Agenda Item #_____

City of Wichita
City Council Meeting
January 9, 2001

Agenda Report #_____

TO: Mayor and City Council Members

SUBJECT: **ZON2000-00060; CUP2000-00050; DP-93 AMENDMENT #1 AND ZONE CHANGE FROM "MF-29" MULTI-FAMILY RESIDENTIAL TO "LC" LIMITED COMMERCIAL "GC" GENERAL COMMERCIAL, AND "LI" LIMITED INDUSTRIAL, LOCATED ON THE SOUTHEAST CORNER OF PAWNEE AND GEORGE WASHINGTON BOULEVARD.** (District #III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation: Approve, subject to platting and to conditions (7-4)

Staff Recommendation: Approve, subject to platting and to conditions.

D.A.B. Recommendation: Approve (9-0) subject to Staff recommendations and recommendations of Meadowlark Association of Neighbors, Inc., with exclusion of vehicle sales and car washes from all parcels.

Background: The applicant is proposing to amend DP-93 Spencer Gardens Residential Community Unit Plan and rezone the property from "MF-29" Multi-Family to "LC" Limited Commercial, "GC" General Commercial, and "LI" Limited Industrial. This amendment would change the C.U.P. from a residential C.U.P. to a predominantly commercial development. The total size of the Spencer Gardens would remain at 22.58 acres, and be divided into eight parcels.

Parcel sizes shown on the revised C.U.P. were as follows: Parcel 1 - 2.04 acres; zoned "LC"; Parcel 2 – 0.83 acre, zoned "LC"; Parcel 3 – 2.81 acres, zoned "LC"; Parcel 4– 0.92 acre, zoned "GC"; Parcel 5 - 4.23 acres, zoned "GC"; Parcel 6 – 0.91 acre, zoned "GC"; and Parcel 8 - 7.68 acres, zoned "LI".

Potential users for the parcels vary significantly. The southernmost parcel abutting Gypsum Creek would be zoned "LI" and is designed to accommodate a bus storage

facility or perhaps a "clean" manufacturing user. The eastern parcels located on the south side of Pawnee and east of the main entrance to the C.U.P. (between Crestway and Terrace) would be zoned "GC" and allow a broader range of commercial users. This might include mini-storage warehouses. The western parcels between the main entrance on Pawnee and George Washington Boulevard would be zoned "LC". Some of the potential users for these sites include a day care and typical fast-food types of restaurants. The remaining parcel, approximately 3 acres in size, is located on the interior of the site but has access to both Pawnee and George Washington. It would be zoned "LC" but potentially developed with multi-family use.

The parcels will all exclude pawnshops; secondhand stores; taverns; night clubs; drinking establishments; and adult entertainment. This will encourage a break from the "pawnshop" appearance of nearby Oliver. Parcel 1, the corner parcel, excludes public uses except churches, community assemblies, libraries, parks and recreation, government services and daycare. The other parcels west of the main entrance abutting Pawnee further exclude all residential uses and all public uses except daycare. In contrast, the interior parcel has the same exclusions as these parcels except that residential uses would be allowed. The parcels east of the main entrance would allow "GC" uses, but would have the same exclusions of public uses except daycare and residential.

The C.U.P. proposes a maximum building coverage of 30 percent. Maximum building height is 35 feet except for Parcel 9, which is 80 feet. Building setbacks are shown at 20 and 25 feet, below the minimum requirement for a C.U.P.

Five access openings were shown on Pawnee and two on George Washington Boulevard on the revised plan. The applicant proposes to prepare a plan for vehicular circulation and a pedestrian walk system to be reviewed prior to the issuing of building permits.

There is no requirement for uniform architectural control and uniform lighting. The applicant has agreed to provide additional landscaping along Pawnee to soften the commercial uses from residences across the street, and to screen any outdoor work or storage areas from view along Pawnee and George Washington Boulevard.

The type of development in the vicinity of Spencer Gardens varies. The area north of Pawnee is a well-maintained, predominately single-family residential neighborhood, Meadowlark. The area to the west, Plainview, is a predominately multi-family area. Most of the residences in Plainview near the application are in good condition. A third residential area is located to the northwest of the Pawnee/George Washington Boulevard intersection. This is the Schweiter area. Gypsum Creek borders the property on the south. The property immediately to the east is vacant except for a KGE substation. It was originally part of DP-93 (this C.U.P), but was separated into DP-169 Spencer Gardens Commercial C.U.P. in 1990. The property along Oliver, which is located a block farther to the east of the site, is a heavier commercial area and is occupied by several pawnshops, a furniture outlet and a Boeing office facility.

