

# COMMUNITY PROJECT/ZONING

## Ordinance Fact Sheet

Cases No. CD-CPC-2020-00139 & CD-CPC-2019-00141

### Brief Title

Amending the Swope Area Plan and rezoning from District R-2.5 to District B2-1

Ordinance Number

### Details

#### Location:

5005 Swope Parkway

#### Reason for Legislation

**Case No. CD-CPC-2020-00139** -- Approving an amendment to the Swope Area Plan from Medium-High Residential to Commercial for an area of approximately 0.65 acre located at 5005 Swope Parkway

**CD-CPC-2019-00141** -- Rezoning approximately 0.65 acre located at 5005 Swope Parkway from District R-2.5 (Residential 2.5) to District B2-1 (Neighborhood Business 2, dash 1)

**Note: CD-SUP-2020-00007**, request for special use permit to allow Motor Vehicle Repair, Limited in District B2-1 (proposed) is pending before the Board of Zoning Adjustment, scheduled for December 8, 2020

#### Surrounding Land Uses

**North:** Undeveloped land zoned R-1.5.

**East:** Residential, R-0.5

**South:** Residential, R-0.5

**West:** Recreational use, zoned B3-2

#### PUBLIC HEARING REQUIRED

Yes

#### NEIGHBORHOOD AND CIVIC ORGANIZATIONS NOTIFIED

The subject property does not lie within any registered neighborhood or civic organization therefore none were notified.

*see next sheet*

### Positions/Recommendations

<b>Sponsor</b>	Jeffrey Williams, AICP Director, City Planning & Developm
<b>Programs, Departments, or Groups Affected</b>	3rd Robinson, Ellington Kansas City, Missouri
<b>Applicants / Proponents</b>	<b>Applicant</b>  Lawrence Goldblatt LGADP
<b>Opponents</b>	<b>Other</b>  <b>Groups or Individuals</b> Area residents  <b>Basis of opposition</b> nature of use: vehicle repair near res
<b>Staff Recommendation</b>	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against Use of property fo repair not in keep <b>Reason Against</b> residential area
<b>Board or Commission Recommendation</b>	<b>City Plan Commission 10/06/2020</b> <b>Denied both cases</b> Voting aye (to deny) 7-0: Allender, Baker, Beasley, Sadowski, R Enders
<b>Council Committee Actions</b>	<input type="checkbox"/> Do pass <input type="checkbox"/> Do pass (as amended) <input type="checkbox"/> Committee Sub. <input type="checkbox"/> Without Recommendation <input type="checkbox"/> Hold <input type="checkbox"/> Do not pass

(Continued on reverse s

**Details**

**Surrounding Land Uses**

**North:** Undeveloped land zoned R-1.5.

**East:** Residential, R-0.5

**South:** Residential, R-0.5

**West:** Recreational use, zoned B3-2

**PUBLIC HEARING REQUIRED**

Yes

**NEIGHBORHOOD AND CIVIC ORGANIZATIONS NOTIFIED**

The subject property does not lie within any registered neighborhood or civic organization therefore none were notified.

**PURPOSE**

The applicant is operating an automotive repair shop on a property housing a former Kansas City fire station at 5005 Swope Pkwy. The subject property is zoned R-2.5, a district which permits fire stations but does not permit the current use of an auto body shop.

The applicant has received a notice of violation for operating a use in violation of zoning and is seeking approval of a rezoning of the property to make the current use legal.

As the area plan recommends Residential Medium High, an area plan amendment is requested.

A special use permit is required for automotive repair uses when they are on property adjacent to and within 150 feet of a parkway as this property is, thus a special use permit is also requested.

*see next sheet*

**Policy/Program Impact**

<b>Policy or Program Change</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Operational Impact Assessment</b>	

**Finances**

<b>Cost &amp; Revenue Projections -- Including Indirect Costs</b>	
<b>Financial Impact</b>	
<b>Fund Source (s) and Appropriation Account Codes</b>	

**Fact Sheet Prepared By:**

Patricia A. Elbert Noll, Planner  
Development Management Division

**Date:** 11/08/2020

**Reference Numbers**

Case No. CD-CPC-2020-00139 & CD-CPC-2019-00141

## HISTORY

The owner has been operating a tire shop and automotive repair shop at this location in violation of zoning ordinance. A notice of violation was sent on October 26, 2018. Since shortly after that date, almost two years ago, various staff assigned to this case have had numerous conversations and shared correspondence with the applicant's architect, Larry Goldblatt, regarding the need to file applications for rezoning, special use permit, and area plan amendment.

