

Case No. B2A 31-82 - Davis-Moore Oldsmobile, Inc. - requests an exception to alter previously approved conditions for a sales & storage lot for new & used automobiles, recreation vehicles etc., & combining 5 approved application

ACTION

DATE 8-24-82

COMMITTEE Approved 4-0

~~MARK~~ _____

~~R.C.D. CO. G.~~ _____

B2A - 26-82 VOIDS THIS RESOLUTION

9-23-86 gbc/yl

B2A 31-82

6847

2004 Sec 11-1-82

Checked 11-8-82

Shor 11-10

Recorded 11-17-82

Map No. 5846
 Sec. 25
 Twp. 27
 Range 1E

BZA- 31-82
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

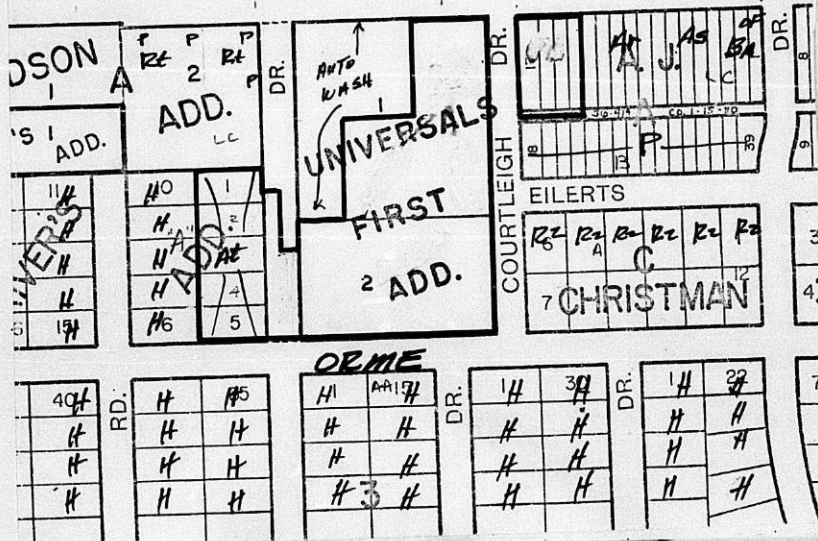
1. Acres: 4.88 (IRREGULAR) (535 ft. by 565 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East AUTO REPAIR South SINGLE FAM
 West AUTO CAR WASH & SINGLE FAM North KELLOGG-115-6
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: PROP. VEHICLE SALES & AUTO SALES
 6. Area (is) (~~is not~~) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____

	H	H	W	H	H	H	H	H	H	H	H	H	H
	H	H	W	H	H	H	H	H	H	H	H	H	H
6	H7	8H	W	H0	1H	H0	1H	H	H	H	H	H	H

KELLOGG



LOS ANGELES COUNTY
 REGISTERED MAP
 No. 2153C
 MCGREGOR TX LOCUST GROVE CA
 U.S.A.

Smith

August 25, 1982

Davis-Moore Oldsmobile, Inc.
6215 East Kellogg
Wichita, Kansas 67218

Re: Case No. EZA 31-82
Request for Exception

Gentlemen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 24, 1982.

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

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:rsd
Enclosure

cc: Everett Fettis, 120 South Market, Wichita 67202
Robert Feldner, Superintendent of Central Inspection (2)
Don Oisick, City Clerk

RESOLUTION NO. 31-82

WHEREAS, Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the location of a new and used automobile sales lot on property zoned the "LC" Light Commercial District, and legally described as follows:

Lots 14, 15, 16 and 17, Block A, A. J. Christman Third Addition to Wichita, Sedgwick County, Kansas; Lots 1, 2, 3, 4 and 5, Drivers Addition to Wichita, Sedgwick County, Kansas; Lots 1 and 2, Universals First Addition to Wichita, Sedgwick County, Kansas except that part of Lot 1 (Beginning at a point 125' west of the NE corner of Lot 1; thence south 175'; thence westerly parallel to Kellogg Drive 130'; thence south 169.25±' to the south line of Lot 1; thence west along the south line of Lot 1 95' to the west line of Lot 1; thence northerly 343.27±' to Kellogg Drive; thence east along Kellogg Drive to the point of beginning); and that portion of vacated Waverly Drive described as the south 270' of the west 30' and the south 160' of the east 30' and lying north of the north line of Orme Street. Generally located in the 6000, 6100 and 6200 blocks East and between Kellogg Drive and Orme Street.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of August 24, 1982, consider said application; and