At the DAB #III meeting held December 5, 2000, there were many neighbors present who expressed concerns with the proposed development. Karin Smith, President of the the Meadowlark Association of Neighbors, Inc. presented a list of seven concerns about the proposed development. Most of the items requested by Meadowlark were the same or similar to conditions recommended by Staff. The requested conditions from Meadowlark were more specific regarding screening of the proposed "LI" tract. After extensive discussion by the board members, the Board recommended that the C.U.P. amendment and rezoning be approved subject to Staff recommendations, the requested concerns of Meadowlark Association of Neighbors, Inc. plus the additional exclusion of vehicle sales and car washes.

At the MAPC meeting held December 7, 2000, the agent for the applicant requested numerous changes in conditions recommended by Staff. The location of access openings was discussed and it was agreed to move the opening between Parcel 2 and 3 to a location on Parcel 3 between the opening of Belmont and Crestway on Pawnee. MAPC voted (7-4) to approve subject to Staff recommendations with the change in location of the opening on Parcel 3, plus the following changes: revise sign conditions to allow pole signs in the "LC" district and permit "LC" signage in the "GC" district; eliminate the prohibition on neon and backlit canopies; allow vehicle sales in "GC" and allow freight terminals in "LI". The MAPC recommendation included requirements for accel/decel lanes along the south side of Pawnee and responsibility for ½ the cost of improving Pawnee with a continuous left-turn lane. In subsequent discussions, Public Works has indicated that since this project is the factor creating the need for the left-turn lane, the applicant should be responsible for the full cost. This is an issue that needs additional discussion during the platting process.

Over 150 protests have been received on this case. As the attached map illustrates, although many of the protests are outside the legal protest area., 48.5% of the property within the protest has been filed. This requires ¾ **majority** by City Council for approval of the request. It should be noted that much of this opposition stems from the changes made during the MAPC hearing. There is substantial opposition to allowing vehicle and equipment sales, car washes, and freight terminals. A letter dated December 20, 2000, from Meadowlark Association of Neighbors, Inc. is attached.

Recommended Action:

1. Concur with the findings of the MAPC and approve the zone change and C.U.P. Amendment #1, subject to the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or

2. Return the application to the MAPC for reconsideration

(_____) Published in The Wichita Eagle on _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2000-00060

Request for zone change from "MF-29" Multi-family to "LC" Limited Commercial, "GC" General Commercial and "LI" Limited Industrial on property described as:

GENERAL COMMERCIAL ZONING DISTRICT
PARCELS 4, 5, 6

Beginning at the Northwest corner of Spencer Gardens 2nd Addition, to Wichita, Kansas;
Thence S0°16'20"W, on the West line of said Spencer Gardens 2nd, a distance of 445 feet;
Thence N89°44'23"W, a distance of 49.62 feet;
Thence N89°46'26"W, a distance of 548.34 feet;
Thence N0°16'20"E, a distance of 438.90 feet, to the South right-of-way line of Pawnee;
Thence N89°38'37"E, a distance of 598 feet, to the Point of Beginning.
Said parcels contain 264,265 square feet, more or less.

LIMITED COMMERCIAL ZONING DISTRICT
PARCELS 1, 2, 3, 7

Beginning at a point on the South right-of-way line of Pawnee, said point being 598 feet West of the Northwest corner of Spencer Gardens 2nd Addition, to Wichita, Kansas;
Thence S0°16'20"W, a distance of 438.90 feet;
Thence N89°46'26"W, a distance of 128.58 feet;

Thence N85°37'52"W, a distance of 633.53 feet, to the East right-of-way line of George Washington Boulevard;
Thence N45°34'00"W, a distance of 316.34 feet;
Thence N31°31°50"W, a distance of 103.08 feet;
Thence N45°34'00"W, a distance of 70 feet;
Thence N89°38'37"E, a distance of 70 feet;
Thence N75°36'27"E, a distance of 103.08 feet;
Thence N89°38'37"E, a distance of 922.32 feet, to the Point of Beginning.
Said parcels contain 384,481 square feet, more or less.

