

DP-180  
ROCK ROAD WALMART COMMERCIAL  
COMMUNITY UNIT PLAN

At the southeast corner of 21st St.  
North and Rock Road

MOTION TO APPROVE

In consideration of the recommendation of the MAPC and staff; and

In consideration of the additional conditions offered by the applicants since the MAPC hearing that would make the proposed development more compatible with nearby properties, and

In consideration of the private agreement reached between the applicants and neighborhood representatives; and

In consideration of the offer by the Wilson family to dedicate additional road right of way south and east of the 12-acre tract that is proposed to be purchased by Wal-Mart (east to Tara Circle and south to the quarter-section line) that will provide an additional permanent greenbelt for the benefit of the public;

I move that the City Council concur with the findings of the MAPC and approve the zone change and the 9.4-acre C.U.P. subject to the conditions recommended by the MAPC and to the additional conditions that have been offered by the applicants since the MAPC hearing and are reflected in the most recent submission of the C.U.P.; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the Council.

Transcription of the 3-31-88 MAPC  
Minutes of the Wal-Mart case

seconded and it carried unanimously. Crockett and Moore were absent.

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The Chairman declared a 10-minute break.

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- 7a. Case No. Z-2886 - Wilson Estates requests zone change from "AA" to "LC" for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.
- 7b. Case No. DP-180 - Wilson Estates requests approval of Rock Road Wal-Mart Commercial Community Unit Plan for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road.

PARSONS reread the MAPC Policy Statement for those persons that were not present at the beginning of the meeting.

GALBRAITH stated that the City Council, in considering this case, has returned it to the Planning Commission. He said that staff was contacted by Mr. Yung, who advises that they propose to amend their application today to ask for approximately 9+ acres of total site for light commercial under the Community Unit Plan. GALBRAITH said that he handed out the revised C.U.P., and pointed out that it does not have the normal accompanying text with it. He said that the text of the C.U.P. will be almost identical to the one presented before. This site will only have one building; they are eliminating the two out parcels, so there will not be the potential restaurant uses on this site.

BILL YUNG, agent representing the applicant, stated that based on the City Council's decision to send the applications back to the Commission, Wal-Mart has decided to go through with the small site. They have filed the plat. They also wanted to make sure to not close the door for any possibility of negotiations and to see if there was anything they could do to see if there was any modification of the plan that could be reached prior to today's meeting. YUNG said that they felt they had several opportunities to begin some negotiations, and each time that they tried, they sort of got the direction that the neighborhood was not interested in any kind of a modification. YUNG said that the neighborhood advised him last night that was not true, that Wal-Mart did not make an honest enough effort. He said that may be the case, but if you read the newspapers you may have concluded the same thing as Wal-Mart did, that the various homeowners associations indicated that there really was not too much of an opportunity for compromise. YUNG said that about a week ago two ladies in the general neighborhood contacted them stating that there were a fairly significant number of people that were interested in this project that may have felt a little different than some of the information that they have had, and they began circulating a petition to find out if there was any depth in their concerns. They found that there was enough depth and asked if Yung would be able to attend a meeting. That meeting was held last night, and because of the two ladies' very fine work in breaking the ice, they were finally able to establish an opportunity for some negotiation with the neighborhood that has been long overdue. YUNG said that the plan he was going to show today came about as a result of last night's meeting; it takes the 12-acre site and modifies it to 9½ acres. He said that they would continue to keep the door open for minor modifications, even from this particular proposal. By that remark, YUNG said that he would be willing to meet with key representatives of the neighborhoods and the neighborhood associations that are affected or interested in working with him on further refinements of this proposal. He also indicated that they would be willing to go back to the CPO Council for another public hearing, allowing everyone, not only representatives from the homeowners associations, but anyone within the affected neighborhood to have an opportunity to discuss their proposals as well. YUNG related that he had not had the opportunity to schedule the meeting with the CPO office, but believed that it could be done, and the intent being that it would allow for a public hearing on this amendment prior to, and after everyone has had an opportunity to review it from the neighborhood, the case going back to the City Council. YUNG stated that there were two members of the Council present last night, and he believed they said that it would be acceptable with them; that he had 26 days to accomplish all of this. YUNG said that his personal opinion was that it would not do any good to defer this matter because if they had 126 days they would still be in the same boat when they got down to the end of trying to arrive at a conclusion. He pointed out that Wal-Mart has a deadline. They wish to be in business by Christmas; that is why the plat was filed. The plat will continue to go through in the event that they are unsuccessful with this modification, and they will be open by Christmas. If it is possible to modify the plan, that plat will then be modified to reflect whatever the compromise might be and they would still hope to stay on the same schedule.

YUNG further pointed out that even though he has agreed to all of these meetings with the neighbors and CPO, etc., on behalf of Wal-Mart, there is very

little additional modification that can be made to this proposal, and he believed that they are faced with the smaller site development.

**MOTION:** That Mr. Yung be granted an additional 5 minutes to finish his presentation. Brinegar moved, Goebel seconded and it carried unanimously. Crockett and Moore were absent.

YUNG presented the compromised site plan to the Commission. He stated that the building site initially was 85,900 square feet, and it is still 85,900 square feet. The expansion was 20,000 square feet illustrated, and an additional 20,000 illustrated on the 9.5 acres. Every condition that was agreed to on the 12-acre site is agreed to on the 9.5 acres. By doing away with the out parcels, some of the language on the C.U.P. was eliminated regarding those two parcels. The setback line is being reduced to 80 feet from 250 feet. The landscaping, wall, architectural improvements, wrought iron and all of the other conditions discussed is exactly the same. The main advantage, and the one he felt was the reason that they are finally beginning to get some cooperation from a number of people, if they do not extend the zoning down to the south they would be unable to make this connection on Rock Road and provide the signalized intersection at the major entrance between Skaggs Alpha Beta and the Wal-Mart, and without that, he believed that the traffic was going to be considerably more cumbersome than any of them would like to see. He said that if you look at the plat the way it is submitted now on the 5.9 acres with no left turn movements to the south is not the best solution for this particular corner. He said that he has very carefully analysed what would happen if Wal-Mart did not go in here, and just any neighborhood center went in this location, and he assured them that the same problem exists. They still have the same traffic problems, the same undesirable characteristics that could develop by just straight zoning because there would not be a C.U.P. on that site, and without the additional zoning, they are making a terrible mistake in letting this particular project develop without the expansion.

YUNG stated (on the 9.5-acre site) that they are taking all of the major traffic movements and putting them back on Rock Road where they belong. The building faces Rock Road. They still have a 275-foot setback across the front; that is very compatible and very comparable to what has been done on the other corners.

YUNG pointed out the existing median improvements on the drawing. He said that he has never shown the proposed improvements on any of their drawings. The traffic study that applied on the 12-acre site still applies on this one, and it is considerably more attractive. The reason is they were asking for 145,000 square feet of building on the entire site. This proposal reduces that to 125,000 square feet, which is a 20,000-foot reduction. That will reduce the total amount of traffic from the site.

YUNG felt that this is a very reasonable compromise. Wal-Mart, in their opinion, has come as far as they can come. He said that if they are unsuccessful in the next 26 days to arrive at a compromise that the neighborhood can live with, then Wal-Mart will go forward with the 9.5-acre site as they so indicated.

SHERMAN asked, that of the 125,000 square-foot figure, is Wal-Mart going to specify that a percentage of that would be storage.

YUNG said yes, a definite percentage of that would be retail.

BRUCE HULET, representing the homeowners in the immediate area, including Greenleaf, Bent Tree, Summerfield, Wood Spring, Penstemmon, Plumthicket, Silverleaf, Wilderness, Waterford, Waterford North and Waterford Tree, Applewood I and II of Sycamore Village area, stated that he would like to correct a few things in Mr. Yung's statements; they did not bless nor did they endorse this 9.5-acre plan. Much like the staff has stated, they had not seen the plan until last night, which was roughly 4 or 5 minutes in his case. He said that the homeowners associations, which he represents, in and around the 21st and Rock Road area stated for the record that they are unequivocally, categorically, against any further rezoning of residential land to "OC", "LC", "C", "E", or "F". He said that they recognize that 5.9 acres on the southeast corner can and will be developed within the current city ordinance and require no further C.U.P. or action by the MAPC or the City Council. However, as Mr. Yung stated, during the neighborhood meeting last, Wal-Mart representatives have offered for the first time ever to meet with and try to work with the immediate homeowners and try to reconcile any differences that may be between the parties. He felt that it was important to note that was all that was agreed to last night.

HULET said that it was rather interesting to note, on a personal basis, that the reason Wal-Mart believes it can not locate under 6 acres, even though they said that the footprint will be the same, at least the initial footprint, is because the zoning or rezoning that was granted some years back to the Skaggs development directly across the street was without plan, and therefore is incompatible with any ability to use directly across the street accesses. He has said time and time again that rezoning is not the way to be doing these things. It makes things complex, nonfeasible and takes up land that has been zoned for residential. Therefore, HULET said that they would like to recommend and urge the Commission to reject the 9.5-acre request for two reasons: The Planning staff said that they have not had time to look at it; the neighborhood has not had time to look at it; the other homeowner groups that may be involved here has not had time to look at it, and particularly since Wal-Mart has said that they will build on the 5.9 acres, and they have filed a plat to do so. HULET said that the neighborhood has recognized from the start that that was a distinct possibility. He said that the neighborhood would work with them if they can; they are not going to sit and accept something that they have not worked with. HULET handed out a booklet that was given to the City Council.

MILES, speaking to Bill McKinley, Traffic Engineer, stated that the Commission has seen three different proposals, 12, 9 and 5. Of the two they are looking at now, which would give the best traffic flow.

McKINLEY stated that he is assuming again that what they see is not exactly what they are going to get. He said that they would get the same traffic flow that they showed on the 12-acre site on Rock Road and 21st, which would include acceleration lanes and deceleration lanes, left turn bays, etc. Basically

the 9.5-acre site would have the least traffic impact in the area of the three sites that have been proposed, assuming that they have everything the same as on the 12-acre site. He said that the smaller site puts everything too close to the intersection at 21st and Rock Road. They had some real problems handling the major entrance on 21st with the 400-foot spacing compared to the 600-foot spacing on Rock Road between the signalized intersection at 21st and Rock and the major entrance into their center on Rock Road. There is a heavy left turn demand northbound to 21st and Rock today on Rock Road and it does back up, and they would need the total distance in there. If it is shortened up to the smaller site, the distance becomes critical. The left turns northbound and southbound would overflow into a through lane, and that would be Traffic Engineering's concern. He said that going to the smaller site from 12 to 9 eliminates some of the traffic problems associated with the restaurants, and that will be a benefit.

PARSONS commented that it was a little bit difficult to sit in judgment of this when you get a last minute plan, and to sit here and try to contemplate this plan as opposed to the other two is difficult.

SHERMAN commented that this is a very similar traffic pattern as far as the entrances and exits are concerned. The reduction in the pad sites helps traffic considerably along with the improvement of square footage. He said that he personally prefers this plan over the smaller site in that it gets better setbacks from Rock Road. He said that he was not real excited about a 200 x 400-foot building going 42 feet off of Rock Road, but all around he preferred this smaller plan to the larger one.

GARDNER stated that the intransigents of the parties involved, and he supposed that it was always difficult to organize a large group of people into a single opinion that reflects all the individual opinions, but seeing the hardball game that is going on of "if we just hold fast and continue to refuse any changes beyond the existing commercial area that is there" seems to reflect the hope or belief that nothing will occur, or very little will occur on the corner. There was perhaps an initial hope that they would not build on the corner if refused the other alternatives, and that has colored a major part of the discussions for the last several months. GARDNER said that having looked at some of the site plans for the 5.9 or 6-acre corner which removed the pad sites and which retained nearly the same size Wal-Mart structure and demonstrate that it can be done, the number of diminished options and alternatives are just very disappointing to him. From the legal sense there is enough zoning that if it is platted in accordance with the technical requirements, someone can and will develop on that acreage. The comments that have been made that the plat will be stopped bespeak either a disrespect for the property rights of others in terms of someone's right to plat, or they indicate a lack of understanding of powers do and don't exist when it comes down to the right to plat a parcel for development for whatever sort, and he felt it was a poor hook to hang one's hat on in the hope that no development will occur. The traffic problems that result from a development on the smaller acreage are in large part a great deal less than optimum. They may be able to adequately service the traffic there, but he felt McKinley's statements are very much to the point that this is, on the 9.4-acre parcel, a better layout for accommodating traffic movements that should be

accommodated in a development. GARDNER said that he supposed that he was just struck by the gentleman that spoke saying, in effect, given the choice of the two stores, they would prefer the smaller site to the larger site. The neighborhood has raised the traffic issue, and this seems to address a portion of it. GARDNER said that the landscaping on this plan is vastly superior to what they would have on the smaller development, and he did not see what purpose is served by further delay of the process unless there is the hope that if it can be delayed further they won't build. It is a very puzzling set of responses that have come forth from the parties over the last several weeks. The 9.4-acre site would have appeared to address the majority of the problems that still have existed or have been raised, and it seems to him to be an adequate proposal. It seems to have a number of advantages to it that could not be achieved with a smaller site.

KROUT said staff's only concern was that they did not know exactly where the changes were going to be and thought if they were extensive, that maybe the case should be deferred so that the changes can be studied from a planning and traffic standpoint. He felt that Bill Yung went through pretty carefully what the changes would be, and they are fairly simple and few and McKinley has indicated that traffic would still work the same and he does not have any problems, so staff does not recommend deferring the case.

GARDNER asked Krout if his perception was correct that staff would prefer this (the 9.4-acre site) given the traffic handling and some other devices to the option of developing on the smaller acreage.

KROUT responded that from staff's standpoint, the circulation works better. This is probably a 20 percent reduction in the traffic from the previous scheme. The traffic works much better when you have major access points from both Rock Road and 21st Street.

PARSONS asked that on the latest plan, is the landscape buffer the same all the way around, or is it 15 feet on the west and 10 feet on the north.

YUNG pointed out that the C.U.P. was in error. The landscaping is 15 feet on both sides.

BRINEGAR commented that it was rather interesting that the present limits of the "LC" zoning falls south of the present footprint of the design site for the 86,000 square-foot to 85,900 square-foot building. Without the expansion the building site would not even be outside the presently zoned "LC" area. To him, the access afforded by the alignment on Rock Road certainly outweighs some of the problems that were associated with the smaller site. He said that this looks like a much better plan. He did feel that all of the parties would never agree to all of the things, and obviously somewhere along the line a decision has got to be made and submitted to the City Council.

PARSONS further commented that he was glad, as chairman of the Planning Commission, that this case did do what it did as far as bringing some things to light in the process, and maybe some things that needed to be looked at and things that needed to be changed in the entire planning process in which the

Planning Commission is in the process of doing, not as a result of this, but had anticipated doing earlier. He felt that both proponents and opponents of the zone request have had the opportunity, and certainly do have the right to express their position, which he has heard in some circles that one does and one doesn't. PARSONS said that he was a little disappointed that some of the negotiation had to be held in a public hearing. He believes that while it is not a requirement, a better plan might have been for the developer and the neighborhood to have met earlier in the process and worked out some of the things that unfortunately were worked on here and in the newspaper, radio and television in addition to the CPO meetings, some of which got pretty grizzly. He did not feel that was good for anybody, and he certainly did not think it was good for the neighborhood or the community being Wichita. He felt that economic development and good planning were much more than granting zoning requests wherever, whenever and for whatever purpose that somebody wants it. He said that he continues to be somewhat disappointed in the media. This continues to be almost a joking put down, insinuations and innuendo type of a matter, and he did not feel that does anybody any good; it does not accomplish anything, and maybe those are some of the reasons that Wichita has a problem from time to time in their economic development activity.

PARSONS said that he was still concerned about the amount of light commercial zoning within a mile and a mile and one-half of this particular location. He said that it looks like they are talking about a potential of about a 115,000 square-foot building here which has, in his opinion, some future potential for problems, if not for that particular building, to others that might be in the area, and felt that needs to be looked at, and looked at very carefully. He agreed with his colleagues that this is probably the best plan that they have seen, and a plan that probably will work, but he was going to continue to hold his position and vote in opposition to this plan as he did the last time, not necessarily because he did not think the traffic would work or that the restaurant locations have been taken out, but he did think that the light commercial zoning was in overabundance in this area, and to create more is a mistake.

FAIRBANKS stated that he has had a lot of people call him, and it has been a lot of "us" and "them" attitude, and yet the same people at the end of their telephone calls or letters say, "We need to work together as a city," but they close it with, "But we are not going to let them do anything to our property." He said that is kind of what the Planning Commission is talking about on the bench; they are asking them to zone for everybody's best uses and best reasons and the best cause, but then they turn around and tell the Commission that everything is an "us" and "them" attitude. He felt that they have to realize that this Commission has to decide on things by the regulations and the rules that they have to live by, and they are simply going to make the decisions that way. They do like the input, but at the same time, if that input could be more constructive as he felt the 9.4 acres is constructive input, it could have been brought up many times before, but for some reason there seems to be two oppositional forces here and everybody is taking "us" and "them" attitudes on both sides. FAIRBANKS felt that this is the plan they should have seen a month ago. He said that the Chairman made a good point that it was terrible to be negotiating at the meeting, and he was embarrassed that they were listening to negotiations and having to do it this way. However, he did feel that this is the

best proposal that they have yet and the Commission will keep going with whatever they see on these proposal. He said that he for one was going to vote in favor of this proposal.

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of properties nearby; the suitability of subject property for the uses proposed; the conformance of the requested change to the Comprehensive Plan; and the recommendation of staff; I move that we recommend to the governing body the approval of the 9.4-acre amended proposal, subject to all the conditions previously recommended for establishment on Parcel No. 3 of the original 12-acre proposal. In addition, the Planning Commission recommended the establishment of a zoning policy which would not favor additional "LC", "C", "E" or "F" zoning south of the application area on Rock Road or east of the application area along 21st Street to Webb Road. The recommendation for approval is also subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be plated within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

Fairbanks moved, Sherman seconded.

SHERMAN commented that he realize there has been a lot said about the fact that communication should have started earlier and should have been a little

more in depth. He said that he did not know who was to blame, but he was at the meeting last night and felt that some lines of communication did open, and he hoped that over the next 3 or 4 weeks before the City Council meeting that those thoughts would continue, and hopefully the sides, if not in agreement, will be a little bit closer together when they do come to that point.

VOTE ON THE MOTION: It carried with a vote of  
7 in favor (Fairbanks, Sherman, Brinegar,  
Gardner, Coebel, Miles and Turner) and 1 opposed  
(Parsons). Crockett and Moore were absent.

8. Other Matters:

KROUT announced that in two weeks the next series of zoning and planning workshops will be scheduled. April 28 is tentatively set for a workshop to talk about hazardous waste with EPA. Also the City Council, on Tuesday, directed the staff to advertise a hearing for April 28 to consider deletion of parking as a use by right in the "B" Multiple Family district.

GARDNER stated that with due respect on that he felt it would be appropriate if they had an informal session reviewing the proposal and the impact whether or not it is retroactive or in what fashion it takes place. He felt that nobody is offended delaying that a little bit to take the time to look at it.

KROUT said that he had been directed by the City Council to move as quickly as possible with that amendment, but he would try to set up an informal workshop for either April 14 or the morning of April 28.

GARDNER said that he understood the desire to move quickly and the necessity to advertise for public hearing, but did not see that there was any reason to accelerate things in an unduly rapid fashion given the number of years the zoning ordinance has read that way. He felt that they should take the time to study what the impact will be. GARDNER said that it has been the normal course in the past to invite comment from public groups, many of whom have to convene and hold meetings and develop opinions or positions on those kind of things, and that courtesy has always been extended to people, and he could not imagine that the current Council would want to accelerate things so fast that they discontinue public input.

KROUT said that he would try to have that discussion with the Manager and the City Council, but unless they change their minds, staff is still shooting for an April 28 hearing.

PARSONS stated last Tuesday, when the City Council considered the Planning Items, they had privy to the minutes of the last Planning Commission meeting, and the Commissioners have not seen those yet. He asked if there was some way the minutes could be speeded up to the Planning Commission.

Planning Agenda Item # 1

City of Wichita  
City Council Meeting  
~~April 26, 1988~~  
March 31, 1988  
Agenda Report # 88-144  
(Supp. A)

TO: Mayor and City Council Members

SUBJECT: DP-180 - ROCK ROAD WAL-MART COMMERCIAL COMMUNITY UNIT PLAN; AND

Z-2886 - ZONE CHANGE FROM "AA" ONE-FAMILY DWELLING DISTRICT TO "LC" LIGHT COMMERCIAL DISTRICT, LOCATED AT THE SOUTHEAST CORNER OF 21ST STREET NORTH AND ROCK ROAD. (District #2)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

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MAPC Recommendation: Approve the amended 9.4-acre proposal (7-1).

Staff Recommendation: Approve the amended 9.4-acre proposal

CPO Recommendation: On February 15, 1988, Council "2A" recommended denial of the original 12-acre C.U.P. and rezoning request 6-3. CPO Council "2A" consideration of amended 9.4-acre proposal is scheduled for April 18, 1988.

Background: The C.U.P. proposal and associated zone change request were originally heard by the MAPC on December 10, 1987 and were deferred two months in order for a traffic study to be done by the applicant. The traffic study was completed and the case was rescheduled for consideration by the Metropolitan Area Planning Commission on February 18, 1988. Following the public hearing on February 18, 1988 the MAPC took action to recommend that the C.U.P. and associated zone change request be approved. The Wichita City Council considered the case on March 8, 1988 and took action to return the case to the Metropolitan Area Planning Commission for reconsideration. On March 31, 1988 the MAPC held a public hearing to reconsider a commercial community unit plan and an associated zone change request for a 12-acre unplatted and undeveloped tract of land on the southeast corner of 21st Street North and Rock Road. At the public hearing, the applicant amended his proposal by reducing the total site size to 9.4 acres, with a corresponding reduction in the size of the rezoning request from 5.4 to 2.98 acres of "LC" Light Commercial zoning. The applicant stated that all of the provisions of the previous 12-acre proposal would apply to the 9.4-acre proposal. The main difference in the revised proposal would be the reduction in total site size, the reduction in the amount of additional "LC" zoning requested, and the reduction of the number of proposed parcels available for commercial development from 3 to 1.

The "LC" rezoning request is now for 2.98 acres of property that is presently zoned the "AA" One-Family Dwelling District. The revised C.U.P. proposes the

PL/1763/2

development of one parcel with a maximum gross floor area of 122,840 square feet for commercial purposes. The original 3 parcel-plan had proposed a total of 145,000 square feet of maximum gross floor area. The proposed shopping center uses include grocery, retail shops, pharmacy, garden center, tire, battery and accessories and concessions area within a major department store. In addition, extensive landscaping, screening, sign control and traffic improvements are proposed. A fifteen-foot wide landscape buffer is proposed along the entire Rock Road and 21st Street frontage west of the major entrance. Since the March 31, 1988 review of the C.U.P. proposal by the MAPC, the applicant has increased the width of the landscape buffer along 21st Street east of the major entrance from 15 feet to 20 feet and is proposing the use of conifer trees and landscaped berms to screen the eastern portion of the project. Trees with 2½ to 3-inch diameter trunks are to be included in the landscape planting materials. These trees are to be located throughout the parcel including the parking areas.

Traffic improvements to be made include center left turn lanes in 21st Street and Rock Road, raised medial extensions and reconstructions, deceleration lanes and signalization of the major entrance to Rock Road if determined necessary by the City Engineer. Street and signal improvements associated with the C.U.P. are to be guaranteed at the time of platting. One major opening is proposed on 21st Street and one major opening and a secondary opening for right turns only are proposed on Rock Road.

Screening walls are to be constructed to screen the development from adjacent residential areas and to screen the proposed truck loading dock from Rock Road.

Attention is also to be given to the type of building materials to be used throughout the project to assure compatibility and blending with the character of the surrounding area. The applicant has also added provisions which would prohibit carnivals from occurring on the premises and would require that garage doors on the structure be painted the same color as the structure. The applicant is also prohibiting the use of "Discount City" and "we sell for less" signs on the proposed structure.

The signs permitted on the site have been changed from pole type to monument type and have been reduced in permissible height from 20 feet to 17 feet.

- Recommendations/Actions:
1. Concur with the findings of the MAPC and approve the zone change and the 9.4-acre C.U.P. subject to the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or
  2. Take appropriate action stating reasons.

**CASE NUMBER:** DP-180 and Z-2886

**OWNER/APPLICANT/AGENT:** Wilson Estates (applicant)  
Bill C. Yung Design (agent)

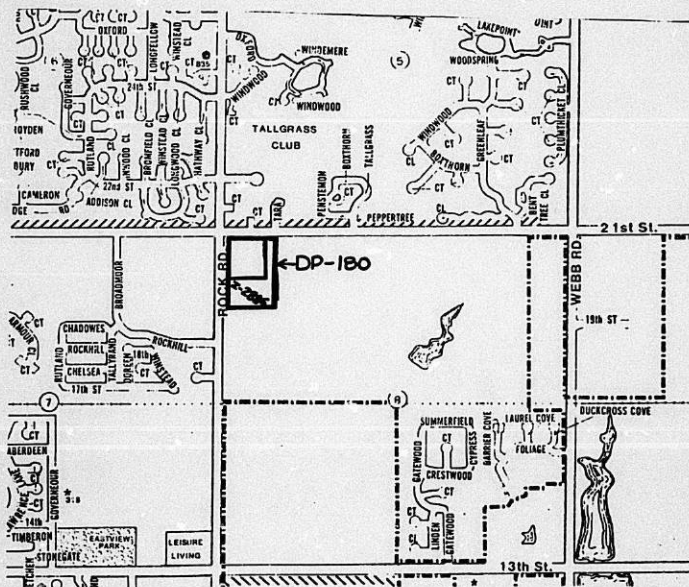
**REQUEST:** Approval of Rock Road Walmart Commercial Community Unit Plan and associated zone change to the "LC" Light Commercial District.

**CURRENT ZONING:** "AA" One-family Dwelling District and "LC" Light Commercial District

**SITE SIZE:** 12 acres

**LOCATION:** At the southeast corner of 21st Street North and Rock Road

**PROPOSED USE:** Light Commercial and office uses



APPLICATION  
AREA

EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 31, 1988

LEGAL:

- 7a. Case No. Z-2886 - Wilson Estates requests zone change from "AA" to "LC" for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.
- 7b. Case No. DP-180 - Wilson Estates requests approval of Rock Road Wal-Mart Commercial Community Unit Plan for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road.

PARSONS reread the MAPC Policy Statement for those persons that were not present at the beginning of the meeting.

GALBRAITH stated that the City Council, in considering this case, has returned it to the Planning Commission. He said that staff was contacted by Mr. Yung, who advises that they propose to amend their application today to ask for approximately 9+ acres of total site for light commercial under the Community Unit Plan. GALBRAITH said that he handed out the revised C.U.P., and pointed out that it does not have the normal accompanying text with it. He said that the text of the C.U.P. will be almost identical to the one presented before. This site will only have one building; they are eliminating the two out parcels, so there will not be the potential restaurant uses on this site.

BILL YUNG, agent representing the applicant, stated that based on the City Council's decision to send the applications back to the Commission, Wal-Mart has decided to go through with the small site. They have filed the plat. They also wanted to make sure to not close the door for any possibility of negotiations and to see if there was anything they could do to see if there was any modification of the plan that could be reached prior to today's meeting. YUNG said that they felt they had several opportunities to begin some negotiations, and each

time that they tried, they sort of got the direction that the neighborhood was not interested in any kind of a modification. YUNG said that the neighborhood advised him last night that was not true, that Wal-Mart did not make an honest enough effort. He said that may be the case, but if you read the newspapers you may have concluded the same thing as Wal-Mart did, that the various homeowners associations indicated that there really was not too much of an opportunity for compromise. YUNG said that about a week ago two ladies in the general neighborhood contacted them stating that there were a fairly significant number of people that were interested in this project that may have felt a little different than some of the information that they have had, and they began circulating a petition to find out if there was any depth in their concerns. They found that there was enough depth and asked if Yung would be able to attend a meeting. That meeting was held last night, and because of the two ladies' very fine work in breaking the ice, they were finally able to establish an opportunity for some negotiation with the neighborhood that has been long overdue. YUNG said that the plan he was going to show today came about as a result of last night's meeting; it takes the 12-acre site and modifies it to 9½ acres. He said that they would continue to keep the door open for minor modifications, even from this particular proposal. By that remark, YUNG said that he would be willing to meet with key representatives of the neighborhoods and the neighborhood associations that are affected or interested in working with him on further refinements of this proposal. He also indicated that they would be willing to go back to the CPO Council for another public hearing, allowing everyone, not only representatives from the homeowners associations, but anyone within the affected neighborhood to have an opportunity to discuss their proposals as well. YUNG related that he had not had the opportunity to schedule the meeting with the CPO office, but believed that it could be done, and the intent being that it would allow for a public hearing on this amendment prior to, and after everyone has had an opportunity to review it from the neighborhood, the case going back to the City Council. YUNG stated that there were two members of the Council present last night, and he believed they said that it would be acceptable with them; that he had 26 days to accomplish all of this. YUNG said that his personal opinion was that it would not do any good to defer this matter because if they had 126 days they would still be in the same boat when they got down to the end of trying to arrive at a conclusion. He pointed out that Wal-Mart has a deadline. They wish to be in business by Christmas; that is why the plat was filed. The plat will continue to go through in the event that they are unsuccessful with this modification, and they will be open by Christmas. If it is possible to modify the plan, that plat will then be modified to reflect whatever the compromise might be and they would still hope to stay on the same schedule.

YUNG further pointed out that even though he has agreed to all of these meetings with the neighbors and CPO, etc., on behalf of Wal-Mart, there is very little additional modification that can be made to this proposal, and he believed that they are faced with the smaller site development.

**MOTION:** That Mr. Yung be granted an additional 5 minutes to finish his presentation. Brinegar moved, Goebel seconded and it carried unanimously. Crockett and Moore were absent.

YUNG presented the compromised site plan to the Commission. He stated that the building site initially was 85,900 square feet, and it is still 85,900 square feet. The expansion was 20,000 square feet illustrated, and an additional 20,000 illustrated on the 9.5 acres. Every condition that was agreed to on the 12-acre site is agreed to on the 9.5 acres. By doing away with the out parcels, some of the language on the C.U.P. was eliminated regarding those two parcels. The setback line is being reduced to 80 feet from 250 feet. The landscaping, wall, architectural improvements, wrought iron and all of the other conditions discussed is exactly the same. The main advantage, and the one he felt was the reason that they are finally beginning to get some cooperation from a number of people, if they do not extend the zoning down to the south they would be unable to make this connection on Rock Road and provide the signalized intersection at the major entrance between Skaggs Alpha Beta and the Wal-Mart, and without that, he believed that the traffic was going to be considerably more cumbersome than any of them would like to see. He said that if you look at the plat the way it is submitted now on the 5.9 acres with no left turn movements to the south is not the best solution for this particular corner. He said that he has very carefully analysed what would happen if Wal-Mart did not go in here, and just any neighborhood center went in this location, and he assured them that the same problem exists. They still have the same traffic problems, the same undesirable characteristics that could develop by just straight zoning because there would not be a C.U.P. on that site, and without the additional zoning, they are making a terrible mistake in letting this particular project develop without the expansion.

YUNG stated (on the 9.5-acre site) that they are taking all of the major traffic movements and putting them back on Rock Road where they belong. The building faces Rock Road. They still have a 275-foot setback across the front; that is very compatible and very comparable to what has been done on the other corners.

YUNG pointed out the existing median improvements on the drawing. He said that he has never shown the proposed improvements on any of their drawings. The traffic study that applied on the 12-acre site still applies on this one, and it is considerably more attractive. The reason is they were asking for 145,000 square feet of building on the entire site. This proposal reduces that to 125,000 square feet, which is a 20,000-foot reduction. That will reduce the total amount of traffic from the site.

YUNG felt that this is a very reasonable compromise. Wal-Mart, in their opinion, has come as far as they can come. He said that if they are unsuccessful in the next 26 days to arrive at a compromise that the neighborhood can live with, then Wal-Mart will go forward with the 9.5-acre site as they so indicated.

SHERMAN asked, that of the 125,000 square-foot figure, is Wal-Mart going to specify that a percentage of that would be storage.

YUNG said yes, a definite percentage of that would be retail.

BRUCE HULET, representing the homeowners in the immediate area, including Greenleaf, Bent Tree, Summerfield, Wood Spring, Penstemmon, Plumthicket,

Silverleaf, Wilderness, Waterford, Waterford North and Waterford Tree, Applewood I and II of Sycamore Village area, stated that he would like to correct a few things in Mr. Yung's statements; they did not bless nor did they endorse this 9.5-acre plan. Much like the staff has stated, they had not seen the plan until last night, which was roughly 4 or 5 minutes in his case. He said that the homeowners associations, which he represents, in and around the 21st and Rock Road area stated for the record that they are unequivocally, categorically, against any further rezoning of residential land to "OC", "LC", "C", "E", or "F". He said that they recognize that 5.9 acres on the southeast corner can and will be developed within the current city ordinance and require no further C.U.P. or action by the MAPC or the City Council. However, as Mr. Yung stated, during the neighborhood meeting last, Wal-Mart representatives have offered for the first time ever to meet with and try to work with the immediate homeowners and try to reconcile any differences that may be between the parties. He felt that it was important to note that was all that was agreed to last night.

HULET said that it was rather interesting to note, on a personal basis, that the reason Wal-Mart believes it can not locate under 6 acres, even though they said that the footprint will be the same, at least the initial footprint, is because the zoning or rezoning that was granted some years back to the Skaggs development directly across the street was without plan, and therefore is incompatible with any ability to use directly across the street accesses. He has said time and time again that rezoning is not the way to be doing these things. It makes things complex, nonfeasible and takes up land that has been zoned for residential. Therefore, HULET said that they would like to recommend and urge the Commission to reject the 9.5-acre request for two reasons: The Planning staff said that they have not had time to look at it; the neighborhood has not had time to look at it; the other homeowner groups that may be involved here has not had time to look at it, and particularly since Wal-Mart has said that they will build on the 5.9 acres, and they have filed a plat to do so. HULET said that the neighborhood has recognized from the start that that was a distinct possibility. He said that the neighborhood would work with them if they can; they are not going to sit and accept something that they have not worked with. HULET handed out a booklet that was given to the City Council.

MILES, speaking to Bill McKinley, Traffic Engineer, stated that the Commission has seen three different proposals, 12, 9 and 5. Of the two they are looking at now, which would give the best traffic flow.

McKINLEY stated that he is assuming again that what they see is not exactly what they are going to get. He said that they would get the same traffic flow that they showed on the 12-acre site on Rock Road and 21st, which would include acceleration lanes and deceleration lanes, left turn bays, etc. Basically the 9.5-acre site would have the least traffic impact in the area of the three sites that have been proposed, assuming that they have everything the same as on the 12-acre site. He said that the smaller site puts everything too close to the intersection at 21st and Rock Road. They had some real problems handling the major entrance on 21st with the 400-foot spacing compared to the 600-foot spacing on Rock Road between the signalized intersection at 21st and Rock and the major entrance into their center on Rock Road. There is a heavy left turn

demand northbound to 21st and Rock today on Rock Road and it does back up, and they would need the total distance in there. If it is shortened up to the smaller site, the distance becomes critical. The left turns northbound and southbound would overflow into a through lane, and that would be Traffic Engineering's concern. He said that going to the smaller site from 12 to 9 eliminates some of the traffic problems associated with the restaurants, and that will be a benefit.

PARSONS commented that it was a little bit difficult to sit in judgment of this when you get a last minute plan, and to sit here and try to contemplate this plan as opposed to the other two is difficult.

SHERMAN commented that this is a very similar traffic pattern as far as the entrances and exits are concerned. The reduction in the pad sites helps traffic considerably along with the improvement of square footage. He said that he personally prefers this plan over the smaller site in that it gets better setbacks from Rock Road. He said that he was not real excited about a 200 x 400-foot building going 42 feet off of Rock Road, but all around he preferred this smaller plan to the larger one.

GARDNER stated that the intransigents of the parties involved, and he supposed that it was always difficult to organize a large group of people into a single opinion that reflects all the individual opinions, but seeing the hardball game that is going on of "if we just hold fast and continue to refuse any changes beyond the existing commercial area that is there" seems to reflect the hope or belief that nothing will occur, or very little will occur on the corner. There was perhaps an initial hope that they would not build on the corner if refused the other alternatives, and that has colored a major part of the discussions for the last several months. GARDNER said that having looked at some of the site plans for the 5.9 or 6-acre corner which removed the pad sites and which retained nearly the same size Wal-Mart structure and demonstrate that it can be done, the number of diminished options and alternatives are just very disappointing to him. From the legal sense there is enough zoning that if it is platted in accordance with the technical requirements, someone can and will develop on that acreage. The comments that have been made that the plat will be stopped bespeak either a disrespect for the property rights of others in terms of someone's right to plat, or they indicate a lack of understanding of powers do and don't exist when it comes down to the right to plat a parcel for development for whatever sort, and he felt it was a poor hook to hang one's hat on in the hope that no development will occur. The traffic problems that result from a development on the smaller acreage are in large part a great deal less than optimum. They may be able to adequately service the traffic there, but he felt McKinley's statements are very much to the point that this is, on the 9.4-acre parcel, a better layout for accommodating traffic movements that should be accommodated in a development. GARDNER said that he supposed that he was just struck by the gentleman that spoke saying, in effect, given the choice of the two stores, they would prefer the smaller site to the larger site. The neighborhood has raised the traffic issue, and this seems to address a portion of it. GARDNER said that the landscaping on this plan is vastly superior to what they would have on the smaller development, and he did not see what purpose is served by further delay of the process unless there is the hope that if it can be

delayed further they won't build. It is a very puzzling set of responses that have come forth from the parties over the last several weeks. The 9.4-acre site would have appeared to address the majority of the problems that still have existed or have been raised, and it seems to him to be an adequate proposal. It seems to have a number of advantages to it that could not be achieved with a smaller site.

KROUT said staff's only concern was that they did not know exactly where the changes were going to be and thought if they were extensive, that maybe the case should be deferred so that the changes can be studied from a planning and traffic standpoint. He felt that Bill Yung went through pretty carefully what the changes would be, and they are fairly simple and few and McKinley has indicated that traffic would still work the same and he does not have any problems, so staff does not recommend deferring the case.

GARDNER asked Krout if his perception was correct that staff would prefer this (the 9.4-acre site) given the traffic handling and some other devices to the option of developing on the smaller acreage.

KROUT responded that from staff's standpoint, the circulation works better. This is probably a 20 percent reduction in the traffic from the previous scheme. The traffic works much better when you have major access points from both Rock Road and 21st Street.

PARSONS asked that on the latest plan, is the landscape buffer the same all the way around, or is it 15 feet on the west and 10 feet on the north.

YUNG pointed out that the C.U.P. was in error. The landscaping is 15 feet on both sides.

BRINEGAR commented that it was rather interesting that the present limits of the "LC" zoning falls south of the present footprint of the design site for the 86,000 square-foot to 85,900 square-foot building. Without the expansion the building site would not even be outside the presently zoned "LC" area. To him, the access afforded by the alignment on Rock Road certainly outweighs some of the problems that were associated with the smaller site. He said that this looks like a much better plan. He did feel that all of the parties would never agree to all of the things, and obviously somewhere along the line a decision has got to be made and submitted to the City Council.

PARSONS further commented that he was glad, as chairman of the Planning Commission, that this case did do what it did as far as bringing some things to light in the process, and maybe some things that needed to be looked at and things that needed to be changed in the entire planning process in which the Planning Commission is in the process of doing, not as a result of this, but had anticipated doing earlier. He felt that both proponents and opponents of the zone request have had the opportunity, and certainly do have the right to express their position, which he has heard in some circles that one does and one doesn't. PARSONS said that he was a little disappointed that some of the negotiation had to be held in a public hearing. He believes that while it is not a requirement, a better plan might have been for the developer and the

neighborhood to have met earlier in the process and worked out some of the things that unfortunately were worked on here and in the newspaper, radio and television in addition to the CPO meetings, some of which got pretty grizzly. He did not feel that was good for anybody, and he certainly did not think it was good for the neighborhood or the community being Wichita. He felt that economic development and good planning were much more than granting zoning requests wherever, whenever and for whatever purpose that somebody wants it. He said that he continues to be somewhat disappointed in the media. This continues to be almost a joking put down, insinuations and innuendo type of a matter, and he did not feel that does anybody any good; it does not accomplish anything, and maybe those are some of the reasons that Wichita has a problem from time to time in their economic development activity.

PARSONS said that he was still concerned about the amount of light commercial zoning within a mile and a mile and one-half of this particular location. He said that it looks like they are talking about a potential of about a 115,000 square-foot building here which has, in his opinion, some future potential for problems, if not for that particular building, to others that might be in the area, and felt that needs to be looked at, and looked at very carefully. He agreed with his colleagues that this is probably the best plan that they have seen, and a plan that probably will work, but he was going to continue to hold his position and vote in opposition to this plan as he did the last time, not necessarily because he did not think the traffic would work or that the restaurant locations have been taken out, but he did think that the light commercial zoning was in overabundance in this area, and to create more is a mistake.

FAIRBANKS stated that he has had a lot of people call him, and it has been a lot of "us" and "them" attitude, and yet the same people at the end of their telephone calls or letters say, "We need to work together as a city," but they close it with, "But we are not going to let them do anything to our property." He said that is kind of what the Planning Commission is talking about on the bench; they are asking them to zone for everybody's best uses and best reasons and the best cause, but then they turn around and tell the Commission that everything is an "us" and "them" attitude. He felt that they have to realize that this Commission has to decide on things by the regulations and the rules that they have to live by, and they are simply going to make the decisions that way. They do like the input, but at the same time, if that input could be more constructive as he felt the 9.4 acres is constructive input, it could have been brought up many times before, but for some reason there seems to be two oppositional forces here and everybody is taking "us" and "them" attitudes on both sides. FAIRBANKS felt that this is the plan they should have seen a month ago. He said that the Chairman made a good point that it was terrible to be negotiating at the meeting, and he was embarrassed that they were listening to negotiations and having to do it this way. However, he did feel that this is the best proposal that they have yet and the Commission will keep going with whatever they see on these proposals. He said that he for one was going to vote in favor of this proposal.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood;

the zoning and uses of properties nearby; the suitability of subject property for the uses proposed; the conformance of the requested change to the Comprehensive Plan; and the recommendation of staff; I move that we recommend to the governing body the approval of the 9.4-acre amended proposal, subject to all the conditions previously recommended for establishment on Parcel No. 3 of the original 12-acre proposal. In addition, the Planning Commission recommended the establishment of a zoning policy which would not favor additional "LC", "C", "E" or "F" zoning south of the application area on Rock Road or east of the application area along 21st Street to Webb Road. The recommendation for approval is also subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be platted within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

Fairbanks moved, Sherman seconded.

SHERMAN commented that he realize there has been a lot said about the fact that communication should have started earlier and should have been a little more in depth. He said that he did not know who was to blame, but he was at the meeting last night and felt that some lines of communication did open, and he hoped that over the next 3 or 4 weeks before the City Council meeting that those thoughts would continue, and hopefully the sides, if not in agreement, will be a little bit closer together when they do come to that point.

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VOTE ON THE MOTION: It carried with a vote of  
7 in favor (Fairbanks, Sherman, Brinegar,  
Gardner, Goebel, Miles and Turner) and 1 opposed  
(Parsons). Crockett and Moore were absent.

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PL/1785/2

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE February 17, 1988

TO Jack Galbraith, Chief Planner-Current Plans

FROM Stanley J. Scott, CP Coordinator *Stan Scott*

SUBJECT DP 180/Z-2886: Generally located  
at the southeast corner of 21st  
Street North and Rock Road

On Monday, February 15, 1988, CPO Rockwell/Northeast Neighborhood Council 2A considered the captioned cases associated with the Rock Road Walmart Commercial Community Unit Plan and associated zone change to "LC" Light Commercial District. Following extensive discussion (over 3 hours), the Council took the following actions listed below:

- 1) Voted 6-3 to recommend denial of DP-180.
- 2) Voted 6-3 to recommend denial of Z-2886 based on the following criteria from Policy Statement No. 10:
  - a) The character of the neighborhood;
  - b) the zoning and uses of properties nearby;
  - c) the suitability of the subject property for the uses to which it has been restricted;
  - d) the extent to which removal of the restrictions will detrimentally affect nearby property;
  - e) the length of time the subject property has remained vacant as zoned; and
  - f) opposition of neighborhood residents.

Bill Yung, designer and agent for the applicant, was present to describe the request and respond to questions from the Council and area residents. Mr. Yung began by describing the following changes from the original proposal.

- 1) Service stations and tire/battery/auto accessory stores as allowed uses on Parcel 2 are deleted.
- 2) The maximum height of signs is reduced from the allowed 35 feet to 20 feet.
- 3) The area of the Walmart sign is reduced from 200 square to 150 square feet. (180 sq. ft. allowed).
- 4) Restaurants are retained on Parcel 2 with drive-through order boards, however loudspeakers are replaced with phones.
- 5) The number of entry points is reduced from eight to six.
- 6) Solid masonry screening of 5 and 8 feet will be provided behind and to the side of the proposed Walmart.

- 7) An eight foot masonry wall will screen the truck loading dock area from Rock Road.
- 8) A wrought iron enclosure will be provided for the Garden Center.
- 9) No trucks or trailers will be parked on the site for more than 48 hours.
- 10) Rooftop mechanical equipment will be screened from the ground view.
- 11) A 15 foot landscaping strip will be provided around the perimeter of the site adjacent to Rock Road and 21st Street North.

Barb Nuckles (De Shazo, Starck, and Tang, Inc.) presented results of the traffic study performed to project the anticipated impact of the proposed development on the intersection of 21st and Rock Road. Mr. Nuckles reported that the development will generate 469 trips in and 515 trips out at the peak traffic hours, resulting in an increase in the average delay at the intersection from 21.2 seconds to 26.1 seconds. Mr. Nuckles provided a detailed review of the study.

Approximately 150 area residents and property owners were present to express their overwhelming opposition to the request. Approximately 17 citizens spoke in opposition to the request.

Among the concerns expressed were the following:

- 1) Increased traffic volumes and congestion. Several residents challenged the traffic consultant's assumption of a 28 annual increase in traffic through the year 2000. One area resident noted that the increase in traffic between 1984 and 1987 far exceeded the 28 annual increase assumption and projected that the consultant's traffic projections for the year 2000 will be exceeded by 1990. (In response, the consultant noted that his projects were based on peak hour load rather than 24 hour traffic count.)
- 2) Increased traffic hazards and accidents. Several residents expressed concern with crossing six lanes of traffic to cross the street and three lanes for left turns.
- 3) Existing commercial sites exist in the area which will exacerbate traffic and development problems.
- 4) Challenged the apparent policy of allowing commercial uses at the corners of each mile section intersection.
- 5) Questioned the need for additional "LC" space in the area with the number of existing vacant sites and buildings.
- 6) Depreciated residential property values.
- 7) Reduced quality of life.
- 8) Reduced public safety.

Citizen Participation Organization  
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Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. While the staff comments do present a suggested zoning policy for the Wilson Farm, the Council choose not to address the policy at the meeting.

Please provide the Council's recommendation to the MAPC and City Council when DP 180/Z-2886 are considered.

SJS:dm

THE CITY OF WICHITA

OFFICE OF Citizen Participation                      DATE      April 19, 1988

TO            City Council Members through Chris Cherches, City Manager  
FROM        Barry L. Carroll, CPO Staff <sup>BLC</sup>

SUBJECT     DP-180 & Z-2886: SE Corner  
                 of 21st Street North and  
                 Rock Road

On Monday, April 18, CPO Rockwell/Northeast Neighborhood Council 2A considered the captioned cases, a request for approval of the ROCK ROAD WALMART COMMERCIAL COMMUNITY UNIT PLAN and an associated zone change request for 2.9 acres from the "AA" Single-Family Dwelling District to the "LC" Light Commercial District. Council members were provided a map of the area and MAPD staff comments.

After extensive discussion, the Council voted to 8-1 to recommend approval of the requests subject to conditions stipulated within the tentative agreement negotiated between the representatives of the ten (10) Home Owners' Associations (HOA's) and the WalMart Organization.

The agent, Bill Yung, was present to describe the modified request which proposed a 9.4 acre develop. Mr. Yung displayed a drawing of the proposal and outlined the various modifications such as landscaping, earthen berms, access, setbacks, lighting, paint color and signage.

Bruce Huelat, 2411 N. Greenleaf, one of three assigned negotiators for the 10 HOA's, read a prepared statement which outlined the "letter of agreement" between the HOA's and WalMart. Mr. Huelat stated that this agreement would be considered by all 10 HOA's, but urged the CPO Council to support the tentative agreement.

Please provide the Council's recommendation to the City Council when cases DP-180 and Z-2886 are considered.

BLC:dm

April 28, 1988

Mayor Sheldon Kamen  
City Council Office  
455 N. Main  
Wichita, KS 67202

Mayor Kamen . . .

My name is Robert J. Piller. I live at 9120 Lakepoint in the Tallgrass development.

I am writing to urge you to turn-down Wal-Mart's request for a zoning change which would allow them to install a regional department store in an area intended for neighborhood commercial development.

This issue should never have reached the emotional level that now prevails and area residents should not have been forced into a compromise because of threats from Wal-Mart. No area, regardless of where it is located in a city should be forced to accept something as obviously wrong as this is for a residential area.

It is my understanding that Wal-Mart has used their Wichita strategy in other cities, ie: buy property in a residential area and then try to get it re-zoned, but they have been stopped by courageous councils who have had the vision to support good city planning. I think you also have these qualities or you would not have run for office, but it appears that in this case an extra-ordinary amount of pressure has been exerted on the Council by Wal-Mart and by the Eagle/Beacon in articles that have exploited the emotions involved (a tremendous disservice to our community). As a result, the real issue of quality neighborhood planning for all citizens has been compromised.

As I understand it, the original zoning provided for 6.5 acres of neighborhood commercial development. Wal-Mart should be limited to the 6.5 acres and if they choose to go ahead with a store at 21st and Rock Road they should be required to build a facility that is compatible with existing neighborhood commercial development. Their threat to install something which area residents won't like should be dealt with in no uncertain terms. They should not be allowed to do it.

Please take a position which gives a clear indication to all parties that you are committed to planning which promotes quality commercial development in all areas of our city. Other locations which would serve Wal-Mart's needs equally well are available and they should be encouraged to consider them.



Office of the City Manager	
Mr. _____	Mr. _____
Mr. _____	Mr. _____
Mr. _____	Mr. _____
APR 29 1988	
cc: plus to _____	
cc: send to _____	
cc: file _____	

ENTER \* 1-*Unfinished*  
MAY 3 1988

Finally, thank you for giving your time and talent to helping our city deal with its problems and its opportunities.

This letter is directed only to the City Council and its staff for appropriate consideration and is not to be published or re-printed.

*R.J. Piller*  
R.J. Piller  
9120 Lakepoint  
Wichita, Kansas 67226

*Thank you for taking time to visit  
with me on the telephone*  
*RJP*

CITY OF WICHITA  
Route Slip  
(PLEASE CIRCLE DESTINATION)

Airport Authority  
Art Museum  
City Council  
City Manager  
Citizen R & S  
CPO  
Personnel  
Public Affairs  
CENTURY II  
Omnisphere  
Credit Union  
Emergency Comm.  
Finance  
Budget & Mgmt.  
DP/OA  
City Clerk  
Contracts Admn.  
Controller  
Purchasing  
Microfilm  
Print Shop  
Stores/Mail  
Ret. & Ins.  
Treasury

Fire Department  
Health Department  
Housing/Econ. Dev.  
Central Inspection  
Economic Development  
Energy Resources  
Wichita Housing  
Authority  
Human Services  
Admn. Services  
Neighborhood Serv.  
Planning/Eval.  
Law Department  
Library  
M.T.A.  
Municipal Court

Park Department  
Planning Dept.  
Graphics  
Police Dept.  
S & S Services  
Public Works  
Engineering  
Fleet & Bldgs.  
Maintenance  
Water Dept.  
Admn. & Acct.  
Filter Plant  
Mains & Services  
Sewer Maint.  
Water Pol. Control  
County Data Processing  
Court House

For Tom Powell

For your information \_\_\_\_\_ For your comments \_\_\_\_\_

MESSAGE:

Signed Maple

Date 5/2/88

WICHITA-SEDGWICK COUNTY

Date: May 2, 1988

METROPOLITAN AREA PLANNING DEPARTMENT

TO: Mayor and City Council Members  
(through Chris Cherches, City Manager)

FROM: Marvin S. Krout, Director of Planning *MSK*

SUBJECT: Wal-Mart

Last week, staff was directed to prepare findings of fact for the City Council that would be in support of a possible motion to deny the Wal-Mart rezoning and C.U.P. applications. The attached findings should be referred to in any motion for denial.

A suggested motion for approval is also attached.

MSK:rme  
Attachments

cc: Tom Powell, Director of Law



PL/1803/2

MOTION TO DENY

*Article 2 finding of City Council  
Cup Case DP-180 and  
Zoning Case Z-2886*

~~I move that the following findings be adopted as the basis for denial of the applications for rezoning and CUP applications:~~

In consideration of the character of the neighborhood and the zoning and uses of property nearby:

The neighborhood in the vicinity of the request site is characterized by low-density residential and neighborhood-oriented commercial uses. Single family subdivisions are established both to the northeast and northwest across 21st Street from the subject property. The undeveloped property to the east and south, abutting the subject tract, is zoned "AA" for single family uses. The existing commercial-zoned properties on the northeast and southwest corners of this intersection are developed with uses that are smaller scale and serve the needs of the more immediate neighborhoods, whereas the proposed department store on the subject tract draws from a regional market. The type and scale of commercial development that would be permitted if the rezoning and CUP were approved would be incompatible with the character of these surrounding areas.

In consideration of the suitability of the subject property for the uses to which it has been restricted:

The 3 acres that are the subject of the rezoning request to "LC" (Light Commercial) has not been shown to be unsuitable for the uses permitted under the current "AA" (Single Family) classification. Many areas around the city are zoned "AA" and have developed with single family residential uses under that classification abutting "LC" zoning. The residential CUP provisions provide for a further flexibility of housing types that can be developed in the "AA" district.

In consideration of the detrimental impacts on nearby property and on community facilities:

Expansion of the "LC" zoning would permit a greater size commercial development, which would result in additional traffic volumes on the adjacent arterial streets, and which would have the detrimental impact of increasing congestion to unacceptable levels and creating greater potential for accidents.

In consideration of the length of time the subject property has remained vacant as zoned:

This property has remained vacant as zoned for a considerable time, but until recent years, it was outside the urbanized area and lacking public services. The current property owners have declared publicly in recent years that they had no desire to develop the property. Therefore the current zoning should not be considered as an inhibitor to the development of the subject tract.

In consideration of the relative gain to the public health, safety and welfare by the destruction of the value of the property as compared to the hardship imposed on the individual landowner:

Any hardship to the property owner that would be imposed by a denial of this request is minimal, since the prospective purchasers have publicly indicated their intention to proceed with a smaller scale development on the existing "LC"-zoned portion of the subject property if the request is denied.

In consideration of the conformance of the requested change to the adopted Master Plan:

The map adopted as part of the Master Plan does not show commercial development at any of the corners of the 21st/Rock intersection. The adopted Master Plan policies discourage strip commercial development, and this request would not constitute strip zoning. However, another intent of the plan is to provide "sufficient" locations for commercial use, and there was considerable evidence introduced in the proceedings on this case that there is already more than adequate acreage properly zoned in this part of the city for a commercial development of this size and type.

In consideration of previously adopted zoning policies:

The only formally adopted zoning policy that is applicable to this area, adopted shortly after the Towne East rezoning, calls for no further zoning changes along Rock Road. A number of rezoning requests have been approved since that policy was adopted, and Rock Road has been improved to handle expected traffic. However, the concern that Rock Road is becoming too commercialized and, even after the recent improvements, will not be able to adequately handle future traffic volumes, is still present.

In consideration of the opposition or support of neighborhood residents:

There has been substantial opposition from the neighborhood residents most directly affected by this rezoning, as evidenced by the petitions submitted and the testimony at the various public meetings and hearings. The official spokesmen of ten local homeowner associations have consistently represented the opposition of their memberships.

~~Based on the weight given these findings, I move that the City Council deny the rezoning and CUP applications.~~

MOTION TO APPROVE

In consideration of the recommendation of the MAPC and staff; and

In consideration of the additional conditions offered by the applicants since the MAPC hearing that would make the proposed development more compatible with nearby properties, [REDACTED] and

In consideration of the private agreement reached between the applicants and neighborhood representatives; and

*(this offer has not yet been confirmed)*

In consideration of the offer by the Wilson family to dedicate additional road right of way south and east of the 12-acre tract that is proposed to be purchased by Wal-Mart (east to Tara Circle and south to the quarter-section line) that will provide an additional permanent greenbelt for the benefit of the public;

I move that the City Council concur with the findings of the MAPC and approve the zone change and the 9.4-acre C.U.P. subject to the conditions recommended by the MAPC and to the additional conditions that have been offered by the applicants since the MAPC hearing and are reflected in the most recent submission of the C.U.P.; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the Council.

Transcription of the 2-18-88 MAPC  
Minutes of the Wal-Mart case

9. Consideration of the annual report to the City Council.

PARSONS stated that the Planning Commission has a requirement to provide the City Council with an annual report of the activities and evaluation of the MAPC for 1987. He handed out the report to the Commissioners, and asked that the Commissioners read the report at their leisure and then sometime in the next 7 days contact the Director of Planning with any additions or deletions, or any other comments that they might have to make. The Director will confer with him and pass the report on to the City Council.

PARSONS declared a 15-minute break, to reconvene at 3:05 p.m.

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- 7a. Case No. Z-2886 - Wilson Estates requests zone change from "AA" to "LC" for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.
- 7b. Case No. DP-180 - Wilson Estates requests approval of Rock Road Wal-Mart Commercial Community Unit Plan for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road.

PARSONS reread the MAPC Policy Statement for those persons that were not present at the beginning of the meeting. He stated that he knew that the item that will be considered is an emotional issue, and it certainly has technical substance as well. He asked that they all act as ladies and gentlemen; disturbances only cause delays in the hearing process and add nothing of value. Secondly, the MAPC is hearing this case to consider the appropriateness of "LC"

zoning on the application area. They are not present to determine the users except by determining the appropriateness of the uses stated on the community unit plan. The MAPC desires to hear all persons and all positions. This public hearing is going to give them that opportunity. The chair asks that repetition be eliminated if possible.

KROUT explained that one of the requests is to expand light commercial at the southeast corner of Rock and 21st Street from 6½ acres to 12 acres. The second portion of the request is to approve a Commercial Community Unit Plan on the total 12-acre site. The community unit plan would provide for three parcels, one large one to accommodate up to 138,000 square feet of space for a proposed Wal-Mart department store; two small sites on 21st Street that would each accommodate up to 3500 square feet for retail, restaurant, or bank or office use.

