

Postmp  
2-3-70

BZA 2-24-70 Approved

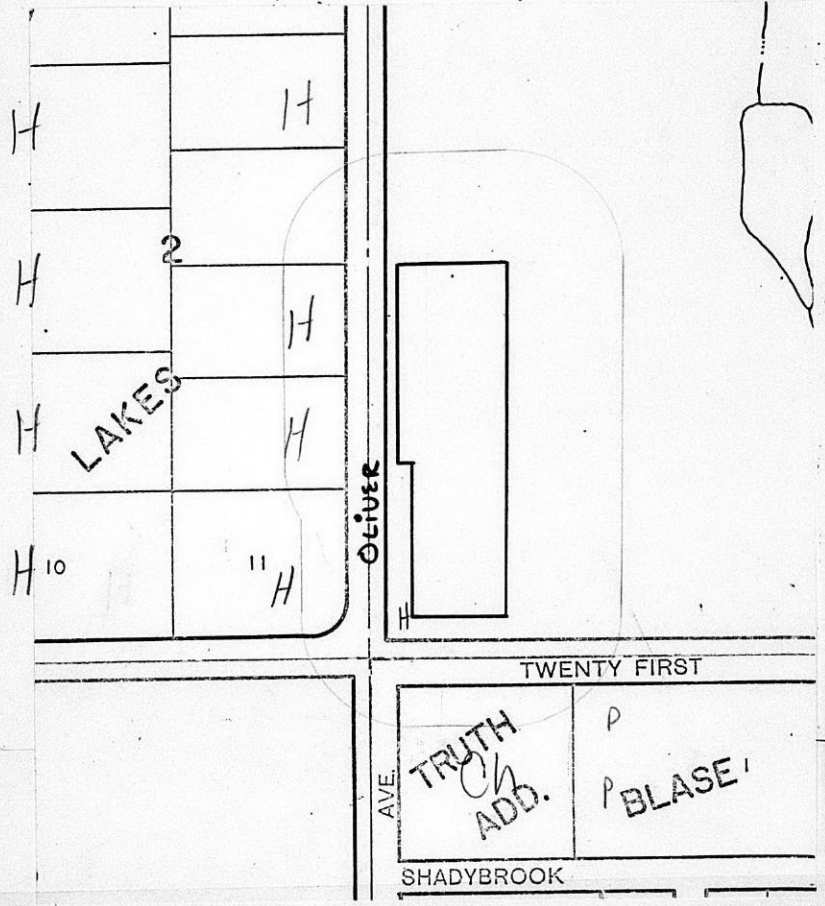
BZA 2-70 - University Mall, Inc.  
requests EXCEPTION to permit off-  
street parking at NE corner of 21st  
and Oliver.

Map No. 5850  
 Sec. 1  
 Twp. 27s  
 Range 1E

EZA 2-70  
 SCZ-  
 CU-  
 Filed

- AREA DATA:  
 1. Acres: 2.71 ( 625 ft. by 200 ft.)  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East OPEN South CHURCH  
 West SINGLES FAM North OPEN  
 4. Sketch Plan Land Use is for: RESID  
 5. Present Land Use is for: \_\_\_\_\_  
 6. Area ~~(is)~~ (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



DP 8

# THE CITY OF WICHITA



OFFICE OF THE CITY MANAGER  
CITY HALL - THIRTEENTH FLOOR  
435 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 258-4251

May 30, 1978

Mr. Thomas D. Jacob  
Architect  
5920 East Central  
Wichita, Kansas 67208

Dear Mr. Jacob:

This will acknowledge your letter of May 15, 1978, concerning your proposal to substitute greenery for brick pilasters to complete the landscaping for the development on the northeast corner of 21st and Oliver.

This office is agreeable to scheduling this matter before the City Commission at an early date provided the comments of all parties that have previously appeared before the City Commission are received to indicate neighborhood agreement with the substitution of ivy for brick pilasters. A review of the City Commission meeting minutes indicates that Dr. John Kiser, President of the Crestview Lakes Association, #12 Crestview Lakes, 67208, and Ms. Colleen Johnston, CPO Council "I", 4710 East 26th North, were the principal neighborhood representatives. It is noted that you provided copies of correspondence to Dr. Kiser, but not directly from him.

To proceed further, you should plan to contact the two above named individuals to secure their written approval and submit the same to this office. Upon receipt, we will place the matter on the City Commission meeting agenda.

Sincerely,

E. H. Denton  
City Manager

EHD/hsw

cc: Robert A. Lakin, Director of Planning  
Ray W. Bruggeman, Director of Public Works  
Robert Feldner, Superintendent of Central Inspection  
Colleen Johnston, CPO Council "I"  
Dr. John Kiser, President of Crestview Lakes Association



# THE CITY OF WICHITA



DEPARTMENT OF PUBLIC WORKS  
CENTRAL INSPECTION DIVISION  
CITY HALL - SEVENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

November 22, 1977

The Oliver Partnership  
5900 E. Central, Suite 201  
Wichita, Kansas 67208

Dillon Real Estate Company, Inc.  
P. O. Box 1608  
Hutchinson, Kansas 67501

Alcon Inc.  
Mr. Alfred A. Caro  
356 N. Rock Road  
Wichita, Kansas 67206

E. N. Maisel & Associates  
P. O. Box 35425 Seven Oaks Station  
Detroit, Michigan 48235

Mr. Wayne Wong  
6636 E. Murdock  
Wichita, Kansas 67206

Boettcher & Lieurance  
322 Laura  
Wichita, Kansas 67211

Malan Construction Company  
1736 Northland Park Court  
Detroit, Michigan 48075

William P. Higgins, P.A.  
Penthouse/Sutton Place  
Wichita, Kansas 67202

Thomas D. Jacob, A.I.A.  
5920 E. Central  
Wichita, Kansas 67208

James W. Sargent  
Vickers-KSB & T Building  
120 N. Market  
Wichita, Kansas 67202

Gentlemen:

Re: DP-8 University Gardens CUP: Northeast Corner of 21st and Oliver

The Board of City Commissioners of the City of Wichita, Kansas, has this date directed that no further Occupancy Certificates be issued, nor the occupancy of any additional premise be allowed on the above referenced project until all city requirements are complete. These requirements include items as follows:

In addition to all building and off-street parking requirements, all planting

SUPERINTENDENT OF CENTRAL INSPECTION ..... 268-4460  
BUILDING CODE ENGINEER ..... 268-4460  
PLAN EXAMINATION ..... 268-4477

HOUSING ..... 268-4481  
ZONING ..... 268-4479  
SIGNS ..... 268-4475

BUILDING & CONSTRUCTION ..... 268-4461  
PLUMBING & MECHANICAL ..... 268-4476  
ELECTRICAL & ELEVATOR ..... 268-4471



## THE CITY OF WICHITA

November 22, 1977

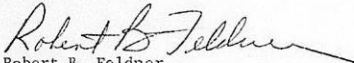
Re: DP-8 University Gardens CUP; Northeast Corner of 21st and Oliver  
Page 2

must be properly installed (excepting grass seeding), the screening wall properly installed and complete, and the water sprinkler system complete and operational in accordance with the revised planting plan, dated July 27, 1977, and in accordance with the provisions of the University Gardens CUP (DP-8) and the approved resolution of case no. BZA 2-70.

Based upon satisfactory completion of the above, occupancy may be allowed prior to grass seeding due to the weather constraints, however, seeding should transpire at the earliest possible date and must be completed prior to June 30, 1977.

Your immediate attention to this matter will be appreciated. If further information is desired, please feel free to contact this office at any time.

Respectfully,



Robert B. Feldner  
Superintendent of Central Inspection

RBF/imc

cc: E. H. Denton, City Manager  
R. W. Bruggeman, Director of Public Works  
John Dekker, Director of Law Department  
Robert Lakin, Director of Planning  
Jack Galbraith, Planning Department

25 AUGUST 1977

JACK GALBRAITH ROBERT FELDNER  
CITY BUILDING  
455 N. MAIN  
WICHITA, KANSAS 67202



RE: SCREEN WALLS  
21 ST & OLIVER  
UNIVERSITY GARDENS  
WICHITA, KANSAS

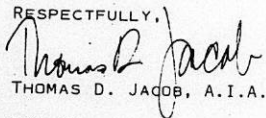
GENTLEMEN:

THIS LETTER IS TO SUMMARIZE OUR MEETING OF 25 AUGUST 1977, AT WHICH A REVIEW AND APPROVAL OF A AG-CAST CREATIVE CONCRETE PRODUCTS FENCE AT THE ABOVE REFERENCED LOCATION WAS MADE WITH THE FOLLOWING REQUIREMENTS:

1. THE LOWEST HEIGHT OF THE FENCE AT ANY POINT SHALL BE 4'-0" ;
2. AT 24' CENTERS A BRICK PIER WILL COVER THE PRECAST CONCRETE COLUMNS;
3. IF THE FENCE DOES NOT HAVE AN ACCEPTABLE COLOR IT WILL BE PAINTED TO A EARTH TONE COLOR IN THE TAN RANGE.

THANK YOU FOR YOUR COOPERATION ON THIS MATTER. THE FENCE CONSTRUCTION SHOULD START WITHIN THE NEXT 10 DAYS, AND SHOULD BE COMPLETED WITHIN THREE WEEKS. ALSO, BIDS WERE TAKEN ON 25 AUGUST FOR THE LAWN SPRINKLER SYSTEM.

RESPECTFULLY,

  
THOMAS D. JACOB, A.I.A.

TDJ:KB

CC: LINDY ANDEEL  
WILLIAM HIGGINS  
MOON MULLIN  
AL KNAPP

THOMAS D. JACOB, A. I. A. ARCHITECT 5920 E. CENTRAL WICHITA, KANSAS 67208 316 684-5268

WICHITA-SEDGWICK COUNTY

DATE

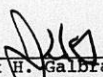
**METROPOLITAN AREA PLANNING DEPARTMENT**

August 25, 1977

TO Files  
FROM Jack H. Galbraith, Secretary - Board of Zoning Appeals  
and Chief Planner  
SUBJECT Wall associated with BZA 2-70 and DP-8

On this date, Bob Feldner and I met with Tom Jacobs, architect, who is responsible for designing the required four foot wall associated with the above-captioned cases. His latest proposal consisted of two inch thick concrete pre-cast panels that were approximately eight inches wide and eight foot long. It is proposed that these would be placed horizontally between concrete vertical posts and that every fourth post would be covered with brick. Jacobs stated that the brick would be comparable in color to that used in the Dillon Store and that the concrete panels would be painted a light beige color that would match the brick.

Bob Feldner and I agreed that the panels would be satisfactory and we emphasized that the minimum height was to be not less than four feet. We cautioned Jacobs that the contractor must obtain a permit prior to installing the fence.

  
Jack H. Galbraith, Secretary,  
Board of Zoning Appeals and  
Chief Planner

JHG:bh

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 261-4561

July 28, 1977

William P. Higgins  
Attorney at Law  
Penthouse/Sutton Place  
Wichita, Kansas 67202

Re: Amended Landscape Plan  
DP-8/- University Gardens  
and BZA 2-70

Dear Mr. Higgins:

This is to advise that we have received and reviewed the current landscape plan covering a portion of University Gardens community unit plan located at the northeast corner of 21st Street and Oliver. We understand that this plan has been submitted as a substitute for a landscape plan previously approved at the 21st and Oliver location which was modified by the removal of a number of trees originally existing on the property.

On the basis of our review, we find that the types, numbers and suggested locations of the landscape materials proposed on the landscape plan to be acceptable. We did notice, however, that a proposed 5 to 8 foot masonry wall which was shown on the previously approved landscape plan is not shown on the current landscape plan. The wall is required as a condition of approval (Condition No. 2) of the previous Board of Zoning Appeals Case Number BZA 2-70 and is to be located along the north line of the property involved in the BZA case.

In our earlier discussions, we had indicated a need for upkeep and maintenance on the materials planted and in particular, that adequate provisions be made for watering. The project Landscape Architect has advised that you and your clients together with representatives of adjoining properties, including K-Mart and Dillon's, are jointly considering the installation of an underground lawn sprinkler system. Such a system would be a very acceptable alternative to the "street washer" (recessed lawn hydrant) watering system previously discussed.

WICHITA — SEDGWICK COUNTY

William P. Higgins  
July 28, 1977  
Page 2

It is our understanding that plans for the required wall are nearly complete, that bids for the construction of the wall will be let in the next few weeks and that it is expected that construction on the wall will begin soon after, so that the 35 foot required planting area can be prepared for planting in the latter part of September and October. We would recommend that engineering be started on the sprinkler system so that it also can be installed prior to planting.

Based on our review of the plan and our understanding of the intent to construct the wall and sprinkler system prior to planting, the revised landscape plan dated July 20, 1977 is hereby approved subject to the following conditions:

1. The construction of the 5 to 8 foot masonry wall along the north line and the construction of the 4 foot wall along the east side of the 35 foot required landscape area adjacent to Oliver and along the north side of the required landscape area adjacent to 21st Street all as required in BZA Case 2-70 shall be completed prior to planting.
2. A system of either "street washers" on 200 foot centers or an underground lawn sprinkler shall be installed to provide an adequate water supply for maintenance of the proposed plantings.
3. That in accordance with the letter issued from the Office of Central Inspection dated July 12, 1977, no occupancy certificates shall be issued until such time as the walls, plantings and watering system are completed and the property is in compliance with the screening requirements of the approved Community Unit Plan and BZA 2-70.
4. The approval of this landscape plan is not to be construed as approving the other conditions of approval of either the BZA case or the Community Unit Plan.


As I understand, several of the proposed plant materials may have to be ordered from out of state because of their size. We would encourage that you enter into a contract for planting as soon as possible, emphasizing the desire to plant as large of plantings as possible so that your contractor can locate the materials and have them available for fall planting. If we can later be of assistance in review of the completed landscaping project to determine whether it meets the screening requirements, please advise.

WICHITA - SEDGWICK COUNTY

William P. Higgins  
July 28, 1977  
Page 3

After you and those receiving copies of these comments and conditions of approval, including a copy of the approved landscape plan, have an opportunity to review them, if there are any questions or disagreements, please submit in writing to me by August 12, 1977. We appreciate all of your attention to this matter in submitting the revised plan.

Sincerely,

  
Jack H. Galbraith  
Chief Planner

JHG:RLY:rme

cc: Lindy Andeel, 5900 E. Central, 67208  
Jim Kelley, Dillon, P. O. Box 1608, Hutchinson, Ks. 67501  
James W. Sargent, Vickers KSB&T Building, 67202  
Steve Perry, 1037 Coolidge, 67203  
E. H. Denton, City Manager, City Hall  
Tom Powell, Department of Law, City Hall  
Robert Feldner, Supt. of Central Inspection, City Hall  
John Firsching, Supt., Landscaping & Forestry, City Hall

THE CITY OF WICHITA  
OFFICE OF LAW DEPARTMENT

DATE July 22, 1977



TO Jack Galbraith, Chief Planner  
FROM Thomas R. Powell, Assistant City Attorney  
SUBJECT University Gardens CUP  
Violation

Mr. C. Robert Bell, in a telephone conversation I had with him, asked that I furnish the members of the Metropolitan Area Planning Commission a written explanation as to why the Department of Law is recommending that no criminal action be taken in regard to the removal of trees from the area of the above-listed property, wherein the Board of Zoning Appeals granted an exception for off-street parking. Therefore, in this memorandum I will attempt to explain the Law Department's position as to prosecution for removal of the trees.