LIMITED INDUSTRIAL ZONING DISTRICT
PARCEL 8
Beginning at the Southwest corner of Spencer Gardens 2nd Addition, to Wichita, Sedgwick County, Kansas;
thence N69°17'40"W, a distance of 730.51 feet;
thence on a chord bearing of N84°47'43"W, a distance of 375.74 feet, to the West end of a curve to the left, with a radius of 702.96 feet and a delta of 31°00'05";
thence S79°42'15"W, a distance of 163 feet, to the East right-of-way line of George Washington Boulevard;
thence N45°34'00"W, a distance of 343.38 feet;
thence S85°37'52"E, a distance of 633.53 feet;
thence S89°46'26"E, a distance of 676.92 feet;
thence S89°44'23"E, a distance of 49.62 feet, to the West line of Spencer Gardens 2nd Addition;
thence S0°16'20"W, a distance of 84.99 feet;
thence N89°38'37"E, a distance of 107 feet;
thence S0°16'20"W, a distance of 368.15 feet, to the Point of Beginning.
Said parcel contains 335,294 square feet, more or less. Generally located at the southeast corner of Pawnee and George Washington Boulevard.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, _____

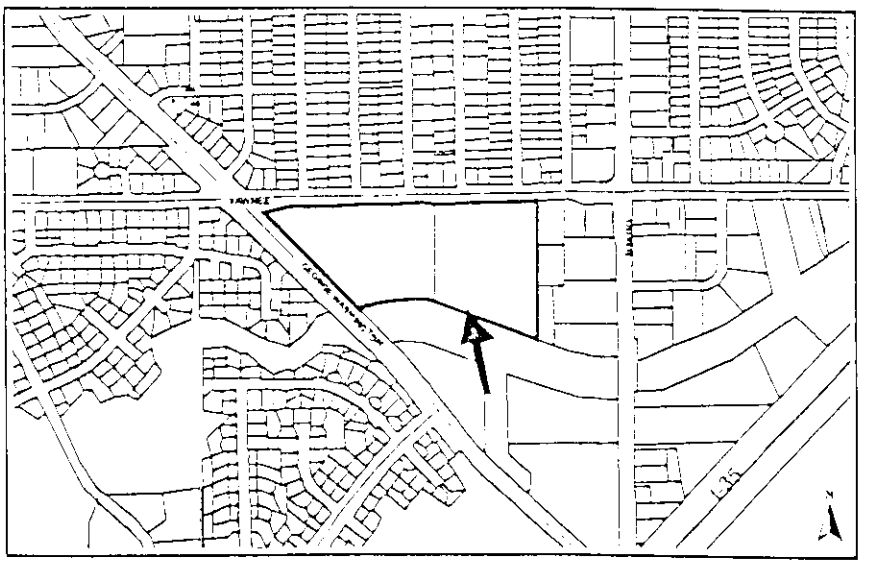
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WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. ____

STAFF REPORT
MAPC December 7, 2000
DAB III December 5, 2000

CASE NUMBER:	ZON2000-00060 & CUP2000-00050 DP-93 Spencer Gardens Residential C.U.P. Amendment #1
APPLICANT/AGENT:	Walter Morris & Sons c/o Mike Boyd (owner); Austin Miller, P.A. c/o Kim Edgington (agent)
REQUEST:	Zone change to "LC" Limited Commercial, "GC" General Commercial and "LI" Limited Industrial; and amend DP-93 Spencer Gardens Residential C.U.P. to allow mixed use development
CURRENT ZONING:	"MF-29" Multi-Family
SITE SIZE:	22.58± acres
LOCATION:	Southeast corner of Pawnee and George Washington Boulevard
PROPOSED USE:	Mixed commercial, industrial and residential development



BACKGROUND: The applicant is proposing to amend DP-93 Spencer Gardens Residential Community Unit Plan. This amendment would change the C.U.P. from a residential C.U.P. to a predominantly commercial development. The total size of the Spencer Gardens would remain at 22.58 acres, and be divided into nine, or possibly eight, parcels.

Parcel sizes shown on the C.U.P. drawing submitted for approval were follows: Parcel 1 - 2.04 acres; zoned "LC"; Parcel 2 and Parcel 3 – 0.44 acre, zoned "LC"; Parcel 4 – 2.58 acres, zoned "LC"; Parcel 5 and Parcel 6 – 0.92 acre, zoned "GC"; Parcel 7 - 4.23 acres, zoned "GC"; Parcel 8 – 3.32 acres, zoned "LC"; and Parcel 9 – 7.68 acres, zoned "LI". The applicant is evaluating parcel boundaries and proposed openings to coordinate entrances onto Pawnee better with the local streets to the north (Broadview, Belmont, Crestway, Terrace, and Pershing). The applicant may be providing a revised C.U.P. drawing that keeps the same orientation of users but shifts some of the parcel boundaries and sizes. Also, Parcels 2 and 3, which are very small, would be combined in this revision.