KROUT stated that on December 7, before the first Planning Commission hearing, CPO Council "2A" recommended denial of the applications by a 5-3 vote. Later that week, on December 10, the Planning Commission heard this case and deferred it for 60 days. There were two basic reasons for the deferral. One, the Planning Commission wanted the neighborhoods and the CPO to review the extensive number of changes and the conditions that were added after the initial CPO meeting, and before and during the Planning Commission meeting of December 10. Secondly, the Planning Commission was following the staff recommendation to defer the case to have the applicant undertake a traffic analysis. Staff indicated to the neighborhood that they could support up to 101,000 square feet, which is the maximum square footage possible on the existing 6½ acres. For anything more than that, staff felt that a traffic study was warranted to determine the adequacy of the 21st and Rock Road intersection to handle the traffic. The traffic study was to address the location of major entrances, the need for signalization at those major entrances, the length of storage lanes, and any modification to street medians for left turns at the intersection and into the retail site. The CPO met again this Monday evening to consider the changes that had been recommended, and voted 6-3 to again recommend denial of the proposed expansion of zoning and the C.U.P.

KROUT stated that the traffic study was undertaken and reviewed by the City Engineer. It was reviewed Monday night by the CPO, and it was reviewed last night by the City's Traffic Commission. The study showed that if you take the existing traffic, the traffic that would be generated from 12 acres of commercial, and the estimated future increase due to development in the area to the Year 2000 the intersection would still operate at an acceptable level of service. The study recommends aligning both of the major entrances with the major entrances of the retail uses across Rock Road and across 21st Street. It concludes that signalization of the Rock Road major entrance is warranted and should be done at the expense of the applicant. KROUT said that there was a lot of discussion Wednesday night about the assumption of projected traffic. The assumption in the study was that background traffic from area development would grow two percent per year, compounded, to the Year 2000. That number is consistent with a number of other studies that have been undertaken in the past. The East Kellogg Design Concept Study assumed a similar rate of increase in traffic. The other assumption in that projection of increased traffic was that K-96 would be built. It is anticipated that the K-96 bypass will be built by the

Year 2000, and that would relieve this intersection of some of the flow through traffic. The Traffic Engineer indicated that if K-96 was not built, a higher annual increase might be more realistic, and there would be, by the year 2000, additional turning lanes or through lanes needed at the intersection. KROUT said however, they expect K-96 bypass construction will begin in the next two years and be completed before the Year 2000. One key issue is that, whether the Wal-Mart is built or some other retail store is built at 90,000 or 100,000 square feet on the existing 6 acres, or whether or not the application, as proposed, is approved on the 12 acres, the conclusion of the traffic study is that the intersection would operate adequately with 6 to 12 acres if K-96 is built, but would create problems that would need additional improvements if K-96 is not built. The Traffic Commission reviewed the consultant's report and the Traffic Engineer's comments, and they voted unanimously to approve the report, subject to an additional condition that the applicants pay for the cost of signalization at the major opening on 21st Street if it meets the warrants of the Traffic Engineer.

KROUT stated that there were two key concerns of the neighborhood. One, is that there is already too much commercial zoning in this area. He said that there is a considerable acreage of light commercial zoning in this general area, including a number of vacant sites that could accommodate the proposed Wal-Mart today. The acreage, though, that is light commercial, subtracting out the area that is zoned office and industrial, is not terribly out of balance for the ultimate demand for retail space in this area if and when this part of the city is fully developed for residential use, based on typical planning standards that staff normally use. The second issue is should this corner be restricted to neighborhood oriented retail uses. KROUT said that it is true that the light commercial district does not discriminate between neighborhood serving retail and community or regional serving retail. Because of that, department stores are permitted on any tract that is sufficiently large and zoned light commercial. All of the approved C.U.P.s that are large enough also permit this use, including C.U.P.s that are fairly close to this site at 21st and Rock. It is true that a number of department stores are concentrated on Kellogg, but they are also located at a great number of other arterial intersections in the city. In contrast with the Cherry Orchard case heard earlier, which is a retail use that one might consider as not being neighborhood serving, there are no residences immediately abutting this tract and there are no residential streets that provide commercial access for truck loading or traffic. KROUT said that there may be a need in the future for looking at perhaps opening up the Office Commercial district so that it is used more for neighborhood retail uses in some instances, or maybe for a new district entirely that would be strictly neighborhood oriented retail. KROUT said that staff's opinion would be that the intersection at 21st to Rock is not the appropriate location to impose those kinds of restrictions. 21st and Rock are not typical arterials; they are roads that contain major employment and shopping concentrations along their length. They are improved to full standards at all of the intersections. The intersection at 21st and Rock is built to an exceptionally high standard, and if the street system can accommodate this development, and the C.U.P. has restrictions, which this one is proposed to have on signs, screening, landscaping and architectural materials so that it can be a good neighbor to the other commercial corners, and to this area in general,

then the staff feels that this quarter section is a reasonable location for a department store.

KROUT felt that a legitimate concern of the neighborhood residents that he heard beginning with the early meeting on this case with one of the local neighborhood associations, and then at the last Planning Commission hearing, is where do they stop with all of this expansion of commercial development? Are they going to strip out Rock Road? Are they going to strip out 21st Street? Where is the end of it? KROUT said that in response to that, staff has prepared a suggested zoning policy for the Rock Road and 21st Street frontage, basically for the remainder of the Wilson Estates property. This zoning policy was not well received, at least the timing of it, and was not considered by the CPO at their meeting Monday night. KROUT said that it was an attempt to respond to the concerns that the staff did hear, that the Wal-Mart site or any expansion of commercial zoning would necessarily lead to further stripping of commercial along Rock Road and 21st Street, and they did not have a plan for the rest of the estate area. It is also an attempt to respond to recent criticism of the Planning Commission as not being as planning oriented as maybe they ought to be, and tries to speak to the need to be more pro-active. KROUT said that he understands that the tradition here is when a controversial zoning case has been raised, and there are questions about a larger area in terms of its future use, the Planning Commission or the City Council have directed that a zoning policy be developed for that larger area, and those policies are considered at the same time that the zoning case which touched off the controversy is considered. The zoning policies are used as a supplement to the Comprehensive Plan which is a very generalized plan or map. The zoning policies have been used in the past as a guide to decisions when future rezoning cases come in. Sometimes existing policies are in great need of updating. Some of them no longer reflect the facts that are on the ground today. For instance, the old policy for Rock Road developed in the 1970s is based on Rock Road being a two-lane road, and certainly there has been a lot of zoning but also improvements to accommodate some of that traffic since that time, and maybe that policy should have been updated. KROUT said that at the last hearing, he did say that the staff would be opposed to the additional extension of light commercial zoning along Rock Road or along 21st Street. Basically this is an extension of that position, and staff is suggesting the Planning Commission may want to consider formalizing the recommendation of a zoning policy to the City Council. The formation of a suggested zoning policy for this particular area was not all that difficult. There are certain basic planning principals that they would use in looking at the Wilson farm. KROUT felt that markets do change and circumstances change and there needs to be a certain amount of flexibility. But if they look at certain things and certain principals, higher intensities ought to be at intersections of arterials where accessibility is higher, and there ought to be some sort of buffering or gradual transition of uses from higher to lower densities. There should be some respect for the natural features of the land, if there are any, and the pattern of uses ought to be harmonious with the surrounding established pattern of land uses and zoning in the area.

KROUT suggested that based on that pattern and other considerations, the zoning policy on the docket today be considered. The first recommendation is to favor the expansion of light commercial zoning to 12 acres at the southeast

corner of Rock and 21st with a maximum gross floor area of 145,000 square feet of commercial. Secondly, south of the light commercial zoning along Rock Road, the density should be limited to townhouse or multi-family at 18 to 20 units an acre similar to the development and density of the tracts on the west side of Rock Road. An alternative use that would seem to be reasonable along Rock Road would be a low density office use similar to the Tallgrass executive park. Thirdly, east of the commercial along 21st Street, staff felt that 21st has and should continue to have a residential flavor and they suggest that the uses ought to remain residential but that medium density residential at about 18 units per acre on 8 to 10 acres similar to the vacant tract that is immediately across the street to the north, would be appropriate. Fourth, that the existing six acres of light commercial at the intersection of Webb and 21st Street is appropriate and should remain. This should be buffered by 5 to 6 acres of duplex or patio homes similar to the development that wraps around the city's water pumping station on the opposite corner of 21st Street in the Bent Tree Addition. The remainder of the site should be reserved for low density single family residential uses, and development and platting should occur with regard for maintaining the existing natural drainageway through the site. Some sort of pattern of reserve or buffer should be maintained along 21st Street where there is a partial shelter belt similar to the pattern of platting and reserves that is on the north side of 21st.

BILL YUNG, architect representing the applicants, stated that he subscribes to the philosophy that planning is an ongoing process in that throughout the life of the project, they would be seeing changes. But more importantly throughout the application period since the first hearing, a number of changes have been made. He said that he generally refers to those changes as compromise solutions that are made after negotiations between the neighborhoods and the applicants. They have undertaken that process on this project and probably more so than any project that he has had the opportunity to work on in the past. YUNG said that his initial understanding was that the opposition was primarily opposed to the use, that being the store use, Wal-Mart. He later learned that that was not necessarily correct, that they did have a number of technical problems with the plan that they felt needed to be addressed. YUNG said that they took those on one by one and there has been a substantial change to that plan and to the technical portions of that plan. As they were solved, the emphasis somewhat shifted to traffic as being a major component. He said that they have conducted a traffic study as directed by staff, and have set to rest some of those concerns. Finally, the last comments that he began to hear were more related to the domino theory; how do you stop zoning once you are allowed to begin on a project? YUNG said that they have taken a look at that and were interested in the policy statement coming out of the Planning Department. YUNG said that during the last meeting, he began to feel that some of the emphasis is back again to the problem of the neighborhood being concerned more about it being Wal-Mart than they are about the technical problems. YUNG said that he could share some of those concerns, but those are emotional problems that do not relate to zoning issues. He said that they are dealing with the understanding whether this is an appropriate use for the corner based on the existing conditions and the concessions that the applicants are willing to undertake to make it blend into the neighborhood. He felt that the

policy works, and had hoped that they could keep this issue related to the technical factors and not emotional factors.

YUNG related that from his experiences, he believed that the project is quite justified. It is located on major arterials. It has been a policy of this city for a number of years that these kind of developments logically occur at intersections, and in recent years, by so controlling zoning, they have somewhat eliminated the strip zoning problems that they have seen in years gone by. He felt that this project has good access control. They have agreed to a number of good restrictions to make the project much more acceptable. He did not believe that it was excessive in terms of the acreage that they are requesting compared to some others. There is less square footage being asked for on this particular parcel than they would normally find on just an "LC" C.U.P. or just an "LC" zoning case. He believed that it meets and exceeds all city ordinances and regulations, and feels very comfortable that he has brought before the Commission a very sound application. YUNG handed out a document of the changes that they have agreed to, and related the changes made.

MOTION: That Mr. Yung be granted an additional two minutes to finish his presentation. Crockett moved, Brinegar seconded and it carried unanimously. Goebel and Miles were absent.

YUNG said that the changes included the types of uses restricted on various parcels; sign height reduction from 35 feet to 20 feet, and restricted the sign size to 150 square feet on major parcels. These conditions are in addition to those that are normally on a C.U.P. In provision #14, they have agreed to right turns only on Parcels 1 and 2, and also on the access point on the south end, and the one just south of Parcel 1. He said that they really have only two controlled access points where left turns are permitted, which is very unusual for a project of this size. YUNG said that under item "E" there has been some concern about metal on the building. They have stated before, and it is in the C.U.P., that the building facade is predominately masonry; it is a broken face concrete painted dove grey. There are no predominate surfaces on this building that are metal. Under item "F" they agreed to cover the cost of the signalization if it is required. Under item "G", the setbacks have been increased from 50 feet to 200 feet on Rock Road, and 250 feet on 21st Street North. There is a 5-foot masonry wall that goes to 8 foot behind the building, and then back to 5 foot as it comes out on the west edge of the south property line. The access to Rock Road will consist of one major entrance directly in line with the major entrance to Skaggs Alpha Beta, and on the north it ties in directly with 21st Street Court which is the main entrance into the Dillon's area. They are providing a 15-foot landscape buffer. There will be one tree for every 50 lineal feet of 2½ to 3-inch caliper trunk size. They have also agreed to 50 additional trees of the same size within the parking lot. In lieu of chainlink fencing, they have agreed to a wrought iron enclosure at the garden center, and they are adding a 2-foot masonry wall at the bottom to help screen out some of the lower level views. Under item "6", the maximum building coverage is still 138,000 square feet, but they are willing to state that it will never exceed 85% of

that area being devoted to sales. The 8-foot wall that was requested at the last meeting to protect the views into the truck loading dock has been added.

BARB NUCKLES, DeShazo, Starek & Tang, Inc., stated that they were retained by Wal-Mart to do a traffic impact study for the southeast corner of Rock Road and 21st Street. He mentioned that DeShazo, Starek & Tang is the largest transportation engineering firm in the Midwest and Southwest. They have worked with Wal-Mart on other cases, and have assisted municipalities on other cases in reviewing the impacts of a Wal-Mart development. They started the study off by meeting with the city staff and looking at parameters by which they would do a traffic impact study. Some of the parameters were set by the Planning Commission, others were the standard city parameters for a traffic impact study. NUCKLES said that the site is located on the southeast corner of 21st Street and Rock Road. There would be a 138,000 square foot Wal-Mart store with two pad sites for potential restaurants. He said that one of the staff's concerns was -- what was the traffic generation rate for a Wal-Mart store. He said that they looked at previous data of a Wal-Mart store similar to the size that they are looking at here in Wichita at Olathe, Kansas. They also looked at the trip generation rates at the Wal-Mart store at Pawnee Village in Wichita. They looked at some Wal-Mart developments in Tulsa, Oklahoma, and they looked at the Institute of Transportation Engineers Trip Generation manual which investigates development on a nationwide basis. NUCKLES said that the city staff had asked them to take a very conservative approach in analyzing this particular case. He said that they chose the trip generation rate for the store located in Tulsa, Oklahoma, which is the highest rate of any of the sites investigated. They applied those factors to the Wal-Mart, and also used restaurant factors of the Institute of Transportation Engineers Trip Generation manual. It is their understanding that any use allowed in "LC" could go on those pad sites. They were asked to look at the most restrictive use from a trip generation standpoint, i.e., what would generate the most traffic, which would be a fast food type restaurant. The development would generate 469 trips in, in the p.m. peak hour, and 515 trips out. He said that those were not entirely separate vehicle trips (some in and out trips were made by the same vehicle). They looked at trip orientation on the site, and based on the trip orientation, existing volumes there and also on Wal-Mart's market study, they assigned the trips to the driveway. NUCKLES said that they looked at the existing traffic volumes. They looked at traffic volumes in 1987 and 1988 at this location.

**MOTION:** That Mr. Nuckles be granted an additional 5 minutes to complete his presentation. Crockett moved, Brinegar seconded and it carried unanimously. Goebel and Miles were absent.

NUCKLES continued that the City of Wichita counted the intersection in April 1987, and also counted the intersection this past January. Both of those days were clear days. NUCKLES said that they also counted the turning movements in the ice and snow days; the city also counted the turning movements in a clear day. They took the highest of those counts for their analysis, which is the latest count that the City of Wichita did. NUCKLES said that they were asked not only to evaluate 1988 impacts, but they were also asked to look at year 2000 impacts. To arrive at the year 2000, the methodology they were told

to follow was to assume a 2% compounded annually growth rate to the year 2000, which is a 26% increase in traffic. They looked at that themselves, and felt that was a proper growth rate and a proper year 2000 figure based on the assumptions that the outer circumferential route would be in place by the year 2000, and that other arterial streets paralleling 21st Street and Rock Road would be improved by that time. Currently Rock Road is the only improved north-south arterial in east Wichita. In addition, it has been improved to the highest standard of any arterial intersection in the past year and one-half. Likewise, traffic has been drawn to that, and it has experienced growth. They did a capacity analysis using the highway capacity manual computerized program method. They analyzed existing base traffic and found that the intersection is operating at Level Service "C" today. They did a very conservative method of analysis. NUCKLES said that it was his understanding that the City of Wichita, in all instances, by manipulating the signal timing has been able to obtain an even better level of service than in their analysis. He said that when they added development traffic onto existing base traffic, the level service goes to Level Service "D". Level Service "D" is the design standard by the Engineering Department for the City of Wichita, and that was the maximum that they could go to. They were also asked to look at the major entrances on both Rock Road and 21st Street. Intersection #1, the west major entrance, is on Rock Road. They looked at existing base traffic development and that particular intersection failed. It failed due to the fact that there was insufficient gaps for people to turn left out of the development and head south on Rock Road. They looked at that same major entrance assuming the traffic signal interconnected into 21st and Rock, and that particular intersection operates at Level Service "B". They looked at the north intersection major entrance on 21st Street, and that operates at a Level Service "D" without signalization. Both of the two major entrances line up with the major entrances to shopping centers across the street on 21st and Rock Road. They looked at the year 2000 and the 21st and Rock and the median openings. He said that at 21st and Rock in the year 2000, the base traffic is now at Level Service "D", base traffic and development is also at Level Service "D". NUCKLES said that there would be a 45% increase in traffic at 21st and Rock Road. The level of service would not be greatly changed. The year 2000 traffic would be at an adequate level of service. They assumed that there would be left turn lanes added on Rock and 21st, and a median barrier. A signal would be needed on Rock Road. They would be adding extra lanes on both Rock and 21st Street, and would be extending the left turn lanes. He said that in constructing the median, the city had asked them would they also extend the left turn storage for Rock Road, northbound Rock to westbound 21st Street; the applicant agreed to it.

SHERMAN asked if this site was developed with a neighborhood shopping center of small retail stores with a reasonable size anchor instead of a discount type store, how would the two operations compare traffic-wise? Does the Wal-Mart or the discount type store generate a lot more or less traffic?

NUCKLES said that Wal-Mart would generate about 40% less than a neighborhood shopping store. The trip generation factors for a Wal-Mart are somewhere in the order of magnitude in and out of 3 to 4 trips per thousand square feet. A grocery store or a smaller neighborhood service type of activity can be up-

wards in a magnitude of 6 to 7 trips per thousand square feet. A restaurant is 9 to 4 trips per thousand square feet.

MAX EBERHART, attorney representing the Wilson Estates, stated that this piece of property has been operating as a farm for nearly 50 years, but the economic realities are such that it cannot continue to serve as a farm. First of all, the property is smack in an east side development in Wichita, Kansas. It stands the danger of being passed over perhaps similar to what might appear at 13th and Oliver, and it is time to commence considering development on this site. Secondly, this piece of property has been subjected to substantial special assessments as a result of improvements, on 21st Street, Rock and Webb Roads. They have been included in every single improvement district. He said that it was his understanding that very few of the residences to the north have been included in those improvement districts. He said that right now their special assessments are about \$655,000. They have been told through all the hearings that at some point in time all of their property would be developed and they could recover those costs. A portion of the specials have been deferred under a special statutory procedure, and that deferral is coming to an end in four or five years on the major part of this property, which is the sewer system that runs through their property that serves most of the property to the north. Under their arrangement, when some of this property becomes developed, those sewer specials start paying and the city starts getting paid back on this amount. Many of the other assessments are already spread on an annual basis. He said that from an economic standpoint, they must consider development as well. So when Wal-Mart came to them last fall with the proposal, it seemed that they could not ignore considering development of this property any longer. EBERHART said that they really did not have any current development plans for the balance of the site at this time except for the Wal-Mart corner. They have been forced to start looking at that over the past couple of weeks in view of comments made by staff. EBERHART said that they were not prepared today to talk about a particular policy for the balance of the site, but they have had their professional advisors look at this independently. Based on their preliminary indications, while there are some things that are somewhat different, their initial indications are not dramatically different from what Mr. Krout presented earlier. As that policy may become developed, their expectations are not dramatically different from what they think would happen out there than what was presented earlier although there were some differences on a very preliminary basis and consideration.

EVERHART continued that obviously there has been a great hue and cry from the so-called neighborhoods to this project, and rightly so, but he felt that there is a neighborhood also that is not here and not speaking, and that is the neighborhood that is going to be developed surrounding this project. The bulk of that property is going to be single family owned by Wilson Estates at the present time. They have had several professional advisors tell them that with the kind of project and the kind of controls that are there, it will not harm the balance of their development, and it will not act as a detriment to the very valuable location that they have. They feel that they are entitled to share with the Commission, from their perspective because they are going to be the neighbors after this is built, and they do not feel that there is going to be any deterioration in what they hope to be a very nice valuable neighborhood in the

future. EVERHART requested that this proposal be passed as recommended by staff. They felt that the light commercial on their particular corner is very comparable.

PARSONS asked if there was an overriding reason why there has not been a development plan presented, or a development plan proposed for the balance of the acreage at this point.

EBERHART stated that they are not professional developers and they have not been required to focus on this. It is their understanding that the burden of the specials will be coming onto them pretty quick and they have to start doing something about it.

EVERETT FETTIS, attorney representing Wal-Mart, stated that it has been pointed out by Mr. Krout and Mr. Yung that the Commission is charged with making decisions that affect zoning, C.U.P.s, and planning in general. There has been some publicity lately that perhaps the Commission is not doing that. He said that the Commission faces this all the time; they face certain criteria, and he has noticed in their previous observations in this field that they do examine their policy statements, examine the neighborhood reactions, observe the normal extensions of zoning development, and do listen to the staff's recommendations. In this case, the Planning staff has made a recommendation similar to that being requested. The Traffic staff has likewise recommended to the Commission that the proposal, as made, fits into the traffic requirements of the area. FETTIS said that he went, last night, before the independent Traffic Commission and they unanimously accepted the recommendations made. The policy statement that was made by Mr. Krout indicates several things. Number one, this is not a strip zoning request; this is not a spot zoning request; this is a normal extension of zoning in this particular intersection. This is a first class intersection that was built, and it was not built by the neighbors present who are objecting, it was built primarily by the commercial development on this corner. There are some 12½ acres of commercial across the street to the north, and some 17 acres of commercial to the west. The neighborhood has been described in various manners. There are two supermarkets, one to the north and one to the west, which are 50,000 square foot supermarkets, and they are certainly not neighborhood stores, and they are 24-hour operations. He felt that somewhat sets the tenor for the operation which exists here.

FETTIS said that they are not coming in asking to open a new territory, nor are they extending anything which would lead strip zoning down Rock Road or 21st Street. It is a development of a corner and it is quite consistent with the development which has already been allowed in this area. He said that the Commission has heard the landowner's attorney remark as to the expenditures that they have already made, and he was sure that is quite consistent with what the others at this intersection have made. This intersection was built at the cost of the commercial developers, not at landowners who are occupying residential areas. FETTIS said that if they forget the extension of the additional 5 acres to make this a 12-acre tract, he would point out that the 6 acres could be developed for a retail use such as or similar to that being proposed by Wal-Mart at this time. If this was done, and he felt the neighbors should be aware of this, there would be no expenditures required for traffic

improvement, and expenditures for traffic improvement are substantially imposed on Wal-Mart in this case by agreement. There would be no setbacks as they are proposed to be required, again by voluntary action of Wal-Mart in this case. There would be no type of restrictions on building materials to blend into the area as being proposed by Wal-Mart voluntarily in this case. There would be no landscaping required as a part of this development which is being again proposed and agreed to by Wal-Mart in this case. FETTIS pointed out that if this was to be developed on six acres, or whatever type commercial development it was, whether it is a strip center, a shopping center, or major store, if the experience should prove in the future that additional parking was needed, that they could go in and seek through the Board of Zoning Appeals approval to extend parking in the surrounding area regardless of what the zoning is. These are facts which exist. FETTIS felt that it was important to note in this case that the Planning Commission is not a counting agency, and although they do listen to the interest of the neighbors, they also must listen to the advice given by the professional staff, and also they should pay attention to the normal expansion of commercial development. FETTIS said that much has been made by the united front represented by the landowners in this area. He presented signed petitions in favor of the Wal-Mart store by 1,000 residents in the area. He said that his clients circulated the petition and did not go outside this residential area to seek approval of people as to whether the Wal-Mart should go in there, or whether this should be expanded. They went to people that live within this trade area, an area of no more than a mile distance. They did not go across town to the southeast, west or Midtown area; they went to the local area that is being served in this community and in this area. FETTIS said that he would hope that some of the rumors that he has heard are not true, and he would hope that they are not fearful of crime rising if this use is developed, that that is not the reason they are adopting this attitude. He hopes that it is not some prejudice against Wal-Mart as to the type of people that will trade with them. He hoped that they are looking at this truly in the respect of the elements which he has mentioned.

F. WESLEY PARK, 8517 Boxhorn, speaking in opposition, stated that a few days ago, city planner, Marvin Krout, invited representatives from various the homeowner's associations to City Hall to talk about the Wilson Farm. On arrival, they were shown platting of how the entire 320 acres of the Wilson Farm were to be zoned for the future, including the not yet regional southeast corner of Rock Road and 21st. There was only one reason for him, at this time, to prepare this sketch, which he called the suggested zoning policies for the Wilson Farm. That sketch was the subject of an attempted soft soap job to tranquilize the citizens before the MAPC. PARK said that his guess for Mr. Krout's motive is that he hopefully thought that this would appease the homeowners of the different areas and make the Wal-Mart feel more palatable. There is no credibility to this sketch whatsoever. It has no validity, and as Mr. Krout admitted, the plan was not set in concrete. He agreed that the owner reserved the right to reject any part of this zoning policy. PARK said that they are right back to square one. He said that the Homeowners Association object to the ploy or diversion becoming any part of this rezoning hearing. They are present today solely to consider the rezoning as it pertains to the southeast corner of Rock Road and 21st Street. The city zoning policies, over the years are, as admitted by some of the planners, out of date and out of hand, and certainly need a long overdue

overhauling. Haphazard strip zoning has produced ugly sprawl evident all over Wichita. It is a shame that homeowners in adjacent neighborhoods who have invested in their homes and made the area desirable have to be subjected to the danger of thoughtless rezoning changes to accommodate developers who have solely a monetary viewpoint. It is a shame that citizens have to fight city hall and beg for reliable regulations; regulations with purpose and stability that in fact are in the city's own best interest. It is a shame that we must plead to City Hall for protection against rezoning that will allow a huge regional discount store to locate on the southeast corner of Rock Road and 21st. Rezoning is like a spoiled child, who for the want of discipline causes a lot of disruption in a family. The only way to deal with this is to say "no" to its excesses. Like a spoiled child, undisciplined zoning stems from lack of foresight, not enough restrictions, and a lot of disruptive land use. The cure for that is to say "no"; "no" to the rezoning of the southeast corner of Rock Road and 21st Street.

HELEN COCHRAN, 9441 Bent Tree Circle, President of the Bent Tree Homeowners Association, stated that the issue they are discussing today is not Wal-Mart, it is simple the rezoning of 6 acres from residential to light commercial. She asked, "Do we rezone 6 acres because a traffic study says the intersection can handle it; because the C.U.P. conditions are unprecedented and improved; because the city planner has a wonderful proposed overall plan for Wilson Estates, which is not legally binding? Do we rezone because we are led to believe that rezoning is economically sound, or do we rezone because it has always been done this way?" COCHRAN said that she has become well-educated in the past 2½ months about bureaucracies, traffic plans, CPO, MAPC, Economic Development, etc., but what she has really learned is that no matter what is promised, yesterday, today, tomorrow, no matter how many good intentions there are, everything can be changed under the guise of economic development. She said that she has read City Commission minutes from as far back as when Towne East was proposed. These minutes contain promises of no future commercial development on Rock Road.

COCHRAN stated that she would like to discuss economic development because this seems to be the bottom line. Certainly economic development is not business and includes both commercial and industrial development, but most certainly it is also pro community, the production of residential value and the development of that community. Wal-Mart is going to build in Wichita whether or not they build it at 21st and Rock Road. They will not be a major employee in this city. The majority of their payroll is made up of part time employees at low wages, and their profits will not stay in Wichita. This will certainly not add much to the community spending power. The real economic impact will lie in the deterioration of a valuable residential attraction to this city. Valuable to potential businesses that need residential areas for their executives, and valuable, of course, to present homeowners. COCHRAN said that no one seems to be taking into consideration the amount of existing zoned commercial property still undeveloped south of Skaggs, on both sides of Dillon's, and the commercially three corners of 21st and Webb Road. She asked if anyone believed that while the acreage surrounding the proposed Wal-Mart is presently zoned single family dwellings, that this would ever be realized. She asked the Commission how many people did they know that would build in the back yard of 12 acres of a commercial development, would they? What residential builder did they know

would risk spec-construction here. COCHRAN said that it seemed inevitable in that a developer wanting to move this property would propose rezoning to commercial, and they start all over again. The issue here is not Wal-Mart, it is the additional commercial zoning in this area. The residents do not want it. She asked if anyone was listening to them. She said that they were asking the Commission to deny this request and to be foresighted enough to see that residential property values will deteriorate if there is additional commercial development there, and this in turn will have a far greater economic impact on this city than 138,000 square feet of a regional department store.

DICK ECKRICH, 9406 Woodspring Court, speaking in opposition, stated that he was gratified by Mr. Krout's earlier comments concerning an overhaul of the existing zoning ordinances in the city because he feels that if these ordinances had been in place today they would not be confronted with this issue. ECKRICH said that a modern ordinance usually contains several subcategories within a category along with site plan reviews, architectural reviews, landscaping reviews, etc., all of which are designed to prevent noncompatible development within a neighborhood. Nevertheless, he did not feel that there is any compelling reason why the Commission should approve a project that is clearly incompatible with the neighborhood, or to approve a development that was clearly not contemplated when the current zoning was put in place. He especially did not feel that it is appropriate for the Commission to approve an expanded zoning in order to accommodate a development of this type. ECKRICH did not feel that it was any obligation of the Commission to provide the exact number of acres of "LC" on this corner because there is more on the other two corners. He said that he would hope that the Commission would stop all of the rezoning in the city of this type until such time as a good modern zoning ordinance can be implemented.

RICK BLOOMER, 8522 Greenbriar, speaking in opposition, stated that he has been involved with this rezoning issue since the beginning, and like his neighbors, he realized that the issue is not that a Wal-Mart may be built at 21st and Rock Road, but how rezoning to accommodate one potential owner and one current owner may affect the character of an entire neighborhood, and also the lack of any long range development plan in general. He said that Wal-Mart and their representatives have been very accommodating in their design of a facility and how it will fit the 12 acres if rezoning is granted. However, if rezoning is granted and the store is built, the question becomes, how will the remaining 300+ acres of the Wilson Estates be developed? He seriously doubted that it would be the kind of single family homes behind a regional department store that would really fit the character of the area. The city planners then presented an uncommissioned plan of the remainder of the Wilson land, and it looks very nice on paper, but all they have to do is refer to the 1978 city development plan and how much deviation there has been from that plan to various rezoning efforts to realize that this city plan is not worth the paper it is written on. The city is full of examples of what zoning variances do to a city's appearance, and some of those are not too far from the corner of 21st and Rock Road.

BLOOMER said that he would be remiss if he did not bring up the traffic study that was performed by a consulting traffic engineer from Tulsa. The study used traffic growth assumptions that really insulted his intelligence, 2% to

be precise. Even the fact that they tried to project to the year 2000 was a little ludicrous. He said that in the last two years alone traffic at the intersection has increased by at least 50%, and that is based on information that the city has provided. Most of this is as a result of commercial development in that part of the city. Not only that, traffic will probably continue to increase at a very fast pace because within one to two miles of 21st and Rock Road, there have been 10 C.U.P.s filed with 1.5 to 2 million square feet of light commercial development already approved; 174,000 of that is right at the corner on the Dillon's and Skaggs that is currently undeveloped. BLOOMER continued that one might say that the increase in traffic caused by rezoning at 21st and Rock will add insignificantly to the traffic if all of the designated commercial areas developed. However, if they keep granting these variances to add to the light commercial zoning, where does the traffic increase stop. The current intersection will probably have to be improved dramatically over the next five years, and at whose costs, and whose inconvenience. Probably the very people who are opposing this rezoning. BLOOMER said that what he and his neighbors would really like for the Commission to do is not to grant the rezoning request, but develop a master plan for at least that part of the city if not for all of the city. BLOOMER said that Mr. Krout has been reputed as one of the best planners this city has ever had, and probably is; let him do his job, and let him bring his plans and advise to the Commission for approval. He said that the plan indicates it makes sense in the long term scheme of things to put a regional department store there, and it will not change the character of the neighborhood and the character of the future development of the Wilson Farm, so be it, but overzoning without knowing where you are going assures you that any road will get you to your final destination. He said to the Commission to start the planning process here and become a planning commission instead of a rezoning commission. He continued that the city is trying to improve its image, and asked the Commission to become a part of that process and do what is best for the city. An elected body by the citizens voted to disapprove the rezoning. He asked that the Commission to please keep that in mind.

GARDNER commented that the Commission had requested, and felt that it was reasonable to request again, that the applause and the other participation by the audience be discontinued. It has been the Planning Commission's decorum and conduct for quite awhile; the City Council maintains it. He did not feel that it was unreasonable to request it again.

PARSONS said that it was a point well-taken.

ANNE THOM, 9008 Peppertree Circle, speaking in opposition, referred to the MAPC policy statement and the first item is the character of the neighborhood. She felt that their neighborhood has a very fine character, and the businesses that they presently have are neighborhood type businesses for the convenience of the people who live in the area. She did not feel that people who live in an area where the homes are very well maintained would want to live across from, or next to, or in back of, a Wal-Mart type store. She said that the neighbors were told previously that they would have a 48-hour limitation on all of the trailers. She said that there was nothing to prevent them from bringing in a group of trailers for 48 hours and hauling them out and bringing in other groups; so they could still have trailers all the time coming and going,

and that has not been mentioned as far as the traffic survey is concerned. THOM felt that a great number of them would have their homes depreciated considerably if this kind of venture is approved. She felt that the Commission should consider the neighborhood residents' feelings about the type of neighborhood they live in when they all purchased with the idea of it being a residential, not a commercial industrial type place.

ROY GARRISON, 2258 Penstemon Court, President of the Summerfield Homeowners Association, speaking in opposition, stated that the issue, as far as the neighborhood in east Wichita, and all of the issues in November when this first came up, was simple rezoning. Since then it seems that they have gotten into how to design intersections, and the necessity of having traffic studies for 5 acres. The 6 acres were planned when the city improved the intersections and they would like to talk about what has happened in Wichita within one mile of this area. GARRISON pointed out on the map the 318 acres in the general area that are already zoned light commercial. He mentioned that much of this light commercial still is to be developed. He then referred to a larger area where there were 856 acres and the majority of those areas today are still to be developed, that could be used with no change of zoning. He said that there were 156 square miles roughly in Wichita in all various kinds of C.U.P.s, light commercial, commercial, or even industrial areas in the total area of the city still to be developed. So when they looked at the character of the neighborhood and the offers that have been made for the property, they also looked at the character of who wants to join them in their neighborhood, and this has not been lightly done, but they can go to Wellington and there is a Wal-Mart store there. He pointed out that the Wal-Mart store in Wellington is at the edge of town. At Winfield, the Wal-Mart store is located in a commercial area and it is the last property next to the airport north of Winfield. In Augusta, the Wal-Mart store is north in an industrial area that was already zoned industrial. In Salina, the store is in an area already zoned industrial. In Hutchinson, the store is in a commercial area.

**MOTION:** That Mr. Garrison be allowed an additional four minutes to complete his presentation. Crockett moved, Brinegar seconded and it carried unanimously. Goebel and Miles were absent.

GARRISON continued that the Traffic Commission, last night, approved a traffic study and redesign for the intersection, and in doing this, they used a 2% growth factor. McKinley said that the 2% factor would be good. GARRISON said that today they say the outer bypass is going to be in the year 2000. McKinley estimated that until the outer bypass was complete, the growth rate there would probably be 4 to 5 percent per year. So if they take 4 to 5 percent per year, instead of having a 26 percent gain, if it is only 4 and not the 2, it is only 36%. If it is 5 percent, it is 46%, and that is if they figure the bypass comes on in four years, and then they go back to the 2 percent gain. If it does not come on until the year 2000, and if you have a 5 or 4 percent gain until the year 2000, they will have a 64 and 79 percent traffic increase in the same period of time. GARRISON said that he has checked with Ritchie's, Slawson, Ablah, and the Willow Bend groups. Those people have not projected the millions of dollars they are putting in to building northeast Wichita and

figure they can do that on a 2 percent gain. They already have in these areas over 1,500,000 square feet under C.U.P.s today that have already been approved to be built.

GARRISON showed charts of the growth of Wichita, pointing out that it has not grown.

GARRISON said that they are concerned about what is happening to Wichita and to Kansas. He said that today too many of the shopping centers are boarded up. GARRISON said that if we want to be a discount city, let's offer Wal-Mart the west bank. The neighborhoods east of Wichita believe that the Wal-Marts will be here. GARRISON recommends that Wal-Mart be in Wichita, but in areas that are already zoned for this type of operation and not in areas requiring a change of valuable residential development into more light commercial.

BOB HUEY, 208 Burr Oak, speaking in opposition, stated that he was located almost 3 miles south of the intersection in question. He said that the reason he has taken time away from his business to be present today was because he had two concerns about the development, and both of those concerns had to do with traffic. One, he has a concern about safety because he is a cyclist. He rides a bicycle for health and for recreation purposes, and he spends a lot of time on Rock Road, not only behind the wheel of his car, but behind the handlebars of his bicycle, and he goes a little bit slower than the automobiles along that street when on his bike and he finds that the street is becoming much more crowded and more unsafe daily because of the increased traffic on that street. He rides usually in the evenings, and it is becoming very difficult now to cross Rock Road and go east to get out into the country where the traffic is less. It is equally as difficult to cross Rock Road coming back in when he is headed west to get back to his home.

HUEY said that his second concern is as a property owner along Rock Road, they are, during many hours of the day, almost captive in their residential area due to the heavy traffic along Rock Road. They can get out on Douglas if they want to go west; they can get out on Central if they want to take a chance with their life and go east, but they cannot go east out on Pagent because Rock Road is bumper to bumper. He urged the Commission to protect the integrity of the neighborhoods and deny the request.

FAIRBANKS asked Mr. Huey if he was at all surprised that Rock Road and Central were very busy streets at this time; was he unaware of that at the time he moved into his property?

HUEY said no, but he has seen it become increasingly more intense in the traffic flow.

FAIRBANKS Mr. Huey if he was surprised that as the city grows outward that there was going to be more and more traffic?

HUEY said that he would have to expect that it would become increasingly so. His concern is that he will see increasingly heavy traffic because of the traffic that will be going in and out of the store on a daily basis.

FAIRBANKS said to Huey that for his own benefit he would recommend that he not ride his bicycle on Rock Road because he really was concerned for his safety.

JILL MARHAVER, 2429 North Gouverneur, speaking in opposition, stated that she just could not believe the 2 percent number, because as she tries to get out of her development on either 22nd Street or 24th Street it is just getting impossible. She said that she was glad that Mr. Fairbanks brought up the point of who was there first, because the whole afternoon she has been wanting to say that they were there first. MARHAVER said that she has lived there for six years and the people who live in the Sycamore Village have been there 10 years. She said that this whole discussion is making her wonder, when someone buys a new house, if they have to come to the Planning Commission, the City Council and the Traffic Commission and ask them, "What is this street going to be like in 10 years, and should I buy this house?" MARHAVER said that when she comes out 22nd and 24th Street, it is hard enough even to make a right hand turn going into the same flow of traffic, and to make a left hand turn, you have to cut in front of someone and hope that they are going to slow down and let you in, or you will never get onto the street. She said that has just happened in the last year or so since Willowbend has become developed and the movie theaters and bowling alleys.

MARHAVER asked a Wal-Mart representative what other properties they have considered for their store in this area. If they considered the empty David's property, why did they decide not to build there, and if they have considered property more to the northeast where the circumferential will be built; there are no houses built there now and people can decide in the future if they do want to live next to a Wal-Mart instead of this neighborhood.

PARSONS felt that the question was a little out of line right now, and they would possibly later ask that question from the bench.

MARHAVER said that she understood the Commission's point that this meeting is supposed to be only for the zoning request, but who do they talk to about their concerns about whether Wal-Mart should be there at all. If the Planning Commission is not, who do they address that to?

PARSONS stated that Mrs. Marhaver has appropriately stated the situation. The Planning Commission is here to address the matter of zoning, whether or not it is proper to zone that property light commercial. As far as who the end user is, that is not of a concern to this Commission. While it may be a concern to any of the Commissioners personally, that is another matter, but in order to discharge their duties in accordance with the regulations, the policies and the laws that have been adopted by the City Council and the State of Kansas, they cannot consider the user; that is not within their parameter. That is contract zoning or close to contract zoning, and that is not permitted in this city or state. PARSONS suggested that Mrs. Marhaver would probably have to talk to the developer.

FAIRBANKS commented that since he had been quoted, he would like for the record to understand that he did not ask who was first, he just asked if

someone was surprised that the traffic had grown, and while on the same note, he asked Mrs. Marhaver if she would be as concerned if this was any other kind of light commercial different than a Wal-Mart. He said that he has heard discount mentioned in negative terms twice, and quite frankly, he was glad to buy at discount.

MARHAVER responded that anything that is as large as 145,000 square feet, no.

FAIRBANKS asked if she would also be opposed to the development of Towne East where it now stands.

MARHAVER said no, because it has been there several years, and she knew that was there when she bought her house on that corner. MARHAVER said that she did not understand Fairbanks' point.

PARSONS commented that the point being that of proximity to existing residential development. For instance, proximity of the Target store at the Towne East complex is closer to the homes that certainly existed in Eastborough prior to the development of that store, or Towne East itself coming in after the homes that are in the Peach Tree area.

MARHAVER asked if they were commissioners when Towne East built, and did Eastborough and Peach Tree object to Target at Towne East.

FAIRBANKS was sure that they did object.

MARHAVER said that they were doing the same thing. She felt that some of them would agree to some of the concessions that Wal-Mart made if they had guarantees that those will go through, because they all know what happened to Oxford Square when that was built and the apartments behind them fought for a year to try to get a fence to keep the trash out of the yard. So how do they know that the trees will be 2 inches in caliper, etc.

KELLY ANGLE, 2534 Greenleaf Court, speaking in opposition, stated that as an observer of these proceedings, he just wanted to provide the Commission some things to think about. He said that by and large one of the most profoundly important things that he has seen presented today is the lack of growth rate in the city. There are a number of other cities where the residential areas are very tightly controlled where they maintain a quality of living. These are areas such as Dallas or of San Francisco, where they have such planning ideas like you cannot build unless you tear down. They have a tremendous amount of industry and people that want to come to that area and live. When they talk about maintaining a residential area, he felt that they have to understand that they cannot sacrifice a standard or quality of lifestyle in an area for the sake of growth. ANGLE said that if they take the attitude that they have to have growth at any cost, it will not work. Last year they had the big panic about Pizza Hut leaving and it was a disaster for them to consider leaving. The thing about it is, who makes the decisions on whether or not Pizza Hut stays or not. The key management people that may live in an area such as 21st and Rock Road are the people that they are worrying about attracting to come to Wichita in

order to manage their large corporation. Now whether or not they hire a lot of people is kind of secondary if they just leave ultimately and do not maintain their corporation headquarters here. He felt that was important. ANGLE stated that by and large he felt that government should play a very small role in the course of the capitalist. He said that he was a great believer in free enterprise and felt that the people in this country have a great opportunity in earning a living as they see fit under the rules and regulations that exists, and the government should not play a big role in telling people how to run their businesses. However, there are other aspects that government can participate in where it involves a majority of people, and that is he sees a room full of people here, most of which are opposed to this idea and he sees one row of people who want to do this. He said that he has a problem with that map, when you have a majority of people that are in this room opposed to it, and a few in favor. He asked who would benefit from this mostly; a few, for the sacrifice and the quality of lifestyle for a greater number of people.

MOORE stated that there were 150 people out there and he saw a petition with 1,009 names on it that was in favor of Wal-Mart at 21st and Rock Road.

ANGLE asked for what reason would a commission be motivated to serve the needs of only a few who have a vested interest in this project as opposed to a greater number of people.

PARSONS responded that the Planning Commission is bound by a set of rules and regulations and laws, and included within that set of rules, regulations and laws is a policy referred to as Policy 10. Policy 10 was not something that was dreamed up by this Commission, or by the City Council, or by anyone else. It was put together as a result of test cases, Supreme Court cases, etc. The consideration of the opposition or favoritism of the neighborhood is one of the items that they take into consideration. There are 16 items on the list, and the Planning Commission must consider all of those, and they certainly listen to the people. They want the people's input. They are not present to be argumentative with them, but they are there to get their input and consider that input along with a number of other factors when they make their recommendation to the City Council.

GARDNER commented that a few years ago the local media took a real interest in the water that had collected at 13th and West Street whenever it rained, and they made great light and got a lot of air time out of the water that had collected there for a time period after the harder rains. They eventually promoted a project to cause that very shallow basin to be drained by a large storm sewer. The size of the project was very substantial and once it was proposed and promoted and made a popular concept, it was then going to be assessed against a benefit district which was the area that had the water accumulated in it. At some point, public hearings were held and a large number of people from that area said, "Look, we live there and we are going to have to pay the tab, and we don't want it." GARDNER said that there were others who said, "We have to drive through there, and we do want it." He said that you get a situation where a governing body has to make a decision sometimes, not based necessarily on the popular opinion in the immediate neighborhood, but sometimes what might be better for a broader area. He said that he could not

really speak to the wisdom of that decision. Eventually the city spent a great deal more in terms of general funding to do the project than they had anticipated, so the residents did not have to pay as much. He said that if a straw poll popular vote was taken after the people had been told what it was going to cost them, the majority would have voted against it. Several years ago when a big sewer was extended up through the Wichita Country Club, at the edge of the Koch estate and on up through the Wilson-Bradley farms, there was a tremendous assessment being talked about based on the size and benefit area, and they now had that sewer to service a nice residential area that is now north of 21st Street that had been planned in the early 70s. GARDNER said that all he was really suggesting was that frequently there are numerous other things that have to be taken into consideration on a final decision beyond just the immediate popular sentiment. GARDNER said that he could not begin to tell them how important that is in making the decision, but there are a number of other factors that have been weighed as well.

ANGLE commented to Commissioner Gardner that history has shown that the input from the residents' on any particular proposal has very little weight in that final decision.

GARDNER said that he did not think so. The majority of the planning that has occurred in the Comotara area since 1974, the majority of which occurred before there were any residential developments out there, it has become an attractive neighborhood, and has become an area that people are proud of and enjoy living in and have a deep concern about preserving. GARDNER said that the only thing he could offer in response to Mr. Angle's comment that the neighbors have not been listened to, is that he did not see Mr. Angle at very many meetings; perhaps he follows them through some other media, but the Planning Commission bends over backwards as often as they can to accommodate the input of the surrounding neighbors. The media does not present it that way, maybe that helps sell newspapers, but he felt statistically they can demonstrate otherwise. GARDNER continued that he valued Angle's opinion, and he enjoyed Angle's combative nature, and he hoped that Angle did not feel that he had been put in an awkward position; having to speak publicly troubles some people a great deal, but his input was appreciated a great deal.

ANGLE stated that his only comment is that he felt that when it comes to a decision that it is virtually out of the hands of the people in this room who represent the neighborhood in that area, and that their only, only salvation in achieving their ends is through the Planning Commission and the City Council. Other than that, they have no other alternative; they are law abiding citizens, so the responsibility is on the shoulders of the Planning Commission and that is why he came today. He said that he was not a professional activist; he has plenty of other things to do that can help contribute to the benefit of the community, but the responsibility is on the Planning Commission's shoulders.

PARSONS commented that there is a report going to the City Council from this Commission that statistically and actually shows citizenry does have input to this body as well as the City Council. That in 97 percent of the cases that the Planning Commission hears, the Planning Commission is in accord with the CPO Council's recommendations. The CPO Council is the first place that citizens have

input, probably most of their input. PARSONS mentioned that there were a lot more people at the CPO meeting that there are present today.

RUTH PARK, 8517 Boxthorn, speaking in opposition, asked Mr. Fettis what percentage of the signatures on the Wal-Mart petition are underscored from property owners, and what percentage are from tenants and temporary apartment dwellings. She stated that the signature process was taken as far northwest as 29th and Woodlawn, and those of them in Tallgrass, to her knowledge, had not been asked to sign or reject it. She asked to hear the wording of the petition. PARK said that it has been rumored that the petition was ambiguously worded.

KROUT read the following wording on the petition:

"The following residents are supportive of the additional acreage being zoned for the proposed Wal-Mart store at the southeast corner of 21st and Rock Road."

CORMAC JOHNSTON, 3039 Rushwood Court, Conservation Chairman for the Sehria Club in Wichita, stated that he would speak to the environmental aspects as well as some of the aspects that he has as a homeowner. JOHNSTON said that first concerning the environmental aspects, he did not think that there was any way that they could see this as a positive influence as far as the environment is concerned. There is air pollution and water pollution that will be occurring. He said that as far as the northeast corner, anywhere from Oliver going east, or from Central going north, they have had area after area turn from scenic area into huge parking lots. He said that this is what people are talking about when they say there is no long term planning. This is what they are talking about when they say the quality of life is going straight down. JOHNSTON said that he could not imagine somebody moving in behind this Wal-Mart and enjoying the heavy black carbon monoxide and hydra-carbon smoke floating into their back windows so that their kids can breathe. The Surgeon General has found that the second leading cause of lung cancer is air pollution second only to smoking. He mentioned that there is going to be semi after semi rolling in there with the noise and the black smoke, and more traffic. JOHNSTON said that the traffic reports have been all over the place. There is nothing reliable to show the rate of growth, or the possibility that there is going to be traffic jams all over the intersection. He said that why don't they get some clear evidence on that before they determine that to be a clear fact one way or the other. As far as the homeowner, JOHNSTON said that he has lived on the northeast side all of his life, and the development has been incredible. He said that he can remember when they had the battle at 21st and Oliver over the K-Mart going in and wiping out a beautiful stone house, and it went through anyway, just as all of the other sites have gone through, at Central and Oliver, Edgemoor and Central, or Lake Point that is going in at Webb and Central. Some of these are turned into residential areas, but time after time trees are wiped out, the natural scenic contour of the land is wiped out. This is what creates stress in urban settings. People do not have a decent view from that intersection anymore to look forward to. They do not have it at 13th and Rock Road; they will not have it at 21st and Rock Road anymore, and as far as any other intersection as close to downtown, it is already on the way out or gone. As the K-Mart was called at 21st and Oliver, it is just a huge desert. They

planned to have a big fence put up and trees put in, but at the same time, established trees were wiped out, and the new trees are sitting in the big south wind just about to be blown over right now. JOHNSTON pointed out that they are planting 3-inch caliper trees every 50 feet, it would take 20 to 30 years before they provide any kind a barrier of a scenic nature. He felt that it was despicable for this group to sit here and seriously consider such a proposal.

DAVID KEMME, 2806 Winstead Circle, wanted to reiterate that there is one clear point, and that is the neighborhood is against this. He said that with respect to Mr. Fairbank's questions about traffic, that has been an issue that they do have a traffic study, and he felt that it was still an issue despite the traffic study, and he disagrees with the conclusion of the traffic study. KEMME said that he did not attend the Traffic Commission meeting, but they accepted the traffic study. He said that he talked to the Traffic Engineer quite a bit about this. KEMME said that his main complaint is that the 2 percent rate of growth that was assumed in the study by the traffic consultant is totally unrealistic. It assumes that the outer belt will be built. The 2 percent figure accounts for all of the nondevelopment traffic not attributable to Wal-Mart. He felt that it was important to point out that most of the light commercial area at this intersection is built, but there is still 175,000 square feet of floor space to go in on this corner excluding this particular site. KEMME said that there is a reason why you should not ride a bicycle on Rock Road; from 1985 to 1987 that road was improved; traffic grew 81 percent in both directions at that intersection. North of the intersection, from 1985 to 1987, traffic grew 41 percent, an 18 percent annual rate of growth. KEMME reiterated that it was difficult getting out of the residential neighborhoods onto Rock Road. He did not feel that traffic was a moot point, but felt what the traffic shows, and what the Traffic Engineer said, was that given the assumptions, it is a reasonable report; the assumptions are unreasonable. Two percent rate of growth for that period is unreasonable, given that it has been 18 percent in the last two years, and they have a lot of commercial at that corner to be built, and within 1½ miles they have between 1½ and 2 million square feet of light commercial available. KEMME said that one other question brought up is, has Wal-Mart considered other sites? Do we really need to rezone to accommodate Wal-Mart? KEMME did not think that rezoning was needed. He said that he would like to see Wal-Mart in the northeast somewhere. There are sufficient areas that can accommodate Wal-Mart. The question with traffic is the kind of traffic that will occur with or without Wal-Mart there. Wal-Mart will complicate it. He felt that Rock Road and 21st Street could be improved to accommodate that traffic flow. The question is, "Do we want that there?" Not whether can it be built there. If the Commission is listening to the neighborhood, the answer is "no". KEMME asked where and how do they accommodate appropriate commercial growth? Do they put it in residential neighborhoods? KEMME said that the answer was "no". There are a lot of nice places to put it, and he would like to see it somewhere else, and he would like to sign that petition in favor of large parking lots for Wal-Mart. But he did not want Wal-Mart built there; he wanted it built somewhere else.

GARDNER commented that he and Mr. Kemme have had differences of opinion on past cases, and part of what they are looking at again, and he knows that Kemme has a sincere interest in the traffic factors out there, as they have additional residential development, and if they were to look at the balance of the

300 acres, there is residential 3 to the acre, and they begin to generate a lot of additional families, homes, and several vehicles to a house. The majority of the traffic that is generating out that direction now is from the residential development. People, once they have lived there, have to go back and forth to work and shop. The point that he was driving at is, if they are doing an analysis or development in that direction, they are going to be generating far more traffic from the residential development that occurs than they will from several acres of commercial per corner. GARDNER said that he was not trying to distort what is being said, but as has been pointed out, the traffic patterns have changed because they have residential development, and that is where the majority of it comes from.

KEMME said that initially he was thinking the exact same way Commissioner Gardner was, that most of the traffic was residentially generated, but the Traffic Engineer said that the bulk of these trips are being generated at this intersection by commercial development, that the residential traffic is in and out of houses once or twice a day.

FAIRBANKS asked if there would be opposition if this was being sold off for residential on 1/8-acre lots. If there were 320 acres on 8 to an acre residences, and 2.2 drivers per home would generate 5,632 more drivers at that intersection daily. One way or the other there is going to be growth. Is the question really the traffic growth, or is the question something else behind the traffic growth?

KEMME said the question is if they build residential there, and there is enough light commercial already zoned to accommodate much more than will be built, will there be less traffic than expanding this commercial and some other uses.

PARSONS commented that he would much rather see vacant land than vacant buildings. So they have got to have enough residential to support the commercial, and you have to have enough commercial to support the residential. That is the purpose of light commercial development, and one of the purposes of residential development. That is why downtown Wichita has a problem; people like to shop in their own neighborhood; they do not like to drive long distances to shop, and that can be found to be true universally. You have got to look at what happens throughout the city, not just in one sector of the city, and then transfer that when that sector begins to grow.

BRUCE HUELAT, 2411 Greenleaf, speaking in opposition, stated that this is not, nor should it be an issue of Wal-Mart versus neighbors. It is really the issue of taking over a family neighborhood through rezoning. He said that it was interesting to note, and they seem to have forgotten, that Wal-Mart said they need the extra acreage for a parking area in their new plan. Not only did they increase the parking area, they increased the square footage of their floor space from 101,000 to 145,000 square feet. In addition, they added two more retail uses, a fast food establishment which creates the highest flow of traffic right on the corner, and an unspecified second retail establishment.

HUELAT said that the difference in the traffic is the most significant, and again, they need to recognize that the Traffic Commission approved a plan based on the assumption of 2 percent growth. He said that it was interesting to note the difference between 2 percent and 5 percent compounded over the same 12 years.

HUELAT said that this really boils down to two major issues, and that is the responsiveness of our government to the people, not to the external pressures, and second, the oversupply of empty shopping areas on the east and north sides of the city, which has got to be something that all of the Commissioners have to be concerned about. He cited that 50 percent of the shops in the Brittany Center are vacant today, less than 5 years and less than 1 mile from the intersection has that many vacancies. Eastgate, major vacancies there. South of Harry on Rock Road, a brand new strip center, major stores were put in before it was even occupied, went bankrupt, more than 50 percent vacancies there. TG&Y, Kellogg and Webb, a huge operation, totally vacant. Next to it an automobile dealership, semi-vacant. Carriage Park is not developed all the way and has some vacancies. The Parklane and Twinlakes areas have experienced severe vacancy problems. He said that they are experiencing the same questions today for corners of the past on 21st and Rock. He felt that those questions needed to be reconciled in the Commission's minds. The bottom line is there is an oversupply of empty shopping centers on the east side. He said that the people do not want residential land converted to commercial land. What they want is for the Planning Commission to plan their destiny and not react to it. That is what is wrong with rezoning, it does not follow the plan, it just keeps reacting to it as you go. He issued a challenge to Sam Walton and the Wal-Mart people that if they really want to do something for the City of Wichita, and if they want to do something for the community and the people, that they go into the inner city and they take the empty land that is blighted and build a facility. They could do a lot more for this community and this city and fix something that needs help as opposed to taking land that is already zoned for housing and changing it to more strip centers and more shopping centers and more traffic flow.

YVETTE FAY, 8931 Windwood, speaking in opposition, stated that when Mr. Parsons said that people liked to live where they shop, she would like to take issue with that. She felt that people would go wherever they need to go to shop, and they will choose exactly where they want to live. She said that when they moved into their home five years ago, they passed the Wilson Horse Farm and they were naive enough to think that the Farm would stay there forever. They bought their home thinking that this would remain a residential area. She said that they have an interest in protecting the value of their investment in their homes and did not think that they should be blamed for it. She asked what was the point in the people coming in to talk to the Commissioners and having meetings if, in the end, the store is going to be built anyhow.

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The Chairman declared a five-minute recess.  
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The meeting reconvened with all Commissioners present (Goebel and Miles were absent).

SHERMAN stated that one thing that bothered him a little bit is the misconception that the Planning Commissioners do not listen to neighborhoods. He said that he has heard words describing their actions, such as thoughtless, haphazard, undisciplined, lack of foresight, and he really did not think that was true. He realize that is the feeling in the community, at least in the media. He said that he was not sure where it stems from. Maybe it stems from the feelings that if someone you are arguing with or presenting your case does not do what you want them to do, then that means that they have not listened to you or considered your interest. He said that he feels that way when he loses an argument or when someone does not listen to him. SHERMAN said his point is that all of them do care and do listen, and that is why they volunteer their time to this. They get involved in these things because they do care about Wichita and about growth being planned and orderly, and that some thought be put into the process. Whatever decision they make is going to be based on that and on neighborhood opinion as well as the other factors that they have to consider.

FAIRBANKS said that people seem to have a very negative attitude about rezoning. It is the kind of attitude that comes about with "once it has been done for me, I don't need it to be done for anybody else." He pointed out that probably 95 percent of the people in attendance are living on rezoned land. Is it okay only if it is rezoned for you? Is it not okay if it is rezoned for someone else? That is the reason why a commission like this exists. They have to deal with rezoning on a regular basis, and they have to take into consideration the full use and the full personality of the city and its needs. He believed that if they started to deal with it in that way, as small microcosms, piece by piece, they should eventually end up with boroughs and small townships as opposed to a city. A lot of things too that he heard the people allude to, "I would not have a Towne East type thing in my neighborhood." Or, what about the people who complained in the Towne East area. The Commission knows that there was a high protest against that kind of development. However, looking back on that, it is the kind of thing that does add to the quality of life in Wichita. Someone spoke that groups like Pizza Hut and large corporations do consider those sort of things. They do consider the quality of living and available retail shopping. They consider all of that. The Commission is just trying to make the neighborhood aware that the Planning Commissioners have to take all of that into consideration, not just the small microcosms that is present at any given time. However, when people do bring valuable information to the Commissioners, and he alone received nearly 40 letters on this case, and probably 15 to 20 telephone calls, and he understands that the chairman had a lot more than that; when they do bring that kind of information to the commission, it is to their benefit for the Commission to hear that. It has been a long day for everybody and the Commission would certainly like for them to realize that they are trying to make the best decision possible.

