

7. A 6-foot-tall wood fence shall be constructed along (or near) the entire south property line from Elpyco to Bleckley. The 6-foot fence shall continue along Bleckley at the east edge of the paved parking and along Elpyco at the west edge of the paved parking lot until it meets the east-west driveway. These fences shall be maintained in good repair at all times and replaced or repaired as necessary. The support members shall be on the inside of the fence.
8. Prior to use of this site for a car sales business, the sign posts existing in Kellogg right-of-way shall be removed.
9. All lights shall be shielded to direct light away from adjoining properties. No string-type lighting or banners shall be permitted.
10. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted.
11. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
12. This site shall be developed for a car sales business in accordance with the approved site plan and in accordance with all conditions of approval within one year after BZA approval, or the resolution shall be considered null and void.
13. Release of this resolution shall supersede and void BZA Resolution 12-90.

AGENDA ITEM NO. 4  
March 26, 1991

March 26, 1991

SECRETARY'S REPORT

**CASE NUMBER:**

**BZA 3-91**

OWNER/APPLICANT/AGENT:

T. G. Davis, Jr. (owner/applicant)  
Everett Fettis (agent)

**REQUEST:**

Exception to permit expansion of an approved car sales lot.

**CURRENT ZONING:**

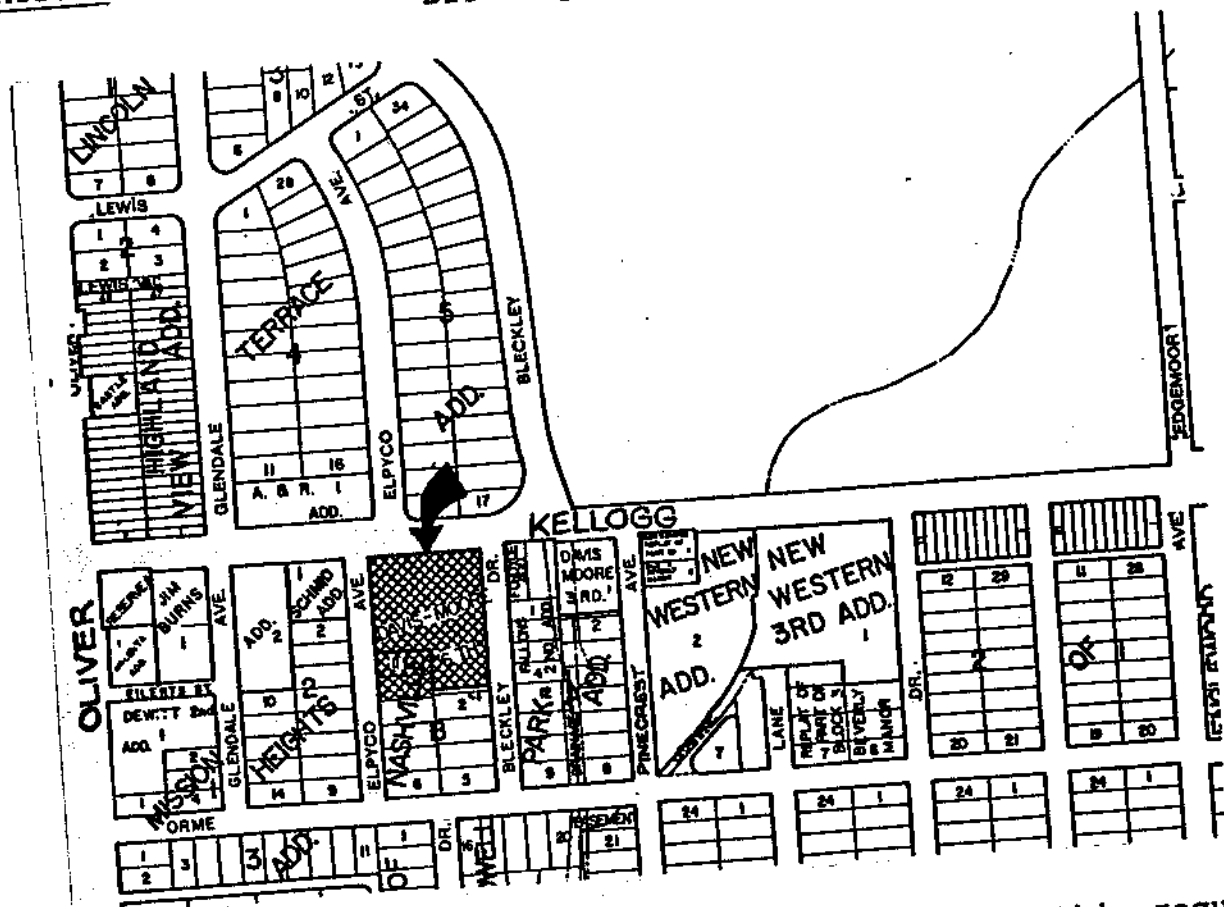
"LC" Light Commercial District; "RB" Four-Family Dwelling & "A" Two-Family Dwelling Districts ["RB" & "A" approved for "LC", subject to replatting (Z-3016)].