Potential users for the parcels vary significantly. The southernmost parcel abutting Gypsum Creek would be zoned "LI" and is designed to accommodate a bus storage facility or perhaps a "clean" manufacturing user. The eastern parcels located on the south side of Pawnee and east of the main entrance to the C.U.P. (between Crestway and Terrace) would be zoned "GC" and allow a broader range of commercial users. This might include mini-storage warehouses. The western parcels between the main entrance on Pawnee and George Washington Boulevard would be zoned "LC". Some of the potential users for these sites include a day care and typical fast-food types of restaurants. The remaining parcel, approximately 3 acres in size, is located on the interior of the site but has access to both Pawnee and George Washington. It would be zoned "LC" but potentially developed with multi-family use.

The parcels will all exclude pawnshops; secondhand stores; taverns; night clubs; drinking establishments; and adult entertainment. This will encourage a break from the "pawnshop" appearance of nearby Oliver. Parcel 1, the corner parcel, excludes public uses except churches, community assemblies, libraries, parks and recreation, government services and daycare. The other parcels west of the main entrance abutting Pawnee further exclude all residential uses and all public uses except daycare. In contrast, the interior parcel has the same exclusions as these parcels except that residential uses would be allowed. The parcels east of the main entrance would allow "GC" uses, but would have the same exclusions of public uses except daycare and residential. The applicant is willing to further restrict some of the uses. This will be discussed in the Recommendations section.

The C.U.P. proposes a maximum building coverage of 30 percent. Maximum building height is 35 feet except for Parcel 9, which is 80 feet. Building setbacks are shown at 20 and 25 feet, below the minimum requirement for a C.U.P.

Four access openings were shown on Pawnee and one on George Washington Boulevard on the plan submitted. The revised plan may show a fifth entrance on Pawnee, but situated at the extreme eastern edge of the C.U.P. The applicant proposes to prepare a plan for vehicular circulation and a pedestrian walk system to be reviewed prior to the issuing of building permits.

There is no requirement for uniform architectural control and uniform lighting. The applicant has agreed to provide additional landscaping along Pawnee to soften the commercial uses from residences across the street, and to screen any outdoor work or storage areas from view along Pawnee and George Washington Boulevard.

The type of development in the vicinity of Spencer Gardens varies. The area north of Pawnee is a well-maintained, predominately single-family residential neighborhood, Meadowlark. The area to the west, Plainview, is a predominately multi-family area. Most of the residences in Plainview near the application are in good condition. A third residential area is located to the northwest of the Pawnee/George Washington Boulevard intersection. This is the Schweiter area. Gypsum Creek borders the property on the south. The property immediately to the east is vacant except for a KGE substation. It was originally part of DP-93 (this C.U.P), but was separated into DP-169 Spencer Gardens Commercial C.U.P. in 1990. The property along Oliver, which is located a block farther to the east of the site, is a heavier commercial area and is occupied by several pawnshops, a furniture outlet and a Boeing office facility.

CASE HISTORY: The property is platted as Spencer Gardens Addition, recorded July 2, 1979.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"; "TF-3"	Single-family residences and duplexes
EAST:	"LC"	KGE substation, vacant, pawnshops, furniture store
SOUTH:	"LC"	Boeing office facility
WEST:	"MF-29"	Medium density residential (mixed housing types of single-family, duplexes, four-plexes, small garden apartments

PUBLIC SERVICES: Transportation access is via Pawnee, a four-lane arterial street, and George Washington Boulevard, also a four-lane arterial street. Average daily trips on George Washington were 8,065 in 1997 and projected to increase to 11,674 in 2030. Daily traffic on Pawnee in 1997 was 14,769. It is projected to increase to 21,787 in 2030, without accounting for the commercial development of this tract. The intersection of Pawnee and George Washington Boulevard is signalized, but lacks left turn lanes. During peak times, particularly shift change at Boeing and Cessna facilities nearby, the intersection suffers from lack of left turn lanes.

The intersection of Pawnee and Oliver is currently being improved to five-lane status. A medial extends from Oliver east on Pawnee as far west as Pershing, with a break for an opening into a commercial lot near the southwest corner of Pawnee and Oliver.

A bike path is being developed on the western side of George Washington Boulevard along Gypsum Creek.

