

ITEM NO. 3 RSO TO RM15; 10.97 ACRES; 4300 W 24TH PL (SLD)

Z-7-11-09: Reconsider a request to rezone approximately 10.97 acres, located on the SE corner of Inverness and Clinton Parkway, 4300 W. 24th 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. *This item was originally heard by Planning Commission on 9/21/09. City Commission returned this item on 12/15/09 for additional consideration.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Mr. McCullough clarified condition 7 of the staff memo that should read 'The number of **unrelated** adult occupants shall be limited to no more than two (2) per unit.'

APPLICANT PRESENTATION

Mr. Cecil King, BG Consultants, said he met with many neighbors on December 10th and had spirited conversation. He said during the process he tried to learn what could be done to make a better project. He said there were multiple charges from the meeting: limit occupants, limit banners, move office building and create a no build zone of open space, building materials labeled, and landscape plan. He said that whatever was promised would get done and tied to the site plan. He said they hired a landscape architect and provided that document to neighbors on January 7th. He said they emailed everyone who was at the first meeting but some were unable to attend the second meeting. He said at the January 7th meeting there were four additional items discussed: add a berm, work with the city for median trees, added requirement for public notice of covenants, and the landscape plan was beefed up as a result of that meeting. He said today he heard questions about the laundry room being locked and he confirmed that it will be locked and residents will have a key. He said they tried to listen to the neighbors and make it a better project.

Mr. Mark Anderson, Barber Emerson, said this is an unusual zoning project and includes one of the most restrictive covenants and conditions he has ever seen. He stated that by upzoning the property it will decrease the number of bedrooms by half that are currently allowed. He said there were two primary concerns raised at City Commission by the neighborhood; questions about land purchase and conditioning on proposed development.

Commissioner Dominguez inquired about the need for more apartments in the city. He asked if a market study was done to see if the need exists.

Mr. Anderson said he was not privy to that information.

Commissioner Dominguez inquired about a traffic study.

Ms. Day said a traffic study is required with the site plan, not rezoning and the traffic study was received and it showed the streets are able to handle the traffic and no improvements are needed.

Commissioner Hird asked why washer and dryers were not in each unit if they are going to be luxury apartments.

Mr. Anderson said he was not privy to that information.

Commissioner Hird asked if the bedroom density would be half of what is allowed under the current zoning.

Mr. Anderson said that was correct.

Commissioner Harris asked if they will be rental or owner occupied.

Mr. Anderson said they will be rentals units.

Commissioner Harris asked if he happen to know if they would be leased by the year or month.

Mr. Anderson said the applicants standard lease is one year and he had no reason to believe that would not be the case with these.

PUBLIC HEARING

Ms. Jamie Hulse, speaking on behalf of many neighbors, went over her points from the letter she submitted that was included in Planning Commission packet. She did not feel that these would be luxury apartments based on previous development from the developer. She wondered if laundry facilities could be added back into the units and market them toward seniors instead of partying students. She was interested in mixed use on both corners.

Mr. Larry Northrop showed pictures on the overhead of existing apartments in the area. He said City Commission unanimously denied this project and he did not think more apartments were needed. He said they could use more mixed use in the neighborhood.

Mr. Bill Bump said he looked at different communities who allow too many multi dwelling units in a neighborhood. He felt Lawrence were at the teetering edge. He said many of the apartments in the area are vacant and there was no need for more. He wondered about the vacancy rate of existing apartments.

Mr. Davis Loupe, 4424 W 24th Pl, expressed concern about the amount of apartment complexes in the area. He said the spirit of the City Commission meeting was *'let's see what we can do to be more creative with that corner than multi housing.'* He said the neighbors met with the developers and they said there could be something worse there under the current zoning. He said nobody in the neighborhood wants multi-family located there. He would rather see mixed use zoning there. He also said that even with the change in landscaping that most of the landscaping would really not provide screening in the winter. He felt the notification process had room for improvement.

Mr. Steven Slader said he runs in the area every morning and has seen degradation over the last five years.

Commissioner Hird said under the current zoning it could result in something worse. He asked one of the neighbors to speak to that.

Ms. Hulse said she would prefer to see senior housing.

Commissioner Hird said that is not a mixed use.

Ms. Hulse said it would change the type of people living there.

Mr. Northrop inquired about RSO district having multi-family component to it. He said the neighborhood has a problem with continually allowing the property to be rezoned to put up more apartments.

Commissioner Hird said if the zoning is not changed then what is built there could be worse and far more dense.

Mr. Northrop said it is the city's fault for not correctly zoning that area. He suggested creating a better plan to create mixed use on the parcel that makes sense.

Ms. Hulse said when the Development Code changed in 2006 it increased the density so the owner by default got more density.

Ms. Day said the two zoning districts, the current RSO and proposed RM, both have base zoning density of 15 dwelling units per acre. With regard to the type of land use allowed, RSO is restricted to single dwelling units but it does allow those attached units if they are on their own individual lot. The request is really about the form of housing. Under the RSO zoning the applicant could come back with a similar kind of project, with the exception that to do the attached units there would be lots and each unit would be on its own parcel. Because those lots have to be a certain size, the units would get bigger so it would be a bigger mass of structure for the same number of dwelling units. The base density is by number of dwelling units, not number of bedrooms.

Commissioner Hird asked if it is RSO the type of dwelling unit would be more like a three story apartment complex.

Ms. Day said not necessarily. She said it could be bigger but there would have to be public streets and bigger lots. These units are very small and occupying a very small area of the property. This project could have been 2-3 bedrooms because the dwelling units are counted, not bedroom.