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

WHEREAS, the Board of Zoning Appeals has authority to permit the establishment of a new and used automobile sales lot on property zoned the "LC" Light Commercial District subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to establish a new and used automobile sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

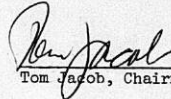
Lots 14, 15, 16 and 17, Block A, A. J. Christman Third Addition to Wichita, Sedgwick County, Kansas; Lots 1, 2, 3, 4 and 5, Drivers Addition to Wichita, Sedgwick County, Kansas; Lots 1 and 2, Universals First Addition to Wichita, Sedgwick County, Kansas except that part of Lot 1 (Beginning at a point 125' west of the NE corner of Lot 1; thence south 175'; thence westerly parallel to Kellogg Drive 130'; thence south 169.25±' to the south line of Lot 1; thence west along the south line of Lot 1, 95' to the west line of Lot 1; thence northerly 343.27±' to Kellogg Drive; thence east along Kellogg Drive to the point of beginning); and that portion of vacated Waverly Drive described as the south 270' of the west 30' and the south 160' of the east 30' and lying north of the north line of Orme Street. Generally located in the 6000, 6100 and 6200 blocks East and between Kellogg Drive and Orme Street.

subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable surfacing.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No sign shall exceed 30 feet in height or shall be placed so as to project over any public right-of-way.
4. No lighted signs shall be permitted south of the north line of Eilerts Street.
5. No pole signs of any kind shall be permitted along the right-of-way along Orme Street, nor shall any sign be located on the fence adjacent to Orme Street.
6. No sound projecting devices or loudspeakers shall be used.
7. The sales and service of recreational vehicles shall be limited to the area at the southwest corner of Courtleigh Drive and Kellogg, and shall include only the area included in the application known as Lot 1, Universal's First Addition.
8. Body and fender work shall be permitted only within a building and such buildings shall be located within the area of Universal's First Addition zoned the "C" Commercial District.
9. A five to eight foot high solid wall or fence consisting of masonry, wood, metal panels or an architectural tile screening fence shall be installed along the entire property line adjacent to Orme Street, along the west property line in Driver's Addition, and the south 590 feet adjacent to Courtleigh Drive, provided however, the fence or wall shall provide for a vision triangle at the intersection of Orme and Courtleigh Drive and two driveways adjacent to Courtleigh Drive as shown on the applicant's site plan.
10. Within the vision triangle there shall be no setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view; however, such restriction shall not apply to public utility poles, hedges trimmed to a height of less than 33 inches above gutter grade or trees the limits of which are at all times trimmed to a height of at least 8 feet above ground level.
11. No direct access to Orme Street shall be permitted from subject property and access to Courtleigh Drive shall be limited to the two openings thru the fenced area as shown on the applicant's site plan and the existing access to the north of the required fence.
12. No buildings shall be constructed closer than 35 feet to the west line of Courtleigh Drive; within 20 feet of the west line of Lots 1, 2, 3, 4 and 5 of Driver's Addition; and within 35 feet of the north line of Orme Street except for one small accessory building not to exceed 120 square feet and 9 feet in height, or be located closer than 6 feet to the property line.
13. No additional building permits shall be issued on the property until a site plan is submitted to Central Inspection showing compliance with all conditions of this Resolution and compliance with all conditions of the zoning ordinance, including the required off-street parking.
14. Display of vehicles to the north of the buildings in the 6200 block of Kellogg shall be limited to small passenger vehicles of such size that will permit their location on private property without any encroachment of any kind over public right-of-way.

