

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
6/22/2015

**ITEM NO. 3A: RSO TO CN2; 10 ACRES; 4300 W 24<sup>th</sup> Place (SLD)**

**Z-15-00198:** Consider a request to rezone approximately 10 acres from RSO (Single-Dwelling Residential-Office) District to CN2 (Neighborhood Shopping Center) District, located at 4300 W 24<sup>th</sup> Place. Submitted by Paul Werner Architects, on behalf of RPI LLC, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for approximately 10 acres from Single-Dwelling Residential-Office (RSO) to Neighborhood Shopping Center (CN2) 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 subject to the following conditions:

1. The City Commission shall review and approve any site plan application prior to issuance of a building permit on the subject property.
2. As part of any proposed development, the extraordinary buffer yard along Inverness Drive shall be limited to open space, landscape, and park-type amenities.
3. The following uses shall be prohibited:
  - a. Household living (all residential uses)

**ATTACHMENTS**

- A. Inverness Park Plan Map
- B. Existing Zoning and Land Use Exhibit
- C. Inverness Park Area Development History

**PROPERTY OWNER'S REASON FOR REQUEST**

*The Inverness Park District Area Plan recommends CN2 zoning for this property.*

**KEY POINTS**

- This is a request to accommodate future commercial development with a portion of the original property remaining for duplex residential development.
- Proposed request is intended to create a Neighborhood Commercial Center in the Inverness Park District.
- Request is consistent with land use recommendations for this area noted in the *Inverness Park District Plan*.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- TA-13-00488; Special Use in CN2 District – withdrawn by applicant
- Z-13-00483; 10.97 acres RSO to CN2 – withdrawn by applicant
- SUP-13-00486; Family Fun Center – withdrawn by applicant
- SUP-14-00026; Inverness Corner Retail Development (with drive-thru) – withdrawn by applicant
- PP-15-00196; preliminary plat – submitted with this application

OTHER ACTION REQUIRED:

- City Commission approval of rezoning and adoption of ordinance.
- Publication of rezoning ordinance.

#### OTHER ACTIONS REQUIRED PRIOR TO DEVELOPMENT

- Platting of the property through the Major Subdivision process.
- City Commission approval of a future site plan, as applicable, prior to issuance of a building permit.

#### PLANS AND STUDIES REQUIRED

(None required for this rezoning)

