

PC Minutes 3/26/12

## **ITEM NO. 2      INVERNESS PARK DISTRICT PLAN (DDW)**

**CPA-2-1-12:** Consider revisions to the Inverness Park District Plan. *Initiated by City Commission on 1/17/12.*

### **STAFF PRESENTATION**

Mr. Dan Warner presented the item.

### **PUBLIC HEARING**

Ms. Jamie Hulse, spoke on behalf of the neighborhood, said neighbors do not support any language in the Inverness Park District Plan that increases density. She stated approval of the plan increases the density to RM24 which exceeds the definition of high density. She said density was already increased for The Grove, Legends Place, and Remington Square to levels that previous Planning staff, Planning Commission, City Commission, and County Commission determined would have a detrimental impact on existing neighborhoods. She said the attorney for Remington Square previously provided property values for every home owner who wrote a letter to Commissioners showing that property values have not decreased. She said she was a realtor for 12 years and she could sell her house for more and the property tax value would be higher if there were offices along the north side of W. 24<sup>th</sup> Place and if there was a cul-de-sac of one story senior citizen duplexes across the street from the back of her house instead of The Grove. She said there were buyers who would choose to not even consider looking at a house in her neighborhood, which decreases her property value. She said a mixed development would have increased her property value over and above what it is now. She said there was no logical justification for approving a plan that increases density in this location again. She stated if a developer wants to purchase the two remaining vacant lots and build multi-family projects under the current RSO zoning the neighborhood would support that. She said neighbors did not support any changes to the plan that would increase density. She said neighbors have been asking for over three years for staff and Commissioners to create an avenue, plan, or overlay district that would not allow any additional multi-family or increased density for Inverness Park. She said neighbors were frustrated with staff and Planning Commission members and have given up and stop coming to the meetings. She felt the only way to protect the existing neighbors was to add language to the Inverness Park District Plan that states there shall be no additional density increases for future development.

### **COMMISSION DISCUSSION**

Commissioner Finkeldei asked if Remington Square sold off the five acres would it be a non-conforming use unless rezoned.

Mr. McCullough said when City Commission was presented with that issue they believed that it could be appropriate infill development. He said the direction of City Commission to staff was to recognize that five acres exists with infrastructure that could support infill development and to bring forth a plan that could accommodate appropriate uses but recognize that would make Remington Square non-compliant. He said it would hold Remington Square where it was today but would allow five acres to develop in a non-residential way. He said it does not affect the commercial properties on the corners in any way.

Commissioner Finkeldei said he understood the neighbors point when looking at the map it shows high density. He asked if they could leave it medium density on the map but put a note in the plan that says if the five acres was developed as commercial office we would support a rezoning to bring Remington Square into conformity.

Mr. McCullough said banks would look hard at whether it was compliant or not. He said the real issue was zoning it to RM24 to allow the density.

Commissioner Finkeldei said they were going to have to do it and they want the Comprehensive Plan to support the rezoning request. He suggested maybe leaving it medium density but note Planning Commission would support rezoning to RM24 to bring it into compliance.

Commissioner Britton asked if what they would be doing was rezoning to RM24 and saying that the existing Remington Square would be compliant with the zoning and not give it the opportunity to redevelop and have twice as many people there.

Mr. McCullough said that was correct.

Commissioner Britton asked Ms. Hulse if the five acres was developed what would she like to see.

Ms. Hulse said the developer bought the property and chose to max it out speculating that at some point he could come back and ask for an increase in density. She said the neighbors believe it was maxed out and that 24 units per acre was too high for the location. She felt nothing else should go there because it shouldn't be the burden of the homeowners to fix the developers problem. She felt the five acres was the 'backyard' to Remington Square.

Commissioner Burger said as she read the packet she was excited because she thought this would give the neighbors what they want, Remington Square would not be allowed to build anymore apartments.

Ms. Hulse said the neighbors want the plan to say no more increased density and no more multi-family.

Commissioner Burger asked if the plan was approved as is would it give increased density to the five acres if it was sold.

Mr. McCullough said it would prevent any more residential. He said this discussion was fully vetted at City Commission. City Commission recognized the developer took a risk by doing things the way he did, but also believed that some Commission was apt to say yes to some development plan. He said they wanted to get plan support to at least guide the development so that the five acres could be some other type of non-residential use. He said to accommodate the technical glitch of the existing Remington Square the zoning had to be increased. He said that was where the alternative language came into the plan that somehow someday if there was an approved non-residential development plan on the five acres the existing Remington Square would need to be rezoned to make it not non-conforming.

Ms. Hulse said City Commission had their discussion after public comment was closed so all the neighbors opposed what they asked staff to do. She said the same thing could be accomplished by saying no more residential.

Commissioner Belt asked if the same result was achieved by not increasing density and limiting residential.

Mr. McCullough said this was the process. He stated the whole purpose for initiating the plan was from a development master plan that went through different zonings and the City Commission initiated this plan at the neighborhoods request. He said the public process they were involved with

now was setting up the plan for the future. He said the idea was that they would be able to say yes to a non-residential plan. He believed the plan should address the issue.

