

Z-05-12A-08: Rezone 3.3 acres from RSO to CN-2
Z-05-12B-08: Rezone 3.3 acres from RSO to include a PD overlay
SW corner of Clinton Parkway & Crossgate Drive



ITEM NO. 18G:**REZONING APPROXIMATELY 6.643 ACRES FROM A TO PCD-1****A. SUMMARY**

Z-4-12-99: A request to rezone approximately 6.643 acres from A (Agricultural District) to PCD-1 (Planned Commercial Development). The property is bounded by Clinton Parkway on the north, Crossgate Drive on the east, Inverness Drive on the west, and W. 27th Street on the south. Requested by The Peridian Group for the Winnifred & Paul Getto Limited Partnership, property owner of record. *[Annexation item A-4-4-99, rezoning items Z-4-6-99 thru Z-4-13-99, and the Preliminary Plat of Inverness Park Addition are related.]*

Mr. Pedrotti said Staff has recommended approval of RO-1B based on the Lesser Change Table with approval and publication of the annexation request and approval of the Preliminary Plat.

Comm. Heck agreed with Staff that the applicant's request was not consistent with Horizon 2020. He could not find sufficient justification to deviate from Horizon 2020 to allow commercial zoning.

Comm. Male felt sufficient shopping was available with Hy-Vee to the east and potential commercial at 23rd and Wakarusa.

Comm. Werner agreed that commercial zoning was a viable concern for the applicant in order to develop the property. Commercial would be helpful in improving the drainage channel which would help the site. He would consider approval of PCD on this portion, but not the portion to the east. He thought some commercial, or perhaps a restaurant, would compliment the 20 acres. Offices and restaurants do not generate considerable traffic and some commercial would allow for improvements.

Comm. Durflinger said financial concerns should not be the biggest consideration in zoning or development. He said within one-half mile in either direction of this property there was commercial development. He would concur with Staff's recommendation.

Comm. Bateman said commercial uses would permit another strip mall, which have negative connotations, and create considerable traffic which is not needed in the area. She agreed there was sufficient commercial in the area and would recommend the RO-1B zoning.

Comm. Schenewerk thought zoning from 24th Street to Clinton Parkway should be consistent and the node west of the drainage way should be commercial. He thought the east corner should probably be commercial because it is next to streets with good traffic flow and accessibility. The commercial should be developed with neighborhood needs in mind. He agreed with Staff recommendation on this parcel but the east tract should be zoned PCD-2.

B. ACTION TAKEN

It was moved by Comm. Ramirez, and seconded, to recommend approval of rezoning of 6.643 acres from A to RO-1B based on the Lesser Change Table and forward it to the City Commission with a recommendation for approval, based upon the findings of fact presented in the Staff Report, subject to the following conditions:

1. Approval and publication of the annexation request for the subject property.
2. Approval of the Preliminary Plat.

FINDINGS OF FACT

ZONING AND USES OF PROPERTY NEARBY - The existing zoning is A (Agriculture) District. Surrounding uses of the entire 160-acre property include single-family residential, duplex and a

school to the west, multiple-family residential, offices, and a recreation center to the north, single and multiple-family residences to the east, and undeveloped agricultural uses to the south.

CHARACTER OF THE AREA – The character of the area for zoning applications RO-1B, PRD-2, O-1, PCD-1, and PCD-2 [Z-4-9-99, Z-4-10-99, Z-4-11-99, Z-4-12-99 and Z-4-13-99] is undeveloped land used for agricultural purposes surrounded by primarily single-family and multiple-family residential land uses. A drainageway flows along the south and east sides of the area.

SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED - The Zoning Ordinance provides that a rezoning request shall be initiated immediately upon the property's annexation to the City. Consequently, upon annexation, the county zoning designation of A (Agricultural District) would no longer be appropriate for the subject property. Suitability of the land use is directly related to the status of annexation as well as surrounding and anticipated development.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY - Based on the surrounding land uses and current agricultural restrictions, removal of the restrictions is not expected to detrimentally affect nearby property. However, the intensity of proposed zonings and uses allowed in the O-1, PCD-1, and PCD-2 District have potential for negative impacts to adjacent properties. The proposed O-1, PCD-1, and PCD-2 areas are more appropriate for development as RO-1B, based on the Lesser Change Table.

LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED – The subject property is currently undeveloped and has remained vacant as zoned since 1966.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS - Denial of the RO-1B, O-1, PCD-1 and PCD-2 rezonings, as requested, would protect the public health, safety and welfare. Rezoning the RO-1B request to PRD-2, with a density restriction of 12 dwelling units per acre and rezoning the O-1, PCD-1 and PCD-2 requests to RO-1B, through the lesser change table, are appropriate based on conformance with the Comprehensive Plan and the surrounding land use pattern. The proposed rezonings to RS-2 and RM-D are appropriate densities for the property and therefore would not have a negative impact to the public health, safety, and welfare. The proposed rezoning to PRD-2 permits multiple-family residential development. With associated infrastructure improvements and by limiting the density, proposed development can be designed to minimize impacts to the public health, safety, and welfare. The proposed rezoning to RM-1 is an inappropriate density for the property and therefore could have a negative impact to the public health, safety, and welfare. Rezoning to PRD-1 is more appropriate given the adjacent uses and the shape and size of the property. Denial of rezonings, which are consistent with surrounding land use density and intensity and the Comprehensive Plan, would impose a hardship upon the landowner. Denial of the rezonings of the property would not destroy its value, although the hardship imposed on the landowner would be the postponement of development on the property.

CONFORMANCE WITH THE COMPREHENSIVE PLAN – The rezoning application, as proposed, is not consistent with Horizon 2020. The Comprehensive Plan generally supports a mixture of office and higher density residential land uses.

The motion carried (8-1-0). Comm. Werner against.

ITEM NO. 18H:**REZONING APPROXIMATELY 5.194 ACRES FROM A TO PCD-2****A. SUMMARY**

Z-4-13-99: A request to rezone approximately 5.194 acres from A (Agricultural District) to PCD-2 (Planned Commercial Development). The property is bounded by Clinton Parkway on the north, Crossgate Drive on the east, Inverness Drive on the west, and W. 27th Street on the south. Requested by The Peridian Group for the Winnifred & Paul Getto Limited Partnership, property owner of record. *[Annexation item A-4-4-99, rezoning items Z-4-6-99 thru Z-4-13-99, and the Preliminary Plat of Inverness Park Addition are related.]*

Mr. Pedrotti said Staff had recommended that this property be rezoned to RO-1B based on the Lesser Change Table with the condition of the approval and publication of the annexation request and approval of the Preliminary Plat.

Ms. Finger said the applicant had an alternate proposal for the portion south of 24th Street.

Comm. Ramirez asked if consideration should be given to rezoning the tract immediately to the south. The tract is isolated on the left by the drainage way and on the north by the road.

Ms. Finger said they could state in the motion that the portion of the PCD which lies south of 24th Street be approved through lesser change to PRD-1 with the same restrictions.

Ms. Eldredge said she wanted to state that the applicant had withdrawn their request based on the zonings approved.

B. ACTION TAKEN

It was moved by Comm. Ramirez, and seconded, to recommend approval of rezoning of 1.48 acres, which lies south of 24th Street, from A to PRD-1 (to be consistent with the tract to the south) based on the Lesser Change Table and forwarding it to the City Commission with a recommendation for approval, based upon the Findings of Fact presented in the body of the Staff Report, subject to the following conditions:

1. Approval and publication of the annexation request for the subject property.
2. Approval of the Preliminary Plat.

The motion carried unanimously (9-0-0).

It was moved by Comm. Bateman, and seconded, to recommend approval of rezoning of the remaining 3.7 acres (approximate) from A to RO-1B based on the Lesser Change Table and forward it to the City Commission with a recommendation for approval, based upon the findings of fact presented in the body of the Staff Report, subject to the following conditions:

1. Approval and publication of the annexation request.
2. Approval of the Preliminary Plat.

Comm. Heck said this parcel would not have the potential for a mass amount of commercial retail and he asked Comm. Schenewerk to discuss his reasoning on rezoning this tract to PCD-2.