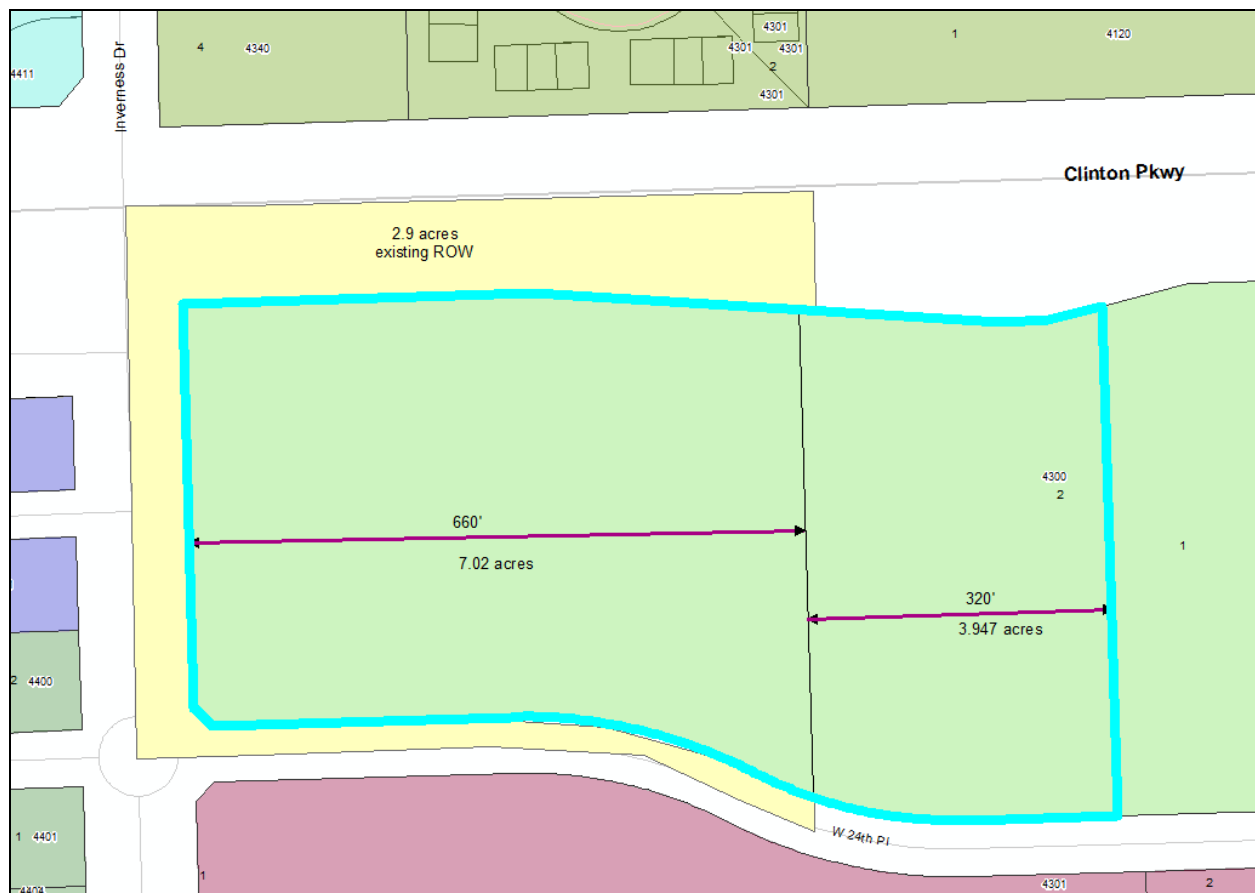
#### PUBLIC COMMENT

- None received at this time.

#### Project Summary

This property is located on the south side of Clinton Parkway; east of Inverness Drive and north of W. 24<sup>th</sup> Place. This application is submitted concurrently with a preliminary plat, PP-15-00196. Specific uses have not been identified for the commercial development at this time.

This application represents approximately 7 acres of buildable area and approximately 2.9 acres of surrounding right-of-way (10 acres proposed for CN2 zoning includes right-of-way). The east 320' (3.4 acres) is intended to retain the current RSO zoning to accommodate duplex development as shown on the preliminary plat.



## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Property Owner's Response:

*"The Inverness Park District Plan updates Horizon 2020's recommendations for this site to CN2 zoning. This change to Horizon 2020 was a result of neighborhood concerns for the development of this property."*

The CN2 (Neighborhood Shopping Center) District is primarily intended to implement the Comprehensive Plan's "Neighborhood Commercial Centers" policy of providing for the sale of goods and services at the neighborhood level. Neighborhood Commercial Centers are generally located at least one mile from another Commercial Center. Developments in CN2 Districts are intended for Collector/Arterial Street intersections or at Arterial/Arterial Street intersections. Development is intended on only one corner of the intersection of Clinton Parkway, an arterial street, and Inverness Drive, a collector street.

*Horizon 2020* identifies commercial development goals in Chapter 6. Goals for established commercial areas include the retention, redevelopment and expansion of established commercial areas in the community (Page 6-24). This property is identified as a future neighborhood commercial area.

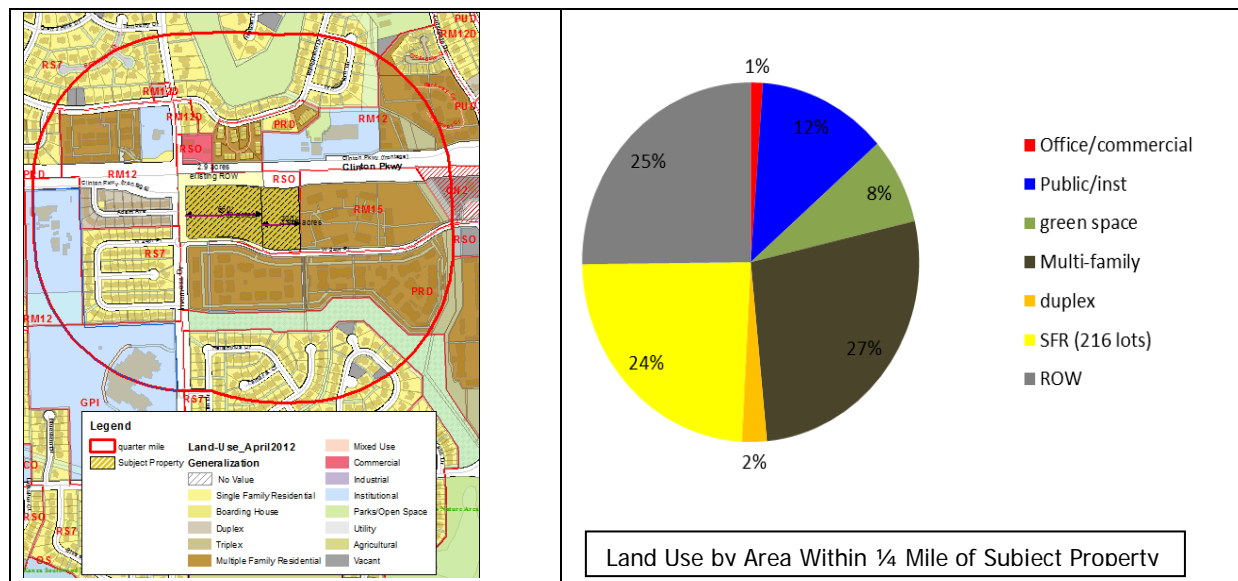
Other comprehensive plan goals include appropriate land use transition between commercial and residential neighborhood areas. These goals are applicable to the proposed request.