The recommendation to not prosecute is based on the fact that the requirement that the existing trees be left is somewhat vague. Under criminal law, there must be a reasonable certainty as to what is intended to be prohibited. In the case at hand, this means that there has to be a reasonable certainty that it was intended that the trees were to remain. To make the determination as to whether or not reasonable certainty exists, it is first necessary to look at the Board of Zoning Appeals' resolution that pertains to the granting of the exception for off-street parking.

This resolution, at paragraph 5, makes reference to existing trees. Paragraph 5, in part, provides that "a detailed landscape plan for set-back areas on 21st and Oliver Streets showing the required walls on the west and north, existing trees and those to be retained . . . shall be submitted to the Secretary of the Board for approval . . .". (emphasis supplied)

I think it is clear that the statement in paragraph 5 that relates to the retention of the trees is clear and reasonably certain. It is reasonably certain that it is required that a landscape plan be submitted that shows the existing trees and those proposed to be retained.

Therefore, it is necessary to review the landscape plan to determine whether or not it provides reasonable certainty as to those trees that are to be retained.

Jack Galbraith, Chief Planner

page 2

July 22, 1977

The landscape plan, by symbol, designates the existing trees. However, the plan does not make mention or identify any existing trees that are to be retained. This lack of reference to trees to be retained creates an uncertainty that, in my opinion, would make prosecution of a criminal nature virtually impossible.

The CUP does not contain any direct reference to retention of trees and, therefore, does not clear up any uncertainties.

If you or any member of the MAPC have any further questions concerning the above or need any further clarification as to what is stated above, please contact me.

*Thomas R. Powell*

Thomas R. Powell  
Assistant City Attorney

TRP:cr

cc: Robert B. Feldner, Superintendent of Central Inspection  
Allen Inlow, Administrative Assistant

THE CITY OF WICHITA  
OFFICE OF LAW DEPARTMENT

DATE July 20, 1977



TO Jack Galbraith, Chief Planner  
FROM Thomas R. Powell, Assistant City Attorney  
SUBJECT University Gardens

After reviewing the facts concerning the removal of the trees at the University Gardens Shopping Center site, and after discussing the matter with you and Bob Feldner, it would be my recommendation that no criminal proceedings be brought at this time.

First, it appears that an attempt is being made at this time by the landowners to bring the property into compliance with the CUP. It is my further understanding that you have met with representatives of the landowners, and that a landscape plan has been submitted. It is also my understanding that you are to meet with the landowners on Wednesday the 20th and at that time further discussion will occur concerning the landscaping of the area.

Secondly, Bob Feldner has written a letter to the various landowners informing them that no occupancy certificate will be issued until satisfactory resolution of the screening requirement is met. This requirement should assure that proper screening will be provided.

Lastly, I am somewhat hesitant to recommend to Central Inspection that someone from that division sign a complaint at this time for the reason that, from a criminal prosecution standpoint, the provision of the Board of Zoning Appeals' exception that provides that the trees remain is somewhat vague.

Thomas R. Powell  
Assistant City Attorney

TRP:cr

*Forwarded to PC on  
7/21/77 JHO*

July 29, 1977

Metropolitan Area Planning Commission

Jack H. Galbraith, Chief Planner

Additional Material Re: DP-8 - University Gardens

Attached is a copy of my letter to Bill Higgins approving the revised landscape plan for University Gardens Shopping Center. Also attached is a copy of a memorandum from Tom Powell explaining the Legal Department's position regarding the removal of trees.

This is provided for your information and if you have questions, please call.

Jack H. Galbraith  
Chief Planner

JHG:el

Attachments

THE CITY OF WICHITA  
OFFICE OF Central Inspection

DATE July 20, 1977



TO Robert Lakin, Director of Planning Department  
FROM Robert B. Feldner, Superintendent of Central Inspection

SUBJECT University Gardens CUP - Northeast  
Corner of 21st and Oliver

This correspondence is provided for your information, and is intended to provide a summary of Central Inspection Division's file on the above titled project. Hopefully this information will be of assistance in the formulation of written and oral reports to the Metropolitan Area Planning Commission, etc., as the files have grown to voluminous proportions. Rather than laboriously reiterate the entire file from July 7, 1965, forward, the information will be listed chronologically beginning May 31, 1977, as follows:

May 31, 1977 - Received memo from Jack Galbraith to Mary Pitman, CPC Office, advising Superintendent of Central Inspection of removal of trees, violation of screening provisions.

June 1 and June 2, 1977 - Site inspection conducted, contact initiated with The Oliver Partnership and the project attorney, Mr. William Higgins. Arrangements made for a meeting with the Superintendent of Central Inspection.

June 2, 1977 - Received memo from Galbraith to Feldner, dated June 1, 1977, providing further information and recommending immediate replacement of screening.

June 8, 1977 - Mr. Higgins office advised that he had been hospitalized, thus the meeting date changed to June 21, 1977.

June 16, 1977 - Received memo's from Lakin to Feldner and Lakin to E. H. Denton, dated June 14, 1977, advising of motion by M.A.P.C. that requests expeditious follow-up by C.I.D., City Commission communication by the Manager and recommended that the Superintendent of Central Inspection "cause construction to cease . . .".

June 21, 1977 - Galbraith met with Feldner to determine reasonable requirements for transmittal to Mr. Higgins in afternoon meeting. It was decided that submission of a new planting plan, including the screening wall and wall section details was in order. In the scheduled meetings Feldner, Allen Inlow and Ed Azim were present for the city with Higgins and Thomas Jacob, Architect, representing the developers. Higgins and Jacob readily agreed to the requirements, stated their intent to comply in a timely manner and supplied prior correspondence from Kenneth H. Bengston (of VanDoren-Hazard-Stallings) to Lindy Andeel and Thomas D. Jacob to Lindy Andeel as evidence of their good intentions.

July 20, 1977

Page 2

Subject: University Gardens CUP - Northeast Corner  
of 21st and Oliver

June 22, 1977 - Feldner forwarded report on project and June 21 meeting to Denton, Lakin, Galbraith, Dekker, Linn, Pitman, and Firsching of City Staff, including attachment of letters provided by Higgins.

June 24, 1977 - Received letter from Higgins to Feldner, Galbraith, Denton and City Commission, dated June 22, 1977, which expressed discontent with off-agenda consideration of this matter by the M.A.P.C.

July 1, 1977 - Received copy of memo from Evelyn Pitman, CPO, to Galbraith, dated June 30, 1977, reporting possible violations of the CUP in the construction of buildings.

July 7, 1977 - Received memo from Galbraith to Pitman, dated July 5, 1977, answering that the reported violations to the CUP in the construction of buildings was without merit, the structures were compliant. C.I.D. concurred.

July 8, 1977 - Received hand transmitted memo from Lakin to Feldner, dated July 8, 1977, which contained a motion from M.A.P.C. that this matter be referred to the Law Department for court action. The memo also carried the recommendation that no additional building permits be issued until this matter is resolved.

Acting on advice from Mr. Powell, Assistant City Attorney, and with the concurrence of the Director of Public Works; Inlow acting in the Superintendent of C.I.D.'s behalf, drafted and transmitted a memo to all affected, stopping permit issuance for all parcels of the CUP.

July 11, 1977 - Powell conducted a meeting with Feldner, Inlow, Lakin and Dobson in attendance. The motion of MAPC and all prior materials and events were discussed. Powell decided that alternatives other than court were the best course of action at this time and that building permits should be issued; however, it would be at the applicants risk as occupancy would be denied until the Superintendent was in agreement that all requirements had been satisfied. It was the concensus that all owners of record should be notified of this provision. Powell stated he would continue to monitor the project for any further action if necessary.

A memo was drafted and transmitted to all affected, recinding the restrictions on building permits.

July 12, 1977 - Letter forwarded from the Superintendent of C.I.D. to the University Gardens owners of record and their known agents, advising them that screening and all CUP requirements must be compliant prior to any occupancy.

July 13, 1977 - Received memo from Galbraith to Feldner, dated July 12, 1977, advising that a revised landscape plan has been submitted, including screening wall details. Galbraith stated plan is in review process.

July 20, 1977

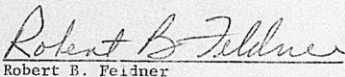
Page 3

Subject: University Gardens CUP - Northeast Corner  
of 21st and Oliver

July 15, 1977 - Received copy of letter from Galbraith to Higgins, dated July 14, 1977, and suggesting that certain modifications be made to the plan prior to approval.

July 18, 1977 - Galbraith conducted meeting with Powell, Feldner, and Inlow where decision was made to maintain prior requirements, including occupancy, with no further action; subject to the continued efforts of the developer.

As previously stated, Central Inspection will continue to monitor this project with the intent of insuring that all applicable city requirements will be satisfied.

  
Robert B. Feldner  
Superintendent of Central Inspection

REF/imc

cc: R. W. Bruggeman, Director of Public Works  
✓ Jack Galbraith, Planning Department  
Tom Powell, Assistant City Attorney

July 14, 1977

William P. Higgins  
Penthouse/Sutton Place  
Wichita, Kansas 67202

Re: Amended Landscape Plan  
DP-8 - University Gardens  
and BZA 2-70

Dear Mr. Higgins:

This is to acknowledge the July 12, 1977 receipt of an amended landscape plan covering the 35 foot planting strip associated with the University Gardens Community Unit Plan (DP-8) and the City Board of Zoning Appeals Case No. BZA 2-70.

The preliminary landscape plan has been reviewed by the staff of the Planning Department and the City's Superintendent of Landscape and Forestry. On the basis of this review, it is suggested that, prior to approval, the preliminary plans be modified to accommodate the following concerns:

1. The Sugar Maples indicated on the face of the plan are known to be susceptible to wind damage and are shallow rooted. The shallow root system may cause buckling of the adjacent masonry wall and disruptive infiltration of any nearby sewer lines. The substitution of a stronger, fast growing, deeper rooted variety such as a fruitless Mulberry, would be desirable.
2. The thornless Honey Locust trees prefer a light, well drained soil. The soils in the 21st and Oliver vicinity are generally heavy clay soils. The planting specifications should, therefore, emphasize backfilling the planting pit with a good light soil.
3. It was noted that two thornless Honey Locust trees were proposed at the north end of the planting strip in place of a previously proposed vehicle access point. A massing of 4 to 5 Sweet Gum or fruitless Mulberry trees would provide a more desirable screening effect at this location.

Page Two  
William P. Higgins  
July 14, 1977

4. In our initial discussion with you on July 12, 1977, it was noted that there appeared to be a reduction in proposed plant materials on the current landscape plan from what was proposed on the landscape plan originally approved on October 2, 1975. It was particularly noted that almost all of the shrubbery along the outside of the 4 foot masonry wall bordering Parcel #8 on the west and south side is no longer proposed to be planted. This reduction is in addition to the absence of the 22 trees in the 35 foot planting strip shown to be existing on the original landscape plan. By actual count, we have now determined that on Parcel 8, the current landscape plan proposes the planting of 30 trees in place of the 22 existing and 20 proposed on the prior plan, 2 shrubs proposed in place of the 48 shrubs proposed for planting on the prior plan, and no specialized ground cover whereas, the previously approved landscape plan proposed 125 sprigs of Purple Leaf Honeysuckle. It is strongly recommended that massings of shrubbery be reintroduced at selected points along the masonry wall. These massings should be informally spaced to break the monotony of the continuous wall. Zebra Honeysuckle, Pyracantha, and Euonymus are among the varieties suitable for western and southern partially shaded exposure that will eventually exist when masonry wall is constructed and the proposed trees mature.
5. Successful execution of the landscape plan proposals to accomplish the desired effect will require regular attentive maintenance of the landscape materials. Of primary importance in any maintenance program in our south central Kansas climate is an adequate watering system. In our earlier discussion you indicated the possibility of using metered street washers to provide water for the landscape strip. On the basis of the maintenance experiences of the City Superintendent of Landscape and Forestry, it is suggested that street washers be spaced not more than 200 feet apart and that these proposed locations be indicated on the landscape plan.
6. As you have indicated a desire to proceed as quickly as possible to execute the requirements of the approved Community Unit Plan, it is suggested that early contact be made with the nurseryman of your choice to secure and reserve the larger

Page Three  
William P. Higgins  
July 14, 1977

planting stock for installation during the coming fall  
planting season.

As we discussed when you submitted the plans, I will follow up  
and contact Steve Perry and we will review in detail our recom-  
mendations on revising the landscape plan. If you have any  
questions concerning the above comments, please contact our  
office.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:RLY:el

cc: Lindy Andeel, 5900 E. Central, 67208  
Jim Kelley, Dillon, P.O.Box 1608, Hutchinson, Ks. 67501  
Steve Perry, 1037 Coolidge, 67203  
E. H. Denton, City Manager, City Hall  
Tom Powell, Dep't. of Law, City Hall  
Robert Feldner, Sup't. of Central Inspection, City Hall  
John Firsching, Sup't. Landscaping & Forestry, City Hall

July 12, 1977

Robert Feldner, Superintendent - Central Inspection

Jack H. Galbraith, Chief Planner

Required Landscaping Plan in University Garden  
Shopping Center - DP-8 and BZA 2-70

On this date, Bill Higgins and Steve Perry submitted the attached revised landscape plan for the areas adjacent to Oliver and 21st Street. Wanted you to be aware that this plan has been submitted and that I am in the process of reviewing the plan with John Firsching, City Forester. Higgins also asked that I forward to you a transmittal and wall detail for the required 4 foot wall adjacent to Oliver and 21st Street, as indicated on the attached landscape plan.

I expect that the landscape plan will have to be revised and at such time as an approved copy is available, I will forward one to you for your files.

