

## PLANNING COMMISSION REPORT Regular Agenda – Public Hearing Item

PC Staff Report  
09/21/09

### ITEM NO. 2: RSO TO RM15; 10.97 ACRES; 4300 W 24<sup>TH</sup> PLACE (SLD)

**Z-7-11-09:** Consider a request to rezone approximately 10.97 acres, located on SE corner of Inverness and Clinton Pkwy at 4300 W 24<sup>th</sup> Place, from RSO (Single-Dwelling Residential Office) to RM15 (Multi-Dwelling Residential). Submitted by BG Consultants Inc, for Inverness Park LP, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request [Z-7-11-09] for 10.97 acres from RSO (Single-Dwelling Residential-Office) to RM15 (Multi-Dwelling Residential) and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Applicant's reason for request: *"The rezoning is requested because while the existing zoning allows the density the project requires, it does not allow the proposed units to be placed on one lot. The existing zoning would require public streets to be platted throughout the parcel. The proposed project would function with private streets and parking areas under the proposed zoning."*

#### KEY POINTS

- This property had been included in an earlier rezoning request upon annexation of 160 acres known as the Getto property (Inverness Park Addition).
- Use Permitted upon Review for a retirement center (UPR-5-3-03 – Village Meadows) and project approval expired.
- Approval of the original development recommended mixed use to provide a transition of uses within the neighborhood..

#### GOLDEN FACTORS TO CONSIDER

##### CHARACTER OF THE AREA

- The surrounding area is developed with both detached homes and apartments.

##### CONFORMANCE WITH *HORIZON 2020*

- The proposed request is consistent with the general principles of *Horizon 2020* as identified.

#### ASSOCIATED CASES/OTHER ACTION REQUIRED

##### ANNEXATION

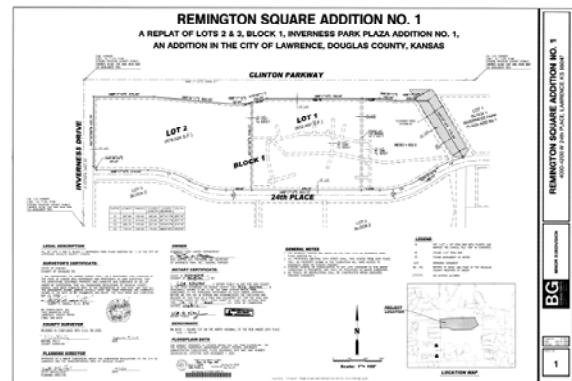
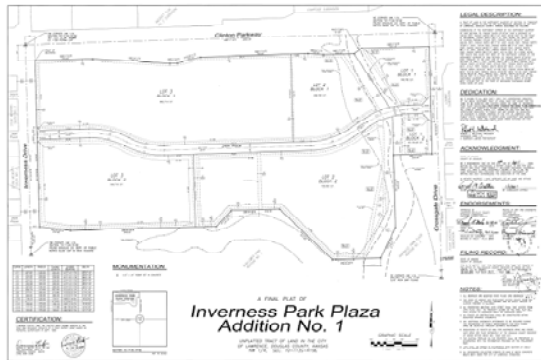
- A-4-4-99; 163.46 acres (Getto property).

##### REZONING

- Z-4-10-99; A to RO-1B; 17.738 acres of original tract.
- RO-1B converted to RSO upon adoption of the Development Code in 2006.
- Z-10-26-07; RSO to RM15 (Remington Square Apartments) to the east.

##### PLATTING

- Inverness Park Plaza Addition No. 1 (see inset).
- PF-09-29-04, a Final Plat for Inverness Park Plaza Addition No. 5 [Expired, conditions not met, document not recorded]
- MS-6-9-08, Remington Square Addition No. 1 (see inset).



### Development

- UPR-09-09-04; The Fountains [Expired, conditions not met]
- B-09-25-04; variance from building height and required parking associated with UPR.
- Site plan required for development regardless of zoning change.

### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No public comment has been received prior to the printing of this staff report.

### GENERAL INFORMATION

Current Zoning and Land Use:

RSO (Single-Dwelling Residential Office) District;  
undeveloped land.

Surrounding Zoning and Land Use:



RSO (Single-Dwelling Residential Office) District to the north; existing office use.

PRD-[Wimbeldon Terraces] to the north; existing townhouse development.

RM12 (Multi-Dwelling Residential) District to the northeast; Bishop Seabury Academy.

RM15 (Multi-Dwelling Residential) District to the east; developing apartment complex (Remington Square).

PRD [The Grove] to the south; apartment complex.

RS7 (Single-Dwelling Residential) District to the southwest; existing detached homes.

RM12 (multi-Dwelling Residential) District to the west and northwest. Existing duplexes and church.

## I. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

*"Horizon 2020 supports infill development. The proposed project is an infill development which will provide a consistent and compatible land use with the surrounding area. The proposed project will create a progression of land use to help achieve a transition in land use and intensity levels.*

*The existing zoning and proposed rezoning are both medium density residential with a maximum of 15 units per acre. Medium density residential zoning should be located along major roadways. This project is located along Clinton Parkway. The proposed project will consist of 6 and 8 unit townhouses which do not exist adjacent to the project site. This will create a mix of housing types in the surrounding areas."*

*Horizon 2020* recognizes the need to provide a variety of housing opportunities. A key strategy of residential development is to provide a "mixture of housing types, styles and economic levels" for new residential and infill developments.

