

# City of East Lansing

## Dialogue on Single-Family Dwellings with Non-conforming Uses Report on Session 1

October 16, 2014

### I. OVERVIEW

On October 6, 2014, twenty-one people met for a facilitated dialogue to answer the following question:

*“How can we change or apply the current non-conforming use regulation in a way that reasonably serves the interests of both rental property owners and owners of single-family dwellings?”*

This report articulates the findings generated by the session, as well as the major points raised by participants during open dialogue. On October 20, 2014, the group will meet again to review, modify, and validate the recommendations, after which they will be submitted to the City of East Lansing.

### II. PROCESS

Following a welcome by Mayor Nathan Triplett, Darcy Schmitt provided a brief overview and history of the “Nonconforming Use of Buildings” section of the Zoning Code as **trigger information** for the session.

This was followed by 30 minutes of **open dialogue** in which participants were encouraged to share anything of relevance to the Focus Question. These comments were tracked as “threads” on an adhesive board and are reported in the Section IV of this report. The open dialogue was followed by a series of short-answer **summary questions**, designed to help participants summarize the information needed to answer the Focus Question. These can be found in Section V.

Finally, participants individually generated answers to the Focus Question and shared these in small groups. Answers submitted by the small groups were clustered on an adhesive board. These were used to create the five preliminary **recommendations** reported in Section VI of this report.

At the second session on October 20, participants will have the opportunity to review, modify, and validate the recommendations before their presentation to the City of East Lansing.

### III. PARTICIPANTS

Participants in the session included the following:

David Anderson, Southeast Marble Neighborhood  
Don Bollman, Bailey Neighborhood  
Michael Christensen, Chesterfield Hills Neighborhood  
Jim Cuddeback, landlord  
Don Davis, Planning Commissioner assigned to the meeting  
Alice Dreger, Oakwood Neighborhood  
Mark Fisk, Glencairn, landlord  
Dave Gutow, landlord  
Brian Hagan, landlord  
Jeff Hudgins landlord  
Owen Irvin, retired faculty, landlord  
Chuck Maniaci, landlord  
Mark Meadows, Housing Commission representative  
Dayna Reynolds, landlord  
Joanne Russell, Red Cedar Neighborhood  
Brian Scott, sitting in for Mary Terry, Chesterfield Hills Neighborhood  
Jim Secor, retired insurance agent, Bailey neighborhood.  
Debra Tomlinson, Southeast Marble Neighborhood  
Brian Wheeler, Oakwood Neighborhood  
Cindy Whiddon, landlord  
Maria Zbydel Chisolm, Red Cedar Neighborhood

Doak Bloss facilitated the session.

### IV. OPEN DIALOGUE

Comments made in the open dialogue were tracked under three headings: *Economics*, *Neighborhood Stability*, and *Community Need*. They are organized in bullet form below. Please note that none of these comments necessarily reflects the view of the majority of participants, and that each may incorporate thoughts shared by more than one participant in the dialogue.

#### *Economics*

- When you have a nonconforming rental house, there is the value of the real estate and also the value of the rental license. Right now there isn't an effective way to split those 2 components. It might be worth looking at to create a mechanism whereby the value of the rental license could be shifted to another underutilized property, thereby decommissioning some of the rentals. The rental license would not be tied to a specific property but could move, much in the way a liquor license can move.

- Living next to a rental house, you of course want it in as good condition as possible in order to protect your own property values. You should not be able to tell if a house is a rental from the outside appearance.
- The city has to serve as a watchdog, in cooperation with neighbors and landlords. Example: a forty-year-old unit on Orchard that was over-occupied. The city downsized it from six occupants to four, which resulted in the landlord not making enough money to maintain the property. The neighbor, seeing this, called Annette, who required the landlord to make necessary improvements.
- Question: When a landlord is no longer making enough money to maintain a property, why don't they get out of the business? Answer: Because they are wealthy, and using it as a deduction. For some landlords, making a little bit of money on a property is sufficient.

### *Neighborhood Stability*

- Neighborhood stability depends upon the degree to which police will respond to noise and trash problems—landlords, too. Ordinances on noise and party trash have helped, but a greater police presence in the neighborhoods would improve matters further; for instance, moving police into Bailey School.
- Non-licensed homes also need to be considered—what can be done about them? When I see blight, it is usually a non-licensed home.
- Blight related to student renters should be declining due to the decline in the student population (due to technological advances, many students no longer need to be physically present at the university). The aging of the population will also reduce blight. The elderly population is expected to double in the next five years.
- There is no down side to allowing landlords to reinvest in their properties, and hindering that reinvestment is what leads to blight. If landlords can renovate both inside and out, they will be providing renters with the amenities they are looking for, and most likely increase the length of their stay and investment in the neighborhood.
- There is a downside if you're increasing the number of people living there, and if that results in more of the behaviors we're trying to avoid in our neighborhoods.