TURNER commented that one of the things that they are going to have to come to grips with is that in this city, this is growing city, it is becoming a metropolis, and the thoroughfares are going to be high traffic. As long as the city develops, the traffic will also develop.

BRINEGAR commented about the overall area being requested to be rezoned. He said first of all there is a 6+-acre tract there that was already zoned for light commercial, and there is not much the Commission can do about that unless somebody asks for a downzoning for a lesser use. Secondly, the expansion of the "LC" area on the northeast corner and the southwest corner of the intersection of 21st and Rock Road is in place, and probably is an established policy somewhat for the area. People knew that was there, and the C.U.P.s were in place on a lot of that property when they bought out there. The developer could probably build on the existing 6-acre tract with the store size near that of their first stage development as is contained in their present proposal. However, he seriously doubted that if they did that, the building would be the quality and the design of what they are presenting in their current C.U.P. plan. He doubted that the other amenities of the area such as the landscaping would be anywhere close to what is presently being proposed.

BRINEGAR said that another item that he feels needs to be considered is that the proposed use is not a direct expansion into a developed area. It is into vacant land at the present time other than the residence that exists on the Wilson property. Traffic is still a question in his mind, and he has some reservations about how some of the numbers were acquired and the results, but those are things that people can sit around and argue with for a long time. BRINEGAR said that people talk about Wal-Mart not making concessions or making concessions to maybe improve their position. His feelings were that Wal-Mart came into this with the idea that certainly they would like to develop the area, and felt that Mr. Yung was one that influenced them greatly in getting concessions that were quite beneficial to the plan as presented. He said that he was quite cognizant of the neighborhood opposition and he certainly was going to consider it when they make a final judgment on this.

BRINEGAR stated that in the December 10 staff comments, there was a recommendation regarding storage of trucks or truck trailers being permitted onsite for over 48 consecutive hours. When he read that, he wondered what is a truck trailer versus having a straight truck in there that you can have on site for a period of time. Secondly, that it may be more appropriate to say that no truck or truck trailers be allowed on site for over a specified period of time, and that all trailers should remain hooked up to the respective tractors while such trailer is on location.

YUNG, speaking again, stated that he was advised that the operation that they are currently utilizing is that trailers are brought in, they unhook them, and they travel after other trailers, and while these are being unloaded, they come back and pick up that trailer and may leave another one. There is a kind of rotating process that they have as their policy now as opposed to when they were bringing them in and leaving them there for a longer period. YUNG said that he was not certain that being able to leave the tractors attached is acceptable to them.

GARDNER said that they have a limited queuing area back there if you can delineate the site plan closely enough, you can physically limit the amount of trailer storage that there is. There is a minimum amount of room back there behind the screening area in terms of movement of something that size. He

supposed the key is to address a verbage or use agreement that prohibits onsite retention of the trailer for more than a 48-hour period, and particularly in any area other than the screened area.

PARSONS commented that they have determined that number themselves by creating the screen to eliminate that concern. They have made that area the size that it is, and that size is going to dictate how many vehicles you can have back there. If you start having them out front, they are violating their own concession.

BRINEGAR related that it is not stated on the site plan that they shall be maintained in that area.

YUNG said that was correct. He believed that was something that could be added to as a condition.

BRINEGAR asked Yung that in the February 18 staff comments, if item "h.b", access on 21st Street between Parcels 1 and 3, and the western access to Parcel 3 between Parcel 1 and 3 was not addressed today.

YUNG said that the access had been discussed at length. They are currently showing on the C.U.P. that there is 30 feet of access control and then one opening permitted within this distance, and in conversation with the Traffic Engineer, he encouraged him to move that access point as far to the west edges as he could. It will facilitate movements in the center section. YUNG said that they have advised that they will do that.

BRINEGAR said that as he understands it, the applicant is still opposed to deleting restaurants on Parcel 2.

YUNG said that was correct.

SHERMAN said that on the plan it looks like the building setback is over 300 feet, yet the setback line is drawn at 200 feet. If they intend to put the building back there and expand it to the south, why not move the setback line and give the Commission a little more assurance that they are not going to try to bring an "L" out to within 200 feet of the street.

YUNG stated that they are presently 250 feet in this direction (setback line from 21st Street). If they match that in this direction (setback line from Rock Road), would that be acceptable? That still gives them a little flexibility in case there is some growth potential they need to address.

SHERMAN said that if they have shown all of their growth to the south, he did not know if they needed any growth potential to the west.

JOHN KNOWLES, representing Wal-Mart stores, stated that the reason for asking for so many square feet, they are thinking instead of having some trailer problem, as they have had at the existing Wal-Mart store in Wichita, they would like to be able to add some stack room to the east side of the building, and they may have to push the building towards the west. They have agreed, however,

to increase the setback of 200 to 250 feet on Rock Road, and he felt that would give the Commission assurance that the building would not be closer than 250 feet to Rock Road.

PARSONS asked why would they not place the building at the 250-foot line so that they could expand to the east if that is the reason they are wanting the additional room.

KNOWLES said that moving the building towards the east will give some parking, and they have not determined, as of now, exactly what kind of parking ratio they need to have, and what kind of stack room they need for the building. So the building may have to move to the 250-foot from Rock Road to be able to add some stack room to the east side.

GARDNER responded that before Wal-Mart would be able to get a very positive response here, he felt that they would have to be a lot more definitive than what they have on paper today in terms of how far they are going to be expanding to the west or otherwise. If Knowles is comfortable with that as a footprint, then probably what they need to do is to note adjustments on paper so that that is what they are dealing with.

YUNG wanted to retrace the thoughts, stating that if the Commission did not know the store, did not know the use, and if they were not coming to them with the site plan and they were doing this as a speculative nature, people would do cartwheels over establishing a 200-foot setback. He also stated that he has found that in every development there is a certain amount of fluff that needs to be built into it in unknown circumstance. They are asking for 18,000 square feet of fluff. He pointed out that they are not parking trucks in the back anymore, and they are struggling with this; this is a new concept to them, of which he highly endorses, and they may find that they need more storage space than they are currently anticipating. That is why they are reluctant to give up that fluff and why they have some concern about restricting themselves too much on the front because if they do, they lose the capability of using their fluff.

GARDNER responded that he felt they all understand that, and they all understand that it has been a year or two that they have had a crowd like this that has been that actively involved and specifically concerned. He felt that the level of interest is such, and the level of negativism that is being demonstrated towards the project is such, that both the perspective developing group and the current owner are probably going to have to be in a position, if they are going to get any kind of positive recommendation, to be a great deal more committal in several areas than they have been willing to be thus far. He said yes, it is exceptional compared to what the norm has been. The planning that went on over the last 15 or more years in the Comotara area that the Commission has watched and that has matured and been an attractive development in an attractive area that has been pleasing to an awful lot of people, occurred largely before there was any population around to provide their input. GARDNER said that he was reasonably well convinced that if they brought back that kind of plan today they could not get it passed, simply because the public, generally speaking, has an almost singular perspective in terms of assessing what is going

to happen on a basis of how it affects them individually, and how they perceive that. He said that he was very sensitive to that perception. It is a real thing for all of the people that are there. It is a shame sometimes when a development is occurring in a quarter that property owners will determine that they want to stand on the sidelines and let things mature around them so that they receive the maximum benefit of the surrounding development in terms of it being attractive, and then after everything else is by and large set and cast, come in and do their development. The Commission has seen that on the Lambsdale tract, the Hartman tract, and several other areas. He said that if there is any specific lesson to be learned, it is that if you wait until the area becomes more developed and populated, you have to pay a price in terms of accommodating the people who have moved into the area. GARDNER said that the rationale that Mr. Eberhart expressed early on to agreeing to any kind of a plan of more than just a very sketchy preliminary nature, to him, is the height of naivety, when bringing a proposal of this nature forward, given the amount of commentary that the Commission has received from the neighbors. What the neighbors have provided, right, wrong or indifferent, is meaningful input, and it is apparent to him, from at least the property owners perspective, they do not yet have a grasp on the gravity of what is being asked or considered in terms of commitments on the balance of the area, let alone right here. GARDNER suggested that they are probably going to have to look toward either Mr. Eberhart or Mr. Wilson being willing to state, "Yes, that's fine, we think we could agree with that development plan and make a commitment today that that's what we would be willing to follow." GARDNER said that addressing this specific proposal is probably going to require this bench to talk in terms of a policy on Rock Road, and a policy on 21st Street for future development to satisfy the five people that constitutes the City Council that is going to have to wrestle with this next. He felt that whatever recommendation goes forth is going to have to accommodate a great deal of the neighborhood input, and by accommodate he means pay close attention to it, before what is being proposed here today has even the faintest hope of a chance for approval. If the applicants do not have a grasp of that by now, he did not know what the Commission could do to make it any clearer. He felt that they are going to have to look to a policy that they delineate based on what has been talked about here, and there needs to be somebody to step up to the podium and say, "Yes sir, we are ready to do that." Because if they cannot do that, he felt that they would have a tough time pulling the support that is necessary from both here and the City Council to get something approved. GARDNER continued that he was not trying to be tough in terms of a development footprint on the subject site, as much as they have got what appears to be hedges. Maybe what they need is somebody to step up and say, "Alright, that's how we will do it." He felt that it would take that kind of a commitment to eliminate some of the doubt.

CROCKETT commented that she has some real doubts about the rest of the 300+ acres, which is empty, and they are asking for rezoning with nothing else down the road. She said that she did not necessarily have an aversion to the commercial development at that corner, but what else is going into that corner? The Commission has seen some fairly complete C.U.P.s, and to her, this is not a complete plan yet.

MOORE commented to Commissioner Crockett, that obviously it is not Wal-Mart that is wanting to fill the whole 300 acres; there is an owner that owns all that, and he agreed that they should tell the Commission something about what they have proposed. It is obviously that there is a neighborhood out here that is opposed to more commercial zoning on down the way. On the other hand, they are only talking about one neighborhood. He hears Tallgrass residents out there, but believe it or not, there are other neighborhoods within a mile radius of this project. He happens to live in one, and he saw a lot of his neighbors and names on that petition that had a 1009 names in it in support of this. So while he recognize there may be a petition with 400 or 200, and there may be 100 people present today vocally objecting to it, there are people that are in favor of this project, and he seriously wanted to recognize that. MOORE felt that everybody should understand that when you are in a courtroom and you are trying to convince a decision maker, a judge or a jury, and you are talking about a matter, for example here, a traffic study, you use experts. Everybody in the room should know that the city staff and the planning commission staff are experts in their field. The Traffic Engineer, Mr. McKinley, is an expert in his field. Believe it or not, they hired a consultant that is a recognized expert within the United States as an expert in their field. MOORE said that he did not pay any attention to a neighborhood homeowner that comes up and says these traffic studies are all b.s. They are not right. MOORE said because they are not telling him that they are qualified to make that kind of statement, and the Commission is hearing people that are qualified. He felt that those are areas that as a decision maker or as a policy maker, or as a person that has to make a recommendation, you have to consider experts of a staff and consultants. He felt that all of them that are in business in the audience use experts in their particular field of endeavor to tell them which way to go or what to do. Those are areas that the Planning Commission looks at before they make their decision. MOORE said that he has sat on the bench over six years, and experts play a major part in his decision making. He said that he was not an expert in the traffic field, but he hears these same arguments every meeting on this bench about where there is going to be too much traffic. He said that they totally overlook the fact that when you put in a bunch of houses, that you have traffic also. Wal-Mart stores do not cause any more traffic than a big residential development.

TURNER commented that the only thing that he sees here is the changing in the plan. They looked at a plan last week which did not have the extra addition to the south end of the building. He felt that somewhere along the line, the applicants are going to have to get on a set plan that can be accepted or rejected. TURNER said that he was a little bit alarmed at the applicants bringing something in addition to the plan.

SHERMAN stated for the record that there might have been a little confusion on the drawing last time. He believed that the last time the drawing was submitted to the Commission, that addition was on there; it was the time before that it was not on there.

PARSONS stated that he agreed with the comments that have been made by several of his fellow commissioners in regard to the future development of the 330-acre site. He felt that it was very difficult to look at spots within a land

area that is under one ownership at the present time and be able to make a good planning decision without knowing what is going on around it. He felt that the zoning policies that they have to work under are either inadequate or in great need of dissection and refurbishment to guarantee that as closely as possible they have good active planning rather than the reaction that they have heard about recently. He said that he takes those comments that have been made in that regard to heart. He felt that there needs to be more active type planning. That is going to require some dissection and redo of a lot of policies and procedures. He said that they have to look at what is good for the future of the entire community, and they have to, in cases like this, look at the discouragement of some of the things that have happened in the past, such as strip zoning. It is very easy to strip zone or strip develop when you have existing commercial zoning less than a mile apart. When you have six acres in each corner, you have less than a mile to worry about in there. Maybe one of the things they need to do is skip a mile or something. PARSONS said that he believes that Elton Parsons as a citizen of this community, and very active in this community for the past 20 years, has a record of being pro development, and certainly pro Wichita. He said that he is concerned about what happens in this community; he is concerned about what happens to future growth and prosperity for all of us. He felt that those items are factors which do encourage the increase in quality of life. That includes Wal-Mart stores, the Cessna airplane plants, etc. In this particular case, there are probably as many arguments pro as there are con. When they get to a point like that where they have to look at their Policy 10 and the existing policies, that when there are as many pros as there are cons, when that happens, he felt that his position has to be based on the fact that unless they can show that there is a distinct advantage to granting the application such as the one before them today, then they have to look at it in a negative light. He said that there are a lot of things that have to be done to the zoning policies to make this kind of development and this kind of growth and this kind of movement towards the future quality of life better than it is and better than it has been over the past several years.

YUNG, speaking again, commented on the first part of the Commission's question regarding reducing the setback to 275 feet to the face of the building. He said that they would reluctantly would agree to it.

EBERHART, speaking again, apologized to Commissioner Gardner that it was not their intention to be naive in the comments that they made. They thought, perhaps mistakenly, that they had a right to sell off a portion of this property to Wal-Mart and keep the remainder of their land for a farm for some indefinite period of time. What he is hearing today is that they cannot do that. He said that they were not in a position tonight to specifically address a project of this magnitude. EBERHART said that he was trying to determine to what degree of specificity does the Commission want them to present to them and the staff a plan for the balance of the development of the site. He guessed that there were ways that could occur. One would be a massive C.U.P. application for the entire thing. Another might be a series of definitive drawings and sketches similar to this that could be encompassed in a policy statement for later guidance for C.U.P.s as they become available. His question is, what does the Commission have in mind for that.

GARDNER remarked that when using the term "naivety" about a zoning situation, he did not intend to hurt anybody's feelings, but felt that it has been a common objection that has been raised by most of the groups that have met thus far that they do not want to see the continued stripping out commercially of Rock Road to the south, or 21st Street to the east. He said that if Mr. Eberhart had been at the hearings, and he was sure that he had, he would have heard that. The lack of a response there is noticeable; it is terribly evident. It is like, "we don't want to say something or tie ourselves down, we would kind of like to have our cake and eat it too," and they have a group of people out there that are just pretty damn sensitive to that. GARDNER felt that it was naive to believe that the City Council does not expect that to be addressed by the Planning Commission, and not to have an answer ready for a proposal that is to his advantage, aside from being poor preparation, it is being very wishful. GARDNER said that he was not trying to put Eberhart down, he was just saying it was a fact of life that you cannot ignore the commentary. If he was going to comment about what is expected, he felt that probably the suggested zoning policies for the Wilson farm that the Planning staff had put together are not particularly unrealistic. If he was to say, "that's something we probably could live with," that would be fine. If he was to say, "well, we don't know about the interior of it yet, we might want to do something else, but we could commit on Rock Road and 21st that there wouldn't be any further commercialization." GARDNER felt that that would be a major commitment that would have an awful lot of bearing on what perspective was taken on the subject proposal. It would remove an awful lot of doubt.

EBERHART said that they were perfectly willing to address that. They have been focusing all of their time and efforts in attempting to accommodate the myriad of changes in very specific form for the Wal-Mart site. They are prepared to address that if that is significant to the Commission. He repeated that they are not negotiating with anyone and have no current development plans, so they have not really focused on that part of it. He respectively requested for a reasonable continuousness of this meeting until they can divert a specific focus on those issues raised by Commissioner Gardner, together with the professional staff, so that they might give the Commission the kinds of commitments from them that would enable the Commission to get the comfort that they need for the development for the rest of the site to effectively address the specific proposal at hand.

GARDNER said that he was having trouble with the idea that in the last 60 days that this has not occurred to anybody.

EBERHART responded that it had occurred to them, and they have instructed Mr. Yung to prepare some preliminary development plans for the site which they just looked at in a cursory fashion in the last couple of days. He said that he was pleasantly surprised that his initial assessment was somewhat different, but not dramatically different from that proposed by the staff. EBERHART said that they did not come to this meeting thinking that, "by the way, because you are in the unique position of owning a lot of other land, we have got to look at those things together." He said that he has been involved in things in the past before this bench, not necessarily with this current group,

and he did not recall where a property owner has been tossed back for further consideration of this magnitude.

CROCKETT asked if Mr. Eberhart's previous projects have been of this magnitude.

EBERHART said no, he felt that this is a unique situation where there is a single owner of a very large tract of ground. Most of the time developers buy the property and do the development and they are far more accustomed to planning in detail what's going to be done with the balance of the land. Their immediate plans for the balance is that they are going to continue to use it for a farm for awhile.

GARDNER commented that he did not think anybody has any objection to the idea that horses are raised there or farming the land, or whatever. He felt that there has been a quiet effort, that he is aware of, to encourage Eberhart and the people he represents to give consideration to addressing questions specifically that he has raised, and it was his understanding that there has been a resistance to really make a commitment there, and he is hearing it now. He said that what he was trying to convey in terms of whoever sat down and stratified this application, somebody has provided some bad advice in looking at the elements that are going to have to be considered to get this to a point where it can be palpable. Whether that is on Eberhart's shoulders, Yung's shoulders, or somebody else's shoulders. He is seeing it as a pretty simple thing today if they are going to address the community unit plan and rezoning that are here, to address the adjacent street frontages in terms of what the likely policies are going to be for awhile. He said that Eberhart is in a position to make it real easy if he wanted to by saying, "Yes, we can live with that, that is a decent approach." GARDNER continued that there is an area at 13th and Oliver that stands out in his mind as a grand example of someone managing to hold on to something and take a posture that precluded any kind of reasonable treatment for years far beyond the point that it should have been dealt with, and he sees here today the same kind of opportunity. If this goes to the Council and fails, it is a year before something can come back. He felt that the precedents that are likely to be set here today and in the future on this in terms of how sensitive they are toward the adjacent policies, they are going to have those reverberating in the halls for years. It is not that the Commission chooses to necessarily force Eberhart to address them, but felt that the Council is sensitive to them, and the neighbors have certainly raised them for the last two months.

EBERHART remarked that they did not realize the intensity of the Commissioner Gardner's concern for the balance of the site until this meeting. They obviously had heard that questions were being raised about that which is why they authorized the procedure to commence that they did. The level of intensity is far higher on what they are planning on doing with the rest of the site than they anticipated. Part of it is that they are not professional real estate developers. He asked to be given a minute to confer with his clients.

GARDNER commented to the neighborhood that he would like for those who had taken time from their schedule to come to the meeting and participate to appreciate a couple of things. The first thing is that all across the city they

have had a standardized policy, if it has not been a policy, they have had a practice of trying to locate the majority of commercial development near the arterial intersection because those are typically among the less desirable areas for residential development. There are the traffic factors and a variety of factors and that practice has been pretty well established over a number of years. How much is too much is always a valid question. When you are the last corner in, you have got to pay the piper sometimes when you deal with adjacent development and neighbors. But he felt that there has to be a level of realism on behalf of neighborhoods in terms of what does and does not constitute serious damage to the quality of life in an area. GARDNER said that he did not hear anybody present today step up and say, "I am so damn mad about Dillon's going in because they dropped the value on my house twenty-five percent, I can't see straight." Regarding big commercial development, GARDNER said that all he was trying to say in terms of an example is you are going to have, with the commercial on the corner of 6 acres, some flavor of commercial, one way or the other, regardless of what happens here, there needs to be a common sense point in time where you capitalize upon the advantage of the moment which is, if somebody wants something bad enough, you make them put it in a form that is palpable that you can live with and you utilize the opportunity to strike a compromise that is livable if you can. He said that opportunity to some degree is available here. GARDNER said that in honesty somebody can make a good case here or in the courts in the future for a couple of more acres of commercial on this corner, whether it is a Wal-Mart, a Dillard's, or somebody's kind of grocery store or something else, and probably make it stick. There are too many factors besides just the emotion involved in the decision that will weigh in a court of law and would find a denial by strictly upon the neighborhood input as insufficient. It could be determined to be arbitrary and capricious if that was the only factor there. You have property rights where you purchased and where you live. These people have property rights where they own and with what they desire to do in the future, and there has to be at some point, if we are going to have a working process, a group who is willing to come to a meeting of the minds and seize upon the opportunity and strike the compromise. GARDNER said that he hoped that if a recommendation is made for something on the corner and it is contingent with a group of other conditions, that what the Commission is doing is essentially hearing the majority of what the neighbors are saying and trying to blend that with what is workable and durable. GARDNER continued that there is a real high level of desire at this bench to try and strike that kind of fairness for everybody involved.

SHERMAN asked the Wal-Mart representatives for the record, do they at this time, have an alternative plan to develop just on the 6-acre site providing 12 acres is not approved.

YUNG said that that was a little difficult to answer. They do have a drawing. They have looked into it. The reason he said that it was difficult to answer was because he did not want in any way for it to be interpreted as a threat, but he has been accused of that when he has mentioned it before. But yes, they have prepared a drawing. It does have 93,000 square feet. It does meet all of the city ordinances, and it could be done, and it could be done very easily.

SHERMAN said that he wanted that statement to show on the record, because that is a very important part of decisions like this, is whether or not they are talking about an issue for improvement to 12 acres, or an issue of already having 6 acres developed. He felt that it was commendable that they have not brought it up yet. He wanted to bring it up himself.

EBERHART stated that he and his clients have consulted on this. They hear the Commission's comments and appreciate them, and understand the concern. Many of the suggestions that are made about restrictions on commercialization down Rock Road and somewhat along 21st Street may well be livable with them. They made a decision that they simply were not in a position to make a definitive specific commitment tonight. They understand what that might do to their application, and certainly these will be guidelines for them in the future. They did not realize that in making a deal to sell off this corner that they are automatically subjecting the balance of the 300 acres to close scrutiny at this time, and they really did not have any development plans for it.

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood and the location of the property at the intersection of two major improved arterials; the commercial zoning and uses of properties to the north and west; the suitability of subject property for the uses proposed; the support of residents in the general area; and the recommendation of staff; I move that we recommend to the governing body that the zone change request be approved, and that the commercial development plan be approved subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be platted within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance

establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

- e. The proposed use of restaurants shall be omitted from Parcel No. 2.
- f. Instead of an access point to Parcel 1 and the western access point to Parcel 3 from 21st Street North, one access point shall be centered on the line between the parcels.
- g. The following General Provisions shall be omitted from the C.U.P. as they are not applicable: 14.e and f., 19, and 20.
- h. General Provision 14.A., B. and E. shall be amended to read as follows:
  - A. The extension of a center lane in Rock Road and 21st Street to accommodate left turns into the major opening along the west line and the north line of parcel 3 for southbound and westbound traffic) and to provide additional left turn storage at the Rock Road/21st Street intersection.
  - B. The reconstruction and extension of the raised medials in 21st Street and Rock Road to accommodate left turns into the major opening along the north line and west line of parcel 3 and to prohibit left turns into parcels 1 and 2.
  - E. Traffic signalization of the major entrance to Rock Road from parcel 3.
- i. The building setback from Rock Road on Parcel 3 shall be changed to 275 feet.
- j. Expand General Provision #21 to reflect that truck trailer storage shall only be permitted in the area east of the required wall referred to in 16E.

In addition, the Planning Commission recommended the adoption of a policy to not favor additional "LC", "C", "E" or "F" zoning to the south and to the east to the existing "LC" zoning at Webb Road.

Moore moved, Gardner seconded and it carried with a vote of 6 in favor (Moore, Gardner, Brinegar, Fairbanks, Sherman and Turner) and 2 opposed (Crockett and Parsons). Goebel and Miles were absent.

PARSONS stated that his vote is based on the fact that he felt they needed more of a commitment than what they have concerning the balance of the property.

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The meeting adjourned at 7:05 p.m.

Marvin S. Krout  
Secretary

State of Kansas)  
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on February 18, 1988, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this 31st day of March, 1988.

  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metro-  
politan Area Planning Commission

(SEAL)

EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 30, 1989

- 4a. Case No. Z-2886 - Wilson Estates requests zone change from "AA" to "LC" for that part of the NW 1/4 of Sec. 8, Twp. 27S, R2E of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the N.W. corner of said NW 1/4; thence east parallel with the north line of said NW 1/4, 90.60 feet; thence south, parallel with the west line of said NW 1/4, 660.40 feet; thence west parallel with the north line of said NW 1/4, 630.60 feet to a point 60 feet east of the west line of said NW 1/4; thence north, parallel with the west line of said NW 1/4, 120.40 feet to a point 600 feet south of the north line of said NW 1/4; thence east, parallel with the north line of said NW 1/4, 540 feet; thence north, parallel with the west line of said NW 1/4, 540 feet to the point of beginning. Containing 124,846.13 Sq. Ft., 2.866 Acres more or less. Generally located in an area south of 21st Street North and east of Rock Rd.
- 4b. Case No. DP-191 Wilson Estates requests approval of Wilson Property Commercial Community Unit Plan for that part of the NW 1/4 of Sec. 8, Twp. 27S, R2E of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the N.W. corner of said NW 1/4; thence east, parallel with the north line of said NW 1/4, 175 feet; thence northeasterly, 101.21 feet to a point 60 feet south and 350 feet east of the N. W. corner of said NW 1/4; thence east parallel with the north line of said NW 1/4, 340.60 feet; thence south, parallel with the west line of said NW 1/4, 660.46 feet; thence west, parallel with the north line of said NW 1/4, 630.60 feet to a point 60 feet east of the west line of said NW 1/4; thence north parallel with the west line of said NW 1/4, 370.40 feet to a point 60 feet east, and 350 feet south of the N.W. corner of said NW 1/4; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the NW corner of said NW 1/4, 175 feet to the point of beginning, containing 409,466.02 Sq. Ft. or 9.4000 acres, more or less. Generally located at the southeast corner of 21st Street North and Rock Road.

**GALBRAITH** pointed out land use, zoning and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting approval of a commercial community unit plan and an associated zone change request for a 9.4-acre unplatted and undeveloped tract of land on the southeast corner of 21st Street North and Rock Road. This property is a portion of the Wilson Estates used as a horse farm. The "LC" rezoning request is for a 2.86-acre portion of the property that is presently zoned the "AA" One-Family Dwelling District.

The C.U.P. proposal is divided into four (4) parcels proposing a total of 148,500 square feet of maximum gross floor area for commercial and office uses. Some of the proposed uses are financial institutions, service station with associated car wash, retail shops, restaurants, medical or dental offices or clinics, tire/battery/accessory stores, clothing store, hardware stores, appliance stores, furniture stores, shoe stores, barber shops, beauty shops, grocery stores, theaters, hotels, day care and fitness center and convenience store. One significant change in the conditions would limit any individual business, except for a grocery store, furniture store or hotel use, to a maximum floor area of 50,000 square feet. This would not permit large department stores and similar uses that tend to serve more of a regional market.

The other two developed commercial corners have established a character which should be respected by future development on this corner in regard to signage, screening, landscaping, and unified architectural treatment. Signage and landscape requirements were previously discussed with staff and the applicant. The applicant has limited the maximum height of any freestanding signs to monument-type signs not exceeding 20 feet. He is proposing that no more than one freestanding monument-type sign be permitted on the 21st Street and Rock Road frontage of each parcel. The signs are not to exceed 150 square feet in sign face area. No flashing, moving, portable or off-site signs will be permitted. The applicant is also providing a 10-foot-wide planting strip along the entire Rock Road and 21st Street frontage.

The applicant will construct a six-foot-high masonry wall along the south and east lines of this C.U.P. where this property is adjacent to residential zoning.

In addition to landscaping, screening and sign control, the applicant has proposed to use a similar predominant exterior building material throughout the development to unify the several buildings that are likely to be constructed on the tract. Metal will not be used as a predominant exterior building material.

The applicant is proposing the same types of traffic improvements and access controls that were proposed in the original C.U.P. submitted for this site.

**CASE HISTORY:** A development plan proposal (DP-180 - ROCK ROAD WAL-MART COMMERCIAL COMMUNITY UNIT PLAN) and an associated zone change request (Z-2886) were filed on this property on October 26, 1987. After public hearings and recommendations by the Metropolitan Area Planning Commission, the Wichita City Council took action to deny the requests on May 3, 1988. The applicant appealed the City Council's decision on the zone change request to the District Court. The District Court found in favor of the applicant and directed that the zone change request be

reconsidered by the Wichita City Council. Both parties have since agreed to consideration of a new development plan proposal (DP-191 - WILSON PROPERTY COMMERCIAL COMMUNITY UNIT PLAN) for the tract, along with the zone change request.

ADJACENT ZONING AND LAND USE:

NORTH	"LC" in DP-92	Shopping center
SOUTH	"AA"	Undeveloped
EAST	"AA"	Undeveloped
WEST	"LC" in DP-62	Shopping center

PUBLIC SERVICES: City water service is immediately available to the site from a 24-inch diameter water main existing along 21st Street bordering the site on the north and a 12-inch diameter water main existing along Rock Road bordering the property on the west. Sanitary sewer service is also available to the site from existing city sewer mains. Rock Road and 21st Street are designated arterial streets within the City and are improved to major street standards. The development proposed in this commercial community unit plan is anticipated to impact the traffic flow characteristics of the arterial street improvements adjoining the site. A traffic study was provided during the previous review of the zone change request. The study identified several improvements needed to accommodate commercial development of the site. The improvements include an additional right-turn lane on Rock Road, an additional right-turn lane on 21st Street, one major entrance on both Rock Road and 21st Street, signalization of the major entrance on Rock Road and the addition of a left-turn lane on both 21st Street and Rock Road to accommodate the major entrances into the site. The Traffic Engineer concurred with the conclusion of the traffic study that with these additional improvements and accounting for the additional future traffic generated by development of the original C.U.P. and growth of the surrounding area, the 21st/Rock Road area should operate at an acceptable level of traffic service. The specific improvements indicated in the Traffic Study are listed as part of the General Provisions of the C.U.P. These improvements are considered adequate to handle the potential traffic loads associated with the current development plan proposal. Street and signal improvements associated with the C.U.P. shall be guaranteed at the time of platting in conformance with the recommendations of the Traffic Study dated February 5, 1988.

CONFORMANCE TO PLANS/POLICIES: In 1975, the Planning Commission and City Commission adopted a zoning policy for Rock Road between 37th Street North and 31st Street South that stated in part that the commissions would "hold the line on additional large-scale commercial, office and high density residential zoning" and would "encourage very low density development on the remaining large, unplatted, residentially-zoned properties." This policy was not

pursued, and a number of large scale, high intensity rezoning and C.U.P.s have occurred along Rock Road north of Kellogg. Roadway improvements have been made or have been guaranteed to accommodate the higher intensity development.

During previous consideration of the zone change requested at this location, the Metropolitan Area Planning Department presented a "sketch plan" (see Figure 1 attached) with suggested land uses and densities for the remainder of the Wilson property for possible adoption to guide future land use decisions. The Metropolitan Area Planning Commission approved a zoning policy simply stating that no additional "LC" or more intense zoning be looked on with favor beyond this tract along Rock Road or 21st Street.

**RECOMMENDATION:** This revised C.U.P. request is similar in total floor area permitted and traffic improvements to the originally submitted request that was recommended by staff and MAPC. It contains some limitations that will ensure development of a quality comparable to the other two commercial corners at this intersection, and now has a new limitation on the size of an individual business that would rule out large region-serving retail uses which were previously objectionable to a number of nearby homeowners. It is recommended that the commercial C.U.P. development plan and zoning change request be approved, subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be replatted within two years after approval of this C.U.P. by the City Council, or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

DISCUSSION:

**GALBRAITH** stated that this request is part of the Wilson Estates with an accompanying C.U.P. that was considered by the Planning Commission a year ago. The Commission's recommendation was that the applications be approved; the City Council denied those applications. He said that the zone change request was appealed to the district court, and recently the court returned that case to the City Council for reconsideration. He said that the Council's action was to return the zone case to the Planning Commission for reconsideration. He pointed out that it is identically the same area as they had previously recommended favorably on, however, the associated C.U.P. has now been changed. **GALBRAITH** said that the the C.U.P. has changed from a one parcel C.U.P. to a 4-parcel C.U.P., but one of the significant changes on the C.U.P. is a statement that no single user will exceed 50,000 square feet except for a grocery store, a furniture store, or perhaps a hotel. He said that would limit the department store type uses that the Council considered previously as not being appropriate on this site, and is a major change from the C.U.P. considered a year ago. **GALBRAITH** said that since both C.U.P.s to the north and to the west have somewhat similar architectural styles, and since they have been partially landscaped, the applicant is emphasizing on this C.U.P. a desire to maintain height control, provide for landscaping, limitation on signs, and obviously the portable signs and offsite advertising signs are prohibited on this C.U.P. He said that all of the proposed traffic controls as originally considered are still applicable and are proposed on this C.U.P. The applicants have only added one additional curb cut and that is between Parcel 2 and 4 on 21st Street which is to be a shared driveway to provide for right turn in and right turn out movements only.

**GALBRAITH** stated that staff believes that the C.U.P. is very clean now in content, and have recommended approval of both the zone change in the C.U.P. subject to conditions. He said that staff has added an additional clarification relative to the 50,000 square-foot being applicable to all four parcels.

**GALBRAITH** added that CPO Council "2A" voted 6-1 to recommend approval of the applications.

**PHIL SNODGRASS**, agent representing the applicant, was present.

There was no one present in opposition to the applications.

**PARSONS** felt that it was appropriate to state, since he was one of two people who opposed this C.U.P. about one year ago, although it was in a little bit different configuration, the major problem that he had at that time was the opportunity for a regional distribution center or a regional shopping center type

user to occupy a location here, he believes there have been significant changes made in this C.U.P. that would give reasonable assurance that would not be present, and for that reason he intends to support the C.U.P.

**BRINEGAR** commented that at the CPO meeting the other night, Mr. Bloomer who is president of the Tallgrass Homeowners Association stated that they had no particular difficulty with the present configuration of the proposed C.U.P., and that they were not against the C.U.P. as presented, and that is with the restriction of the 50,000 square-foot occupancy.

**GARDNER** stated that there were a couple of things in the material provided to the Commission that he felt are a little bit misleading, and he did not believe that it was intended that way, but felt that it needed to be cleared up. He said that there was a reference in the last paragraph in the staff comments under conformance to plans and policies that references Figure 1, which is a set of proposed use policies for the balance of the Wilson property, and it references that the Planning Commission approved the zoning policy as reflected on the Figure 1 map. **GARDNER** felt that when the Planning Commission recommend a zoning policy, it is his understanding that the policy typically goes to the Council; they either approve or disapprove, adopt or do not adopt, but in this case it was part of a recommendation that was ultimately not adopted or voted against by the City Council. He said that he did not believe that there is a formal policy based on their rejection of the prior zoning recommendation and the policy that the Planning Commission recommended that was a part of that action. He said that the Commission addressed several adjacent possible uses for the frontage on Rock Road and 21st Street, and in the vicinity of 21st and Webb Road. He said that he was uncomfortable with the impact of this proposal and thinks that while it was perhaps appropriate for the last zoning case, a policy for the overall development of the remainder of the area should perhaps be subject to future study, and he was most uncomfortable recommending this in conjunction with the current case. There is a significant reduction in the overall gross square footage of retail use, and a good deal of this proposal is predicated on the substantial saturation of that corner, and it is the Commission's concern that it does not proliferate up and down the arterials. **GARDNER** explained that the intent of his remarks is to suggest that first of all the Commission had not approved this; it has not been adopted, and felt that before they adopt a policy on the balance of that acreage it would be prudent that they spend a good deal of time in studying that, or consulting with the owners on some of their future intent in the area.

**PARSONS** pointed out that there was a land use plan prepared at the time for the entire acreage, and whether or not that would remain as the applicants intent now he was not sure. He felt

that Gardner was right; that whatever it is, the Commission did not approve a policy.

**BRINEGAR** commented that as he recalled, at that particular meeting there were several of the Commissioners that were ill at ease as to expansion of commercialization along the area, and he still feels a hard look should be taken at further expansion of commercialization in the area. Each case needs to stand on its own, but that still is his general feeling on this one.

**KROUT** stated that as he understands this, what staff was trying to say in the second paragraph was that staff suggested the sketch plan. The Planning Commission made a motion and approved a motion that said no further light commercial zoning further east on 21st Street, or further south on Rock Road, and that was not adopted by the City Council. He said that Galbraith advised him that the Planning Commission adopts its own zoning policies, and sometimes the City Council adopts those, and sometimes they adopt different policies. So although City Council policies are worded differently, they do say "adopted by the Planning Commission." Apparently Galbraith's impression is that the policy referring to the light commercial and not the land use map was previously adopted by the Planning Commission.

**PARSONS** felt that the thing that the Commission has to be mindful of here is that they are only considering the C.U.P. Any action on the proposed case today does not have any bearing on the area to the east or to the south.

**SHERMAN** felt that Gardner made an important point that this is a large undeveloped parcel in an important location, and before the Commission gets into policies, and before the parcel is developed much further, that it needs some additional study and consideration.

**BRINEGAR** said that he hopes the owners will come forward with an overall development plan instead of trying to piecemeal this thing. He felt that they will encounter more difficulties trying to piecemeal than if they were to come forward with a total development plan of some nature.

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of properties nearby; the suitability of subject property for the uses proposed; and the recommendation of staff, I move that we recommend to the governing body that these applications be approved, subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be platted within two years after approval of this C.U.P. by the City Council, or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  - e. Change the "Note" under Parcel #4 to reflect that it is a "General Provision" and applicable to all parcels.

Parsons moved, Gardner seconded.

**GARDNER** asked if the Commission was suggesting that this is neither an adopted policy nor included as part of this recommendation.

**PARSONS** said that was correct. He was not sure why the policy was in the report other than to refresh the Commission's memory that they had asked for a plan on the entire site, but it really does not have anything to do with the motion for approval of this particular request.

**KROUT** stated that staff's record shows that at the Commission's previous discussion they adopted a policy of no further light commercial zoning on East 21st Street or south on Rock Road. He asked if they were withdrawing that policy or saying that it was never adopted.

**GARDNER** commented that the policy was recommended as a condition for approval of the previous zoning package. He felt that the Council's rejection of the Planning Commission's recommendation makes that a moot element. It certainly was tied to the square footage of retail area, and that had a definite

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influence on the Commission's perception of what should be adjacent up and down the balance of the parcel. He said that because they are dealing with something significantly lesser in retail area in this proposal, he felt that it would be inappropriate to recommend this policy again. He said that this needs to be subject to further study.

**KROUT** stated, for clarification, that the previous C.U.P. had 125,000 square feet of floor area permitted. This C.U.P. has 148,000 square feet of floor area being requested, so it is not a decrease in the retail floor area.

**SHERMAN** stated that it was just as important to note that the Commission is not saying they would recommend any additional or less, they are just treating this as a separate case that is on a corner of a major arterial street.

**PARSONS** commented that if there is a question about whether or not there was a policy adopted, recommended or whatever, they are not doing that today, and if that means the Commission is recalling the policy, then the answer would be yes, there is no longer a policy.

**VOTE ON THE ACTION:** It carried unanimously.  
Crockett, Fairbanks and Moore were absent.

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Response to Plaintiff's Interrogatories  
delivered to Law Dept. on 8-10-88.

TRANSCRIPTION

TAPE OF CITY COUNCIL MEETING  
April 26, 1988  
Wichita, Kansas

UNFINISHED BUSINESS:

KAMEN: Item 2, City Clerk?

CLERK: DP-180 - Rock Road Wal-Mart Commerical Community Unit Plan and Z-2886 - Zone Change from "AA" One-Family Dwelling District to "LC" Light Commercial District Located at the Southeast Corner of 21st Street North and Rock Road.

KROUT: I think you're familiar with this case. It was originally a request for expansile light commercial zoning on a...to provide 12 acre site for light commercial uses, southeast corner of Rock and 21st Street by expansion of light commercial zoning and a 12 acre Commercial Community Unit Plan.

On March 8 the City Council sent this case back to the Planning Commission for reconsideration. On March 31st the Planning Comm...the, at the Planning Commission hearing, the applicant presented a 9.4 acre. This was the original request of the CUP was for 12 acres; there were two pad sites first for small acreage uses, parcels 1 and 2 on 21st Street on the map in front of you. At the Planning Commission hearing the second time the applicant presented a small request, a reduced size request for light commercial zoning, reduced size 9.4 acre Community Unit Plan, similar conditions to the 12 acre request. However, it was only for one parcel only for the discount department store; the two smaller sites that were to be along the 21st Street frontage were basically removed from the request, and that was the reduction in the area. So there was only one parcel for the Wal-Mart. The Planning Commission heard this revised request and recommended approval by 7 to 1 vote.

On April 18th, the following week, the CPO heard the amended request and at that meeting the applicants and representatives of the neighborhood associations in this area both indicated that they had reached a negotiated settlement based on a number of additional changes. And let me go over them briefly.

Changes to the CUP: The one would limit the floor area from the 138,000 square feet Wal-Mart that the Planning Commission had recommended down to 122,840 square feet maximum with an additional cap of 104,414 square feet on the retail sales portion of that building.

The applicants increased the width of the landscape buffer. You recall there was a 15 foot landscape buffer along 21st Street and Rock Road. The applicants expanded the buffer from the major opening on 21st Street east to the east property line where the tire/battery portion of the store would be located from 15 feet to 20 feet. Indicated they would plant conifer trees to screen the, that portion of the building; and along the whole portion of the landscaped area, both where it's 15 and 20 feet, would provide for low berms to help screen the parking lot itself.

The applicants further indicated they would restrict the signs which would have permitted one pole sign each on 21st Street and Rock Road of 20 feet down to 17 feet, and monument signs only, not pole signs.

They also inciated that the building face would not contain any wording such as, would not contain the wording "Discount City" or "We Sell For Less" on the building face.

The proposed color of the, paint color of the predominant masonry material was changed from a grey tone to a beige tone.

An additional condition on the CUP would require that no, prohibit carnivals from taking place in the parking lot.

In addition to these additional changes which were submitted and a part of the CUP file today, there was announcement of a, an agreement in principle, a private, to a private restriction that would limit the use of the 2.6 acres that's immediately to the south of this 9.4 acre request; the remainder of the original 12 acre request south of the proposed 9.4 acres. There was apparently an agreement in principle to restrict the use of that, of that portion of the property for a ten-year period.

I'm told now that the agreement, the final agreement has not been reached between the neighborhood association and the applicants, that Wal-Mart, who would own this 2.6 acre tract, does want to retain the ability

to be able to apply in the future for a use exception to the Board of Zoning Appeals to permit parking which the Zoning Code does permit as a use in the AA district that this would remain in if you approve this request.

This is a CUP and not just a zone case, and it has been the City Council's policy to open this up to discussion. I'd be glad to answer any questions about the change again.

KAMEN: Are there any questions for Mr. Krout? Council Member Knight?

KNIGHT: Does the City Council have the authority, if they desire, to require the applicant to covenant for ten years on that 2.6 acres?

KROUT: No, that's not within the Council's authority. You should be basing your decision on the facts of the case on the 9.4 acres, and should not be binding denial based on the agreement or lack of agreement. consideration, but shouldn't be the basis for your recommendation of....

KNIGHT: Well, was this condition discussed prior to the CPO decision on this?

KROUT: I think the CPO was under the inter...was under the...I think the CPO understood that an agreement had been reached in principle and that the details would be worked out between that CPO meeting and the City Council meeting.

KNIGHT: Now we're being informed that that hasn't been worked out?

KROUT: I'm informed that it hasn't been worked out, but I...but the applicant may have changed his mind since I've been standing here, and you might ask him about that again.

KAMEN: I might clarify that a little bit. I have a letter from Mr. Bothwell, April 25th, that the agreements had been worked out, and it lists all those that you mentioned. I have a letter from...I believe I have a letter in my desk from Mr. Yung for the CPO meeting stating that these conditions were being...were worked out. And I think the CPO was aware of that and used that in their considerations to some extent. \_\_\_\_\_

KROUT: \_\_\_\_\_ was probably a consideration among others, but I think probably you need to talk to the applicants about, about the understanding. My understanding is that the negotiations broke off and that Wal-Mart agreed to restrict to AA uses but not to restrict against parking which is a use that the Board of Zoning Appeals can permit in the AA zoning district.

KAMEN: Are there any other questions for Mr. Krout? I believe we'll open it...excuse me, oh, Mr. Ferris.

FERRIS: Marvin, then you feel that this is a suitable plan, in your professional opinion, for this area?

KROUT: The 9.4 acres is, and reduced \_\_\_\_\_, is a better plan. The plan works well in terms of access better than a tract of 5.9 acres that could not have the major opening to Rock Road. And all the additional conditions that have been offered since the Planning Commission meeting, I think, do tend to make it a more compatible use.

FERRIS: Have you ever seen a CUP with this many restrictions on it in this City?

KROUT: No, I hadn't seen any with this many restrictions the first time around, and it just keeps getting better and better.

KAMEN: You mean better and better as far as the restrictions?

KROUT: As far as the restrictions.

KNIGHT: Excuse me, I have one more question.

KAMEN: Council Member Knight?

KNIGHT: It's my understanding, Mayor, that you involved yourself in this matter, and I would like to know what your conclusions are at this point.

KAMEN: Well, at this point, I would like to hear from Wal-Mart and see if they are going to abide by these conditions in this letter that...I'd just like to hear that. And like to look at the other CP...ahhh, the CUP as it stands, and....

KNIGHT: Was it your understanding that this land use restriction would be executed by the time it came to us for a decision?

KAMEN: I...the only understanding I had was that this, these particular land use restrictions and so forth were incorporated in the CPO's deliberation on this subject and that, these letters I had stated that, in this particular instance, these agreements had been agreed to by Wal-Mart. Now, if they're not agreed to by Wal-Mart, that's certainly something I'm sure the neighbors would like to hear. But I think my decision will have to be made on the CUP as a whole and on legal considerations.

KNIGHT: So you're still open on this whole thing?

KAMEN: Yes. If there is some problems would arise and the definitions of various things that we have to look at, then, of course, my motion would be that we have a deferral until these things get straightened out. But at this time, not hearing from Wal-Mart or the neighbors, I'm not positive that there is some problem. I think we'll learn soon enough, though, if there is. I hope there isn't, though.

Are there any more...is there any more discussion among staff and the Council members?

WINKLER: I prefer to hear from the applicants.

KAMEN: Okay. First of all, could I see a show of hands how many would like to speak to this issue? Nobody? Okay. Then I think we can be a little bit more liberal, if the Council will permit me, on the time involved. I'd like to hear from the public now if there's anybody that would like to speak to it. Maybe Wal-Mart should be the first.

BILL YUNG: Mayor Kamen, Council Members, my name is Bill Yung. As you recall, we've had numerous opportunities to discuss this particular project, and I would like to start out by changing my presentation slightly to answer your question whether Wal-Mart does agree to that letter. The letter I think you're referring to was a memo that was written by Mr. Curtis Barlow. I believe it was dated around the 18th of April, I'm not...I haven't got the exact date. \_\_\_ would find....

KAMEN: Bill Bothwell on April 25th. I do have one....

?: Here's another one here.

KAMEN: Okay. There's several of the letters.

YUNG:

The letter that really has the agreement as Wal-Mart agrees to it is the letter from Mr. Barlow. It was written on the 18th. It has essentially the same thing, I believe, as the one you're referring to, but it...they do agree with all the conditions that were arrived at in the meeting in my office held sometime before that date.

Now, if I can, I'd like to go through and review, not only those conditions that were agreed upon, but I think you ought to look back at the total. Mr. Krout has indicated that there's been, that this particular project probably has more concessions than any other CUP that he's seen. I'm certain it is more than I have, and I've done hundreds of them; so I can tell you this is absolutely a landmark case in regards to the kinds of conditions that Wal-Mart is willing to accept. And I might point out some of them I would not personally have accepted; I think they're demonstrating an extreme willingness to cooperate, not only with the neighborhood, but with the City at large in trying to create a nice product and project for the City.

In the document you received from us yesterday there was a letter that illustrated 20 conditions that are conditions that Wal-Mart has agreed to that are above and beyond what you normally find required in a Commercial Community Unit Plan, and some of those are quite impressive in the depth in which they go. And if you'll bear with me, I'll try to go through as rapidly as I can, but I think for the record we need to point out all those conditions that Wal-Mart has found that they can live with in this particular project.

The first one is, of course, they've agreed to reduce the 12 acre proposal in the 5.5 acres of zoning to a 9.4 acre in a 2.87 acre zoning case, which is a substantial reduction in area from what they originally requested.

Number 2. They've eliminated the two out parcels, and I'm sure you're all aware that those out parcels were a significant part of their overall economic package on this project; and that is a major consideration.

Number 3. They reoriented the site plan to face Rock Road rather than 21st Street and have agreed to larger setbacks than have been required of others on this particular corner. And I think that, that reorientation best addresses the traffic and the surrounding zoning, and I think is also of a major significance.

Number 4. They've agreed to extensive landscape buffers which in the first place are not required by ordinance, and in the second place they're larger than are normally required when they, when you do find landscape buffers offered. We have 15 feet on Rock Road and on 21st Street except for the 20 foot that Mr. Krout indicated that they've agreed to a larger buffer. They've also agreed to construct earth berms within that buffer area to try to help hide headlights and bumpers from cars that are parked in it, so I think you're gonna find a very attractive perimeter now that will somewhat diminish the glass and chrome that is often associated with parking lots.

Number 5. They've agreed to a total number of trees. And this is, again, a little bit amusing to me because we've agreed to one tree for every 50 feet of street frontage, plus 50 trees on the parking lot; and they've even agreed to the size--2.5 to 3 inch caliper, which is roughly a 10-12, depending on the tree, it could be as high as a 15 foot tall tree.

They've agreed to an automatic irrigation system for every area that they've included in the buffer system along Rock Road and 21st.

They've agreed to a signage package which is somewhat in keeping with the corner, but it is definitely greater than what the ordinance requires. And there's 4 points to that signage package. The first being that the signs on 21st and Rock Road will be limited to a height of 17 feet. Second, there'll be a monument-type sign instead of a pole sign. Third, the maximum size of each sign will be limited to a face of 150 square feet which is considerably less than what is normally allowed. "D," the signs "We Sell For Less" and "Discount City" will be removed from the face of the building. Now, I've never, in all the years I've been in business, I've never heard of a zoning case where we've had to restrict what the actual wording on the face of a building would be. That they also agreed to.

Number 8. They've agreed to a detailed traffic study to determine the impact and define all the street improvements which they are not only to install but pay for.

KAMEN: Excuse me.

YUNG: Yes?

KAMEN: I'm not trying to cut you off, but how many more minutes will you need?

YUNG: I'll need at least 5 minutes, if I can have it. Four?

KAMEN: Although we haven't reached the five minute mark yet, I'd like to...does somebody want to move that we give him the additional time?

WINKLER: I move that we give Mr. Yung five more minutes for his presentation.

KAMEN: All those in favor please signify by saying aye. Motion passes.

YUNG: Thank you. I'll try to hurry along.

They've agreed to installing a traffic signal at Rock Road at the major entrance which aligns with the Skaggs Alpha Beta.

They've agreed to restrictions on the truck parking to a maximum of 48 hours.

They've agreed to a building material restriction, and the color of paint used on the structure to conform with the area wide color scheme.

They've also agreed to screen the rooftop equipment so that it is not visible from any of the four sides at ground level.

They've agreed to an 8 foot masonry wall on that portion of the rear property adjacent to the structure itself and reduce to 5 foot where it's out in the parking area.

They've agreed to severely reducing the access points to the property, that being only two now on Rock Road and one on 21st Street.

And they've agreed to a wrought iron enclosures in lieu of chainlink in the construction of the 2 foot high, excuse me, a 2 foot high wall at the lower level to help screen lower level things in the garden center.

Another major concession: they've agreed to not only a floor area restriction, maximum gross floor area of 122,840 square feet, but they've also specified the retail space that they would never exceed; and that's 104,414. That, again, I've never seen in a CUP.

They've agreed to prohibit carnivals to be used in the parking lots.

They've agreed to paint the garage doors on the north end of the building to be compatible with the main portion of the building.

And finally, and this is the one that I find probably the most unbelievable, is that they have agreed to purchase the 12 acres and use only 9.4 acres within this CUP and restrict for a period of 10 years 2.6 acres on the south end of this site to AA uses.

And the letter, and I need to very carefully explain how this came down because I think you're going to find today that there's going to be some conversation about Wal-Mart renegeing on their deal; and we did not renege. In my office we negotiated with three representatives from the homeowners group, and there were three points that came out in that negotiation regarding this 2.6 acres. One, you would be restricted to single family uses; two, that it would, could also be used for a park; and three, it could have a drive access point back into the remainder of the property. Mr. Bothwell was in attendance at that meeting. He did say that he understood their conditions, that he would take them back to his superiors and try to obtain ratification.

The letter that came, the memo that I mentioned from the 18th of April, was a letter from his superior, Mr. Curtis Barlow, who is Vice President of Real Estate, did ratify all those conditions with one minor exception. And that exception is: he stated that on this ~~2.6 acres that he would agree to single family uses~~ only, AA zoning. Now, he didn't say that we were gonna park on it; he didn't say we weren't gonna park on it. But he did not feel that the restriction, additional restriction of parking, was a part of that agreement at the time it was held in my office, nor is it a part of the agreement now.

And, as I understand it, what they intend is, what they would like, is to have a flexibility that if they are more successful at this location than they think they will be, that they would like to have the opportunity to construct employee parking on the south side of that wall within this 2.6 acre buffer. And they're not talking about expanding the parking lot and turning this into a 12 acre CUP, which I think you're gonna hear some people try to claim; they're talking about a limited amount of parking that would accommodate their employees on the outside of the wall and

only a gate passing through for pedestrian access if, and in the event, they ever need it. And that can't even be done without coming back before the City and the BZA Board to obtain it.

I don't find it a very major issue. I think when you deal with compromises, you expect to give and take. And if Wal-Mart hasn't given, I don't know of a client that has. And when we're down to one minor element where you're describing something that would even have to come back before an official City body for ratification and approval, well, I can't see that we've got any problems. I believe if they will execute that document for the ten year deepfreeze of half a million dollars worth of land in that, by that deed restriction, that ought to be enough. And give them the opportunity five or six or seven years down the road, if they do need employee parking in that area, give them the opportunity to at least come back before the City and ask for it. I think they've given enough, and I would strongly urge you to approve the CUP as prepared with the conditions and the letter that Mr. Bothwell \_\_\_\_\_. Thank you.

KAMEN: Are there any questions from the...Council Member Ferris?

FERRIS: Bill, I picked up a little, what I might consider a slight contradiction in what you said in your statement. I need to have a clarification. You said in your first statement that this agreement is the agreement that was agreed upon. And then you said that there was one exception. Now, in your office and in the CPO, was it stated that, as it's read here, to single fam...I mean, excuse me, that the 2. acres, the remaining 2. acres would be restricted to AA uses, or was it said that it would be restricted to houses? Or grass, or green space? Did it say...was it your understanding that it would be restricted to AA uses? Or was it your understanding that it would be restrict....

YUNG: I believe my understanding.... We discussed the AA uses, but I do believe that they did specify single family homes, and I do believe they talked about grass, green space and park and the drive. That is where, you know, I believe in content or intent, I mean, Wal-Mart is agreeing to the basic intent with the minor exception that they would like to have the opportunity of parking being considered sometime in the future. Their...I guess I'd have to say they've agreed to it, but they do have one minor infraction in that agreement.

KAMEN: Are there any other questions for.... Well, Mr. Yung, I'd to ask one.

YUNG: Yes, sir.

KAMEN: Maybe we're looking at different letters here, so let me read from this one and see if this is correct. Excuse me. Mine's dated April 25th; it's addressed to me. Excuse me. The subject is: conditions agreed to by Wal-Mart based on neighborhood opposition. It's signed by Mr. Bothwell who's a representative of the Wal-Mart, is that correct?

YUNG: Yes, sir.

KAMEN: He's their representative in this situation. And it's item 20, and it says, excuse me, "and finally, we have agreed to purchase the full 12 acres and to develop that property by only using 9.4 acres for our store, and by restricting the remaining 2.6 acres to AA single family uses for the next ten years. This is being accomplished through a deed restriction between Wal-Mart and two of the area homeowners associations."

YUNG: That is correct.

KAMEN: Okay. Now, you're saying this is still in force, as I read it?

YUNG: In my opinion, that was the agreement that we reached at my office, and that is the way Wal-Mart is offering to prepare that deed restriction, yes.

KAMEN: Okay. Let me ask Mr. Krout, now, is single family, is there parking allowed on single family?

KROUT: The way I...that I would interpret that letter, it says AA single family uses, single family. I think that that's what would need to be worked out by all the parties concerned, a private agreement. There's a little room for interpretation there, but parking is a use that's not listed in the use section of the AA zoning district as a permitted use. But it is permitted by the Board of Zoning Appeals as a use exception in the AA district. The AA district is called the single family district, so you could interpret the AA single family uses included all uses permitted in the AA zone; and that could mean, for instance, a church or a school which are permitted listed uses, and it could also be interpreted as meaning a parking lot, if approved by the Board of Zoning Appeals.

KAMEN: So, in other words, if they fulfill this agreement that they've stated here, the Board of Zoning Appeals would be the one that would have to rule on whether there was parking permitted in that area.

KROUT: The Board of Zoning Appeals would not at all take into consideration the existence of a private covenant between two parties.

KAMEN: \_\_\_\_\_

KROUT: They would not be asking, right. The Board of Zoning Appeals would not, should not take into consideration any private deed restrictions and interpretation of how that would limit the property in the way that they look at the land. This is just a private agreement between two private parties, and the Board of Zoning Appeals can't use that in making a determination.

KAMEN: So, without that deed restriction, what would be the, what would be the difference between if they had the deed restriction, they didn't have the deed restriction?

KROUT: For the Board of Zoning Appeals, none.

KAMEN: Okay. But if they didn't take it to the Board of Zoning Appeals and they did have one or they didn't have one, what would be the two.... Say they decided not to go to the Board of Zoning Appeals because they did or they didn't have a deed restriction. If they didn't have a deed restriction, could they go ahead and park on it anyway?

KROUT: If they didn't have...whether or not they have a deed restriction, they can't park on it without the Board of Zoning Appeals giving them permission by use exception.

KAMEN: Okay. Thank you.

?FERRIS: Marvin, you said something that confused me. If they have a deed restriction and they go to the Board of Zoning Appeals, the Board of Zoning Appeals could still approve the parking, but then it would be litigated outside in a civil court between the two parties.