Comm. Schenewerk felt commercial uses would have been developed on the interior rather than along primary thoroughfares on the other tract, whereas this tract was right on a thoroughfare and

readily accessible and visible. The extended neighborhood of Wakarusa to Kasold, and from Clinton Parkway south, would have many homes to facilitate neighborhood commercial use. He said this project was a opportunity for a unique development that would be sensitive to east and west but could also take advantage of the thoroughfare.

Comm. Durflinger asked what the zoning was for the property directly east.

Staff responded RM-2 and a traffic light is projected for this project in phase 1.

Comm. Male asked what was allowed in a PCD-1.

Mr. Pedrotti said PCD-1 allowed residential units (attached, detached or mixed), Use Group 7, community facilities; Use Group 9, professional offices; Use Group 11, inner neighborhood commercial uses; Use Group 12, retail stores and personal services.

Chrm. Male asked if that allowed for fast-food restaurants.

Mr. Pedrotti said not in a PCD-1. A regular restaurant would be allowable and a food convenience store including gasoline sales.

Comm. Ramirez said the zoning did not fit within Horizon 2020, and felt it would severely impact the character of the neighborhood. He felt there was ample commercial within walking distance. He thought Clinton Parkway is, or would, be a major gateway to the City and thought additional commercial was not appropriate. He would support the motion.

Comm. Durflinger felt they were creating an island to acquiesce to the request of the applicant and he didn't think it was a necessary component of the neighborhood. He would support the motion.

FINDINGS OF FACT

ZONING AND USES OF PROPERTY NEARBY - The existing zoning is A (Agriculture) District. Surrounding uses of the entire 160-acre property include single-family residential, duplex and a school to the west, multiple-family residential, offices, and a recreation center to the north, single and multiple-family residences to the east, and undeveloped agricultural uses to the south.

CHARACTER OF THE AREA - The character of the area for zoning applications RO-1B, PRD-2, O-1, PCD-1, and PCD-2 [Z-4-9-99, Z-4-10-99, Z-4-11-99, Z-4-12-99 and Z-4-13-99] is undeveloped land used for agricultural purposes surrounded by primarily single-family and multiple-family residential land uses. A drainageway flows along the south and east sides of the area.

SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED - The Zoning Ordinance provides that a rezoning request shall be initiated immediately upon the property's annexation to the City. Consequently, upon annexation, the county zoning designation of A (Agricultural District) would no longer be appropriate for the subject property. Suitability of the land use is directly related to the status of annexation as well as surrounding and anticipated development.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY - Based on the surrounding land uses and current agricultural restrictions, removal of the restrictions is not expected to detrimentally affect nearby property. However, the intensity of proposed zonings and uses allowed in the O-1, PCD-1, and PCD-2 District have potential for negative impacts to adjacent properties. The proposed O-1, PCD-1, and PCD-2 areas are more appropriate for development as RO-1B, based on the Lesser Change Table.

