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*ADMITTED IN KANSAS AND MISSOURI

December 7, 2011

VIA E-MAIL ONLY

Mayor Aron E. Cromwell
City Hall
PO Box 708
Lawrence, KS 66044

Re: *Remington Square, L.C.*
Rezoning Application No. Z-8-12-10 (the "Application")

Dear Mayor Cromwell:

I am writing on behalf of Remington Square, L.C. (the "**Company**"). In advance of the City Commission meeting on December 13, 2011, please be advised of the following:

- On March 11, 2008 and as part of the consent agenda, the City Commission unanimously approved Rezoning Application No. Z-10-26-07 (the "**2008 Application**"), rezoning the Remington Square property from RSO to RM15. The 2008 Application was approved on the consent agenda because the Planning Commission, on two occasions, unanimously recommended approval of RM15 zoning. There was no City Commission discussion on the 2008 Application.
- On September 10, 2008, the Planning Staff administratively approved SP-06-38-08 (the "**2008 Site Plan**"). During the administrative approval process, the Planning Staff noted as follows:

The large open area on the east side of the property is not developable for additional dwelling units as the density would be exceeded. Development of the open area would only be allowed if the property was rezoned and the maximum density increased for the subject property. Within the scope of the proposed project the open space functions as natural open space area as an amenity to the development.

- The October 26, 2011 Staff Report acknowledges that the existing units could be physically modified in order to enable the construction of more units.

When the Company obtained approval of the 2008 Application, it had not yet drawn plans for the Remington Square apartments, which were approved six (6) months later as part of the 2008 Site Plan. Moreover, the Company had no idea that its concept of two-story one-bedroom apartments would be as successful as it is. For the time being, the Company's business model of one-bedroom apartments remains the intended use of the property. However, the denial of the Application does not forever prohibit the development of the remaining five (5) acres. As the October 26, 2011 Staff Report notes, "[t]he existing buildings could be remodeled combining units and adding bedrooms thus allowing construction of more buildings at the same base density." The issue before the City Commission is whether to approve the Application and effectively guaranty the size and intensity of future development on the property, or leave the door open to the possibility of more intense development in the future.

I must emphasize that the Company has no plans to physically alter its existing units—the purpose of this discussion is to illustrate the existing potential for development, and contrast it with the Company's Application. As I mentioned on November 15, our Development Code measures "units" by counting front doors, not bedrooms. Under the property's present RM15 zoning, there are 224 one-bedroom units constructed on the site, or 14.93 units per acre. As long as there are 224 or fewer units, the number of bedrooms may be increased. If the Company or a subsequent purchaser decided to open up the dividing walls and combine the existing 224 units, the owner may construct additional multi-family buildings without public discussion or review by the City Commission.

By way of example, combining all of the existing 224 one-bedroom units into 112 two-bedroom units enables the construction of 112 new multi-family units. Subject to parking requirements and other provisions of the Development Code, the owner can administratively obtain approval to construct bigger, more intense apartments. The following illustrates the impact of constructing 112 new four-bedroom units:

	<u>Existing Units</u>	<u>Potential Units</u>
	224 one-bedroom units	112 two-bedroom units
		<u>112 four-bedroom units</u>
TOTAL:	224 bedrooms	672 bedrooms

The construction of 448 bedrooms would be a 330% increase over the Company's Application for 136 new one-bedroom units.

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The purpose of deferring the Application for twelve (12) months and going through the process of adopting the Inverness Park District Plan was, in part, to offer a degree of predictability to the public, especially the current and future property owners in the area. What may have been overlooked in this process is the fact that "zero future development" is not guarantied by denying the Application. Although the Company has no plans to remodel its existing units, the *potential* for future construction will remain unless the Application for conditional RM24 zoning, allowing 136 additional units, is approved.

Very truly yours,

BARBER EMERSON, L.C.

A handwritten signature in black ink that reads "Matthew S. Gough". The signature is written in a cursive, flowing style.

Matthew S. Gough

MSG:plh

cc: Vice-Mayor Bob Schumm (via e-mail only)
Commissioner Michael Dever (via e-mail only)
Commissioner Mike Amyx (via e-mail only)
Commissioner Hugh Carter (via e-mail only)
City Manager David Corliss (via e-mail only)
Planning Director Scott McCullough (via e-mail only)
City Attorney Randy Larkin (via e-mail only)
City Planner Sandra Day (via e-mail only)