KROUT: That's correct.

?FERRIS: Thank you.

KAMEN: Are there any other questions for Mr. Krout or Mr. Yung? Let's hear the next speaker, if we might.

BLOOMER: (Rick Bloomer) Mayor, Council Members. If I had known six months ago what the last six months would have been like, I wanted to have the issue finally resolved by a vote of the five people we elected into office, I may have found something else to do. However, I trust the five of you will do what is right for the neighborhoods when you vote today.

It is not much fun being portrayed in the media as a part of the elitist \_\_\_\_\_ group in Tallgrass area, and you know that is not the case. The portrayal of this whole issue has been divisive in the community and has really missed the whole point of what we've been trying to accomplish.

The issue is responsible planning, zoning and development, but not at the expense of residential neighborhoods. Bottom line: a regional department store does not belong in a residential neighborhood, and rezoning to accommodate it is not in the neighborhood's best interest. Apparently our homeowners associations do not buy enough advertising to get our message across to the citizens of this community so they can prevent abuses in their neighborhoods.

It has not been much fun opposing a group of people who have not been upfront, who have tried to push their way around and provide misinformation, who have tried to divide the neighborhood with the help of residents living more than two miles away. We never know what intimidation tactic or misinformation they will use next

It is not much fun finding out about last-minute changes in plans or negotiated agreements. For example, the faxed agreement from Bentonville, just prior to the CPO meeting, which we really didn't have much time to review, had most everything in it. But when you interpret the first condition, you find out that, yes, they could get a BZA grant for a parking lot. If they do, we're back to the 12 acre proposal again.

It is not much fun finding out about a telephone survey they just can't stop when you start negotiating in good faith. The real unfortunate part is that I think their local representatives played a major role in devising these tactics.

It has not been much fun trying to convince people that retail development without an increase in population or spending power does very little for the community. It will probably not attract new industry to the community. If they do sell for less, it will probably not increase the tax base of the community. Their sales come at the expense of others which is free enterprise and I'm a big advocate of. The point is that we should not go out of our way to accommodate an outside retail developer whose sales dollars leave this City daily and will not add to the overall employment as their competitors lose sales and let their employees go. Tony Redwood of the University of Kansas says, "Retail development has a transfer affect and does very little for economic development."

It is not much fun having to go through the same process twice. We stopped rezoning at a March City Council meeting only to be told by members of the City Council to go negotiate or they will decide what the regional department store will look like. We did so in good faith and felt we had reached an agreement. It was their proposal that if they would give us a ten year land use restriction on the vacant 2.6 acres for residential uses, or parks, or access to residential uses, then we would not oppose their development on 9.4 acres. We agreed only to find out later that they really didn't mean to exclude a parking lot on the 2.6 acres, outside the buffer wall, as a future use. In other words, they want to go for 12 acres of commercial use which is what you disapproved earlier, or at least a potential of that. All they have to do is go to the Board of Zoning Appeals to get that approval. They're an appointed body and they don't, they don't answer to anyone.

That is not the deal we agreed to and we're asking you to not allow the CUP to go through today without the land use restriction, restriction agreement being properly executed. We do not want a parking lot going in outside the buffer wall in the next ten years, especially if it can be approved by an appointed board. We do not want to have to fight over anything with these people again, especially within the next ten years.

Some points were made about things that they have given up. I want to point out that the irrigation system is a corporate policy of theirs; no carnivals is a corporate policy of theirs; the color of the building was their choice; the words "Discount City" and "We Sell For Less," the signs on the building, are not liked by the operations people, so that was not a

major concession, although you might be led to believe that. And most of the things that were read were already in the previous 12 acre CUP as far as the size of the trees and the buffers, so I don't think that's a real major concession. So, I don't think they've given up as much as they've led you to believe.

The 2.6 acres is major. It is major. But we want to create a buffer so residential homes can go in there and not have their value impaired.

What have we given up? We've given up more commercial zoning. It's not our land, but we have to live out there. More commercial zoning creates an increase in traffic. We've given up on that increase in traffic. Apparently we're going to have it. We've given up a larger size store than on the 6.5 acres. They have the ability to expand to a 122,000 square feet which is really not much different than what they had asked for to begin with. And another major thing we've given up is, we've allowed a retail, a major retail regional department store in a residential neighborhood. So I think we've given up quite a bit, too, and we've really come a long ways and it's really down to one issue.

I keep saying it has not been much fun. But we have accomplished a lot and I have come to meet and know many outstanding citizens in this community. What have we accomplished? I believe we've got the City's attention and the need for a master development plan for the community for a better zoning policy and an overhaul of the zoning ordinances. It is extremely important that you follow through with the initiatives that you've started in this area and support Mr. Krout in his endeavors. It is important that the resulting plan be continually updated to reflect market realities and community needs. It is extremely important that you follow the plan as a guide for zoning and development issues that come before this bench.

We have set some development precedents that will be in every citizen's best interest because they create value. In areas where we do development, in various parts of the country, they're very restrictive, much more so than we are here, and the land value shows it, and it creates value for everybody in that community.

More importantly, I think we've slowed if not stopped the commercial rezoning in our area because there is an overabundance out there and we were too late to stop most of it.

All that is holding this thing up is a simple two-page document and the potential for an ugly parking lot outside the buffer walls at some unknown point in time in the future.

KAMEN: Mr. Boomer, how much....?

BOOMER: Very short.

KAMEN: Okay.

BOOMER: The gist of the document is exactly what we agreed to with Mr. Bothwell and Mr. Barlow which was accepted by the CPO as a condition of their approval. You asked us to negotiate; we are asking you to make them abide by the agreement. We're tired and we're worn out. We are not being paid for our efforts like some people in this room, though we have been asked to represent the ten homeowners associations most directly affected. We are asking you to support the citizens of the neighborhoods involved by not, denying their request or deferring approval until they abide by their agreement.

I submit to you, and I'll read to you a statement of position signed by the presidents of the ten homeowners associations.

KAMEN: Mr. Bloomer, let's...let me.... Is there? I'll move that we give Mr. Bloomer how much more time?

BLOOMER: One minute.

KAMEN: One minute. Is there a second? All those in favor please signify by saying aye. All those opposed? Motion passes unanimously.

BLOOMER: Okay. The statement says: "We the undersigned homeowners association presidents do not oppose the 9.4 acres negotiated plan between Wal-Mart, our appointed representatives, Rick Bloomer, Helen Cochran, Bruce \_\_\_\_\_. However, any variance from the agreed upon plan will in effect negate this compromise. Be it also known that we have negotiated in good faith and that unless Wal-Mart signs a ten year land use restriction for the remaining 2.6 acres, we withdraw all consent." And it's signed by the ten homeowners associations most directly involved in this area.

KAMEN: Are there any questions for Mr. Bloomer?

BLOOMER: Thank you.

KAMEN: Next speaker?

HARDTMAN: Mayor Kamen, other Council Members. My name is Gary Hardtman. I live at 6902 Bainbridge. My house is located approximately two-thirds of a mile from the Wal-Mart store, the proposed Wal-Mart store; we don't know if it's going to go in or not yet.

I'm here basically in favor of the negotiated CUP. Now, we have ten homeowners associations that have been represented, and the Mainsgate Village Homeowners Association, which is approximately a half mile from the site, has been excluded from that grouping.

I have a petition signed by over 85 people that, and we only went to a hundred homes, that I'd like to give you. I'm not being paid either. Some reference was made that only the people in favor of the Wal-Mart Store were receiving some type of remuneration [sic] for this store to go through, and I'm not being paid.

As far as the telephone survey: the survey came from a meeting at Mr. Bill Yung's office that I was, that I attended, and I'm the one who suggested that a survey be made. Let's find out what the neighborhood really wants. In that survey that you received yesterday, 300 homeowners in the affected area were asked if they supported the 9.5 acre site or the 5.9, and 50% of the people said that they favored the 9.5 acre site. The neighborhood is divided, and I wish it wasn't. One thing positive that has come out of this is that I think the Council realizes that changes need to be made in the zoning ordinances in the City of Wichita. I think it's super that we've had the neighborhood involvement on this issue.

So I would encourage you to approve the CUP as it's presented today. I'm not necessarily in favor of that parking outside the barrier fence myself. However, I think that that is better than a 5.9 acre site, and I'm convinced that if it's not approved today that that's what kind of store's gonna be built on that smaller site without the buffers. Thank you.

KAMEN: Are there any questions for Mr. Hardtman? I'd like to mention...I ask one thing. These surveys: were they taken with the idea that there was a full agreement, or were they taken knowing that there was some problems on this agreement?

HARDTMAN: The survey, the reason that I requested the survey be taken was because I knew there was significant approval of the site in my neighborhood from visiting with my neighbors about the situation.

KAMEN: Let me rephrase that question, if I might? How long ago was this survey taken?

HARDTMAN: A week and a half ago? Two weeks? I don't know the exact dates.

KAMEN: At that time.... Okay. Thank you. Next speaker, please? Are there any more speakers? Oh, one more? Is this the last speaker on this issue? Oh, one more? Okay.

COLVER: Council Members. My name's John Colver and I live approximately in the area. The only compensation....

KAMEN: What's your address, please?

COLVER: 4362 Spyglass Court.

KAMEN: Okay, thank you.

COLVER: The only compensation I'm likely to get for my time here, and on the Wal-Mart issue, is a parking ticket. I had to park a half a mile away to make the meeting.

I'm basically a protagonist on the Wal-Mart issue, and I have a couple of problems with the people that are opposed to it. One is on an emotional level. My only involvement, or my only reason for involvement in this was that originally I was probably apathetic to the whole thing; and the more I heard about it, and the more I heard what was going on, I felt the decision was being made for me. And the reason was: I was apathetic. Well, I'm not now. I feel that there are a large number of people out there just like me that are silent by nature, don't get involved in civic matters. I had to ask directions to your meeting hall, that's how involved I get. But decisions are made for us quite often without our consent or to something that we really agree to, and I'm one of those silent people, and there are hordes of them out there, literal hordes.

The other problem I have with this thing is on a logical level, and I'm only going to touch one facet of the logical level, the problem that I have, and that is an economic situation. Our City has spent tens of thousands of dollars attracting new businesses and jobs to this area. When we land a job, a business with 30 to 50 jobs in it, the headlines are all over the paper about what a great job we've done. Here's some facts that maybe, having been presented to you people, and I won't be redundant, but this is an area that has just not been touched on, in my opinion--the economic level.

I'll start first with the construction of this building. According to the Wal-Mart people...and these figures that I'm going to give you, by the way, are more or less figures; so, if I'm off, you know, a couple hundred thousand dollars, don't crucify me--I'm doing the best I can on the figures that I was given. But here are the approximates. An 85,000 square foot building on that location is at \$25.00 a square foot with a 2.1 million dollar cost. It'll take 6-9 months to build this bulding, so we're going to have some people tied up working--2.1 million dollar construction.

The second part of my economic angle is: the gain of 150 jobs. According to Wal-Mart's figures, there'll be 150 new jobs brought into the community. And I don't mean to imply, and don't anyone infer that that's a net gain of 150 jobs; probably a few jobs will be lost elsewhere because of the competition. But 150 jobs with an annual payroll of over 2 million dollars--that to me is quite a bit of money; I'm sure to some people it isn't. But to me, it represents a lot of money that if the trickle affect works would do a lot for our community. Fifty percent of the jobs would be part-time. In my also, in my opinion, when my two boys in the next 7-8 years are old enough to work at a part-time job, they're going to have to make a decision and I'll be with them on it: where do they go to work? Do they drive down to the downtown core area, or do they drive ten miles away to work at an...completely out of their area? Or, will this be a job that I'd like them to have? I think I'd like for my children to stay in the area if they want a part-time job, and there will be like 75 part-time jobs. That would be an excellent source of jobs for retired people and children in the neighborhood.

This will be of interest to you and particularly, perhaps, to the Tallgrass people that are a little concerned with property values. There'll be the transfer in of a store manager who will make approximately 50 to \$70,000. If he's going to work in the area with that kind of income he can probably afford to live in the area. My guess is he would choose to. It would make good sense to me. Six assistant managers at 25 to \$35,000 annual salary and two full time pharmacists.

The last point on the 150 jobs we're going to pick up is this: this 150 jobs that we gain are environmentally clean jobs. That's an issue that's not been brought up, and it's probably not important to a lot of people, but it's very important to me. We don't

have the building on of a chemical plant or any heavy industry to supply us with these extra 150 jobs, and these jobs are all environmentally clean jobs, and that will become an issue in the next ten years in our area--and for that matter, all over the world. It's no big deal right now, but it is to me. I want to make that point to you. I think that the future will bear out what I've said.

The second part of this economic angle are the taxes, the ad valorem taxes. I don't have those figures but you people should have and can cer...access is available. The real estate taxes on raw ground as opposed to improved ground--what will that do for the City? I'll just present the question. Above five more minutes, please.

KAMEN: Is there a motion that we give the speaker five more minutes?

?: I move we give the speaker five more minutes.

KAMEN: Second. All those in favor please signify by saying aye. All those opposed? Motion passes.

COLVER: Basically, the ad valorem tax is self explanatory. The other thing is this, and here again's a Wal-Mart figure. The sales tax at 5%, they estimate 12-15 million dollars retail sales the first year times 5% is 600 to \$750,000 in sales tax. That'd probably cover the ticket for the computer program that the City and the County would like to put together. But that's a lot...there again, that's a lot of money to me. We're talking 2.1 million dollars construction, sales tax, taxes.

Getting to the end of it: I want to highlight these figures one more time. A 6-9 month construction project that may or may not be built by a local firm; it'll be on a competitive bid basis. It'll be a 2.1 million dollar project. One hundred fifty immediate jobs with a 2 million dollar plus annual payroll; retail sales tax generation of 600 to \$750,000 and, according to Wal-Mart's figures, that'll increase about 8-10% every year.

Mayor, I don't mean to haunt you with your own words, but I was here before the Wal-Mart discussion started and you made a proclamation. And that was the Consumer Week, is that basically the proclamation? I caught two or three key sentences of it. They were this: satisfy the consumer's needs; increase competi-

tion. Well, the list goes on and on. Wal-Mart does that. We need it up there in our area, and I live in the area.

Council Members. One last position. This has been debated, pulled at, tugged at, divided neighborhoods, and fought, fought on and on and on. Debate time is over. It's time to make a decision, and there are a lot of people out there like myself who are working without compensation that certainly hope you'll make what we feel to be the right decision. Thank you.

KAMEN: Let's have order here, please. Are there any questions for the speaker?

KNIGHT: Did you mean 21 million dollars construction; you said 2.1.

COLVER: No, it's \$25.00 a square foot times 85,000. I did this mentally. If you have a calculator, I think....

KNIGHT: I don't have a calculator, but I think it would be more like 20 or 21 million dollars.

COLVER: That would even support my position that much more.

KNIGHT: I'm not debating your point. I was trying to assist you in...you mentioned 2.1 three or four times.

COLVER: My arithmetic never has been a strong suit. Thank you.

KAMEN: Thank you. Appreciate it. Next speaker, please?

COCHRAN: My name is Helen Cochran and I live at 9441 Bent Tree Circle. There are a few remarks I'd like to make this morning, and regardless of whether or not you agree with me, I hope you will listen to me carefully.

I personally feel that my neighborhood has been used by the media, by the Planning Commission, by Wal-Mart, by the Wal-Mart council, by the realtor involved, and by the City Council itself. Each one of these entities in part has tried to some degree to divide us. And perhaps to some degree they have succeeded. Unfortunately, I feel we were forced to compromise a principle. That principle being no additional rezoning for light commercial. If you've ever been forced to compromise one of your own principles, then I'm sure you must know this feeling.

There are many things wrong here, and I do realize that Wal-Mart has been caught in the middle, so to speak, of many of our zoning weaknesses. But beyond

that, I trust that you know that we as a neighborhood negotiated honorably and in good faith with Wal-Mart. And yet they continued their telephone survey. They secured CPO approval for the 9.4 acre CUP because they led everyone to believe, including us, that both parties had agreed upon a compromise. And yesterday we were told they will not sign the land use restriction.

This has been going on for six months and in my opinion no neighborhood should ever have to go through this. We should have a City Council to protect us, to be sensitive to our concerns. We the citizens are the tax base of this community, and this is our City. Why do four or five land developers in this City always seem to do exactly what they want, when they want, where they want? Why do we give credibility to outside people, outside of our immediate neighborhood when they come in at the last minute under the pretense of what is best for our neighborhood and what they want?

I hope, as we move forward from this issue, you will recognize the need to continue the planning process. I hope that zoning ordinances will be reviewed and scrutinized as to the different levels of light commercial. There is a difference between a neighborhood dry cleaners and a regional department store. I hope that you will give merit to neighborhood concerns and whether or not these neighborhoods are organized. And what makes 6 acres so unique that it does not have to adhere to some form of a CUP, or at least a minimum standards site plan?

The bottom line, Commissioners, must be to recognize what true, long-term, economic development really is and, in so doing, perhaps then Wichita will finally grow. I do thank you. Most of you have been extremely sensitive to our concerns. Thanks.

**KAMEN:** Are there any questions for the speaker? Thank you. Are there any other speakers who would like to address the Council? I'll turn the discussion over to the Council then. Mr. Ferris?

**FERRIS:** Sheldon, with your permission, I'd like to ask the attorney for the Wilsons a question. I hate to put you on the spot, Max, but I need to ask you a question.

There's been some discussion.... Go ahead, Max, give your name.

EBERHART: My name is Max Eberhart. I'm a Wichita attorney representing the owners of the land.

FERRIS: There's been some discussion in the last couple weeks. Is it your understanding that Wal-Mart had a choice to buy 12 acres or nothing? Or, could they buy 6 acres? Are they stuck with the 12 acres? Did they buy the 9.5, just the 9.5?

EBERHART: Our comments have been consistent from the very beginning. We have a contract on the 12 acres. We have no arrangements in the contract for anything less than that nor more than that.

FERRIS: Thank you. Guess that's all I need.

KAMEN: Are there any other questions by Councilors to people in the audience or among the Councilors themselves? Council Members?

WINKLER: Mr. Mayor? I have no questions. But I do have, perhaps, a feeling in this, and the feeling is that I believe each side negotiated, each side compromised, each side met--perhaps unwilling, perhaps willing--but I do feel that everybody involved in this has had a chance to express their full opinion. We sitting here now have a decision that probably will not suit the majority of people living in certain areas. I hope that they will understand that we have the responsibility that they have given us to make the decision that we feel will be the most benefit at this time. I simply supported the 12 acre the last time around. This time I shall completely support the 9.4 because I think that this is the best thing that can be done with the consideration of six months of involvement by many people throughout the City, not just in one section, because this does reverberate throughout the City.

KAMEN: Council Member Ferris and then Council Member....

FERRIS: Well, I think one of the unfortunate situations arises again because of the weakness, at least in my estimation, of some of our zoning ordinances. Since I've been in this office I've had a hard time figuring out why we allow parking lots in AA zoned property. I think that the Planning Department is addressing some of those concerns, and I appreciate Mr. Krout and his efforts. I think that the entire situation that arose on that corner arose because of some problems in our zoning ordinances. I'm not sure that large discount stores belong in the same zoning category as, say, dry cleaners. The fact remains that they, according to our ordinances, do remain in those uses.

I think that the neighborhoods have put this Council in a position that, I'd like to say to you, is a little unfair because you have agreed to every aspect of the CUP. You have agreed that this is a suitable use with reservations. But I think that to say this one restriction that's left out there...this Council really doesn't have a legal right to address that. We cannot turn down a zoning case based on the fact that the applicant hasn't struck an agreement on a 2.5 acre AA site that isn't even being rezoned.

If the neighborhood really would have been better off to allow us to rezone the entire 12 acres LC and then to work within the CUP to limit that use, which we could have done, and I tried to do with no support at the last turn. I think that with the removal of the out parcels I have to admit that I am glad that the decision was forgone and that we ended up with more negotiations.

But to ask us to turn down a zoning case based on 2.5 acres of AA property is not legal, and to ask me to do something that, in my opinion, is, and in the City Attorney's opinion, is not within our realm, it really puts us in a situation that is no win for us; and I don't know how I can justify opposing a 9.5 acre site with extreme amenities because of an area outside the buffer.

I think...I've set through some BZA hearings and I strongly advise Wal-Mart not to bother to go down there and ask for any parking variances because I've listened to them rule, and I can't imagine that that BZA is gonna grant any variances for parking in this situation. But that's just my opinion.

KAMEN: Council Member Dewey?

DEWEY: I think Greg said it really well. I was just going to bring up how limited at this point we are on some of these points.

KAMEN: Council Member Knight?

KNIGHT: I'll try and express my opinion. These kinds of issues are becoming increasingly difficult because you have people who examine very carefully every comment made as a potential point of litigation, so I want to try and guide my remarks as carefully as I can. I won't be supportive of the request, and I also take exception to Council Member Ferris's statements concerning the neighborhood.

I think to some extent you will be a victim of this process. I think you've accurately identified it. And I think that in order for us to be advocates for progressive public policy that we have got to somehow come to terms with development that is going to take place at the expense of established neighborhoods. I hear so little stated about the investment in residential property in that area of town. And I think one of the previous speakers is correct; the 21 million dollar facility is certainly a desired addition to our community. I just don't desire it in that location.

And for all the intelligent and trained opinions that are telling us what a good thing this is for our community, I will only say that I think it would be very good for our community in a more appropriate site.

These are my personal opinions. I don't know why we insist on repeating past mistakes and those people that live in this community can cite them without my guidance. I believe that neighborhoods have got the very unenviable task of somehow defending their quality and their hopes and their dreams and their investments in a manner that's a little unfair when it's pitted against tremendous financial resources who have an ability to manipulate or certainly direct public opinion.

I've had the opportunity to talk to several people that I respect a great deal who I think are very balanced and who have national and international credentials in commercial development. And those two people do not believe that that's an appropriate site. They don't want to be named. But so everybody can establish their opinions, I don't profess to have standing as a developer, but I do profess to sit up here and try to thoughtfully and justly evaluate their requests from us and try to do what's in the public purpose. I think to take the action that's being recommended, in my framework of values, is inconsistent with progressive public policy. And I am sorry that if the majority of the Council has agreed otherwise to dissent because I do want to pick areas that I can be supportive on.

KAMEN:

May I, before I let you speak? I feel there's been some questions come up here that, in regard to this project, that needs some clarification from staff. Some questions that have come up that involve all three parties--the property owners, Wal-Mart, and the neighbors--and let me ask staff first.

City Manager, or Mr. Krout, either one, if I brought up the deferral for one week on this situation, would it be a closed session...it wouldn't be a public hearing, is that correct? For the next week?

- ?: You can close a public hearing and it would not necessarily be....
- KAMEN: I see. We'd just have to make a decision based on what evidence we have? Okay. Council Member Dewey?
- DEWEY: I'd like to ask legal staff. What are the prerogatives of this Council at this point?
- LANG: You can approve...you can approve or you can deny, or deny...or defer. I don't know if you want options set for it, but still I think Marvin can probably address those a little better.
- KAMEN: Okay. Next.
- ?: I would just suggest to you that if, that if there is a majority of the Council that's considering denying this request that you do defer it for one week or two weeks so that the staff can assist you in preparing findings to...that you can state in a motion to deny.
- WINKLER: Mr. Mayor?
- KAMEN: Council Member Winkler?
- WINKLER: The one thing that I cannot see at this present time is even considering deferral. This has gone on since October, and I think that it demands a more definite answer than another week for deferral.
- KAMEN: The reason I mentioned, if I might, there is one.... Council Member Ferris?
- FERRIS: No, go ahead.
- KAMEN: The reason I mentioned deferral, some further problems have come up that were unforeseen from situations involving all three parties. In my estimation I do not feel I can make a proper decision without talking to our staff and getting some input as how these situations would affect the CUP. That's just my opinion, and I understand yours, and I think I have to let Council Member Ferris have the floor next.
- FERRIS: Well, I think that the questions that have arisen are such that whether or not there is a binding agreement between Wal-Mart and homeowners. I don't think, from

what I've heard today from both sides, that there's going to be any negotiations on yet another week. We're going to be faced with the same question. I...it seems to be getting a habit on this Council that, I respect Council Member Knight's opinion, but disagree with his conclusion. I think that he has adequately stated some of the problems that have been in place in this City for a number of years. I think that we have taken action in the last six to nine months to try and rectify that with some questions toward zoning, etcetera, and trying to modify some zoning categories and doing some of those situations.

I guess the one question that was brought up so many times the last, the last time we heard this case, and it hasn't really been mentioned today, is, is what we're really doing, and from everything that I have seen, read, or heard, is deciding whether or not we're going to have a Wal-Mart on 6 acres or a Wal-Mart on 9.5 acres.

It's not a question of whether this corner is suitable for retail development. Some Council in time past decided that this corner was suitable for retail development. Whether that was correct or incorrect is not our decision today. What is our decision is what would be the best way that commercial development on that corner can take place. We have heard traffic engineers, we have heard the Planning Commission tell us that to put a 85 or 90,000 square foot retail development on that corner, even it's in four or five different parcels, even if it was a Wal-Mart, is going to create undue traffic on that corner. It's going to create hazards and egress and ingress; it's going to create all kinds of situations that are not desirable. I think if Wal-Mart or anyone else goes in on that corner on a 6 acre site, that you're going to have very little landscaping, you're going to have very little buffering, whether or not you have that extra parking lot or not.

I understand the homeowners firm stance on no desire of rezoning and their enormous compromise that they're willing to allow another 3 acres of rezoning to try and accomplish some of their overriding goals. But I think the situation still remains that it's not a decision of whether or not that corner is going to be commercial or not. That decision was made long before any of us, except perhaps Bob and Sheldon, had anything to say about it, and I think that decision was made long before even Bob was on the Council. The decision now is the simple decision of whether or not we are going to allow a commercial development to go

on that corner or we are going to determine all of the boundaries that that commercial development is gonna have. Twenty points of concession on a CUP, whether they were major concessions or minor concessions, are still things that we can rule on. We can still de...not approve the rezoning and deny the CUP if there are still concerns on this Council that there should be more in that CUP. We don't have to approve both. We can approve the zoning and not the CUP, if you feel like you need to negotiate more with Wal-Mart and need to ask for amenities. You still can. It's well within our bounds. But I do not believe it's in our bounds to turn down a zoning case based on 2.5 acres of AA zoning adjacent to the property.

KAMEN: Let me just make one, one comment and then I'll... Council Member Winkler's asked for the floor next.

I believe the staff has recommended that we have two choices. One is approval, if somebody wants to bring up that motion. One is deferral, even if we wish to deny it or defer it. So we really just have approval and deferral if we're gonna follow the recommendations of the staff.

WINKLER: Mr. Knight had his hand up before me.

KAMEN: Okay. I'm sorry. Council Member Knight?

KNIGHT: I would not want Mr. Ferris to take the liberty of defining why I would or would not vote against this matter, and I don't believe that I mentioned the 2.6 acres as being the obstacle one way or the other to my vote. What I think I said was that I would not favor it today based on the way it was being presented.

KAMEN: Council Member Winkler?

WINKLER: In listening this morning I did not hear from anyone who even seemed to suggest that they did not want some type of a decision today, and deferring is not the type of decision. And I would like to hear from the people who spoke, such as Wal-Mart and the neighborhood association, of what their version, perhaps, if I may, simply pose the one question with a yes or no answer. Mr. Bloomer, Mrs. Cochran, each of you spoke. Would one of you please approach and give me an answer of do you favor a deferral.

BLOOMER: If that's the alternative at this time, yes.

WINKLER: Thank you, Rick. Mr. Yung, I believe you spoke for Wal-Mart.

YUNG: Yes. Bill Yung. I've been instructed to tell you that we would not wish to have a deferral. We would like a decision today.

WINKLER: Thank you. Split vote.

KAMEN: I might mention, though, that the Council, that the staff has recommended that if we wish to deny it or to receive further information that we should defer it to them so that they can prepare the proper papers; the denial at this time would not be what the staff would recommend. Do I understand that correctly, Mr. Krout? So we really, if you're going to follow the staff's recommendations, it's either got to be deferral or approval, but....

WINKLER: You just spoke, sir, of denial, and I just said that I was going to support this, that I will not support a deferral.

KAMEN: Okay. Should I...is the Council ready for a motion?

I'll move that we close the public hearing and that the matter be deferred for staff to draft proposed findings or conclusions for the Council to consider as a basis for denial, if the Council members so choose, or, that we use this deferral time to answer questions, as in my particular case, and maybe others, for a CUP and a LC zoning.

?DEWEY: Second.

?KNIGHT: Can you give me some clarification on your motion?

KAMEN: In which respect?

?KNIGHT: I don't know what you mean by your reasoning.

KAMEN: Well, there's, there's two reasonings for deferral. One is so that if you're opposed to denying this that the staff can....

?KNIGHT: No, I understand that, Sheldon. I would like to know your personal uncertainty, what it is you're trying to....

KAMEN: I have some problems that all three parties, I understood, had additional information that would be pertinent to it, and this information was not presented. And I'm in a quandry as why it wasn't. It has to do with the landowners, the neighbors, and the Wal-Mart, and so I feel I can't make an intelligent decision until I get to the answers of those particular....

?KNIGHT: Well, for my benefit. If you feel comfortable explaining, since you have been involved in this, is, I guess I'm finding the signals very jumbled here. Wal-Mart representative does not want a deferral. The neighborhood associations want a deferral. I don't... something is not gelling here. Is it because Wal-Mart has somehow recognized the dynamic of three votes up here sufficient to pass this? Would that be your judgment?

KAMEN: I hate to make a judgment of that. I'd just say that I agree with you that it does not gel, and I don't know why.

?KNIGHT: Okay.

KAMEN: And that's why I want to find out. Another week, I don't...I might ask the City Manager, or, Mr. Krout, would another week....?

?:  
—.

KAMEN: One week is fine? I see no problem with that if my motion carries.

?FERRIS: Well, Sheldon, I hate to see us defer this a week. I understand your concern, and I understand the three parties that you're talking about, and I think that at least you seem to understand something, and I have been told some information, and I don't know if the rest of the Council's been told some information--I will assume that they have--and perhaps that's the agreement that you're talking about being worked out among the three parties. Though I really think that this should be decided today, I would support your motion only because your request for more information, and I respect that request.

KAMEN: I might state that I feel that we must do everything we can to make this a better project for everybody concerned. If another week is all that it'll take to make this a better project, then certainly I would have to ask to defer. Council Member Winkler?

WINKLER: I understand that this particular new subject has been brought up and was denied by some of the three parties.

KAMEN: I'm not aware of that.

WINKLER: And so this is what I'm basing my request that we do not submit to a deferral, we make our decision.

KAMEN: Are there any other Councilors who would, Council Members who would like to address this?

DEWEY: I would support your motion for a deferral.

KAMEN: Okay. Is there any more discussion? All those in favor please signify by saying aye. All those opposed? Motion--four to one vote with Council Member Winkler saying nay.

And I would like to mention as the City Manager, the motion passes, like to mention as the City Manager, or Mr. Krout mentioned, that this will not be a public hearing next week when we make the final decision, hopefully. Thank you.

Does Council want to have a recess? Ten minute recess? The meeting is now in recess.

DAVID P. CALVERT (#06628)  
FOCHT, HUGHEY, HUND & CALVERT  
807 North Waco, Suite 300  
Wichita, Kansas 67203  
Telephone: (316) 269-9055

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

BARBARA W. WADDELL,  
ROBERT G. WILSON, V, and  
REV. C. BRADLEY WILSON,  
d/b/a Wilson Estates,  
  
Plaintiffs,  
  
v.  
  
THE CITY OF WICHITA, KANSAS,  
  
Defendant.

Case No. 88 C 1825

**PLAINTIFFS' FIRST INTERROGATORIES AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
PROFOUNDED TO DEFENDANT**

Plaintiffs, Barbara W. Waddell, Robert G. Wilson, V, and Rev. C. Bradley Wilson, d/b/a Wilson Estates, pursuant to K.S.A. 60-233 and K.S.A. 60-234, propound the following interrogatories and requests for production of documents to defendant The City of Wichita, Kansas, to be answered fully, under oath, and all documents to be produced at the offices of Focht, Hughey, Hund & Calvert, 807 North Waco, Suite 300, Wichita, Kansas, within thirty (30) days after service hereof. Spaces are included on the original for the answers to said interrogatories.

**DEFINITIONS AND INSTRUCTIONS**

A. The term "document" or "documents" as used herein means any written material, whether typed, handwritten, printed or otherwise, or any photograph, photostat, microfiche, microfilm, tape recording, printout, or other reproduction thereof.

B. The term "you" or "your" refers to the party to whom these discovery requests are directed; including, but not limited to, any person or entity on whose behalf the party to whom these discovery requests are directed may have been acting, or any person acting on behalf of the party to whom these discovery requests are directed.

C. The term "identify" when used with respect to an individual means to state his or her full name, nickname, or alias, last known business and home addresses, last known business and home telephone numbers, last known employer, occupation, position, or job title.

D. The term "identify" when used with respect to an entity other than an individual means to state its full name, its form or organization (i.e., corporation), the date and jurisdiction of its organization, the address and telephone number of its principal place of business, and identify the natural person known by you to have authority to act on behalf of or represent the entity.

E. The term "identify" when used with respect to a document means to state, for each document, the name and title by which you refer to the document, the date of the document, the subject matter of the document, the type of document (e.g., letter, printout, memorandum), identify the author(s) of the document, identify the addressee or recipients of the document, the number of pages or other measurement of size of the document, identify the present custodian of the document and the location of the file or files where documents of this type or copies thereof are usually or presently kept. If the document has been destroyed or otherwise disposed of, identify all persons who destroyed or participated in such destruction or other disposal, the means of such destruction or other disposal, the date, time, and place of such destruction or other disposal, and identify all persons with knowledge of the contents of the document.

F. The term "person" means individuals, firms, corporations, partnerships, or other entities.

G. THESE DISCOVERY REQUESTS ARE TO BE DEEMED CONTINUING. If any information is not learned until after the interrogatories are answered, or if answers for any reason should later become incorrect or in need of supplementation, there is a continuing duty on the part of the party answering these requests to supplement or change the answers previously submitted pursuant to K.S.A. 60-233(e).

H. All answers or objections to these discovery requests must be served upon plaintiffs' counsel within thirty (30) days after service of the discovery request.

**INTERROGATORIES**

1. Identify every document, slide, or other matter presented to each member of the City Council in connection with Case No. Z-2886 on or before May 3, 1988.

ANSWER:

2. Identify every document, slide, or other matter presented to each member of the City Council in connection with Case No. DP-180 on or before May 3, 1988.

ANSWER:

3 Identify those items listed in Interrogatories No. 1 and No. 2 that are not relevant to Case No. Z-2886.

ANSWER:

4. Identify the person(s) answering these interrogatories and specify the interrogatory which each person contributed to or answered.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce copies of all audio tapes and transcriptions thereof regarding Cases No. Z-2886 and DP-180. *tapes only*
2. Produce "Policy Statement No. 10" and all other associated policy statements.
3. Produce the findings of fact made at the May 3, 1988, meeting of the City Council.
4. Produce copies of all items referred to in your answers to Interrogatory No. 1 and Interrogatory No. 2.
5. Produce all documents and exhibits describing or relating to the recognized master plan being utilized by the City of Wichita. *leave out*
6. Produce copies of minutes of all CPO, MAPC, and City Council minutes referring or relating to Case No. Z-2886.

FOCHT, HUGHEY, HUND & CALVERT  
Attorneys for Plaintiffs

By   
David P. Calvert

VERIFICATION

STATE OF KANSAS )  
SEDGWICK COUNTY ) SS:

\_\_\_\_\_, of lawful age, being first duly sworn, deposes and says: that he/she is authorized to make this verification on behalf of The City of Wichita, Kansas; that he/she has read the above and foregoing Plaintiffs' First Interrogatories and First Request for Production of Documents to Defendant, knows and understands the contents thereof, and that the answers are true and correct to the best of his/her knowledge, information and belief.

\_\_\_\_\_  
SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 1988.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

CERTIFICATE OF SERVICE

I hereby certify that the original and two copies of the above and foregoing Plaintiff's First Interrogatories and First Request for Production of Documents to Defendant were mailed, postage prepaid, in the United States mail, to:

Mr. Thomas R. Powell  
City Attorney's Office  
Wichita City Building, 13th Floor  
455 North Main  
Wichita, KS 67202  
Attorneys for Defendant

on this <sup>10<sup>th</sup></sup> ~~9<sup>th</sup>~~ day of June, 1988.

  
David R. Calvert

**METROPOLITAN AREA PLANNING DEPARTMENT  
RESPONSE TO INTERROGATORIES 1 AND 2**

Documents, slides or other materials presented to each member of the City Council in connection with Case No. Z-2886 and DP-180 on or before May 3, 1988.

1. The Official Notice of the MAPC Public Hearing date produced by the Planning Department for the case entitled, "WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET, WICHITA, KANSAS, 67202-1688, NOVEMBER 23, 1987." NOTICE OF PUBLIC HEARING", containing a legal description of the property for which the approval of a zone change and a commercial development plan were being requested, identifying the time and place for a public hearing before the MAPC and an informational meeting before the neighborhood CPO Council and containing a locational map outlining the application areas, all on legal size paper copied front to back. Copies of the Notice are kept in the Planning Department files marked Z-2886 and DP-180 (sent to Councilman Kamen only).
2. Staff Report produced by the Planning Department entitled, "WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION - STAFF REPORT AGENDA ITEM #8a & b, DECEMBER 10, 1987", containing four letter size pages of information relating to the C.U.P. proposal and zone change request. Copies of the document are kept in the Planning Department files marked Z-2886 and DP-180 (sent to Councilman Kamen only).
3. The Official Public Notice of the MAPC Public Hearing date produced by the Planning Department entitled, "WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET, WICHITA, KANSAS, 67202-1688, JANUARY 27, 1988, NOTICE OF PUBLIC HEARING", containing a legal description of the property for which the approval of a zone change and a commercial development plan were being requested, identifying the time and place for a public hearing before the MAPC and an informational meeting before the neighborhood CPO Council and containing a locational map outlining the application areas, all on legal size paper copied front to back. Copies of the Notice are kept in the Planning Department files marked Z-2886 and DP-180 (sent to Councilman Kamen only).

4. Memorandum addressed to Robert G. Knight, Mayor (through Robert G. Finch, Deputy City Manager) from Marvin S. Krout, Director of Planning, dated October 2~~8~~<sup>7</sup> 1987, "SUBJECT: WALMART - FYI", produced and kept by the Planning Department in its file marked DP-180 (sent to Mayor Knight only).
5. Memorandum dated January 26, 1988, entitled, "WICHITA DEPARTMENT OF OPERATION AND MAINTENANCE, TRAFFIC ENGINEERING DIVISION, CITY HALL, EIGHTH FLOOR, 455 NORTH MAIN STREET, WICHITA, KANSAS, 67202, (316)268-4442, DEAR INTERESTED CITIZEN:", notifying those interested in the time and place the Traffic Commission would meet to discuss the Wal-Mart traffic study. This document was produced by the Traffic Engineering Division of the City and distributed by the MAPD with the official MAPC Public Hearing Notice. It is on file in the Planning Department in the case file marked DP-180 (sent to Councilman Kamen only).
6. A letter addressed to Mr. Elton Parsons, Chairman of MAPC, under the letterhead of "Tallgrass Summerfield Homeowners Association", from Mr. Charles Kosier, 2234 Penstemon Ct., Wichita, Kansas, 67226, dated February 14, 1988. The letter is on file in Planning Department file number DP-180.
7. An untitled document dated February 11, 1988, consisting of two letter size pages signed by Wesley Park on file in the Planning Department file number DP-180.
8. Staff report produced by the Planning Department entitled, "WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION - REVISED STAFF REPORT, AGENDA ITEM #7a & b - FEBRUARY 18, 1988", containing seven letter size pages of information and recommendations on the proposed C.U.P. and zone change request. Copies of the document are kept in the Planning Department in its case file marked DP-180.
9. A letter addressed to Mr. Charles Kosier, 2234 Penstemon Ct., Wichita, Kansas, 67226, under the letterhead of "Landmark" from Mr. Elton Parsons, Chairman of MAPC, dated February 11, 1988. The letter is on file in Planning Department file number DP-180.
10. Twenty-five pages of minutes of the Metropolitan Area Planning Commission Meeting entitled, "EXCERPT FROM PLANNING COMMISSION MINUTES OF DECEMBER 10, 1987", containing the discussion of the C.U.P. and zone change request during the first hearing on the matter. The minutes are on file in Planning Department case file number DP-180.

11. A two-page document produced by the Planning Department entitled, "City of Wichita - City Council Meeting, March 8, 1988, Agenda Report # \_\_\_\_\_, Planning Agenda Item # \_\_\_\_\_", addressed to the Mayor and City Council members transmitting the Planning Commission, Planning staff and C.P.O. Council recommendations. On file in Planning Department case file number DP-180.
12. Thirty-four pages of minutes of the Metropolitan Area Planning Commission Meeting entitled, "EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 18, 1988", containing the discussion of the C.U.P. and zone change request during the continuation of the deferred hearing on the matter. The minutes are on file in Planning Department case file number DP-180.
13. A one-page notice prepared by the Planning Department entitled, "WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET, WICHITA, KANSAS, 67202-1688, MARCH 17, 1988", advising those interested that the City Council had referred the case back to the Planning Commission for rehearing on March 31, 1988. Copies of the notice are in case files marked Z-2886 and DP-180 in the Planning Department (sent to Councilman Kamen only).
14. A one-page memorandum dated March 14, 1988, from Sheldon Kamen, Vice Mayor, to the City Council, retained in the Planning Department case file number DP-180.
15. A two-page copy of a memorandum from Stanley J. Scott, C.P. Coordinator to Jack Galbraith, Chief Planner, dated February 17, 1988, which sets out the recommendations of the C.P.O. Council to the Planning Commission and the City Council regarding the proposed C.U.P. and zone change request. The document is on file in the Planning Department files numbered DP-180 and Z-2886.
16. Nine pages of minutes of the Metropolitan Area Planning Commission entitled, "EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 31, 1988", containing the discussion of the zone change request and C.U.P. proposal during the rehearing of the cases by the Planning Commission. The minutes are on file in case files numbered DP-180 and Z-2886.
17. A three-page staff report produced by the Planning Department entitled, "City of Wichita - City Council Meeting, April 26, 1988, Agenda Report # \_\_\_\_\_, Planning Agenda Item # \_\_\_\_\_", addressed to the Mayor and city

Council members transmitting the Planning Commission, Planning staff and CPO Council recommendations. The document is on file in the Planning Department files numbered DP-180 and Z-2886.

18. A one-page memorandum from Mr. Barry Carroll, CPO staff, to the City Council members dated April 19, 1988, advising the Council of the CPO Council's action. The memorandum is on file in Planning Department file numbered DP-180.
19. A 21-page document produced by those in opposition entitled, "SEDGWICK COUNTY COALITION FOR THE PRESERVATION OF NEIGHBORHOODS" on file in Planning Department case file numbered DP-180.
20. Drawing of the development plan (C.U.P.) proposal produced by the applicant's agent, Bill G. Yung Design, 4912 E. 29th Street North, Wichita, Kansas, 67220, entitled, "COMMUNITY UNIT PLAN, ROCK ROAD WAL-MART", last dated February 25, 1988, submitted to the City Council for review during their March 8, 1988, meeting. Drawing is on 34" x 42" print paper. A copy is kept in the Planning Department file numbered DP-180. The original from which copies can be made is in the possession of the applicant's agent.
21. Drawing of the development plan (C.U.P.) proposal produced by the applicant's agent, Bill G. Yung Design, 4912 E. 29th Street North, Wichita, Kansas, 67220, entitled, "COMMERCIAL COMMUNITY UNIT PLAN, ROCK ROAD WAL-MART, DP-180", dated April 14, 1988, submitted to the City Council for review during their April 26, 1988, meeting. Drawing is on 34" x 42" print paper. A copy is kept in the Planning Department file numbered DP-180. The original from which copies can be made is in the possession of the applicant's agent.
- ✓ 22. A set of 19 slides (35 mm) showing the proposed development plan, existing zoning, and character of surrounding area used for staff presentation to the City Council during their meeting of March 8, 1988. The slides are stored in the Planning Department in a file cabinet in the Graphics Section.
- ✓ 23. A set of 20 slides (35 mm) showing the proposed development plan and a site plan for a 9.4-acre site, the existing zoning, and character of the surrounding area used for staff presentation to the City Council during their meeting of April 26, 1988. The slides are stored in the Planning Department in a file cabinet in the Graphics Section.

Bob: Slides, tapes, copies  
of both CUP's and all that  
is in this package were given  
to Doug Mann on 8-10-88.

I copied everything except slides.

Jan typed this. Tim did the  
copying.

JH

Planning Department

Response to Interrogatories 1 and 2.

Documents, slides or other matter presented to each member of the City Council in connection with Case No. Z-2886 <sup>and DP-180</sup> on or before May 3, 1988.

① The official notice of the MAPC public hearing produced by the Planning Department, dated for the case entitled:

"WICHITA - SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET,  
WICHITA, KANSAS 67202-1688

November 23, 1987

redundant

"NOTICE OF PUBLIC HEARINGS" dated November 23, 1987, containing a legal description of the property for which the approval of a zone change and a commercial development plan ~~was~~ <sup>were</sup> being requested, ~~identifying~~ <sup>identifying</sup> the time and place for a public hearing before the MAPC ~~and information meeting before the City Council and~~ <sup>and</sup> containing a locational map setting the application areas, all on a legal sized 8 1/2 x 11 inch front and back copy paper. Copies of the notice are kept in the Planning Department in files marked Z-2886 and DP-180. (Sent to Councilman Kamen only.)

② Staff report produced by the Planning Department entitled:

"WICHITA - SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING  
COMMISSION - STAFF REPORT  
AGENDA ITEM # 8a & b.  
DECEMBER 10, 1987"

containing four letter sized pages of information relating to the OUP

proposal and zone change request. Copies of the document are kept in the Planning Department in files marked Z-2886 and DP-180. (Sent to Councilman Kamen only)

- ③ The official public notice of the MAPC public hearing date produced by the Planning Department entitled:

" WICHITA - SEDAWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688

→ January 27, 1988

<sup>redundant</sup> NOTICE OF PUBLIC HEARING  
~~dated January 27, 1988~~ containing a legal description of the property for which the approval of a zone change and a commercial development plan <sup>were</sup> being requested, identifying the time and place for a public hearing before the MAPC and an informational meeting before the Neighborhood CPO Council and containing a locational map outlining the application area, all on a legal sized ~~green~~ front and back paper copy. Copies of the notice are kept in the Planning Department in files marked Z-2886 and DP-180 (Sent to Councilman Kamen only)

④ Memorandum \*dated October 23, 1987 entitled:  
~~"WICHITA SENECA COUNTY~~  
~~METROPOLITAN AREA PLANNING DEPARTMENT~~  
addressed to: Robert G. Knight, Mayor <sup>(also Robert G. Knight, Deputy City Manager)</sup>  
FROM: Marvin S. Kroat, Director of Planning,\*  
"SUBJECT: Walnut - Fiji", Produced and  
kept by the Planning Department in file  
marked DP-180. (Sent to Mayor Knight only)

⑤ Memorandum dated January 26, 1988  
entitled "Wichita - Department of Operations  
and Maintenance, Traffic Engineering  
Division, City Hall - Eight floor, 455  
North Main Street, Wichita, Kansas,  
67202 (316) 268-4442  
DEAR INTERESTED CITIZEN:"

Notifying those interested in the time  
and place the Traffic Commission  
would meet to discuss the Walnut  
Traffic study. This document was  
produced by the Traffic Engineering  
Division of the City and distributed  
by the MAPD with the official  
MAPD public hearing notice. It is  
on file in the Planning Department in  
the case file marked DP-180.  
(Sent to Councilman Kamen only)

- ⑥ A letter addressed to Mr. Elton Parsons, Chairman of MAPC, under the letterhead of "Tallgrass Summerfield Homeowners Association", from Mr. Charles Koser 2234 Penstemon Ct., Wichita, Ks. 67226, dated February 14, 1988. The letter is on file in Planning Department file No. DP-180.
- ⑦ An untitled document dated February 11, 1988, two letter-sized pages in length prepared by Wesley Park in Planning Department file No. DP-180.
- ⑧ Staff report produced by the Planning Department entitled  
"WICHITA - SEDGWICK COUNTIES  
METROPOLITAN AREA PLANNING  
COMMISSION - REVISED STAFF REPORT  
AGENDA ITEM # 7a & b - FEBRUARY 18, 1988  
containing seven letter sized pages of information and recommendations on the proposed CUP and zone change request. Copies of the document are kept in the Planning Department in the case file marked DP-180.
- ⑨ A letter addressed to Mr. Charles Koser 2234 Penstemon Ct., Wichita, Kans. 67226, under the letterhead of "Landmark" from Mr. Elton Parsons, Chairman of MAPC dated February 11, 1988. The letter is on file in Planning Department file No. DP-180.

- 25 pages of  
⑩ Minutes of the Metropolitan Area Planning Commission meeting entitled:  
"EXCERPT FROM PLANNING COMMISSION  
MINUTES OF DECEMBER 10, 1987

containing the discussion of the CUP and zone change request during the first hearing on the matter. The minutes are on file in the Planning Department in case file No. DP-180.

- ⑪ a two page document produced by the Planning Department entitled  
"City of Wichita - City Council Meeting - March 8, 1988, Agenda Report # \_\_\_\_\_, Planning Agenda Item # \_\_\_\_\_"  
addressed to the Mayor and City Council Members transmitting the Planning Commission, Planning Staff and the C.P.O. Council recommendations <sup>regarding</sup> to the City Council. On file in Planning Department case file No. DP-180

- ⑫ 34 pages of minutes of the Metropolitan Area Planning Commission meeting entitled:  
"EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 18, 1988"  
containing the discussion of the CUP and zone change request during the continuation of the deferred hearing on the matter. The minutes are on file in the Planning Department in case file No. DP-180.

- (13) A one page notice prepared by the Planning Department entitled "WICHITA - SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET WICHITA, KANSAS, 67202-1688

~~dated March 17, 1988~~ <sup>redundant</sup> → March 17, 1988 " advising those instructed that the City Council had referred the case back to the Planning Commission for rehearing on March 31, 1988. Copies of the notice are in case files marked 2-2886 and DP-180 in the Planning Department. (sent to Councilman Kamen only)

- <sup>one page</sup>  
(14) A ~~Memorandum~~ dated March 14, 1988 from Sheldon Kamen, Vice Mayor to the City Council retained in the Planning Department case file No. DP-180.
- (15) A two page copy of a memorandum from Stanley T. Scott, C.P. Coordinator to Jack Calbraith, Chief Planner dated February 17, 1988 which sets out the recommendations of the CPO Council to the ~~Planning Commission~~ <sup>and</sup> the City Council regarding the proposed CIP and zone change request. The document is on file in the Planning Department files No. DP-180 and 2-2886
- (16) 9 pages of Minutes of the Metropolitan Area Planning Commission entitled "EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 31, 1988"

Containing the discussion of the zone change request and CUP proposal during the rehearing of the cases by the Planning Commission. The minutes are on file in Case files DP-180 and Z-2886

- (17) A three page staff report produced by the Planning Department entitled "City of Wichita - City Council Meeting - April 26, 1988 - Agenda Report # Planning Agenda Item # \_\_\_\_\_" addressed to the Mayor and City Council Members transmitting the Planning Commission Planning Staff and CPO Council recommendations to the City Council. The document is on file in the Planning Department files No. DP-180 and Z-2886.

- (18) a one page memorandum from Mr. Barry Carroll, CPO staff to the City Council members dated April 19, 1988, advising the Council of the CPO Council's action. The memo is on file in the Planning Department Case file No. DP-180.

- (19) A 21 page document produced by those in opposition entitled: "SEDERWICK COUNTY COALITION FOR THE PRESERVATION OF NEIGHBORHOODS" on file in the Planning Department case file No. DP-180.

- (20) Drawing of the development plan (C.U.P.) proposal produced by the applicant's agent, Bill G. Young Design, 4912 E. 29<sup>th</sup> Street North, Wichita, Kansas, 67220, entitled:

COMMUNITY UNIT PLAN  
ROCK ROAD WAL-MART

last dated February 25, 1988, submitted to the City Council for ~~the~~ review during their March 8, 1988 meeting. Drawing is on print paper 34" x 42" <sup>in size</sup>. A copy is kept in <sup>the</sup> Planning Department file no. DP-180. The original <sup>can be made</sup> is in the possession of the applicant's agent.

- (21) Drawing of the development plan (C.U.P.) proposal produced by the applicant's agent, Bill G. Young Design, 4912 E. 29<sup>th</sup> Street North, Wichita, Kansas 67220, entitled:

COMMERCIAL COMMUNITY UNIT PLAN  
ROCK ROAD WAL-MART DP-180

dated April 14, 1988 submitted to the City Council for review during their April 26, 1988, meeting. Drawing is on print paper 34" x 42" in size. A copy is kept in the Planning Department file no. DP-180. The original from which copies can be made is in the possession of the applicant's agent.

(20) A set of 19 slides (35mm) showing the proposed development plan, existing zoning and character of surrounding area used for staff presentation to the City Council during their meeting of March 8, 1988. The slides are stored in the Planning Department in a file cabinet in the Graphics section of the office.

(23) A set of 20 slides (35mm) showing the proposed development plan and a site plan for a 9.4 acre site, the existing zoning and character of the surrounding area used for staff presentation to the City Council during their meeting of April 26, 1988. The slides are stored in the Planning Department in a file cabinet in the Graphics section of the office.

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
November 23, 1987

ORDER OF PUBLIC HEARING

# 1  
That on Thursday, December 10, 1987, the Metropolitan Area Planning Commission (MAPC), at a meeting in the City Council Chambers, First Floor, City Hall, Wichita, Kansas, will consider an application for a ZONING DISTRICT WAL-MART COMMERCIAL COMMUNITY UNIT request from the "AA" One-family Dwelling Commercial District for property legally de-

Section 8, Township 27 South, Range 2 East of the City of Wichita, Kansas, described as beginning at a point 75 feet west of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road; AND

Z-2886:

That part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the City of Wichita, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.

The Development Plan of this area has been submitted as required under the Community Unit Plan provisions of Section 28.04.190 of the Wichita Zoning Ordinance. The Development Plan is on file in the Planning Department Office, Tenth Floor, City Hall, 455 North Main, Wichita, Kansas, and is available for public information and review.

The proposed Development Plan now on file divides the 12-acre (net) property into three (3) parcels. Some of the proposed uses are: retail shops, grocery, pharmacy, restaurants, medical or dental offices or clinics, financial institutions, service stations with an accessory car wash (subject to BZA approval), etc. An associated zone change request for 5.46 acres of the property, referenced above, has been filed with this development plan proposal. The plan depicts building setbacks, access controls, sign requirements and landscape buffers, in addition to other information.

The hearing of the proposed Development Plan and associated zone change request is to be held and the same will then and there be discussed by said MAPC. Those persons interested in this matter will be heard at that time.

Additional information concerning these cases may be obtained from the Planning Department, 10th Floor, City Hall, or by calling 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that Rockwell/Northeast CPO Council "2A" will consider this case at their meeting to be held on Monday, December 7, 1987, at 7 p.m., at the Rockwell Branch Library, 5939 East 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.

SEE REVERSE SIDE

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
November 23, 1987

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Thursday, December 10, 1987, the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC), at a meeting beginning at 1:30 p.m. in the City Council Chambers, First Floor, City Hall, 455 North Main, Wichita, Kansas, will consider an application for approval of the ROCK ROAD WAL-MART COMMERCIAL COMMUNITY UNIT PLAN and associated zoning request from the "AA" One-family Dwelling District to the "LC" Light Commercial District for property legally described as follows:

**CASE NO. DP-180:**

That part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ , thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road; AND

**Z-2886:**

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SEE REVERSE SIDE



WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING  
COMMISSION

AGENDA ITEM # 8246  
DECEMBER 10, 1987

STAFF REPORT

**CASE NUMBER:** DP-180 and Z-2886

**OWNER/APPLICANT/AGENT:** Wilson Estates (applicant)  
Bill G. Yung Design (agent)

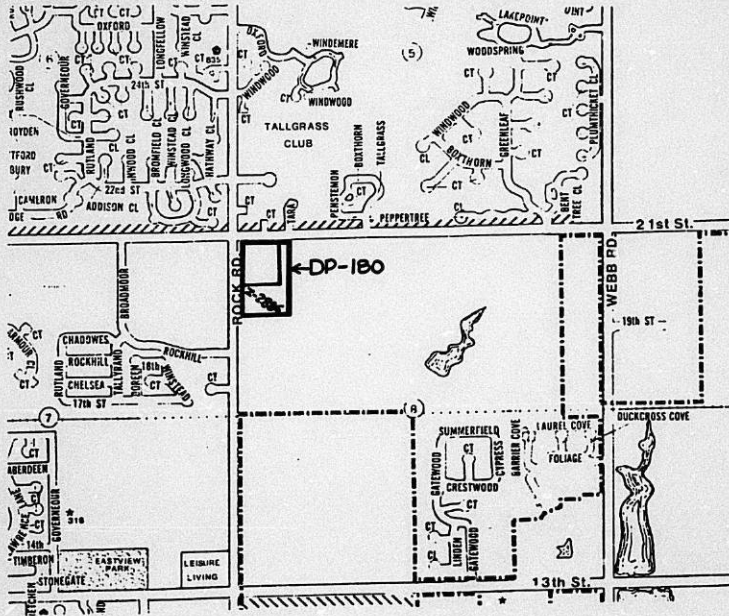
**REQUEST:** Approval of Rock Road Walmart Commercial Community Unit Plan and associated zone change to the "LC" Light Commercial District.

**CURRENT ZONING:** "AA" One-family Dwelling District and "LC" Light Commercial District

**SITE SIZE:** 12 acres

**LOCATION:** At the southeast corner of 21st Street North and Rock Road

**PROPOSED USE:** Light Commercial and office uses



#2

**BACKGROUND:** The applicant is requesting approval of a commercial community unit plan and an associated zone change request for a 12-acre unplatted and undeveloped tract of land on the southeast corner of 21st Street North and Rock Road. This property is a portion of the Wilson Estates once used as a horse farm. The "LC" rezoning request is for a 5.4-acre portion of the property that is presently zoned the One-family Dwelling District.

The C.U.P. proposal is divided into three (3) parcels proposing a total of 145,000 square feet of maximum gross floor area for commercial and office uses. Some of the proposed uses are: financial institutions, service stations with associated car wash, retail shops, restaurants, medical or dental offices or clinics, and tire/battery/accessory stores. A department store is the proposed use on the large parcel (No. 3), and Walmart is interested in purchasing the site. A typical Walmart store contains a pharmacy, garden center, concessions area and tire/battery/auto accessories sales and service as part of its operation.

Staff has recommended to the applicant that since Parcel No. 2 is adjacent to single-family zoning to the east, uses should not include restaurants, service stations or tire/battery/auto accessory stores. Instead, less intense uses on Parcel 2, such as financial institutions or offices, would act as a buffer for the single-family zoned property from light commercial activities. Across the street to the north is a financial institution. Also, a masonry (textured concrete panel) wall is required along the east line and additional wording should be added to General Provision #16 stating that the Wichita City Council may order the construction of the wall prior to the development of the residential property if, in their determination, a wall is needed.

Sign requirements were previously discussed with staff and the applicant; staff believes the maximum height of freestanding signs should be 20 feet and not 30 feet as shown on the C.U.P. proposal and that the one freestanding sign permitted on each frontage of Parcel 3 should not exceed 150 square feet rather than 200 square feet as proposed.

