built in its stead.

Other Comments:

1. In order for violations to be reported, neighbors need easy access to the City's database. We need to be able to see which properties are rental and the number of legal occupants as determined by whatever formula the City adopts.
2. The definition of an "owner-occupied" property must be changed so that it no longer includes properties occupied by a relative of the owner within the first degree of consanguinity. This would be in line with the legislature's prohibition on using family relationships to define occupancy and would reduce the number of homes where a son or daughter is living in a parent-purchased home along with roommates and has failed to register the property as a rental.
3. Penalties and fines for violations of City ordinances must be enforced. Time span over which violations are accumulated must be longer than one year due to frequent turnover of tenants.
4. The definition of a "bedroom" should be revisited to be sure it is clear and appropriate. This can be accomplished during the moratorium period.

Barbara Pleasants, SCAN President
Leslie Kawaler, SCAN Board
Sandra McJimsey, SCAN Board