The application to rezone was not filed until August 2019. Applicant filed the application for special use permit on February 14, 2020. The applicant, however did not complete the public engagement requirements (notification and meeting with all property owners within 300 ft.), so the cases were not docketed. However, because the property owner was operating in violation and a case was pending in Municipal Court, staff determined that the cases should be placed before the City Plan Commission for public hearing and disposition. On June 16, 2020, the CPC considered the applications for rezoning and special use permit. With that report, staff cited the need for the applicant to also file an area plan amendment. This was finally filed on August 25, 2020.

Additionally, the applicant had been instructed (since initial review of the request to rezone in March 2020) to submit a preliminary stream buffer plan. On August 25, applicant submitted information regarding the stream buffer, but has not submitted an acceptable plan in the format required for review by the Land Development Division. Applicant requests a waiver of the requirement to submit a stream buffer plan.

## AREA PLAN

The current area plan of record is the Swope Park Area Plan. The plan was adopted in September 2, 2014, by Resolution No. 140770. The future land use recommends Residential Medium High. That permits small lot single-family development, townhomes, two-unit houses, and multi-unit houses (3 to 8 dwelling units) up to 17.4 units per acre. This land use classification corresponds with the R-2.5 zoning category.

The proposed rezoning does not conform to the recommended land use from the area plan. The request is not in compliance with the area plan. Staff requested the applicant to file an application to amend the area plan from Residential Medium High to Commercial. As stated, applicant eventually filed this application on August 25.

## CONTROLLING CASE

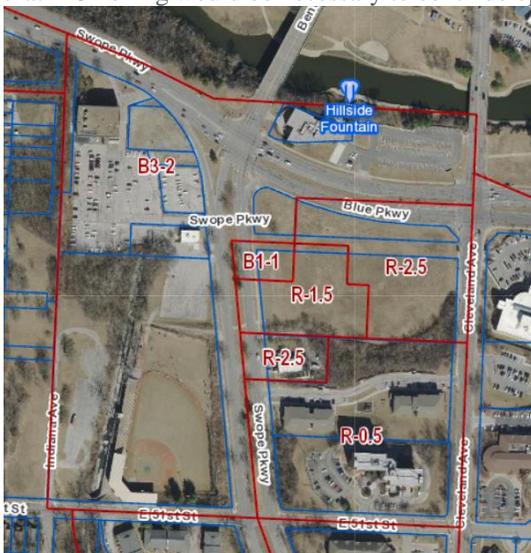
None.

## RELATED RELEVANT CASES

Development Compliance Case ZDC-2017-0138, for automotive repair in R-2.5, was opened on September 7, 2018. Applicant was sent notice of violation on October 26, 2018 stating that the applicant was operating "a premises which is being used for general auto repair in a district zoned R-2.5. This use is first permitted in a district zoned B-3 with a Special Use Permit." The case is currently pending before the Municipal Court, awaiting City Plan Commission decision.

## EXISTING CONDITIONS

The property is just over half an acre in size and located in an area with institutional, civic and residential uses. The building on the site, which has recently been used for automotive repair, is a former fire station. The rezoning sought, B-2 would allow for limited automotive repair (limited to activities such as tire or oil change services). It is suspected by zoning enforcement officers, however, that general automotive repair work is occurring on the site, which would not be permitted under B-2 zoning. The notice of violation stated that B-3 zoning would be necessary to continue operation.







**NEARBY DEVELOPMENTS**

- North:** Undeveloped parcels owned by City of KCMO.
- East:** Residential uses owned by the Housing Authority of Kansas City.
- South:** Residential uses owned by the Housing Authority of Kansas City.
- West:** Park/Recreational use.

**KEY POINTS**

- Rezoning from R-2.5 to B-2
- Zoning Code Enforcement case
- Request does not conform to Area Plan
- Parkway and Boulevard Standards requiring special use permit review

**REZONING ANALYSIS**

In reviewing and making decisions on proposed zoning map amendments, the city planning and development director, city plan commission, and city council must consider at least the following factors:

***88-515-08-A. Conformance with adopted plans and planning policies;***

This request is not in compliance with the Swope Area Plan which recommends medium-high density residential. Applicant has filed request to amend the area plan to Commercial. Within a larger area surrounding the subject site, the area plan recommends Open Space Buffer, Residential Medium High, Mixed Use Community, or Office Space. Commercial designation to allow an auto repair shop would not be consistent and could be detrimental to future use of the building or site.