Staff also recommends that there should not be any storage of truck trailers onsite for over 48 consecutive hours and that metal not be permitted as a predominant exterior material on any building facade. The other two developed commercial corners have established a character which should be respected by future development on this corner, such as in regards to signage, screening, landscaping, etc. The applicant has agreed to a ten-foot landscape strip along the perimeter of the site adjacent to Rock and to 21st Street North similar to the landscaping on the C.U.P.s to the west and to the north, even though this site is not across the street from residential zoning.

**CASE HISTORY:** None

**ADJACENT ZONING AND LAND USE:**

NORTH	LC in DP-92	Shopping center
SOUTH	AA	Undeveloped
EAST	AA	Undeveloped
WEST	LC in DP-62	Shopping center

**PUBLIC SERVICES:** Trip generation projections for this intersection of Rock and 21st Street North, calculated by MAPD Advance Plans and Traffic Engineering,

indicate that the improved intersection can handle the 101,000 square feet of maximum gross floor area originally proposed and not the presently proposed 145,000 square feet. However, due to the proposed commercial development of this corner, a Traffic Study should be required for review and approval by the City Engineer and the Director of Planning prior to the plat being submitted. The Traffic Study should determine: a) the length of the left turn storage areas for both streets, including any widening that might be required for 21st Street North; b) the length of the raised medial on 21st Street to prohibit left turns into Parcel 1; c) if signalization is needed on either street; and d) the optimal alignment of the major entrances on Rock Road for this site and for the shopping center to the west. If the Traffic Study should determine that signalization is needed on either street, then signalization shall be at the expense of the applicant.

**CONFORMANCE TO PLANS/POLICIES:** In 1975, the Planning Commission and City Commission adopted a zoning policy for Rock Road between 37th Street North and 31st Street South. The policy states in part that the commissions will "hold the line on additional large scale commercial, office and high density residential zoning", and will "encourage very low density development on the remaining large unplatted residentially zoned properties". This policy was an outcome of a traffic study made in 1974 after Towne East was proposed. However, since the policy was adopted, the regional shopping mall and numerous commercial activities have developed along Rock Road, a number of rezonings and C.U.P.s have been approved and road improvements have been made on Rock Road, including this intersection of 21st Street North and Rock. In addition to now having major activity centers on Rock, both Rock and 21st Street North are major arterials that cross the city and county and are improved to standards. Therefore, staff believes this intersection is an appropriate intersection for significant commercial activity.

**RECOMMENDATION:** It is recommended that the commercial development plan and zoning change be approved, subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be platted within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

- e. The proposed uses of restaurants, service stations and tire/battery/auto accessory stores shall be omitted from Parcel No. 2.
- f. General Provision No. 6 shall be amended to include the following sign requirements:
- 1) The maximum height of freestanding signs shall be 20 feet, and
  - 2) One freestanding sign is permitted on each frontage of Parcel 3 and each sign shall not exceed 150 square feet.
- g. General Provision No. 14 and the face of the drawing shall depict Parcel 1 as having "right turns only" into the parcel.
- not done* h. Instead of an access point to Parcel 1 and the western access point to Parcel 3 from 21st Street North, one access point shall be centered on the line between the parcels.
- i. An additional provision shall be added to the C.U.P. which states the following:  
"No storage of truck trailers shall be permitted onsite for over 48 consecutive hours."
- j. An additional provision shall be added to the C.U.P. which states the following:  
"Metal shall not be permitted as a predominant exterior building material on any building."
- k. General Provision #16B shall include the following additional wording:  
"The Wichita City Council may order the construction of the wall prior to the development of the property adjacent to the C.U.P. If, in their determination, a wall is needed for any reason, including a litter problem."
- l. An additional provision pertaining to traffic concerns shall be added to the C.U.P. which states the following:  
"1. A traffic study for the intersection of 21st Street North and Rock shall be submitted for review and approval by the City Engineer and the Director of Planning prior to the plat being submitted. The traffic study should determine: a) the length of the left turn storage areas for both streets, including any widening that might be required for 21st Street North; b) the length of the raised medial on 21st Street to prohibit left turns into Parcel 1; c) if signalization is needed on either street; and d) the optimal alignment of the major entrances on Rock Road for this site and for the shopping center to the west.  
2. If the Traffic Study should determine that signalization is needed on either street, then signalization shall be at the expense of the applicant."

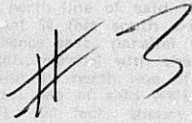
WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
January 27, 1988

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Thursday, February 18, 1988, the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) at a meeting beginning at 1:30 p.m., in the City Council Chambers, First Floor, City Hall, 455 North Main, Wichita, Kansas, will consider an application for approval of the ROCK ROAD WAL-MART COMMERCIAL COMMUNITY UNIT PLAN and associated zoning request from the "AA" One-family Dwelling District to the "LC" Light Commercial District for property legally described as follows:

CASE NO. DP-180:

That part of the NW $\frac{1}{4}$  Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, beginning at a point 75 feet south and 75 feet east of the southwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 101.21 feet to a corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 340.60 feet; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 840 feet; thence south, parallel with the south line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 101.21 feet to a point 75 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road. A



CASE NO. Z-2886

That part of the NW $\frac{1}{4}$  Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.

The Development Plan of this area has been submitted as required under the Community Unit Plan provisions of Section 28.04.190 of the City Zoning Ordinance of the City of Wichita. The Development Plan is on file in the Planning Department Office, Tenth Floor, City Hall, 455 North Main Street, Wichita, Kansas, and is available for public information and review.

The proposed Development Plan now on file divides the 12-acre (net) property into three (3) parcels. Some of the proposed uses are: retail shops, grocery, pharmacy, restaurants, medical or dental offices or clinics, financial institutions, service stations with an accessory car wash (subject to BZA approval), etc. An associated zone change request for 5.46 acres of the property, referenced above, has been filed with this development plan proposal. The cases were heard by the MAPC on December 10, 1987, and were deferred two months in order for the applicant to do a traffic study. The revised plan depicts building setbacks, access controls, sign requirements and landscape buffers, in addition to other information.

The hearing of the proposed Development Plan and associated zone change request is to be held and the same will then and there be discussed by said MAPC. Those persons interested in this matter will be heard at that time.

Additional information concerning these cases may be obtained from the Planning Department, 10th Floor, City Hall, or by calling 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that Rockwell/Northeast CPO Council "2A" will consider these cases at their meeting to be held on Monday, February 15, 1988, at 7 p.m., at the Edgemoor Recreation Center Club Room, 5815 East 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.

SEE REVERSE SIDE

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
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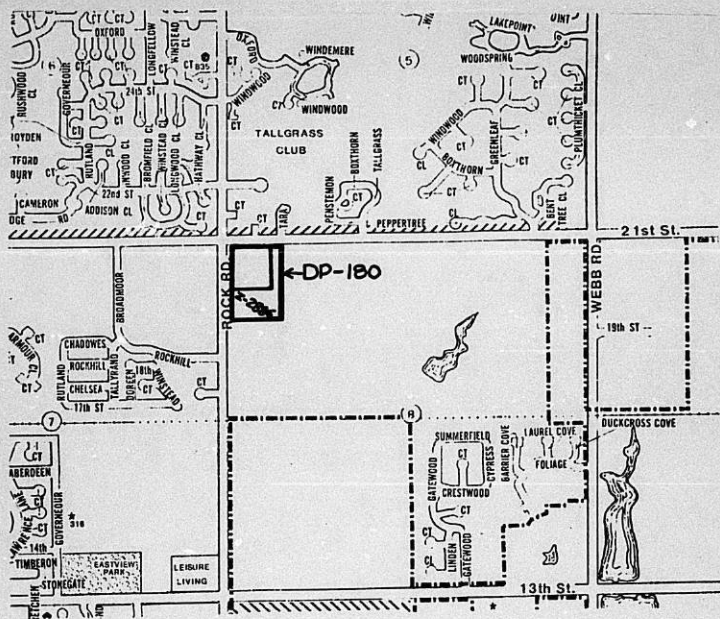
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SEE REVERSE SIDE



APPLICATION  
AREA

110.102  
Dew 2

WICHITA-SEDGWICK COUNTY

Date: October 22, 1987

METROPOLITAN AREA PLANNING DEPARTMENT

TO: Robert G. Knight, Mayor  
(thru Robert G. Finch, Deputy City Manager)

FROM: Marvin S. Krout, Director of Planning

SUBJECT: Walmart - fyi

FILE COPY

As you probably know, we are expecting an application shortly to expand "LC" zoning and approve a commercial C.U.P. that will include a Walmart store, at the southeast corner of 21st Street North and Rock Road. This is to alert you that a Mr. Bill Bothwell, representing Walmart, will be visiting with Jack Galbraith and me next Wednesday about this request, and has indicated that he will probably be contacting your office to set up a separate meeting with you that same day.

The amount of zoning and the uses requested are similar to the other two existing commercial corners at that intersection. While we are going to look carefully at traffic capacity, I suspect at this time that the additional traffic can be accommodated. My concern is that the development of this corner be compatible with the high quality of development that has occurred at this intersection, and that reasonable requirements for landscaping, restrictions on signage, and access control be made part of the C.U.P. From our conversations so far, Mr. Bothwell is apparently not willing to meet some of our minimum requirements for C.U.P.s, let alone any other requirements that I think are appropriate in this case. There is already substantial neighborhood opposition to locating a Walmart at this location, no matter what restrictions are placed on the tract.

Let me know if you need any additional information.

MSK:rme

PL/1485/2

#4

WICHITA



DEPARTMENT OF  
OPERATIONS AND MAINTENANCE  
TRAFFIC ENGINEERING DIVISION  
CITY HALL — EIGHTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4448

January 26, 1988

DEAR INTERESTED CITIZEN:

The Traffic Commission will hold their February 17 meeting at 7:00 P.M. in the City Council Meeting Room, First Floor of City Hall, 455 North Main. Evening access to City Hall is by way of the west doors which are adjacent to the parking garage.

One of the items to be discussed at this meeting is the traffic study for the proposed Wal-Mart at 21st Street and Rock Road. The consultant for Wal-Mart will present the results of their traffic study which will indicate the impact the development of this size will have on the surrounding street system.

City staff will be available to answer any questions concerning the area.

If you need additional information regarding this meeting, please contact me at 268-4393.

Yours truly,

*William G. McKinley*  
William G. McKinley  
Traffic Engineer

gr

FILE COPY

#5



Summerfield Homeowners Association

February 14, 1988

Mr. Elton Parsons  
3500 N. Rock Road, #100  
Wichita, KS 67226

Dear Mr. Parsons:

Since you chose to copy members of the MAPC with your letter dated 2/11/88 chiding me for things not said, I am forwarding a copy of my original letter to them.

There have been many articles in the Wichita Eagle-Beacon regarding the zoning issue at 21st/Rock Road. My reference was to the article written by Bill Bartel in the 1/7/88 issue, Section D-1, which quoted Mayor Bob Knight and Marvin Krout regarding public concerns on frequent zoning changes. You allude to inaccuracies in the article. As you know, public perception is not always based on accurate information. You can be sure the factual information soon to be issued by MAPC will be read with great interest by the homeowners in Northeast Wichita.

We regret you were unable to accommodate area homeowners by changing the February 18 meeting to evening. If there needs to be a #3, #4 or even #5 meeting on the 21st/Rock Road rezoning issue we ask now that you consider a night meeting so the neighborhoods will be able to attend and express their views.

Certainly the volunteer work done by the various Councils and Commissions is made at great personal cost by the citizens who serve in this manner, and I was not inferring otherwise. We count on your -- and their -- openness and fair-mindedness in our united efforts to make Wichita a better place for all of us to live.

Sincerely,

Charles Kosier  
2234 Penstemon Ct.  
Wichita, Ks. 67226

cc: Mayor Bob Knight  
City Council  
MAPC  
✓ Planning Director Marvin Krout

RECEIVED

FEB 16 1988

METROPOLITAN PLANNING  
ROUTE  Jack/Rob/File

#6

2-11/88

The City zoning policy is soon to be tested with a second go around of the rezoning change at 21st and Rock Road.

Will the C.P.O. and Metropolitan Planning Commission give in to the developers of Walmart Discount Stores? Will they recommend the zoning changes on the southeast corner of Rock Road and 21st Street or will they listen to the residents in the surrounding neighborhoods and vote against the zoning change? A vote against would almost certainly mean Walmart will have to seek another site.

If rezoning is approved for this controversial site, there will be nothing to stop the sprawl of strip zoning from expanding to the south along the east side of Rock Road to the rail road tracks as well as strip zoning on the south side of 21st Street between Rock Road and Webb Road.

In a few years you can envision this sprawl as it is already evident at Oliver and 21st Street: Oliver and 13th Street; and the west side of Rock Road from 13th Street north to the railroad crossing.

Thoughtless zoning decision have allowed developments to be built on sites that destroys the future use of adjacent land for anything except commercial sprawl.

It's a shame that homeowners in adjacent neighborhoods must be subjected to the danger of haphazard zoning changes to accomodate developers who have soley a monatary viewpoint. If the city continues this random policy, then the image of Wichita will certainly be destroyed.

The residents of northeast Wichita are not opposed to Walmart coming to town but we are opposed to the site on which they want to build. We fear that their warehouse mode of operation is alien for this area.

In addition to the proposed discount store which Walmart plans to erect on the east side of the property facing a huge parking lot extending to Rock Road, they also plan to build two more structures facing on 21st Street. These two sites will be lea-ed to one of several possible tenants such as a filling station; a mini mart; an office building; a muffler shop, etc.

All these possibilities, and more, are incorporated in the master plan including a future 38,000 sq. ft. expansion of the Walmart store.

There are six traffic access cuts into the project. Three on 21st Street and three on Rock Road. Signalazation will be used at one of the access cuts on Rock Road and possibly one signal light on 21st Street.

A small, rectangular piece of paper with a handwritten scribble. The scribble consists of several overlapping, dark lines that form a shape resembling a stylized 'M' or a similar symbol. The paper is placed on the bottom center of the larger document.

We understand that the traffic commissioner has just approved this traffic plan as presented to him by the Walmart developer making the intersection at Rock Road and 21st Street "DODGEM CORNER".

What power do these developers have over our City Planners?

There are plenty of more suitable sites, already zoned, that are available to Walmart which would suit their regional commercial appetite without desecrating the front yard of the surrounding and existing residential areas.

Hopefully the C.P.O. and M.A.P.C. will make their decision on this matter based on long range planning, using both insight and foresight as it affects the aesthetics and orderly growth of north-east Wichita.

*Wesley Park.  
8517 Boxthorn  
Wichita, Ks. 67226*

*Thought you might get a kick out  
of this - and since I'm sending one  
to each C.P.O. & MAPC member  
and the City Council I thought  
I should include you too.  
Wes Park.*

*I'm kind of mad at that  
Traffic Commissioner - he's  
pretty quick to approve  
Walmart's traffic plans*

FEBRUARY 18, 1988

REVISED STAFF REPORT

**CASE NUMBER:** DP-180 and Z-2886

**OWNER/APPLICANT/AGENT:** Wilson Estates (applicant)  
Bill G. Yung Design (agent)

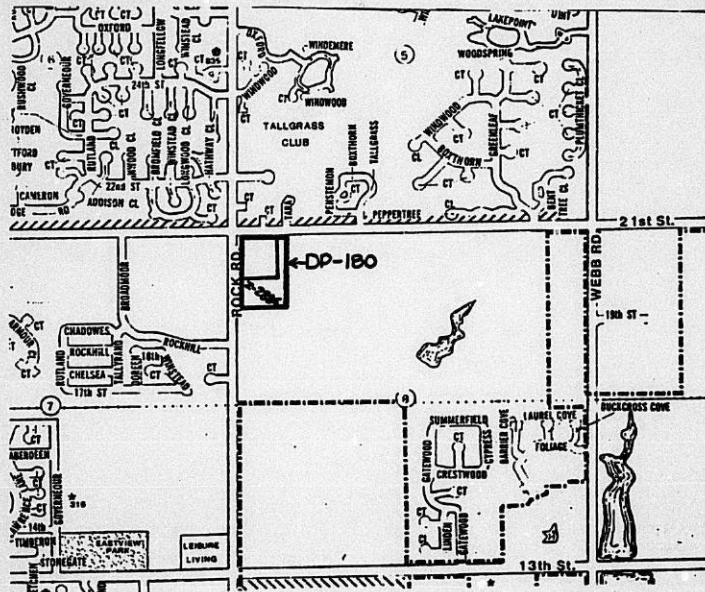
**REQUEST:** Approval of Rock Road Walmart Commercial Community Unit Plan and associated zone change to the "LC" Light Commercial District.

**CURRENT ZONING:** "AA" One-family Dwelling District and "LC" Light Commercial District

**SITE SIZE:** 12 acres

**LOCATION:** At the southeast corner of 21st Street North and Rock Road

**PROPOSED USE:** Light Commercial and office uses



APPLICATION  
AREA

#8

**BACKGROUND:** The applicant is requesting approval of a commercial community unit plan and an associated zone change request for a 12-acre unplatted and undeveloped tract of land on the southeast corner of 21st Street North and Rock Road. This property is a portion of the Wilson Estates used as a horse farm. The "LC" rezoning request is for a 5.4-acre portion of the property that is presently zoned the One-family Dwelling District. The C.U.P. and associated zone case requests were heard by the MAPC on December 10, 1987 and were deferred two months in order for a traffic study to be done by the applicant.

The C.U.P. proposal is divided into three (3) parcels proposing a total of 145,000 square feet of maximum gross floor area for commercial and office uses. Some of the proposed uses are: financial institutions, service stations with associated car wash, retail shops, restaurants, medical or dental offices or clinics, and tire/battery/accessory stores. A department store is the proposed use on the large parcel (No. 3), and Walmart is interested in purchasing the site. A typical Walmart store contains a pharmacy, garden center, concessions area and tire/battery/auto accessories sales and service as part of its operation.

Staff has recommended to the applicant that since Parcel No. 2 is adjacent to single-family zoning to the east, uses should not include service stations, tire/battery/auto accessory store, or restaurants. Instead, less intense uses on Parcel 2, such as financial institutions or offices, would act as a buffer for the single-family zoned property from light commercial activities. Across the street to the north is a financial institution. The applicant has omitted service stations and tire/battery/auto accessory stores on this revised proposal, but desires to retain restaurants on Parcel 2. He has agreed that any drive-through order boards have a phone rather than a loudspeaker.

The other two developed commercial corners have established a character which should be respected by future development on this corner, such as in regards to signage, screening, landscaping, etc. Sign requirements were previously discussed with staff and the applicant; the applicant changed the maximum height of freestanding signs to 20 feet and not 30 feet as shown on the original C.U.P. proposal and changed the one freestanding sign permitted on each frontage of Parcel 3 to not exceed 150 square feet rather than 200 square feet as previously proposed.

The applicant is required by the zoning ordinance to construct a five-foot high masonry wall along the south and east lines of this C.U.P. where this property is adjacent to residential zoning. The revised proposal indicates the required five-foot wall along portions of the boundary line and an eight-foot high wall in other sections behind and to the side of the proposed Walmart. An eight-foot masonry wall is also proposed to screen the truck loading dock area from Rock Road. The Garden Center on the north side of Walmart is proposed to be screened with a wrought iron enclosure attached to the top of a two-foot masonry wall and also be screened by conifer trees from 21st Street North view.

The revised proposal indicates that there will not be any storage of truck trailers on site for over 48 consecutive hours and that metal not be permitted as a predominant exterior material on any building facade. The applicant proposes that the major building material will be gray, broken face concrete. Also, the rooftop mechanical equipment will be screened from groundview in all directions. The applicant has agreed to a fifteen-foot landscape strip along the perimeter of the site adjacent to Rock and to 21st Street North and to street trees and interior parking

lot trees that exceed the amount of landscaping on the C.U.P.s to the west and to the north.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH	LC in DP-92	Shopping center
SOUTH	AA	Undeveloped
EAST	AA	Undeveloped
WEST	LC in DP-62	Shopping center

PUBLIC SERVICES: City water service is immediately available to the site from a 24-inch diameter water main existing along 21st Street bordering the site on the north and a 12-inch diameter water main existing along Rock Road bordering the property on the west. Sanitary sewer service is also available to the site from existing city sewer mains. Rock Road and 21st Street are designated arterial streets within the city and are improved to major street standards. The development proposed in this commercial community unit plan is anticipated to impact the traffic flow characteristics of the arterial street improvements adjoining the site. A traffic study has been provided which identifies several improvements that will be needed to accommodate the intended development. The improvements include an additional right turn lane on Rock Road, an additional right turn lane on 21st Street, modification of the final site plan to include one major entrance on both Rock Road and 21st Street, signalization of the major entrance on Rock Road and the addition of a left turn lane on both 21st Street and Rock Road to accommodate the major entrances into Parcel No. 3. Street and signal improvements associated with the C.U.P. shall be guaranteed at the time of platting in conformance with the recommendations of the Traffic Study dated February 5, 1988. The specific improvements indicated in the Traffic Study should be listed as part of the General Provisions of the C.U.P. The Traffic Engineer concurs with the conclusion of the traffic study that, with these additional improvements, and accounting for the additional future traffic generated by development from the proposed C.U.P. and growth of the surrounding area, the 21st/Rock Road area should operate at an acceptable level of traffic service.

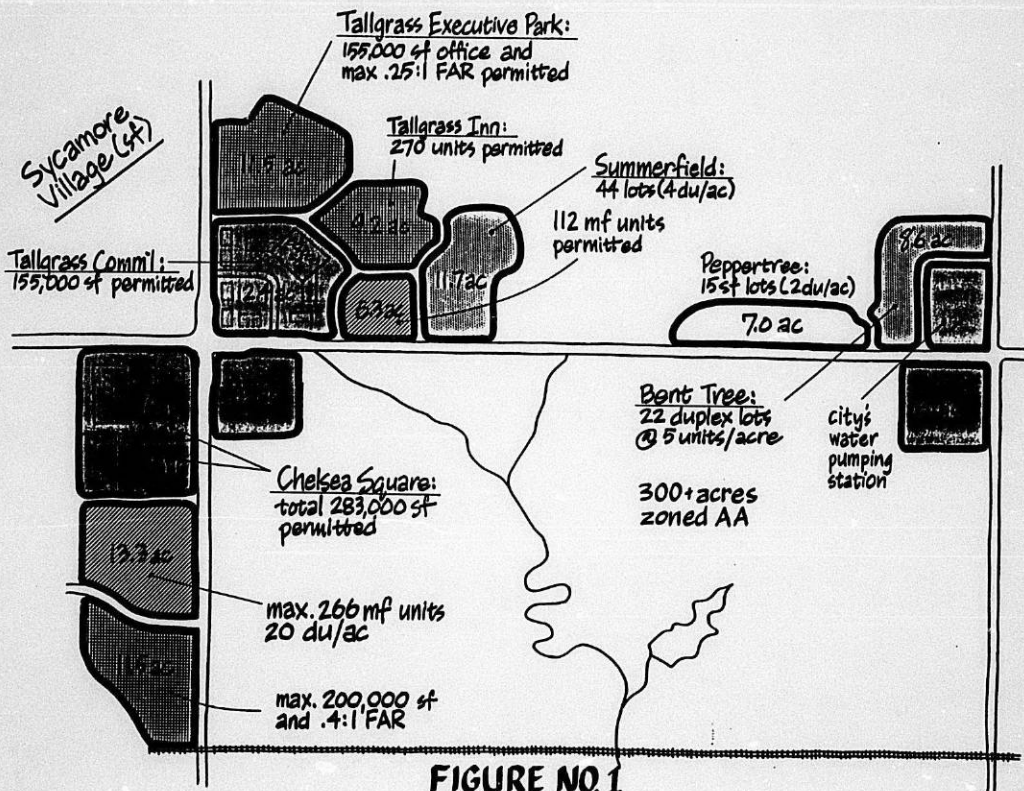
CONFORMANCE TO PLANS/POLICIES: In 1975, the Planning Commission and City Commission adopted a zoning policy for Rock Road between 37th Street North and 31st Street South. The policy states in part that the commissions will "hold the line on additional large scale commercial, office and high density residential zoning", and will "encourage very low density development on the remaining large unplatted residentially zoned properties". This policy was an outcome of a traffic study made in 1974 after Towne East was proposed. However, since the policy was adopted, the regional shopping mall and numerous commercial activities have developed along Rock Road, a number of rezonings and C.U.P.s have been approved and road improvements have been made on Rock Road, including reconstruction of the intersection of 21st Street North and Rock. In addition to now having major activity centers on Rock, both Rock and 21st Street North are major arterials that cross the city and county and are improved to standards. Therefore, staff believes this intersection is an appropriate location for this amount of commercial activity.

Due to the fact that significant changes have occurred along Rock Road and 21st Street and around the Rock Road/21st Street intersection, it may be appropriate to consider the establishment of a policy to guide the overall development of the property along the south side of 21st Street between Rock Road and Webb. Such a policy should be consistent with the character of development presently being established in the general area. Attached as Figure No. 1 is a schematic indication of the zoning and development pattern in the vicinity of 21st Street and Rock Road. On the basis of this pattern, Figure No. 2 presents what staff believes to be an acceptable indication of the type and intensity of future development that may be anticipated on the balance of the Wilson Estate property. To pursue this pattern of development, it is suggested that the Planning Commission recommend to the City Council the adoption of the following zoning policy:

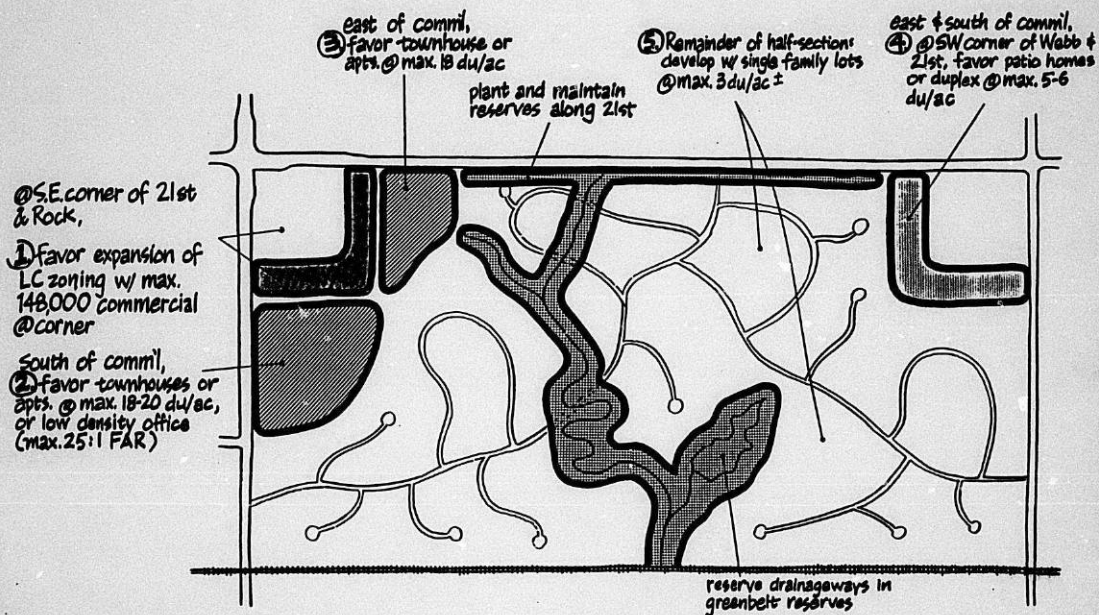
1. On the southeast corner of the Rock Road/21st Street intersection, look with favor on the expansion of the "LC" light commercial district to allow a maximum of 148,000 square feet of gross floor area.
2. On the east side of Rock Road south of the commercial area, look with favor on the establishment of higher density residential development on 8-10 acres, with a maximum density of 18 to 20 dwelling units per acre and/or low density office development at a maximum floor area ratio (FAR) of 0.25:1 to provide a buffer between the commercial area and low density residential on the balance of the property to the south and east.
3. On the south side of 21st Street, east of the commercial area at the Rock Road/21st Street intersection, look with favor on the establishment of higher density residential 8-10 acres with a maximum density of 18 to 20 du's per acre to provide a buffer between the commercial area and the low density residential on the balance of the property to the south and east.
4. On the south side of 21st Street west of the commercially-zoned area existing on the 21st Street/Webb Road intersection and south of the commercial area on the west side of Webb Road, look with favor on the establishment of higher density residential on 8-10 acres with a maximum density of 5 to 6 dwelling units per acre to buffer the commercial area from low density residential on the balance of the property to the south and west.
5. On the remainder of the half-section other than those areas above, retain low density residential zoning classification and encourage through the community unit plan and/or platting process, development of single-family residential lots at a maximum density of three dwelling units per acre.
6. During the development process, a landscaped reserve should be established along the south side of 21st Street from the commercial area on Rock Road to the commercial area on Webb Road. The natural drainageways existing through the property should be preserved in greenbelt reserves during the platting process.

**RECOMMENDATION:** It is recommended that the suggested zoning policy be adopted and that the commercial development plan and zoning change be approved, subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be platted within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
- e. The proposed use of restaurants shall be omitted from Parcel No. 2.
- f. Instead of an access point to Parcel 1 and the western access point to Parcel 3 from 21st Street North, one access point shall be centered on the line between the parcels.
- g. The following General Provisions shall be omitted from the C.U.P. as they are not applicable: 14.e and f., 19, and 20.
- h. General Provision 14.A., B. and E. shall be amended to read as follows:
  - A. The extension of a center lane in Rock Road and 21st Street to accommodate left turns into the major opening along the west line and the north line of parcel 3 for southbound and westbound traffic) and to provide additional left turn storage at the Rock Road/21st Street intersection.
  - B. The reconstruction and extension of the raised medians in 21st Street and Rock Road to accommodate left turns into the major opening along the north line and west line of parcel 3 and to prohibit left turns into parcels 1 and 2.
  - E. Traffic signalization of the major entrance to Rock Road from parcel 3.



**FIGURE NO. 1**  
**Land use/zoning surrounding the Wilson Farm**



**FIGURE 2**  
**Suggested Zoning Policies for the Wilson Farm**



February 11, 1988

Mr. Charles Kosier  
2234 Penstemon Ct.  
Wichita, KS 67226

Dear Mr. Kosier:

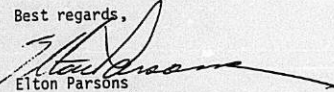
This is to acknowledge and thank you for your letter dated February 2, which I received on February 8. The letter regarding proposed rezoning of property at 21st and Rock Road is one of many received about the same subject.

I will disregard your comments from the Eagle-Beacon article and your repetition of some of the inaccuracies contained in that article. Please be watchful for factual information which is forthcoming. Your request that the February 18th meeting of the Metropolitan Area Planning Commission (MAPC) be held in the evening has been considered and logistically cannot be accomplished. The notification processes which by law, must be followed, do not, timewise, allow your request to be honored. However, I have requested that the 21st/Rock Road item be placed on the agenda for a time not earlier than 3:00 p.m. Hopefully that may accommodate a good number of people who wish to be heard.

Finally, I ask that you have confidence in the MAPC to discharge their duties in a fair, equitable and honest manner. A search of MAPC business and voting record in the past year shows factually that the MAPC and CPO Councils are in agreement on 97% of the cases. The accusations and innuendos that MAPC has already made the decision before hearing the case is ludicrous and insulting to those citizens who serve the community in this manner.

Thank you for your letter and concerns. I pray that this letter will be helpful to your understanding and that you will continue to have a sincere interest in our community.

Best regards,

  
Elton Parsons  
Chairman, MAPC

cc: City Council  
MAPC  
Chris Churches

Marion Krout  
Jack Galbraith  
Stan Scott

EP/kb

Landmark Communities, Inc.  
3500 N. Rock Road, #100 / Wichita, Kansas 67226 / (316) 686-7451

#9

EXCERPT FROM PLANNING COMMISSION MINUTES OF DECEMBER 10, 1987

- 8a. Case No. Z-2886 - Wilson Estates requests zone change from "AA" to "LC" for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.
- 8b. Case No. DP-180 - Wilson Estates requests approval of Rock Road Wal-Mart Commercial Community Unit Plan for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road.

BRINEGAR stated that he wished to advise the Commission that his wife purchased 100 shares of Wal-Mart stock on December 15, 1982, and still owns all the shares resolving from this buy. He said that he filed a statement of ownership with the City of Wichita City Clerk's office.

KROUT pointed out land use, zoning and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting approval of a commercial community unit plan and an associated zone change request for a 12-acre unplatted and undeveloped tract of land on the southeast corner of 21st Street North and Rock Road. This property is a portion of the Wilson Estates once used as a horse farm. The "LC" rezoning request is for a 5.4-acre portion of the property that is presently zoned the One-family Dwelling District.

The C.U.P. proposal is divided into three (3) parcels proposing a total of 145,000 square feet of maximum gross floor area for commercial and office uses. Some of the proposed uses are: financial institutions, service stations with associated car wash, retail shops, restaurants, medical or dental offices or clinics, and tire/battery/accessory stores. A department store is the proposed use on the large parcel (No. 3), and Walmart is interested in

#10

purchasing the site. A typical Walmart store contains a pharmacy, garden center, concessions area and tire/battery/auto accessories sales and service as part of its operation.

Staff has recommended to the applicant that since Parcel No. 2 is adjacent to single-family zoning to the east, uses should not include restaurants, service stations or tire/battery/auto accessory stores. Instead, less intense uses on Parcel 2, such as financial institutions or offices, would act as a buffer for the single-family zoned property from light commercial activities. Across the street to the north is a financial institution. Also, a masonry (textured concrete panel) wall is required along the east line and additional wording should be added to General Provision #16 stating that the Wichita City Council may order the construction of the wall prior to the development of the residential property if, in their determination, a wall is needed.

Sign requirements were previously discussed with staff and the applicant; staff believes the maximum height of freestanding signs should be 20 feet and not 30 feet as shown on the C.U.P. proposal and that the one freestanding sign permitted on each frontage of Parcel 3 should not exceed 150 square feet rather than 200 square feet as proposed.

Staff also recommends that there should not be any storage of truck trailers onsite for over 48 consecutive hours and that metal not be permitted as a predominant exterior material on any building facade. The other two developed commercial corners have established a character which should be respected by future development on this corner, such as in regards to signage, screening, landscaping, etc. The applicant has agreed to a ten-foot landscape strip along the perimeter of the site adjacent to Rock and to 21st Street North similar to the landscaping on the C.U.P.s to the west and to the north, even though this site is not across the street from residential zoning.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH	LC in DP-92	Shopping center
SOUTH	AA	Undeveloped
EAST	AA	Undeveloped
WEST	LC in DP-62	Shopping center

PUBLIC SERVICES: Trip generation projections for this intersection of Rock and 21st Street North, calculated by MAPD Advance Plans and Traffic Engineering, indicate that the improved intersection can handle the 101,000 square feet of maximum gross floor area originally proposed and not the presently proposed 145,000 square feet. However, due to the proposed commercial development of this corner, a Traffic Study should be required for review and approval by the City Engineer and the Director of Planning prior to the plat being submitted. The Traffic Study should determine: a) the length of the left turn storage areas for both streets, including any widening that might be required for 21st Street North; b) the length of the raised medial on 21st Street to prohibit left turns into Parcel 1; c) if

signalization is needed on either street; and d) the optimal alignment of the major entrances on Rock Road for this site and for the shopping center to the west. If the Traffic Study should determine that signalization is needed on either street, then signalization shall be at the expense of the applicant.

**CONFORMANCE TO PLANS/POLICIES:** In 1975, the Planning Commission and City Commission adopted a zoning policy for Rock Road between 37th Street North and 31st Street South. The policy states in part that the commissions will "hold the line on additional large scale commercial, office and high density residential zoning", and will "encourage very low density development on the remaining large unplatted residentially zoned properties". This policy was an outcome of a traffic study made in 1974 after Towne East was proposed. However, since the policy was adopted, the regional shopping mall and numerous commercial activities have developed along Rock Road, a number of rezonings and C.U.P.s have been approved and road improvements have been made on Rock Road, including this intersection of 21st Street North and Rock. In addition to now having major activity centers on Rock, both Rock and 21st Street North are major arterials that cross the city and county and are improved to standards. Therefore, staff believes this intersection is an appropriate intersection for significant commercial activity.

**RECOMMENDATION:** It is recommended that the commercial development plan and zoning change be approved, subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be platted within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
- e. The proposed uses of restaurants, service stations and tire/battery/auto accessory stores shall be omitted from Parcel No. 2.
- f. General Provision No. 6 shall be amended to include the following sign requirements:

- 1) The maximum height of freestanding signs shall be 20 feet, and
  - 2) One freestanding sign is permitted on each frontage of Parcel 3 and each sign shall not exceed 150 square feet.
- g. General Provision No. 14 and the face of the drawing shall depict Parcel 1 as having "right turns only" into the parcel.
- h. Instead of an access point to Parcel 1 and the western access point to Parcel 3 from 21st Street North, one access point shall be centered on the line between the parcels.
- i. An additional provision shall be added to the C.U.P. which states the following:  
"No storage of truck trailers shall be permitted onsite for over 48 consecutive hours."
- j. An additional provision shall be added to the C.U.P. which states the following:  
"Metal shall not be permitted as a predominant exterior building material on any building."
- k. General Provision #16B shall include the following additional wording:  
"The Wichita City Council may order the construction of the wall prior to the development of the property adjacent to the C.U.P. if, in their determination, a wall is needed for any reason, including a litter problem."
- l. An additional provision pertaining to traffic concerns shall be added to the C.U.P. which states the following:  
1. A traffic study for the intersection of 21st Street North and Rock shall be submitted for review and approval by the City Engineer and the Director of Planning prior to the plat being submitted. The traffic study should determine: a) the length of the left turn storage areas for both streets, including any widening that might be required for 21st Street North; b) the length of the raised medial on 21st Street to prohibit left turns into Parcel 1; c) if signalization is needed on either street; and d) the optimal alignment of the major entrances on Rock Road for this site and for the shopping center to the west.  
2. If the Traffic Study should determine that signalization is needed on either street, then signalization shall be at the expense of the applicant."

KROUT stated that staff is recommending approval of this zoning request and the commercial CUP for up to 101,000 square feet of floor area; the request is for 145,000 square feet. The applicant has agreed to almost all of the conditions that were recommended by staff, and has gone on to propose

additional conditions since he filed his application in order to improve the quality of the development.

KROUT stated that he would try to frame the rest of his comments in terms of several of the items under Policy Statement No. 10. One is the character of the neighborhood. The immediate neighborhood is the intersection area, and that area is predominately commercial in nature. The proposed department store has been the source of a lot of the controversy, and staff did not feel that it was particularly out of character with the nature of the other commercial uses that are at this intersection, and that are approved as part as other community unit plans. The proposed department store is essentially a collection of smaller retail stores under one management. He said that this particular type of department store has a higher traffic volume and has higher truck movements in and out of the store, but basically it is a permitted use in the light commercial district, and has been permitted in all of the previous community unit plans that have been approved on a large site that would accommodate a use like this. He said that there is a character that is established on the other two corners in terms of landscaping, restricted signage, and architectural materials. He pointed out that those restrictions for the most part are not imposed by the city in its community unit plan conditions, but imposed by the private developers of the property. KROUT said that in order to maintain that established character, staff feels that it is appropriate that any community unit plan approved for this corner should mandate the same kind of landscaping, sign restraints, and not introduce any foreign architectural materials to this intersection area. Staff feels that the applicant in this case is volunteering conditions that go to unprecedented lengths to try to maintain this character. KROUT mentioned that there is a new plan that has been prepared over the last couple of days in response to staff concerns and also to neighborhood concerns. It basically orients the major building, (Wal-Mart) to Rock Road to the west, instead of north towards 21st Street. One of the reasons for doing that is to be able to better accommodate a major opening on Rock Road that would align with the parcel in the Skaggs Alpha Beta site to the west. He said that there is a good possibility that detailed traffic studies will show the need for an alignment for those major openings and for signalization if this commercial development is approved. This orientation provides a better alignment of the major entrances. Secondly, there has been some concern about the proposed setback along Rock Road. In the scheme that had Wal-Mart fronting to the north towards 21st Street, the setback along Rock Road was as little as 45 feet. In this scheme that faces Rock Road, the setback is much deeper from Rock Road. In terms of land uses, staff's report indicates that Parcel 2 ought to delete some of the more intensive uses permitted in light commercial, such as service stations and auto related uses, and restaurants. The applicant has agreed to delete the service station and auto related uses, but would still like to have a restaurant, and has agreed to restrict any drive-thru portion of a restaurant to have the phone order service only and no loud speakers as a part of that use in order to better protect the area to the east. KROUT mentioned that for the most part, community unit plans prohibit portable signs and billboards, but otherwise relate to the light commercial standards in the zoning code. Those light commercial standards are very liberal and permit: signs from 30 to 55 feet in height; flashing and moving signs; a large number of signs on a site like this;

and signs that are very large in area. He said that the applicant has agreed to the staff's recommendation that would limit any freestanding sign to 20 feet in height which is compatible with the signs developed on the other two corners. The applicant has agreed that the Wal-Mart signs advertising the building in Parcel 3 would be limited to one sign only on each frontage; one on Rock Road and one on 21st Street, and limited to 150 square feet in area. The restrictions would also prohibit any flashing or moving signs and any signs on buildings that would face south or east toward the property lines. KROUT said that in terms of landscaping, the submitted applications showed a 10-foot landscaped buffer along both frontages to Rock and 21st Street which would not normally be required for this commercial community unit plan because this site no longer faces across the street into any residential development. But the applicant and staff felt that because the other two sites have that buffer, it should be applied to this area too. KROUT said that in his most recent conversations with the applicant, he has agreed to expand that buffer to 15 feet along both frontages, and also agreed to plant at least 50 trees in the parking areas in addition to the trees that would be required at a minimum of 50-foot spacing along each frontage in that 15-foot area. In addition, the applicant has agreed to provide an evergreen screen that would be effective in screening out any remaining views of the loading area that might be visible from Rock Road in the revised plan. The plan will call for an 8-foot textured concrete screening wall that would screen the rear and service portions of the Wal-Mart building itself, and a 5-foot concrete screening wall along the rest of the south and east property lines. The applicant has agreed, in his revised conditions, to substitute wrought iron for the typical chainlink fence around the proposed garden center, and further willing to agree to restrict any roof mounted equipment on any buildings on this site from ground level view. The applicant has agreed with the staff recommendations to reduce the number of access points that would result in the limitation of access on Rock Road and 21st Street which is consistent with the very strict standards that were applied to the northeast corner of the street where there are very few number of access points. KROUT recalled that the Commission had recently approved an amendment to allow two additional access points on the Tallgrass CUP, one on Rock Road and one on 21st Street. The revised limitations on access would be the same kind of limitations that were imposed in that case. He said that building materials were a subjective area, an area that is close to taste, one which staff is very reluctant to get involved in. The applicant has agreed to the condition that metal would not be predominant facade material on any building on the site. In addition, the applicant is willing to commit to even some more detail in terms of the facade material of buildings on the site.

KROUT stated that the two corners of the intersection that this site faces are both zoned for and partially developed for commercial uses which have greater acreages than is proposed on this corner. The approved commercial community unit plans for those corners permit the same types of uses as are being requested in this application. He said that staff would oppose any further extension of light commercial zoning any further south or east of the area requested. The Comprehensive Plan indicates that commercial activity should be concentrated at major arterial intersections and not strip commercial

zoning along those intersections, and staff believes, in that sense, that this plan is compatible with the Comprehensive Plan.

KROUT said that another issue in Policy 10 is whether or not the removal of the present restrictions would result in a detrimental impact to surrounding properties. He said that one of the issues the Commission needed to look at was traffic. The existing 6 acres, if developed, will generate additional traffic at this intersection; probably 75,000 to 80,000 square feet of development could occur on that site today. The Traffic Engineer has done some analysis of this corner and feels comfortable that on this site, 101,000 square feet of floor area could be accommodated, along with other increases for future development in this area as growth continues to occur, at an acceptable level of service. There are almost 30,000 cars a day that go through this intersection, but this is an intersection improved to a high standard, has excellent access controls and does have a considerable reserve for additional traffic. The staff is requesting that a traffic study be done prior to platting in order to determine the exact length of left storage lane from the alignment of major openings if the applicant accepts, and the Planning Commission and City Council approves 101,000 square feet for the community unit plan. However, the applicant is still requesting more than 101,000 square feet today, and if that is the case, staff recommended that the Commission defer action on the community unit plan and request that the applicant undertake a detailed traffic study at this time prior to approving the CUP. KROUT said that this development should not affect existing businesses at the intersection, in fact the additional patronage of Wal-Mart might aid businesses at that intersection. It should not deter the development of remaining commercial property that is left undeveloped in this area, especially if all of the restrictions that are offered are carried out. He felt that the question - what will the development look like south and east of the Wal-Mart behind the screening is a reasonable question to ask. He said that staff did not have a plan for the overall acreage of the Wilson Farm. The clue would be in looking at other similar intersections where residential community unit plans have been approved that cluster the density and wrap higher densities around commercial uses, such as the apartments that are wrapped around commercial uses on both the northeast and the southwest corners today.

...KROUT continued that another aspect to be considered is the suitability of the land for the uses to which it is restricted. He said that certainly the 5½ acres of single family zoning is suitable under its current zoning for the single family and associated uses that it is restricted to today. Staff thinks that this expansion at this major intersection in the city where there are through roads approved to standard with major commercial activity on both of those roads going in both directions is a reasonable request. The CUP does provide unprecedented protection in terms of landscaping and screening in comparison to other CUPs.

KROUT said that there has been some question about whether there is adequate commercial zoning already in this general area, and whether or not any additional commercial zoning is needed. He said that staff did not do a detailed study, but did estimate that in the 8 or so square miles of area in east Wichita, running west of Woodlawn to east of Webb Road, and from south

of 13th Street to north of 37th Street, there is about 300 acres of commercial zoning and it is about half developed, and the remainder of the residential development is about the same level of development. He said that 300 or so acres is not an unreasonable amount of land as that percentage of that total area, especially in a more affluent area like east Wichita, where there is more consumer spending and more likely to get more acreage in commercial development. There is significant undeveloped commercial land, and that is because the residential is not fully developed, and also because commercial land generally lags behind residential in terms of the development. CPC Council "2A" voted 5-3 to recommend disapproval of these requests.

BILL YUNG, Design Planner, representing the applicant, stated that this is a difficult project, and occasionally you find these projects in the community where there is a lot of opposition. Oftentimes the opposition is difficult to totally pinpoint from the very beginning and it takes a little bit of time to arrive at what their concerns are. He said that the applicant is introducing a new plan that is based on the opposition that they have heard as recently as Monday night's CPO meeting, in calls, conversations and meetings with some of the homeowners, and also the Planning staff. He said that he was sorry to pull this on the Commission in this short of notice, but obviously if they are to do their job, they would try to design the project as well as they could to fit within the fabric of the neighborhood. YUNG said that from the numerous cases that he has brought to the Commission before, planning is a process. It is also generally a compromise, and in this particular case there are three groups of people that their interests need to be carefully assessed. He said that he has listened very carefully to what the neighbors have said and he has worked extremely hard with his client. His client is a very willing person to make concessions. He said that he is very pleased with the new plan. YUNG said that one of the most important things that Wal-Mart has expressed to him from the beginning is since they found out about the opposition, is what could they do to blend in.

YUNG mentioned that they are proposing 250-foot building setback off of 21st Street, and 200-foot building setback off of Rock Road for the parcel containing Wal-Mart. He said that they are trying very desperately to create a situation that is no different than the other developer has on the other corners. In terms of the traffic movement, he pointed out the islands on the drawings, stating that they represent exactly what is there today and what is designed for all of the major arterials to accommodate a certain amount of commercial. The existing amount of commercial covers 6-1/2 acres and they are asking for an additional 5-1/2 acres. The developer anticipates that there will be some additional traffic improvements, such as decel lanes, left turn lanes, and possibly signalization which would be their responsibility to provide.

YUNG said that in the original plan they had two out-parcels off of 21st Street. On the new plan, they remain the same. They also had two access points and the right turn only into Parcels 1 and 2 for a total of four access points. Now they have a right turn only into one major entrance which is directly across from 21st Street Court. On Rock Road, they initially had a right turn only, a major entrance, and a secondary entrance to the south of

the parcel. They are still proposing three points of access. He said that the 45-foot setback was causing a lot of problems, and by changing it to 250-foot, it is far more consistent than what has been done in the past in other areas.

YUNG said that they are showing a building that is 85,899 square feet. They are also showing a 20,000 square foot expansion. He pointed out that the city, in their evaluation of square footage, the 85,899 square feet is really looked upon by the city ordinance as 93,000 square feet. Since the garden center and the mezzanines are roofed over and are considered as floor area. The proposed 20,000 square foot expansion on the 93,000 square feet brought them into the larger numbers, and 101,000 square feet was no longer a viable number to them. They are anticipating a need for 138,000 square feet for the total expansion capabilities on the Wal-Mart structure itself and also provides for one building on each of the other two parcels.

The access points into the parcels are considerably better than on the originally submitted C.U.P. The Traffic Engineer has insisted on a design where they could have the major access point into the Wal-Mart parcel directly across from the major entrance into Skaggs. They have also considered left turn controls and possibly signalizations that might be required at this location as well. The total number of access points in relation to the intersection on this entire development is far superior to any intersection in northeast Wichita. YUNG read the following additional conditions agreed upon by the developer that are to be added to general provisions on Rock Road Wal-Mart:

- E. The proposed uses of service stations and tire/battery/auto accessory stores shall be omitted from Parcel No. 2. Restaurants are allowed but only if they include individual drive-up ordering facilities (phone order board) to eliminate any type of outside broadcast speaker system.
- F. General Provision No. 6 shall be amended to include the following sign requirements:
  - 1. The maximum height of freestanding signs shall be 20 feet on all parcels, and
  - 2. One freestanding sign is permitted on each frontage of Parcel 3 and each sign shall not exceed 150 square feet.
- G. General Provision No. 14 and the face of the drawing shall depict Parcel 1 and Parcel 2 as having "right turns only" into those parcels.
- H. An additional provision shall be added to the C.U.P. which states the following: No storage of truck trailers shall be permitted onsite for over 48 consecutive hours.
- I. An additional provision shall be added to the C.U.P. which states the following: Metal shall not be permitted as a predominant exterior building material on any building. The major material

shall consist of broken face concrete, painted a dove gray (to blend with other colors used at this intersection). The roof top equipment shall be screened from ground level view from both Rock Road and 21st Street North.

J. An additional provision pertaining to traffic concerns shall be added to the C.U.P. which states the following:

1. A traffic study for the intersection of 21st Street North and Rock shall be submitted for review and approval by the City Engineer and the Director of Planning prior to the plat being submitted. The traffic study should determine: a) the length of the left turn storage areas for both streets, including any widening that might be required for 21st Street North; b) the length of the raised medial on 21st Street to prohibit left turns into Parcel 1; c) if signalization is needed on either streets; and d) the optimal alignment of the major entrances on Rock Road for this site and for the shopping center to the west.
2. If the Traffic Study should determine that signalization is needed on either street, then signalization shall be at the expense of the property owners it benefits utilizing a land area ratio to determine percentage of benefit. (YUNG amended this item by stating that any additional traffic that they would be causing at this intersection, the signalization would be at the cost of the applicant, and not a shared expense).

K. The general site plan shall be modified as illustrated with the following additional restrictions:

1. Setback for major structure (Parcel 3) shall be extended to 200' from Rock Road and 250' for 21st Street North.
2. A 5' masonry wall shall be constructed 300' east from Rock Road and 180' South from 21st Street North with the balance of the screening wall on the South and East property lines being increased to 8'.
3. A. Access from Rock Road shall consist of a major entrance directly across the street from the major entrance to Skaggs Alpha Beta unless otherwise directed by the Traffic Engineer. Two additional entrances as shown on the plan are also requested.  
B. Access from 21st Street North shall consist of one major entrance directly across the street from 21st Street Court unless otherwise directed by the Traffic Engineer. Two additional entrances as shown on the plan are also requested.

4. Landscaping shall be provided within one 15' landscape buffer along Rock Road and 21st Street North with a minimum of one tree (2 1/2-3" cal.) for every 50 lineal feet of street frontage. Additionally, there shall be a minimum of fifty (50) (2-2 1/2"-3" cal.) trees utilized within the parking lot and throughout the property to soften the architectural elements and to screen unsightly areas. These shall include conifer trees specifically utilized at the garden center area to screen it from 21st Street North and at the truck loading area to reasonably screen that use from Rock Road.
5. In lieu of chain link fence at the garden center, Wal-Mart will upgrade to a wrought iron enclosure.
6. Maximum building coverage shall remain the same, however, Parcels 1 and 2 shall be limited to a maximum of 3,500 square feet each with the balance of 138,000 square feet being assigned to a single building on Parcel 3. Of this 138,000 square feet, 85% shall be devoted to sales area.

BILL BOTHWELL, Wal-Mart Stores, Bentonville, Arkansas, stated that his only purpose for being present was to give the Commission an overall view of why they are looking at another site in Wichita. He said that they believe that this city merits a third unit, and in the long run, they anticipate a fourth Wal-Mart. He said that their philosophy is to serve the metro area of Wichita with the minimum amount of travel time to their individual units for the majority of the people who would naturally shop at their stores on a regular basis.

BOTHWELL commented that the major question in the neighborhood at the Pawnee Plaza store is the truck dock area. He said that that manager has until December 25 to get all of the trailers off the site. After that date, he starts paying a fine to Wal-Mart out of his own pocket. Stores in the future that merit that much business, and have that much traffic on them, will have expended stock areas of up to 5,000 feet so that there will be no trailers on the site. He said that they are proposing walls for this particular development in order to be consistent with the neighborhood. He said that this is something that they do not do as a general rule, but because of the makeup of the area, they believe that is appropriate.

BOTHWELL mentioned the pictures that Yung had passed around to the Commissioners. He said that the houses in the back of the Wal-Mart store on these pictures, in the Copperfield area of Houston, Texas, are priced at one-half million dollars each. He said that their store in the Copperfield area is consistent with the Tallgrass area in Wichita.

MAX EBERHART, attorney representing Wilson Estates, the owners of this property said that have operated this property as a horse farm for many years; that can no longer occur. He said that this property is ripe for development and it will not be a horse farm forever. It is in the way of existing development. EBERHART said that they are incurring substantial obligations

for special assessments for improvements throughout this area. The only feasible way to cover those obligations is to commence development of this property. He said that they support this application. Wilson Estates own the property; Wal-Mart does not own the property at this time. EBERHART pointed out that the most immediate neighbor to this project is themselves. They have a tremendous investment to protect in the balance of their property, and if they thought this would be detrimental to the area, they could never support it. EBERHART said that, in their view, this application and the project as proposed would be an enhancement at least for the rest of the development and the immediate surrounding property. They would be the ones who would suffer the most if it were not so. They agree and acknowledge that consideration of the neighborhood is an important factor in these cases. EBERHART said that it was their understanding that the Commission is to focus on the problem in connection with the community at large. He said that this is property that is now undeveloped. This project would permit undeveloped and unproductive property to become productive. It would create more jobs, add property to the current tax rolls at a time when many businesses are trying to get off the tax rolls, and perhaps permit them to give some concessions to other businesses. He said that they feel that this application is entirely consistent with what has been done at every major intersection on the east side of town. He pointed out that their application for light commercial zoning of 12 acres is smaller than the one to the north and smaller than the one to the west of them. EBERHART said that a favorable consideration of this application would be consistent with fairness and non-discrimination, and they would appreciate the support of the Commission.

EVERETT FETTIS, attorney representing the contract purchaser, stated that he would like to speak to the 6-acre application versus the 12-acre application which he felt was an important overall consideration. He said that earlier this week he was led to believe that the main objection from the neighborhood was with any Wal-Mart store coming into this neighborhood. He said that this bothered him, but then he was told later in the week that is not the problem; the problem is the expansion of the commercial area from 6 acres to 12 acres on this particular corner of the intersection. He pointed out that it is their opinion that by enlarging this light commercial corner to 12 acres and spreading it out, that the size of the development is not all that much more, but it is much better arranged as to traffic controls, aesthetics and screening.

FETTIS felt that it was important to point out also that he had heard some complaints about conditions that exist at the Pawnee operation. He said that that is a "C" commercial zoned area. This is a "LC" light commercial zoned area, and they would be required to do things here that they do not have to do on Pawnee. Aside from that, FETTIS said that his client had gone far beyond the normal requirements in making the concessions that have been made. He felt that they have answered all of the legitimate questions that he has heard of as to what this will do to the intersection by spreading it over 12 acres rather than 6 acres.

CROCKETT asked someone to explain the difference between the city considering the building being 93,000 square feet, and the applicant considering 85,899 square feet.

YUNG said that as he understands it, the developer included the sales area, and did not include the mezzanine and the garden center as part of their square foot figures. The city does include those; anything under the roof is included as part of the area for calculating square footage of site coverage.

BRINEGAR stated that the proposed major entrance on 21st Street would be cause for a raised medial to extend back to the east, and it would go past Tara.

YUNG said that the medial would not go past a public street.

BRINEGAR asked that with the realignment of the major entrance on the north side, will there be left turns out of 21st Street Court.

YUNG said it would be exactly as they have on Rock Road where there is a full four-way intersection where all movements will be permitted.

BRINEGAR asked about the proposed use of the 20,000 square-foot potential expansion.

BOTHWELL answered that it was for future expansion of the existing store. Every development that they go into, they plan for the expansion of the store figuring that if they are smart enough in their merchandising techniques and go into areas that are growing, that their store business as well as volume and size will grow along with the area. He said that this was strictly for the Wal-Mart store. There is nothing anticipated at this time and nothing planned in the future.

MILES stated that he received several calls about trailers. He asked where the trailers were being unloaded. He asked if the trailers would be on the level of the asphalt or would they be sunk in a pit for unloading.

BOTHWELL said that it would depend on the terrain. He said that they had not gotten into the topographies on this to set their grades, drainage or anything else like that. From what he understood, this ground slopes south-east, and their drainage would have to follow the natural existing drainage program. Based on that, he believed that it would be dock high.

MILES further commented that he would like for them to give some consideration of having the trailers back into a pit so that they cannot be seen by the neighborhood.

MILES speaking to Eberhart, stated that when this property was brought into the city, the sewer taxes were either deferred or not to be paid. He asked if Eberhart knew anything about that.

EBERHART said yes. Some of these were deferred until development commences.

MILES asked if this would be on the applicants' tax roll if they buy the property.

EBERHART said that was his understanding.

SHERMAN asked if the major material on all four sides of the building would be broken face concrete?

YUNG said yes, on all three buildings.

SHERMAN said that the 145,000 square feet that they are requesting is still below what the CUP regulations would permit on the site.

YUNG said that is true, about 8,000 or 9,000 below.

SHERMAN said that he noticed on the plan, the building is set back 350 feet, but they put their setback requirement at 200 feet.

YUNG said yes, the reason for that is that they are showing the smaller building, and if they should expand and want to use the building that has greater depth than that, that allows them to have some latitude if conditions change.

SHERMAN asked about the trees, and if there was a chance of increasing the caliper if this is approved.

YUNG stated that they would agree to whatever is on the other corners.

TURNER said that there seems to be a great deal of concern about the trucks. He asked if it was asking too much to screen the trucks with a wall rather than the trees.

YUNG stated that the trucks have been put back about 600 feet off of the frontage instead of being visible from the front all the way back. With three levels of trees, YUNG said that he could not believe that they would see a whole lot of trees at 600 feet. YUNG said that they did look at the wall, and the problem with the wall is it is more expensive and less attractive than trees.