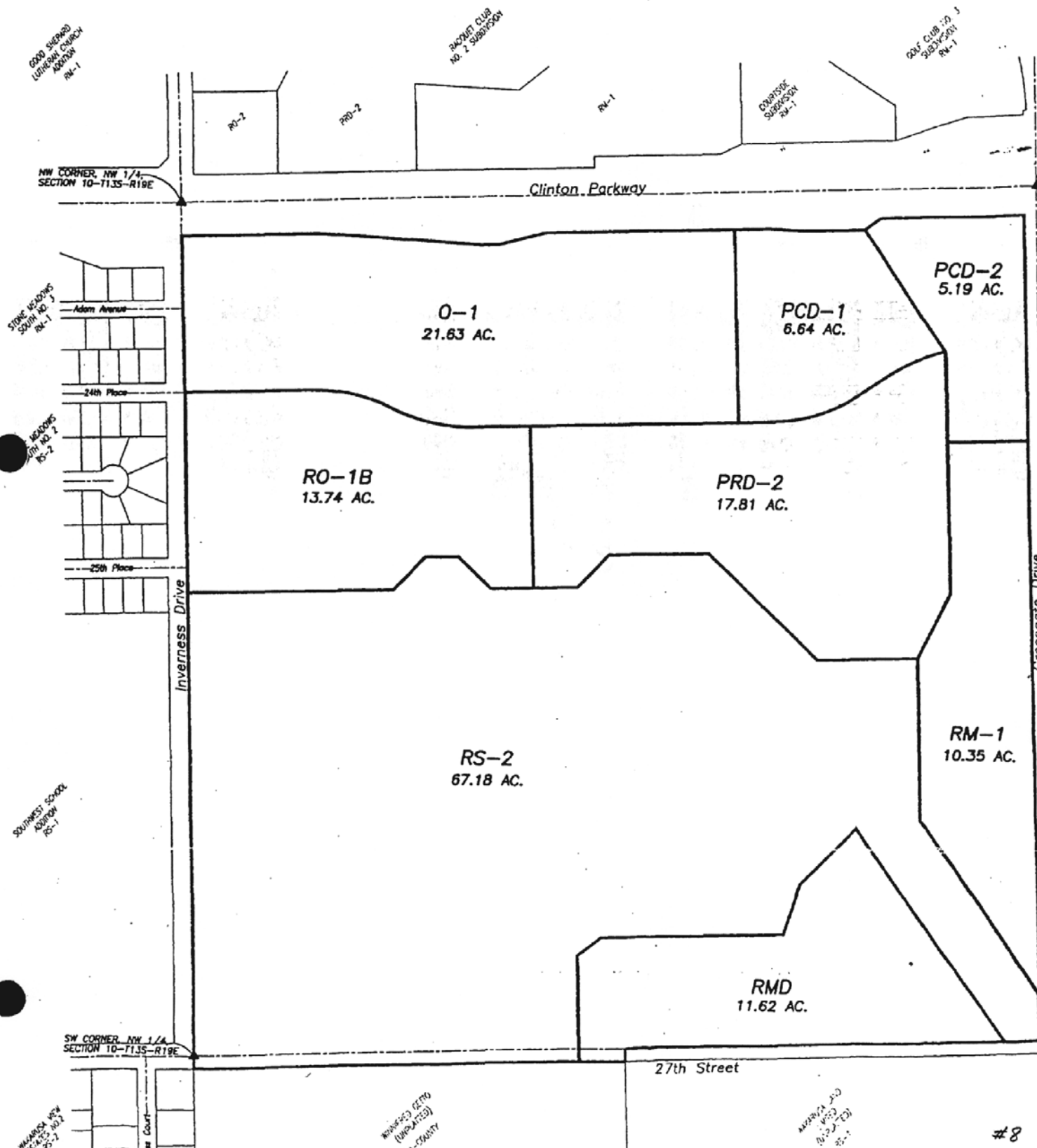
LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED - The subject property is currently undeveloped and has remained vacant as zoned since 1966.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS - Denial of the RO-1B, O-1, PCD-1 and PCD-2 rezonings, as requested, would protect the public health, safety and welfare. Rezoning the RO-1B request to PRD-2, with a density restriction of 12 dwelling units per acre and rezoning the O-1, PCD-1 and PCD-2 requests to RO-1B, through the lesser change table, are appropriate based on conformance with the Comprehensive Plan and the surrounding land use pattern. The proposed rezonings to RS-2 and RM-D are appropriate densities for the property and therefore would not have a negative impact to the public health, safety, and welfare. The proposed rezoning to PRD-2 permits multiple-family residential development. With associated infrastructure improvements and by limiting the density, proposed development can be designed to minimize impacts to the public health, safety, and welfare. The proposed rezoning to RM-1 is an inappropriate density for the property and therefore could have a negative impact to the public health, safety, and welfare. Rezoning to PRD-1 is more appropriate given the adjacent uses and the shape and size of the property. Denial of rezonings, which are consistent with surrounding land use density and intensity and the Comprehensive Plan, would impose a hardship upon the landowner. Denial of the rezonings of the property would not destroy its value, although the hardship imposed on the landowner would be the postponement of development on the property.

CONFORMANCE WITH THE COMPREHENSIVE PLAN - The rezoning application, as proposed, is not consistent with Horizon 2020. The Comprehensive Plan generally supports a mixture of office and higher density residential land uses.

The motion carried (5-4-0). Commissioners Schenewerk, McElhaney, Plants and Werner against.

Rezoning Request



Staff Recommendations