Jack H. Galbraith  
Chief Planner

JHG:el

Enclosures

TO

BILL HIGGINS  
 SUTTON PLACE BUILDING  
 209 E. WILLIAM  
 WICHITA, KANSAS 67202

DATE	JOB NO.
12 JULY 1977	
ATTENTION .	
BILL HIGGINS	
RE	

GENTLEMEN  
 WE ARE SENDING YOU Attached Under separate cover via the following items:

- Drawings   
  Prints   
  Plans   
  Samples   
  Specifications  
 Copy of letter   
 Change order   
 \_\_\_\_\_

COPIES	DATE	NUMBER	DESCRIPTION
1			FRAME DETAIL FOR 21ST & OLIVER

THESE ARE TRANSMITTED as checked below:

- For approval  
 For your use  
 As requested  
 Approved as submitted  
 Approved as noted  
 Returned for corrections  
 Resubmit \_\_\_\_\_ copies for approval  
 Submit \_\_\_\_\_ copies for distribution  
 Return \_\_\_\_\_ corrected prints  
 For review and comment  
 For bids due \_\_\_\_\_ 19\_\_\_\_  
 Prints returned after loan to us

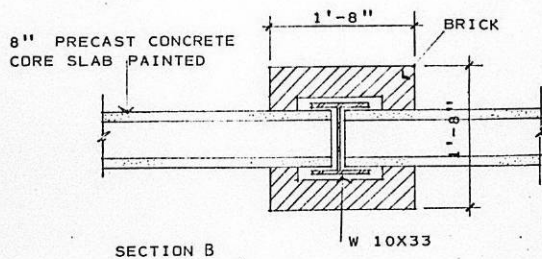
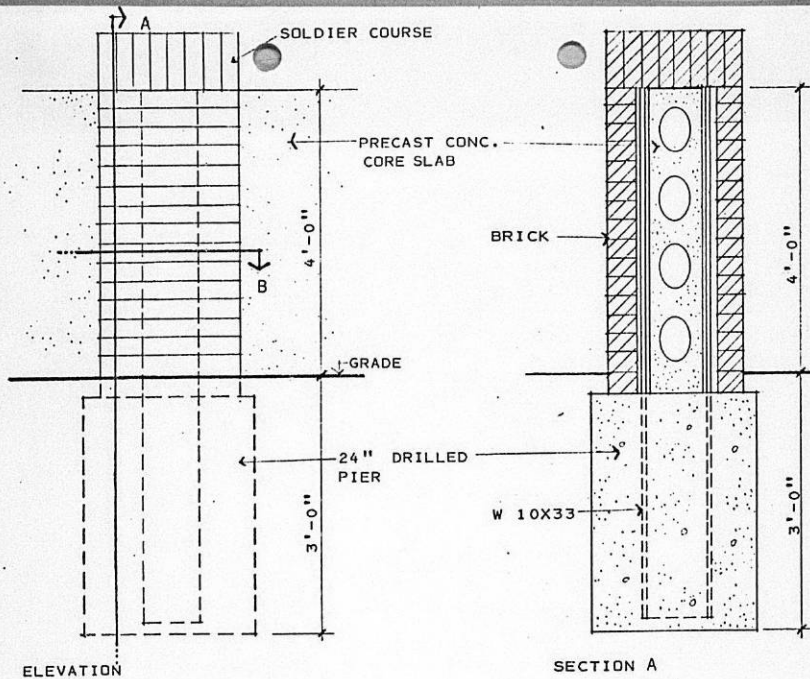
REMARKS FENCE SIMILIAR IN CONSTRUCTIC  
TD RETAINING WALL ALREADY INSTALLED  
ON NORTH PROPERTY LINE.

SIGNED: \_\_\_\_\_

THOMAS D. JACOB, A. I. A. ARCHITECT 5920 E. CENTRAL WICHITA, KANSAS 67208 316 684-5268

**TRANSMITTAL**

*Received 7/12/77 from Higgins*  
*JAS.*



FENCE DETAIL  
SCALE : 3/4" = 1'-0"

23 FEBRUARY 1977

THOMAS D. JACOB, A. I. A. ARCHITECT 5920 E. CENTRAL WICHITA, KANSAS 67208 316 684-5268

*Received 3/12/77  
from Higgins JMS*

THE CITY OF WICHITA



DEPARTMENT OF PUBLIC WORKS  
CENTRAL INSPECTION DIVISION  
CITY HALL — SEVENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

July 12, 1977



The Oliver Partnership  
5900 E. Central, Suite 201  
Wichita, Kansas 67208

Dillon Real Estate Company, Inc.  
P. O. Box 1608  
Hutchinson, Kansas 67501

Alcon Inc.  
Mr. Alfred A. Caro  
356 N. Rock Road  
Wichita, Kansas 67206

E. N. Maisel & Associates  
P. O. Box 35425 Seven Oaks Station  
Detroit, Michigan 48235

Mr. Wayne Wong  
6636 E. Murdock  
Wichita, Kansas 67206

Boetcher & Lieurance  
322 Laura  
Wichita, Kansas 67211

Malan Construction Company  
1736 Northland Park Court  
Detroit, Michigan 48075

William P. Higgins P.A.  
Penthouse/Sutton Place  
Wichita, Kansas 67202

Thomas D. Jacob, A.I.A.  
5920 E. Central  
Wichita, Kansas 67208

Dear Sirs:

This letter shall serve as official notification that the removal of the existing trees and absence of screening constitutes a violation of the University Gardens Community Unit Plan, DP-8, generally located on the northeast corner of the 21st Street and Oliver intersection. Building permits for development of these parcels will continue to be issued at this time and permitted construction may continue. However, no building permit will be indicated complete. No Occupancy Certificate issued nor occupancy of any premise allowed until satisfactory resolution of the screening requirements

SUPERINTENDENT OF CENTRAL INSPECTION .....268-4460  
BUILDING CODE ENGINEER .....268-4468  
PLAN EXAMINATION .....268-4477

HOUSING .....268-4481  
ZONING .....268-4479  
SIGNS .....268-4475

BUILDING & CONSTRUCTION .....268-4461  
PLUMBING & MECHANICAL .....268-4476  
ELECTRICAL & ELEVATOR .....268-4471

THE CITY OF WICHITA

July 12, 1977  
Page 2

At the request of the Metropolitan Area Planning Commission, I have forwarded this matter to the city's Director of Law for his review and recommendations as to any further action.

If further information is desired, please feel free to contact this office at anytime.

Respectfully,



Robert B. Feldner  
Superintendent of Central Inspection

RBF/imc

cc: R. W. Bruggeman, Director of Public Works  
Robert Lakin, Director of Planning  
Tom Powell, Law Department  
✓ Jack Galbraith, Planning Department

HUGH W. GIBSON  
2535 Fenner Place  
Wichita, Kansas 67220



July 11, 1977

Robert A. Lakin, Director of Planning  
Wichita-Sedgwick County Metropolitan Area Planning Dept.  
City Hall, Tenth Floor  
455 N. Main St.  
Wichita, Kansas 67202

Dear Bob:

Thank you for your letter of July 7. I appreciate the Commission's attention to my concern for the situation at 21st and Oliver.

I, too, hope that people express their preferences through their consumer practices. Although there is some choice in relation to architectural differences, etc., there is little in Wichita in relation to plantings and landscaping that I'm aware of. Twin Lakes, which I patronize, is certainly more of an aesthetic contribution to the community than the scene across the street to the west, which I try to avoid.

There is, of course, nothing absolute about aesthetic values, but I think that in our culture there is relative preference for creativeness and naturalness in contrast to stark utilitarianism. And I think that the environmental influences expressed through developments of this kind are interrelated with the general quality of life and other community conditions, although I'm not familiar with specific evidence about this.

There are, to be sure, costs associated with the idea. The cost of landscaped space would have a little bit of effect on prices, and the standards should be the same for other types of facilities (the parking lots at W.S.U., for instance), which would involve public expense.

A great deal of public discourse would have to precede any regulatory steps, I know, but I think that what has occurred in the situation mentioned above makes for a special case in which the developer has a responsibility apart from existing regulatory standards. I hope the Commission does not allow a precedent to be set in which even minor efforts to protect our living environment are permitted to be callously ignored.

Sincerely,

A handwritten signature in dark ink, appearing to read "Hugh W. Gibson".

Hugh W. Gibson

# THE CITY OF WICHITA



DEPARTMENT OF PUBLIC WORKS  
CENTRAL INSPECTION DIVISION  
CITY HALL — SEVENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

July 12, 1977

The Oliver Partnership  
5900 E. Central, Suite 201  
Wichita, Kansas 67208

Dillon Real Estate Company, Inc.  
P. O. Box 1608  
Hutchinson, Kansas 67501

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Mr. Wayne Wong  
6636 E. Murdock  
Wichita, Kansas 67206

Dear Sirs:

This letter shall serve as official notification that the removal of the existing trees and absence of screening constitutes a violation of the University Gardens Community Unit Plan, DP-8, generally located on the northeast corner of the 21st Street and Oliver intersection. Building permits for development of these parcels will continue to be issued at this time and permitted construction may continue. However, no building permit will be indicated complete. No Occupancy Certificate issued nor occupancy of any premise allowed until satisfactory resolution of the screening requirements



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5920 E. Central  
Wichita, Kansas 67208

SUPERINTENDENT OF CENTRAL INSPECTION \_\_\_\_\_ 268-4400  
BUILDING CODE ENGINEER \_\_\_\_\_ 268-4408  
PLAN EXAMINATION \_\_\_\_\_ 268-4477

HOUSING \_\_\_\_\_ 288-4481  
ZONING \_\_\_\_\_ 288-4479  
SIGNS \_\_\_\_\_ 288-4475

BUILDING & CONSTRUCTION \_\_\_\_\_ 268-4401  
PLUMBING & MECHANICAL \_\_\_\_\_ 268-4476  
ELECTRICAL & ELEVATOR \_\_\_\_\_ 268-4471

THE CITY OF WICHITA

July 12, 1977  
Page 2

At the request of the Metropolitan Area Planning Commission, I have forwarded this matter to the city's Director of Law for his review and recommendations as to any further action.

If further information is desired, please feel free to contact this office at anytime.

Respectfully,



Robert B. Feldner  
Superintendent of Central Inspection

RBF/imc

cc: R. W. Bruggeman, Director of Public Works  
✓ Robert Lakin, Director of Planning  
Tom Powell, Law Department  
Jack Galbraith, Planning Department

7/12/77

Higgins and Steve Perry delivered revised copies of a landscape plan for the University Gardens Area on the date. We discussed the following and Higgins comments are noted.

- Transmittal letter and names of owners to correspond with. Higgins advised that he would not submit a transmittal letter stating terms, anticipated completion, or make any comments in writing associated with the case.
- Size, Type and Specification of plant materials. We discussed the selection of plant materials, I questioned several varieties, the number of shrubs. Also noted that shrubs have been removed and substituted by trees.
- Watering System. Proposed street water-separate meter. Fencing says should be 200' apart.
- Estimated cost \$8,500
- When will be planted - Thoughts raised that wall would be constructed in the next few weeks, planting occurs in Sept & October.
- Cash Guarantees - Higgins thought unnecessary.
- Fencing Zabeli Hovsepian, Frank Sullberg and Soviet Bank.

○ UNIVERSITY GARDENS  
LANDSCAPE PLANS

Parcel 8	ORIGINAL PLAN		CURRENT PLAN	
	EXISTING	PROPOSED	EXISTING	PROPOSED
<u>TREES</u>	23		0	
AUSTRIAN PINE		3		11
SCOTCH PINE		3		5
RADIANT CRAB		6		3
HOPA CRAB		7		2
THORNLESS HONEYLOCUST		1		3
SWEET GUM		0		1
SILVER MAPLE		0		3
MARSHALL'S SEEDLESS ASH		0		2
<u>SUB TOTAL</u>	23	20	0	30
<u>SHRUBS</u>	0		0	
FLOWERING GUINEE		10		0
PYRACANTHA		8		2
TAMARIX JUNIPER		24		0
PAMPAS GRASS		6		0
<u>SUB TOTAL</u>	0	48	0	2
<u>GROUND COVER</u>				
PURPLE LEAF HONEYSUCKLE	0	125	0	0
K-31 FESCUE		PART OF 27,000 <sup>sq</sup> '		PART OF 27,000 <sup>sq</sup> '
<u>SUB TOTAL</u>	0	125	0	0
<u>TOTAL</u>	23	193	0	32

	ORIGINAL PLAN		CURRENT PLAN	
	EXISTING	PROPOSED	EXISTING	PROPOSED
<u>North of Parcel 8</u>				
<u>TREES</u>	0		0	
AUSTRIAN PINE		6		6
SCOTCH PINE		3		3
RADIANT CRAB		5		6
HOPA CRAB		6		6
THORNLESS HONEYLOCUST		4		6
<u>SUB TOTAL</u>	0	24	0	27
<u>SHRUBS</u>	0		0	
PYRACANTHA		8		8
TAMARIX JUNIPER		46		10
PAMPAS GRASS		9		10
<u>SUB TOTAL</u>	0	63	0	28
<u>GROUND COVER</u>	0		0	
PURPLE LEAF HONEYSUCKLE		175		175
K-31 FESCUE		PART OF 27,000 <sup>sq</sup>		PART OF 27,000 <sup>sq</sup>
<u>SUB TOTAL</u>	0	175	0	175
<u>TOTAL</u>	0	262	0	230
<u>GRAND TOTAL</u>	23	455	0	262

WICHITA-SEDGWICK COUNTY

26  
DATE July 8, 1977

**METROPOLITAN AREA PLANNING DEPARTMENT**

TO Robert B. Feldner, Superintendent of Central Inspection  
FROM Robert A. Lakin, Director of Planning  
SUBJECT DP-8 and BZA 2-70  
Zoning Violation, 21st Street North and Oliver

The Planning Commission, at its meeting of July 7, brought up off agenda the matter of the zoning violation at 21st and Oliver. We reported to them the action taken to date. The Planning Commission feels that more vigorous action should be taken and passed the following motion:

**MOTION:** That the Planning Commission resolves that Central Inspection is exhorted by this body to take the matter of the alleged violations at 21st Street North and Oliver up with the Law Department and assure that appropriate action against the developers is taken as quickly as possible so that the matter can be presented to a court of law and be disposed of. Bell moved, Greider seconded. Motion carried by a vote of 6 in favor (Barrier, Bell, Greider, Goebel, Kamen, May and Savina) and 2 opposed (Bayouth and Hennessy). Taylor was absent.

So that there is no misunderstanding as to the intent of the motion, it is the wish of the Planning Commission that the appropriate action be taken to file a complaint in the appropriate court alleging violation of the zoning ordinance, i.e. the C.U.P. which required the planting materials to be left as per the planting plan required in BZA 2-70. It was their feeling that at that point all issues relative to violations could be properly presented and debated under rules of evidence and through the due process of the court system. Attached for your information are the draft minutes of this discussion. Please advise of your action and the date and type of complaint filed. We will then inform the Planning Commission of your action.

I understand further that there are plans for additional buildings on this C.U.P. site in your office for review. Inasmuch as we have had no response from the applicant or his agents relative to

Memorandum to Robert B. Feldner  
Re: DP-8 and BZA 2-70

July 8, 1977  
Page 2

submission of this revised planting plan, I would recommend that no additional permits be issued until this matter is resolved.

  
Robert A. Lakin, Director of Planning

Attachment:  
Excerpt draft minutes of  
Planning Commission Mtg 7-7-77

cc: w/attachment  
E. H. Denton, City Manager  
R. W. Bruggeman, Director of Public Works  
John Dekker, Director of Law  
Tom Powell, Law Department  
Members of the Wichita-Sedgwick County  
Metropolitan Area Planning Commission  
Members of the Board of Zoning Appeals  
RAL:ew

D  
R  
A  
F

T 7-7-77

BZA 2-70 and DP-8 Zoning Violation 21st Street North & Oliver

GREIDER stated that he was upset about the matter at 21st and Oliver and asked what was being done about the matter.

BELL said he had intended to bring up the same matter, and that he had been told by staff that the Commission's comments had been relayed to the City Commission and there had been no direction given by the City Commission to anyone to take any specific action. He said he realized that it was up to Central Inspection to do their duty anyway regardless of action by the City Commission, but that nothing had happened. BELL further commented that staff had made contact with the attorney for the developer and that they had been expecting a landscaping plan to be drawn up. He realized that there were a lot of people taking vacations this time of year among the developers and among the city staff, but that he still could not see any action being taken by anyone. BELL further stated that it appeared almost as bad as a large developer not being called upon to comply with conditions on the same terms that a small developer or an individual property owner would be called upon to toe the mark, that every day an individual is in violation of a city ordinance was a further day of a misdemeanor.

BELL stated that the client of the attorney felt he was being mistreated by being, in effect, tried in the press without an appropriate opportunity to respond and that certainly he ought to have a chance to "tell it to the judge."