15. Display of recreation vehicles in the 6100 block of east Kellogg shall be limited to four vehicles within 45 feet of the Kellogg right-of-way.
16. All areas shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
17. All improvements required by this Resolution or the Zoning Ordinance shall be installed and maintained in good condition.
18. All parking spaces and display spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines or parking spaces. All parking areas shall have adequate markings for channelization and movement of vehicles.
19. Under no circumstance shall there be any structure or fencing of any kind erected on or above any easement.
20. Resolutions No. BZA 12-68, 20-72, 37-72, 16-73, 27-73 and 2-79 shall become null and void upon the release of this resolution.

ADOPTED AT WICHITA, KANSAS, this 24th day of August, 1982.



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

IMPORTANT MESSAGE

FOR Allen
DATE 8-11 TIME 2:10 A.M.
P.M.

WHILE YOU WERE AWAY

Pete Klien

OF _____

PHONE No. _____

TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE Building is
8' X 12' X 8' 6" high

SIGNED _____

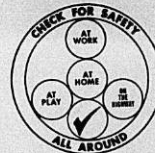
THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE August 18, 1982

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III



SUBJECT BZA 31-82 Generally located in the 6000, 6100, and 6200 blocks East between Kellogg and Orme

CPO Council "G" considered the captioned case at their August 16th meeting and voted 6-0 to recommend approval of the exception request to alter six previously approved conditions for a sales and storage lot for new and used automobiles, recreation vehicles, etc., and combining five approved applications into one unified area.

Everett Fettis, agent for the applicant was present and discussed the case with the Council and four adjoining property owners. The property owners did not voice a position on the case, however, one property owner expressed his preference for the area now being utilized as a sidewalk (area north of Orme Street) being included within the fenced area for the storage of vehicles if considered at a later date. He said the sidewalk is not used that much by the school children but by Burger King traffic.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at their August 24th meeting.

Shirley Mast
Shirley Mast
Administrative Aide III

Noted:

Sarah Gilbert
Sarah Gilbert
CP Coordinator

SECRETARY'S REPORT
CASE NO. BZA 51-82

APPLICANT: Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, Wichita, Kansas.

AGENT: Everett Fettis, 120 South Market, Wichita, Kansas.

REQUEST: Exception pursuant to Section 28.04.183.2, Code of the City of Wichita to permit the location of a new and used automobile sales lot in the "LC" Light Commercial District.

GENERAL LOCATION: In the 6000, 6100 and 6200 blocks east between Kellogg Drive and Orme Streets (6215 East Kellogg).

ZONING: Subject property is zoned the "LC" Light Commercial and "C" Commercial. Adjacent properties are zoned the "LC", "B", "A" and "AA" districts.

LAND USE: Subject property is presently occupied by the applicant's automobile agency. Property to the south, north and west is residential. To the east is commercial.

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2 can be complied with.

COMMENTS BY THE SECRETARY:

The applicant has filed the application in order to modify certain conditions of the Board of Zoning Appeals approval for 6 previously approved BZA cases. This application includes all of the area previously included in the BZA Case Nos. 12-68, 20-72, 37-72, 16-73, 27-73 and 2-79 plus the area presently dedicated as a sidewalk thru the area north of Orme Street.

The plan submitted by the applicant indicates 3 separate amendments to the previously approved conditions applicable to the property which are:

- (1) The permission for automobile display in an area to the north of the building known as 6203 East Kellogg;
- (2) The authorization for the location of a small accessory building within the 35 foot setback adjacent to Orme Street; and
- (3) The inclusion of the area, now utilized as a sidewalk easement, into the fenced area for the storage of vehicles.

When the applicant expanded the automobile agency into the building located on the southeast corner of Kellogg and Courtleigh Drive, they failed to indicate that they desired to display automobiles to the north of the building adjacent to Kellogg. In accordance with the site plan submitted with the application, only the smaller vehicles can be displayed on the patio area without encroachment over public right-of-way. The applicant has been using this space even though not authorized by BZA Case No. 2-79 and it has been an enforcement problem for Central Inspection due to encroachment of the vehicles over public right-of-way. Also the only access to the area is over the curb along Kellogg Drive.