BOTHWELL said that basically their reason for not providing a wall was to give the truck drivers a flexibility of maneuvering in the back.

TURNER said that they would have the same problem with the trees. The trees could be knocked down too. He felt that the wall would be better.

BRINEGAR said that one of the provisions that the applicants agreed to was no storage of trucks shall be permitted onsite for over 48 consecutive hours. He asked if they were talking about bringing a truck in and unloading it and the truck leaving.

BOTHWELL said that he was not into operations very much. That might be the case. Generally they just unload the trucks and leave. What he was speaking of in 48 hours was maybe 48 hours of special events that they might

have with the trucks where they do not have sufficient size inside the store for storage.

KROUT said that staff's intent was that a truck trailer, whether it was being hauled or whether it was just sitting out there, should not be sitting out there for more than 48 hours. He said that in some communities, open storage is defined as over 24 to 48 hours, anything more than that means it is storage as opposed to parking or loading. KROUT said that open storage is not permitted in light commercial, but they really do not have a definition for open storage in terms of length of the storage or type of material, and staff felt that this would be a good clarification in the CUP.

PARSONS announced that the Commission knew that this was an emotional issue, and there would be times when the public felt that they would want to applaud or whatever. He asked that they not applaud because all that it does is prolong the hearing. He asked for a show of hands of how many people intended to speak.

ROBERT COWDREY, 1824 South Wichita, stated that he came to City Hall on other business today, but since the meeting was going on, he thought that he would sit in. He said that over the past years, the State of Kansas has recommended economic development, and they have recommended new taxes for economic development. Here comes a company that has integrity, has a long standing record, has a good stock rating, and they want to develop in Kansas and they get treated like criminals. He did not feel that that is in line with economic development. COWDREY said that if the neighbors wished to control the view of what is going to be on that property, they should offer to purchase the property. He said that it was his understanding of the Constitution of the United States that ownership of property gives you control of it, and he believed that the owner of the property should be the one who determines what may be put there and what not to put there.

ELIZABETH KOCH, 8500 East 13th Street, stated that they were 100 percent opposed to these requests. She said that it was irrelevant whether they get the additional acreage or they do not, or whether or not they go to extensive planning in concessions. She said that this will bring a great deal of traffic to a very residential neighborhood; traffic that they are opposed to. KOCH said that as a resident in this area, they have a right to privacy. The magnitude of Wal-Mart is going to bring in lots and lots of people. She said that with all of the improvements and concessions that they are making, means that they have to have more and more business to sustain this. She said that she would not live to see a benefit from 2-inch caliper trees, so a lot of this is eyewash. She said that she was delighted to hear that the deal had not gone through, and that the Bradleys or the Wilsons still own the property. She said that she would appeal to a man like Sam Walton, whose wealth is uncountable, to have some social conscience in a matter of invading private residences.

JILL MARHAVER, 2429 North Gouverneur, stated that the other two corners are commercial, but are built to serve a neighborhood. Wal-Mart will be built to serve one-third of the entire city and that is why she objects to

this location, and if there are other undeveloped acres already zoned commercial in the city, she would like to see the store built on Kellogg there and she would be one of the first people who shop there.

HELEN COCHRAN, 9441 Bent Tree Circle, president of the Bent Tree Homeowners Association, stated that she had been asked to read a statement by some of the neighbors that were unable to be present:

"Dear Commission Members:

I request of the Planning Commission that not only that the rezoning request be denied, but that this Commission please take a proactive role rather than a reactive one on behalf of both citizens and businesses in the matter of zoning. By setting zoning, after careful study, prior to the development of an area, and adhering to a firm policy, that until the character of the neighborhood changes, the zoning will not be changed. Both citizens and businesses will know that the zoning can be counted upon. Citizens must have this Commission's assurance that their investments in their homes will be protected. At the same time businesses should understand clearly where it will be feasible to invest. Rezoning would be an issue only if the character of a residential area changes to make it seem appropriate to bring such a request. Without such a plan, citizens must continue to do battle again and again with businesses which have the financial power to continue to exert pressure to change the character of the neighborhood. Rezoning is rarely a step up in quality; always a step down. Wichita has an abundance of light commercial zoned space, both in undeveloped land and vacant stores in already developed shopping centers. Businesses should be clearly aware that those are their options, not the rezoning of new residential areas.

Respectfully yours,  
/S/ Kirk & Joan Dahlberg"

MILES commented to Mrs. Cochran that part of this ground is already zoned light commercial, and it was probably zoned this way before she bought her home. He asked what would she suggest doing with that property, or what if another store built on that property.

COCHRAN stated that it took a long time for most of the homeowners to develop the area to really get people to move north of the city, and when they finally got the money behind them to make the people move out there, it was upper income area, and that is what made it go. She said that they understood that when they bought their home that there was approximately six acres zoned on that corner for light commercial. She said that she did not have a suggestion or option because she is against it being expanded any further. To change it now, when she has lived there two years and hoped to never move again and to have put all of the amount of money she wanted to in her house, is going back on a promise. She said that is the feeling of a lot of people in the area.

MILES said that his problem with this is Wal-Mart can come in and put a store right in the middle of the presently zoned light commercial area and there is not much the Planning Commission or the City Council can do. He said that it looks to him like they are trying to improve the overall layout of the commercial development by taking some ground and moving the buildings back.

COCHRAN said that the value of the property frightens her. Businesses are the only ones that are going to be able to go in there or risk going in there.

TURNER asked how Cochran felt about all of the improvements that the applicants have agreed to and would it change the value of her property.

COCHRAN said yes, even though Dillons and Skaggs have built there. There is something about a grocery store that makes you still think neighborhood. All of the other shops in the area are basically small neighborhood owned shops. She said that Wal-Mart has gone to all this trouble to make all of the changes for the neighborhood - what are they so embarrassed about?

RICK BLOOMER, 8522 Greenbriar, stated that the president of his homeowner association could not be present, and had asked him to speak on his behalf. BLOOMER said that first of all, he was not present to attack Wal-Mart because they are a very successful operation and would be a good addition to the city in a more accessible part of the city. He said that he was present to persuade the Commission to limit the amount of commercial development at the corner of Rock Road and 21st to acreage already zoned light commercial. He said that it was his understanding that the intersection of almost every section road in that part of the city, including 21st and Rock Road, was originally zoned for 24 acres of light commercial, six on each corner. The commercial development at several of these intersections have exceeded that original zoning, including the intersection at 21st and Rock Road. He said that currently they have 29 acres either developed or under development. There is already plenty of commercial development in close proximity to this intersection. There is the Brittany Center with numerous unoccupied spaces. They have significant commercial developments on two other corners of that intersection. One mile north they have a substantial commercial development around Bank IV and more on the way. Towne East, one of the largest regional shopping centers in the state, is only three miles away. He said that enough is enough. At some point in time, there are more retail establishments than consumers can support. At that point commercial developments become vacant, unkempt, and they deteriorate. Such deteriorating centers do not present a very good image to perspective employers looking for a city in which to locate their businesses. Good planning can prevent overbuilding of retail space.

BLOOMER said that another factor that should be considered is the traffic. When the surrounding residential areas were developed, very few access points to these areas were provided. Access to development where he lives is limited to one-way in and one-way out for the residents of 150 home sites. He said that the various developments of Waterford, Silverleaf, Summerfield, Mid Tree, Greenleaf, all have similar or worse access problems than they do. He

said that with the predicted addition of 4,000 to 6,000 additional cars per day, it is very easy to see that it is going to become more difficult to leave their area. He said that he did not have to explain to the Commission the cost of traffic problems in terms of time, damaged property and lives. BLOOMER asked the Commission to stick to their original plans. They do not need more commercial development at 21st and Rock Road, at least of all a regional department store under any name.

DAVID KEMME, 2306 Winstead Circle, representing the Sycamore Village Homeowners Association, asked if Commissioner Brinegar was not voting since his wife owns Wai-Mart stock and apparently presents a conflict of interest.

PARSONS answered that it is not a conflict of interest; it is simply a disclosure on Commissioner Brinegar's part.

KEMME stated that it was his impression that none of this property is in the improvement zone with respect to the widening of 21st Street, and therefore none of the deferred taxes will come onto the tax rolls.

KEMME asked if, in light commercial areas, is it appropriate to plant a forest?

KEMME commented that his statement actually refers to the original proposal and not necessarily the one today. He felt it was rather difficult for them to react within the allotted time, 15 or 20 minutes, after reviewing this site plan. He said that he was not sure if the Planning Commission is the best place to design the site plan for this facility, and a lot of his comments reflect his concern with the original plan, and it was difficult for him to say that the board of Sycamore Village would be 100 percent opposed as they are to the original site plan. He said that within the framework of Policy 10, their first objection pertains to the doubling of the existing light commercial area. They feel that the existing area zoned light commercial is more than adequate to serve neighborhood needs. Not only is there a sufficient amount of existing light commercial acreage in the immediate area to meet neighborhood needs, several parcels are available in this quadrant of the city that may be developed for this type of facility. Given the adequacy of the amount of existing light commercial acreage for the neighborhood, they are especially concerned with the impact that the zoning change will have on the adjacent property along the east side of Rock Road and the south side of 21st Street. This area is currently zoned residential - a use that they desire and a use consistent and appropriate for the rest of the neighborhood. Allowing the expansion of light commercial acreage here will inevitably create pressures to downgrade the adjacent properties to commercial uses, negatively impacting the entire area.

KEMME continued that the proposed use for this tract and the original design of the Wai-Mart facility is totally inconsistent with the character of the neighborhood. Doubling the area of light commercial and introducing an additional 5,000 to 8,000 vehicle trips on Rock and 21st will undoubtedly have a negative impact upon the character of the neighborhood. While the intersection at 21st and Rock will be able to handle the traffic from a technical point of view, they have to ask if it will be safe to allow younger children to visit

the yogurt store, that was mentioned earlier, on a summer afternoon after a little league game, or would they want to walk to the Pizza Hut for dinner when there are an additional 5,000 to 8,000 vehicle trips per day, with the traffic peaking just about the time that they would like to make that visit. KEMME said that this is not a facility designed to meet the needs of the neighborhood, and there are better locations for such a facility - locations that will not destroy the character of the neighborhood. He said that not only is it not consistent with the neighborhood in terms of the general residential area, but the original site plan, at least, was not architecturally compatible with the existing light commercial development.

KEMME said that he appreciated the fact that Bill Yung made a lot of changes, and he must of stayed up all night for the past few nights, because this plan is dramatically different than the one presented at the CPO. He said that Mr. Yung always claims to be a straight shooter, but KEMME felt that this was a bit of a curve ball in that it is difficult to evaluate the traffic cuts or the improvements made to the setbacks. KEMME felt that they would like to reflect on these changes a little. He felt that the important thing that was upsetting his homeowners association were the of characteristics the original plan, and those items are included in commercial development on the other corners. They include attractive and limited signs, architectural detail, building materials, color and texture of buildings, etc., that were not in the original plan for this site. The original proposal was absolutely minimal in that sense; it has been dramatically improved. It does not address traffic issues, and those things are yet to be resolved.

**MOTION:** That Mr. Kemme be allowed an additional two minutes to finish his presentation. Crockett moved, Fairbanks seconded and it carried unanimously. Gardner and Moore were absent.

KEMME continued that it was impossible for him to tell how the access points to the site differ from the original access points. The original access points did not meet the same requirements and distance from the center of the intersection that was considered by CPO Council "2A" and this Commission, and wisely imposed on the developer of the northeast corner of 21st and Rock Road. He said that essentially they believe that it negatively affects the character of the neighborhood. It negatively affects the adjacent property currently zoned residential, and that is a use that they support. It negatively affects the overall pedestrian and automobile safety due to the tremendous increase in automobile traffic without adequate changes in street design to accommodate the flow. They believe that it does negatively affect the additional adjoining commercial property. They are really opposed to this change because there are other reasonable sites available. They are not opposed to Wal-Mart coming to Wichita; most of them would shop at Wal-Mart. They are not opposed to it even in the northeast part of the city; they in fact welcome them. They just feel that this site is not the best site. There are other sites already zoned light commercial that this facility could occupy.

MILES asked Kemme if he would rather have this plan, or would he rather have the one on a smaller acreage.

KEMME said that was a difficult question to answer; he did not know what this plan was after seeing it for 10 or 15 minutes. It is dramatically different from the original plan. He suggested that this is not the right place to design a site plan, and maybe the Commission should allow his board and the CPO to reflect on this a few days. KEMME said that he appreciated the fact that Wal-Mart could come in, buy the six acres and build a Wal-Mart. The neighborhood cannot stop that, and as was mentioned, Mr. Walton is one of the richest men in the United States. They do not have two billion dollars in their pockets; they cannot buy that property, as suggested by another speaker. He asked if that was their alternative?

DR. CRAMMER REED, 7520 East 21st, Unit #22, stated that he represented the Applewood Homeowners Association, and he appreciated the opportunity of addressing the Commission in opposition to the Wilson Estates revised request to expand the present 6+ acres of light commercial acres to 12 acres on the southeast corner of Rock Road and 21st Street intersection. He said that Professor Kemme and others have identified several key issues pertaining to the subject request as they relate to this Commission's Policy Statement No. 10. REED said that in the interest of time, he would refrain from repeating pertinent comments. He said that he would like to refer to three issues involved in this controversy. First, he wanted to reiterate that this is not a class issue contrary to recent publicity on the matter. It is not a question of low income versus high income components of their community. It is not a matter of area residents opposing Wilson Estates and a desire to deny the landowners the right to develop their property in a prudent manner. They are, however, individually and collectively seriously concerned about any plans to expand the acreage in question to permit a large regional high volume business of any kind to be established in what was originally designated as a single family residential area.

REED stated that his second point is that surely this Commission and the City Council will be sympathetic to the position taken with the area residents that if a store designed to attract large numbers of customers into a residential neighborhood is permitted, then many retirees and others who purchase lots, houses and condominiums in the surrounding areas, often with their life savings, stand to lose considerable property value due to the encroachment of big-business and the often encountered neighborhood blighting. Many of the current residents in the area bounded by Woodlawn and 29th to Webb Road, south to 21st, and further south to 13th, were given assurances by various developers that the undeveloped area in question was zoned light commercial and that the owners of the Wilson Estates were in agreement to maintain and promote residential single family dwellings on that property. He said that implication has been that the City Commission concurred in this general plan. He said that they could all be assured that if any kind of high volume regional sales facility is allowed, there will be no further residential development in the vicinity of Rock Road and 21st, regardless of how high the wall, how many trees may be planted, or what limits are placed on signage. He felt that the city officials should honor the implied contract with area homeowners, and not simply bow to big business interest on the basis of economic development.

REED stated that his third and final point is to express the sincere concern regarding the traffic impact of locating a large retail store, designated to attract at least a third of Wichita's population into a residential area. 21st and Rock Road, Rock Road and 13th, Webb Road to Lake Point, and Woodlawn traffic will most certainly be adversely affected. He said that he could speak from a parochial point of view as a homeowner, because there is only one entrance and exit off of 21st into the Applewood II Development. "Already he can attest that it is difficult to turn onto 21st coming out of Applewood during the early morning hours, at noon, and certainly between 4:30 and 6:30 p.m. He said that he understands that the City Engineer estimates that the proposed new store will generate between 5,000 and 8,000 additional vehicle trips per day at Rock and 21st. Other nearby intersections will certainly experience similar traffic problems. With additional traffic, it will become an impossible situation. He said that he was not referring to just their inconvenience, but to a potential life threatening situation, and as a citizen concerned with the quality of life and good health care for everyone, he believed that they could not ignore the long term effects of significant increased traffic on the major arterials in question. Rock Road, Woodlawn, and certainly 21st, are already busy, fast driving, high density thoroughfares. Unquestionably, the accident rate will escalate regardless of how and where the entrances and exits are placed on the proposed expanded 12-acre site unless there would be stronger police supervision and mandated enforced lower speed limits on all major area thoroughfares. He said that neither of these seems to him to offer a satisfactory solution.

REED said that for these and other previously cited reasons pertaining to the majority of items comprising Policy Statement No. 10, he believed that it was essential for this Commission and the City Council to deny the zoning request. It simply makes no sense to locate a regional high volume store in this or in any other Wichita residential area when there are alternate sites available. He said that they need to demonstrate that their city government will not sacrifice quality of life for their citizens for presumed economic benefit of a few.

ROY GARRISON, 2258 Penstemon Court, stated that first they have had a change of plans and change of directions from what was presented to the CPO two nights ago. He said that he has to believe from what he knows in the background that a lot of that change in plans have been due to the efforts of the present home builders and developers in this same area of town who he believed have made it known that they would not support the original plan. GARRISON said that he would say for the Commission's consideration that the homeowners came there first; that they established the character of the neighborhood, and that the present commercial businesses that came in, came there because of the quality and the nature of that location. He said that if they would look at the nature of the businesses that are there today, that they are community oriented; they are directed for the family, the flower shops, grocery stores, libraries, post offices, and large corporations, but they are local stores, because he can go two miles and buy at another Dillons. He can go just down the street and buy at another Skaggs. GARRISON said that their objection is that they have asked in good faith that they not increase the

commercial area outlet at this intersection, and according to Policy Statement No. 10, they believe that that cannot possibly be allowed.

GARRISON stated that his life had been spent in the corporate structure, and the integrity of a neighborhood and the character of the neighborhood must be matched by the integrity and the character of the corporate structure. He has studied the zoning ordinance for last 10 days, under the word "retail", which is included in the word "light commercial zoning", and found that it has been stretched to include anything that anybody walks in that they can classify as retail. He said that during the years he has worked in large corporations, he has found that the change of personnel changes the character of a store, and he believed that it was interesting to note the people that spoke today supporting this - Mr. Bothwell works for Wal-Mart; Max Eberhart works for Wilson Estates; Bill Yung works for Wilson Estates and is hired as an expert to get zoning laws changed. The character of a company stays the same. GARRISON said that he had some slides that he would like to go through. He said that their objection would be to ask the Commission not to pass the zoning for any regional commercially operated, wholesale operation, to be moved into their back yard. GARRISON proceeded to show slides of the Wal-Mart store in Pawnee Plaza.

MOTION: That Mr. Garrison be granted four additional minutes to finish his presentation. Crockett moved, Goebel seconded and it carried unanimously. Gardner and Moore were absent.

GARRISON continued showing slides of Sam's Wholesale store, and another Wal-Mart store in Derby, Augusta, and proposed Wal-Mart store in Topeka. GARRISON requested that under Policy Statement No. 10, A, B, C, D, E, F, and J, how could they possibly include if you read them and consider this location for additional commercial operations.

ANN THOM, 9008 Peppertree Circle, called to the Commission's attention that 21st Street funnels down to two lanes directly beyond the east side of the entrance to Greenleaf. Greenleaf has over 200 families, and there is one exit that goes in and out. THOM said that they knew when they moved there they had Beech traffic; this goes on east to the interstate. She said that they have a traffic problem there, and if there is an accident at the entrance of Greenleaf, they have no way to get out. She asked the Commission to consider the traffic problem. She felt that Wal-Mart is a fine operation, and was in favor of progress, but felt that this proposal was a heavy commercial operation, not light commercial.

CHARLES KOZIER, 2234 Penstemon Court, presented to the Commission 358 signatures that oppose the rezoning at 21st Street and Rock Road.

FRANK SISSON, 2233 Penstemon, stated that he has lived in the area for 1 1/2 years. He moved here from northern Virginia, and was surprised when he found out that the property in question was zoned for light commercial because it seemed like there was enough in that area already. He said that he was shocked when he found out that the property was earmarked for a high volume

discount store. He thought this was incredulous, inappropriate and a mistake to put this kind of a store in this part of the city. He was even more shocked to find out that they want to increase the amount of zoning, double it from 6 acres to 12 acres. He said that he is against the zoning decision in the first place, and he certainly is against the additional request.

DAVID SUMNER, 9305 Bent Tree, stated that the most surprising part about this whole thing that he has seen on the news is that when he first heard that Wal-Mart was going to move into the area, it really did not strike him as something bad happening to their neighborhood; just an addition like Dillons was an addition, or like Skaggs Alpha Beta was an addition. SUMNER said that as one person in the neighborhood, they have gone out of their way, it appears, to do a very good job.

YVETTE McFAY, 8931 Windwood Court, asked if this area, at one time, was zoned agricultural rather than light commercial.

KROUT responded that when County zoning was established for this area, almost all of the major intersections were zoned with 6 acres at each corner, and as long as it has been zoned, it has been zoned light commercial.

McFAY asked if that was not a big jump from agricultural to light commercial.

KROUT again responded that the jump was from Rural Residential to single family; it was always zoned light commercial on the 6 acres.

McFAY said that she wanted to express that they do have traffic problems, and they will have traffic problems. She said that she has nothing against Wal-Mart, but felt that it would bring in this area a lot of people who have no desire to live in the area, just shop in the area.

GOEBEL asked staff to explain the traffic study which is a major concern of his and especially about the proposed stop lights.

KROUT explained that the Traffic Engineer felt that if the development was limited to 101,000 square feet, then he felt assured that the intersection of 21st and Rock Road would function adequately. There were still questions about the alignment to major openings and left turn storage that needed to be dealt with and that that required a traffic study in any event. KROUT said that they felt that the traffic study could be deferred until after the CUP, but prior to a plat. However, if the applicant is asking for more than 101,000 square feet, then staff suggests that the Commission's action require a traffic study over the next 60 days that would look at the adequacy of the intersection at 21st and Rock Road to handle the traffic, and at the same time look at the issues of the major openings and their alignment and left turn storage requirements, and the signalization required, if any, and how that would work and if it is feasible.

PARSONS felt that one of the things that has the Commission in a bit of a quandary is that they do have the new plan which none of them have seen

until today. He said that a number of the Commissioners made an effort to attend the CPO meeting Monday night, and did some other things to get prepared, but all of a sudden to see a new plan that is considerably different than what they saw earlier in the week has really given them some concern.

MIKE LINDEBAK, City Engineer, stated that the question that had been raised before was about special assessments that this particular property was paying, and whether it had been deferred from assessments. He said that when Rock Road south of 21st Street was improved a few years ago, a portion of this property was included in the improvement district for that, and has been paying assessments for Rock Road. Also, when 21st Street and the intersection of 21st and Rock Road were paved about 3 years ago, again this property was in the improvement district, not only for the section of the project that was related to Rock Road, but also to 21st Street. This particularly tract and site is paying assessments for 21st and Rock Road. LINDEBAK said that it has previously been thought that this property had been deferred from 21st Street assessments. This site has not. When they initiated 21st Street from Tara to Greenleaf earlier this year, the City Council was able to grant a deferralment for agricultural property in that section of the project area, and that property was assessed \$180,000. However, that assessment was being deferred until such time as the property was either zoned, platted or developed for something other than agricultural use. The site that they are looking at today was not in that particular project or improvement district area.

LINDEBAK said that the first project mentioned earlier was the sanitary sewer main. The sanitary sewer main that permitted all of Comotara, Tallgrass to develop, was also designed to serve this area. The Kansas statutes do permit that agricultural property within the city that does not use that particular sewer can be deferred from special assessments. A good portion of this farm area was designed to be served by that sewer, and the owners did request and did receive a deferralment of that assessment. He said that with the platting and the development, this property will begin paying its share of that sanitary sewer main. It will have assessments for other improvements in the future, especially the traffic related ones, in that any modifications would be paid for by this property. In the past, special assessments have been the vehicle used for that.

BRINEGAR said that if this is deferred, he would asked that Wal-Mart and the neighborhood consider the restaurant on Parcel 2.

PARSONS asked Fettis if he would be agreeable to a 60-day deferral.

FETTIS stated that they do not object to a deferral because of the change in the plan, and the required traffic study, which they did agree with.

PARSONS, on behalf of the Planning Commission, thanked everyone who came and expressed their concerns and showed their support one way or the other. He said that it was very difficult for them, as Planning Commissioners, to know exactly how the neighborhood feels, but felt that they got the mes-

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sage loud and clear today. He said that it was very much appreciated. He added that the phone calls and letters were appreciated also.

**MOTION:** That the Planning Commission defer action on Z-2886 and DP-180 for 60 days (February 18, 1988) until the traffic study can be completed, and new meetings with the affected CPOs can be conducted. Crockett moved, Miles seconded and it carried unanimously. Gardner and Moore were absent.

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Planning Agenda Item # \_\_\_\_\_

City of Wichita  
City Council Meeting  
March 8, 1988

Agenda Report # \_\_\_\_\_

TO: Mayor and City Council Members

SUBJECT: DP-180 - ROCK ROAD WAL-MART COMMERCIAL COMMUNITY  
UNIT PLAN; AND

Z-2886 - ZONE CHANGE FROM "AA" ONE-FAMILY DWELLING  
DISTRICT TO "LC" LIGHT COMMERCIAL DISTRICT .  
(District #2)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

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MAPC Recommendation: Approve (6-2).

Staff Recommendation: Approve.

CPO Recommendation: Council 2A recommended denial (6-3).

Background: On February 18, 1988, the MAPC held a public hearing to consider a commercial community unit plan and an associated zone change request for a 12-acre unplatted and undeveloped tract of land on the southeast corner of 21st Street North and Rock Road. This property is a portion of the Wilson Estates used as a horse farm. The "LC" rezoning request is for a 5.4-acre portion of the property that is presently zoned the "AA" One-Family Dwelling District. The C.U.P. proposal is divided into three (3) parcels proposing a total of 145,000 square feet of maximum gross floor area for commercial and office uses. Some of the proposed uses are: financial institutions, service stations with associated car wash, retail shops, restaurants, medical or dental offices or clinics, and tire/battery/accessory stores. A department store is the proposed use on the large parcel (No. 3), and Walmart is interested in purchasing and developing the site. A typical Walmart store contains a pharmacy, garden center, concessions area and tire/battery/auto accessories sales and service as part of its operation. The C.U.P. and associated zone case requests were heard by the MAPC on December 10, 1987 and were deferred two months in order for a traffic study to be done by the applicant. The traffic study was completed and the case was rescheduled for consideration by the Metropolitan Area Planning Commission on February 18, 1988. The study identified various improvements needed to accommodate the intended development. The improvements include an additional right turn lane on Rock Road, an additional right turn lane on 21st Street, modification of the final site plan to include one major entrance on both Rock Road and 21st Street, signalization of the major

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entrance on Rock Road and the addition of a left turn lane on both 21st Street and Rock Road to accommodate the major entrances into Parcel No. 3. Street and signal improvements associated with the C.U.P. are to be guaranteed at the time of platting.

The Traffic Engineer concurs with the conclusion of the traffic study that, with these additional improvements, and accounting for the additional future traffic generated by development from the proposed C.U.P. and growth of the surrounding area, the 21st/Rock Road area should operate at an acceptable level of traffic service.

The Traffic Commission reviewed the findings of the traffic study prior to the public hearing before the MAPC. The Traffic Commission voted unanimously to accept the findings and recommendations of the study, adding a condition that the applicant should guarantee signalization of the major opening on 21st Street if warranted, as well as the major opening on Rock.

During the initial stages of review of this case, concerns were voiced about the overall development of the general area and the pattern future development may take. To address this concern, the Planning Department prepared a fairly extensive and detailed suggested zoning policy covering the balance of the Wilson Estates property east of Rock Road and south of 21st Street. (See Figure 2 and staff report attached)

The CPO Rockwell/Northeast Neighborhood Council 2A considered the C.U.P. and associated zone change request on February 15, 1988. At the conclusion of this meeting, Council 2A took action to recommend denial of the proposal with a 6-3 vote. Although members of the Planning staff were available for comment, the CPO Council chose not to consider the suggested zoning policy for the general area.

The zoning policy and C.U.P./zone change proposals were fully presented and discussed during the MAPC public hearing. The suggested zoning policy was not fully concurred with by the Planning Commission. At the conclusion of the public hearing, the MAPC took action to recommend approval of the CUP proposal and associated zone change request. Furthermore, the Planning Commission recommended the establishment of a zoning policy which would not favor additional "LC", "C", "E" or "F" zoning south of the application area on Rock Road or east of the application area along 21st Street to Webb Road.

Several adjacent property owners spoke in opposition to the application during the public hearing.

- Recommendations/Actions:
1. Concur with the findings of the MAPC and approve the zone change and C.U.P. subject to the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; and, adopt the zoning policy for 21st Street and Rock Road as recommended by the Planning Commission; or
  2. Return the applications to the MAPC for re-consideration stating reasons.

PL/8240/5

LEGAL:

- 7a. Case No. Z-2886 - Wilson Estates requests zone change from "AA" to "LC" for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.
- 7b. Case No. DP-180 - Wilson Estates requests approval of Rock Road Wal-Mart Commercial Community Unit Plan for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road.

PARSONS reread the MAPC Policy Statement for those persons that were not present at the beginning of the meeting. He stated that he knew that the item that will be considered is an emotional issue, and it certainly has technical substance as well. He asked that they all act as ladies and gentlemen; disturbances only cause delays in the hearing process and add nothing of value. Secondly, the MAPC is hearing this case to consider the appropriateness of "LC" zoning on the application area. They are not present to determine the uses except by determining the appropriateness of the uses stated on the community unit plan. The MAPC desires to hear all persons and all positions. This public hearing is going to give them that opportunity. The chair asks that repetition be eliminated if possible.

KROUT explained that one of the requests is to expand light commercial at the southeast corner of Rock and 21st Street from 6 $\frac{1}{2}$  acres to 12 acres. The second portion of the request is to approve a Commercial Community Unit Plan on the total 12-acre site. The community unit plan would provide for three parcels, one large one to accommodate up to 138,000 square feet of space for a proposed Wal-Mart department store; two small sites on 21st Street that would each accommodate up to 3500 square feet for retail, restaurant, or bank or office use.

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KROUT stated that on December 7, before the first Planning Commission hearing, CPO Council "2A" recommended denial of the applications by a 5-3 vote. Later that week, on December 10, the Planning Commission heard this case and deferred it for 60 days. There were two basic reasons for the deferral. One, the Planning Commission wanted the neighborhoods and the CPO to review the extensive number of changes and the conditions that were added after the initial CPO meeting, and before and during the Planning Commission meeting of December 10. Secondly, the Planning Commission was following the staff recommendation to defer the case to have the applicant undertake a traffic analysis. Staff indicated to the neighborhood that they could support up to 101,000 square feet, which is the maximum square footage possible on the existing 6½ acres. For anything more than that, staff felt that a traffic study was warranted to determine the adequacy of the 21st and Rock Road intersection to handle the traffic. The traffic study was to address the location of major entrances, the need for signalization at those major entrances, the length of storage lanes, and any modification to street medians for left turns at the intersection and into the retail site. The CPO met again this Monday evening to consider the changes that had been recommended, and voted 6-3 to again recommend denial of the proposed expansion of zoning and the C.U.P.

KROUT stated that the traffic study was undertaken and reviewed by the City Engineer. It was reviewed Monday night by the CPO, and it was reviewed last night by the City's Traffic Commission. The study showed that if you take the existing traffic, the traffic that would be generated from 12 acres of commercial, and the estimated future increase due to development in the area to the Year 2000 the intersection would still operate at an acceptable level of service. The study recommends aligning both of the major entrances with the major entrances of the retail uses across Rock Road and across 21st Street. It concludes that signalization of the Rock Road major entrance is warranted and should be done at the expense of the applicant. KROUT said that there was a lot of discussion Wednesday night about the assumption of projected traffic. The assumption in the study was that background traffic from area development would grow two percent per year, compounded, to the Year 2000. That number is consistent with a number of other studies that have been undertaken in the past. The East Kellogg Design Concept Study assumed a similar rate of increase in traffic. The other assumption in that projection of increased traffic was that K-96 would be built. It is anticipated that the K-96 bypass will be built by the Year 2000, and that would relieve this intersection of some of the flow through traffic. The Traffic Engineer indicated that if K-96 was not built, a higher annual increase might be more realistic, and there would be, by the year 2000, additional turning lanes or through lanes needed at the intersection. KROUT said however, they expect K-96 bypass construction will begin in the next two years and be completed before the Year 2000. One key issue is that, whether the Wal-Mart is built or some other retail store is built at 90,000 or 100,000 square feet on the existing 6 acres, or whether or not the application, as proposed, is approved on the 12 acres, the conclusion of the traffic study is that the intersection would operate adequately with 6 to 12 acres if K-96 is built, but would create problems that would need additional improvements if K-96 is not built. The Traffic Commission reviewed the consultant's report and the Traffic Engineer's comments, and they voted unanimously to approve the report, subject to an additional condition that the applicants pay for the cost of signalization at

the major opening on 21st Street if it meets the warrants of the Traffic Engineer.

KROUT stated that there were two key concerns of the neighborhood. One, is that there is already too much commercial zoning in this area. He said that there is a considerable acreage of light commercial zoning in this general area, including a number of vacant sites that could accommodate the proposed Wal-Mart today. The acreage, though, that is light commercial, subtracting out the area that is zoned office and industrial, is not terribly out of balance for the ultimate demand for retail space in this area if and when this part of the city is fully developed for residential use, based on typical planning standards that staff normally use. The second issue is should this corner be restricted to neighborhood oriented retail uses. KROUT said that it is true that the light commercial district does not discriminate between neighborhood serving retail and community or regional serving retail. Because of that, department stores are permitted on any tract that is sufficiently large and zoned light commercial. All of the approved C.U.P.s that are large enough also permit this use, including C.U.P.s that are fairly close to this site at 21st and Rock. It is true that a number of department stores are concentrated on Kellogg, but they are also located at a great number of other arterial intersections in the city. In contrast with the Cherry Orchard case heard earlier, which is a retail use that one might consider as not being neighborhood serving, there are no residences immediately abutting this tract and there are no residential streets that provide commercial access for truck loading or traffic. KROUT said that there may be a need in the future for looking at perhaps opening up the Office Commercial district so that it is used more for neighborhood retail uses in some instances, or maybe for a new district entirely that would be strictly neighborhood oriented retail. KROUT said that staff's opinion would be that the intersection at 21st to Rock is not the appropriate location to impose those kinds of restrictions. 21st and Rock are not typical arterials; they are roads that contain major employment and shopping concentrations along their length. They are improved to full standards at all of the intersections. The intersection at 21st and Rock is built to an exceptionally high standard, and if the street system can accommodate this development, and the C.U.P. has restrictions, which this one is proposed to have on signs, screening, landscaping and architectural materials so that it can be a good neighbor to the other commercial corners, and to this area in general, then the staff feels that this quarter section is a reasonable location for a department store.

KROUT felt that a legitimate concern of the neighborhood residents that he heard beginning with the early meeting on this case with one of the local neighborhood associations, and then at the last Planning Commission hearing, is where do they stop with all of this expansion of commercial development? Are they going to strip out Rock Road? Are they going to strip out 21st Street? Where is the end of it? KROUT said that in response to that, staff has prepared a suggested zoning policy for the Rock Road and 21st Street frontage, basically for the remainder of the Wilson Estates property. This zoning policy was not well received, at least the timing of it, and was not considered by the CPO at their meeting Monday night. KROUT said that it was an attempt to respond to the concerns that the staff did hear, that the Wal-Mart site or any expansion of commercial zoning would necessarily lead to further stripping of commercial along Rock Road and 21st Street, and they did not have a plan for the rest of the

estate area. It is also an attempt to respond to recent criticism of the Planning Commission as not being as planning oriented as maybe they ought to be, and tries to speak to the need to be more pro-active. KROUT said that he understands that the tradition here is when a controversial zoning case has been raised, and there are questions about a larger area in terms of its future use, the Planning Commission or the City Council have directed that a zoning policy be developed for that larger area, and those policies are considered at the same time that the zoning case which touched off the controversy is considered. The zoning policies are used as a supplement to the Comprehensive Plan which is a very generalized plan or map. The zoning policies have been used in the past as a guide to decisions when future rezoning cases come in. Sometimes existing policies are in great need of updating. Some of them no longer reflect the facts that are on the ground today. For instance, the old policy for Rock Road developed in the 1970s is based on Rock Road being a two-lane road, and certainly there has been a lot of zoning but also improvements to accommodate some of that traffic since that time, and maybe that policy should have been updated. KROUT said that at the last hearing, he did say that the staff would be opposed to the additional extension of light commercial zoning along Rock Road or along 21st Street. Basically this is an extension of that position, and staff is suggesting the Planning Commission may want to consider formalizing the recommendation of a zoning policy to the City Council. The formation of a suggested zoning policy for this particular area was not all that difficult. There are certain basic planning principals that they would use in looking at the Wilson farm. KROUT felt that markets do change and circumstances change and there needs to be a certain amount of flexibility. But if they look at certain things and certain principals, higher intensities ought to be at intersections of arterials where accessibility is higher, and there ought to be some sort of buffering or gradual transition of uses from higher to lower densities. There should be some respect for the natural features of the land, if there are any, and the pattern of uses ought to be harmonious with the surrounding established pattern of land uses and zoning in the area.

KROUT suggested that based on that pattern and other considerations, the zoning policy on the docket today be considered. The first recommendation is to favor the expansion of light commercial zoning to 12 acres at the southeast corner of Rock and 21st with a maximum gross floor area of 145,000 square feet of commercial. Secondly, south of the light commercial zoning along Rock Road, the density should be limited to townhouse or multi-family at 18 to 20 units an acre similar to the development and density of the tracts on the west side of Rock Road. An alternative use that would seem to be reasonable along Rock Road would be a low density office use similar to the Tallgrass executive park. Thirdly, east of the commercial along 21st Street, staff felt that 21st has and should continue to have a residential flavor and they suggest that the uses ought to remain residential but that medium density residential at about 18 units per acre on 8 to 10 acres similar to the vacant tract that is immediately across the street to the north, would be appropriate. Fourth, that the existing six acres of light commercial at the intersection of Webb and 21st Street is appropriate and should remain. This should be buffered by 5 to 6 acres of duplex or patio homes similar to the development that wraps around the city's water pumping station on the opposite corner of 21st Street in the Bent Tree Addition. The remainder of the site should be reserved for low density single family residential uses, and development and platting should occur with regard for

maintaining the existing natural drainageway through the site. Some sort of pattern of reserve or buffer should be maintained along 21st Street where there is a partial shelter belt similar to the pattern of platting and reserves that is on the north side of 21st.

BILL YUNG, architect representing the applicants, stated that he subscribes to the philosophy that planning is an ongoing process in that throughout the life of the project, they would be seeing changes. But more importantly throughout the application period since the first hearing, a number of changes have been made. He said that he generally refers to those changes as compromise solutions that are made after negotiations between the neighborhoods and the applicants. They have undertaken that process on this project and probably more so than any project that he has had the opportunity to work on in the past. YUNG said that his initial understanding was that the opposition was primarily opposed to the use, that being the store use, Wal-Mart. He later learned that that was not necessarily correct, that they did have a number of technical problems with the plan that they felt needed to be addressed. YUNG said that they took those on one by one and there has been a substantial change to that plan and to the technical portions of that plan. As they were solved, the emphasis somewhat shifted to traffic as being a major component. He said that they have conducted a traffic study as directed by staff, and have set to rest some of those concerns. Finally, the last comments that he began to hear were more related to the domino theory; how do you stop zoning once you are allowed to begin on a project? YUNG said that they have taken a look at that and were interested in the policy statement coming out of the Planning Department. YUNG said that during the last meeting, he began to feel that some of the emphasis is back again to the problem of the neighborhood being concerned more about it being Wal-Mart than they are about the technical problems. YUNG said that he could share some of those concerns, but those are emotional problems that do not relate to zoning issues. He said that they are dealing with the understanding whether this is an appropriate use for the corner based on the existing conditions and the concessions that the applicants are willing to undertake to make it blend into the neighborhood. He felt that the policy works, and had hoped that they could keep this issue related to the technical factors and not emotional factors.

YUNG related that from his experiences, he believed that the project is quite justified. It is located on major arterials. It has been a policy of this city for a number of years that these kind of developments logically occur at intersections, and in recent years, by so controlling zoning, they have somewhat eliminated the strip zoning problems that they have seen in years gone by. He felt that this project has good access control. They have agreed to a number of good restrictions to make the project much more acceptable. He did not believe that it was excessive in terms of the acreage that they are requesting compared to some others. There is less square footage being asked for on this particular parcel than they would normally find on just an "LC" C.U.P. or just an "LC" zoning case. He believed that it meets and exceeds all city ordinances and regulations, and feels very comfortable that he has brought before the Commission a very sound application. YUNG handed out a document of the changes that they have agreed to, and related the changes made.

MOTION: That Mr. Yung be granted an additional two minutes to finish his presentation. Crockett moved, Brinegar seconded and it carried unanimously. Goebel and Miles were absent.

YUNG said that the changes included the types of uses restricted on various parcels; sign height reduction from 35 feet to 20 feet, and restricted the sign size to 150 square feet on major parcels. These conditions are in addition to those that are normally on a C.U.P. In provision #14, they have agreed to right turns only on Parcels 1 and 2, and also on the access point on the south end, and the one just south of Parcel 1. He said that they really have only two controlled access points where left turns are permitted, which is very unusual for a project of this size. YUNG said that under item "E" there has been some concern about metal on the building. They have stated before, and it is in the C.U.P., that the building facade is predominately masonry; it is a broken face concrete painted dove grey. There are no predominate surfaces on this building that are metal. Under item "F" they agreed to cover the cost of the signalization if it is required. Under item "G", the setbacks have been increased from 50 feet to 200 feet on Rock Road, and 250 feet on 21st Street North. There is a 5-foot masonry wall that goes to 8 foot behind the building, and then back to 5 foot as it comes out on the west edge of the south property line. The access to Rock Road will consist of one major entrance directly in line with the major entrance to Skaggs Alpha Beta, and on the north it ties in directly with 21st Street Court which is the main entrance into the Dillori's area. They are providing a 15-foot landscape buffer. There will be one tree for every 50 lineal feet of 2½ to 3-inch caliper trunk size. They have also agreed to 50 additional trees of the same size within the parking lot. In lieu of chainlink fencing, they have agreed to a wrought iron enclosure at the garden center, and they are adding a 2-foot masonry wall at the bottom to help screen out some of the lower level views. Under item "6", the maximum building coverage is still 138,000 square feet, but they are willing to state that it will never exceed 85% of that area being devoted to sales. The 8-foot wall that was requested at the last meeting to protect the views into the truck loading dock has been added.

BARB NUCKLES, DeShazo, Starek & Tang, Inc., stated that they were retained by Wal-Mart to do a traffic impact study for the southeast corner of Rock Road and 21st Street. He mentioned that DeShazo, Starek & Tang is the largest transportation engineering firm in the Midwest and Southwest. They have worked with Wal-Mart on other cases, and have assisted municipalities on other cases in reviewing the impacts of a Wal-Mart development. They started the study off by meeting with the city staff and looking at parameters by which they would do a traffic impact study. Some of the parameters were set by the Planning Commission, others were the standard city parameters for a traffic impact study. NUCKLES said that the site is located on the southeast corner of 21st Street and Rock Road. There would be a 138,000 square foot Wal-Mart store with two pad sites for potential restaurants. He said that one of the staff's concerns was -- what was the traffic generation rate for a Wal-Mart store. He said that they looked at previous data of a Wal-Mart store similar to the size that they are looking at here in Wichita at Olathe, Kansas. They also looked at the trip generation rates at the Wal-Mart store at Pawnee Village in Wichita. They looked at some Wal-Mart developments in Tulsa, Oklahoma, and

they looked at the Institute of Transportation Engineers Trip Generation manual which investigates development on a nationwide basis. NUCKLES said that the city staff had asked them to take a very conservative approach in analyzing this particular case. He said that they chose the trip generation rate for the store located in Tulsa, Oklahoma, which is the highest rate of any of the sites investigated. They applied those factors to the Wal-Mart, and also used restaurant factors of the Institute of Transportation Engineers Trip Generation manual. It is their understanding that any use allowed in "LC" could go on those pad sites. They were asked to look at the most restrictive use from a trip generation standpoint, i.e., what would generate the most traffic, which would be a fast food type restaurant. The development would generate 469 trips in, in the p.m. peak hour, and 515 trips out. He said that those were not entirely separate vehicle trips (some in and out trips were made by the same vehicle). They looked at trip orientation on the site, and based on the trip orientation, existing volumes there and also on Wal-Mart's market study, they assigned the trips to the driveway. NUCKLES said that they looked at the existing traffic volumes. They looked at traffic volumes in 1987 and 1988 at this location.

MOTION: That Mr. Nuckles be granted an additional 5 minutes to complete his presentation. Crockett moved, Brinegar seconded and it carried unanimously. Goebel and Miles were absent.

NUCKLES continued that the City of Wichita counted the intersection in April 1987, and also counted the intersection this past January. Both of those days were clear days. NUCKLES said that they also counted the turning movements in the ice and snow days; the city also counted the turning movements in a clear day. They took the highest of those counts for their analysis, which is the latest count that the City of Wichita did. NUCKLES said that they were asked not only to evaluate 1988 impacts, but they were also asked to look at year 2000 impacts. To arrive at the year 2000, the methodology they were told to follow was to assume a 2% compounded annually growth rate to the year 2000, which is a 26% increase in traffic. They looked at that themselves, and felt that was a proper growth rate and a proper year 2000 figure based on the assumptions that the outer circumferential route would be in place by the year 2000, and that other arterial streets paralleling 21st Street and Rock Road would be improved by that time. Currently Rock Road is the only improved north-south arterial in east Wichita. In addition, it has been improved to the highest standard of any arterial intersection in the past year and one-half. Likewise, traffic has been drawn to that, and it has experienced growth. They did a capacity analysis using the highway capacity manual computerized program method. They analyzed existing base traffic and found that the intersection is operating at Level Service "C" today. They did a very conservative method of analysis. NUCKLES said that it was his understanding that the City of Wichita, in all instances, by manipulating the signal timing has been able to obtain an even better level of service than in their analysis. He said that when they added development traffic onto existing base traffic, the level service goes to Level Service "D". Level Service "D" is the design standard by the Engineering Department for the City of Wichita, and that was the maximum that they could go to. They were also asked to look at the major entrances on both Rock Road and 21st Street. Intersection #1, the west major entrance, is on Rock Road. They looked at existing base traffic development and that particular intersection

failed. It failed due to the fact that there was insufficient gaps for people to turn left out of the development and head south on Rock Road. They looked at that same major entrance assuming the traffic signal interconnected into 21st and Rock, and that particular intersection operates at Level Service "B". They looked at the north intersection major entrance on 21st Street, and that operates at a Level Service "D" without signalization. Both of the two major entrances line up with the major entrances to shopping centers across the street on 21st and Rock Road. They looked at the year 2000 and the 21st and Rock and the median openings. He said that at 21st and Rock in the year 2000, the base traffic is now at Level Service "D", base traffic and development is also at Level Service "D". NUCKLES said that there would be a 45% increase in traffic at 21st and Rock Road. The level of service would not be greatly changed. The year 2000 traffic would be at an adequate level of service. They assumed that there would be left turn lanes added on Rock and 21st, and a median barrier. A signal would be needed on Rock Road. They would be adding extra lanes on both Rock and 21st Street, and would be extending the left turn lanes. He said that in constructing the median, the city had asked them would they also extend the left turn storage for Rock Road, northbound Rock to westbound 21st Street; the applicant agreed to it.

SHERMAN asked if this site was developed with a neighborhood shopping center of small retail stores with a reasonable size anchor instead of a discount type store, how would the two operations compare traffic-wise? Does the Wal-Mart or the discount type store generate a lot more or less traffic?

NUCKLES said that Wal-Mart would generate about 40% less than a neighborhood shopping store. The trip generation factors for a Wal-Mart are somewhere in the order of magnitude in and out of 3 to 4 trips per thousand square feet. A grocery store or a smaller neighborhood service type of activity can be upwards in a magnitude of 6 to 7 trips per thousand square feet. A restaurant is 9 to 4 trips per thousand square feet.

MAX EBERHART, attorney representing the Wilson Estates, stated that this piece of property has been operating as a farm for nearly 50 years, but the economic realities are such that it cannot continue to serve as a farm. First of all, the property is smack in an east side development in Wichita, Kansas. It stands the danger of being passed over perhaps similar to what might appear at 13th and Oliver, and it is time to commence considering development on this site. Secondly, this piece of property has been subjected to substantial special assessments as a result of improvements, on 21st Street, Rock and Webb Roads. They have been included in every single improvement district. He said that it was his understanding that very few of the residences to the north have been included in those improvement districts. He said that right now their special assessments are about \$655,000. They have been told through all the hearings that at some point in time all of their property would be developed and they could recover those costs. A portion of the specials have been deferred under a special statutory procedure, and that deferrment is coming to an end in four or five years on the major part of this property, which is the sewer system that runs through their property that serves most of the property to the north. Under their arrangement, when some of this property becomes developed, those sewer specials start paying and the city starts getting paid back on this amount. Many of the other assessments are already spread on an annual basis. He said

that from an economic standpoint, they must consider development as well. So when Wal-Mart came to them last fall with the proposal, it seemed that they could not ignore considering development of this property any longer. EBERHART said that they really did not have any current development plans for the balance of the site at this time except for the Wal-Mart corner. They have been forced to start looking at that over the past couple of weeks in view of comments made by staff. EBERHART said that they were not prepared today to talk about a particular policy for the balance of the site, but they have had their professional advisors look at this independently. Based on their preliminary indications, while there are some things that are somewhat different, their initial indications are not dramatically different from what Mr. Krout presented earlier. As that policy may become developed, their expectations are not dramatically different from what they think would happen out there than what was presented earlier although there were some differences on a very preliminary basis and consideration.

EVERHART continued that obviously there has been a great hue and cry from the so-called neighborhoods to this project, and rightly so, but he felt that there is a neighborhood also that is not here and not speaking, and that is the neighborhood that is going to be developed surrounding this project. The bulk of that property is going to be single family owned by Wilson Estates at the present time. They have had several professional advisors tell them that with the kind of project and the kind of controls that are there, it will not harm the balance of their development, and it will not act as a detriment to the very valuable location that they have. They feel that they are entitled to share with the Commission, from their perspective because they are going to be the neighbors after this is built, and they do not feel that there is going to be any deterioration in what they hope to be a very nice valuable neighborhood in the future. EVERHART requested that this proposal be passed as recommended by staff. They felt that the light commercial on their particular corner is very comparable.

PARSONS asked if there was an overriding reason why there has not been a development plan presented, or a development plan proposed for the balance of the acreage at this point.

EBERHART stated that they are not professional developers and they have not been required to focus on this. It is their understanding that the burden of the specials will be coming onto them pretty quick and they have to start doing something about it.

EVERETT FETTIS, attorney representing Wal-Mart, stated that it has been pointed out by Mr. Krout and Mr. Yung that the Commission is charged with making decisions that affect zoning, C.U.P.s, and planning in general. There has been some publicity lately that perhaps the Commission is not doing that. He said that the Commission faces this all the time; they face certain criteria, and he has noticed in their previous observations in this field that they do examine their policy statements, examine the neighborhood reactions, observe the normal extensions of zoning development, and do listen to the staff's recommendations. In this case, the Planning staff has made a recommendation similar to that being requested. The Traffic staff has likewise recommended to the Commission that the proposal, as made, fits into the traffic requirements of the

area. FETTIS said that he went, last night, before the independent Traffic Commission and they unanimously accepted the recommendations made. The policy statement that was made by Mr. Krout indicates several things. Number one, this is not a strip zoning request; this is not a spot zoning request; this is a normal extension of zoning in this particular intersection. This is a first class intersection that was built, and it was not built by the neighbors present who are objecting, it was built primarily by the commercial development on this corner. There are some 12½ acres of commercial across the street to the north, and some 17 acres of commercial to the west. The neighborhood has been described in various manners. There are two supermarkets, one to the north and one to the west, which are 50,000 square foot supermarkets, and they are certainly not neighborhood stores, and they are 24-hour operations. He felt that somewhat sets the tenor for the operation which exists here.

FETTIS said that they are not coming in asking to open a new territory, nor are they extending anything which would lead strip zoning down Rock Road or 21st Street. It is a development of a corner and it is quite consistent with the development which has already been allowed in this area. He said that the Commission has heard the landowner's attorney remark as to the expenditures that they have already made, and he was sure that is quite consistent with what the others at this intersection have made. This intersection was built at the cost of the commercial developers, not at landowners who are occupying residential areas. FETTIS said that if they forget the extension of the additional 5 acres to make this a 12-acre tract, he would point out that the 6 acres could be developed for a retail use such as or similar to that being proposed by Wal-Mart at this time. If this was done, and he felt the neighbors should be aware of this, there would be no expenditures required for traffic improvement, and expenditures for traffic improvement are substantially imposed on Wal-Mart in this case by agreement. There would be no setbacks as they are proposed to be required, again by voluntary action of Wal-Mart in this case. There would be no type of restrictions on building materials to blend into the area as being proposed by Wal-Mart voluntarily in this case. There would be no landscaping required as a part of this development which is being again proposed and agreed to by Wal-Mart in this case. FETTIS pointed out that if this was to be developed on six acres, or whatever type commercial development it was, whether it is a strip center, a shopping center, or major store, if the experience should prove in the future that additional parking was needed, that they could go in and seek through the Board of Zoning Appeals approval to extend parking in the surrounding area regardless of what the zoning is. These are facts which exist. FETTIS felt that it was important to note in this case that the Planning Commission is not a counting agency, and although they do listen to the interest of the neighbors, they also must listen to the advice given by the professional staff, and also they should pay attention to the normal expansion of commercial development. FETTIS said that much has been made by the united front represented by the landowners in this area. He presented signed petitions in favor of the Wal-Mart store by 1,000 residents in the area. He said that his clients circulated the petition and did not go outside this residential area to seek approval of people as to whether the Wal-Mart should go in there, or whether this should be expanded. They went to people that live within this trade area, an area of no more than a mile distance. They did not go across town to the southeast, west or Midtown area; they went to the local area that is being served in this community and in this area. FETTIS said that he would hope that some of the rumors

that he has heard are not true, and he would hope that they are not fearful of crime rising if this use is developed, that that is not the reason they are adopting this attitude. He hopes that it is not some prejudice against Wal-Mart as to the type of people that will trade with them. He hopes that they are looking at this truly in the respect of the elements which he has mentioned.

F. WESLEY PARK, 8517 Boxhorn, speaking in opposition, stated that a few days ago, city planner, Marvin Krout, invited representatives from various the homeowner's associations to City Hall to talk about the Wilson Farm. On arrival, they were shown platting of how the entire 320 acres of the Wilson Farm were to be zoned for the future, including the not yet regional southeast corner of Rock Road and 21st. There was only one reason for him, at this time, to prepare this sketch, which he called the suggested zoning policies for the Wilson Farm. That sketch was the subject of an attempted soft soap job to tranquilize the citizens before the MAPC. PARK said that his guess for Mr. Krout's motive is that he hopefully thought that this would appease the homeowners of the different areas and make the Wal-Mart feel more palatable. There is no credibility to this sketch whatsoever. It has no validity, and as Mr. Krout admitted, the plan was not set in concrete. He agreed that the owner reserved the right to reject any part of this zoning policy. PARK said that they are right back to square one. He said that the Homeowners Association object to the plov or diversion becoming any part of this rezoning hearing. They are present today solely to consider the rezoning as it pertains to the southeast corner of Rock Road and 21st Street. The city zoning policies, over the years are, as admitted by some of the planners, out of date and out of hand, and certainly need a long overdue overhauling. Haphazard strip zoning has produced ugly sprawl evident all over Wichita. It is a shame that homeowners in adjacent neighborhoods who have invested in their homes and made the area desirable have to be subjected to the danger of thoughtless rezoning changes to accommodate developers who have solely a monetary viewpoint. It is a shame that citizens have to fight city hall and beg for reliable regulations; regulations with purpose and stability that in fact are in the city's own best interest. It is a shame that we must plead to City Hall for protection against rezoning that will allow a huge regional discount store to locate on the southeast corner of Rock Road and 21st. Rezoning is like a spoiled child, who for the want of discipline causes a lot of disruption in a family. The only way to deal with this is to say "no" to its excesses. Like a spoiled child, undisciplined zoning stems from lack of foresight, not enough restrictions, and a lot of disruptive land use. The cure for that is to say "no"; "no" to the rezoning of the southeast corner of Rock Road and 21st Street.

HELEN COCHRAN, 9441 Bent Tree Circle, President of the Bent Tree Homeowners Association, stated that the issue they are discussing today is not Wal-Mart, it is simple the rezoning of 6 acres from residential to light commercial. She asked, "Do we rezone 6 acres because a traffic study says the intersection can handle it; because the C.U.P. conditions are unprecedented and improved; because the city planner has a wonderful proposed overall plan for Wilson Estates, which is not legally binding? Do we rezone because we are led to believe that rezoning is economically sound, or do we rezone because it has always been done this way?" COCHRAN said that she has become well-educated in the past 2½ months about bureaucracies, traffic plans, CPO, MAPC, Economic Development, etc., but what she has really learned is that no matter what is promised, yesterday, today, tomorrow, no matter how many good intentions there

are, everything can be changed under the guise of economic development. She said that she has read City Commission minutes from as far back as when Towne East was proposed. These minutes contain promises of no future commercial development on Rock Road.

COCHRAN stated that she would like to discuss economic development because this seems to be the bottom line. Certainly economic development is pro business and includes both commercial and industrial development, but most certainly it is also pro community, the production of residential value and the development of that community. Wal-Mart is going to build in Wichita whether or not they build it at 21st and Rock Road. They will not be a major employee in this city. The majority of their payroll is made up of part time employees at low wages, and their profits will not stay in Wichita. This will certainly not add much to the community spending power. The real economic impact will lie in the deterioration of a valuable residential attraction to this city. Valuable to potential businesses that need residential areas for their executives, and valuable, of course, to present homeowners. COCHRAN said that no one seems to be taking into consideration the amount of existing zoned commercial property still undeveloped south of Skaggs, on both sides of Dillon's, and the commercially three corners of 21st and Webb Road. She asked if anyone believed that while the acreage surrounding the proposed Wal-Mart is presently zoned single family dwellings, that this would ever be realized. She asked the Commission how many people did they know that would build in the back yard of 12 acres of a commercial development, would they? What residential builder did they know would risk spec-construction here. COCHRAN said that it seemed inevitable in that a developer wanting to move this property would propose rezoning to commercial, and they start all over again. The issue here is not Wal-Mart, it is the additional commercial zoning in this area. The residents do not want it. She asked if anyone was listening to them. She said that they were asking the Commission to deny this request and to be foresighted enough to see that residential property values will deteriorate if there is additional commercial development there, and this in turn will have a far greater economic impact on this city than 138,000 square feet of a regional department store.

DICK ECKRICH, 9406 Woodspring Court, speaking in opposition, stated that he was gratified by Mr. Krout's earlier comments concerning an overhaul of the existing zoning ordinances in the city because he feels that if these ordinances had been in place today they would not be confronted with this issue. ECKRICH said that a modern ordinance usually contains several subcategories within a category along with site plan reviews, architectural reviews, landscaping reviews, etc., all of which are designed to prevent noncompatible development within a neighborhood. Nevertheless, he did not feel that there is any compelling reason why the Commission should approve a project that is clearly incompatible with the neighborhood, or to approve a development that was clearly not contemplated when the current zoning was put in place. He especially did not feel that it is appropriate for the Commission to approve an expanded zoning in order to accommodate a development of this type. ECKRICH did not feel that it was any obligation of the Commission to provide the exact number of acres of "LC" on this corner because there is more on the other two corners. He said that he would hope that the Commission would stop all of the rezoning in the city of this type until such time as a good modern zoning ordinance can be implemented.