***88-515-08-B. Zoning and use of nearby property;***

Properties to the north, south, and east are residentially zoned and occupied. Although property across the street to the west is zoned B3-2, the former Satchel Paige Memorial Stadium is owned by the City and has been used as recreational and open space.

***88-515-08-C. Physical character of the area in which the subject property is located;***

The character of the area is primarily residential and recreational/open space.

***88-515-08-D. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by the requested zoning map amendment;***

The public facilities exist; it is not known if they would be sufficient to support other uses allowed in proposed B-2 zoning.

**88-515-08-E. Suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations;**

The current zoning (R-2.5 residential) permits a public/civic use. The former use of this building as fire station was a permitted use. However, limited automotive repair, allowed under B-2 zoning with a Special Use Permit, is a more intensive use. The outdoor storage of tires, disabled vehicles, and other materials that has occurred with use of the building as an auto repair establishment is not desirable in this area, particularly adjacent to the parkway.

**88-515-08-F. Length of time the subject property has remained vacant as zoned;**

The property is not vacant.

**88-515-08-G. The extent to which approving the rezoning will detrimentally affect nearby properties; and**

The requested use, which is limited automotive repair, is a significantly higher intensity than the current residential zoning. The noise and visual effects of this type of auto repair are not compatible with residential uses. These nuisances are detrimental to adjacent and nearby properties, this causing the initial complaint to 311 and resulting in citations being issued in 2018 for the zoning violation.

**88-515-08-H. The gain, if any, to the public health, safety, and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.**

The gain to the public welfare with denial of this application would ensure that the character of the immediate area remains residential and recreational/open space. Quality of life, particularly for residents of the adjacent multi-family development, should be maintained.

Certain staff recalls advising the applicant, prior to his purchase of the property from the City, of the zoning and permitted uses. Applicant proceeded to purchase the former fire station from the City and subsequently began operation of the auto body shop, in violation of zoning.

## **SPECIAL USE PERMIT ANALYSIS**

No special use application may be approved unless the board of zoning adjustment finds that the proposed use in its proposed location:

**88-525-09-A. Complies with all applicable standards of this zoning and development code;**

This application does not, at present, meet the requirements of the Swope Area Plan. Applicant requests amendment of the area plan.

**88-525-09-B. Is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;**

Although there appears to be some support expressed by customers to allow the auto repair shop to continue to operate, the present use, and future uses that could be established under B-2 zoning would have a significant adverse impact on the community in terms of noise, aesthetics and other characteristics of an auto repair facility.

**88-525-09-C. Is compatible with the character of the surrounding area in terms of site planning and building scale and project design;**

The surrounding area is residential and recreational/open space. Auto repair is not a compatible use.

**88-525-09-D. Is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and**

Automotive uses typically include significant noise, traffic generation, and general environmental aesthetic qualities that are not compatible with residential areas.

**88-525-09-E. Will not have a significant adverse impact on pedestrian safety or comfort.**

No plans depicting pedestrian safety have been provided, however automotive repair is not a pedestrian-oriented use.

## **STAFF ANALYSIS**

Citation from 88-323-01 (Boulevard and Parkway Standards) Purpose:

*“Considerable public and private investment exists and is expected to occur adjacent to boulevards and parkways within the city. The following standards are intended to promote quality development reflective of the character of the city’s boulevard and parkway system, when on an established, historic boulevard or on a parkway traversing undeveloped areas of the city. “*

