

COUNCIL ACTION FORM

SUBJECT: REZONING CONTRACT FOR PROPERTY LOCATED AT 415 STANTON AVENUE FROM S-GA (GOVERNMENT/AIRPORT DISTRICT) TO RH (RESIDENTIAL HIGH DENSITY).

BACKGROUND:

The City Council approved the first reading for the rezoning of the property at 415 Stanton Avenue to Residential High Density (RH) on November 28, 2017 with the condition to complete a contract rezoning agreement to limit the use. Staff has prepared a contract rezoning agreement consistent with the limitation described in the November 28, 2017 Council Action Form. **The attached draft agreement limits the site use to Senior Living for individuals 55 years or older, that the existing Crawford School building will be retained and adapted to residential use, and that the new development is restricted to a maximum of three stories and 50 feet. (Attachment A)** A contract rezoning agreement must be agreed upon and approved prior to third reading of a rezoning ordinance approving a change of zoning for a property.

AGE RESTRICTION TO 55 OR OLDER:

The applicant requests that the City Council consider allowing for the 55 or older age restriction to apply to one or more members of the household, rather than all members of the household. The applicant identified this as an interest of theirs early in the process with a referral request from City Council in October to review the Zoning Ordinance definition of an Independent Senior Living Facility. City Council directed in October for staff to prepare a background memorandum on the definition of the Independent Senior Living Facility use, which has not been prepared by staff at this time.

Allowing for only one member of household to be 55 or older would broaden the range of potential residents and allow for potential couples or partners that are not of the same age to be residents of the development. However, by requiring only one 55 or older resident it would not preclude occupancy of the apartments that included younger residents or that a majority of the residents in an apartment are younger than 55 years of age.

The applicant prefers at this time to address the age restriction in the contract rezoning agreement rather than pursue a text amendment that would be applicable citywide. The proposed project does not need the benefit of the reduced parking allowed by Independent Senior Living Facilities and could be viewed as an age restricted general apartment use through contract rezoning. A contract rezoning can be more restrictive than the Zoning Ordinance, but not more permissive.

The attached draft agreement includes language requiring 100% of the occupants to be 55 or older and it would need to be revised to match the applicant's request if directed by the City Council.

ALTERNATIVES:

1. The City Council can defer the third reading of the rezoning ordinance and direct staff to finalize a contract rezoning agreement that specifies the use is limited to Senior Living with all occupants restricted to 55 years or older for signature by the property owner prior to approval of the rezoning.
2. The City Council can defer the third reading of the rezoning ordinance and direct the staff to amend the attached agreement and specify that the use is limited to Senior Living and that at least one occupant of each dwelling is 55 years or older for signature by the property owner prior to approval of the rezoning. (Applicant's request)
3. The City Council can defer the third reading and provide staff with different direction on the contract rezoning agreement or for a zoning text amendment.

CITY MANAGER'S RECOMMENDATION:

The attached contract rezoning agreement requires the re-use of the existing Crawford School site and new building to be used for residential purposes restricted to all individuals age 55 years or older. The proposed rezoning limitations are consistent with the applicant's intended use of the site. The contract rezoning agreement is a permissible method of restricting use of a site at the time of rezoning when agreed upon with the applicant.

Alternative #1 reflects the direction from November 28th that would require all occupants to be 55 years or older. Alternative #2 is the preference of the applicant to specify a limit of Senior Living with a minimum of one occupant per dwelling as 55 or older. Either of these two alternatives is permissible for consistency with zoning standards. By choosing one of these two alternatives it would also eliminate the need to consider the prior City Council referral for review of citywide text amendment in the context of this project.

Therefore, it is the City Manager's recommendation that the City Council provide direction to staff on Alternative #1 or #2 as their preference in lieu of considering a zoning text amendment for Independent Senior Living Facilities that would apply citywide. With City Council's direction on the age restriction, staff and the applicant can finalize the contract rezoning agreement for the property owner's signature and completion of the rezoning of the property can be accomplished at a future City Council meeting.

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 ____ day of _____, 201__, 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 used as an Independent Senior Living Facility, as defined by Ames Municipal Code section 29.200(105), for use by residents aged 55 and 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 Independent Senior Living Facility; 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 an Independent Senior Living Facility; 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 Senior Living with all occupants aged 55 years 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, 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>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell, Mayor</p> <p>Attest _____ Diane R. Voss, City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this _____ day of _____, 2016, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell 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. _____ adopted by the City Council on the _____ day of _____, 2016, and that Ann H. Campbell 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>_____ Notary Public in and for the State of Iowa</p>	<p>THE CRAWFORD AMES, LLC</p> <p>By _____</p> <p>STATE OF IOWA, COUNTY OF STORY, ss: This instrument was acknowledged before me on _____, 2017, by _____, as Manager, of The Crawford Ames, LLC.</p> <p>_____ Notary Public in and for the State of Iowa</p>
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Legal Description – Exhibit 'A'

Lots Two (2), Three (3), Four (4), Five (5), Six (6) and Seven (7), except the South five (5) feet of Lot Seven (7), all in W.T. Smith's addition to Ames, Story County, Iowa, **AND** the East fifteen (15) feet of Lots Three (3), Four (4), Five (5), Six (6) and Seven (7), and the East fifteen (15) feet of the North forty-five (45) feet of Lot Eight (8), all in Block One (1), Lee & Little's Addition to Ames, Story County, Iowa