Commissioner Culver said he would support the infill of development of the five acres. He appreciated the neighborhoods concern regarding no more residential. He felt this proposal and approach addressed that. He said he would not support creating a non-conforming use for the existing Remington Square development. He said having the five acres as a commercial office seemed appropriate.

Commissioner Britton said he was struggling with this because when he read it he thought it accommodated the concerns of the neighbors by not having any more multi-family residential. He said the City Commission was probably correct to say that the property would be developed at some point so they should act now and plan for the future. He thought there may be some disconnect in the communication that resulted in some of the comments heard tonight in opposition. He said he has been outspoken about the Inverness Park area and not further developing with multi-family residential. He said he thought this was achieving what the neighbors wanted and does so in a way that directs the five acres to a use that should be good for the community. He said a church or office building would be consistent with the area. He said he was inclined to support this but he was open to being enlightened to what the problem was.

Commissioner Finkeldei said Ms. Hulse expressed wanting the five acres left empty. He said the neighborhood has taken issue with how the developer went about doing this but he has never seen it that way. He gave the example of Bauer Farm being amended about 14 times and changing immensely. He did not hold that against that the developer. He did not agree with the comment from Ms. Hulse that the five acres was the 'backyard' to Remington Square. He said one option was to have a plan that says it would forever be empty but he did not think that was good for the city. He did see Ms. Hulse's point about the map saying high density. He said he would prefer it stated medium density on the map with a caveat that if a plan came forward and was approved to put CO in that location that the plan would support a rezoning to bring Remington Square into compliance.

Commissioner Liese said he liked Commissioner Finkeldei's idea of the caveat and asked staff to comment.

Mr. McCullough said both ways try to get at framing the unique issue.

Commissioner Hird asked if it was kept RM15 with a note that if a plan for a CO project was brought forward the rezoning of Remington Square would be addressed. He asked if they took that route would they be applying the medium density zoning to the five acre parcel as well.

Mr. McCullough said the density calculation would be for the residential property, not the CO property.

Commissioner Hird asked if a project other than CO came forward.

Mr. McCullough said he interpreted it to keep the CO designation but for the Remington Square piece revise that from high density to medium density with the caveat that if the five acres develops to the CO designation that it recognizes that a rezoning to RM24 may be required to keep it conforming to the zoning code.

Commissioner Hird said he had no objection to that but was concerned about people missing the caveat. He thought it was a snake in the grass waiting for them and they may not realize what a CO project would mean for the density for Remington Square.

Commissioner Finkeldei said it would only affect Remington Square and they already know it. He said if they sell the five acres they have two choices; become a non-conforming use, or ask to be rezoned. He said if they tell Remington Square they are not be allowed to change the density then they will never sell the piece because they will never want to become a non-conforming use. He said even if they sell the five acres to the City of Lawrence to become a park they would still be non-conforming and need to be rezoned to RM24.

Commissioner Hird said if it was deeded to the City of Lawrence that would not be a CO project. He was concerned about creating uncertainty for the neighbors. He said other things other than a CO project might fit there.

Mr. McCullough felt the current language worked but it was a matter of perspective of framing the issue.

Commissioner Blaser inquired about Remington Square selling the actual apartments first.

Mr. McCullough said it would come through the Planning Office and it would put them in a non-conforming state because it goes with the legal boundary of the parcel and it would have to be addressed at that time.

Commissioner Blaser felt they should change it now.

Commissioner Finkeldei said the plan would not change the zoning, the plan effects what happens in the future upon a rezoning request.

Commissioner Blaser agreed with Commissioner Hird and was in favor of proceeding with the plan now. He said if the plan does not go in someone could come in and request RM32 zoning on the five acres. He felt it was safer to do it this way now than the suggested way.

Commissioner Britton said he supported having indications in the plan. He said he would support language that stated the upzoning to RM24 for Remington Square was no indication that there should be upzoning for multi-family residential on the five acres.

#### **ACTION TAKEN**

Motioned by Commissioner Blaser, seconded by Commissioner Hird, to approve the Comprehensive Plan Amendment, CPA-2-1-12, to the Inverness Park District Plan as presented in the staff report.

Commissioner Hird said he did not feel strongly about either approach but he would rather not delay and could live with Commissioner Finkeldei's suggestion.

Commissioner Britton asked Commissioner Finkeldei to explain what type of motion he would make.

Commissioner Finkeldei said his motion would be to defer the item and send it back to staff to come back with a plan that leaves the map as medium density with a caveat that upon a rezoning it would support Remington Square being brought into compliance.

Commissioner Britton said a deferral may allow for everyone to be on the same page and understand what the amendment would be seeking to accomplish. He said it sounded like it may do a better job of not giving any indication that anything other than commercial would be acceptable on that corner. He agreed with Commissioner Hird that he could go either way.

Motion failed 3-5, with Commissioners Blaser, Culver, and Hird voting in favor.  
Commissioners Belt, Britton, Burger, Finkeldei, and Liese voted in opposition.

Motioned by Commissioner Finkeldei, seconded by Commissioner Britton, to defer the Inverness Park District Plan with direction to staff to revise the plan and come back with a plan that shows medium density for Remington Square with some sort of caveat that we would support a rezoning to bring it into conforming use upon proper rezoning of the adjacent five acres.

Motion carried 7-1, with Commissioner Blaser voting in opposition.