The second request involves the location of a small accessory structure that has been erected in the 35 foot setback adjacent to Orme Street. The applicant requests that the conditional approval under BZA Case No. 12-68 be amended to permit this small accessory building to remain at this location.

The third request is to include the sidewalk area within the vehicle storage area that separates the two parcels on the north side of Orme Street. Since the sidewalk is primarily a neighborhood problem that was required by the vacation of Waverly Drive as a Street, and the sidewalk is to provide access to the school crossing at Kellogg, any action on this particular request should be subject to the final disposition of a vacation request by the Board of City Commissioners.

RECOMMENDATION:

Should the Board determine that the request to modify the previous conditions established by the Board of Zoning Appeals for the establishment of a new and used car sales and storage area on the property, then it is the recommendation of the Secretary that the exception be granted subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable surfacing.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No sign shall exceed 30 feet in height or shall be placed so as to project over any public right-of-way.
4. No lighted signs shall be permitted south of the north line of Eilerts Street.
5. No pole signs of any kind shall be permitted along the right-of-way along Orme Street, nor shall any sign be located on the fence adjacent to Orme Street.
6. No sound projecting devices or loudspeakers shall be used.
7. The sales and service of recreational vehicles shall be limited to the area at the southwest corner of Courtleigh Drive and Kellogg, and shall include only the area included in the application known as Lot 1, Universal's First Addition.
8. Body and fender work shall be permitted only within a building and such buildings shall be located within the area of Universal's First Addition zoned the "C" Commercial District.
9. A five to eight foot high solid wall or fence consisting of masonry, wood, metal panels or an architectural tile screening fence shall be installed along the entire property line adjacent to Orme Street, along the west property line in Driver's Addition, and the south 590 feet adjacent to Courtleigh Drive, provided however, the fence or wall shall provide for a vision triangle at the intersection of Orme and Courtleigh Drive and two driveways adjacent to Courtleigh Drive as shown on the applicant's site plan.
10. Within the vision triangle there shall be no setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view; however, such restriction shall not apply to public utility poles, hedges trimmed to a height of less than 33 inches above gutter grade or trees the limits of which are at all times trimmed to a height of at least 8 feet above ground level.
11. No direct access to Orme Street shall be permitted from subject property and access to Courtleigh Drive shall be limited to the two openings thru the fenced area as shown on the applicant's site plan and the existing access to the north of the required fence.

12. No buildings shall be constructed closer than 35 feet to the west line of Courtleigh Drive; within 20 feet of the west line of Lots 1, 2, 3, 4 and 5 of Driver's Addition; and within 35 feet of the north line of Orme Street except for one small accessory building not to exceed 120 square feet and 9 feet in height, or be located closer than 6 feet to the property line.
13. No additional building permits shall be issued on the property until a site plan is submitted to Central Inspection showing compliance with all conditions of this Resolution and compliance with all conditions of the zoning ordinance, including the required off-street parking.
14. Display of vehicles to the north of the buildings in the 6200 block of Kellogg shall be limited to small passenger vehicles of such size that will permit their location on private property without any encroachment of any kind over public right-of-way.
15. Display of recreation vehicles in the 6100 block of east Kellogg shall be limited to four vehicles within 45 feet of the Kellogg right-of-way.
16. All areas shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
17. All improvements required by this resolution or the Zoning Ordinance shall be installed and maintained in good condition.
18. All parking spaces and display spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines or parking spaces. All parking areas shall have adequate markings for channelization and movement of vehicles.
19. Under no circumstance shall there be any structure or fencing of any kind erected on or above any easement.
20. Resolutions No. BZA 12-68, 20-72, 37-72, 16-73, 27-73 and 2-79 shall become null and void upon the release of this resolution.

BZA CASE NO. 31-82

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

47 NOTICES SENT TO ADJOINING PROPERTY OWNERS

60 TOTAL NOTICES SENT 8-4-82

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

August 4, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. EZA 31-82

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Davis-Moore Oldsmobile, Inc., 6215 East Kellogg, Wichita, Kansas, requesting an exception.