### *Community Need*

- If you look at the Bailey map, the only nonconforming homes are single-family, owner occupied dwellings. You need improvements to all types of homes, not just rental properties. This is a university town, and zoning needs to reflect the reality on the ground. There is tremendous density of rental properties because there is a need for rental properties.

- We aren't looking for proposals to deal with single-family, owner-occupied homes—our concern is with the transitional areas. This isn't a density issue—it's an issue of blight and of moving bedrooms out of unhealthy basements. We're not going to increase density.
- Again, when you see overoccupancy, you call Annette; and when you have loud parties or trash from parties, you call the police. And you need to do that on an ongoing basis, to build a track record. You can't start an eviction process without that.
- Sometimes the improvement isn't just to increase occupancy. Rooms in basements are not a good idea. Landlords want to make improvements in order to get renters out of the basements as well.
- Some of the intention of 1990s legislation was to reduce density and encourage houses to look like they were owner-occupied. I think that's probably a good objective. I'm very concerned long-term about possibility of blight. But blight occurs because people don't have money to maintain their property despite regulations that say you should. Consider Lansing, which has tough regulations but still has a lot of blight. When our houses are rented for 4 or 5 or 6 unrelated people, and they are grandfathered in, they provide enough money to do the needed maintenance. This is why I invested in East Lansing—for a better cash flow. Houses licensed for 2 or for a family rent for half the amount of money, which leads to rundown properties and crime.
- The Historic District Commission is a design review committee that's draped in a mantle of history but really is about providing a cooling off period—an opportunity to have experts review the design proposed and offer alternatives as to how the same effect might be achieved (sometimes at a greater cost, or at least that is the perception). In my experience in East Lansing, about 95% of certifications are approved as appropriate. That comes back to question, how can future blighted properties be stopped by putting money into them in an appropriate manner? Let's say you can save the historic fabric by storm windows and good weather stripping. You won't get the same energy efficiency but with a brand new window you're not going to get the money back in the energy savings. But the process of proposing and considering options can provide a cooling off period, a chance to reconsider how to achieve aims without spending more than you need to. We need something of that nature for this issue as well.
- When we were making changes in the 90s our objective was to make it clear you could drive down any street and would not be able to tell which was a rental. Our goal was for landlords to improve properties. Looking at the structure of our ordinance, I think that one of the items we need to have on here is whether there is a way to rework some of the language to allow improving things in the interior—

not expansion or addition to make it more competitive—but language to encourage landlords to improve conditions within the house.

## V. SUMMARY QUESTIONS

Seven summary questions were asked of the participants. The answers provided follow.

*Six months ago, what were your primary concerns about the current nonconforming use regulation or how it was likely to be applied?*

- There has to be an endpoint; it can't go on indefinitely.
- Were they going to try to take licenses away?
- That changing the status quo might open door to expansion of density and growth.
- The difference between remodeling and expansion.
- Rezoning where there is heavy nonconforming use.
- Fair competition.
- A mechanism to help landlords monitor and get kids out of basements.
- A cost-effective mechanism to retire licenses.

*How if at all have those concerns changed for you since then?*

- My concern has changed based on an understanding that no alteration to the property is permitted under this ordinance.
- Everyone seems to agree that we want to be able to drive around and not tell the difference between rental homes and owner-occupied homes, and yet everyone is talking about interior rather than exterior modifications.
- You need to have parking in the rear if you want the same look.
- Get rid of management plaque signs.

*Of everything you have seen and heard so far in this session what stands out for you as either surprising or important?*

- It's surprising that the desire to make owner-occupied and rental properties indistinguishable from outside failed.
- Is it realistic to think about entry-level residences given the economic reality of the situation?
- No one talked about the number of large student rental facilities that have been built.
- Fair competition is part of that.
- Getting families into the community to fill schools.
- Many college towns attract retirees, alumni, to live in neighborhoods. We could encourage that by maintaining what we have but also targeting certain areas for redevelopment.
- Reiterate that we have no intention of increasing density. Not interested in expanding size.

*What are the primary values that the City of East Lansing needs to consider when determining how to change or apply the nonconforming use regulation.*

- Safety.
- Inviting families to come back.
- Diversity.
- Hardwired smoke detectors, updated code requirements.
- Certainty. Landlords need to know the rules they have to play by and residents have to know what they can count on.
- Cash flow for the city through taxes.

*What tensions exist between the values you have named?*

- Profit and charity.
- Upgrading in terms of additions and things to allow improved safety, and maintaining the neighborhood character that permanent residents have come to expect.
- Lack of trust between landlords and residents.
- Out of town landlords who don't follow the rules the way we do. Most of the people in the room live here. Out of town landlords create tension.
- Houses come up for sale and a family buys them, and their kids are owners on the deed—not a real rental.
- The stated purpose in the Comprehensive Plan that has been reinforced for years is that they want to take every house up to Grand River and turn it back into an owner occupied house. We need to have a realistic conversation about maintaining the neighborhoods and improving the border neighborhoods and the rental neighborhoods.