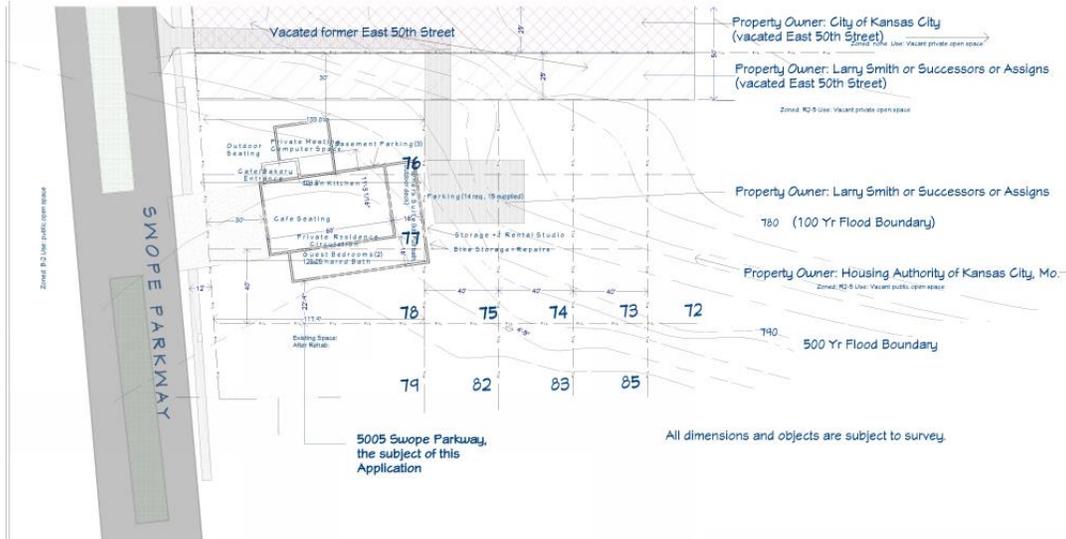
This provides the justification for the City to carefully consider whether an auto repair shop is an appropriate and compatible use along a boulevard or parkway – in this case, Swope Parkway. Staff’s analysis concludes that it is not.

**RECOMMENDATION**

City Planning and Development Staff **recommends denial** of Cases CD-CPC-2020-00139 and CD-CPC-2019-00141. City Plan Commission on October 6, 2020, by a vote of 7-0, voted to deny both cases.