Pursuant to Section 2.12.590.C, of the Code of the City of Wichita, the applicant is requesting an exception to alter previously approved conditions for a sales and storage lot for new and used automobiles, recreation vehicles, etc., and combining 5 approved application areas into one unified area on property zoned the "LC" Light Commercial and "C" Commercial zoning districts. A legal description of the applicant's property is as follows:

Lots 14, 15, 16 and 17, Block A, A. J. Christman Third Addition to Wichita, Sedgwick County, Kansas; Lots 1, 2, 3, 4 and 5, Drivers Addition to Wichita, Sedgwick County, Kansas; Lots 1 and 2, Universals First Addition to Wichita, Sedgwick County, Kansas except that part of Lot 1 (Beginning at a point 125' west of the NE corner of Lot 1; thence south 175'; thence westerly parallel to Kellogg Drive 130'; thence south 169.25+1' to the south line of Lot 1; thence west along the south line of Lot 1 95' to the west line of Lot 1; thence northerly 343.27+1' to Kellogg Drive; thence east along Kellogg Drive to the point of beginning); and that portion of vacated Waverly Drive described as the south 270' of the west 30' and the south 160' of the east 30' and lying north of the north line of Orme Street. Generally located in the 6000, 61000 and 6200 blocks east and between Kellogg Drive and Orme Street.

This application has been assigned Case No. EZA 31-82. It will be considered by the Board of Zoning Appeals on August 24, 1982 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested exception you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 31-82

CITY OF WICHITA, KANSAS

FILED 7-26-82

APPLICATION FOR EXCEPTION

I. Name of Applicant DAVIS-MOORE OLDSMOBILE, INC.

Mailing Address 6215 E. KELLOGG Phone 685-0211

Name of Authorized Agent EVERETT FETTIS

Mailing Address 120 S. MARKET Phone 267-7251

Relationship of applicant to property is that of Owner & Tenant
(Owner, Tenant, Lessee, Other)

II. Application is made for an exception as provided in Section

2.12.590.C, Code of the City of Wichita, Kansas, to ^{after previously} ~~permit~~
^{approved conditions for}

see also - the establishment of new and used automobiles, and R.V.'s, sales and storage lot, and combining 5 approved application areas into one unified area

see also on property zoned "LC" and "C" located in the 6000, 6100 and 6200 blocks east between Kellogg Drive and Dorne Streets.

and legally described as: See Attached

_____, in the City of Wichita.

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 36-596); and that the appropriate fee is herewith tendered;
- c. That all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions;
- d. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.

Applicant Davis-Moore Oldsmobile, Inc.

Authorized Agent Everett Fettis

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:30 ~~4~~ p.m., July 26, 1982 together with appropriate fee of 200.00.

Signed A. Lytle

Legal for Davis-Moore Oldsmobile - Exception

Lots 14, 15, 16 and 17, Block A, A. J. Christman
Third Addition to Wichita, Sedgwick County, Kansas;
Lots 1, 2, 3, 4 and 5, Drivers Addition to Wichita,
Sedgwick County, Kansas; Lots 1 and 2, Universals
First Addition to Wichita, Sedgwick County, Kansas
except that part of Lot 1 (Beginning at a point 125'
west of the NE corner of Lot 1; thence south 175';
thence westerly parallel to Kellogg Drive 130';
thence south 169.25±' to the south line of Lot 1;
thence west along the south line of Lot 1 95' to the
west line of Lot 1; thence northerly 343.27±' to
Kellogg Drive; thence east along Kellogg Drive to the
point of beginning); and that portion of vacated
Waverly Drive described as the south 270' of the west
30' and the south 160' of the east 30' and lying north of

*the north line of Orme Street. (Generally
located in the 6000, 6100 and 6200 blocks east
and between Kellogg Drive and Orme Street.*

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 29-21

PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Fav. Cuts	Cer.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
174 Cement	210.00

NAME
EUGENE FETTIS

ADDRESS
120 So. Market

FUND
44-71-11

COMMENTS

DATE
11-26-1962

BY
[Signature]

*

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

Roll # 2