MOTION: The Planning Commission resolves that Central Inspection is exhorted by this body to take the matter of the alleged violations at 21st Street North and Oliver up with the Law Department and assure that appropriate action against the developers is taken as quickly as possible so that the matter can be presented to a court of law and be disposed of. Bell moved, Greider seconded.

BELL further commented, in response to a question from the Commission, that this was a requirement of the C.U.P. and also of the BZA.

HENNESSY questioned how much water a C.U.P. held as Lakin had stated that he would not want to take a C.U.P. to court.

SAVINA asked if there was any truth to the rumor that the city had illegally removed some trees and GALBRAITH responded that they had not done so illegally, that the city's contractor did remove

DRAFT (2)  
7-7-77

trees on the public right-of-way to permit construction of the accel-decel lanes.

SAVINA asked if this was part of the landscaping that was supposed to have remained, and GALBRAITH stated that it had been known that those trees would have to be removed to construct the accel-decel lanes.

SAVINA stated that rather than having this go to the Legal Department he would like to have a hearing before this body as to why the trees had been removed. To date he felt all the Commission had been hearing were rumors. SAVINA stated he would make that in the form of a motion.

SUBSTITUTE MOTION: That the developer of the C.U.P. at 21st Street North and Oliver be requested to appear before the Planning Commission for a public hearing. Savina moved, Bayouth seconded.

BARRIER stated that all Mr. Savina would have to do is go out and look at the site. SAVINA stated that he felt the man deserved a hearing.

BELL stated that this body did not have the kind of power to enforce the requirement and that a hearing before the Planning Commission would be a useless action. He said that the Commission was only asking that appropriate action be taken by the staff before a court of law, and that a hearing before the Commission would do nothing but waste time.

MAY said she would like to concur with Mr. Bell. She said that Mr. Hennessy had made a remark about the staff not wanting to be punitive, but that the Commission certainly could do what Mr. Bell was suggesting.

BAYOUTH asked Mr. Lakin if an opinion was requested from the Legal Department would they just be treading water or should it just be left up to Central Inspection and the City Commission, and what would Mr. Lakin recommend.

LAKIN stated that neither the MAPD staff nor the Commission had the power to enforce anything in terms of the ordinance as the enforcing officer is the Superintendent of Central Inspection. The staff's role was one of advice and that they had been providing that advice to Central Inspection. He further stated that the staff had provided the City Commission with the sense of the Planning Commission as to punitive action but that he had been unable to say that it was the Commission's definitive act. He further stated that the City Commission had taken no action. LAKIN further commented from the

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7-7-77

city staff and Manager's standpoint no other action had been taken other than wait for submission of a landscape plan. This should have been received in a reasonable time, and in his opinion a reasonable time had elapsed as almost four weeks have passed since those trees have been missing. He said it would seem to him that appropriate action made in terms of the landscape plan should now be that if it is not received within 7 days, a cease and desist order be issued on the project and no additional permits issued. LAKIN did remark that no further action could be taken as far as physical planting was concerned until fall but he would like to have it resolved as to what was going to be done. He also stated that he felt a condition of approval of the landscape plan should be the installation of water lines to provide for maintenance of the landscape material. LAKIN further remarked that if the Commission wanted to go further as to action in the police court in conjunction with the Legal Department, then they should lay it on the line and affirmatively state their position.

GREIDER asked if Central Inspection had taken any action against the developer and LAKIN responded that CID did make contact with Mr. Higgins and the response was a letter from Mr. Higgins acknowledging that the trees had come off and they would submit a landscape plan but taking some affront that they were being used as a whipping boy in this issue.

GREIDER stated it appeared to him that if Central Inspection had carried the ball like they should have that something should have been done by now.

MAY stated that the agreement made with the developer was made between the applicant and the Planning Commission and that has been violated, and that if the Commission did not make a motion to do something as a Commission as the other side of the bargain then they could not expect the City Commission to do anything.

GOEBEL said that the Commission has told the City Commission that the applicant had violated a part of the Commission's contract with them and that the thing that disturbed him was that they talk about a landscape plan, but it was discussed with them in regard to the 35 foot landscape area and that those bigger trees were to be left, and that they couldn't tell him that they didn't know where the 35 foot area was, and that if they started building on the property without knowing where the 35 foot area was they got kind of carried away. They are not going to be able to put big trees back like they were. He said he felt that something should be resolved before the place opened and they should put as big trees as they can move into that area.

BARRIER stated that there was no point in the Commission spending their time working out agreements for certain kinds of cases that come before them if nothing that is worked out could be enforced, and that

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7-7-77

the Commission might as well fold their tents and go away, and that the Commission might as well find out now so she would back Mr. Bell 100%. She questioned how the Commission could ever command any kind of respect for what they decided if nothing they do can be enforced.

GREIDER called for the question.

SAVINA stated he would like to add to his motion that the landscape plan should be submitted in two weeks at the same time the applicant appeared before the Commission. His second agreed to this addition.

HENNESSY said that the Planning Commission was an advisory board to the City and County Commissions and that the Commission had made a recommendation already to the City Commission asking them to do something about this and they hadn't gotten anything back from the developer and that was the most the Planning Commission could do.

BAYOUTH said that in the letter he was holding (from Higgins to the City Commission) they requested a meeting with the Commission to present their case.

SAVINA said he would like to know what happened, that he did not know who was responsible and that the Commission ought to hear from the applicant.

BELL stated that the only reason he was opposed was not that the did not want them to have a full opportunity to tell anyone concerned who had the right and power to do something about it exactly all the ins and outs of it, as he was not suggesting that the Commission knew all about the situation, but that they go through a long expensive hearing before the Planning Commission and the Planning Commission still does not have the power to do anything one way or the other. He said he was recommending due process be followed, that the Planning Commission was telling Central Inspection to get on with it. He also stated that he was not prejudging whether or not there was a violation.

SAVINA said that the only thing was that he knew an alternate landscape plan was worked out, and that the Commission needed to see what the applicant's plans were.

BELL replied that he did not think either he or Mr. Savina were going to change the other's vote on this and he would suggest that the Commission get on with it.

GOEBEL said he would like to defer the whole thing for two weeks to see what they were going to do and if the Commission had not heard back from them by that time then take action. He said it was as Mr. Lakin had already stated that no greenhouse would recommend moving any trees this time of year.

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7-7-77

BARRIER said that it appalled her to think that the Commission was willing to let this case be tried in the newspapers and on TV and that she felt the Commission should exhort our own Legal Department to make its findings and proceed with due process. She said she felt they were in violation and she did not see how anyone could sit on the Commission and not say that those people involved in that development were not in violation, and not to try the case in the press as that was beneath the dignity of this Commission.

HENNESSY asked if the Commission was jumping their boundaries as they had already made a recommendation to the City Commission.

LAKIN responded that Mr. Bell's motion was not jumping the Commission's boundaries in terms of making a recommendation about enforcement.

VOTE ON THE SUBSTITUTE MOTION: Motion failed by a vote of 3 in favor (Bayouth, Hennessy and Savina) and 6 opposed (Barrier, Bell, Greider, Goebel, Kamen and May). Taylor was absent.

VOTE ON THE ORIGINAL MOTION: Motion carried by a vote of 7 in favor (Barrier, Bell, Greider, Goebel, Kamen, May and Savina) and 2 opposed (Bayouth and Hennessy). Taylor was absent.

KAMEN asked Mr. Lakin what he had answered to the letter from Hugh Gibson.

LAKIN said he had indicated to Mr. Gibson the Commission's concern and related the Commission's action requesting vigorous enforcement, that the MAPC was concerned about a good and proper development, and that something about design review of buildings was beyond the Commission's purview when talking about shopping centers.

In answer to a question on the landscape plan, LAKIN stated that the landscape plan had to be satisfactory to himself and the Superintendent of Central Inspection. Since he himself was not an expert in landscaping he relied upon his staff, including Mr. Galbraith and Mr. Young, as well as Mr. Fische of the Park Department who was an expert on local plant material. LAKIN said he would like to introduce as a condition of landscaping that it be maintained. He said that he suspected because of the attitude so far expressed by the attorney in this case that he was not going to be very successful in that request and that more than likely an appeal to his decision would be back on the Planning or City Commission agenda to back up his position on this or to not require it. He said that this had not been imposed on anyone else but that on the edge of site developers were not taking

DRAFT (6)  
7-7-77

care of getting water out to shrubbery and unless there is plentiful rain, a good part of the plant material would be lost. LAKIN further reported that a City Commissioner had made inquiry on three C.U.P.'s with reference to complaints about non-compliance.

GOEBEL said that someone had made the statement that the applicant or the developer felt he is being persecuted over this situation.

LAKIN replied that in the letter which Mr. Bayouth had a copy of (Higgins to BCC), the attorney for the applicant had made the statement that he felt his client was being used as a "whipping boy" and he didn't appreciate that type of treatment. LAKIN further stated he would be happy to furnish the Commissioners with the exact package of material, his own memo, the memo from Mr. Firsching, a copy of the letter from the architect for the applicant that the trees had to come out because of the difference in grade (which LAKIN said was a unilateral decision not concurred in by Central Inspection, the Park Authority, or the Planning Department). He said he would get this packet in the mail tomorrow if possible so that the Commissioners could have it quickly.

-----

July 7, 1977

Hugh W. Gibson  
2535 Fenner Place  
Wichita, Kansas 67220


Dear Hugh:

I have passed your letter on to the Planning Commission. They were, of course, aware of the problem and have taken formal action to pursue the replacement of trees that were required to have been kept under terms of the approval of the shopping center and its associated parking. We will attempt to work with developer to get as mature and substantial planting stock as is possible.

The Commission to date has not involved itself with the architectural detailing of shopping centers and its design nor internal landscaping requirements such as might be considered on large parking lot expansive areas. To date we have been primarily concerned with the perimeter screening and/or landscaping. It may be as people within the community have become more sensitive to the treatment of large projects with plantings, etc. and as people show their consumer preference for those that have them vs. those that don't, there may be a change within the community both from a marketing standpoint and perhaps even from a regulatory standpoint.

I appreciate your concern. I know that the Commission also agrees with your concern about the unfortunate incident at 21st and Oliver.

Best regards,

  
Robert A. Lakin  
Director of Planning

RAL:ew

CITY OF WICHITA  
OFFICE OF Central Inspection

DATE June 22, 1977



TO E. H. Denton, City Manager  
FROM Robert B. Feldner, Superintendent of Central Inspection

SUBJECT DP-8 University Gardens

In response to the telephone request of your office June 21, 1977 and the assemblage of materials forwarded by the Metropolitan Area Planning Department, the following report on the CUP titled above and located on the northeast corner of 21st and Oliver is hereby provided.

Central Inspection Division routinely monitors all building activity in the city to insure compliance with the Building Code, Zoning and Sub-division Regulations, CUP's, BZA's, etc. This particular project was (and is) no exception. Due to the volume of building activity and numbers of staff involved, enforcement must of necessity involve "spot checks" in recurrent trips to the site. The tree and planting removal transpired in-between these inspections.

On May 31, 1977, the Division received a copy of a memorandum from Jack Galbraith, Chief Planner, Metropolitan Area Planning Department to Mary Pitman of the C. P. O. Office, concerning the tree removal. A copy of this memo was forwarded to the Manager's office. An inspection of the site was immediately conducted which affirmed that the trees had indeed been removed. The project developer, Mr. Andeel, and his attorney, Mr. Higgins, were then expeditiously contacted by telephone. Some confusion ensued as Mr. Andeel expressed no knowledge of the tree removal. A meeting was set June 8, 1977 for further discussion in the office of the Superintendent of Central Inspection. Prior to the meeting, Mr. Higgins office contacted Central Inspection and requested that the meeting be rescheduled as Mr. Higgins had been hospitalized. The meeting was rescheduled for Tuesday, June 21, 1977.

Subsequent to these actions, further information became available. The City Engineer had scheduled 21 of the existing trees for removal, to facilitate construction of accel-decel lanes.

Apparently Mr. Andeel's representatives and others involved in the project held a meeting concerning screening, site grading and elevation problems. Correspondence pertaining to these meetings, and the resultant decision to remove all planting, has been supplied by Mr. Higgins and is attached.

The scheduled meeting was conducted at 3:00 P. M. June 21, 1977, with Mr. Andeel's representatives, Mr. Higgins, attorney, and Mr. Jacob, architect, in attendance.

Mr. Higgins began the meeting by stating that all parties concerned were in agreement that the trees and planting were gone and as it was their intent to

June 22, 1977

Page 2

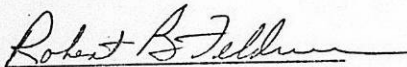
Subject: DP-8 University Gardens

comply fully with the CUP and screening provisions, any discussion as to cause would be futile and irrelevant. The Superintendent then stated that Central Inspection and the Metropolitan Area Planning Department were in agreement that the best course of action would be the submission for Planning's approval of a new planting plan, including the screening wall and wall section details. An anticipated date of completion (prior to occupancy) of the improvements was also requested.

Mr. Higgins agreed to this course of action, and stated that the new plan would be submitted immediately, as quickly as it could be drawn.

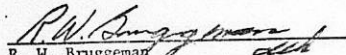
Central Inspection Division believes that Mr. Andeel and his associates will comply with the requests contained herein in a timely manner. Follow-up procedures will be continued to insure compliance, hopefully eliminating this unfortunate situation.

If further information or clarification is desired, it will be expeditiously supplied.



Robert B. Feldner  
Superintendent of Central Inspection

Approved:

  
R. W. Bruggeman  
Director of Public Works

RBF/imc

cc: Robert Lakin, Director of Metropolitan Area Planning Department ✓  
Jack Galbraith, Chief Planner  
John Dekker, Director of Law Department  
Dick Linn, City Engineer  
Mary Pitman, Citizens Participation Organization  
John Firsching, Superintendent of Landscape and Forestry



ARCHITECTS - ENGINEERS - PLANNERS  
**VAN DOREN - HAZARD - STALLINGS**  
250 ROCKBOROUGH BUILDING, 260 NORTH ROCK ROAD WICHITA, KANSAS 67206  
TELEPHONE 316 686-7303

June 16, 1977

Lindy Andeel  
5900 East Central  
Wichita, Kansas 67208

Re: University Gardens Second Addition  
Parcel 1 Trees

Dear Lindy:

At a meeting which took place on the site of the above referenced project the general condition and location of the trees on the corner were examined. A majority of the trees were found to lie in the path of the accel-decel lane, sidewalk and proposed screen wall which were requirements of the plat.

The developers then chose to remove the few remaining trees (less than ten) and replace them with the required planting strip and include mature trees.