Mr. McCullough said it is the self imposed condition limiting each unit to a maximum of one bedroom that really caps the population of this project.

APPLICANT CLOSING COMMENTS

Mr. Anderson said the City Commission minutes included the same type of discussion. This type of building footprint structure can be built there now with 35' of height, 3 stories, and look almost exactly what is across the street. The applicant is not doing the individual lot lines and the trade off is that he is willing to limit to one story, one bedroom, with a cap of 161 units. He said that is a lot different than a 3 story unit with a lot of mass. The applicant does not own the property. The owner platted the property 8 years ago and this parcel has set vacant for 8 years. The owner has paid special assessments at the rate of \$50,000 a year in addition to property taxes. The owner is going to unload it and not carry it anymore as vacant non income producing property. In order to build the applicants vision on this site it needs to be upzoned with less mass and density than what is allowed there now.

COMMISSION DISCUSSION

Commissioner Dominguez asked what would happen if the zoning is not changed and another developer comes in and fits the current zoning, how would that proceed.

Ms. Day said development of the site would include site plan approval. Site plans are administrative and if the project complies with the Development Code then they could construct. She stated that site planning is administrative but there is an appeal process heard by City Commission. She said attached housing would likely require replatting.

Mr. McCullough said the difficulty is that RM15 and RSO are two different types of products. They have the same density and general concept. The Development Code speaks to density and physical standards. The restrictions were the applicants attempt to address the comments learned through the public process. In staff's opinion there can be higher density in terms of building form, population, activity at the project, under either RM15 or RSO. The difference is in how the site is laid out.

Dominguez inquired about the notification process and agreed more notification should be made. He also stated vacancy rates need to be looked at.

Commissioner Blaser felt this was a tremendous improvement over the first version that was presented to Planning Commission a few months ago and he liked that they are single story. He said regarding the comment about the empty apartments the last two built were not finished in time to be rented for the school year so he was not sure that was a good indicator of vacancy. He said he would vote in favor of the rezoning.

Commissioner Moore said he understood the neighbors frustration but felt this was a better plan and he would support it.

Commissioner Hird said it is a difficult situation because he would love to see the land be unbroken farm land forever but that is not possible. He commended the developer for reaching out and attempting to address neighborhood concerns. He said the term density to the average person is different than planners; people and cars versus units. He said he did not want to see more three story apartments and that this is a great plan to limit it to one story apartments with the best compromise that can be reached. He was glad to hear the landscaping has been improved. He said he would support the rezoning.

Commissioner Finkeldei agreed with Commissioner Hird's comments. He said he was happy for the neighbors about all the covenants and restrictions but he hoped to never see it again because he did not think it was the way zoning should be done. He said knowing the process and what he has seen during his four years on the Planning Commission, he thought this was the best it would get at that location. He said he would support the rezoning.

Commissioner Harris said the Code allows for many uses in each district. She liked that this was one story. She appreciated the applicant meeting with neighbors and listening to what they had to say. She expressed concern about the type of tenants and did not see these as luxury apartments since there were no washer and dryer units in each apartment. She asked if the city inspects properties after development. She inquired about the dumpsters left at construction sites that Mr. Northrop showed in pictures.

Mr. McCullough said yes. He said the city can send someone out this week to check on the blight.

Commissioner Harris said she was not happy about not having an office on that location but did not see how she could deny the application based on that. She felt they ought to be looking at areas as they are developing.

Commissioner Carter echoed Harris' frustrations with the fact that this is the best scenario for this property. He expressed concern about additional apartments being built and was worried about the overbuilding apartments. He was also concerned about developers building just for tax breaks instead of a need. He felt better with the covenants included and said he will support the rezoning.

Commissioner Moore asked if the city has considered commissioning a multi-family vacancy study.

Mr. McCullough said not in his two years with the city. He said staff is challenged in keeping up with the retail market study.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve 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, with the addition of 'unrelated' added to condition 7.

1. Development of the property shall be in substantial conformance with the site plan dated January 4, 2010 and attached hereto. Any changes to the site plan that oppose the spirit of these conditions or that are considered major by the Planning Director shall be reviewed by the City Commission after public hearing in which mailed notice is provided to owners within 1,000 feet at least 20 days prior to the hearing.
2. The use of the property shall be limited to Multi-Dwelling Structures as shown on the site plan.
3. Every building in the development shall be limited to a maximum height of one story above grade.
4. Every residential unit shall be limited to a maximum of one bedroom.
5. The development shall be limited to a maximum of 161 residential units.
6. Advertising banners shall be prohibited at the corner of 24th Place and Inverness Drive.
7. The number of **unrelated** adult occupants shall be limited to no more than two (2) per unit.

8. Prior to the zoning ordinance being published, the applicant will record a Declaration of Covenants and Restrictions which, among other things, will (i) prohibit the construction of any permanent structure on the corner of 24th Place and Inverness Drive, (ii) restrict the use of the property to a maximum of 161 one-story, single-bedroom, residential units, and (iii) name the City of Lawrence as a third-party beneficiary whereby the Declaration may not be amended or terminated without the prior consent of the City. The City's Legal Department shall review this document prior to recording.
9. These zoning conditions shall be listed on the approved site plan prior to site plan approval.

Commissioner Harris said she would vote in favor based on the reasons she stated earlier but wished there had been more mixed use in that space.

Motion carried 6-1, with Commissioner Dominguez voting in opposition. Student Commissioner Shelton voted in opposition.