**Staff Finding** – The request for CN2 zoning at this location is consistent with *Horizon 2020* goals and policies.

### 2. ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

|   |   |
|---|---|
| Current Zoning and Land Use:                          | RSO (Single-Dwelling Residential-Office District), undeveloped lot.   |
| Surrounding Zoning and Land Use:<br>To the southwest: | RS7 (Single-Dwelling Residential District) single family residences located west of Inverness Drive.<br>GPI (Southwest Middle School and Sunflower Elementary School); Elementary and middle schools located farther southwest along Inverness Drive. |
| To the south:   | PRD-[The Grove] and PRD-[Legends at KU]; multi-dwelling residences.   |
| To the north:   | RM12 (Multi-Dwelling Residential District); Bishop Seabury Academy.<br>PRD-[Wimbledon Terraces]; multi-dwelling residences.<br>RSO (Single-Dwelling Residential-Office) District; Clinton Parkway Animal Hospital.                                    |
| To the northwest/west:                                | RM12 (Multi-Dwelling Residential District); a church and duplexes.  |
| To the east:  | RM12 (Multi-Dwelling Residential District); multi-dwelling residences, known as Remington Square.   |

The predominate uses of nearby properties are residential. Multi-dwelling and detached/duplex uses occupy approximately the same amount of spatial area within a quarter mile of the subject property. All adjacent properties are developed; the current property is the only undeveloped parcel in the immediate vicinity. Southwest Middle School and Sunflower Elementary School are located roughly one block south along Inverness Drive. Raintree Montessori School is located roughly one block west of the property along Clinton Parkway. The following graphics highlight the distribution of uses in the immediate area. The Wimbledon Terrace Townhomes are included in the multi-dwelling land use. The County appraiser's office identifies the properties within the Wimbledon Terrace PUD as both "single-family residential" and "multi-family residential". For this analysis all properties within that PUD were counted as multi-dwelling. Multi-Dwelling uses are defined in the Land Development Code as three or more attached units.



**Staff Finding** – The existing zoning and land use in this immediate area includes both single-dwelling and multi-dwelling zoning and land uses. Non-residential uses include office, commercial, religious assembly and public institutional uses, located along Clinton Parkway and Inverness Drive.