**SITE SIZE:**

0.4-acre (additional area); 2 acres (total)

LOCATION:

South side of Kellogg between Elpyco and Bleckley.



**JURISDICTION:** The Board has jurisdiction to consider this request under the provisions outlined in 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.

**BACKGROUND:** Last July, the Board approved a car sales lot for a majority of this application area (BZA 12-90). Two additional lots on Elpyco have now been purchased and approved for rezoning (Z-3016) and the owner is now desirous of adding them to the proposed car sales lot operation which is currently under development. During the latest rezoning hearings, there was much discussion at both the CPO and MAPC meetings about the need to provide screening for residential properties across the street by means of landscaping, as well as solid fencing. There is to be no access to or from Elpyco across the south 120 feet of this site and the two existing residential driveways have already been removed and the curb reinstalled. There are now parking restriction signs on the east side of Elpyco which limit on-street parking to 30 minutes between 9 a.m. and 4 p.m. Those signs were installed at the request of owners in this block, including this applicant.

The site plan submitted with this expanded application differs in several respects from the plan approved with BZA 12-90. These differences include: (1) a large new addition to the south end of the existing structure on Bleckley (and subsequent deletion of parking spaces shown on the previous site plan); (2) new parking layout on north end of site, including parking within recently dedicated Kellogg right-of-way which will require a minor street privilege; (3) deletion of the 10-foot(±) landscape buffer on Bleckley south of the driveway; and (4) adjustment in fence height at two locations to allow a 6-foot fence in lieu of the approved 3-foot fence. The area on Elpyco being added to this car lot operation is to be used exclusively for the storage and display of cars.

Regarding these site plan changes, the following information should be taken into consideration. The new building is for auto service and repair, which is a permitted use in "LC" as long as there is no body shop. With the south driveway location already having been approved (after discussions at the first rezoning hearing), it will not be possible to provide screening protection for the northernmost house on the east side of Bleckley. Homes further to the south were to be given some degree of protection by the proposed solid wood fence and 10-foot landscaping strip south of this driveway which was required by BZA 12-90. The amended site plan deletes the 10-foot planting strip which was previously required, shown and approved for an area between the sidewalk and fence. All landscaping is now proposed by the applicant to be accomplished within the "parking" area between the sidewalk and curb. Although no revised landscape plan has been submitted as of the date of writing this staff report, one is expected to be available for the Board's review on March 26. The landscape plan is to include the Elpyco frontage where the landscaping is also proposed by the applicant to be within the "parking" area adjacent to the curb. Based on the dimensions shown for the circulation aisles and parking stalls on the south portion of this site, there appears to be no reason why the screening fences parallel to Elpyco and Bleckley cannot be moved in about 10 feet to provide a space for landscaping on this applicant's property rather than all within street right-of-way.

The applicants have requested that the fences parallel to Bleckley and Elpyco be 6 feet tall for their entire length and not be reduced to 3 feet within 20 feet of the driveways, as is usually the requirement. Traffic Engineering has advised that as long as the fence is 15 feet back from the curb, it should not be a traffic sight hazard at the driveway exit. This increased fence height should be supported and even required.

With regard to the proposal for a minor street privilege to park in recently dedicated Kellogg right-of-way, it is noted that the paved parking which existed for the previous uses on this site extends into this area and will have to be removed if this Board does not allow parking to continue. Public Works has advised that several other businesses on east Kellogg have maintained minor street privileges for years for parking purposes. Some of the Board members may remember the 1988 case at the southeast corner of Kellogg and Lightner (another Davis-Moore car lot) where parking in dedicated street right-of-way was NOT permitted, but the circumstances there were different from the current case. The north end of the Lightner site had previously been unpaved and undeveloped and, with the large size of that application area, it was determined there was no need to begin using public property for private purposes. If this Kellogg/Elpyco site plan is approved as submitted, with regard to parking lot layout, it should be subject to the applicant obtaining a minor street privilege for the parking within the 10 feet of Kellogg right-of-way.

BZA 12-90 required the removal of 3 pole signs from the 10 feet of dedicated Kellogg right-of-way. As of the date of site inspection for this current case (February 22, 1991), two of those signs had already been removed. The applicant is advised that signs are not permitted under minor street privileges and therefore the remaining sign must also be removed.