RICK BLOOMER, 8522 Greenbriar, speaking in opposition, stated that he has been involved with this rezoning issue since the beginning, and like his neighbors, he realized that the issue is not that a Wal-Mart may be built at 21st and Rock Road, but how rezoning to accommodate one potential owner and one current owner may affect the character of an entire neighborhood, and also the lack of any long range development plan in general. He said that Wal-Mart and their representatives have been very accommodating in their design of a facility and how it will fit the 12 acres if rezoning is granted. However, if rezoning is granted and the store is built, the question becomes, how will the remaining 300+ acres of the Wilson Estates be developed? He seriously doubted that it would be the kind of single family homes behind a regional department store that would really fit the character of the area. The city planners then presented an uncommissioned plan of the remainder of the Wilson land, and it looks very nice on paper, but all they have to do is refer to the 1978 city development plan and how much deviation there has been from that plan to various rezoning efforts to realize that this city plan is not worth the paper it is written on. The city is full of examples of what zoning variances do to a city's appearance, and some of those are not too far from the corner of 21st and Rock Road.

BLOOMER said that he would be remiss if he did not bring up the traffic study that was performed by a consulting traffic engineer from Tulsa. The study used traffic growth assumptions that really insulted his intelligence, 2% to be precise. Even the fact that they tried to project to the year 2000 was a little ludicrous. He said that in the last two years alone traffic at the intersection has increased by at least 50%, and that is based on information that the city has provided. Most of this is as a result of commercial development in that part of the city. Not only that, traffic will probably continue to increase at a very fast pace because within one to two miles of 21st and Rock Road, there have been 10 C.U.P.s filed with 1.5 to 2 million square feet of light commercial development already approved; 174,000 of that is right at the corner on the Dillon's and Skaggs that is currently undeveloped. BLOOMER continued that one might say that the increase in traffic caused by rezoning at 21st and Rock will add insignificantly to the traffic if all of the designated commercial areas developed. However, if they keep granting these variances to add to the light commercial zoning, where does the traffic increase stop. The current intersection will probably have to be improved dramatically over the next five years, and at whose costs, and whose inconvenience. Probably the very people who are opposing this rezoning. BLOOMER said that what he and his neighbors would really like for the Commission to do is not to grant the rezoning request, but develop a master plan for at least that part of the city if not for all of the city. BLOOMER said that Mr. Krout has been reputed as one of the best planners this city has ever had, and probably is; let him do his job, and let him bring his plans and advise to the Commission for approval. He said that the plan indicates it makes sense in the long term scheme of things to put a regional department store there, and it will not change the character of the neighborhood and the character of the future development of the Wilson Farm, so be it, but overzoning without knowing where you are going assures you that any road will get you to your final destination. He said to the Commission to start the planning process here and become a planning commission instead of a rezoning commission. He continued that the city is trying to improve its image, and asked the Commission to become a part of that process and do what is best for the

city. An elected body by the citizens voted to disapprove the rezoning. He asked that the Commission to please keep that in mind.

GARDNER commented that the Commission had requested, and felt that it was reasonable to request again, that the applause and the other participation by the audience be discontinued. It has been the Planning Commission's decorum and conduct for quite awhile; the City Council maintains it. He did not feel that it was unreasonable to request it again.

PARSONS said that it was a point well-taken.

ANNE THOM, 9008 Peppertree Circle, speaking in opposition, referred to the MAPC policy statement and the first item is the character of the neighborhood. She felt that their neighborhood has a very fine character, and the businesses that they presently have are neighborhood type businesses for the convenience of the people who live in the area. She did not feel that people who live in an area where the homes are very well maintained would want to live across from, or next to, or in back of, a Wal-Mart type store. She said that the neighbors were told previously that they would have a 48-hour limitation on all of the trailers. She said that there was nothing to prevent them from bringing in a group of trailers for 48 hours and hauling them out and bringing in other groups; so they could still have trailers all the time coming and going, and that has not been mentioned as far as the traffic survey is concerned. THOM felt that a great number of them would have their homes depreciated considerably if this kind of venture is approved. She felt that the Commission should consider the neighborhood residents' feelings about the type of neighborhood they live in when they all purchased with the idea of it being a residential, not a commercial industrial type place.

ROY GARRISON, 2258 Penstemon Court, President of the Summerfield Homeowners Association, speaking in opposition, stated that the issue, as far as the neighborhood in east Wichita, and all of the issues in November when this first came up, was simple rezoning. Since then it seems that they have gotten into how to design intersections, and the necessity of having traffic studies for 5 acres. The 6 acres were planned when the city improved the intersections and they would like to talk about what has happened in Wichita within one mile of this area. GARRISON pointed out on the map the 318 acres in the general area that are already zoned light commercial. He mentioned that much of this light commercial still is to be developed. He then referred to a larger area where there were 856 acres and the majority of those areas today are still to be developed, that could be used with no change of zoning. He said that there were 156 square miles roughly in Wichita in all various kinds of C.U.P.s, light commercial, commercial, or even industrial areas in the total area of the city still to be developed. So when they looked at the character of the neighborhood and the offers that have been made for the property, they also looked at the character of who wants to join them in their neighborhood, and this has not been lightly done, but they can go to Wellington and there is a Wal-Mart store there. He pointed out that the Wal-Mart store in Wellington is at the edge of town. At Winfield, the Wal-Mart store is located in a commercial area and it is the last property next to the airport north of Winfield. In Augusta, the Wal-Mart store is north in an industrial area that was already zoned industrial. In Salina, the

store is in an area already zoned industrial. In Hutchinson, the store is in a commercial area.

**MOTION:** That Mr. Garrison be allowed an additional four minutes to complete his presentation. Crockett moved, Brinegar seconded and it carried unanimously. Goebel and Miles were absent.

GARRISON continued that the Traffic Commission, last night, approved a traffic study and redesign for the intersection, and in doing this, they used a 2% growth factor. McKinley said that the 2% factor would be good. GARRISON said that today they say the outer bypass is going to be in the year 2000. McKinley estimated that until the outer bypass was complete, the growth rate there would probably be 4 to 5 percent per year. So if they take 4 to 5 percent per year, instead of having a 26 percent gain, if it is only 4 and not the 2, it is only 36%. If it is 5 percent, it is 46%, and that is if they figure the bypass comes on in four years, and then they go back to the 2 percent gain. If it does not come on until the year 2000, and if you have a 5 or 4 percent gain until the year 2000, they will have a 64 and 79 percent traffic increase in the same period of time. GARRISON said that he has checked with Ritchie's, Slawson, Ablah, and the Willow Bend groups. Those people have not projected the millions of dollars they are putting in to building northeast Wichita and figure they can do that on a 2 percent gain. They already have in these areas over 1,500,000 square feet under C.U.P.s today that have already been approved to be built.

GARRISON showed charts of the growth of Wichita, pointing out that it has not grown.

GARRISON said that they are concerned about what is happening to Wichita and to Kansas. He said that today too many of the shopping centers are boarded up. GARRISON said that if we want to be a discount city, let's offer Wal-Mart the west bank. The neighborhoods east of Wichita believe that the Wal-Marts will be here. GARRISON recommends that Wal-Mart be in Wichita, but in areas that are already zoned for this type of operation and not in areas requiring a change of valuable residential development into more light commercial.

BOB HUEY, 208 Burr Oak, speaking in opposition, stated that he was located almost 3 miles south of the intersection in question. He said that the reason he has taken time away from his business to be present today was because he had two concerns about the development, and both of those concerns had to do with traffic. One, he has a concern about safety because he is a cyclist. He rides a bicycle for health and for recreation purposes, and he spends a lot of time on Rock Road, not only behind the wheel of his car, but behind the handlebars of his bicycle, and he goes a little bit slower than the automobiles along that street when on his bike and he finds that the street is becoming much more crowded and more unsafe daily because of the increased traffic on that street. He rides usually in the evenings, and it is becoming very difficult now to cross Rock Road and go east to get out into the country where the traffic is less. It is equally as difficult to cross Rock Road coming back in when he is headed west to get back to his home.

HUEY said that his second concern is as a property owner along Rock Road, they are, during many hours of the day, almost captive in their residential area due to the heavy traffic along Rock Road. They can get out on Douglas if they want to go west; they can get out on Central if they want to take a chance with their life and go east, but they cannot go east out on Pagent because Rock Road is bumper to bumper. He urged the Commission to protect the integrity of the neighborhoods and deny the request.

FAIRBANKS asked Mr. Huey if he was at all surprised that Rock Road and Central were very busy streets at this time; was he unaware of that at the time he moved into his property?

HUEY said no, but he has seen it become increasingly more intense in the traffic flow.

FAIRBANKS Mr. Huey if he was surprised that as the city grows outward that there was going to be more and more traffic?

HUEY said that he would have to expect that it would become increasingly so. His concern is that he will see increasingly heavy traffic because of the traffic that will be going in and out of the store on a daily basis.

FAIRBANKS said to Huey that for his own benefit he would recommend that he not ride his bicycle on Rock Road because he really was concerned for his safety.

JILL MARHAVER, 2429 North Gouverneur, speaking in opposition, stated that she just could not believe the 2 percent number, because as she tries to get out of her development on either 22nd Street or 24th Street it is just getting impossible. She said that she was glad that Mr. Fairbanks brought up the point of who was there first, because the whole afternoon she has been wanting to say that they were there first. MARHAVER said that she has lived there for six years and the people who live in the Sycamore Village have been there 10 years. She said that this whole discussion is making her wonder, when someone buys a new house, if they have to come to the Planning Commission, the City Council and the Traffic Commission and ask them, "What is this street going to be like in 10 years, and should I buy this house?" MARHAVER said that when she comes out 22nd and 24th Street, it is hard enough even to make a right hand turn going into the same flow of traffic, and to make a left hand turn, you have to cut in front of someone and hope that they are going to slow down and let you in, or you will never get onto the street. She said that has just happened in the last year or so since Willowbend has become developed and the movie theaters and bowling alleys.

MARHAVER asked a Wal-Mart representative what other properties they have considered for their store in this area. If they considered the empty David's property, why did they decide not to build there, and if they have considered property more to the northeast where the circumferential will be built; there are no houses built there now and people can decide in the future if they do want to live next to a Wal-Mart instead of this neighborhood.

PARSONS felt that the question was a little out of line right now, and they would possibly later ask that question from the bench.

MARHAVER said that she understood the Commission's point that this meeting is supposed to be only for the zoning request, but who do they talk to about their concerns about whether Wal-Mart should be there at all. If the Planning Commission is not, who do they address that to?

PARSONS stated that Mrs. Marhaver has appropriately stated the situation. The Planning Commission is here to address the matter of zoning, whether or not it is proper to zone that property light commercial. As far as who the end user is, that is not of a concern to this Commission. While it may be a concern to any of the Commissioners personally, that is another matter, but in order to discharge their duties in accordance with the regulations, the policies and the laws that have been adopted by the City Council and the State of Kansas, they cannot consider the user; that is not within their parameter. That is contract zoning or close to contract zoning, and that is not permitted in this city or state. PARSONS suggested that Mrs. Marhaver would probably have to talk to the developer.

FAIRBANKS commented that since he had been quoted, he would like for the record to understand that he did not ask who was first, he just asked if someone was surprised that the traffic had grown, and while on the same note, he asked Mrs. Marhaver if she would be as concerned if this was any other kind of light commercial different than a Wal-Mart. He said that he has heard discount mentioned in negative terms twice, and quite frankly, he was glad to buy at discount.

MARHAVER responded that anything that is as large as 145,000 square feet, no.

FAIRBANKS asked if she would also be opposed to the development of Towne East where it now stands.

MARHAVER said no, because it has been there several years, and she knew that was there when she bought her house on that corner. MARHAVER said that she did not understand Fairbanks' point.

PARSONS commented that the point being that of proximity to existing residential development. For instance, proximity of the Target store at the Towne East complex is closer to the homes that certainly existed in Eastborough prior to the development of that store, or Towne East itself coming in after the homes that are in the Peach Tree area.

MARHAVER asked if they were commissioners when Towne East built, and did Eastborough and Peach Tree object to Target and Towne East.

FAIRBANKS was sure that they did object.

MARHAVER said that they were doing the same thing. She felt that some of them would agree to some of the concessions that Wal-Mart made if they had guarantees that those will go through, because they all know what happened to

Oxford Square when that was built and the apartments behind them fought for a year to try to get a fence to keep the trash out of the yard. So how do they know that the trees will be 2 inches in caliper, etc.

KELLY ANGLE, 2534 Greenleaf Court, speaking in opposition, stated that as an observer of these proceedings, he just wanted to provide the Commission some things to think about. He said that by and large one of the most profoundly important things that he has seen presented today is the lack of growth rate in the city. There are a number of other cities where the residential areas are very tightly controlled where they maintain a quality of living. These are areas such as Dallas or of San Francisco, where they have such planning ideas like you cannot build unless you tear down. They have a tremendous amount of industry and people that want to come to that area and live. When they talk about maintaining a residential area, he felt that they have to understand that they cannot sacrifice a standard or quality of lifestyle in an area for the sake of growth. ANGLE said that if they take the attitude that they have to have growth at any cost, it will not work. Last year they had the big panic about Pizza Hut leaving and it was a disaster for them to consider leaving. The thing about it is, who makes the decisions on whether or not Pizza Hut stays or not. The key management people that may live in an area such as 21st and Rock Road are the people that they are worrying about attracting to come to Wichita in order to manage their large corporation. Now whether or not they hire a lot of people is kind of secondary if they just leave ultimately and do not maintain their corporation headquarters here. He felt that was important. ANGLE stated that by and large he felt that government should play a very small role in the course of the capitalist. He said that he was a great believer in free enterprise and felt that the people in this country have a great opportunity in earning a living as they see fit under the rules and regulations that exists, and the government should not play a big role in telling people how to run their businesses. However, there are other aspects that government can participate in where it involves a majority of people, and that is he sees a room full of people here, most of which are opposed to this idea and he sees one row of people who want to do this. He said that he has a problem with that map, when you have a majority of people that are in this room opposed to it, and a few in favor. He asked who would benefit from this mostly; a few, for the sacrifice and the quality of lifestyle for a greater number of people.

MOORE stated that there were 150 people out there and he saw a petition with 1,009 names on it that was in favor of Wal-Mart at 21st and Rock Road.

ANGLE asked for what reason would a commission be motivated to serve the needs of only a few who have a vested interest in this project as opposed to a greater number of people.

PARSONS responded that the Planning Commission is bound by a set of rules and regulations and laws, and included within that set of rules, regulations and laws is a policy referred to as Policy 10. Policy 10 was not something that was dreamed up by this Commission, or by the City Council, or by anyone else. It was put together as a result of test cases, Supreme Court cases, etc. The consideration of the opposition or favoritism of the neighborhood is one of the items that they take into consideration. There are 16 items on the list, and the Planning Commission must consider all of those, and they certainly listen to

the people. They want the people's input. They are not present to be argumentative with them, but they are there to get their input and consider that input along with a number of other factors when they make their recommendation to the City Council.

GARDNER commented that a few years ago the local media took a real interest in the water that had collected at 13th and West Street whenever it rained, and they made great light and got a lot of air time out of the water that had collected there for a time period after the harder rains. They eventually promoted a project to cause that very shallow basin to be drained by a large storm sewer. The size of the project was very substantial and once it was proposed and promoted and made a popular concept, it was then going to be assessed against a benefit district which was the area that had the water accumulated in it. At some point, public hearings were held and a large number of people from that area said, "Look, we live there and we are going to have to pay the tab, and we don't want it." GARDNER said that there were others who said, "We have to drive through there, and we do want it." He said that you get a situation where a governing body has to make a decision sometimes, not based necessarily on the popular opinion in the immediate neighborhood, but sometimes what might be better for a broader area. He said that he could not really speak to the wisdom of that decision. Eventually the city spent a great deal more in terms of general funding to do the project than they had anticipated, so the residents did not have to pay as much. He said that if a straw poll popular vote was taken after the people had been told what it was going to cost them, the majority would have voted against it. Several years ago when a big sewer was extended up through the Wichita Country Club, at the edge of the Koch estate and on up through the Wilson-Bradley farms, there was a tremendous assessment being talked about based on the size and benefit area, and they now had that sewer to service a nice residential area that is now north of 21st Street that had been planned in the early 70s. GARDNER said that all he was really suggesting was that frequently there are numerous other things that have to be taken into consideration on a final decision beyond just the immediate popular sentiment. GARDNER said that he could not begin to tell them how important that is in making the decision, but there are a number of other factors that have been weighed as well.

ANGLE commented to Commissioner Gardner that history has shown that the input from the residents' on any particular proposal has very little weight in that final decision.

GARDNER said that he did not think so. The majority of the planning that has occurred in the Comotara area since 1974, the majority of which occurred before there were any residential developments out there, it has become an attractive neighborhood, and has become an area that people are prideful of and enjoy living in and have a deep concern about preserving. GARDNER said that the only thing he could offer in response to Mr. Angle's comment that the neighbors have not been listened to, is that he did not see Mr. Angle at very many meetings; perhaps he follows them through some other media, but the Planning Commission bends over backwards as often as they can to accommodate the input of the surrounding neighbors. The media does not present it that way, maybe that helps sell newspapers, but he felt statistically they can demonstrate otherwise. GARDNER continued that he valued Angle's opinion, and he enjoyed

Angle's combative nature, and he hoped that Angle did not feel that he had been put in an awkward position; having to speak publicly troubles some people a great deal, but his input was appreciated a great deal.

ANGLE stated that his only comment is that he felt that when it comes to a decision that it is virtually out of the hands of the people in this room who represent the neighborhood in that area, and that their only, only salvation in achieving their ends is through the Planning Commission and the City Council. Other than that, they have no other alternative; they are law abiding citizens, so the responsibility is on the shoulders of the Planning Commission and that is why he came today. He said that he was not a professional activist; he has plenty of other things to do that can help contribute to the benefit of the community, but the responsibility is on the Planning Commission's shoulders.

PARSONS commented that there is a report going to the City Council from this Commission that statistically and actually shows citizenry does have input to this body as well as the City Council. That in 97 percent of the cases that the Planning Commission hears, the Planning Commission is in accord with the CPO Council's recommendations. The CPO Council is the first place that citizens have input, probably most of their input. PARSONS mentioned that there were a lot more people at the CPO meeting that there are present today.

RUTH PARK, 8517 Boxthorn, speaking in opposition, asked Mr. Fettis what percentage of the signatures on the Wal-Mart petition are underscored from property owners, and what percentage are from tenants and temporary apartment dwellings. She stated that the signature process was taken as far northwest as 29th and Woodlawn, and those of them in Tallgrass, to her knowledge, had not been asked to sign or reject it. She asked to hear the wording of the petition. PARK said that it has been rumored that the petition was ambiguously worded.

KROUT read the following wording on the petition:

"The following residents are supportive of the additional acreage being zoned for the proposed Wal-Mart store at the southeast corner of 21st and Rock Road."

CORMAC JOHNSTON, 3039 Rushwood Court, Conservation Chairman for the Sehria Club in Wichita, stated that he would speak to the environmental aspects as well as some of the aspects that he has as a homeowner. JOHNSTON said that first concerning the environmental aspects, he did not think that there was any way that they could see this as a positive influence as far as the environment is concerned. There is air pollution and water pollution that will be occurring. He said that as far as the northeast corner, anywhere from Oliver going east, or from Central going north, they have had area after area turn from scenic area into huge parking lots. He said that this is what people are talking about when they say there is no long term planning. This is what they are talking about when they say the quality of life is going straight down. JOHNSTON said that he could not imagine somebody moving in behind this Wal-Mart and enjoying the heavy black carbon monoxide and hydra-carbon smoke floating into their back windows so that their kids can breathe. The Surgeon General has found that the second leading cause of lung cancer is air pollution second only to smoking. He mentioned that there is going to be semi after semi

rolling in there with the noise and the black smoke, and more traffic. JOHNSTON said that the traffic reports have been all over the place. There is nothing reliable to show the rate of growth, or the possibility that there is going to be traffic jams all over the intersection. He said that why don't they get some clear evidence on that before they determine that to be a clear fact one way or the other. As far as the homeowner, JOHNSTON said that he has lived on the northeast side all of his life, and the development has been incredible. He said that he can remember when they had the battle at 21st and Oliver over the K-Mart going in and wiping out a beautiful stone house, and it went through anyway, just as all of the other sites have gone through, at Central and Oliver, Edgemoor and Central, or Lake Point that is going in at Webb and Central. Some of these are turned into residential areas, but time after time trees are wiped out, the natural scenic contour of the land is wiped out. This is what creates stress in urban settings. People do not have a decent view from that intersection anymore to look forward to. They do not have it at 13th and Rock Road; they will not have it at 21st and Rock Road anymore, and as far as any other intersection as close to downtown, it is already on the way out or gone. As the K-Mart was called at 21st and Oliver, it is just a huge desert. They planned to have a big fence put up and trees put in, but at the same time, established trees were wiped out, and the new trees are sitting in the big south wind just about to be blown over right now. JOHNSTON pointed out that they are planting 3-inch caliper trees every 50 feet, it would take 20 to 30 years before they provide any kind a barrier of a scenic nature. He felt that it was despicable for this group to sit here and seriously consider such a proposal.

DAVID KEMME, 2806 Winstead Circle, wanted to reiterate that there is one clear point, and that is the neighborhood is against this. He said that with respect to Mr. Fairbank's questions about traffic, that has been an issue that they do have a traffic study, and he felt that it was still an issue despite the traffic study, and he disagrees with the conclusion of the traffic study. KEMME said that he did not attend the Traffic Commission meeting, but they accepted the traffic study. He said that he talked to the Traffic Engineer quite a bit about this. KEMME said that his main complaint is that the 2 percent rate of growth that was assumed in the study by the traffic consultant is totally unrealistic. It assumes that the outer belt will be built. The 2 percent figure accounts for all of the nondevelopment traffic not attributable to Wal-Mart. He felt that it was important to point out that most of the light commercial area at this intersection is built, but there is still 175,000 square feet of floor space to go in on this corner excluding this particular site. KEMME said that there is a reason why you should not ride a bicycle on Rock Road; from 1985 to 1987 that road was improved; traffic grew 81 percent in both directions at that intersection. North of the intersection, from 1985 to 1987, traffic grew 41 percent, an 18 percent annual rate of growth. KEMME reiterated that it was difficult getting out of the residential neighborhoods onto Rock Road. He did not feel that traffic was a moot point, but felt what the traffic shows, and what the Traffic Engineer said, was that given the assumptions, it is a reasonable report; the assumptions are unreasonable. Two percent rate of growth for that period is unreasonable, given that it has been 18 percent in the last two years, and they have a lot of commercial at that corner to be built, and within 1½ miles they have between 1½ and 2 million square feet of light commercial available. KEMME said that one other question brought up is, has Wal-Mart considered other sites? Do we really need to rezone to accommodate Wal-Mart? KEMME did not think that

rezoning was needed. He said that he would like to see Wal-Mart in the northeast somewhere. There are sufficient areas that can accommodate Wal-Mart. The question with traffic is the kind of traffic that will occur with or without Wal-Mart there. Wal-Mart will complicate it. He felt that Rock Road and 21st Street could be improved to accommodate that traffic flow. The question is, "Do we want that there?" Not whether can it be built there. If the Commission is listening to the neighborhood, the answer is "no". KEMME asked where and how do they accommodate appropriate commercial growth? Do they put it in residential neighborhoods? KEMME said that the answer was "no". There are a lot of nice places to put it, and he would like to see it somewhere else, and he would like to sign that petition in favor of large parking lots for Wal-Mart. But he did not want Wal-Mart built there; he wanted it built somewhere else.

GARDNER commented that he and Mr. Kemme have had differences of opinion on past cases, and part of what they are looking at again, and he knows that Kemme has a sincere interest in the traffic factors out there, as they have additional residential development, and if they were to look at the balance of the 300 acres, there is residential 3 to the acre, and they begin to generate a lot of additional families, homes, and several vehicles to a house. The majority of the traffic that is generating out that direction now is from the residential development. People, once they have lived there, have to go back and forth to work and shop. The point that he was driving at is, if they are doing an analysis or development in that direction, they are going to be generating far more traffic from the residential development that occurs than they will from several acres of commercial per corner. GARDNER said that he was not trying to distort what is being said, but as has been pointed out, the traffic patterns have changed because they have residential development, and that is where the majority of it comes from.

KEMME said that initially he was thinking the exact same way Commissioner Gardner was, that most of the traffic was residentially generated, but the Traffic Engineer said that the bulk of these trips are being generated at this intersection by commercial development, that the residential traffic is in and out of houses once or twice a day.

FAIRBANKS asked if there would be opposition if this was being sold off for residential on 1/8-acre lots. If there were 320 acres on 8 to an acre residences, and 2.2 drivers per home would generate 5,632 more drivers at that intersection daily. One way or the other there is going to be growth. Is the question really the traffic growth, or is the question something else behind the traffic growth?

KEMME said the question is if they build residential there, and there is enough light commercial already zoned to accommodate much more than will be built, will there be less traffic than expanding this commercial and some other uses.

PARSONS commented that he would much rather see vacant land than vacant buildings. So they have got to have enough residential to support the commercial, and you have to have enough commercial to support the residential. That is the purpose of light commercial development, and one of the purposes of residential development. That is why downtown Wichita has a problem; people

like to shop in their own neighborhood; they do not like to drive long distances to shop, and that can be found to be true universally. You have got to look at what happens throughout the city, not just in one sector of the city, and then transfer that when that sector begins to grow.

BRUCE HUELAT, 2411 Greenleaf, speaking in opposition, stated that this is not, nor should it be an issue of Wal-Mart versus neighbors. It is really the issue of taking over a family neighborhood through rezoning. He said that it was interesting to note, and they seem to have forgotten, that Wal-Mart said they need the extra acreage for a parking area in their new plan. Not only did they increase the parking area, they increased the square footage of their floor space from 101,000 to 145,000 square feet. In addition, they added two more retail uses, a fast food establishment which creates the highest flow of traffic right on the corner, and an unspecified second retail establishment.

HUELAT said that the difference in the traffic is the most significant, and again, they need to recognize that the Traffic Commission approved a plan based on the assumption of 2 percent growth. He said that it was interesting to note the difference between 2 percent and 5 percent compounded over the same 12 years.

HUELAT said that this really boils down to two major issues, and that is the responsiveness of our government to the people, not to the external pressures, and second, the oversupply of empty shopping areas on the east and north sides of the city, which has got to be something that all of the Commissioners have to be concerned about. He cited that 50 percent of the shops in the Brittany Center are vacant today, less than 5 years and less than 1 mile from the intersection has that many vacancies. Eastgate, major vacancies there. South of Harry on Rock Road, a brand new strip center, major stores were put in before it was even occupied, went bankrupt, more than 50 percent vacancies there. TG&Y, Kellogg and Webb, a huge operation, totally vacant. Next to it an automobile dealership, semi-vacant. Carriage Park is not developed all the way and has some vacancies. The Parklane and Twinlakes areas have experienced severe vacancy problems. He said that they are experiencing the same questions today for corners of the past on 21st and Rock. He felt that those questions needed to be reconciled in the Commission's minds. The bottom line is there is an oversupply of empty shopping centers on the east side. He said that the people do not want residential land converted to commercial land. What they want is for the Planning Commission to plan their destiny and not react to it. That is what is wrong with rezoning, it does not follow the plan, it just keeps reacting to it as you go. He issued a challenge to Sam Walton and the Wal-Mart people that if they really want to do something for the City of Wichita, and if they want to do something for the community and the people, that they go into the inner city and they take the empty land that is blighted and build a facility. They could do a lot more for this community and this city and fix something that needs help as opposed to taking land that is already zoned for housing and changing it to more strip centers and more shopping centers and more traffic flow.

YVETTE FAY, 8931 Windwood, speaking in opposition, stated that when Mr. Parsons said that people liked to live where they shop, she would like to take issue with that. She felt that people would go wherever they need to go to

shop, and they will choose exactly where they want to live. She said that when they moved into their home five years ago, they passed the Wilson Horse Farm and they were naive enough to think that the Farm would stay there forever. They bought their home thinking that this would remain a residential area. She said that they have an interest in protecting the value of their investment in their homes and did not think that they should be blamed for it. She asked what was the point in the people coming in to talk to the Commissioners and having meetings if, in the end, the store is going to be built anyhow.

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The Chairman declared a five-minute recess.  
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The meeting reconvened with all Commissioners present (Goebel and Miles were absent).

SHERMAN stated that one thing that bothered him a little bit is the misconception that the Planning Commissioners do not listen to neighborhoods. He said that he has heard words describing their actions, such as thoughtless, haphazard, undisciplined, lack of foresight, and he really did not think that was true. He realize that is the feeling in the community, at least in the media. He said that he was not sure where it stems from. Maybe it stems from the feelings that if someone you are arguing with or presenting your case does not do what you want them to do, then that means that they have not listened to you or considered your interest. He said that he feels that way when he loses an argument or when someone does not listen to him. SHERMAN said his point is that all of them do care and do listen, and that is why they volunteer their time to this. They get involved in these things because they do care about Wichita and about growth being planned and orderly, and that some thought be put into the process. Whatever decision they make is going to be based on that and on neighborhood opinion as well as the other factors that they have to consider.

FAIRBANKS said that people seem to have a very negative attitude about rezoning. It is the kind of attitude that comes about with "once it has been done for me, I don't need it to be done for anybody else." He pointed out that probably 95 percent of the people in attendance are living on rezoned land. Is it okay only if it is rezoned for you? Is it not okay if it is rezoned for someone else? That is the reason why a commission like this exists. They have to deal with rezoning on a regular basis, and they have to take into consideration the full use and the full personality of the city and its needs. He believed that if they started to deal with it in that way, as small microcosms, piece by piece, they should eventually end up with boroughs and small townships as opposed to a city. A lot of things too that he heard the people allude to, "I would not have a Towne East type thing in my neighborhood." Or, what about the people who complained in the Towne East area. The Commission knows that there was a high protest against that kind of development. However, looking back on that, it is the kind of thing that does add to the quality of life in Wichita. Someone spoke that groups like Pizza Hut and large corporations do consider those sort of things. They do consider the quality of living and available retail shopping. They consider all of that. The Commission is just trying to make the

neighborhood aware that the Planning Commissioners have to take all of that into consideration, not just the small microcosms that is present at any given time. However, when people do bring valuable information to the Commissioners, and he alone received nearly 40 letters on this case, and probably 15 to 20 telephone calls, and he understands that the chairman had a lot more than that; when they do bring that kind of information to the commission, it is to their benefit for the Commission to hear that. It has been a long day for everybody and the Commission would certainly like for them to realize that they are trying to make the best decision possible.

TURNER commented that one of the things that they are going to have to come to grips with is that in this city, this is growing city, it is becoming a metropolis, and the thoroughfares are going to be high traffic. As long as the city develops, the traffic will also develop.

BRINEGAR commented about the overall area being requested to be rezoned. He said first of all there is a 6+-acre tract there that was already zoned for light commercial, and there is not much the Commission can do about that unless somebody asks for a downzoning for a lesser use. Secondly, the expansion of the "LC" area on the northeast corner and the southwest corner of the intersection of 21st and Rock Road is in place, and probably is an established policy somewhat for the area. People knew that was there, and the C.U.P.s were in place on a lot of that property when they bought out there. The developer could probably build on the existing 6-acre tract with the store size near that of their first stage development as is contained in their present proposal. However, he seriously doubted that if they did that, the building would be the quality and the design of what they are presenting in their current C.U.P. plan. He doubted that the other amenities of the area such as the landscaping would be anywhere close to what is presently being proposed.

BRINEGAR said that another item that he feels needs to be considered is that the proposed use is not a direct expansion into a developed area. It is into vacant land at the present time other than the residence that exists on the Wilson property. Traffic is still a question in his mind, and he has some reservations about how some of the numbers were acquired and the results, but those are things that people can sit around and argue with for a long time. BRINEGAR said that people talk about Wal-Mart not making concessions or making concessions to maybe improve their position. His feelings were that Wal-Mart came into this with the idea that certainly they would like to develop the area, and felt that Mr. Yung was one that influenced them greatly in getting concessions that were quite beneficial to the plan as presented. He said that he was quite cognizant of the neighborhood opposition and he certainly was going to consider it when they make a final judgment on this.

BRINEGAR stated that in the December 10 staff comments, there was a recommendation regarding storage of trucks or truck trailers being permitted onsite for over 48 consecutive hours. When he read that, he wondered what is a truck trailer versus having a straight truck in there that you can have on site for a period of time. Secondly, that it may be more appropriate to say that no truck or truck trailers be allowed on site for over a specified period of time, and that all trailers should remain hooked up to the respective tractors while such trailer is on location.

YUNG, speaking again, stated that he was advised that the operation that they are currently utilizing is that trailers are brought in, they unhook them, and they travel after other trailers, and while these are being unloaded, they come back and pick up that trailer and may leave another one. There is a kind of rotating process that they have as their policy now as opposed to when they were bringing them in and leaving them there for a longer period. YUNG said that he was not certain that being able to leave the tractors attached is acceptable to them.

GARDNER said that they have a limited queuing area back there if you can delineate the site plan closely enough, you can physically limit the amount of trailer storage that there is. There is a minimum amount of room back there behind the screening area in terms of movement of something that size. He supposed the key is to address a verbage or use agreement that prohibits onsite retention of the trailer for more than a 48-hour period, and particularly in any area other than the screened area.

PARSONS commented that they have determined that number themselves by creating the screen to eliminate that concern. They have made that area the size that it is, and that size is going to dictate how many vehicles you can have back there. If you start having them out front, they are violating their own concession.

BRINEGAR related that it is not stated on the site plan that they shall be maintained in that area.

YUNG said that was correct. He believed that was something that could be added to as a condition.

BRINEGAR asked Yung that in the February 18 staff comments, if item "h.b", access on 21st Street between Parcels 1 and 3, and the western access to Parcel 3 between Parcel 1 and 3 was not addressed today.

YUNG said that the access had been discussed at length. They are currently showing on the C.U.P. that there is 30 feet of access control and then one opening permitted within this distance, and in conversation with the Traffic Engineer, he encouraged him to move that access point as far to the west edges as he could. It will facilitate movements in the center section. YUNG said that they have advised that they will do that.

BRINEGAR said that as he understands it, the applicant is still opposed to deleting restaurants on Parcel 2.

YUNG said that was correct.

SHERMAN said that on the plan it looks like the building setback is over 300 feet, yet the setback line is drawn at 200 feet. If they intend to put the building back there and expand it to the south, why not move the setback line and give the Commission a little more assurance that they are not going to try to bring an "L" out to within 200 feet of the street.

YUNG stated that they are presently 250 feet in this direction (setback line from 21st Street). If they match that in this direction (setback line from Rock Road), would that be acceptable? That still gives them a little flexibility in case there is some growth potential they need to address.

SHERMAN said that if they have shown all of their growth to the south, he did not know if they needed any growth potential to the west.

JOHN KNOWLES, representing Wal-Mart stores, stated that the reason for asking for so many square feet, they are thinking instead of having some trailer problem, as they have had at the existing Wal-Mart store in Wichita, they would like to be able to add some stack room to the east side of the building, and they may have to push the building towards the west. They have agreed, however, to increase the setback of 200 to 250 feet on Rock Road, and he felt that would give the Commission assurance that the building would not be closer than 250 feet to Rock Road.

PARSONS asked why would they not place the building at the 250-foot line so that they could expand to the east if that is the reason they are wanting the additional room.

KNOWLES said that moving the building towards the east will give some parking, and they have not determined, as of now, exactly what kind of parking ratio they need to have, and what kind of stack room they need for the building. So the building may have to move to the 250-foot from Rock Road to be able to add some stack room to the east side.

GARDNER responded that before Wal-Mart would be able to get a very positive response here, he felt that they would have to be a lot more definitive than what they have on paper today in terms of how far they are going to be expanding to the west or otherwise. If Knowles is comfortable with that as a footprint, then probably what they need to do is to note adjustments on paper so that that is what they are dealing with.

YUNG wanted to retrace the thoughts, stating that if the Commission did not know the store, did not know the use, and if they were not coming to them with the site plan and they were doing this as a speculative nature, people would do cartwheels over establishing a 200-foot setback. He also stated that he has found that in every development there is a certain amount of fluff that needs to be built into it in unknown circumstance. They are asking for 18,000 square feet of fluff. He pointed out that they are not parking trucks in the back anymore, and they are struggling with this; this is a new concept to them, of which he highly endorses, and they may find that they need more storage space than they are currently anticipating. That is why they are reluctant to give up that fluff and why they have some concern about restricting themselves too much on the front because if they do, they lose the capability of using their fluff.

GARDNER responded that he felt they all understand that, and they all understand that it has been a year or two that they have had a crowd like this that has been that actively involved and specifically concerned. He felt that the level of interest is such, and the level of negativism that is being demonstrated

towards the project is such, that both the perspective developing group and the current owner are probably going to have to be in a position, if they are going to get any kind of positive recommendation, to be a great deal more committal in several areas than they have been willing to be thus far. He said yes, it is exceptional compared to what the norm has been. The planning that went on over the last 15 or more years in the Comotara area that the Commission has watched and that has matured and been an attractive development in an attractive area that has been pleasing to an awful lot of people, occurred largely before there was any population around to provide their input. GARDNER said that he was reasonably well convinced that if they brought back that kind of plan today they could not get it passed, simply because the public, generally speaking, has an almost singular perspective in terms of assessing what is going to happen on a basis of how it affects them individually, and how they perceive that. He said that he was very sensitive to that perception. It is a real thing for all of the people that are there. It is a shame sometimes when a development is occurring in a quarter that property owners will determine that they want to stand on the sidelines and let things mature around them so that they receive the maximum benefit of the surrounding development in terms of it being attractive, and then after everything else is by and large set and cast, come in and do their development. The Commission has seen that on the Lambsdale tract, the Hartman tract, and several other areas. He said that if there is any specific lesson to be learned, it is that if you wait until the area becomes more developed and populated, you have to pay a price in terms of accommodating the people who have moved into the area. GARDNER said that the rationale that Mr. Eberhart expressed early on to agreeing to any kind of a plan of more than just a very sketchy preliminary nature, to him, is the height of naivety, when bringing a proposal of this nature forward, given the amount of commentary that the Commission has received from the neighbors. What the neighbors have provided, right, wrong or indifferent, is meaningful input, and it is apparent to him, from at least the property owners perspective, they do not yet have a grasp on the gravity of what is being asked or considered in terms of commitments on the balance of the area, let alone right here. GARDNER suggested that they are probably going to have to look toward either Mr. Eberhart or Mr. Wilson being willing to state, "Yes, that's fine, we think we could agree with that development plan and make a commitment today that that's what we would be willing to follow." GARDNER said that addressing this specific proposal is probably going to require this bench to talk in terms of a policy on Rock Road, and a policy on 21st Street for future development to satisfy the five people that constitutes the City Council that is going to have to wrestle with this next. He felt that whatever recommendation goes forth is going to have to accommodate a great deal of the neighborhood input, and by accommodate he means pay close attention to it, before what is being proposed here today has even the faintest hope of a chance for approval. If the applicants do not have a grasp of that by now, he did not know what the Commission could do to make it any clearer. He felt that they are going to have to look to a policy that they delineate based on what has been talked about here, and there needs to be somebody to step up to the podium and say, "Yes sir, we are ready to do that." Because if they cannot do that, he felt that they would have a tough time pulling the support that is necessary from both here and the City Council to get something approved. GARDNER continued that he was not trying to be tough in terms of a development footprint on the subject site, as much as they have got what appears to be hedges. Maybe what they need is somebody to step up and say,

"Alright, that's how we will do it." He felt that it would take that kind of a commitment to eliminate some of the doubt.

CROCKETT commented that she has some real doubts about the rest of the 300+ acres, which is empty, and they are asking for rezoning with nothing else down the road. She said that she did not necessarily have an aversion to the commercial development at that corner, but what else is going into that corner? The Commission has seen some fairly complete C.U.P.s, and to her, this is not a complete plan yet.

MOORE commented to Commissioner Crockett, that obviously it is not Wal-Mart that is wanting to fill the whole 300 acres; there is an owner that owns all that, and he agreed that they should tell the Commission something about what they have proposed. It is obviously that there is a neighborhood out here that is opposed to more commercial zoning on down the way. On the other hand, they are only talking about one neighborhood. He hears Tallgrass residents out there, but believe it or not, there are other neighborhoods within a mile radius of this project. He happens to live in one, and he saw a lot of his neighbors and names on that petition that had a 1009 names in it in support of this. So while he recognize there may be a petition with 400 or 200, and there may be 100 people present today vocally objecting to it, there are people that are in favor of this project, and he seriously wanted to recognize that. MOORE felt that everybody should understand that when you are in a courtroom and you are trying to convince a decision maker, a judge or a jury, and you are talking about a matter, for example here, a traffic study, you use experts. Everybody in the room should know that the city staff and the planning commission staff are experts in their field. The Traffic Engineer, Mr. McKinley, is an expert in his field. Believe it or not, they hired a consultant that is a recognized expert within the United States as an expert in their field. MOORE said that he did not pay any attention to a neighborhood homeowner that comes up and says these traffic studies are all b.s. They are not right. MOORE said because they are not telling him that they are qualified to make that kind of statement, and the Commission is hearing people that are qualified. He felt that those are areas that as a decision maker or as a policy maker, or as a person that has to make a recommendation, you have to consider experts of a staff and consultants. He felt that all of them that are in business in the audience use experts in their particular field of endeavor to tell them which way to go or what to do. Those are areas that the Planning Commission looks at before they make their decision. MOORE said that he has sat on the bench over six years, and experts play a major part in his decision making. He said that he was not an expert in the traffic field, but he hears these same arguments every meeting on this bench about where there is going to be too much traffic. He said that they totally overlook the fact that when you put in a bunch of houses, that you have traffic also. Wal-Mart stores do not cause any more traffic than a big residential development.

TURNER commented that the only thing that he sees here is the changing in the plan. They looked at a plan last week which did not have the extra addition to the south end of the building. He felt that somewhere along the line, the applicants are going to have to get on a set plan that can be accepted or rejected. TURNER said that he was a little bit alarmed at the applicants bringing something in addition to the plan.

SHERMAN stated for the record that there might have been a little confusion on the drawing last time. He believed that the last time the drawing was submitted to the Commission, that addition was on there; it was the time before that it was not on there.

PARSONS stated that he agreed with the comments that have been made by several of his fellow commissioners in regard to the future development of the 330-acre site. He felt that it was very difficult to look at spots within a land area that is under one ownership at the present time and be able to make a good planning decision without knowing what is going on around it. He felt that the zoning policies that they have to work under are either inadequate or in great need of dissection and refurbishment to guarantee that as closely as possible they have good active planning rather than the reaction that they have heard about recently. He said that he takes those comments that have been made in that regard to heart. He felt that there needs to be more active type planning. That is going to require some dissection and redo of a lot of policies and procedures. He said that they have to look at what is good for the future of the entire community, and they have to, in cases like this, look at the discouragement of some of the things that have happened in the past, such as strip zoning. It is very easy to strip zone or strip develop when you have existing commercial zoning less than a mile apart. When you have six acres in each corner, you have less than a mile to worry about in there. Maybe one of the things they need to do is skip a mile or something. PARSONS said that he believes that Elton Parsons as a citizen of this community, and very active in this community for the past 20 years, has a record of being pro development, and certainly pro Wichita. He said that he is concerned about what happens in this community; he is concerned about what happens to future growth and prosperity for all of us. He felt that those items are factors which do encourage the increase in quality of life. That includes Wal-Mart stores, the Cessna airplane plants, etc. In this particular case, there are probably as many arguments pro as there are con. When they get to a point like that where they have to look at their Policy 10 and the existing policies, that when there are as many pros as there are cons, when that happens, he felt that his position has to be based on the fact that unless they can show that there is a distinct advantage to granting the application such as the one before them today, then they have to look at it in a negative light. He said that there are a lot of things that have to be done to the zoning policies to make this kind of development and this kind of growth and this kind of movement towards the future quality of life better than it is and better than it has been over the past several years.

YUNG, speaking again, commented on the first part of the Commission's question regarding reducing the setback to 275 feet to the face of the building. He said that they would reluctantly would agree to it.

EBERHART, speaking again, apologized to Commissioner Gardner that it was not their intention to be naive in the comments that they made. They thought, perhaps mistakenly, that they had a right to sell off a portion of this property to Wal-Mart and keep the remainder of their land for a farm for some indefinite period of time. What he is hearing today is that they cannot do that. He said that they were not in a position tonight to specifically address a project of this magnitude. EBERHART said that he was trying to determine to what degree of specificity does the Commission want them to present to them and the staff a

plan for the balance of the development of the site. He guessed that there were ways that could occur. One would be a massive C.U.P. application for the entire thing. Another might be a series of definitive drawings and sketches similar to this that could be encompassed in a policy statement for later guidance for C.U.P.s as they become available. His question is, what does the Commission have in mind for that.

GARDNER remarked that when using the term "naivety" about a zoning situation, he did not intend to hurt anybody's feelings, but felt that it has been a common objection that has been raised by most of the groups that have met thus far that they do not want to see the continued stripping out commercially of Rock Road to the south, or 21st Street to the east. He said that if Mr. Eberhart had been at the hearings, and he was sure that he had, he would have heard that. The lack of a response there is noticeable; it is terribly evident. It is like, "we don't want to say something or tie ourselves down, we would kind of like to have our cake and eat it too," and they have a group of people out there that are just pretty damn sensitive to that. GARDNER felt that it was naive to believe that the City Council does not expect that to be addressed by the Planning Commission, and not to have an answer ready for a proposal that is to his advantage, aside from being poor preparation, it is being very wishful. GARDNER said that he was not trying to put Eberhart down, he was just saying it was a fact of life that you cannot ignore the commentary. If he was going to comment about what is expected, he felt that probably the suggested zoning policies for the Wilson farm that the Planning staff had put together are not particularly unrealistic. If he was to say, "that's something we probably could live with," that would be fine. If he was to say, "well, we don't know about the interior of it yet, we might want to do something else, but we could commit on Rock Road and 21st that there wouldn't be any further commercialization." GARDNER felt that that would be a major commitment that would have an awful lot of bearing on what perspective was taken on the subject proposal. It would remove an awful lot of doubt.

EBERHART said that they were perfectly willing to address that. They have been focusing all of their time and efforts in attempting to accommodate the myriad of changes in very specific form for the Wal-Mart site. They are prepared to address that if that is significant to the Commission. He repeated that they are not negotiating with anyone and have no current development plans, so they have not really focused on that part of it. He respectively requested for a reasonable continuousness of this meeting until they can divert a specific focus on those issues raised by Commissioner Gardner, together with the professional staff, so that they might give the Commission the kinds of commitments from them that would enable the Commission to get the comfort that they need for the development for the rest of the site to effectively address the specific proposal at hand.

GARDNER said that he was having trouble with the idea that in the last 60 days that this has not occurred to anybody.

EBERHART responded that it had occurred to them, and they have instructed Mr. Yung to prepare some preliminary development plans for the site which they just looked at in a cursory fashion in the last couple of days. He said that he was pleasantly surprised that his initial assessment was somewhat

different, but not dramatically different from that proposed by the staff. EBERHART said that they did not come to this meeting thinking that, "by the way, because you are in the unique position of owning a lot of other land, we have got to look at those things together." He said that he has been involved in things in the past before this bench, not necessarily with this current group, and he did not recall where a property owner has been tossed back for further consideration of this magnitude.

CROCKETT asked if Mr. Eberhart's previous projects have been of this magnitude.

EBERHART said no, he felt that this is a unique situation where there is a single owner of a very large tract of ground. Most of the time developers buy the property and do the development and they are far more accustomed to planning in detail what's going to be done with the balance of the land. Their immediate plans for the balance is that they are going to continue to use it for a farm for awhile.

GARDNER commented that he did not think anybody has any objection to the idea that horses are raised there or farming the land, or whatever. He felt that there has been a quiet effort, that he is aware of, to encourage Eberhart and the people he represents to give consideration to addressing questions specifically that he has raised, and it was his understanding that there has been a resistance to really make a commitment there, and he is hearing it now. He said that what he was trying to convey in terms of whoever sat down and stratified this application, somebody has provided some bad advice in looking at the elements that are going to have to be considered to get this to a point where it can be palpable. Whether that is on Eberhart's shoulders, Yung's shoulders, or somebody else's shoulders. He is seeing it as a pretty simple thing today if they are going to address the community unit plan and rezoning that are here, to address the adjacent street frontages in terms of what the likely policies are going to be for awhile. He said that Eberhart is in a position to make it real easy if he wanted to by saying, "Yes, we can live with that, that is a decent approach." GARDNER continued that there is an area at 13th and Oliver that stands out in his mind as a grand example of someone managing to hold on to something and take a posture that precluded any kind of reasonable treatment for years far beyond the point that it should have been dealt with, and he sees here today the same kind of opportunity. If this goes to the Council and falls, it is a year before something can come back. He felt that the precedents that are likely to be set here today and in the future on this in terms of how sensitive they are toward the adjacent policies, they are going to have those reverberating in the halls for years. It is not that the Commission chooses to necessarily force Eberhart to address them, but felt that the Council is sensitive to them, and the neighbors have certainly raised them for the last two months.

EBERHART remarked that they did not realize the intensity of the Commissioner Gardner's concern for the balance of the site until this meeting. They obviously had heard that questions were being raised about that which is why they authorized the procedure to commence that they did. The level of intensity is far higher on what they are planning on doing with the rest of the site than they anticipated. Part of it is that they are not professional real estate developers. He asked to be given a minute to confer with his clients.

GARDNER commented to the neighborhood that he would like for those who had taken time from their schedule to come to the meeting and participate to appreciate a couple of things. The first thing is that all across the city they have had a standardized policy, if it has not been a policy, they have had a practice of trying to locate the majority of commercial development near the arterial intersection because those are typically among the less desirable areas for residential development. There are the traffic factors and a variety of factors and that practice has been pretty well established over a number of years. How much is too much is always a valid question. When you are the last corner in, you have got to pay the piper sometimes when you deal with adjacent development and neighbors. But he felt that there has to be a level of realism on behalf of neighborhoods in terms of what does and does not constitute serious damage to the quality of life in an area. GARDNER said that he did not hear anybody present today step up and say, "I am so damn mad about Dillon's going in because they dropped the value on my house twenty-five percent, I can't see straight." Regarding big commercial development, GARDNER said that all he was trying to say in terms of an example is you are going to have, with the commercial on the corner of 6 acres, some flavor of commercial, one way or the other, regardless of what happens here, there needs to be a common sense point in time where you capitalize upon the advantage of the moment which is, if somebody wants something bad enough, you make them put it in a form that is palpable that you can live with and you utilize the opportunity to strike a compromise that is livable if you can. He said that opportunity to some degree is available here. GARDNER said that in honesty somebody can make a good case here or in the courts in the future for a couple of more acres of commercial on this corner, whether it is a Wal-Mart, a Dillard's, or somebody's kind of grocery store or something else, and probably make it stick. There are too many factors besides just the emotion involved in the decision that will weigh in a court of law and would find a denial by strictly upon the neighborhood input as insufficient. It could be determined to be arbitrary and capricious if that was the only factor there. You have property rights where you purchased and where you live. These people have property rights where they own and with what they desire to do in the future, and there has to be at some point, if we are going to have a working process, a group who is willing to come to a meeting of the minds and seize upon the opportunity and strike the compromise. GARDNER said that he hoped that if a recommendation is made for something on the corner and it is contingent with a group of other conditions, that what the Commission is doing is essentially hearing the majority of what the neighbors are saying and trying to blend that with what is workable and durable. GARDNER continued that there is a real high level of desire at this bench to try and strike that kind of fairness for everybody involved.

SHERMAN asked the Wal-Mart representatives for the record, do they at this time, have an alternative plan to develop just on the 6-acre site providing 12 acres is not approved.

YUNG said that that was a little difficult to answer. They do have a drawing. They have looked into it. The reason he said that it was difficult to answer was because he did not want in any way for it to be interpreted as a threat, but he has been accused of that when he has mentioned it before. But yes, they have prepared a drawing. It does have 93,000 square feet. It does

meet all of the city ordinances, and it could be done, and it could be done very easily.

SHERMAN said that he wanted that statement to show on the record, because that is a very important part of decisions like this, is whether or not they are talking about an issue for improvement to 12 acres, or an issue of already having 6 acres developed. He felt that it was commendable that they have not brought it up yet. He wanted to bring it up himself.

EBERHART stated that he and his clients have consulted on this. They hear the Commission's comments and appreciate them, and understand the concern. Many of the suggestions that are made about restrictions on commercialization down Rock Road and somewhat along 21st Street may well be livable with them. They made a decision that they simply were not in a position to make a definitive specific commitment tonight. They understand what that might do to their application, and certainly these will be guidelines for them in the future. They did not realize that in making a deal to sell off this corner that they are automatically subjecting the balance of the 300 acres to close scrutiny at this time, and they really did not have any development plans for it.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood and the location of the property at the intersection of two major improved arterials; the commercial zoning and uses of properties to the north and west; the suitability of subject property for the uses proposed; the support of residents in the general area; and the recommendation of staff; I move that we recommend to the governing body that the zone change request be approved, and that the commercial development plan be approved subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

- d. All property included within this C.U.P. and zone case shall be plated within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
- e. The proposed use of restaurants shall be omitted from Parcel No. 2.
- f. Instead of an access point to Parcel 1 and the western access point to Parcel 3 from 21st Street North, one access point shall be centered on the line between the parcels.
- g. The following General Provisions shall be omitted from the C.U.P. as they are not applicable: 14.e and f., 19, and 20.
- h. General Provision 14.A., B. and E. shall be amended to read as follows:
  - A. The extension of a center lane in Rock Road and 21st Street to accommodate left turns into the major opening along the west line and the north line of parcel 3 for southbound and westbound traffic) and to provide additional left turn storage at the Rock Road/21st Street intersection.
  - B. The reconstruction and extension of the raised medials in 21st Street and Rock Road to accommodate left turns into the major opening along the north line and west line of parcel 3 and to prohibit left turns into parcels 1 and 2.
  - E. Traffic signalization of the major entrance to Rock Road from parcel 3.
- i. The building setback from Rock Road on Parcel 3 shall be changed to 275 feet.
- j. Expand General Provision #21 to reflect that truck trailer storage shall only be permitted in the area east of the required wall referred to in 16E.

In addition, the Planning Commission recommended the adoption of a policy to not favor additional "LC", "C", "E" or "F" zoning to the south and to the east to the existing "LC" zoning at Webb Road.

Moore moved, Gardner seconded and it carried with a vote of 6 in favor (Moore, Gardner, Brinegar, Fairbanks, Sherman and Turner) and 2 opposed (Crockett and Parsons). Goebel and Miles were absent.

PARSONS stated that his vote is based on the fact that he felt they needed more of a commitment than what they have concerning the balance of the property.

WICHITA-SEDCWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
March 17, 1988

NOTICE OF PUBLIC HEARING

As a result of the City Council at its meeting on March 8, 1988, referring the following cases back to the Planning Commission, this is to advise that the Wichita-Sedgwick County Metropolitan Area Planning Commission will reconsider the following item in the City Council Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at its meeting beginning at 1:30 p.m. on Thursday, March 31, 1988,\* at which time you may appear either in person or by agent or attorney, if you so desire.

CASE NO. DP-180  
ROCK ROAD WAL-MART COMMERCIAL  
COMMUNITY UNIT PLAN

That part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road; AND

CASE NO. Z-2886  
Zone Change from the "AA" Single-Family Dwelling District  
to the "LC" Light Commercial District

That part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.

\*NOTE: These items will not be considered prior to 2:30 p.m.

Jack H. Galbraith  
Assistant Secretary

PL/6363/4

#13

THE CITY OF WICHITA  
OFFICE OF CITY COUNCIL

DATE March 14, 1988

*To: UMCW  
FRONT  
MSE  
B*

TO Honorable City Council  
FROM Sheldon Kamen, Vice Mayor  
SUBJECT Walmart

The leaders, we assume, of the 21st and Rock Road residents have met together after discussing the situation with Grant Tideman of J.P. Weigand. They have reached the conclusion that the overriding majority of them favor leaving the situation as it stands at 5.9 acres for the Walmart store and the .6 acre in a separate corner parcel. However, if Walmart decides to pursue the 6.5 acre CUP, they will probably work with them.

Although there is some concern over the corner parcel, they welcome Walmart as a neighborhood store rather than as a regional store. They feel as they have always felt, that the screening is a problem for Wilson, not them. I have talked to Bill McKinley as we had previously talked about possible traffic changes. He feels we can easily live with the present configuration. Therefore, if we end up with the 5.9 acres, I would not be in favor of any traffic pattern changes.

Grant Tideman told me that he was hoping that a compromise in the number of acres available would be reached. Apparently this will not happen.

*Sheldon*  
Sheldon Kamen  
Vice Mayor

SK:cs  
cc: Chris Cherches  
Bob Finch  
Bill McKinley

RECEIVED

MAR 14 1988

METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

#14

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE February 17, 1988

TO Jack Galbraith, Chief Planner-Current Plans

FROM Stanley J. Scott, CP Coordinator *Stan Scott*

SUBJECT DP 180/Z-2886: Generally located  
at the southeast corner of 21st  
Street North and Rock Road

On Monday, February 15, 1988, CPO Rockwell/Northeast Neighborhood Council 2A considered the captioned cases associated with the Rock Road Walmart Commercial Community Unit Plan and associated zone change to "LC" Light Commercial District. Following extensive discussion (over 3 hours), the Council took the following actions listed below:

- 1) Voted 6-3 to recommend denial of DP-180.
- 2) Voted 6-3 to recommend denial of Z-2886 based on the following criteria from Policy Statement No. 10:
  - a) The character of the neighborhood;
  - b) the zoning and uses of properties nearby;
  - c) the suitability of the subject property for the uses to which it has been restricted;
  - d) the extent to which removal of the restrictions will detrimentally affect nearby property;
  - e) the length of time the subject property has remained vacant as zoned; and
  - j) opposition of neighborhood residents.

Bill Yung, designer and agent for the applicant, was present to describe the request and respond to questions from the Council and area residents. Mr. Yung began by describing the following changes from the original proposal.

- 1) Service stations and tire/battery/auto accessory stores as allowed uses on Parcel 2 are deleted.
- 2) The maximum height of signs is reduced from the allowed 35 feet to 20 feet.
- 3) The area of the Walmart sign is reduced from 200 square to 150 square feet. (1800 sq. ft. allowed).
- 4) Restaurants are retained on Parcel 2 with drive-through order boards, however loudspeakers are replaced with phones.
- 5) The number of entry points is reduced from eight to six.
- 6) Solid masonry screening of 5 and 8 feet will be provided behind and to the side of the proposed Walmart.

#15

- 7) An eight foot masonry wall will screen the truck loading dock area from Rock Road.
- 8) A wrought iron enclosure will be provided for the Garden Center.
- 9) No trucks or trailers will be parked on the site for more than 48 hours.
- 10) Rooftop mechanical equipment will be screened from the ground view.
- 11) A 15 foot landscaping strip will be provided around the perimeter of the site adjacent to Rock Road and 21st Street North.

Barb Nuckles (De Shazo, Starck, and Tang, Inc.) presented results of the traffic study performed to project the anticipated impact of the proposed development on the intersection of 21st and Rock Road. Mr. Nuckles reported that the development will generate 469 trips in and 515 trips out at the peak traffic hours, resulting in an increase in the average delay at the intersection from 21.2 seconds to 26.1 seconds. Mr. Nuckles provided a detailed review of the study.