*Where do you see common ground between the interests of rental property owners and owners of single family homes?*

- Frustration with the city.
- Value of properties
- Community needs.
- Extra 20 mils of rental properties being put back into city's coffers.
- Maintenance of the current density.

*What would need to happen in order to create greater common ground between the various stakeholders in this dialog/*

- Bring enforcement against the bad actors, those who are not at this table who don't value what we do here.
- Separating value of property from value of rental license.

## VI. RECOMMENDATIONS

The structured exercise to answer the Focus Question (*How can we change or apply the current non-conforming use regulation in a way that reasonably serves the interests of both rental property owners and owners of single-family dwellings?*) generated five clusters of answers. These are presented in detail as recommendations on the following pages. Two of the recommendations are designated “catalytic,” meaning that if they were accomplished they would automatically advance most of the other recommendations as well. The two catalytic recommendations are presented first.

The five recommendations, in brief, are:

1. Zoning – *catalytic*
2. Reasonable Improvements – *catalytic*
3. License Mobility
4. Local Agent
5. City-Community Collaboration

The recommendations will be reviewed, revised, and validated at the second session on October 20, 2014.

## DRAFT RECOMMENDATIONS

- 1. ZONING: The city should engage in targeted, neighborhood-specific rezoning with the primary goals of protecting homeowners and neighborhood character, meeting the real need for student rental properties, and improving the quality of housing.**

As a solution to the dilemma of nonconforming use properties, rezoning must be applied strategically, taking into account the specific situation in each neighborhood. There is a common desire by both homeowning residents and landlords to improve the quality of housing, and this can be achieved in part through improvements in rental properties and subsequent encouragement of license transfers. However, this will be a challenge in so-called “buffer zones,” transitional areas between areas that are predominantly comprised of rental properties or owner-occupied homes. Each neighborhood should be rezoned with a realistic acknowledgement of its existing character and the interests of those who own property there.

Some other considerations emerged in further discussion of this recommendation:

- While maintaining lower density is generally a goal, there might be some exceptions where greater density could be acceptable. (The Delta area between Michigan and Grand River was given as an example.)
- The enormous apartment buildings that have been constructed in recent years have high density and yet there seem to be fewer problems than in homes where 4 – 6 students live together. This may be attributable to the apartment buildings somehow encouraging a more “civilized” lifestyle.
- There is an acknowledged risk of “over-zoning” and thereby creating student ghettos. Planners should also consider the value of integrating student housing and owner-occupied homes.
- Where the conflicting interests of resident homeowners and landlords cannot be resolved, it was suggested that both sides accept the possibility of “sacrifice” areas.

- 2. REASONABLE IMPROVEMENTS: Allow structural improvements of the rental housing stock in certain zones, with safeguards that ensure population density will not increase, and that exterior improvements accompany those made to the interior.**

Nearly all participants in the dialogue felt that allowing improvements of some rental properties was a positive thing, as long as they did not increase density, and as long as they were not merely made to the interior of the property. In changing zoning ordinances, the City should set clear rules to ensure that this is the case. Parking arrangements were mentioned as one of the exterior improvements to be considered. The discouragement of basement bedrooms was raised as an important interior improvement.

**3. LICENSE MOBILITY: Explore the advantages of allowing a separation of a rental license from the property for which it was originally obtained.**

Currently rental licenses are tied to specific properties. Several landlords participating in the dialogue argued that a rental license has a distinct value that is separate from the value of the property. By allowing a separation of the two, the owner of a rental property could request to shift a rental license from one property to another, thereby decommissioning some rentals as part of the strategy for maintaining neighborhood character and improving housing value. The City is encouraged to look further into the likely consequences of this change in policy.

**4. LOCAL AGENT: Require that all rental properties have a local agent that will represent the landlord if the landlord is absent and take responsibility for maintaining properties and complying with housing regulations.**

It was affirmed several times during the dialogue that landlords who reside in the East Lansing area are far more responsive to the interests of both the City and resident homeowners, because they have the same interest in maintaining the quality of housing and neighborhoods. The City should require than any absent landlord have a local agent to represent him or her, and that this local agent be required to gain the approval of the City in assuming this role.

**5. CITY-COMMUNITY COLLABORATION: Establish a mechanism for neighborhood residents to work with the City of East Lansing on an ongoing basis to address issues involving rental housing.**

Not all of the issues that emerged in the dialogue could be resolved through the relationship between landlords and resident homeowners. These other concerns would be better addressed by strengthening the interaction of homeowners and the City. Some of these concerns were: improved lighting, the enforcement of ordinances prohibiting non-licensed rentals, traffic calming, and regulation of on-site paving. The City is encouraged to create an effective and collaborative means for such concerns to be heard and acted on.