

**3. Return the application to the MAPC for reconsideration**

**(An override of the Planning Commission's recommendation requires a 2/3 majority vote of the membership of the governing body on the first hearing.)**

Agenda Item # \_\_\_\_\_

City of Wichita  
City Council Meeting  
April 17, 2001

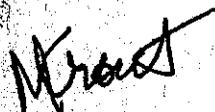
Agenda Report # \_\_\_\_\_

**TO:** Mayor and City Council Members

**SUBJECT:** ZON2000-00056 - ZONE CHANGE FROM "LC" LIMITED COMMERCIAL TO "GC" GENERAL COMMERCIAL; AND

CUP 2000-00054 DP-08 AMENDMENT #9 - AMENDMENT TO THE UNIVERSITY GARDEN COMMUNITY UNIT PLAN TO ALLOW INDOOR STORAGE OF CONSTRUCTION AND EQUIPMENT AND VEHICLES AS A PERMITTED USE ON PARCEL 2, LOCATED AT THE NORTHEAST CORNER OF 21<sup>ST</sup> STREET NORTH AND OLIVER.

(District #1)

**INITIATED BY:** Metropolitan Area Planning Department 

**AGENDA ACTION:** Planning

**MAPC Recommendation:** Approve, subject to conditions (8-6).

**Staff Recommendation:** Deny.

**DAB Recommendation:** Deny (7-2).

**Background:** The applicant is proposing to rezone Parcel 2 from "LC" Limited Commercial to "GC" General Commercial and to amend DP-8 University Gardens Community Unit Plan to allow Parcel 2 to be used as a contractor's storage yard.

A contractor's storage yard is part of the use classification of "construction sales and services" in the Unified Zoning Code. Construction sales and service requires "GC" rather than "LC" zoning unless it is primarily a retail rather than wholesale or service use, and it complies with outdoor display and storage requirements of "LC" (Art. III, Sec. III-D.6.bb.). As proposed by the applicant, the use does not meet the criteria of being primarily a retail business. The nature of the proposed use is that of a warehouse/storage facility for a construction firm.

Parcel 2, the application area, is located at the northeast corner of DP-8 University Gardens along Pinecrest. Currently, there is an existing building on the southern portion of Parcel 2, owned by the applicant. Breakthrough Ministries Church (tenant), Harrold E. Jones Attorney's Office (tenant), and Pop's Laundromat occupy the existing building.

The applicant is seeking to expand this building, or build a second building, on the northern portion of the parcel. It would be used for the storage of construction equipment, materials and vehicles. It is our understanding that the metal building would be approximately 80X100 square feet in size, and with an open area of approximately 80 feet between the building and the property line. It would open toward the west (Storage USA). The applicant would build a brick wall 10 feet back from the east property line along Pinecrest, connecting with the existing wall on the north property line of the shopping center, and connecting with the existing buildings. The area between the wall and the property line would be landscaped.

University Gardens was once the location of a Dillons, K-Mart, Revco, and other small tenants in the main building of the shopping center. The Dillons site has been converted to a multi-tenant structure for entrepreneurs and start-up businesses, currently including Oliver's Collectibles, Designers Connection, and Via-Net Transcriptions. The K-Mart building was converted to Storage USA Self-Storage (climate-controlled indoor storage only).

The existing building on Parcel 2, was originally a Kinko's, then changed first to Olan Mills and subsequently to Dollar General. A dentist's office is located near the intersection of 21<sup>st</sup> and Oliver. Two fast-food restaurants are located near the intersection of 21<sup>st</sup> and Pinecrest (south of Parcel 2, the application area). These are a Taco Tico and Cora's Homestyle Cooking (formerly Sonic).

The types of land uses in the surrounding area varies in each direction, with a wide mix of uses; however, all are of relatively lower zoning intensity than that requested by the rezoning. Wichita State University is located to the southwest of 21<sup>st</sup> and Oliver, with the golf course being the nearest use to the shopping center, and providing a park-like atmosphere to the area. The baseball complex is west of the golf course. A large-lot residential development is located to the northwest.

Immediately north of the shopping center is the Tall Oaks Apartment Complex. The tennis courts and swimming pool are immediately adjacent to the proposed location of the building that would be used for construction vehicles, equipment and supplies. A single-family subdivision, Prairie Hills, is located north of Tall Oaks.

Located to the northeast of Parcel 2 there is a 32-unit senior housing project, Pinecrest Senior Residences, and an eight-unit complex for group housing, Pinecrest Court. This is also the future site for Breakthrough Ministries Church which is currently a tenant in the existing building on Parcel 2 (the application area). There is also a cell tower to the northeast. Immediately east is another warehouse, self-service storage.

There are a large variety of uses to the south and southeast also, including Unity Church and River Community Church on the southeast corner of 21<sup>st</sup> and Oliver, some offices and small apartment units. Three other uses merit mentioning. These are a convalescent care facility (Integrated Health Systems), the Cerebral Palsy Research Foundation of Kansas, and the Timbers, which offers housing for handicapped persons and has a large number of residents who are confined to wheelchairs. These residents utilize the sidewalks along 21<sup>st</sup> to travel to shopping areas for their shopping needs.

Staff recommended denial of the request, believing it was not in character with surrounding uses and could discourage the efforts to revitalize the shopping area.