Respectfully Submitted,  
Patricia A. Noll

**PLANS SUBMITTED IN CONJUNCTION WITH SPECIAL USE PERMIT CD-CPC-2020-00007**

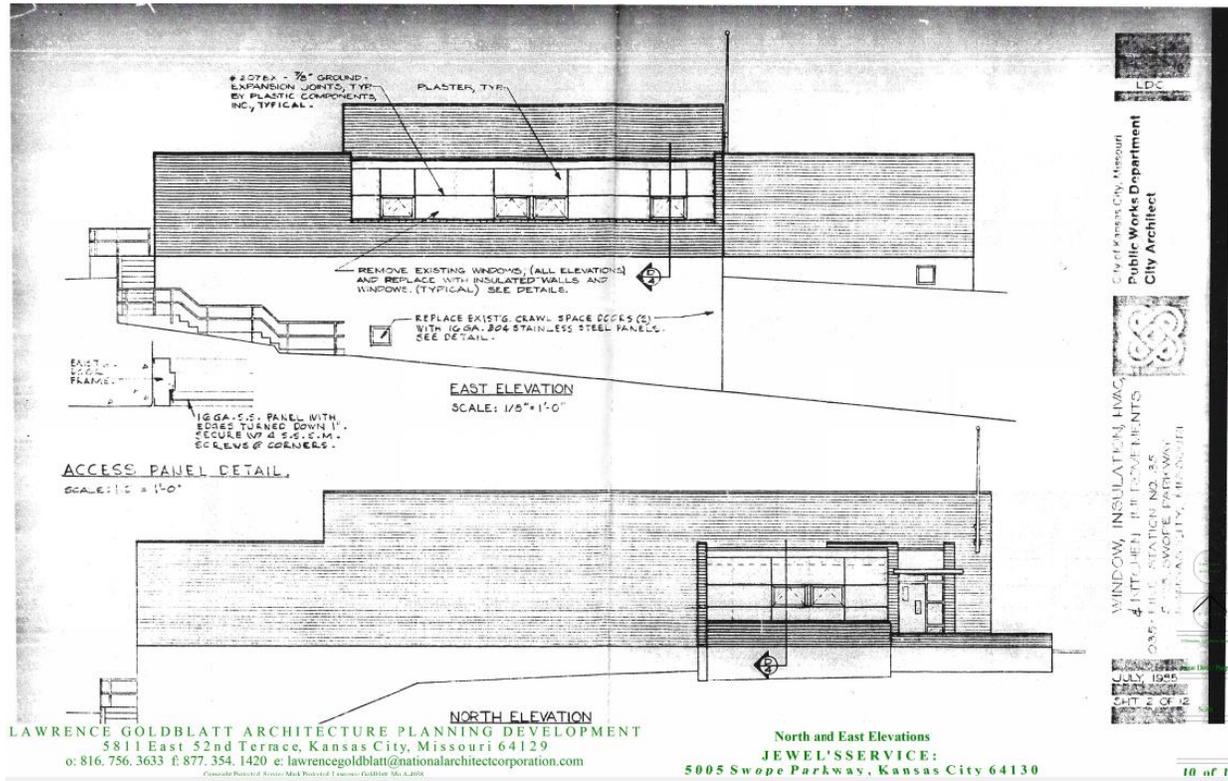


**PROPOSED SITE PLAN/B-3 REZONING/SUP OR R-2/SUP**

LAWRENCE GOLDBLATT ARCHITECTURE PLANNING DEVELOPMENT  
5811 East 52nd Terrace, Kansas City, Missouri 64129  
o: 816.756.3633 f: 877.354.1420 e: lawrencegoldblatt@nationalarchitectcorporation.com

JEWEL'S SERVICE:  
5005 Swope Parkway, Kansas City 64130

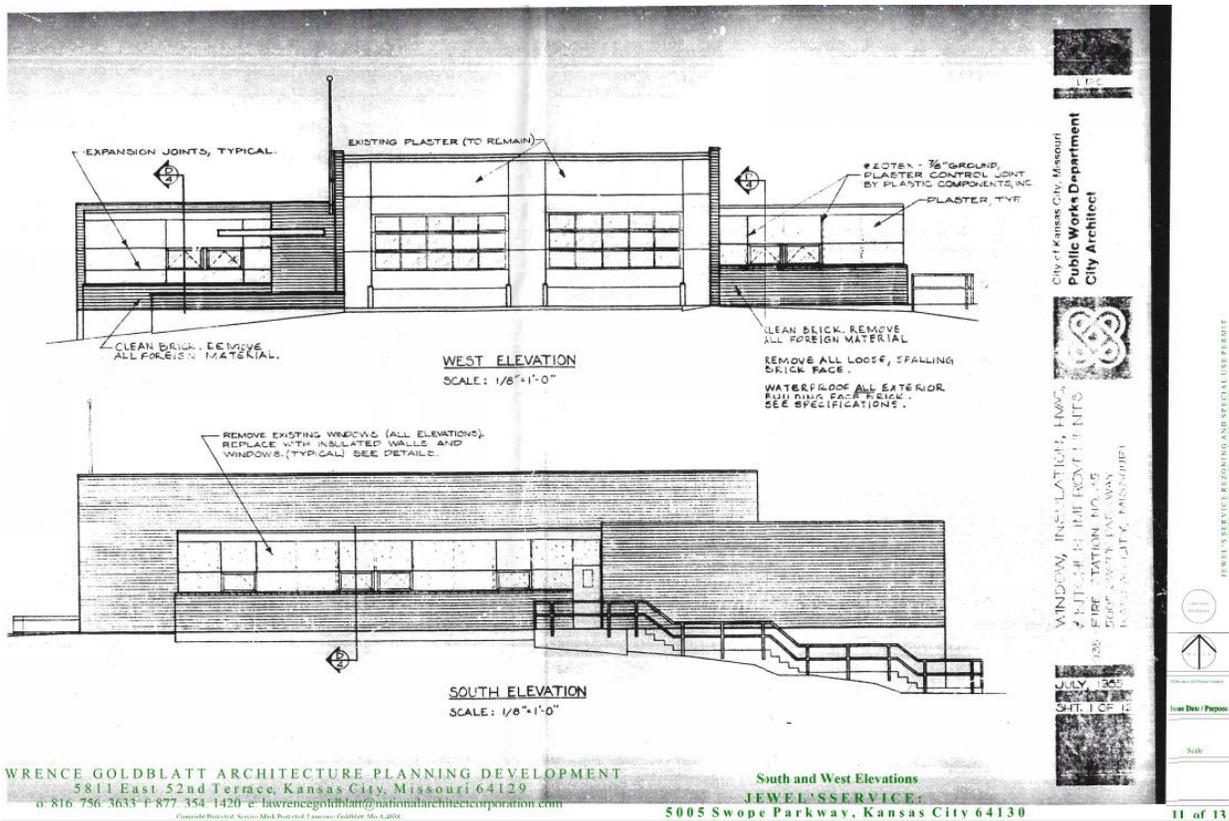
Scale  
8 of 13  
Sheet Number



LAWRENCE GOLDBLATT ARCHITECTURE PLANNING DEVELOPMENT  
5811 East 52nd Terrace, Kansas City, Missouri 64129  
o: 816.756.3633 f: 877.354.1420 e: lawrencegoldblatt@nationalarchitectcorporation.com