Neighborhood concepts include designs that promote social interaction, efficient use of automobiles, and encourage pedestrian and non-motorized activity. The neighborhood concept further recommends that different types, styles, sizes, densities, and price ranges should be incorporated into development and encourages live/work opportunities.

### Chapter Five – Residential Land Use

Residential Land Use Goals and Policies: Medium- and Higher-Density Residential Land Use

*"Policy 2.7(b): Encourage the use of a variety of housing types, including town homes, patio homes, zero lot line homes, cluster housing, garden apartments and retirement housing."*

Additional policies address connectivity, building arrangement, compatibility with surrounding land uses and adequate vehicular circulation within developments. Since the property was originally zoned in 1999 *Horizon 2020* has undergone multiple updates.

The staff report for the original zoning approval for this parcel included reference to Chapter 7 of *Horizon 2020*. It was noted that employment opportunities would result from non-residential or exclusively residential zoning. The Employment Related Land Use categories found in the recently adopted Chapter 7 include office, office research, work-live type center and industrial/business/research park uses. Policies in Chapter 7 reflect the principle throughout the document to integrate land uses and to provide land use transitions between uses as needed. Approval of the request removes the opportunity for non-residential uses within the neighborhood.

**Staff Finding** – The ability to provide interconnected access between the subject property and the surrounding development is limited. The property is bounded on three sides by public right-of-way. Vehicular access to Clinton Parkway is prohibited. Non-motorized or pedestrian connection likewise is not feasible because of existing topography, land elevation, and infrastructure. Therefore connectivity of the property with the pedestrian network and surrounding development is limited to 24<sup>th</sup> Place.

Both the RSO and the RM15 zoning district may be used as a transition zone between properties. A key change that would result from approval of the request is the impact on building type. If approved, the building form would not be restricted to dwellings on individual

platted lots. The proposed request is consistent with the basic recommendation found in *Horizon 2020*.

## II. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

**Staff Finding** -- There are a variety of zoning districts and uses in this area. The property is zoned RSO, a mixed residential/office district that is restricted to detached-dwelling, duplex, and attached dwellings on individual lots, community facilities, and office uses. Approval of the request will increase the amount of land dedicated to multi-dwelling use than originally planned for the area. Approval will also eliminate the opportunity for non-residential uses in this location.

## III. CHARACTER OF THE AREA

Applicant's Response:

*"The neighborhood to the east consists of medium density multi-family residential (RM15 zoning - 15 units/acre). The neighborhood to the south consists of medium density multi-family residential (PRD zoning – 13.7 units/acre). The neighborhood to the west consists of medium density multi-family residential (RM12 zoning – 12 units/acre). The neighborhood to the southwest consists of low density single family residential (RS7 – 7 units/acre). The neighborhood to the north consists of mixed uses including office and medium density multi-family residential (RSO, PRD and RM12 zoning).*

The subject property is located on the south side of Clinton Parkway, a designated arterial street, and on the north side of 24<sup>th</sup> Place, a designated local street. Inverness Drive to the west and Crossgate Drive to the east are both collector streets. The subject property is not located within an established "neighborhood boundary" but is located near Sunflower Elementary School to the southwest. The areas located immediately south and east are developed with multi-family uses. The larger neighborhood area is anchored by two nodal commercial areas located at the intersections of Kasold Drive and Clinton Parkway and at Wakarusa Drive and Clinton Parkway. Because of the proximity of the floodplain there is extensive open space within the larger neighborhood area. Higher intensity land uses are typically found along an arterial street while lower intensity uses are found toward the interior of a neighborhood. The exception to this pattern is found on the south side of 24<sup>th</sup> Street between Inverness Drive and Crossgate Drive. This area is dominated by apartment development that is geared toward the college student market.

**Staff Finding** -- The property is located in proximity to several existing residential subdivisions and apartment complexes. Lower density residential development is located to the east of Inverness Drive and south of the open space park. The proposed zoning is directly across from "The Grove", an apartment complex zoned as a planned unit development on the south side of 24<sup>th</sup> Street. The area has a mixed character with uses including high-intensity residential development, attached townhomes, and detached single family dwellings.

## IV. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

The subject property is not part of a designated neighborhood. The property was part of a development request that included 160 acres and a mix of uses. The 1999 "plan" for the Getto property, indicated on the original preliminary plat, was intended with low density single-

dwelling and duplex development south of the drainage area (open space park) and more intensive land uses to the north. The plan was eroded by the approval of a planned unit development for The Legends at KU and its extension that ultimately became "The Grove". The Planned Unit Development was to be used as a tool to address design issues and provide for buffering between developments to the east of Inverness Drive.