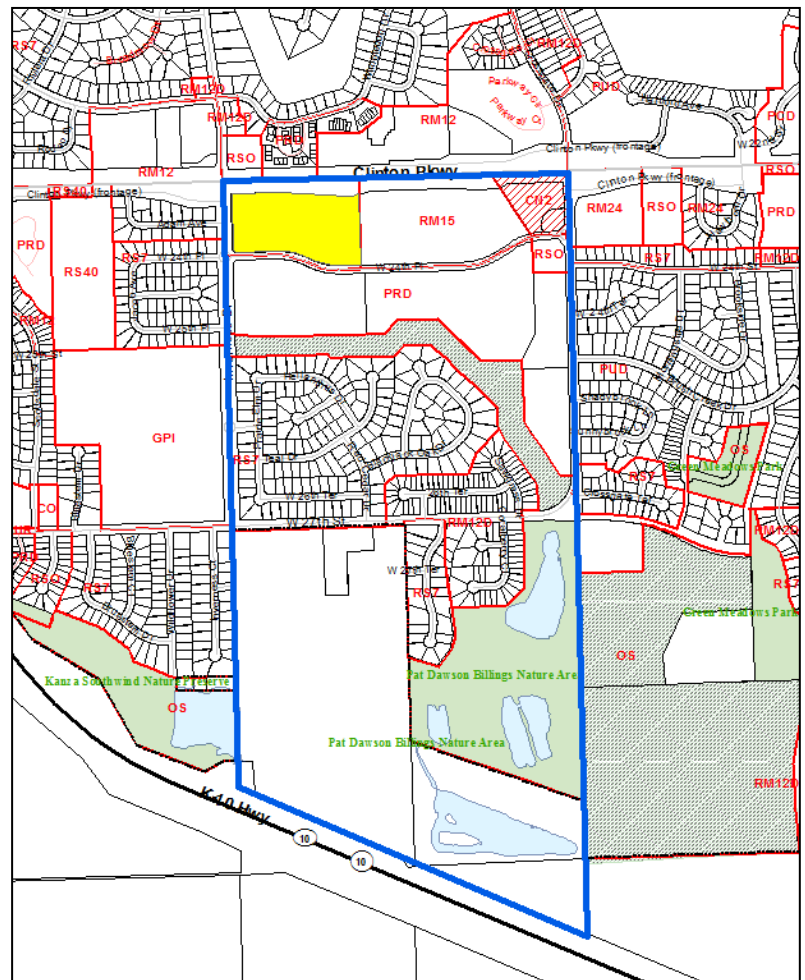
### 3. CHARACTER OF THE AREA

Property Owner's Response: *"Clinton Parkway, a principal arterial roadway, in the northern boundary of this project site with a veterinarian office and duplex/tri-plex development north of Clinton Parkway. The proposed duplexes to the east of the project site will act as an additional buffer for the multi-family and residential uses to the east of the site. Directly west of the site are duplex/single family homes and to the south of the site is an apartment complex."*

This property is located within the Inverness Park Neighborhood. The property is adjacent to Inverness Drive, directly to the west, which provides access to Clinton Parkway, a major arterial street. The Inverness Park Neighborhood is defined in the *Inverness Park District Plan* as an area located south of Clinton Parkway between Inverness and Crossgate Drives, north of K-10 Highway. The Inverness Park Neighborhood is primarily urban in nature and is located mostly within the City of Lawrence, except for two residences located south near K-10 Highway. Multi-dwelling (higher density) residential properties are located in the northern portion of the district.

Raintree Montessori School is located west of the neighborhood along Clinton Parkway, and Southwest Middle School and Sunflower Elementary School are located roughly one block south of the property along Inverness Drive. The subject property is one of the few undeveloped parcels within the plan boundary.

This property is bounded on the north by a designated principal arterial street, Clinton Parkway and a collector street, Inverness Drive, to the west. The surrounding area also includes numerous public and private open space areas such as the Alvamar Golf Course north of Clinton Parkway and a 14.6 acre linear park between Inverness Drive and Crossgate Drive south of W. 24<sup>th</sup> Place. Other significant open space areas include the Kansa Southwind Nature Preserve (19 acres) and Pat Dawson Billings Nature Areas (41.8 acres). Approximately 20% of the area within the boundary of the *Inverness Park District Plan* is currently dedicated to public open space use, excluding the recommended buffer area along Inverness Drive.



**Staff Finding –** The vicinity surrounding the subject property includes a variety of residential and non-residential uses. The neighborhood is predominately developed with few remaining vacant parcels.

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

This property is included within the plan boundary of the *Inverness Park District Plan* adopted in 2012. The purpose of the plan was to provide direction and guidance for the remaining undeveloped parcels within the planning area. The plan states: “Concerns have been raised by residents in the area about the proliferation of multi-family uses and the impact they are having on the areas.”

The entire property is currently zoned RSO. The property has been granted certain development entitlements based on the current zoning. The RSO district allows detached, attached, and duplex residential uses. The RSO does not allow multi-dwelling uses. Mixed uses are also allowed in the RSO District that include non-ground floor and work live units. This application represents a request to rezone a majority of the undeveloped property from RSO to CN2.

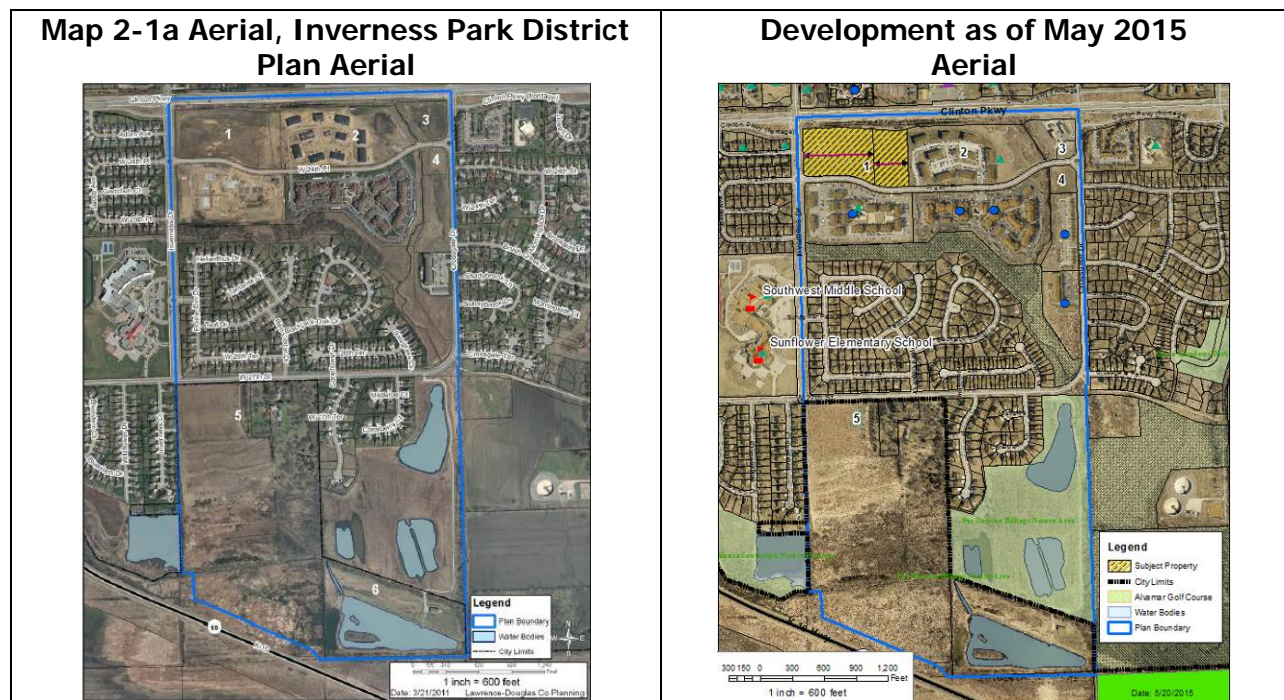
This property is described in Section II of the *Inverness Park District Plan* as an undeveloped 11 acre parcel. Direct access to Clinton Parkway is prohibited. Access is also restricted from