Other municipal services are available. Inadequate water pressure is apparently a problem for residents. While it is beyond the scope of this report to analyze this issue, it should be noted that the development will increase water supply needs, and if there is an existing water supply problem it should be addressed during the platting process.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the area for "high density residential" use, in conformance with its existing "MF-29" zoning. The area to the east (DP-169) is shown for "commercial" use, the property across Pawnee for "low density residential", the property across George Washington Boulevard for "medium density residential", and the property along Gypsum Creek for "parkland/open space". The area is designated as a "conservation" area on the Wichita Residential Area Enhancement Strategy Map of the *Comprehensive Plan*.

RECOMMENDATION: Although DP-93 was approved as a residential C.U.P. and "MF-29" zoning has been in place since 1979, the property has remained undeveloped. The surrounding development is commercial in one direction, low density residential in another, and medium density in another, mirrored by the same variations in land uses recommended by the *Comprehensive Plan*. The area could be considered a converging point of different types of use. Also, since the property has been bypassed for high-density residential development for 20 years and surrounding development is even older, dating from the 1940s through 1960s, this project is considered "infill".

The proposed amendment would alter the C.U.P. from residential to predominately commercial uses. In most circumstances, the approval of higher intensity "GC" zoning on the eastern portion of the site would not be recommended. Some of this conflict is reduced because the applicant is willing to exclude many of the "GC" uses typically objectionable to nearby residences and provide additional landscaping.

One potential user is for a mini-storage warehouse. While it would not be subject to the "Conditional Use" requirements of the Unified Zoning Code, it is recommended that some of these "CU" provisions be incorporated within the C.U.P. to ensure compatibility with the residential neighborhood directly across Pawnee. These would include architectural design, landscape screening, and no visible outside storage.

Another potential use is a car wash, which would not be allowed as a use of right

since it is within 200 feet of residential zoning. The applicant would need to process a "Conditional Use" request as an amendment to the C.U.P. in order to locate a car wash on the property since it would be within 200 feet of residential zoning.

Other types of "GC" uses that are generally not encouraged within such close proximity to neighborhoods are carlots, outdoor recreation and entertainment, recreational vehicle campgrounds, manufacturing, vehicle storage yard, warehousing, welding and machine shops, and wholesale or business services, and construction sales and services. It is recommended that these uses be eliminated from the permitted uses on the "GC" parcels. Of these uses, the applicant has agreed eliminate microbrewery, recreational vehicle campgrounds, manufacturing, and vehicle storage yard. They wish to keep construction sales and services and wholesale or business services, but would require that all activities and materials are located inside buildings.

The proposed "LI" parcel is designed to accommodate a potential user that will be storing buses and providing ancillary services, including fuel storage and maintenance. Another potential use would be manufacturing. The applicant is willing to exclude the following "LI" uses: correctional facilities, correctional placement residences, microbrewery, asphalt plant, landfill, mining or quarrying, oil or gas drilling, rock crushing, solid waste incinerator, transfer station, and wrecking/salvage yard. It should be noted that most of these uses would require a Conditional Use anyway.

The parcels proposed for "LC" zoning are situated near residential uses and would generally be viewed as more suitable for "NR" zoning. However, George Washington Boulevard provides some buffering from the neighborhoods to the west, and the applicant has agreed to additional landscaping to further soften the impact. Potential uses include convenience stores, restaurants including fast-food restaurants

The Meadowlark Neighborhood Association has meet with the agent and has requested several restrictions, most of which have been agreed to by the applicant except for the request to exclude auto sales, dealers, or used auto dealers, and visual screening between the "LI" parcel and the parcels to the north. Regarding screening, both parties agree that the parcel should be screened so that it is not visible from Pawnee, however, the applicant feels screening of the Pawnee parcels should accomplish this purpose. Staff recognizes that the issue is two-fold. If the parcels closer to Pawnee provide screening that blocks the view, it is unnecessary to duplicate it. However, in similar situations when the screening was the responsibility of the property nearer the residences and this property remained undeveloped long after the more intense use was established, the effect was to have no screening. A recommendation is included to avoid this circumstance.

Another request by Meadowlark is to limit sign heights to 20 feet, in addition to the proposed restrictions. Staff feels that perhaps the sign requirements should be designed to reflect the nearness of the residences across Pawnee and George

Washington Boulevard and should be limited in size to 100 square feet per business.

Based on these factors and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. Drive openings on Pawnee shall be located directly across Pawnee from street entrances or located at the mid-point between the streets, and with a minimum separation of 320 feet from the opposing streets. Parcels shall share openings and cross-lot connections shall be provided.