Very truly yours,

Kenneth H. Bengtson

KHB/js

cc: Jim Rogers

13 JUNE 1977

LINDY ANDEEL  
5900 E. CENTRAL  
WICHITA, KANSAS 67208

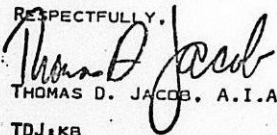
RE: 21ST & OLIVER

DEAR LINDY:

AS PER YOUR REQUEST, THIS LETTER IS TO FURTHER CLARIFY MY LETTER OF 3 MAY 1977 ON THE ABOVE REFERENCED ITEM. AT THE TIME OF THAT MEETING ATTENDING WERE BILL ALLEN, MOON MULLEN OF DILLON'S, JIM ROGERS AND AL KNAPP OF MALAN CONSTRUCTION, KEN BENGSTON, AND MYSELF. AT THAT TIME WE REVIEWED THE GRADING OF THE CORNER IN RELATIONSHIP TO THE DILLON'S PARKING LOT AND THE REQUIRED CITY STREET WIDENING AND TURN LANES. IT WAS THEN THAT THE REALIZATION WAS EVIDENT THAT TO CONTOUR THE GRADES DOWN TO THE NORTH TO THE DILLON'S PARKING LOT IT WOULD BE NECESSARY TO REMOVE SEVERAL TREES OF WHICH MANY HAD QUESTIONABLE LIFE EXPECTANCY. THEN IN REALTIONSHIP TO THE CORNER, WHEN THE DECELERATION LANE, THE TURN LANE AND THE SIDEWALKS ARE INSTALLED TO CITY REQUIREMENTS AS FAR AS GRADES, AN APPROXIMATE 30" DIFFERENCE IN ELEVATION BETWEEN THE TOP OF THE SIDEWALK AND EXISTING GRADE WOULD OCCUR. THIS WOULD OF REQUIRED A RETAINING WALL TO BE INSTALLED ALL AROUND THE CORNER WHICH WOULD OF BECOME A VISIBLE BEARER AT THE CORNER FOR TRAFFIC OR THE GRADES WOULD OF HAD TO BE SLOPED FROM THE SIDEWALK TO A CREST IN THE REMAINING LAND OF THE CORNER. THE REMOVAL OF TREES BECAME A REQUIREMENT. IT WAS AT THIS POINT THAT IT IS DECIDED TO REMOVE THE TREES BECAUSE THE REQUIRED PLANTING SCREEN AT THE CORNER WOULD REPLACE THESE TREES.

I TRUST THIS ANSWERS YOUR QUESTIONS AT THIS TIME, AND IF I CAN BE OF ANY FURTHER SERVICE PLEASE DO NOT HESITATE TO CONTACT ME.

RESPECTFULLY,

  
THOMAS D. JACOB, A.I.A.

TDJ:KB

THOMAS D. JACOB, A. I. A. ARCHITECT 5920 E. CENTRAL WICHITA, KANSAS 67208 316 684-5268

LAW OFFICES  
OF  
WILLIAM P. HIGGINS, P.A.

June 22, 1977

PENTHOUSE/SUTTON PLACE  
WICHITA, KANSAS 67202  
316/263-6148

Mr. Bob Feldner  
Central Inspection  
City Hall  
455 North Main Street  
Wichita, Kansas 67202

Mr. Jack Galbraith  
Wichita-Sedgwick County Metropolitan  
Area Planning Department  
City Hall  
455 North Main Street  
Wichita, Kansas 67202

Mr. Gene Denton  
City Manager  
City Hall  
455 North Main Street  
Wichita, Kansas 67202

Mr. Tony F. Casado  
City Commissioner  
City Hall  
455 North Main Street  
Wichita, Kansas 67202

Mr. Glenn Shanahan  
City Commissioner  
City Hall  
455 North Main Street  
Wichita, Kansas 67202

Dr. Garry Porter  
City Commissioner  
City Hall  
455 North Main Street  
Wichita, Kansas

Ms. Connie Peters  
City Commissioner  
City Hall  
455 North Main Street  
Wichita, Kansas 67202

Dr. James M. Donnell  
City Commissioner  
City Hall  
455 North Main Street  
Wichita, Kansas 67202

Re: 21st and Oliver

Gentlemen:

A meeting was had with Mr. Feldner on Tuesday, June 21, 1977, at which time I was present with Mr. Thomas D. Jacob, architect, relative to solving the problem of the removal of the trees and the new plantings at the corner of 21st and Oliver. At that meeting I presented a letter from Mr. Jacob explaining the situation, as well as a letter from Mr. Kenneth H. Bengston of the firm of Van Doren-Hazard-Stallings, which letters are self-explanatory.



June 22, 1977  
Page Two

At said meeting we advised that we will submit a new planting plan to Mr. Galbraith in an effort to satisfy the parties; if said satisfaction can be reasonably attained. A cross-section of the retaining wall will also be provided, showing the type of construction, etc. which will be the same as is being constructed by Dillons along Oliver.

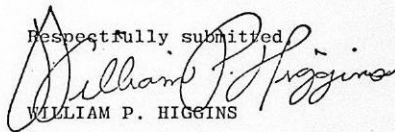
It must be pointed out that developers and owners of this tract have been made the "whipping boy" for the City in this particular situation in an attempt to satisfy the surrounding neighbors. Logic would dictate that the City requirement for additional land and construction of accel-decel lanes, sidewalks, and then an additional requirement of a screening wall would necessitate removing a majority of the trees on the corner of 21st and Oliver and along Oliver Street. There were less than ten trees which would not have been directly affected, the remaining trees would have been approximately 30 inches above grade, which would have meant exposure of roots and other problems that would have given them very little chance of survival. A retaining wall approximately three feet high would have been required to have held the soil around these trees and it was determined the retaining wall would have obstructed the view of traffic.

It is a fact that leaving all the trees would have saved the developer considerable funds as it would have eliminated the necessity of removal of old trees, planting a 35-foot deep planting strip and constructing a screening wall. Nature, the requirements of the City, and the necessity of considering the traffic situation made this impossible.

The only advice we have had of any meeting with the Planning Commission relative to this corner, of late, has been through newspaper articles and we respectfully request that we be allowed to protect against adverse publicity by presenting our side of the story at any future hearings. We are prepared to appear before the City Commission, if so requested, with our experts, and present graphically the truth of this situation.

All owners of this property are intent upon doing everything to make the project well-constructed and well-planned and an asset to the City and the neighborhood. The problem with the trees is a problem which was not brought about by the City or the developer with the intent to harm, injure or infuriate the neighbors in any manner.

Respectfully submitted,

  
WILLIAM P. HIGGINS

WPH/jsp

THE CITY OF WICHITA  
OFFICE OF LANDSCAPE & FORESTRY

DATE June 20, 1977



TO Robert A. Lakin, Director of Planning  
FROM John G. Firsching, Supt. Landscape & Forestry

SUBJECT Removal of Trees - Northeast Corner  
21st & Oliver

This memorandum confirms our discussion in the Planning office on the morning of June 17.

In regard to the removal of trees on the northeast corner of 21st and Oliver, apparently in preparation for the construction of a K-Mart, I have the following to submit.

About 18 to 24 months ago I met with Jack Galbraith and other members of your staff along with Archie King, Forestry Supervisor, and individuals involved in the development of this new facility. We spent quite a bit of time in going over each individual tree, recommending that most of them remain except for those that were severely damaged or dead. We made it a point that these trees be allowed to remain since they contribute to the embellishment and provide screening for the residences in the vicinity. In regard to the removal of trees on public property we advised the developers that we should be informed if in their opinion some of the trees need to be removed and not to remove them unless they did receive a permit from the Landscape and Forestry office..

We further advised the developers to retain certain specimen trees that were located on private property that would enhance the development of the facility and provide mature trees which would take many years to attain from new plantings.

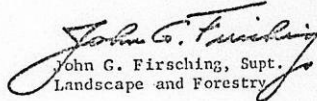
Subsequently, the Landscape and Forestry office received a telephone call that certain trees in the parking at the site were dead and requested that they be removed. I dispatched Carl Holmes of my office to look into the situation and he could find no reason to give permission whatsoever to remove any of the trees and that there were a great number of trees remaining at that time.

Robert A. Lakin  
June 20, 1977  
Page 2

Two memorandums dated May 11, 1977 from R. W. Linn, City Engineer, Subject "Tree Removal" advised our office that seven large trees and two small trees along 21st Street and six large trees and six small trees along Oliver were necessary to remove in connection with the paving of the streets. Our office was convinced that this was necessary in the construction activity and that the plans could not be feasibly revised to circumvent the trees. However, these trees were only a very small number of remaining trees at the site.

On the afternoon of June 16, as a result of your telephone message made to my office earlier in the day, I examined the site and to my amazement was utterly surprised that the entire site was layed completely waste of any trees whatsoever. I do not have any idea as to how this came about. When checking with responsible personnel in the Landscape and Forestry Division, no one had given permission or issued a permit for the removal of these trees.

We will continue to investigate the situation and would like to work with Mr. Jack Galbraith of your staff to determine what was actually removed without appropriate authority. It may be necessary for us to demand replacement of a suitable number of trees in accordance with specific plans and specifications to re-embellish the site and screen it from the residences in the vicinity.

  
John G. Firsching, Supt.  
Landscape and Forestry

JGF:mkh

cc: Thomas P. Allen, Jr.  
Carl M. Holmes  
Archie R. King

June 14, 1977

E. H. Denton, City Manager

Robert A. Lakin, Director of Planning

DP-8 University Gardens

Attached is a memorandum addressed to the Office of Central Inspection relative to a zoning violation at 21st and Oliver. By separate request the Planning Commission asked that the City Commission be requested to back the MAPC in seeking an immediate correction of the zoning violation. You may wish to place this on the Commission agenda. However, I think at this stage until we have a response from Central Inspection as to the possible remedies and action taken by them, that you may wish to provide this to the City Commission for information purposes. Please advise if you need additional information.

Robert A. Lakin, Director of Planning

Attachment  
as noted

cc: Robert Feldner, Superintendent of Central Inspection  
RAL:ew

June 14, 1977

Robert Feldner, Superintendent of Central Inspection

Robert A. Lakin, Director of Planning

DP-8 University Gardens

As an off-agenda item on the Planning Commission agenda of June 9, a Planning Commissioner inquired about the removal of trees on the CUP site at the northeast corner of 21st and Oliver. We have already corresponded with you on this subject and we advised the Planning Commission that we had initiated an inquiry on what appears to be an obvious violation of the EZA case for parking and the related CUP.

The Planning Commission, however, wished to provide greater emphasis than administrative staff follow-up on this issue and did, by motion, resolve and request that their concerns be conveyed to Central Inspection and that it be the sense of the Planning Commission that the activity involving the removal of the trees was and is absolutely intolerable. The Commission further requests that Central Inspection proceed with the utmost dispatch and vigor which is at their command and to use every legal means to enforce a remedy of this situation and, if it is possible as a remedy to the city, to cause construction to cease until the violations have been remedied. The motion was made by Bell, Barrier and Greider seconded the motion, and it carried unanimously, one Planning Commissioner absent (Kamen).

Robert A. Lakin, Director of Planning

cc: E. H. Denton, City Manager  
Ray Bruggeman, Director of Public Works  
John Dekker, Director of Law  
RAL:ew

June 1, 1977

Robert Feldner, Superintendent of Central Inspection

Jack H. Galbraith, Chief Planner

DP-8/- University Gardens CUP - North east corner of 21st & Oliver;  
and BZA Case No. 2-70

By copy of my memorandum of May 25, 1977, to Mary Pitman of the CPO Office, you were made aware of the problem that has developed regarding the landscaping provisions associated with BZA Case No. 2-70 and by the University Gardens Community Unit Plan, DP-8.

All trees that were existing in the designated 35 foot landscape strip adjacent to 21st and Oliver Streets have been removed. This action clearly violates condition #5 of BZA Case 2-70 and the associated landscape plan which, in my opinion, also causes General Provision #3 of the University Gardens C.U.P. to be violated. The approved landscape plan denotes 15 to 20 existing trees which were intended to provide mature landscaping, complimented by new plantings near the intersection of 21st and Oliver. It now appears that the only way for the developer to comply with these conditions is to replace the removed trees with other older nursery stock. The only trees that were left after site grading are those on public property, most of which will have to be removed when street improvements are made at this intersection. The approved plans for the Dillon's store denotes the landscaping strip adjacent to their property (Parcel #8), however, no plans have been received for the corner property (Parcel #9).

Inasmuch as the landscape plan has been violated by the removal of all existing trees, it is my opinion that the installation of the 35 foot landscape strip and 4 foot high wall should be accomplished immediately and that mature stock be used to replace the mature trees which were removed. Failure to proceed in this manner will leave virtually no screening or buffer of this development from the west and southwest.

I am available to meet with you and your staff further on this matter if necessary. Please call if I can be of assistance.

Jack H. Galbraith  
Chief Planner

JHG:LD:el

cc: Robert A. Lakin, Director of Planning  
Joe Donnelly, Housing and Zoning Administrator  
Mary Pitman, CPO Administrative Aide

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

May 25, 1977

TO Mary Pitman, CPO Office  
FROM Jack H. Galbraith, Chief Planner  
SUBJECT University Gardens - Northeast corner of 21st and Oliver

Reference your letter of May 20, 1977, concerning possible violations of landscaping conditions associated with subject property.

In compliance with Condition #5 of BZA Case 2-70, a landscape plan was submitted for the 35 foot setback area on the east side of Oliver and the north side of 21st Street. This plan reflects the standard 75 foot of half street right-of-way at the intersection, tapering to a 60 foot right of way. Existing trees are denoted in the 35 foot landscaped setback area along with proposed new plantings. The approval of this plan constituted compliance with the Board's condition, and therefore, the Resolution reflecting the approval of the applicant's request for an exception to install an off-street parking lot was forwarded to the Superintendent of Central Inspection. Condition #13 of this Resolution states that: "All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot." It is the responsibility of the Superintendent of Central Inspection to assure that conditions have been met prior to the occupancy or utilization of said parking lot.

In response to your comments about the removal of many trees from the site, one of our staff inspected the site this week. His visual inspection of the property revealed that virtually all the existing trees have been removed from subject property. The only trees and shrubs observed to be remaining are located in the street right-of-way. This removal of existing trees violates the applicant's stated intentions on their approved landscape plan. This, in turn, may also violate General Provision #3 of the approved Community Unit Plan which states that "A planting strip no less than 35 feet in width as indicated adjacent to Oliver and 21st Street and approved October 2, 1975 (BZA Case No. 2-70 to meet condition #5). Failure to properly maintain the planting strips shall be considered a violation of the C.U.P. after a joint determination by the Director of Planning and the Superintendent of Central Inspection, that the planting strips are not properly maintained."

Inasmuch as the trees have been removed, we are by copy of this memorandum, advising the Superintendent of Central Inspection of the violation and requesting that he inform the CPO Council of

Mary Pitman, CPC Office  
May 25, 1977  
Page 2

what action his office will be taking to bring this condition into compliance with the approved plans.

Sincerely,

*Jack H. Galbraith*  
Jack H. Galbraith  
Chief Planner

JHG:LD:bb

cc: E. H. Denton, City Manager  
Robert Lakin, Director of Planning  
Robert Feldner, Superintendent of Central Inspection

THE CITY OF WICHITA  
OFFICE OF CITIZEN PARTICIPATION

DATE May 20, 1977



TO Jack Galbraith, Chief Planner, Current Plans, MAPD

FROM Mary Pitman, CPO Administrative Aide

SUBJECT Possible Violations of the  
University Gardens CUP (21st and Oliver)

At their meeting on May 17, 1977, CPO Neighborhood Council Area "I" discussed possible violations of landscaping requirements on the University Gardens Community Unit Plan (CUP) at 21st and Oliver.

The Council is asking that the Planning Department investigate the site as soon as possible, for infractions of the CUP. Apparently many trees have already been gutted and construction is proceeding at a quick pace. If infractions are observed, the Council asks that the MAPD refer the matter to the appropriate City staff for interpretation and enforcement of the CUP and initiation of action to end the violations.