Inverness Drive; therefore, the property can only be accessed from W. 24<sup>th</sup> Place. Specific issues identified for this parcel in the Plan include:

- *This is a larger parcel capable of accommodating neighborhood scale commercial and multi-family residential.*
- *Include a landscape buffer area to buffer the higher intensity uses from the residential neighborhood to the west.*
- *Neighbor interested in park vs. feasibility of development potential due to location.*

Since the plan's approval in 2012, several developments have been constructed. These include The Casitas, a multi-dwelling residential project along Crossgate Drive; the Hy-Vee gas station and convenience store at the corner of Clinton Parkway and Crossgate Drive; and The Grove, a multi-dwelling residential project, located along the south side of W. 24<sup>th</sup> Place.



Section III of the plan provides goals and principles for the development of the remaining undeveloped properties in the *Inverness Park District Plan* area. Goals are stated as follows:

- *Encourage nonresidential land uses at the Inverness and Crossgate corners of Clinton Parkway that are compatible with the residential uses in the planning area.*
- *Develop a strong park/trail system.*
- *Develop single-family residential uses south of 27<sup>th</sup> Street at densities compatible with adjacent densities.*
- *Protect the regulatory flood hazard areas from development.*

This property is located north of 27<sup>th</sup> Street and is not encumbered by any regulatory floodplain. The proposed request seeks to rezone the west 7 acres from RSO to CN2 consistent with the first stated goal of the plan.

More specific policies applicable to this request are as follows:

- Allow for neighborhood-level commercial, office, civic, institutional and recreation activities on the Inverness and Crossgate corners of Clinton Parkway.
- Encourage mixed use development (i.e. residential and non-residential uses) along Clinton Parkway.
- Limit additional multi-family uses in the Planning Area.
- Maintain the integrity of Clinton Parkway as an access restricted thoroughfare.

This application for CN2 zoning, if approved, would accommodate neighborhood commercial uses as well as community facility uses such as Day Care Centers, Extended Care Facilities, Clinics, and a variety of Office Uses. The CN2 district also allows mixed use with multi-dwelling residential uses when 50% of the ground floor is used for non-residential uses.

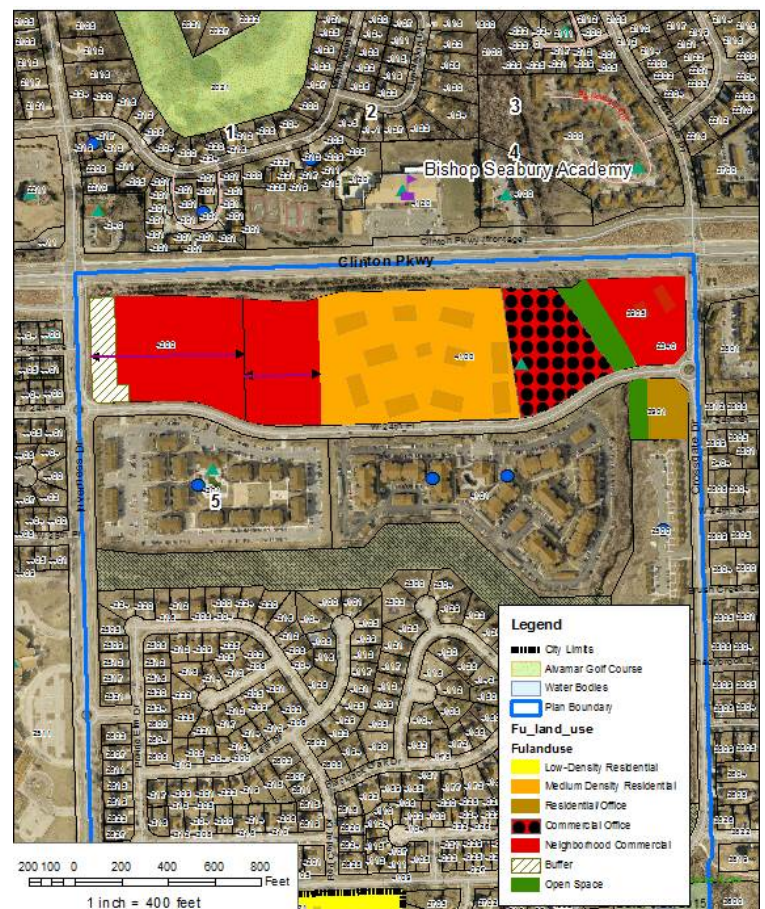
This rezoning application does not include the entire undeveloped parcel at Inverness Drive and Clinton Parkway. The east 3.9 acres are proposed for duplex development as shown on the Preliminary Plat accompanying this application. If approved, the residential uses along Clinton Parkway would be bookended by neighborhood commercial zoning at the Inverness Drive and Crossgate Drive intersections.