2. The entrance onto George Washington Boulevard shall be right-in/right-out only.

3. The following transportation improvements shall be provided:

   A. Guarantee one-half the cost of adding a continuous center left-turn lane on Pawnee from George Washington Boulevard to the existing five-lane section near Oliver.
   B. Provide a continuous accel/decel lane along the south side of Pawnee.

4. The following uses shall be excluded in the "LI" district: asphalt plant, freight terminal, landfill, mining or quarrying, oil or gas drilling, rock crushing, solid waste incinerator, transfer station, wrecking/salvage yard, correctional placement residences, correctional placement facilities, and microbrewery. Any fuel storage shall be located in the northeast corner of the parcel and be screened from view of residential properties.

5. The following uses shall be excluded in the "GC" district: microbrewery, recreation and entertainment, outdoor; recreational vehicle campgrounds; manufacturing; vehicle and equipment sales, vehicle storage yard. Construction sales and services, warehousing, welding and machine shops; and wholesale or business services shall be permitted but all activities, equipment and materials shall be stored within a building.

6. Warehouse, self-service storage, use (mini-warehouses) on property zoned "GC" shall be subject to requirements as per the UZC Section III-D.6.y.3-16, 17, 18.

7. Building materials shall be predominately earth tones, with vivid colors limited to accents. No metal facades facing or visible from Pawnee or George Washington Boulevard shall be permitted.

8. Landscaping:

   A. Landscaping along Pawnee and George Washington shall be provided at a rate of 1.5 times the area and tree requirements of the Landscape

Ordinance.

B. The applicant shall be encouraged to maintain the grove of existing trees when possible, however, these trees shall not satisfy more than 50% of the tree requirement for the sites upon which they are located.
C. A buffer along the southern property line shall be provided at a rate of one tree every 40 feet.
D. A Landscape Plan, prepared by a Registered Landscape Architect in the State of Kansas, shall be submitted to the Director of Planning for approval prior to the issuance of any building permits.

9. Freestanding signs shall be of the monument type only and be limited to 20 feet in height and 100 square feet per business.

10. Use of backlit canopies and neon or fluorescent tube lighting on buildings is prohibited.

11. Screening shall be provided to screen any vehicle storage or outdoor storage from Pawnee, George Washington Boulevard, and nearby non-residential properties. In the event that the use to be screened is separated by an intervening commercial parcel but that the use would remain visible due to no development or lack of required screening on the intervening parcel, screening shall be provided by the parcel upon which the use is located.

12. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

13. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

14. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

15. All property included within this C.U.P. and shall be replatted within one year after approval of this C.U.P. by the Governing Body, or the case shall be considered denied and closed.

16. Prior to issuing a building permit on any portion of the expanded C.U.P., the applicant(s) shall record a document with the Register of Deeds indicating that this

tract (referenced as DP-196) includes special conditions for development on this property.

17. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning, uses and character of the area varies in each direction from the application area. With predominantly single-family use to the north and northwest, a range of housing types developed at medium residential densities to the west (Plainview), parkland/open space along Gypsum Creek to the south, and commercial to the east along Oliver.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, "MF-29", although it has been by-passed for development for this purpose for 20 years.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The greatest potential impact is to the properties along Pawnee in Meadowlark Neighborhood. The second impact is on the residences along George Washington Boulevard. In terms of existing zoning, only one tract on Oliver is currently zoned "GC", the remaining tracts are zoned "LC". This suggests that limitations on permitted uses, signage, landscaping and screening are needed to ensure that any potential "GC" uses along Pawnee and "LI" use along George Washington Boulevard be developed in a manner to reduce impacts on surrounding districts with less intense zoning.

4. Length of time the property has remained vacant as zoned: The property has been zoned for multi-family use since 1979, but remained vacant. Additionally, it was zoned for lower density use prior to 1979, and was not developed even though the properties to the north and northwest were developed in predominately single-family, with scattered duplexes during the 1940s through 1960s. The property to the west, Plainview, has been developed as a medium-density residential use since the 1940s.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The *Comprehensive Plan* shows the property for high-density residential use, which has not been realized. The proposed "commercial" and "industrial" use would extend the "commercial" area westward from its current location along Oliver. Quality development, if realized, supports the *Comprehensive Plan's* conservation guidelines of

encouraging new investment within the conservation area. It also supports policies of encouraging infill.

6. Impact of the proposed development on community facilities: The site will have an impact on traffic beyond that assumed by high-density residential use. This would be mitigated by the proposed transportation improvements.