ADJACENT ZONING AND LAND USE:

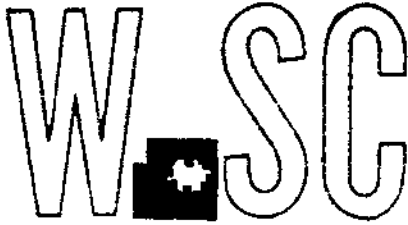
|       |                 |                                                   |
|-------|-----------------|---------------------------------------------------|
| NORTH | "B" & "LC"      | Four-family dwellings                             |
| SOUTH | "A"             | One-family dwellings                              |
| EAST  | "A", "RB" & "B" | One-family dwellings; parking lot; medical clinic |
| WEST  | "RB" & "LC"     | One-family dwellings and car sales lot            |

RECOMMENDATION: Should the Board determine that expansion of the previously approved car sales lot is appropriate at this location, it is recommended that the exception be approved, subject to the following conditions:

1. The applicant shall obtain approval of a minor street privilege to permit parking within Kellogg right-of-way, as shown on the plan submitted with this application. If not obtained, a revised site plan shall be submitted to the Secretary for review and approval prior to commencement of operation of a car sales lot on this property.

2. Within 30 days following BZA approval and prior to release of the resolution authorizing this amended use exception, the applicant shall submit 4 copies of a revised site plan which show the fences parallel to Bleckley and Elpyco as being at least 10 feet inside the property lines. These 10-foot strips shall be designated as landscape areas.
3. Within 30 days following BZA approval and prior to release of the resolution authorizing this amended use exception, the applicant shall submit 4 copies of a landscape plan to the Secretary for review and approval which specify plant materials for the south 210 feet of the Elpyco frontage and for the south 125 feet of the Bleckley frontage. A combination of trees, shrubs and groundcovers shall be used which provide visual appeal, as well as some degree of screening above the fence height. The landscape plan shall specify the names of the plant materials, the size at planting, and the method of providing water to the plant materials. All plants shall be installed prior to use of this site for a car sales business.
4. The automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive repair work conducted on the site shall be entirely within a building. No body or fender work shall be done on the premises without first obtaining "C" zoning.
5. This property shall be developed in accordance with the site plan approved for this application. All vehicle parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Curbs, bumper blocks, or posts and chains shall be installed along all perimeter boundaries, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
6. Parking spaces for employees and customers shall be provided on the property as required by the zoning ordinance and in conformance with the standards established by the Traffic Engineer's Office. These spaces shall be marked and designated for employees and customers and shall not be used for display and storage of cars which are for sale (except for sales cars driven by the employees of this business).

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4661

April 12, 1991

T.G. Davis, Jr.  
Davis-Moore, Inc.  
P. O. Box 780047  
Wichita, KS 67278-0047

Re: BZA 3-91 - Exception to permit expansion of an approved automobile agency to sell new and used cars on property already zoned or approved for the "LC" Light Commercial District, located between Elpyco and Bleckley, on the south side of Kellogg (5025 E. Kellogg).

Dear Mr. Davis:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on March 26, 1991. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that the revised site plan and the landscape plan, as required by conditions 2 and 3, have been submitted and approved.

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

Sincerely,

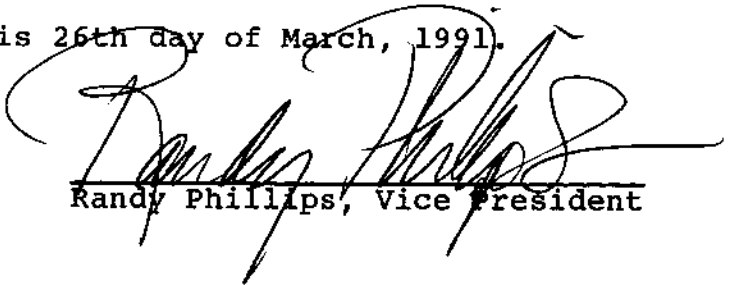
Louise Olivarez, Secretary  
Board of Zoning Appeals

LO:jcm  
Enclosure

*Klein*  
cc: Pete Kline, P. O. Box 780047, 67278-0047  
Everett Fettis, 120 S. Market, Ste. 504, 67202  
Brent Wooten, Baughman Company, 315 Ellis, 67211  
Paul Hays, OCI  
Lance Flowers, OCI  
Pat Burnett, Deputy City Clerk