Section IV of the plan provides specific land use recommendation applicable to this property. A buffer area is recommended on the property at the southeast corner of Inverness Drive and Clinton Parkway to provide a *"landscape buffer for the low-density residential uses that are west of the property across Inverness Drive."* The plan states the buffer should be *"designed in a way to provide an effective buffer from the light and noise impacts associated with commercial development on the Inverness corner. Compliance with the buffer will be required with site plan/development plan approval."*

#### Buffer space along Inverness Drive:

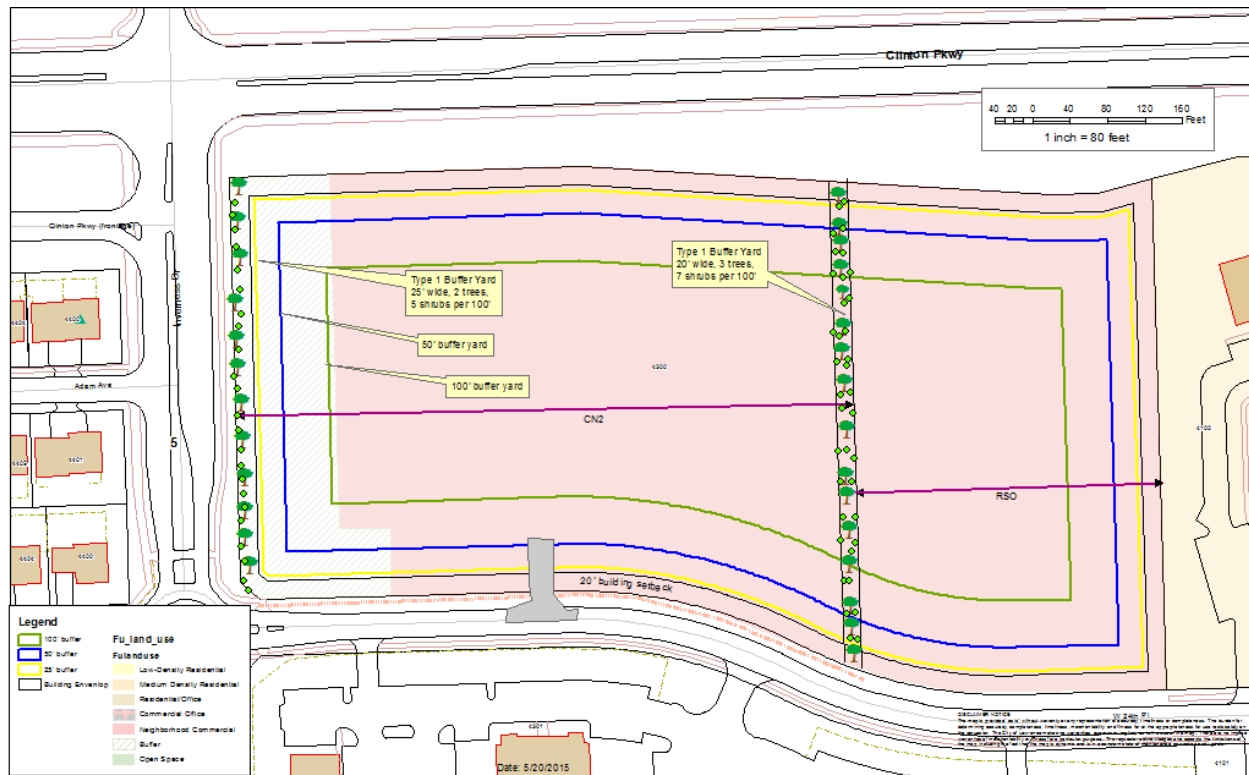
The primary use of this space is intended as Open Space/Landscaping and the zoning district would be the same as that of the property. Intensity of the space should be light. This would allow the space to be rezoned to the proposed CN2 District with the stipulation that development of the area should include substantial landscaping. Use of the space would include such amenities as seating areas, benches, water fountains, and shade structures that provide pedestrian amenities and signal a change from commercial to residential uses. The space should not be used as an outdoor patio/seating area for a restaurant as a private space for that use. Refer to Map 4-1 – Future Land Use for a graphic representation of the buffer area.