DAB I heard this case on February 5, 2001, and voted (7-2) to deny the request. At the DAB meeting, representatives of the Chisholm Creek Neighborhood Association and several other citizens spoke in opposition to the request. Objections by DAB members included the applicant's non-compliance with current zoning codes, lack of upkeep of existing facilities on the site, and the inability of the applicant to work with the neighborhood association.

MAPC voted (6-4) to defer the case on February 8, 2001 after extensive public comments, both pro and con, for the application. Those in favor indicated the construction of the building for indoor storage of construction vehicles and equipment would be an improvement from the current situation with the existing building that not in good repair and the open storage. Those in opposition indicated that the open storage has been in violation of the Unified Zoning Code and that repeated attempts had been made to have the property owner correct the deficiencies in the past. Chisholm Creek Neighborhood Association spoke in opposition; a representative from the apartments to the north, Tall Oaks, but indicated she was unsure of her position.

At the MAPC meeting held March 22, 2001, MAPC voted (8-6) to approve the modified request to "GC" General Commercial for the pad site of the proposed building, and to amend the C.U.P. for Parcel 2 to be limited to indoor storage of construction equipment and vehicles only inside the building that is zoned "GC" General Commercial, with no outdoor storage of construction equipment, vehicles or materials of any kind permitted. Representatives of Chisholm Creek again restated their opposition, particularly because they felt it would hamper attracting new retail activities to the shopping center. The attorney for Tall Oaks indicated that they were opposed to the request.

**Recommended Action:**

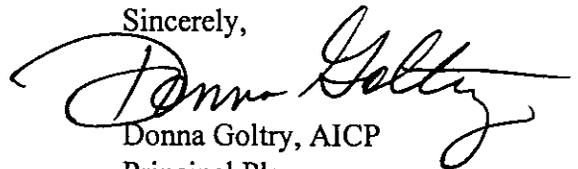
1. Adopt the findings of fact of the Metropolitan Area Planning Commission and approve the zone change and the C.U.P. amendment subject to the recommended conditions: approve first reading of the ordinance:
2. Adopt the findings of fact as submitted by the staff and deny the zone change and the C.U.P. amendment: or

2. The new building shall be attached to the existing building and have the same materials and design as the existing building. All overhead doors of the new building shall be located on the west façade of the building.
3. A landscaped street yard, with at least 1/3 of the required shade yard trees being evergreen, shall be established and maintained along the east property line.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.

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

If you have any questions concerning this case, please contact our office at 268-4421.

Sincerely,



Donna Goltry, AICP  
Principal Planner

DJG/rms

cc: Kaplan, McMillan and Harris, %Robert Kaplan, 430 N. Market, Wichita, KS 67202-2074  
Harley Bruner, 2278 N. Gentry, Wichita, KS 67220  
Karen Harvey, 2330 N. Oliver, Wichita, KS 67220  
Barbara Johns, 5101 E. Looman, Wichita, KS 67220  
Madison Ave. Church of Christ, %Evan Thomas H. Johnson, 2302 N. Gentry,  
Wichita, KS 67220  
Steven D. Roberts, 1832 Farmstead, Wichita, KS 67208  
Candyce Portley, 2424 N. Battin, Wichita, KS 67220  
B. D. Miles, P O Box 3142, Wichita, KS 67201  
D.A.B. I, Heidi Drew, Mail Stop 1-135  
City Council Member, Carl Brewer, District I, Mail Stop 1-13



**Wichita-Sedgwick County Metropolitan Area Planning Department**

July 9, 2001

**REVISED WCC CONDITIONS**

McFadden Properties  
%John McFadden  
1256 N. Estelle  
Wichita, KS 67214

**FILE COPY**

**RE: ZON2000-56-Zone change from "LC" Limited Commercial to "GC" General Commercial; and CUP2000-54 DP-08 Amendment #9- Amendment to the University Garden Community Unit Plan to allow indoor storage of construction and equipment and vehicles as a permitted uses on Parcel 2. Generally located at the northeast corner of 21<sup>st</sup> North and Oliver.**

Dear Mr. McFadden:

At its regular meeting on June 19, 2001, the Wichita City Council considered the above-captioned request. The action of the City Council was to APPROVE the zone change from "LC" Limited Commercial to "OW" Office Warehouse for a portion of Parcel 2 that is 7,700 square feet in size, more legally described as:

A tract of ground described as follows: Beginning at a point located 58 feet, more or less, west and 263 feet, more or less north of the eastern-most southeast corner of Lot 5, University Gardens 2<sup>nd</sup> Addition, Wichita, Kansas; thence north 70 feet; thence west, 110 feet; thence south, 70 feet; thence east, 100 feet to point of beginning.

The action of the Planning Commission also was to APPROVE Amendment #9 to DP-08 University Gardens C.U.P., subject to the following conditions:

1. Parcel 2 shall be limited to the indoor storage of construction equipment and vehicles only inside the building that is zoned "OW" Office Warehouse. There shall be no outdoor storage of construction equipment, vehicles or materials of any kind permitted.

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CASE NUMBER: ZON2000-00056 & CUP2000-00054 DP-8 University Gardens C.U.P. Amendment #9

APPLICANT/AGENT: McFadden Properties, Inc., c/o John McFadden (owner); Robert W. Kaplan (agent)

REQUEST: Zone change to "GC" General Commercial and amendment to CUP to allow indoor storage of construction equipment and vehicles on Parcel 2.

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 2.75 acres

LOCATION: Northeast corner of 21<sup>st</sup> Street North and Oliver

PROPOSED USE: Contractor's storage yard