**Staff Finding** -- The subject property is not part of a designated neighborhood for which there is an adopted area or sector plan. The guiding document for this property is *Horizon 2020*. The property abuts an arterial street to the north. Access to the property will be limited to the local street, 24<sup>th</sup> Place. The property to the east and south are developed with multi-story apartments. These types of areas are noted in *Horizon 2020* to be suitable for more intensive development.

## **V. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS**

Applicant's response:

*"The existing RSO zoning allows a maximum of 15 units per acre density. The requirement of individual lots for each unit of the allowed attached dwellings creates restrictions that will make this property undevelopable. If this property was developed for attached dwellings under the existing zoning, additional footage of public streets would need to be built and dedicated to the City. The Developer is proposing private parking and driveways under the proposed zoning which will minimize the impact on the City's street maintenance budget."*

The subject property is zoned RSO. Under the Land Development Code the residential element is restricted to single-dwelling detached, attached dwelling, zero lot line dwelling, cluster dwelling, and duplex dwelling options. The RSO District was established as a result of the conversion of the previous RO-1B zoning that allowed both single-dwelling and multi-dwellings. This conversion also increased the base density from 12 to 15 dwelling units per acre.

The purpose of the RSO District is to accommodate low to medium intensity administrative and professional offices that are compatible with the character of low and medium-density residential neighborhoods. It is also intended to be used as a transitional zoning district between higher intensity commercial areas and residential neighborhoods (Section 20-203). The RM districts are intended to accommodate multi-dwelling housing. The multi-dwelling residential districts allow the creation of higher density housing opportunities in areas with good transportation access. The RM15 District has a corresponding Comprehensive Plan designation of "Medium Density limited to 15 dwelling units per acre"; where as the RSO District has a corresponding Comprehensive Plan designation of "low or medium density" reflecting its flexible design.

**Staff Finding** -- Development of detached housing in this location will be disconnected from similar housing in the surrounding area. Attached housing as an option in the RSO District requires individual lots. The subject property would be required to be replatted for individual lots and the dedication of right-of-way for public streets. Office use is limited to not more than 5,000 GSF in the RSO District and is suitable at the corners of the area along Clinton Parkway. Approval of the request reinstates the previous multi-family allowance that was allowed in the RO-1B District under the 1966 code with a slightly higher maximum density. Regardless of the change in zoning, development will require site plan approval prior to building.

## VI. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

*"The property has remained vacant as zoned since it was annexed into the City in 1999."*

**Staff Finding** – The subject property is undeveloped. The property is part of a larger tract that was annexed and rezoned in 1999 in anticipation of development. The southern portions of the original acreage have been developed with detached and duplex residential uses.

## VII. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's response:

*"The proposed rezoning will not detrimentally affect nearby properties. The existing zoning, RSO, has substantially the same requirements as the proposed zoning, RM15, for residential development. Both have a maximum of 15 units per acre and the RSO zoning allows for 8 unit townhouses. "*

The applicant is requesting that approximately 11 acres of land be rezoned to RM15. The property abuts an existing arterial street (Clinton Parkway) and is located across from an existing multi-dwelling residential development. Both the existing RSO and the proposed RM15 District allow a maximum residential development density of 15 dwelling units per acre. The proposed change will allow a continuation of apartment development in the immediate area. Approval of the request alters the ultimate development form in terms of individual lots and non-residential uses.

**Staff Finding** – Approval of the request will allow for the continuation of multi-family dwelling while maintaining the same base density. Approval of the request eliminates non-residential uses as a development option for the neighborhood.

## VIII. 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

Applicant's response:

*"If this application is approved it will allow the Developer to construct 164 residential units which will increase the property tax base of the City of Lawrence. The public infrastructure is in place surrounding the development so the impact to the public system is minimal. The hardship imposed upon the landowner if the application is denied is such that the property will not be sold and developed at this time."*

**Staff Finding** -- Approving the rezoning request would not alter existing benefit to the public health and welfare.

## STAFF REVIEW

The subject property is a portion of a larger 160 acre tract originally annexed and zoned in 1999. The property was later platted with large tracts along Clinton Parkway. The area along Clinton Parkway was zoned for the most intensive development as part of the consideration of the 160 acres in 1999. The area south of 24<sup>th</sup> Street but north of the open space/drainage area

was designated as the transition area to the lower density, detached residential home lots to the south.

On December 19, 2007, the Planning Commission voted unanimously to recommend 15 acres of land along Clinton Parkway from RSO to RM15 as part of the Remington Square development located directly east of the proposed rezoning.

The proposed request does not address the topics of form, massing and housing type except peripherally. The base zoning of 15 dwelling units per acre is not altered by the proposed request, however development without internal public streets will likely result in more dwelling units. Approval of the requested RM15 zoning removes the opportunity for mixed use and non-residential uses originally prescribed for the area as part of the planning for "Inverness Park". Multiple land use discussions made since 1999 have resulted in a deviated land use pattern from the original 160 acres plan. The location of boundary streets isolates the remaining undeveloped property from connectivity with the larger surrounding neighborhood.

Development of a multi-residential development does not preclude the ability of the property owner to sell individual units through the condominium provisions in state law. Staff has identified utility issues that will need to be addressed as part of the development application review if the project involved individual ownership of dwelling units.