I am aware of the fact that retention of the trees on Oliver was included only in the "General Notes" (5) of the University Gardens CUP. However, I also note that the BZA minutes of February 24, 1970, place upon the developer the following condition:

5. A detailed landscape plan for the setback areas on 21st and Oliver Streets showing the required walls on the west and north, existing trees and those proposed to be retained, proposed location and type of new trees and shrubs prepared by a registered landscape architect shall be submitted to the Secretary of the Board for approval prior to the resolution being forwarded to the Office of Central Inspection. In the event the Secretary is unable to approve the plan, the applicant has the right of appeal to the Board.

Does mere submittal of a landscaping plan constitute compliance with this condition or is the plan in any sense considered to be binding upon the developer?

CPO Neighborhood Council "I" will be considering this matter again on June 7, 1977. It would be very much appreciated if any staff comments or report on this matter could be received in the CPO office by May 31, 1977. Please advise me at 4519 if you have any questions or anticipate any problems with this time frame.

*Mary Pitman*

Mary Pitman  
CPO Administrative Aide

MP:sm

cc: E. H. Denton, City Manager  
Robert A. Lakin, Director of Planning, MAPD

Noted:

*David Furnas*  
David Furnas  
CPO Coordinator

**THE CITY OF WICHITA**  
OFFICE OF Central Inspection

DATE June 22, 1977



TO E. H. Denton, City Manager  
FROM Robert B. Feldner, Superintendent of Central Inspection

SUBJECT DP-8 University Gardens

In response to the telephone request of your office June 21, 1977 and the assemblage of materials forwarded by the Metropolitan Area Planning Department, the following report on the CUP titled above and located on the northeast corner of 21st and Oliver is hereby provided.

Central Inspection Division routinely monitors all building activity in the city to insure compliance with the Building Code, Zoning and Sub-division Regulations, CUP's, BZA's, etc. This particular project was (and is) no exception. Due to the volume of building activity and numbers of staff involved, enforcement must of necessity involve "spot checks" in recurrent trips to the site. The tree and planting removal transpired in-between these inspections.

On May 31, 1977, the Division received a copy of a memorandum from Jack Galbraith, Chief Planner, Metropolitan Area Planning Department to Mary Pitman of the C. P. O. Office, concerning the tree removal. A copy of this memo was forwarded to the Manager's office. An inspection of the site was immediately conducted which affirmed that the trees had indeed been removed. The project developer, Mr. Andeel, and his attorney, Mr. Higgins, were then expeditiously contacted by telephone. Some confusion ensued as Mr. Andeel expressed no knowledge of the tree removal. A meeting was set June 8, 1977 for further discussion in the office of the Superintendent of Central Inspection. Prior to the meeting, Mr. Higgins office contacted Central Inspection and requested that the meeting be rescheduled as Mr. Higgins had been hospitalized. The meeting was rescheduled for Tuesday, June 21, 1977.

Subsequent to these actions, further information became available. The City Engineer had scheduled 21 of the existing trees for removal, to facilitate construction of accel-decel lanes.

Apparently Mr. Andeel's representatives and others involved in the project held a meeting concerning screening, site grading and elevation problems. Correspondence pertaining to these meetings, and the resultant decision to remove all planting, has been supplied by Mr. Higgins and is attached.

The scheduled meeting was conducted at 3:00 P. M. June 21, 1977, with Mr. Andeel's representatives, Mr. Higgins, attorney, and Mr. Jacob, architect, in attendance.

Mr. Higgins began the meeting by stating that all parties concerned were in agreement that the trees and planting were gone and as it was their intent to

June 22, 1977

Page 2

Subject: DP-8 University Gardens

comply fully with the CUP and screening provisions, any discussion as to cause would be futile and irrelevant. The Superintendent then stated that Central Inspection and the Metropolitan Area Planning Department were in agreement that the best course of action would be the submission for Planning's approval of a new planting plan, including the screening wall and wall section details. An anticipated date of completion (prior to occupancy) of the improvements was also requested.

Mr. Higgins agreed to this course of action, and stated that the new plan would be submitted immediately, as quickly as it could be drawn.

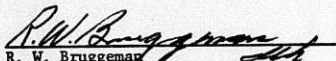
Central Inspection Division believes that Mr. Andeel and his associates will comply with the requests contained herein in a timely manner. Follow-up procedures will be continued to insure compliance, hopefully eliminating this unfortunate situation.

If further information or clarification is desired, it will be expeditiously supplied.



Robert B. Feldner  
Superintendent of Central Inspection

Approved:



R. W. Bruggeman  
Director of Public Works

RBF/imc

cc: Robert Lakin, Director of Metropolitan Area Planning Department  
Jack Galbraith, Chief Planner  
John Dekker, Director of Law Department  
Dick Linn, City Engineer  
Mary Pitman, Citizens Participation Organization  
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13 JUNE 1977

LINDY ANDEEL  
5900 E. CENTRAL  
WICHITA, KANSAS 67208

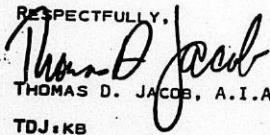
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RESPECTFULLY,

  
THOMAS D. JACOB, A.I.A.

TDJ:KB

THOMAS D. JACOB, A. I. A. ARCHITECT 5920 E. CENTRAL WICHITA, KANSAS 67208 316 684-5288



ARCHITECTS - ENGINEERS - PLANNERS

**VAN DOREN - HAZARD - STALLINGS**

259 ROCKBOROUGH BUILDING, 260 NORTH ROCK ROAD WICHITA, KANSAS 67206  
TELEPHONE 316 686-7303

June 16, 1977

Lindy Andeel  
5900 East Central  
Wichita, Kansas 67208

Re: University Gardens Second Addition  
Parcel 1 Trees

Dear Lindy:

At a meeting which took place on the site of the above referenced project the general condition and location of the trees on the corner were examined. A majority of the trees were found to lie in the path of the accel-decel lane, sidewalk and proposed screen wall which were requirements of the plat.

The developers then chose to remove the few remaining trees (less than ten) and replace them with the required planting strip and include mature trees.

Very truly yours,

Kenneth H. Bengtson

KHB/js

cc: Jim Rogers

**THE CITY OF WICHITA**

OFFICE OF LANDSCAPE & FORESTRY

DATE June 20, 1977



TO Robert A. Lakin, Director of Planning

FROM John G. Firsching, Supt. Landscape & Forestry

SUBJECT Removal of Trees - Northeast Corner  
21st & Oliver

This memorandum confirms our discussion in the Planning office on the morning of June 17.

In regard to the removal of trees on the northeast corner of 21st and Oliver, apparently in preparation for the construction of a K-Mart, I have the following to submit.

About 18 to 24 months ago I met with Jack Galbraith and other members of your staff along with Archie King, Forestry Supervisor, and individuals involved in the development of this new facility. We spent quite a bit of time in going over each individual tree, recommending that most of them remain except for those that were severely damaged or dead. We made it a point that these trees be allowed to remain since they contribute to the embellishment and provide screening for the residences in the vicinity. In regard to the removal of trees on public property we advised the developers that we should be informed if in their opinion some of the trees need to be removed and not to remove them unless they did receive a permit from the Landscape and Forestry office.

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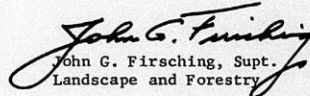
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Robert A. Lakin  
June 20, 1977  
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On the afternoon of June 16, as a result of your telephone message made to my office earlier in the day, I examined the site and to my amazement was utterly surprised that the entire site was layed completely waste of any trees whatsoever. I do not have any idea as to how this came about. When checking with responsible personnel in the Landscape and Forestry Division, no one had given permission or issued a permit for the removal of these trees.

We will continue to investigate the situation and would like to work with Mr. Jack Galbraith of your staff to determine what was actually removed without appropriate authority. It may be necessary for us to demand replacement of a suitable number of trees in accordance with specific plans and specifications to re-embellish the site and screen it from the residences in the vicinity.

  
John G. Firsching, Supt.  
Landscape and Forestry

JGF:mkh  
cc: Thomas P. Allen, Jr.  
Carl M. Holmes  
Archie R. King

6/21/77  
BZA 2-70 Landscape  
Plan

Discussed with Feldner this date the violation of the removal of trees and suggested for seeing that the remainder of the Landscape Plan is complied with.

1. Suggested first that a revised landscape plan be required. Such plan should now take into consideration that all existing trees have been removed. Extra 35' area should be re thought. Mature plantings should be required so as to give screening and well-landscaped effect.
2. Suggested requiring an estimate to complete plantings and 4' wall. A contract as to when it is expected to be completed. Sept or Oct 1977.
3. Performance bond, bond on estimate to plant and construct wall, was suggested as a possibility to assure completion this fall.

June 1, 1977

Robert Feldner, Superintendent of Central Inspection

Jack H. Galbraith, Chief Planner

✓ DP-8 - University Gardens CUP - North east corner of 21st & Oliver;  
and BZA Case No. 2-70

By copy of my memorandum of May 25, 1977, to Mary Pitman of the CPO Office, you were made aware of the problem that has developed regarding the landscaping provisions associated with BZA Case No. 2-70 and by the University Gardens Community Unit Plan, DP-8.

All trees that were existing in the designated 35 foot landscape strip adjacent to 21st and Oliver Streets have been removed. This action clearly violates condition #5 of BZA Case 2-70 and the associated landscape plan which, in my opinion, also causes General Provision #3 of the University Gardens C.U.P. to be violated. The approved landscape plan denotes 15 to 20 existing trees which were intended to provide mature landscaping, complimented by new plantings near the intersection of 21st and Oliver. It now appears that the only way for the developer to comply with these conditions is to replace the removed trees with other older nursery stock. The only trees that were left after site grading are those on public property, most of which will have to be removed when street improvements are made at this intersection. The approved plans for the Dillon's store denotes the landscaping strip adjacent to their property (Parcel #8), however, no plans have been received for the corner property (Parcel #9).

Inasmuch as the landscape plan has been violated by the removal of all existing trees, it is my opinion that the installation of the 35 foot landscape strip and 4 foot high wall should be accomplished immediately and that mature stock be used to replace the mature trees which were removed. Failure to proceed in this manner will leave virtually no screening or buffer of this development from the west and southwest.

I am available to meet with you and your staff further on this matter if necessary. Please call if I can be of assistance.

Jack H. Galbraith  
Chief Planner

JHG:LD:el

cc: Robert A. Lakin, Director of Planning  
Joe Donnelly, Housing and Zoning Administrator  
Mary Pitman, CPO Administrative Aide

May 25, 1977

Mary Pitman, CPO Office

Jack H. Galbraith, Chief Planner

University Gardens - Northeast corner of 21st and Oliver

*See DP 8 flk*

Reference your letter of May 20, 1977, concerning possible violations of landscaping conditions associated with subject property.

In compliance with Condition #5 of BZA Case 2-70, a landscape plan was submitted for the 35 foot setback area on the east side of Oliver and the north side of 21st Street. This plan reflects the standard 75 foot of half street right-of-way at the intersection, tapering to a 60 foot right of way. Existing trees are denoted in the 35 foot landscaped setback area along with proposed new plantings. The approval of this plan constituted compliance with the Board's condition, and therefore, the Resolution reflecting the approval of the applicant's request for an exception to install an off-street parking lot was forwarded to the Superintendent of Central Inspection. Condition #13 of this Resolution states that: "All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot." It is the responsibility of the Superintendent of Central Inspection to assure that conditions have been met prior to the occupancy or utilization of said parking lot.

In response to your comments about the removal of many trees from the site, one of our staff inspected the site this week. His visual inspection of the property revealed that virtually all the existing trees have been removed from subject property. The only trees and shrubs observed to be remaining are located in the street right-of-way. This removal of existing trees violates the applicant's stated intentions on their approved landscape plan. This, in turn, may also violate General Provision #3 of the approved Community Unit Plan which states that "A planting strip no less than 35 feet in width as indicated adjacent to Oliver and 21st Street and approved October 2, 1975 (BZA Case No. 2-70 to meet condition #5). Failure to properly maintain the planting strips shall be considered a violation of the C.U.P. after a joint determination by the Director of Planning and the Superintendent of Central Inspection, that the planting strips are not properly maintained."

Inasmuch as the trees have been removed, we are by copy of this memorandum, advising the Superintendent of Central Inspection of the violation and requesting that he inform the CPO Council of

Mary Pitman, CPO Office  
May 25, 1977  
Page 2

what action his office will be taking to bring this condition into compliance with the approved plans.

Sincerely,

\_\_\_\_\_  
Jack H. Galbraith  
Chief Planner

JHG:LD:bh

cc: E. H. Denton, City Manager  
Robert Lakin, Director of Planning  
Robert Feldner, Superintendent of Central Inspection

January 10, 1977

Mr. John D. Gist  
Oblinger-Smith Corporation  
625 First National Bank Building  
Wichita, Kansas 67202

Re: University Gardens Landscape  
Plan, B.Z.A. Case No. 2-70

Dear Mr. Gist:

This is to acknowledge receipt of your letter of December 30, 1976. Your letter indicated that plant materials consistent with those appearing on the Landscape Plan approved in association with B.Z.A. Case No. 2-70 will be extended and maintained in the access points along Oliver on the Plan which are no longer available by virtue of the recent amendment to the University Gardens Community Unit Plan (DP-8). This amendment approved on August 8, 1976 limited the access point on Oliver to one whereas the previously referenced Landscape Plan indicated three such points. We are in agreement with your conclusion that there is no need to redraw the Landscape Plan to accomplish the minor adjustments you and your clients have agreed to. We will by copy of this letter notify the Superintendent of Central Inspection of our concurrence and mark our copies of the approved Landscape Plan accordingly.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:RLY:rme

cc: Robert Feldner, Superintendent of Central Inspection  
The Oliver Corporation, 5900 E. Central, Suite 201, 67208  
Dillons Real Estate Co., Inc., 2700 E. 4th Street,  
Hutchinson, Ks. 67501



**oblinger-smith corporation**

December 30, 1976

Mr. Jack H. Galbraith,  
Chief Planner  
WSCMA Planning Department  
City Hall  
455 North Main  
Wichita, Kansas 67202

RE: University Gardens Landscape  
Plan, B.Z.A. Case No.2-70.

Dear Mr. Galbraith:

On October 2, 1975, a planting plan in conjunction with the University Gardens Development, and particularly associated B.Z.A. Case 2-70, was approved. Subsequently, the University Gardens C.U.P. has been amended, resulting in a reduction in the number of driveways on Oliver Avenue.

We have reviewed the approved planting plan, C.U.P. and latest site plan for the proposed Dillon Supermarket; and, we have discussed what real affect, if any, these changes have made on the approved planting plan with yourself, Mr. Lindy Andeel, and Mr. Kelly and Mr. Everson with Dillons. Consistent with our discussions, it is believed that the changes have no appreciable affect on the intent or sufficiency of the types of plant materials specified on the approved planting plan, nor is it needed to redraw said plan.

After further discussing the matter with Mr. Andeel and representatives for Dillons, it is the intent of this letter that all parties referenced mutually understand and agree that at the time of installation of the plant material, minor but sufficient adjustments will be made in both quantity and placement of the material where the driveways are no longer permitted. Additional materials used would be of the same types and sizes specified on the plan, and our firm could be available to work with the nurseryman in the field should it be necessary or warranted.