4. The automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive repair work conducted on the site shall be entirely within a building. No body or fender work shall be done on the premises without first obtaining "C" zoning.
5. This property shall be developed in accordance with the site plan approved for this application. All vehicle parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Curbs, bumper blocks, or posts and chains shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
6. Parking spaces for employees and customers shall be provided on the property as required by the zoning ordinance and in conformance with the standards established by the Traffic Engineer's Office. These spaces shall be marked and designated for employees and customers and shall not be used for display and storage of cars which are for sale (except for sales cars driven by the employees of this business).  
*44 spaces with at least 7 new front ones and marked for "customers only"*
7. A 6-foot-tall wood fence shall be constructed along (or near) the entire south property line from Elpyco to Bleckley, as shown on the approved site plan. The 6-foot fence shall continue along Bleckley at the east edge of the paved parking and along Elpyco at the west edge of the paved parking lot until it meets the east-west driveway. These fences shall be maintained in good repair at all times and replaced or repaired as necessary. The support members shall be on the inside of the fence.
8. Prior to use of this site for a car sales business, the sign posts existing in Kellogg right-of-way shall be removed.
9. All lights shall be shielded to direct light away from adjoining properties. No string-type lighting or banners shall be permitted.
10. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted.
11. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
12. This site shall be developed for a car sales business in accordance with the approved site plan and in accordance with all conditions of approval within one year after BZA approval, or the resolution shall be considered null and void.
13. Release of this resolution shall supersede and void BZA Resolution 12-90.
14. Prior to commencement of any portion of this proposed car sales lot (including auto repair), the applicant shall record the plat of Davis Moore 7th Addition with the Register of Deeds so that the associated zone change ordinance from "A" and "RB" to "LC" will become effective. The applicant shall also obtain an occupancy permit from the Office of Central Inspection prior to commencement of the operation of this business.

ADOPTED AT WICHITA, KANSAS, this 26th day of March, 1991.

  
Randy Phillips, Vice President

ATTEST:

  
Louise Olivarez, Secretary

WHEREAS, T.G. Davis, Jr., pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit expansion of an approved car agency to sell new and used cars on property zoned the "LC" Light Commercial District (also "RB" & "A" approved for "LC") and legally described as follows:

Lots 10 and 11, Block B, Nashville Park Addition, and Lot 1, Davis-Moore 6th Addition, all in Wichita, Sedgwick County, Kansas (being replatted as Lot 1, Davis-Moore 7th Addition). Generally located between Elpyco and Bleckley on the south side of Kellogg (5025 E. Kellogg).

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 March 26, 1991, 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 expansion of an approved car agency to sell new and used cars on property zoned the "LC" Light Commercial District (also "RB" & "A" approved for "LC"), 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 permit expansion of an approved car agency to sell new and used cars on property zoned the "LC" Light Commercial District (also "RB" & "A" approved for "LC") and legally described as follows:

Lots 10 and 11, Block B, Nashville Park Addition, and Lot 1, Davis-Moore 6th Addition, all in Wichita, Sedgwick County, Kansas (being replatted as Lot 1, Davis-Moore 7th Addition). Generally located between Elpyco and Bleckley on the south side of Kellogg (5025 E. Kellogg).

subject to the following conditions:

1. The applicant shall obtain approval of a minor street privilege to permit parking within Kellogg right-of-way, as shown on the plan submitted with this application. If not obtained, a revised site plan shall be submitted to the Secretary for review and approval prior to commencement of operation of a car sales lot on this property.
2. Within 30 days following BZA approval and prior to release of the resolution authorizing this amended use exception, the applicant shall submit 6 copies of a revised site plan which show the fences parallel to Bleckley and Elpyco as being at least 5 feet inside the property lines. These 5-foot strips shall be designated as landscape areas. The revised plan shall also show the fence along the south portion of the east half of the site as being 10 feet inside the property line so that the existing hedgerow along this property line can be preserved. The hedgerow should be identified on the plan and labeled "to be preserved".
3. Within 30 days following BZA approval and prior to release of the resolution authorizing this amended use exception, the applicant shall submit 4 copies of a landscape plan to the Secretary for review and approval which specify plant materials for the south 210 feet of the Elpyco frontage and for the south 125 feet of the Bleckley frontage. Shrubs and groundcovers shall be planted within the 5-foot landscape strips required in condition #2 above. Street trees shall be planted either in these 5-foot landscape strips or in the "parking" areas between curb and property line. A combination of trees, shrubs and groundcovers shall be used which provide visual appeal, as well as some degree of screening above the fence height. The landscape plan shall specify the names of the plant materials, the size at planting, and the method of providing water to the plant materials. All plants shall be installed prior to use of this site for a car sales business.