North and East Elevations  
JEWEL'S SERVICE:  
5005 Swope Parkway, Kansas City 64130

10 of 13



## ADDENDUM

Note, the following conditions of approval are attached to the special use permit CD-CPC-2020-00007 scheduled for Board of Zoning Adjustment December 8, 2020, and are included here for reference.

1. That all disabled vehicles be removed from the property, including behind the building.
2. That the plan be revised to state "There shall be no disabled vehicles stored on the property. There shall be no outdoor storage of automotive equipment or materials or miscellaneous items."
3. The developer shall submit a landscaping plan in compliance with 88-425 Landscaping and Screening.
4. The developer shall submit an affidavit, completed by a landscape architect licensed in the State of Missouri, verifying that all landscaping required of the approved plan has been installed in accordance with the plan and is healthy prior to Certificate of Occupancy.
5. The developer shall submit a Preliminary Stream Buffer plan prior to approval of the [Special Use /Development/Rezoning] plan in accordance with the Section 88-415 requirements.  
*Note: applicant requests that this condition be waived.*
6. The developer shall submit a final stream buffer plan to the Land Development Division for approval prior to issuance of any building permits and obtain permits for the Stream Buffer prior to removal of any mature riparian species within the buffer zones due to construction activities on the site, in accordance with the Section 88-415 requirements.
7. The developer shall submit an analysis to verify adequate capacity of the existing sewer system as required by the Land Development Division prior to issuance of a building permit to connect private system to the public sewer main and depending on adequacy of the receiving system, make other improvements may be required.

8. The developer must grant a [BMP and/or Surface Drainage Easement] to the City as required by the Land Development Division, prior to recording the plat or issuance of any building permits.
9. The developer must show the limits of the 100-year floodplain on the final plat and show the Minimum Low Opening Elevation (MLOE) of any structure on each lot that abuts a 100-year flood prone area (including detention basins and engineered surface drainage conveyances) on any plat and plan, as required by the Land Development Division.
10. The owner/developer must submit plans for grading, siltation, and erosion control to Land Development Division for review and acceptance, and secure a Site Disturbance permit for any proposed disturbance area equal to one acre or more prior to beginning any construction activities.
11. The developer shall submit a Storm Drainage analysis from a Missouri-licensed civil engineer to the Land Development Division evaluating proposed improvements and impact to drainage conditions. Since this project is within a "Combined Sewer Overflow" (CSO) district, the project shall be designed to retain rainfall of 1.5 inch depth over the entire site to simulate natural runoff conditions and reduce small storm discharge to the combined sewer system. Manage the 10-year storm and 100-year storm per currently adopted APWA standards. The analysis shall be submitted prior to issuance of any building permits, and the developer secure permits to construct any improvements required by the Land Development Division prior to issuance of any certificate of occupancy.
12. The developer must obtain a floodplain certificate from Development Services prior to beginning any construction activities with the floodplain.
13. The developer must obtain the executed and recorded city approved grading, temporary construction, drainage/sewer, or any other necessary easements from the abutting property owner(s) that may be required prior to submitting any public improvements crossing properties not controlled by the developer and include said document(s) within the public improvement applications submitted for permitting
14. The developer must pay impact fees as required by Chapter 39 of the City's Code of ordinances as required by the Land Development Division.
15. No outdoor storage items shall be visible from Swope Parkway, including but not limited to tires/wheels, parts, vehicles, and miscellaneous equipment.
16. The developer shall submit a streetscape plan with street tree planting plan per 88-425-03 for approval and permitting by the Parks & Recreation Department's Forestry Division prior to beginning any work in the public right-of-way.
17. Any modifications to the site or building are subject to the Parkway and Boulevard standards of Section 88-323 of the Zoning and Development Code.