Consultants in Planning, Design & Development /

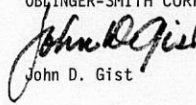
625 First National Bank Bldg., Wichita, Kansas 67202 AC 316-262-0451  
1221 University Bldg., Denver, Colorado 80202 AC 303-375-1880  
Crown Center, 2420 Pershing Road, Suite 111, Kansas City, Missouri 64108 / AC 816 421-7584  
(In the Quadrangle) Suite 232, 2800 Routh, Dallas, Texas 75201 / AC 214 748-4112

Page 2

Should you have any questions concerning this matter, please call.

Sincerely,

OBLINGER-SMITH CORPORATION



John D. Gist

JDG:mb

cc: Lindy Andeel  
Lee Kelly  
Raymond Everson  
Robert Feldner

October 3, 1975

Robert Feldner, Superintendent of Central Inspection

Jack H. Galbraith, Chief Planner

Issuance of Building Permits on  
Property Located on the east side  
of Oliver between 21st Street and  
Looman

On October 3, 1975, we forwarded to you a copy of Resolution No. BZA 2-70 and a copy of an approved landscape plan which meets condition number 5. of that Resolution. Due to the lengthy period of inaction associated with this project, this memo is forwarded to you as a reminder that all of the conditions of the BZA Resolution, plus those of the approved CUP (DP-8 - University Gardens), must be met prior to the issuance of building permits on the property involved.

Jack H. Galbraith  
Chief Planner

JHG:RLY:ber

cc: Joe Donnelly  
Maint. Inspection Supervisor

October 3, 1975

William P. Higgins  
313 First National Bank Building  
Wichita, Kansas 67202

Subject: Case No. BZA 2-70  
Request for Exception

Dear Mr. Higgins:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on February 24, 1970, in connection with your request for an exception to permit the installation or construction of an off-street parking lot on property zoned the "AA" Single Family Dwelling District and generally located at the northeast corner of 21st Street and Oliver Street.

This Resolution reflects the official action of the Board to approve the request, and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office.

Sincerely,

Jack H. Galbraith

JHG:KY:el

Attachment

cc: Lindy Andeel, 5900 E. Central, 67208  
Robert Feldner, Superintendent of Central Inspection  
Donald C. Gisick, City Clerk  
Joe Donnelly, Central Inspection

RESOLUTION NO. BZA 2-70

WHEREAS, University Mall, Inc., 313 First National Bank Building, Wichita, Kansas, by William P. Higgins, 313 First National Bank Building, Wichita, Kansas requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita to permit the installation or construction of an off-street parking lot, on property zoned "AA"-Single Family, and legally described as follows:

Beginning 75 feet north and 75 feet east of the southwest corner of Section 1, Township 27 south, Range 1 east, thence north 275 feet, thence west 25 feet, thence north 350 feet, thence east 200 feet, thence south 625 feet, thence west 175 feet to beginning. Generally located at the northeast corner of 21st and Oliver Streets.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of February 24, 1970, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the installation or construction of an off-street parking lot, on property zoned "AA"-Single Family, subject to the conditions outlined in Section 28.04.145, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the installation or construction of an off-street parking lot, on property zoned "AA"-Single Family, and legally described as follows:

Beginning 75 feet north and 75 feet east of the southwest corner of Section 1, Township 27 south, Range 1 east, thence north 275 feet, thence west 25 feet, thence north 350 feet, thence east 200 feet, thence south 625 feet, thence west 175 feet to beginning. Generally located at the northeast corner of 21st and Oliver Streets.

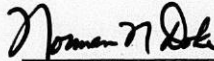
subject to the following conditions:

1. In no event shall any portion of the area contained in this application be utilized to satisfy the off-street parking requirements associated with the Community Unit Plan to the east (DP-8 as amended)

2. A five to eight foot solid wall constructed of either brick, stone, masonry, or architectural tile, shall be erected along the north property line of the application area and shall not extend closer to Oliver than the front setback line of 35 feet from the required half street right-of-way line.
3. A four foot solid wall constructed of either brick, stone, masonry, or architectural tile shall be erected along the west 35 foot setback line, except at the approved points of ingress and egress, from the required half street right-of-way line.
4. The required front yard setbacks on Oliver and 21st Streets except for points of ingress and egress shall remain unpaved and they shall be landscaped with grass, trees and shrubs which shall be maintained and replaced when necessary.
5. A detailed landscape plan for the setback areas on 21st and Oliver Streets showing the required walls on the west and north, existing trees and those proposed to be retained, proposed location and type of new trees and shrubs prepared by a registered landscape architect shall be submitted to the Secretary of the Board for approval prior to the resolution being forwarded to the Office of Central Inspection. In the event the Secretary is unable to approve the plan, the applicant has the right of appeal to the Board.
6. Prior to the occupancy of any portion of the application area for an off-street parking lot, the applicant shall remove the existing buildings.
7. The parking area shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicle.
8. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
9. In no case shall a fee be charged for parking facilities provided hereunder.
10. The off-street parking lot and driveways providing ingress and egress to the parking lot shall be paved with concrete, asphaltic concrete, or asphalt, and shall be maintained in good condition and free of all weeds, dust, trash, and debris.
11. All parking spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines of parking spaces. The parking area shall have adequate markings for channelization and movement of vehicles.

12. If lighting facilities are provided, they shall be so arranged as to reflect or direct light away from adjacent residential properties to the west.
13. All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot.

ADOPTED AT WICHITA, KANSAS, this 24th day of  
February, 1970.



NORMAN N. DOKE, Chairman

ATTEST:



JACK H. GALBRAITH, Secretary

October 3, 1975

Mr. Jon M. Risdal, ASLA  
Landscape Architect  
Oblinger-Smith Corporation  
625 First National Bank Building  
Wichita, Kansas 67202

Re: Landscape Plans  
Case No. BZA 2-70

Dear Mr. Risdal:

We have received and reviewed the revised copy of the landscape plan associated with BZA Case No. 2-70. With the indication of the fence along the north property line of the application area as requested, the plan is hereby approved. We will therefore, by copy of this letter, transmit an approved copy of the plan to the applicant's attorney Mr. Higgins, and to Mr. Robert Feldner, Superintendent of Central Inspection as an indication of compliance with condition No. 5 of Resolution No. BZA 2-70. Copies of this Resolution are furthermore being forwarded under separate cover to Mr. Higgins and Mr. Feldner for their reference.

If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:RY:el

**Attachments**

cc: Lindy Andeel, Andeel & Co., 5900 E. Central, 67208  
w/a Wm. Higgins, Attorney, 313 1st Nat'l. Bank Bldg., 67202  
w/a Robert Feldner, Supt. of Central Inspection  
J. Lee Kelly, Dillion Real Estate Co., Inc.  
2700 E. 4th St., Hutchinson, Ka. 67501

September 17, 1975

Mr. Jon M. Risdal, ASLA  
Landscape Architect  
Oblinger-Smith Corporation  
625 First National Bank Building  
Wichita, KS 67202

RE: Landscape Plans  
Case No. BZA 2-70

Dear Mr. Risdal:

We have reviewed, with the City's Superintendent of Landscape and Forestry, the landscape plan prepared for your client Mr. Andeel on the University Gardens BZA Case No. 2-70. On the basis of this review we consider your selection, specifications, and location of plant materials to be acceptable. We have noted, however, that there is no indication of the location of the required wall along the north property line as required by conditions No. 2 and 5 in the Resolution adopted by the Board of Zoning Appeals on February 24, 1970. We will, therefore, approve the submitted landscape plan subject to your locating the required wall along the north property line on the plans as set out in conditions No. 2 and 5 in Resolution No. BZA 2-70. Upon receipt of 4 corrected copies and on the basis of this approval, copies of the landscape plan and Resolution will then be forwarded to the applicant and to the Superintendent of Central Inspection in order that he may review the conditions of BZA approval as well as the conditions of the CUP prior to the issuance of any building permits on the area in the CUP zoned "LC".

We understand that detailed plans for the construction of the required walls are to be furnished by others as noted on the face of the landscape plan to the Superintendent of Central Inspection for review and approval prior to the issuance of building permits.

If you have any questions on this matter, please call.

Sincerely,

Jack H. Galbraith, Chief Planner

RLY:vn

cc: Lindy Andeel, Andeel & Co., 5900 E. Central, 67208  
Wm. Higgins, Attorney, 313 1st National Bank Building, 67202  
Bob Feldner, Superintendent of Central Inspection, City of Wichita  
J. Lee Kelly, Dillion Real Estate Co, Inc., 2700 E. 4th St.  
Hutchinson, KS 67501



**oblinger-smith corporation**

September 12, 1975

Mr. Jack H. Galbraith  
Chief Planner, M.A.P.D.  
City Building Annex  
104 S. Main  
Wichita, Kansas 67202

RE: Landscape Plans  
Case No. B.Z.A. 2-70

Dear Jack:

Enclosed are four (4) copies of the Landscape Plan for the setback areas on 21st and Oliver Street as outlined in B.Z.A. Case Number 2-70.

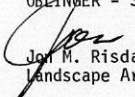
The Landscape Plan also shows the location of existing trees within the setback area and the location of the 4' high wall as requested by the above B.Z.A. case. As noted on the plan, we have shown the standard tapered right-of-way lines at the corner of 21st and Oliver. The amended C.U.P. will show this change also.

It is our understanding that the present hedgerow along Oliver Street will have to be removed to accommodate accel-decel lanes and public sidewalk at the time this parcel is developed. Therefore, we have prepared the planting plan with this in mind.

I trust we have met all the requirements of B.Z.A. Case 2-70 as it relates to the Landscape Plan. Should you have any questions, please call.

Yours truly,

OBLINGER - SMITH CORPORATION

  
Jon M. Risdal, A.S.L.A.  
Landscape Architect - Design Division

cc: Mr. Lindy Andeel  
Andeel and Company  
5900 East Central  
Wichita, Kansas

*Consultants in Planning, Design & Development /*

625 First National Bank Bldg., Wichita, Kansas 67202 / AC 316 262-0451  
1221 University Bldg., Denver, Colorado 80202 / AC 303 573-1880  
Crown Center, 2420 Pershing Road, Suite 111, Kansas City, Missouri 64108 / AC 816 421-7584  
(In the Quadrangle) Suite 232, 2800 Routh, Dallas, Texas 75201 / AC 214 748-4112

On Friday, Aug 1, 1975, I went with John Frisby, John Diet and John Rieder on the University Gardens Site and discussed the required "landscape plan". Frisby agreed to do some selective pruning on existing trees. It was determined that the 35' setback area would have to be planted as it was expected that the hedge along Olmsted would be removed eventually. It was hoped, however, that it could remain for several years while the new plantings were being established.

JH Δ

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

June 13, 1975

TO The Files

FROM Jack H. Galbraith, Chief Planner *JHG*

SUBJECT Case No. BZA 2-70 Request for Exception for Off-Street Parking Lot and DP-8 - University Gardens CUP - On the east side of Oliver in an area between 21st St. and Looman.

On this date Bill Higgins and Lindy Andeel came into the office to discuss potential plans for amending the University Gardens C.U.P. Their immediate concern is the construction of a Dillon's Store and the necessity for having to replat and amend the C.U.P. to accomplish that use. Andeel mentioned a desire to amend the service station parcel to permit any use permitted in Light Commercial, as well as establishing a new parcel to the west for an office building overlooking the lake. That parcel would necessitate amending the building setback from 21st Street to approximately 75 feet.

Andeel also mentioned the potential of apartments north of the lake with access to Pinecrest and a new parcel in the southwest corner of Parcel 2 for a financial institution. In discussing the immediate need of the Dillon Store we pulled the above BZA case and found that those resolutions had never been forwarded to the applicant pending the submission of the required landscape plan. I advised that in my opinion Dillon's Store should not be issued a building permit until their portion of this BZA case satisfied all the conditions of approval. They advised that they would look into the matter and proceed with amendments to the C.U.P., replatting, and satisfying the provisions of BZA approval.

Jack H. Galbraith  
Chief Planner

JHG:js

*See Kelly come in this date 6/24/75  
and we discussed the same conditions as  
listed above. He is to advise if we can provide  
him with additional information.*

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING DEPARTMENT  
COMMUNITY DEVELOPMENT DIVISION

Public Inquiry Slip

NAME Ed JOHNSON DATE 4/16/74  
PHONE 688-7511 PHONE X COUNTER \_\_\_\_\_  
PROPERTY LOCATION N.E. Cor of 21<sup>st</sup> & Oliver MAP # \_\_\_\_\_  
University Gardens C.U.P. (D.P. 8) & BZA 2-70

NATURE OF REQUEST:

CITY ZONING X COUNTY ZONING \_\_\_\_\_ CONDITIONAL USE \_\_\_\_\_

PLAT \_\_\_\_\_ LOT SPLIT \_\_\_\_\_ BZA X

VACATION \_\_\_\_\_ DEDICATION \_\_\_\_\_ STREET NAME CHANGE \_\_\_\_\_

REMARKS: *Ed Johnson called to inquire about the 4 ft. wall & landscape requirement of the B.Z.A. approval for off street parking on parcel #6 of the University Gardens C.U.P. He thought the 4 ft wall requirement had been dropped or eliminated. I advised him that the ~~proposed~~ adopted B.Z.A. resolution still contained the wall requirements. He said he was going to call Jack Galbraith regarding this.*

ROUTE TO: Galbraith, Shirkey, Meek  
GALBRAITH \* GIST \_\_\_\_\_ SHIRKEY \_\_\_\_\_ NEWBY \_\_\_\_\_  
LAKIN \_\_\_\_\_ STOCKWELL \_\_\_\_\_ RETURN TO Shirkey

COMMENTS: *Ed Johnson came in this date 4/16/74 and I advised that a Landscape Plan was still required*

February 27, 1970

William P. Higgins  
313 First National Bank Building  
Wichita, Kansas 67202

Dear Mr. Higgins:

Subject: Case No. BZA 2-70  
Request for Exception

At the regular meeting of the Board of Zoning Appeals on February 24, 1970, your request for an exception to permit the installation or construction of an off-street parking lot on property zoned "AA"-Single Family and generally located at the northeast corner of 21st and Oliver Streets, was considered.

It was the action of the Board to approve this request subject to the following conditions:

1. In no event shall any portion of the area contained in this application be utilized to satisfy the off-street parking requirements associated with the Community Unit Plan to the east (DP-8 as amended).
2. A five to eight foot solid wall constructed of either brick, stone, masonry, or architectural tile, shall be erected along the north property line of the application area and shall not extend closer to Oliver than the front setback line of 35 feet from the required half street right-of-way line.
3. A four foot solid wall constructed of either brick, stone, masonry, or architectural tile shall be erected along the west 35 foot setback line, except at the approved points of ingress and egress, from the required half street right-of-way line.