The plan does not specify a minimum or maximum width of the buffer yard. The following exhibit shows what various buffer yards along Inverness Drive might look like at





25', 50' and 100'. If approved, a buffer yard along the east property between the CN2 and the RSO would also be required per the Zoning Regulations.



The RSO district is a residential-office zoning district with a limitation on the type of housing restricted to only single-dwelling residences. These include attached, detached and duplex housing as well as non-ground floor dwellings and live work units when part of a mixed use development. This zoning district is recommended for use along Crossgate Drive and is generally referred to as parcel 4 in the *Inverness Park District Plan*. The subject property is currently zoned RSO and is allowed to develop these uses presently. As noted above the proposed rezoning application excludes the east three acres that would allow development of the existing, or remaining, area to be developed with duplex residential uses.

### Commercial – Neighborhood Center Development

Both the Inverness Drive and Crossgate Drive intersections with Clinton Parkway are indicated in the District Plan as appropriate for commercial uses as shown in the future land use map included in the District Plan. Commercial uses are recommended at a neighborhood scale. The area that is currently developed with the Hy-Vee gas station and convenience store includes approximately 3.9 acres. This site includes a car wash that has been approved but has not been constructed. A small pad site is designated on the northwest corner of W. 24<sup>th</sup> Place and Crossgate Drive. The proposed CN2 request is approximately 7 acres (10 acres including the surrounding right-of-way). The previous SUP request for development of the Inverness Drive intersection included approximately three acres (SUP-14-00026).

The plan states: *"Particular attention should be paid to properly designing a large-scale development on the Inverness Corner to fit into the context of the developed residential area. Preserving open space to help mitigate the size and scale of the development should be a priority."*



**Staff Finding** – The proposed CN2 zoning request conforms to the land use recommendation in the *Inverness Park District Plan*. Buffers laid out in the *Inverness Park District Plan* should be designed to mitigate any nuisances related to commercial development.

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

Property Owner's Response:

*"The current zoning restricts the site to residential/office uses which as the Inverness Park District Plan indicates is not suitable zoning for this land."*

Numerous concerns were raised before and during the creation of the *Inverness Park District Plan* adoption in 2012 regarding additional multi-dwelling residential development within the neighborhood. The current RSO district is no longer suitable for this property, being inconsistent with the recommended commercial land use. The plan states this property is best suited for a neighborhood commercial use with a restriction regarding multi-dwelling uses. The plan specifically states *"Additional multi-family uses in areas designated as Neighborhood Commercial are not suitable for that area."* To implement this limitation, if approved, the CN2 district would need to exclude multi-dwelling uses as part of the zoning approval.

The proposed represents the west 7 acres located along the immediate intersection of Inverness Drive and Clinton Parkway with the east 3.9 acres remaining RSO. The portion of the original tract remaining RSO is proposed for duplex development. Duplexes are not multi-dwelling uses as defined in the Zoning Regulations.

**Staff Finding** – The current RSO zoning is no longer suitable for this property given the adoption of the *Inverness Park District Plan*. Approval of the request facilitates development of the site consistent with adopted land use policies. The CN2 district allows multi-dwelling uses (Live Work Units and Non Ground Floor Units) identified as unsuitable for this area in the plan. If approved, this specific use should be prohibited as a condition.

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

Property Owner's Response:

*"The site has never been developed."*

Multiple development applications have been submitted for this property and either approved and never constructed or ultimately withdrawn by the applicant, since 2000 shortly after the property was originally annexed. Projects includes Silvercrest at Inverness an assisted living and independent living senior housing development (2000); The Fountains, a mixed residential retirement development (2004); Clinton Parkway Casitas, a multi-dwelling residential project (2009); and Family Fun Center and retail development (2013). A brief history of the land use and development proposals of property south of Clinton Parkway between Crossgate Drive and Inverness Drive is provided as an attachment to this report.

**Staff Finding** – This property has been zoned RSO since adoption of the Land Development Code in 2006. Prior to 2006, the property was zoned "RO" as part of the subdivision development plans.