Approximately 150 area residents and property owners were present to express their overwhelming opposition to the request. Approximately 17 citizens spoke in opposition to the request.

Among the concerns expressed were the following:

- 1) Increased traffic volumes and congestion. Several residents challenged the traffic consultant's assumption of a 2% annual increase in traffic through the year 2000. One area resident noted that the increase in traffic between 1984 and 1987 far exceeded the 2% annual increase assumption and projected that the consultant's traffic projections for the year 2000 will be exceeded by 1990. (In response, the consultant noted that his projects were based on peak hour load rather than 24 hour traffic count.)
- 2) Increased traffic hazards and accidents. Several residents expressed concern with crossing six lanes of traffic to cross the street and three lanes for left turns.
- 3) Existing commercial sites exist in the area which will exacerbate traffic and development problems.
- 4) Challenged the apparent policy of allowing commercial uses at the corners of each mile section intersection.
- 5) Questioned the need for additional "LC" space in the area with the number of existing vacant sites and buildings.
- 6) Depreciated residential property values.
- 7) Reduced quality of life.
- 8) Reduced public safety.

Citizen Participation Organization  
Page 3

Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. While the staff comments do present a suggested zoning policy for the Wilson Farm, the Council choose not to address the policy at the meeting.

Please provide the Council's recommendation to the MAPC and City Council when DP 180/Z-2886 are considered.

SJS:dm

EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 31, 1988

LEGAL:

- 7a. Case No. Z-2886 - Wilson Estates requests zone change from "AA" to "LC" for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 600 feet east and 60 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence east parallel with the north line of said NW $\frac{1}{4}$ , 90.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 300 feet to a point 600 feet south of the north line of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 540 feet; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 540 feet to the point of beginning. Generally located in an area south of 21st Street North and east of Rock Road.
- 7b. Case No. DP-180 - Wilson Estates requests approval of Rock Road Wal-Mart Commercial Community Unit Plan for that part of the NW $\frac{1}{4}$  of Section 8, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 75 feet south and 75 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 175 feet; thence northeasterly 101.21 feet to a point 60 feet south and 350 feet east of the northwest corner of said NW $\frac{1}{4}$ ; thence east, parallel with the north line of said NW $\frac{1}{4}$ , 340.60 feet; thence south, parallel with the west line of said NW $\frac{1}{4}$ , 840 feet; thence west, parallel with the north line of said NW $\frac{1}{4}$ , 630.60 feet to a point 60 feet east of the west line of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 550 feet; thence northeasterly, 101.21 feet to a point 75 feet east and 250 feet south of the northwest corner of said NW $\frac{1}{4}$ ; thence north, parallel with the west line of said NW $\frac{1}{4}$ , 175 feet to the point of beginning. Generally located at the southeast corner of 21st Street North and Rock Road.

PARSONS reread the MAPC Policy Statement for those persons that were not present at the beginning of the meeting.

GALBRAITH stated that the City Council, in considering this case, has returned it to the Planning Commission. He said that staff was contacted by Mr. Yung, who advises that they propose to amend their application today to ask for approximately 9+ acres of total site for light commercial under the Community Unit Plan. GALBRAITH said that he handed out the revised C.U.P., and pointed out that it does not have the normal accompanying text with it. He said that the text of the C.U.P. will be almost identical to the one presented before. This site will only have one building; they are eliminating the two out parcels, so there will not be the potential restaurant uses on this site.

BILL YUNG, agent representing the applicant, stated that based on the City Council's decision to send the applications back to the Commission, Wal-Mart has decided to go through with the small site. They have filed the plat. They also wanted to make sure to not close the door for any possibility of negotiations and to see if there was anything they could do to see if there was any modification of the plan that could be reached prior to today's meeting. YUNG said that they felt they had several opportunities to begin some negotiations, and each

PL/1785/2

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time that they tried, they sort of got the direction that the neighborhood was not interested in any kind of a modification. YUNG said that the neighborhood advised him last night that was not true, that Wal-Mart did not make an honest enough effort. He said that may be the case, but if you read the newspapers you may have concluded the same thing as Wal-Mart did, that the various homeowners associations indicated that there really was not too much of an opportunity for compromise. YUNG said that about a week ago two ladies in the general neighborhood contacted them stating that there were a fairly significant number of people that were interested in this project that may have felt a little different than some of the information that they have had, and they began circulating a petition to find out if there was any depth in their concerns. They found that there was enough depth and asked if Yung would be able to attend a meeting. That meeting was held last night, and because of the two ladies' very fine work in breaking the ice, they were finally able to establish an opportunity for some negotiation with the neighborhood that has been long overdue. YUNG said that the plan he was going to show today came about as a result of last night's meeting; it takes the 12-acre site and modifies it to 9½ acres. He said that they would continue to keep the door open for minor modifications, even from this particular proposal. By that remark, YUNG said that he would be willing to meet with key representatives of the neighborhoods and the neighborhood associations that are affected or interested in working with him on further refinements of this proposal. He also indicated that they would be willing to go back to the CPO Council for another public hearing, allowing everyone, not only representatives from the homeowners associations, but anyone within the affected neighborhood to have an opportunity to discuss their proposals as well. YUNG related that he had not had the opportunity to schedule the meeting with the CPO office, but believed that it could be done, and the intent being that it would allow for a public hearing on this amendment prior to, and after everyone has had an opportunity to review it from the neighborhood, the case going back to the City Council. YUNG stated that there were two members of the Council present last night, and he believed they said that it would be acceptable with them; that he had 26 days to accomplish all of this. YUNG said that his personal opinion was that it would not do any good to defer this matter because if they had 126 days they would still be in the same boat when they got down to the end of trying to arrive at a conclusion. He pointed out that Wal-Mart has a deadline. They wish to be in business by Christmas; that is why the plat was filed. The plat will continue to go through in the event that they are unsuccessful with this modification, and they will be open by Christmas. If it is possible to modify the plan, that plat will then be modified to reflect whatever the compromise might be and they would still hope to stay on the same schedule.

YUNG further pointed out that even though he has agreed to all of these meetings with the neighbors and CPO, etc., on behalf of Wal-Mart, there is very little additional modification that can be made to this proposal, and he believed that they are faced with the smaller site development.

**MOTION:** That Mr. Yung be granted an additional 5 minutes to finish his presentation. Brinegar moved, Goebel seconded and it carried unanimously. Crockett and Moore were absent.

YUNG presented the compromised site plan to the Commission. He stated that the building site initially was 85,900 square feet, and it is still 85,900 square feet. The expansion was 20,000 square feet illustrated, and an additional 20,000 illustrated on the 9.5 acres. Every condition that was agreed to on the 12-acre site is agreed to on the 9.5 acres. By doing away with the out parcels, some of the language in the C.U.P. was eliminated regarding those two parcels. The setback line is being reduced to 80 feet from 250 feet. The landscaping, wall, architectural improvements, wrought iron and all of the other conditions discussed is exactly the same. The main advantage, and the one he felt was the reason that they are finally beginning to get some cooperation from a number of people, if they do not extend the zoning down to the south they would be unable to make this connection on Rock Road and provide the signalized intersection at the major entrance between Skaggs Alpha Beta and the Wal-Mart, and without that, he believed that the traffic was going to be considerably more cumbersome than any of them would like to see. He said that if you look at the plat the way it is submitted now on the 5.9 acres with no left turn movements to the south is not the best solution for this particular corner. He said that he has very carefully analysed what would happen if Wal-Mart did not go in here, and just any neighborhood center went in this location, and he assured them that the same problem exists. They still have the same traffic problems, the same undesirable characteristics that could develop by just straight zoning because there would not be a C.U.P. on that site, and without the additional zoning, they are making a terrible mistake in letting this particular project develop without the expansion.

YUNG stated (on the 9.5-acre site) that they are taking all of the major traffic movements and putting them back on Rock Road where they belong. The building faces Rock Road. They still have a 275-foot setback across the front; that is very compatible and very comparable to what has been done on the other corners.

YUNG pointed out the existing median improvements on the drawing. He said that he has never shown the proposed improvements on any of their drawings. The traffic study that applied on the 12-acre site still applies on this one, and it is considerably more attractive. The reason is they were asking for 145,000 square feet of building on the entire site. This proposal reduces that to 125,000 square feet, which is a 20,000-foot reduction. That will reduce the total amount of traffic from the site.

YUNG felt that this is a very reasonable compromise. Wal-Mart, in their opinion, has come as far as they can come. He said that if they are unsuccessful in the next 26 days to arrive at a compromise that the neighborhood can live with, then Wal-Mart will go forward with the 9.5-acre site as they so indicated.

SHERMAN asked, that of the 125,000 square-foot figure, is Wal-Mart going to specify that a percentage of that would be storage.

YUNG said yes, a definite percentage of that would be retail.

BRUCE HULET, representing the homeowners in the immediate area, including Greenleaf, Bent Tree, Summerfield, Wood Spring, Penstemmon, Plumthicket,

Silverleaf, Wilderness, Waterford, Waterford North and Waterford Tree, Applewood I and II of Sycamore Village area, stated that he would like to correct a few things in Mr. Yung's statements; they did not bless nor did they endorse this 9.5-acre plan. Much like the staff has stated, they had not seen the plan until last night, which was roughly 4 or 5 minutes in his case. He said that the homeowners associations, which he represents, in and around the 21st and Rock Road area stated for the record that they are unequivocally, categorically, against any further rezoning of residential land to "OC", "LC", "C", "E", or "F". He said that they recognize that 5.9 acres on the southeast corner can and will be developed within the current city ordinance and require no further C.U.P. or action by the MAPC or the City Council. However, as Mr. Yung stated, during the neighborhood meeting last, Wal-Mart representatives have offered for the first time ever to meet with and try to work with the immediate homeowners and try to reconcile any differences that may be between the parties. He felt that it was important to note that was all that was agreed to last night.

HULET said that it was rather interesting to note, on a personal basis, that the reason Wal-Mart believes it can not locate under 6 acres, even though they said that the footprint will be the same, at least the initial footprint, is because the zoning or rezoning that was granted some years back to the Skaggs development directly across the street was without plan, and therefore is incompatible with any ability to use directly across the street accesses. He has said time and time again that rezoning is not the way to be doing these things. It makes things complex, nonfeasible and takes up land that has been zoned for residential. Therefore, HULET said that they would like to recommend and urge the Commission to reject the 9.5-acre request for two reasons: The Planning staff said that they have not had time to look at it; the neighborhood has not had time to look at it; the other homeowner groups that may be involved here has not had time to look at it, and particularly since Wal-Mart has said that they will build on the 5.9 acres, and they have filed a plat to do so. HULET said that the neighborhood has recognized from the start that that was a distinct possibility. He said that the neighborhood would work with them if they can; they are not going to sit and accept something that they have not worked with. HULET handed out a booklet that was given to the City Council.

MILES, speaking to Bill McKinley, Traffic Engineer, stated that the Commission has seen three different proposals, 12, 9 and 5. Of the two they are looking at now, which would give the best traffic flow.

McKINLEY stated that he is assuming again that what they see is not exactly what they are going to get. He said that they would get the same traffic flow that they showed on the 12-acre site on Rock Road and 21st, which would include acceleration lanes and deceleration lanes, left turn bays, etc. Basically the 9.5-acre site would have the least traffic impact in the area of the three sites that have been proposed, assuming that they have everything the same as on the 12-acre site. He said that the smaller site puts everything too close to the intersection at 21st and Rock Road. They had some real problems handling the major entrance on 21st with the 400-foot spacing compared to the 600-foot spacing on Rock Road between the signalized intersection at 21st and Rock and the major entrance into their center on Rock Road. There is a heavy left turn

demand northbound to 21st and Rock today on Rock Road and it does back up, and they would need the total distance in there. If it is shortened up to the smaller site, the distance becomes critical. The left turns northbound and southbound would overflow into a through lane, and that would be Traffic Engineering's concern. He said that going to the smaller site from 12 to 9 eliminates some of the traffic problems associated with the restaurants, and that will be a benefit.

PARSONS commented that it was a little bit difficult to sit in judgment of this when you get a last minute plan, and to sit here and try to contemplate this plan as opposed to the other two is difficult.

SHERMAN commented that this is a very similar traffic pattern as far as the entrances and exits are concerned. The reduction in the pad sites helps traffic considerably along with the improvement of square footage. He said that he personally prefers this plan over the smaller site in that it gets better setbacks from Rock Road. He said that he was not real excited about a 200 x 400-foot building going 42 feet off of Rock Road, but all around he preferred this smaller plan to the larger one.

GARDNER stated that the intransigents of the parties involved, and he supposed that it was always difficult to organize a large group of people into a single opinion that reflects all the individual opinions, but seeing the hardball game that is going on of "if we just hold fast and continue to refuse any changes beyond the existing commercial area that is there" seems to reflect the hope or belief that nothing will occur, or very little will occur on the corner. There was perhaps an initial hope that they would not build on the corner if refused the other alternatives, and that has colored a major part of the discussions for the last several months. GARDNER said that having looked at some of the site plans for the 5.9 or 6-acre corner which removed the pad sites and which retained nearly the same size Wal-Mart structure and demonstrate that it can be done, the number of diminished options and alternatives are just very disappointing to him. From the legal sense there is enough zoning that if it is platted in accordance with the technical requirements, someone can and will develop on that acreage. The comments that have been made that the plat will be stopped bespeak either a disrespect for the property rights of others in terms of someone's right to plat, or they indicate a lack of understanding of powers do and don't exist when it comes down to the right to plat a parcel for development for whatever sort, and he felt it was a poor hook to hang one's hat on in the hope that no development will occur. The traffic problems that result from a development on the smaller acreage are in large part a great deal less than optimum. They may be able to adequately service the traffic there, but he felt McKinley's statements are very much to the point that this is, on the 9.4-acre parcel, a better layout for accommodating traffic movements that should be accommodated in a development. GARDNER said that he supposed that he was just struck by the gentleman that spoke saying, in effect, given the choice of the two stores, they would prefer the smaller site to the larger site. The neighborhood has raised the traffic issue, and this seems to address a portion of it. GARDNER said that the landscaping on this plan is vastly superior to what they would have on the smaller development, and he did not see what purpose is served by further delay of the process unless there is the hope that if it can be

delayed further they won't build. It is a very puzzling set of responses that have come forth from the parties over the last several weeks. The 9.4-acre site would have appeared to address the majority of the problems that still have existed or have been raised, and it seems to him to be an adequate proposal. It seems to have a number of advantages to it that could not be achieved with a smaller site.

KROUT said staff's only concern was that they did not know exactly where the changes were going to be and thought if they were extensive, that maybe the case should be deferred so that the changes can be studied from a planning and traffic standpoint. He felt that Bill Yung went through pretty carefully what the changes would be, and they are fairly simple and few and McKinley has indicated that traffic would still work the same and he does not have any problems, so staff does not recommend deferring the case.

GARDNER asked Krout if his perception was correct that staff would prefer this (the 9.4-acre site) given the traffic handling and some other devices to the option of developing on the smaller acreage.

KROUT responded that from staff's standpoint, the circulation works better. This is probably a 20 percent reduction in the traffic from the previous scheme. The traffic works much better when you have major access points from both Rock Road and 21st Street.

PARSONS asked that on the latest plan, is the landscape buffer the same all the way around, or is it 15 feet on the west and 10 feet on the north.

YUNG pointed out that the C.U.P. was in error. The landscaping is 15 feet on both sides.

BRINEGAR commented that it was rather interesting that the present limits of the "LC" zoning falls south of the present footprint of the design site for the 86,000 square-foot to 85,900 square-foot building. Without the expansion the building site would not even be outside the presently zoned "LC" area. To him, the access afforded by the alignment on Rock Road certainly outweighs some of the problems that were associated with the smaller site. He said that this looks like a much better plan. He did feel that all of the parties would never agree to all of the things, and obviously somewhere along the line a decision has got to be made and submitted to the City Council.

PARSONS further commented that he was glad, as chairman of the Planning Commission, that this case did do what it did as far as bringing some things to light in the process, and maybe some things that needed to be looked at and things that needed to be changed in the entire planning process in which the Planning Commission is in the process of doing, not as a result of this, but had anticipated doing earlier. He felt that both proponents and opponents of the zone request have had the opportunity, and certainly do have the right to express their position, which he has heard in some circles that one does and one doesn't. PARSONS said that he was a little disappointed that some of the negotiation had to be held in a public hearing. He believes that while it is not a requirement, a better plan might have been for the developer and the

neighborhood to have met earlier in the process and worked out some of the things that unfortunately were worked on here and in the newspaper, radio and television in addition to the CPO meetings, some of which got pretty grizzly. He did not feel that was good for anybody, and he certainly did not think it was good for the neighborhood or the community being Wichita. He felt that economic development and good planning were much more than granting zoning requests wherever, whenever and for whatever purpose that somebody wants it. He said that he continues to be somewhat disappointed in the media. This continues to be almost a joking put down, insinuations and innuendo type of a matter, and he did not feel that does anybody any good; it does not accomplish anything, and maybe those are some of the reasons that Wichita has a problem from time to time in their economic development activity.

PARSONS said that he was still concerned about the amount of light commercial zoning within a mile and a mile and one-half of this particular location. He said that it looks like they are talking about a potential of about a 115,000 square-foot building here which has, in his opinion, some future potential for problems, if not for that particular building, to others that might be in the area, and felt that needs to be looked at, and looked at very carefully. He agreed with his colleagues that this is probably the best plan that they have seen, and a plan that probably will work, but he was going to continue to hold his position and vote in opposition to this plan as he did the last time, not necessarily because he did not think the traffic would work or that the restaurant locations have been taken out, but he did think that the light commercial zoning was in overabundance in this area, and to create more is a mistake.

FAIRBANKS stated that he has had a lot of people call him, and it has been a lot of "us" and "them" attitude, and yet the same people at the end of their telephone calls or letters say, "We need to work together as a city," but they close it with, "But we are not going to let them do anything to our property." He said that is kind of what the Planning Commission is talking about on the bench; they are asking them to zone for everybody's best uses and best reasons and the best cause, but then they turn around and tell the Commission that everything is an "us" and "them" attitude. He felt that they have to realize that this Commission has to decide on things by the regulations and the rules that they have to live by, and they are simply going to make the decisions that way. They do like the input, but at the same time, if that input could be more constructive as he felt the 9.4 acres is constructive input, it could have been brought up many times before, but for some reason there seems to be two oppositional forces here and everybody is taking "us" and "them" attitudes on both sides. FAIRBANKS felt that this is the plan they should have seen a month ago. He said that the Chairman made a good point that it was terrible to be negotiating at the meeting, and he was embarrassed that they were listening to negotiations and having to do it this way. However, he did feel that this is the best proposal that they have yet and the Commission will keep going with whatever they see on these proposals. He said that he for one was going to vote in favor of this proposal.

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood;

PL/1785/2

the zoning and uses of properties nearby; the suitability of subject property for the uses proposed; the conformance of the requested change to the Comprehensive Plan; and the recommendation of staff; I move that we recommend to the governing body the approval of the 9.4-acre amended proposal, subject to all the conditions previously recommended for establishment on Parcel No. 3 of the original 12-acre proposal. In addition, the Planning Commission recommended the establishment of a zoning policy which would not favor additional "LC", "C", "E" or "F" zoning south of the application area on Rock Road or east of the application area along 21st Street to Webb Road. The recommendation for approval is also subject to the following conditions:

- a. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the City Council for their consideration.
- c. The transfer of title of all or any portion of the land included within the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be plated within two years after approval of this C.U.P. by the City Council or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

Fairbanks moved, Sherman seconded.

SHERMAN commented that he realize there has been a lot said about the fact that communication should have started earlier and should have been a little more in depth. He said that he did not know who was to blame, but he was at the meeting last night and felt that some lines of communication did open, and he hoped that over the next 3 or 4 weeks before the City Council meeting that those thoughts would continue, and hopefully the sides, if not in agreement, will be a little bit closer together when they do come to that point.

3-31-88  
Page 9

VOTE ON THE MOTION: It carried with a vote of  
7 in favor (Fairbanks, Sherman, Brinegar,  
Gardner, Goebel, Miles and Turner) and 1 opposed  
(Parsons). Crockett and Moore were absent.

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PL/1785/2

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE February 17, 1988

TO Jack Galbraith, Chief Planner-Current Plans  
FROM Stanley J. Scott, CP Coordinator *Stan Scott*

SUBJECT DP 180/Z-2886: Generally located  
at the southeast corner of 21st  
Street North and Rock Road

On Monday, February 15, 1988, CPO Rockwell/Northeast Neighborhood Council 2A considered the captioned cases associated with the Rock Road Walmart Commercial Community Unit Plan and associated zone change to "LC" Light Commercial District. Following extensive discussion (over 3 hours), the Council took the following actions listed below:

- 1) Voted 6-3 to recommend denial of DP-180.
- 2) Voted 6-3 to recommend denial of Z-2886 based on the following criteria from Policy Statement No. 10:
  - a) The character of the neighborhood;
  - b) the zoning and uses of properties nearby;
  - c) the suitability of the subject property for the uses to which it has been restricted;
  - d) the extent to which removal of the restrictions will detrimentally affect nearby property;
  - e) the length of time the subject property has remained vacant as zoned; and
  - 1) opposition of neighborhood residents.

Bill Yung, designer and agent for the applicant, was present to describe the request and respond to questions from the Council and area residents. Mr. Yung began by describing the following changes from the original proposal.

- 1) Service stations and tire/battery/auto accessory stores as allowed uses on Parcel 2 are deleted.
- 2) The maximum height of signs is reduced from the allowed 35 feet to 20 feet.
- 3) The area of the Walmart sign is reduced from 200 square to 150 square feet. (1600 sq. ft. allowed).
- 4) Restaurants are retained on Parcel 2 with drive-through order boards, however loudspeakers are replaced with phones.
- 5) The number of entry points is reduced from eight to six.
- 6) Solid masonry screening of 5 and 8 feet will be provided behind and to the side of the proposed Walmart.

- 7) An eight foot masonry wall will screen the truck loading dock area from Rock Road.
- 8) A wrought iron enclosure will be provided for the Garden Center.
- 9) No trucks or trailers will be parked on the site for more than 48 hours.
- 10) Rooftop mechanical equipment will be screened from the ground view.
- 11) A 15 foot landscaping strip will be provided around the perimeter of the site adjacent to Rock Road and 21st Street North.

Barb Nuckles (De Shazo, Starck, and Tang, Inc.) presented results of the traffic study performed to project the anticipated impact of the proposed development on the intersection of 21st and Rock Road. Mr. Nuckles reported that the development will generate 469 trips in and 515 trips out at the peak traffic hours, resulting in an increase in the average delay at the intersection from 21.2 seconds to 26.1 seconds. Mr. Nuckles provided a detailed review of the study.

Approximately 150 area residents and property owners were present to express their overwhelming opposition to the request. Approximately 17 citizens spoke in opposition to the request.

Among the concerns expressed were the following:

- 1) Increased traffic volumes and congestion. Several residents challenged the traffic consultant's assumption of a 28 annual increase in traffic through the year 2000. One area resident noted that the increase in traffic between 1984 and 1987 far exceeded the 28 annual increase assumption and projected that the consultant's traffic projections for the year 2000 will be exceeded by 1990. (In response, the consultant noted that his projects were based on peak hour load rather than 24 hour traffic count.)
- 2) Increased traffic hazards and accidents. Several residents expressed concern with crossing six lanes of traffic to cross the street and three lanes for left turns.
- 3) Existing commercial sites exist in the area which will exacerbate traffic and development problems.
- 4) Challenged the apparent policy of allowing commercial uses at the corners of each mile section intersection.
- 5) Questioned the need for additional "LC" space in the area with the number of existing vacant sites and buildings.
- 6) Depreciated residential property values.
- 7) Reduced quality of life.
- 8) Reduced public safety.

**Citizen Participation Organization**  
**Page 3**

Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. While the staff comments do present a suggested zoning policy for the Wilson Farm, the Council choose not to address the policy at the meeting.

Please provide the Council's recommendation to the MAPC and City Council when DP 189/Z-2885 are considered.

S

Planning Agenda Item # \_\_\_\_\_

City of Wichita  
City Council Meeting  
April 26, 1988

Agenda Report # \_\_\_\_\_

TO: Mayor and City Council Members

SUBJECT: DP-180 - ROCK ROAD WAL-MART COMMERCIAL COMMUNITY  
UNIT PLAN; AND

Z-2886 - ZONE CHANGE FROM "AA" ONE-FAMILY DWELLING  
DISTRICT TO "LC" LIGHT COMMERCIAL DISTRICT, LOCATED  
AT THE SOUTHEAST CORNER OF 21ST STREET NORTH AND  
ROCK ROAD. (District #2)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

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MAPC Recommendation: Approve the amended 9.4-acre proposal (7-1).

Staff Recommendation: Approve the amended 9.4-acre proposal

CPO Recommendation: On February 15, 1988, Council "2A" recommended denial of the original 12-acre C.U.P. and rezoning request 6-3. CPO Council "2A" consideration of amended 9.4-acre proposal is scheduled for April 18, 1988.

Background: The C.U.P. proposal and associated zone change request were originally heard by the MAPC on December 10, 1987 and were deferred two months in order for a traffic study to be done by the applicant. The traffic study was completed and the case was rescheduled for consideration by the Metropolitan Area Planning Commission on February 18, 1988. Following the public hearing on February 18, 1988 the MAPC took action to recommend that the C.U.P. and associated zone change request be approved. The Wichita City Council considered the case on March 8, 1988 and took action to return the case to the Metropolitan Area Planning Commission for reconsideration. On March 31, 1988 the MAPC held a public hearing to reconsider a commercial community unit plan and an associated zone change request for a 12-acre unplatted and undeveloped tract of land on the southeast corner of 21st Street North and Rock Road. At the public hearing, the applicant amended his proposal by reducing the total site size to 9.4 acres, with a corresponding reduction in the size of the rezoning request from 5.4 to 2.98 acres of "LC" Light Commercial zoning. The applicant stated that all of the provisions of the previous 12-acre proposal would apply to the 9.4-acre proposal. The main difference in the revised proposal would be the reduction in total site size, the reduction in the amount of additional "LC" zoning requested, and the reduction of the number of proposed parcels available for commercial development from 3 to 1.

The "LC" rezoning request is now for 2.98 acres of property that is presently zoned the "AA" One-Family Dwelling District. The revised C.U.P. proposes the

PL/1763/2

#17

development of one parcel with a maximum gross floor area of 122,840 square feet for commercial purposes. The original 3 parcel-plan had proposed a total of 145,000 square feet of maximum gross floor area. The proposed shopping center uses include grocery, retail shops, pharmacy, garden center, tire, battery and accessories and concessions area within a major department store. In addition, extensive landscaping, screening, sign control and traffic improvements are proposed. A fifteen-foot wide landscape buffer is proposed along the entire Rock Road and 21st Street frontage west of the major entrance. Since the March 31, 1988 review of the C.U.P. proposal by the MAPC, the applicant has increased the width of the landscape buffer along 21st Street east of the major entrance from 15 feet to 20 feet and is proposing the use of conifer trees and landscaped berms to screen the eastern portion of the project. Trees with 2½ to 3-inch diameter trunks are to be included in the landscape planting materials. These trees are to be located throughout the parcel including the parking areas.

Traffic improvements to be made include center left turn lanes in 21st Street and Rock Road, raised medial extensions and reconstructions, deceleration lanes and signalization of the major entrance to Rock Road if determined necessary by the City Engineer. Street and signal improvements associated with the C.U.P. are to be guaranteed at the time of platting. One major opening is proposed on 21st Street and one major opening and a secondary opening for right turns only are proposed on Rock Road.

Screening walls are to be constructed to screen the development from adjacent residential areas and to screen the proposed truck loading dock from Rock Road.

Attention is also to be given to the type of building materials to be used throughout the project to assure compatibility and blending with the character of the surrounding area. The applicant has also added provisions which would prohibit carnivals from occurring on the premises and would require that garage doors on the structure be painted the same color as the structure. The applicant is also prohibiting the use of "Discount City" and "we sell for less" signs on the proposed structure.

The signs permitted on the site have been changed from pole type to monument type and have been reduced in permissible height from 20 feet to 17 feet.

- Recommendations/Actions:
1. Concur with the findings of the MAPC and approve the zone change and the 9.4-acre C.U.P. subject to the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or
  2. Take appropriate action stating reasons.

**CASE NUMBER:** DP-180 and Z-2886

**OWNER/APPLICANT/AGENT:** Wilson Estates (applicant)  
Bill G. Yung Design (agent)

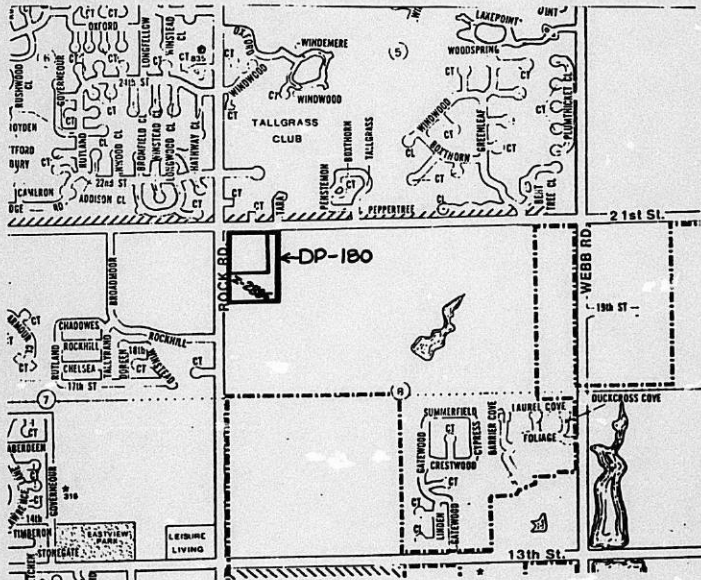
**REQUEST:** Approval of Rock Road Walmart Commercial Community Unit Plan and associated zone change to the "LC" Light Commercial District.

**CURRENT ZONING:** "AA" One-family Dwelling District and "LC" Light Commercial District

**SITE SIZE:** 12 acres

**LOCATION:** At the southeast corner of 21st Street North and Rock Road

**PROPOSED USE:** Light Commercial and office uses



APPLICATION  
AREA

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE April 19, 1988

TO City Council Members through Chris Cherches, City Manager

FROM Barry L. Carroll, CPO Staff <sup>BLC</sup>

SUBJECT DP-180 & Z-2886: SE Corner  
of 21st Street North and  
Rock Road

On Monday, April 18, CPO Rockwell/Northeast Neighborhood Council 2A considered the captioned cases, a request for approval of the ROCK ROAD WALMART COMMERCIAL COMMUNITY UNIT PLAN and an associated zone change request for 2.9 acres from the "AA" Single-Family Dwelling District to the "LC" Light Commercial District. Council members were provided a map of the area and MAPD staff comments.

After extensive discussion, the Council voted to 8-1 to recommend approval of the requests subject to conditions stipulated within the tentative agreement negotiated between the representatives of the ten (10) Home Owners' Associations (HOA's) and the WalMart Organization.

The agent, Bill Yung, was present to describe the modified request which proposed a 9.4 acre develop. Mr. Yung displayed a drawing of the proposal and outlined the various modifications such as landscaping, earthen berms, access, setbacks, lighting, paint color and signage.

Bruce Huelat, 2411 N. Greenleaf, one of three assigned negotiators for the 10 HOA's, read a prepared statement which outlined the "letter of agreement" between the HOA's and WalMart. Mr. Huelat stated that this agreement would be considered by all 10 HOA's, but urged the CPO Council to support the tentative agreement.

Please prove the Council's recommendation to the City Council when cases DP-180 and Z-2886 are considered.

BLC:dm

RECEIVED

APR 20 1988

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

#18

## SEDGWICK COUNTY COALITION FOR THE PRESERVATION OF NEIGHBORHOODS

Our goal is to stop the reactive rezoning of residential land for commercial and industrial use within Wichita's neighborhoods, and to convince the city leadership to develop a future planning approach and policy to our zoning needs.

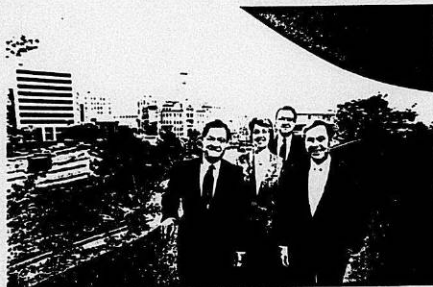
We feel we received an unfair hearing at the MAPC hearing last month for the following reasons:

1. The motion to accept the rezoning was subject to a **specific requirement** of the MAPC to **develop** a comprehensive plan for the entire area and that **no further L/C** would be granted on the Wilson Farms property. This restriction was not stated as such in the provisions letter to Bill Yung from Jack Galbraith dated 2/15/88.
2. The MAPC unfairly refused to listen to logic and ask for accountability with regard to substantial flaws in the traffic study.
3. The MAPC unfairly refused to account for the grossly oversaturated existing L/C property in the area.
4. The MAPC would not recognize or support the use of existing L/C zoned land in the area.
5. The MAPC lists no punitive action for violation of requirements to upgrade and maintain area.
6. The MAPC accepted without qualifications the purchased signature lists supporting rezoning.
7. The MAPC did not fairly act on the rezoning request within the framework of policy 10, A, B, C, D, E, F, G, H and J.

ONE BY ONE WE WOULD LIKE TO ADDRESS THE ISSUES FOR THE COUNCIL

#19

“For the first time,  
the city, the county,  
and the business community  
have stood up  
and said it’s time  
to do something.  
Together.”



Tom Scott  
Chairman  
Sedgwick County Commission

Bob Knight  
Mayor  
City of Wichita

Barbara Mehl  
President, Association of Legislative  
Action for Rural Mayors

C. James Mans  
Chairman  
Wichita Area Chamber of Commerce

## WE NEED A PLAN FOR NEIGHBORHOOD DEVELOPMENT

The key issue here is the lack of a neighborhood plan in concert with an overall community development plan. There is no way of knowing where to live in this city when rezoning at anyone's request can change the entire character of an area. Neighborhoods are places where people can raise families and know their properties will not be in jeopardy because there are no rules. A pro-active approach provides for schools, parks, neighborhoods and commercial needs. In other words, a valuable quality of life can be protected.

From the beginning, specific sectors of rezoning must be established from which retail business, office, commercial and other regional needs are fulfilled. These regional sectors should not interfere; but rather, compliment residential neighborhoods. They should have adequate traffic adaptability and growth. Lastly, industrial and manufacturing sectors must be established so that a full profile for a living and working environment can thrive and grow. These sectors must be in complete harmony with the neighborhood and regional sectors, i.e., environmental safety, transportation and resource needs. Historically, Wichita/Sedgewick County has not had this type of complimentary zoning...

### WHERE DO WE GO AND HOW DO WE GET THERE?

We think the answer is simple. Start with the concepts as a given and plan to achieve the results. Create a plan that preserves the neighborhoods. Allow for **only** complimentary neighborhood structures to be added. Preserve and allow for enhancement of the regional commercial structures in sufficient targeted (by the plan) areas and likewise, for the industrial areas. If a current conflict exists, choose (by plan) the desired effect and allow only activities or developments that are for that desired effect.



**THIS TYPE AND  
DENSITY OF  
TRAFFIC IS  
UNACCEPTABLE  
IN RESIDENTIAL  
NEIGHBORHOODS**



**CROSSING SIX TO  
EIGHT LANES OF  
TRAFFIC IS UNSAFE  
FOR CHILDREN**

## OUR SECOND ISSUE IS TRAFFIC.

The traffic plan presented by the Tulsa consultant assumed a 2% growth rate to the year 2000. The 2% was "from the city's Traffic Engineer," although we can find no one in the city's engineering department that says this number was given. It is interesting to note that if a higher number is used for growth rate, then traffic becomes unmanageable in this intersection.

In any event, the actual 24-hour count of traffic from the city on the 21st and Rock intersection shows traffic has increased 11 to 34% in the last four years or 18%/year average. (See Chart 1). If we take the 18%/year average and cut it in half and compound that growth for only the next five years, the traffic count goes up to 1739 vehicles per peak hour or 50% over the consultant's projection. Even the consultant said that the intersection will not be able to handle that much traffic. If you increase the growth from the ill-assumed 2% to a still conservative 5% growth for the area, the traffic from the consultant proposed complex almost doubles again and is outside of the limits set by the city and endorsed by the traffic consultant. (See Chart 2).

The Traffic Commission accepted the traffic study assuming the 2% growth rate was correct. The complaint we have is 2% is totally wrong. The number is significant if we increase the 2% growth to only 4% or 5%. A new study by the city traffic engineers is needed taking into account the area's growth, the yet-to-be-developed areas with all the acreage accounted for, and the addition of the K-96 Bypass. Only then will any of us know which traffic growth estimate is correct.

## CHART 1

### ACTUAL STATISTICS ON 24 HOUR TRAFFIC COUNTS OF 21ST & ROCK BY THE CITY TRAFFIC ENGINEERS

	YEARS	SIDE OF THE INTERSECTION	TRAFFIC INCRS. %
ROCK ROAD	84-85	NORTH	51.0
	85-87	NORTH	41.0
	84-87	SOUTH	2.8*
	85-87	SOUTH	80.1
21ST. ST.	83-84	EAST	4.5*
	84-87	EAST	38.5
	83-84	WEST	9.3*
	85-87	WEST	42.3

\*Traffic flow reduced or detoured due to complete road replacement.  
Traffic measured in both directions.  
Average per year rate of growth range from 11%/year to 34%/year.



## CHART 2

GROWTH RATE ASSUMPTION	NO. OF VEHICLES/PEAK HOUR IN THE YEAR 2000	% INCREASE
2%/Year to the Year 2000 Tulsa Traffic Consultant Proposal	1248	26.8
4%/Year to the Year 2000	1575	60.0
5%/Year to the Year 2000	1767	79.5
4%Growth/Year for next 5 Years Then 2%/Year till Year 2000	1375	39.7
5% Growth/Year for next 5 Years Then 2%/Year till Year 2000	1442	46.6
9% Growth/Year* for next 5 Years Then 2%/Year till Year 2000	1739	76.7

NOTE: Based on current peak count of 984/Vehicles/Hr. (Jan. 88 Count)

\*A 9%/Year growth rate is 1/2 the current (last 4 years growth rate). In addition only 37% of the approved CUPs, for this corner only, are operating (that is Skaggs and Dillions complexes are only 37% of their planned and approved sizes). The completion of the North Rock Development will also cause increases in traffic which **have not been addressed**.



# BrittanyCenter

**21<sup>ST</sup> STREET**

**WOODLAWN**

**FUTURE**

- 1 FOOD BARN
- 2 HENVED DRUGS
- 3 MEYER FURNITURE
- 4 PARADISE TFC, INC.
- 5 CLAY BAKERY
- 6 CAROL SWELLS DESIGN SYSTEMS
- 7
- 8 ONE HOUR PICTURE PERFECT
- 9 BRITANNY LAUNDRY EXPRESS
- 10 DORIS & SONS
- 11 MIRA'S CAR & TRUCK STORE
- 12 H&M TAILOR
- 13 H&M TAILOR
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**18 OF THE 48  
SHOPS IN  
BRITANNY CENTER  
ARE NOW VACANT  
(21st and Woodlawn)**

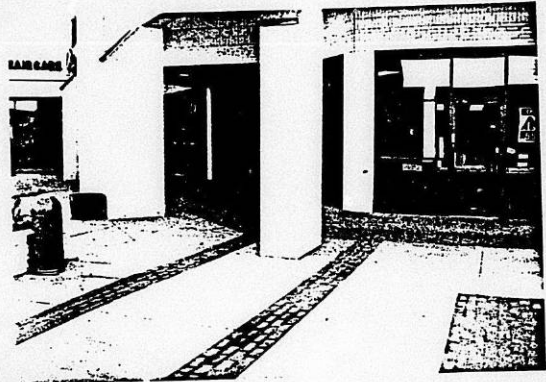


# BrittanyCenter

Map of Brittany Center showing 48 numbered units and their current occupants. The map is oriented with 21st Street at the top and Woodlawn at the bottom. The units are numbered 1 through 48, and each number is followed by the name of the current occupant.

- 1. FOOD SALES
- 2. NEWCO DRINKS
- 3. MERRY PERMAN
- 4. ALMAHADE INC. INC.
- 5. CLAY BANK
- 6. CAROL PHILLIPS DESIGN SYSTEMS
- 7.
- 8. THE HOUSE PICTURE PERFECT
- 9. BRITANNY SPORTING GOODS
- 10. KOB & CO. INC.
- 11. MIRA S. DE SAZ. ELEGANT STORE
- 12. MIRA S. DE SAZ
- 13. ALDO PIZZ
- 14. PETE COFF FROCKERY
- 15. LINDA DUBO
- 16. TERRY TERRY
- 17. MARYANN WHITE SALES
- 18. ALMAHADE
- 19.
- 20. KUREMAN FRANKS
- 21.
- 22.
- 23. BRITANNY PRINT SALES
- 24. MARIANNE STEAKS
- 25.
- 26. HENRY LIBBY
- 27. HENRY HENRY
- 28. POLAROID DEAL
- 29.
- 30. BRITANNY OCEAN
- 31. HENRY HENRY
- 32. HENRY HENRY
- 33. HENRY HENRY
- 34. HENRY HENRY
- 35. HENRY HENRY
- 36. HENRY HENRY
- 37. HENRY HENRY
- 38. HENRY HENRY
- 39. HENRY HENRY
- 40. HENRY HENRY
- 41. HENRY HENRY
- 42. HENRY HENRY
- 43. HENRY HENRY
- 44. HENRY HENRY
- 45. HENRY HENRY
- 46. HENRY HENRY
- 47. HENRY HENRY
- 48. HENRY HENRY

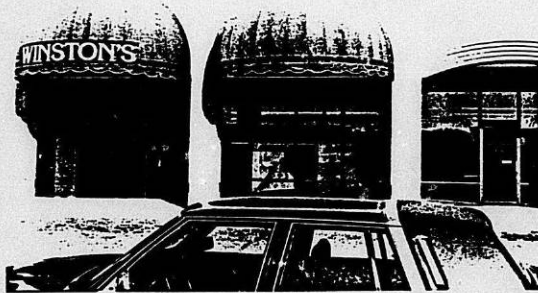
**18 OF THE 48  
SHOPS IN  
BRITANNY CENTER  
ARE NOW VACANT  
(21st and Woodlawn)**



## **EXCESS NEW VACANT COMMERCIAL SITES FLOOD THE EASTSIDE**

Our third issue is the current overly saturated, vacant L/C structures in the northeast and east side of Wichita. The MAPC and City Council must recognize more overbuilding is going to create more vacancies in adjacent areas. These are not old rundown facilities. These are new and recent constructions such as The Brittany Center, The Fashion Center, and Carriage Park as these pictures show. The MAPC suggested that the L/C area could be buffered by more dense residential, i.e., apartments/townhouses and professional buildings. However, the vacancy rate of apartments is 8.5%, down from 15% one year ago. There is 175,000 square feet of additional floor space approved at Dillons and Skaggs, 10 CUPs are approved at the North Rock area (29th to 37th) with a minimum of 1.193 million square feet to a maximum of 1.683 million square feet. Only 200 thousand feet are developed. On the 21st Street and Webb corner another 259,000 square feet are CUP approved. On 21st Street between Rock and Woodlawn and south of 21st on Rock various CUPS and L/C zoned land exist.

The point is over 2 million feet of approved commercial CUPs exist within approximately 1 mile of this intersection!!! We do not need one more square inch of L/C zoning.

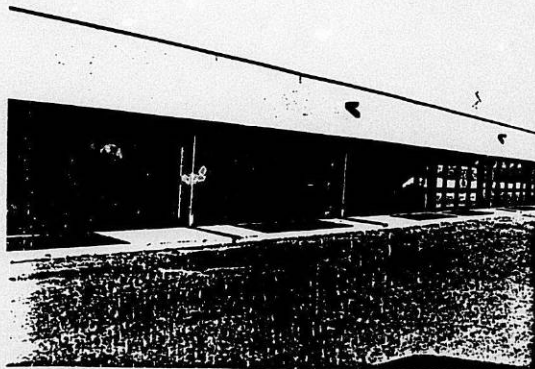


**EMPTY LAND AND SPACE ARE  
AVAILABLE IN CARRIAGE PARK  
(Central off Woodlawn)**

**SIGNIFICANT  
BRAND NEW  
CONSTRUCTION  
HAS BEEN  
VACANT AT THE  
VILLAGE FASHION  
CENTER FOR  
TWO YEARS  
(Armour and  
Kellogg)**



**MORE  
PROFESSIONAL  
SPACE SITS  
EMPTY AT THE  
COUNTRY CLUB  
LAZA  
(16th and Rock)**





**NEWLY  
CONSTRUCTED  
ROCKFORD  
SQUARE  
HAS MAJOR  
VACANCIES**

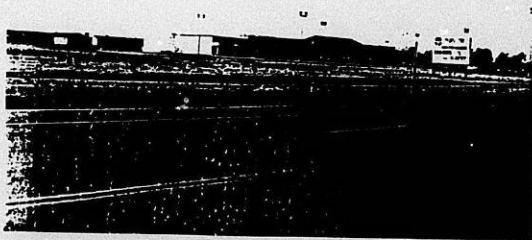


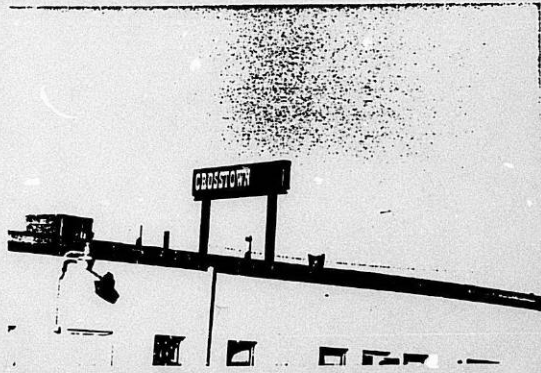
**PROFESSIONAL OFFICE SPACE  
STANDS EMPTY ON THE EAST SIDE**

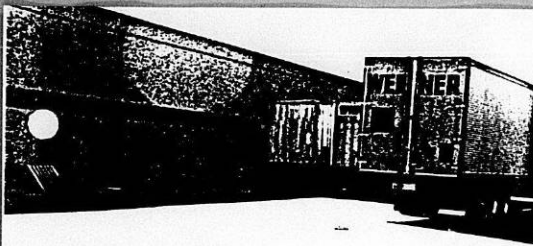
## 538 ACRES OF L/C ZONING EXIST WITHIN 1.5 MILES OF 21st & ROCK

Our fourth issue is to simply stop rezoning more land for L/C and higher zoning, particularly when there are good, geographically acceptable areas and reasonable buildings already existing that can be used without rezoning. 21st and Rock is simply not the only available spot in the northeast sector in which to build a 3-store complex.

In fact, within a one-mile radius there are 318 acres zoned L/C — O/C; and within a two-mile radius there are an additional 538 acres zoned L/C — O/C or industrial. Surely, the City Council can see this is a request which can be denied and still leave developers with numerous options to pursue in the vicinity without taking up more residential land.







TRUCK TRAILERS  
LIKE THESE ARE  
LEFT FOR WEEKS.  
THESE EYESORES  
AND THE  
CONSTANT LITTER  
AS SHOWN HERE  
ARE NOT POLICED  
AND CANNOT BE  
ACCEPTED ANY  
LONGER.



## NO ONE ENFORCES THE VIOLATIONS OF CONDITIONS GRANTED

Our fifth issue is perhaps one of law enforcement. But we think the problem goes further. Many zoning requests carry conditional stipulations. However, the conditions are not met and/or maintained. To cite one example: When the northwest corner of 21st and Oliver was rezoned to L/C, opposing neighbors were promised that no trees would be destroyed. All trees were removed. Moreover, there is no policing of, reprisals or punitive actions for not maintaining the conditions required to get the rezoning.



**TRUCKS AND  
TRASH ARE THE  
WRONG IMAGE  
FOR WICHITA  
NEIGHBORHOODS**



Our sixth issue concerns the MAPC adoption of an unqualified petition with a reference that the neighborhood is in support of the rezoning by way of the signed petition presented by Mr. Fettis. Furthermore, various names were of the same penmanship. It is interesting to note that not one person at the CPO nor the MAPC meetings came forward to support the rezoning during the public input segment.

Chart 3 below shows the areas canvassed by hired petitioners. NOTE: Not one signature occurs east of Rock Road. Yet, the proposed complex is east of Rock Road. In addition, signatures were garnered as far as 1000 north by 5700 east and north of 29th and Woodlawn.

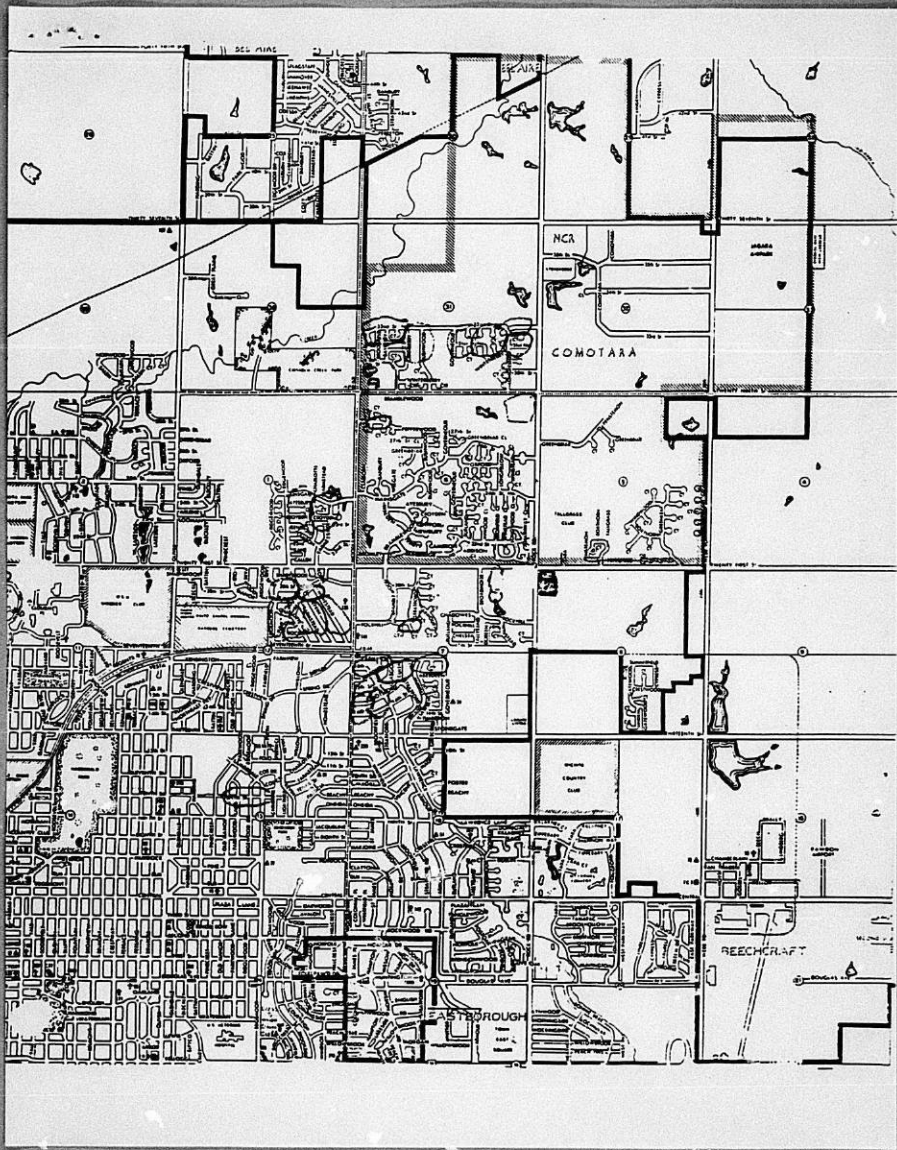
The attached map shows the circled areas of the signatures. In fact, there are no support signatures of property holders in Tallgrass, Tallgrass East, Country Place, Waterford, Waterford North, Waterford III, Sycamore Village, Mainsgate, Applewood I and II. And these are the neighborhoods immediately adjoining the subject site. Clearly, the neighbors do not support the rezoning. In fact \_\_\_ signatures are hereby presented from the immediate area opposing the rezoning.

CHART 3

PAGE	NO. NAMES	NO. ADDRESSES	BLKS EAST	LOCATION	BLKS NORTH
1.	31	23	6000		2400
2.	3	3	5900		2400
3.	33	22	64-6700		1600
4.	24	18	67-6800		1400
5.	32	24	54-5600		18-1900
6.	28	21	53-5500		19-2100
7.	32	19	64-6600		15-1600
8.	32	20	64-6600		1400
9.	15	9	6400		1400
10.	14	10	57-5800		1000
11.	24	17	6900		1600
31.	32	22	58-6800		18-1900
13.	27	17	65-6700		27-2800
14.	23	14	68-6900		1700
15.	30	15	77-7800		*2800
16.	33	25	64-6500		17-1800
17.	33	25	64-6500		17-1800
18.	33	20	5700		18-1900
19.	33	17	58-6100		18-1900
20.	33	20	5700		1800
21.	33	18	56-6000		17-1800
22.	33	22	7600		*3100
23.	33	23	6700		31-3200
24.	33	23	6700		31-3200
25.	33	20	73-7400		3100
26.	33	26	7500		31-3200
27.	33	27	64-6500		3100
28.	33	20	73-7400		3200
29.	33	23	64-6500		31-3200
30.	33	21	64-6500		*3100
31.	33	24	64-6500		*3200
32.	33	29	7600		*2100
33.	33	21	7600		*1900
34.	33	24	7600		*3200
35.	9	4	7500		*2100
TOTAL	1001	652	66-6700		1900

6300 EAST \_\_\_\_\_ IS WOODLAWN  
 7900 EAST \_\_\_\_\_ IS ROCK ROAD

\*SIGNATURES INCLUDE APARTMENT DWELLERS



Our last issue is that the MAPC does not conform to p 10 as follows:

THIS SECTION STATES ALLZONE CHANGE CASES **MUST** TAKE INTO ACCOUNT

**A. THE CHARACTER OF THE NEIGHBORHOOD**

This neighborhood is residential, bounded by southwest Comatara, Tallgrass, Rockhill, and Country Place. There are two grocery stores anchoring actual and proposed strip shops. This is not a regional shopping complex corner by character.

**B. THE ZONING AND USES OF PROPERTIES NEARBY**

The rezoning of three of the four corners is L/C. Additional low profile, professional buildings and an upscale Inn exist to the north and apartments to the south. The balance is totally residential in the existing, immediate surrounding area. This is not the place for a regional shopping complex.

**C. THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED**

The subject property is clearly best suited for residential use.

**D. THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY**

This is quite simple. Would you and your family locate your home next to an 8-foot concrete wall with a view of a 120,000 sq. ft. complex? Or in an area so heavily congested with traffic caused by commercial over-development? If your answer is "NO", then don't ask us to do it. Additional concern over further strip zoning will follow and will definitely be detrimental to property values.

**E. THE LENGTH OF TIME THE SUBJECT PROPERTY HAS BEEN VACANT AS ZONED.**

The subject property was annexed by the city some years ago. It is on the city's outskirts and the area now is only beginning to be developed. In this specific area, the predominance of the development is single-family dwellings, not regional shopping complexes. Lastly, the property holder of this land has stated repeatedly that he was approached by the developer; that he did not have a development plan for his land; and that he would like to continue farming the land.

**F. THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PLAINTIFF'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON INDIVIDUAL LANDOWNER.**

Clearly, our health is threatened by pollution of the heavy trucks and buses that will be required to service the complex. Our families' safety is at risk with the significant traffic increase. Webster defines welfare as "Happiness and Prosperity." Truly, there is not one homeowner in the adjacent residential neighborhoods that will prosper and be happy with rezoning.

**G. THE CONFORMANCE OF THE REQUESTED CHANGE TO THE ADOPTED OR RECOGNIZED MASTER PLAN BEING UTILIZED BY THE CITY**

This is the backbone of the people's plea. There is no plan, just reactive rezoning. AS THIS POLICY PROVISION STATES, END THIS PRACTICE AND PUT RESPONSIBILITY BACK IN OUR GOVERNING BODIES.

**H. THE IMPACT OF THE PROPOSED DEVELOPMENT ON COMMUNITY FACILITIES**

The Tulsa traffic study and the city's engineers have requested two additional traffic lights 250-300 feet from this intersection just to handle the flow of traffic safely. Therefore, the facilities are not there to handle this complex; and, furthermore, the local neighbors do not want these traffic devices added as they will restrict their flow-through activity further. We believe that it will severely congest the areas considered.

**I. PREVIOUSLY ADOPTED ZONING POLICIES OF THE MAPC AND GOVERNING BODY**

Unfortunately, we concede this provision to the MAPC. Past reactive zoning has been a way of life and needs to stop. NOW! This is the same rezoning body that allows striptease bars in residential neighborhoods. This city is full of eyesores caused by reactive zoning that detracts from the image WE are all trying to bolster.

**J. OPPOSITION OR SUPPORT OF NEIGHBORHOOD RESIDENTS**

Without qualifying the developer's petition (See issue 6), without one proponent for rezoning at the last MAPC and CPO meetings, the MAPC had the audacity to cite that the neighborhood residents supported rezoning. Clearly, this is not the case. The neighborhood residents oppose the rezoning.

**K. A CONSIDERATION OF THE RECOMMENDATIONS OF THE PROFESSIONAL STAFF**

Again our coalition will concede the staff supported the proposed change in zoning, but even staff (Marvin Krout) suggested an overall plan should also be adopted for the remaining section of land.

## BLUEPRINT FOR A POSITIVE WICHITA IMAGE

**S**uccess breeds success. It is as true of a growing community as it is of a prosperous business.

Cities that develop a reputation for dynamic growth often enjoy more of the same — on the strength of that very reputation. A positive image generates positive results.

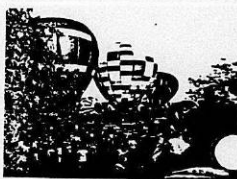
We must develop an image that reflects Wichita's positive and progressive personality.

The Blueprint 2000 plan outlines specific strategies to do just that.

A key step toward creating a dynamic, progressive image for the community is Blueprint 2000 itself. The momentum generated by implementing the plan will give the city a big push in the right direction.

Another step is initiating a comprehensive marketing program. An advertising campaign and a formal public relations program designed to systematically shape a more positive community image and reach corporate decision makers. Not only nationally and regionally, but also here at home. Because people who are enthusiastic about their hometown will "sell" the Wichita area all over the country.

The overall goal: attract new jobs and investment and show that Wichita is the city leading Kansas and the region into the future.



-2-

**What we believe the city must do is develop a neighborhood, commercial, corporate zoning plan; and stop the rezone-at-will policy. Create a city-wide environment of compatible zoning areas that allow for a mutually beneficial coexistence in concert with planned traffic, planned schools, planned parks, residential, commercial, and industrial needs. To continue to rezone without any idea of what is next is totally unacceptable to the citizens of this county!**

**Our proposal is to charge the MAPC with the responsibility of developing a proposed plan for the northeast section for review by Summer, 1988. The MAPC should utilize the resources and inputs of the landowner, neighborhood associations, builders, developers, and the WI/SE Partnership for Growth to come up with their plan. Hopefully, this plan can be reviewed and adopted by the City Council. A plan of this nature, developed by the consensus of all affected parties, can only lead to development that is sound; creating a positive image and value to all.**

**Thank you for your time and patience, as well as your sensitivity to the issue.**