February 27, 1970  
William P. Higgins  
Case No. BZA 2-70

4. The required front yard setbacks on Oliver and 21st Streets except for points of ingress and egress shall remain unpaved and they shall be landscaped with grass, trees and shrubs which shall be maintained and replaced when necessary.
5. A detailed landscape plan for the setback areas on 21st and Oliver Streets showing the required walls on the west and north, existing trees and those proposed to be retained, proposed location and type of new trees and shrubs prepared by a registered landscape architect shall be submitted to the Secretary of the Board for approval prior to the resolution being forwarded to the Office of Central Inspection. In the event the Secretary is unable to approve the plan, the applicant has the right of appeal to the Board.
6. Prior to the occupancy of any portion of the application area for an off-street parking lot, the applicant shall remove the existing buildings.
7. The parking area shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicle.
8. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
9. In no case shall a fee be charged for parking facilities provided hereunder.
10. The off-street parking lot and driveways providing ingress and egress to the parking lot shall be paved with concrete, asphaltic concrete, or asphalt, and shall be maintained in good condition and free of all weeds, dust, trash, and debris.
11. All parking spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines of parking spaces. The parking area shall have adequate markings for channelization and movement of vehicles.

February 27, 1970  
William P. Higgins  
Case No. BEA 2-70

12. If lighting facilities are provided, they shall be so arranged as to reflect or direct light away from adjacent residential properties to the west.
13. All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot.

After determination of the necessary half street right-of-way on Oliver and the number and location of points of ingress and egress as approved on the final plat of University Gardens Addition, this information should be furnished to whomever you select to provide the landscape plan as required in Condition 5. Six copies of the plan should be submitted so that other interested persons can review the plan prior to the Secretary's approval.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the above-mentioned requirements have been met.

If you have any questions, please call our office.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ls

cc Charles F. McAfee  
Mrs. Cline D. Hensley  
William Beuttel  
Mrs. Barbara Morgan  
Curtis Terflinger  
C. Bickley Foster  
✓ Robert Feldner, Superintendent of Central Inspection  
✓ Ralph Eberly, City Clerk  
✓ Joe Donnelly, Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 2-70

APPLICANT: University Mall, Inc., 313 First National Bank Building, Wichita, Kansas

AGENT: William P. Higgins, 313 First National Bank Building, Wichita, Kansas

REQUEST: Exception pursuant to Section 2.12.590.C, Code of the City of Wichita to permit the installation or construction of an off-street parking lot

GENERAL LOCATION: Northeast corner of 21st and Oliver Streets

LAND USE: Subject property is occupied by a single family residence. Land to the north and east is undeveloped; west is single family; south is a church

ZONING: Subject property is zoned "AA"-Single Family as is that to the north, south and west; east is "LC"-Light Commercial

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception to permit the installation or construction of an off-street parking lot providing the conditions under Section 23.04.145, Code of the City of Wichita, can be complied with.

COMMENTS BY THE SECRETARY

The applicant is requesting an "exception", as permitted in the Zoning Ordinance, to allow the construction of an off-street parking lot on property zoned "AA"-Single Family and which will be utilized by a shopping center which is proposed to be constructed adjacent to the east of the application area. It should be pointed out that the property this off-street parking lot is intended to serve is being developed under the Community Unit Plan provisions of the Zoning Ordinance. The amended plan P-8 was approved by the Board of City Commissioners on June 6, 1969.

Since 1959, there has been a total of 11 various applications filed on subject property and that area held under the same ownership to the north and east. These include 3 county zone change requests, 4 city zone change requests, 2 Community Unit Plans, 1 plat and subject BZA request. In 1960, a request was filed for "LC"-Light Commercial zoning for the south 600 feet of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the Section in which this application is located. The application was approved except the west 250 feet measured from the section line, which was retained as a buffer to protect the residences on the west side of Oliver from the adverse affects of a shopping center directly to the east.

A general layout of parking spaces has been submitted to and approved by the Traffic Engineer. The plan provides for approximately 196 parking spaces and indicates that 35 feet adjacent to Oliver and 21st Street will be utilized for plantings and screenings. This parking would be in addition to the required off-street parking spaces on the shopping center site. It should be noted that, although the Traffic Engineer has given tentative approval to the parking plan, he has pointed out that it will be necessary to redesign the plan at such time as an off-street parking plan is submitted for the shopping center.. The Traffic Engineer has also stated he is of the opinion that the plat should provide 60 feet of half street right-of-way for Oliver and 21st where 50 feet has been indicated and that the applicant should be required to guarantee the construction of acceleration-deceleration lanes at the proposed points of ingress and egress. The number of access points and the additional right-of-way will be discussed at the time of platting.

It is the opinion of the Secretary that subject property (the original established 200 foot buffer) cannot realistically be developed for single family homes. The owners of such homes would not enjoy facing Oliver, a major street, or backing into a shopping center. Therefore, it would appear reasonable to expect the area to be developed for higher density residential uses, two or four family units, if the proper zoning could be obtained. This type of development would offer the best protection for the existing residences west of Oliver. The Secretary is also of the opinion that to permit the area to be utilized as an off-street parking lot, in essence, is practically the same as extending "LC"-Light Commercial zoning to Oliver.

This parking lot will act in the same manner as most of the parking areas in front of the major shopping centers in Wichita. The openings to Oliver will provide major approaches to the center the same as those on 21st Street and the truck entrance will most likely be the northern most point of ingress. The landscaped 35 foot setback area, as proposed, will offer an aesthetic approach to the center, however this will have to be done with care so as not to present sight conflicts for approaching vehicles to Oliver.

RECOMMENDATION

In the event the Board determines that parking should be permitted on subject property, the request should be approved subject to the following conditions:

1. In no event shall any portion of the area contained in this application be utilized to satisfy the off-street parking requirements associated with the Community Unit Plan to the east (DP-8 as amended)
2. A five to eight foot solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar shall be erected along the north property line of the application area and shall not extend closer to Oliver than the front setback line of 35 feet from the required half street right-of-way line.
3. The Board should consider requiring a four foot solid fence constructed of either masonry, architectural tile, staggered or louvered redwood or rough sawed cedar along the west and south 35 foot setback lines except at the approved points of ingress and egress.
4. The required front yard setbacks on Oliver and 21st Streets, except for points of ingress and egress shall remain unpaved and they shall be landscaped with grass, trees and shrubs which shall be maintained and replaced when necessary.
5. A detailed landscape plan for the setback areas on 21st and Oliver Streets showing the existing trees, proposed location and type of new trees and shrubs prepared by a licensed landscape architect shall be submitted to the Secretary of the Board for approval prior to the resolution being forwarded to the Office of Central Inspection.

Page 4 - Secretary's Report  
Case No. BZA 2-70

6. Prior to the occupancy of any portion of the application area for an off-street parking lot, the applicant shall remove the existing buildings.
7. The parking area shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicle.
8. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
9. In no case shall a fee be charged for parking facilities provided hereunder.
10. The off-street parking lot and driveways providing ingress and egress to the parking lot shall be paved with concrete asphaltic concrete, or asphalt, and shall be maintained in good condition and free of all weeds, dust, trash, and debris.
11. All parking spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines of parking spaces. The parking area shall have adequate markings for channelization and movement of vehicles.
12. If lighting facilities are provided, they shall be so arranged as to reflect or direct light away from adjacent properties.
13. All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot.

NORTHEAST HEIGHTS RESIDENTS ASSOCIATION  
CRESTVIEW LAKES ESTATES  
WILLOW LAKE ESTATES

**SUBJECT:** Case No. EZA 2-70; request for exception to permit parking uses in a portion of the 200 foot AA buffer zone on the east side of Oliver at 21st Street.

**POSITION:** The AA buffer zone in question was established to protect residences on the west side of Oliver from the adverse affect of the proposed shopping center on the northeast corner of Oliver and 21st Street. The proposal in question has the effect of eroding the protection which had been previously agreed upon. The residents to the west are willing to consider modifications of the existing buffer only if adequate safeguards can be imposed as a matter of record on the proposed parking use which will not diminish such protection. The following comments and requests are directed to the recommendations on page 3 of the Secretary's Report.

**COMMENTS ON  
RECOMMENDED  
CONDITIONS:**

1. Concur.
2. Object to the 35 foot setback line stated in items 2 and 3; concur with the recommendation of the Traffic Engineer of a 60 foot half street right-of-way (45 feet setback from the curb line) in anticipation of future acceleration-deceleration lanes.
3. Concur with the requirement of a four foot solid wall; provided, such wall shall be a masonry wall only, and constructed of brick, stone, or architectural tile, or a combination of such materials.
4. Concur.
5. Concur in the requirement of a detailed landscape plan prepared by a licensed landscape architect, but request the requirement that it be submitted to the Northeast Heights Residents Association, Crestview Lakes Association, and Willow Lake Association for review and recommendations before submission to the Secretary of the Board for approval.
6. Concur.
7. Concur, but request the following additional limitation: In any event, such added parking area shall not be used for other than usual shopping center parking. Parking uses in connection with a service station operation or other service operation shall be prohibited.

8. Concur, but request the following elaboration: Only traffic control signs will be permitted. All signs of a commercial nature shall be prohibited, including signs advertising the shopping center or apartment development.
9. Concur.
10. Concur, but request the following modification of the site plan: Provided, there shall be only two ingress-egress driveways serving the shopping center from Oliver. The southernmost entrance shall be eliminated.
11. Concur.
12. Concur, but request the following proviso: Provided, there shall be no parking lot lighting, including poles for such purpose, installed in the 200 foot buffer zone area.
13. Concur emphatically.

ADDITIONAL  
CONDITIONS:

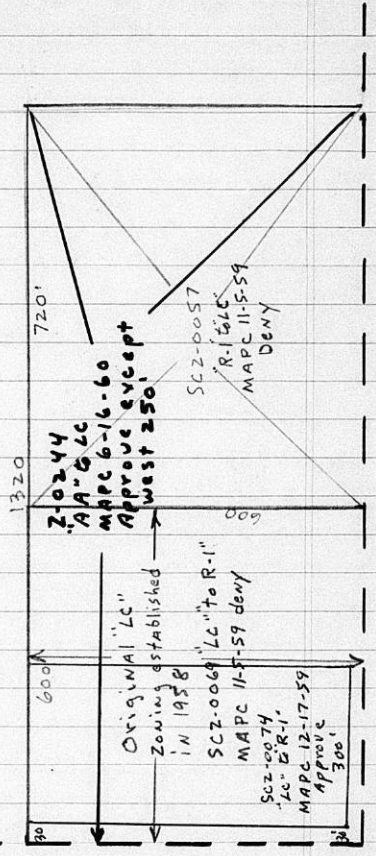
- ✓ 1. Maintenance of present site landscaping. Existing trees and shrubs in the shopping center site shall not be removed prior to the beginning of construction of such shopping development. Existing trees and shrubs in the apartment development site shall not be removed prior to the beginning of construction of such apartment development.
- ✓ 2. Additional apartment site access. Request that the apartment site plan be required to be amended to include a paved ingress-egress to 21st Street either by way of Pinecrest or by way of a corridor along the east side of the shopping center development.
- ✓ 3. Future requests for variances. Request a statement in the BZA minutes that any future applications for further variances with respect to said buffer zone shall be looked upon with disfavor.

Note: SCZ-0069 and SCZ-0074 annexed to City  
 prior to action by B.Co.C.

33  
 Dec 1959

ZCUPT's  
 Plot

11 applications





WICHITA STATE UNIVERSITY  
WICHITA, KANSAS 67208

OFFICE OF PLANNING

Phone 316-685-9161  
Ext. 215

February 17, 1970

Mr. Jack Galbraith, Senior Planner  
Metropolitan Area Planning Department  
Regulations Division  
City Building Annex  
104 South Main  
Wichita, Kansas 67202

Dear Jack:

When the BZA staff report is prepared for the University Gardens' case for the hearing on February 24, I would appreciate receiving two copies. I will convey the information to the neighborhood group working to make a presentation at the hearing.

Sincerely yours,

*Bick*

C. Bickley Foster  
Director of Land Use Planning

em



BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

February 4, 1970

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 2-70

An application has been filed by University Mall, Inc., 313 First National Bank Building, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the installation or construction of an off-street parking lot on property zoned "AA"-Single Family, and legally described as follows:

Beginning 75 feet north and 75 feet east of the southwest corner of Section 1, Township 27 south, Range 1 east, thence north 275 feet, thence west 25 feet, thence north 350 feet, thence east 200 feet, thence south 625 feet, thence west 175 feet to beginning. Generally located at the northeast corner of 21st and Oliver Streets.

This application has been assigned Case No. BZA 2-70, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, February 24, 1970, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH  
SECRETARY

*11 copies mailed 2-4-70*

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 2-70  
FILED 1-27-70

APPLICATION FOR EXCEPTION

I. Name of Applicant UNIVERSITY MALL, INC.  
Mailing Address 313 First National Bank Bldg. phone FO 3-1648  
Name of Authorized Agent William P. Higgins  
Mailing Address 313 First National Bank Bldg. phone FO 3-6148  
Relationship of applicant to property is that of Owner  
(Owner, Tenant, Lessee, Other).

II. Application is made for an exception as provided in Section \_\_\_\_\_, Code of the City of Wichita, Kansas (Zoning Ordinance); to permit the installation or construction of Off-Street parking on property zoned AA, located Northeast corner of 21st and Oliver and legally described as: Beginning 75 feet North and 75 feet East of the Southwest corner of Section 1, Township 27 South, Range 1 east, thence North 275 feet, thence West 25 feet, thence North 350 feet, thence East 200 feet, thence South 625 feet, thence West 175 feet to beginning. in the City of Wichita.

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
  - That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
  - That all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions.
  - That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.

Applicant UNIVERSITY MALL, INC.

Authorized Agent William P. Higgins

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 7:00 (a.m. - p.m.), January 27, 19 70, together with appropriate fee of \$50.00.

T9-403

Signed John Gist

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
11	2	Crestview Lakes	✓ Charles C. Browning, Jr and Aileen J. Browning #11 Crestview Lakes Estates Wichita, Kansas, 67220
12	"	"	✓ Doy C. Deem and Lillian M. Deem # 12 Crestview Lakes Estate Wichita, Kansas, 67220
13	"	"	✓ Merle D. Morgan and Barbara Jane Morgan # 13 Crestview Lakes Estates Wichita, Kansas, 67220
14	"	"	✓ Edward S. Lee, Jr and Mable L. Lee 2002 E. 17th St. Wichita, Kansas, 67214
15	"	"	<i>Wm</i> Fred Ablah # 15 Crestview Lakes Estates Wichita, Kansas, 67220
1		Truth Addition	✓ Trustees of Wichita Unity Center, 2160 N. Oliver Wichita, Kansas, 67208
The W 160' of 1		Blase Addition	✓ Don L. Miller, Address unknown <i>1518 W. Blase</i>
The NE½ of the NE½ of Sec. 11-27-1E			✓ Wichita Public Building Commission, Address unknown <i>704 S. Crestway</i>
The SW½ of the SW½ of Sec. 1-27-1E			✓ University Mall, Inc. Address unknown <i>913 East 7th</i>

The Security Abstract and Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners within a 200 foot radius of the following property to-wit:

Beginning 75 feet North and 75 feet East of the Southwest corner of Section 1, Township 27 South, Range 1 East, thence North 275 feet, thence West 25 feet, thence North 350 feet, thence East 200 feet, thence South 625 feet, thence West 175 feet to beginning.

as shown by the last deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 16th day of January, 1970 at 8:00 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

*Lucille Scheidt*

Vice-President

Order No, 168659

Form 223-021

**PAYMENT NOTICE**

City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
BZA operation	
regulation	

Name

Address

Type

Due Date

Comments:

Date

By

R-11-C

1-27-77

Whit

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 1