## **7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES**

Property Owner's response:

*"The Inverness Park District Plan recognizes this site would be developed with more intensification which would lead to more activity, traffic, noise and light. A larger 65' landscape buffer has been provided along Inverness Drive to minimize light and noise for the properties west of Inverness. The traffic study indicates Inverness and 24<sup>th</sup> Street are able to serve this area without improvements."*

Staff concurs that traffic in the area will increase as the currently vacant properties are developed. No additional street or intersection improvements are necessary as a result of rezoning. As specific uses and development plans are submitted, traffic impacts will be evaluated and any additional improvements are identified at that time with the submission of a future development application.

Some uses allowed in the CN2 district are not appropriate or suitable for this location and were found to be detrimental to the neighborhood, prior to the creation of the *Inverness Park District Plan*, specifically multi-dwelling uses.

Any nuisances arising from rezoning will be addressed conditionally as stated in the *Inverness Park District Plan*, most notably, proper buffering for light and noise issues closest to adjacent residential structures. In addition, site plans require public notice and City Commission approval, in the Inverness Park District boundary.

**Staff Finding –** The proposed change facilitates development of this site consistent with planned land use of this property. The proposed change alters the land use expectations to include neighborhood commercial uses at the immediate intersection. This change is expected by staff to be beneficial to surrounding property owners by implementing the land use plan. Staff recommends that approval of the zoning prohibit multi-dwelling residential uses on this property.

#### **8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION**

Property Owner's Response:

*"Currently the walkability score of this neighborhood is low due to lack of neighborhood services being provided for the existing residents without using a car. Nearby neighborhood services greatly increase a neighborhoods ability to serve themselves on foot if needed or desired which would increase the health and welfare of the neighborhood. The safety of the neighborhood will be addressed appropriately through building design, cross walks and sidewalks to serve the residents. The hardship imposed on the landowner would be the land continuing to sit vacant even though the Inverness Park District Plan indicates development should occur on this site."*

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

If the rezoning request were denied, the property could remain vacant as an RSO property or develop with detached, attached or duplex uses allowed in the existing zoning. Previous applications for residential and commercial development have not succeeded. The property is recommended in the *Inverness Park District Plan* for neighborhood commercial uses.

If the rezoning were approved, the uses allowed for a majority of the property change from residential to commercial with a wide variety of commercial uses permitted. Prohibiting specific uses creates a compatible development with the existing neighborhood, as suggested by concerns raised by residents, and stated in the *Inverness Park District Plan*. Approval of the request will facilitate development and investment in existing property where infrastructure is immediately available. Denial of the request would prohibit the ability to develop the property as a neighborhood commercial center.

**Staff Finding** – Benefits to the community include the investment in property within an existing utility, transportation and service corridor. Denial of the request prohibits the applicant from developing the property as a commercial use. If approved, staff recommends the zoning should prohibit residential uses as a condition of the zoning ordinance.

### **PROFESSIONAL STAFF RECOMMENDATION**

The focus of this report is the specific land use request for CN2 zoning. This application was made concurrently with a preliminary plat that contemplates a 7-acre commercial site and 14 lots for duplex development for the remaining RSO zoned property. Some land uses allowed in the CN2 district are not appropriate for this location and would not be consistent with the adopted neighborhood plan. Specific uses that should be prohibited include: household living (Multi-Dwellings, Non-Ground Floor Dwelling, and Live Work Units).

The CN2 District allows the following eating and drinking establishments: Bar or Lounge; Brew Pub; Fast Order Food; Fast Order Food, Drive Thru (with SUP); Private Dining Establishment; and Restaurant, Quality. Other uses that can include a drive thru or order/pick up window require a SUP to evaluate the appropriateness of the use in a Neighborhood Commercial Center. This requirement provides adequate assurance that public interests are protected. This requirement does not guarantee that drive-thru uses will be approved. Peak-hour traffic would also be consistent with neighborhood oriented commercial development. High volume, multiple peak-hour traffic generators such as a chain “fast order food” use would not be consistent with neighborhood oriented commercial development. Prohibiting the use of “Fast Order Food, Drive Thru” also prohibits a “coffee shop” type use, which could easily serve neighborhood residents. Due to this inclusion, staff does not recommend prohibition of this use from the proposed CN2 district. Furthermore, per code, this use requires a Special Use Permit that ensures adequate notice and review ensuring neighborhood compatibility is preserved within the Inverness Park District.

Any development plans on the site are subject to site planning and City Commission approval; therefore, this requirement is included as a condition for approval.

Staff recommends approval of the proposed CN2 zoning.

### **CONCLUSION**

The current zoning of RSO is not consistent with the recommended use in the *Inverness Park District Plan* adopted in 2012. Rezoning to CN2 allows the parcel to be developed as a commercial development at a neighborhood-scale that implements the *Inverness Park District Plan*.