11. Within one year after approval by the Board, the west 310 feet of this application area shall be utilized as a car sales lot in accordance with conditions 1 through 9 above, or this resolution shall become null and void.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 5

September 27, 1988

SECRETARY'S REPORT

CASE NUMBER: BZA 44-88

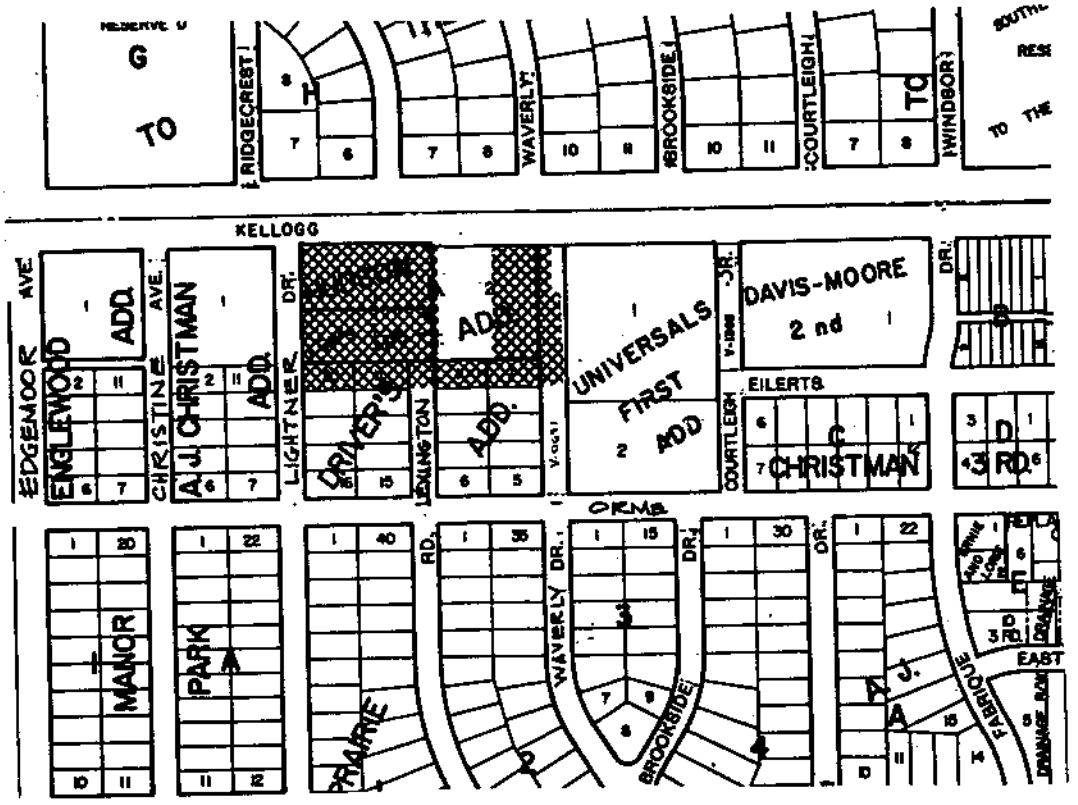
OWNER/APPLICANT/AGENT: T. G. Davis, Jr. (owner/applicant)
Everett C. Fettis (agent)

REQUEST: Exception to permit the expansion of a new and used car lot.

CURRENT ZONING: "LC" Light Commercial District and "A" Two-Family Dwelling District (approved for "LC" subject to platting)

SITE SIZE: 4.54 acres

LOCATION: South side of Kellogg Drive in an area east of Lightner.



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: A portion of this property was included in BZA 41-87, which was approved in October 1987 subject to several conditions, including the removal of all non-auto sales businesses and submission of a revised site plan showing the 10-foot right-of-way dedication for Kellogg Drive by April 27, 1988. Neither of these conditions was completed by the required time and BZA 41-87 became null and void. In the meantime, two additional residential lots (Lots 11 and 20, Driver's Addition) were acquired and rezoning to "LC" was approved, subject to replatting. The Burger King site at 5927 E. Kellogg Drive has also recently been purchased for future use as part of this car agency. A commercial C.U.P. for all of the Davis-Moore car sales properties was also submitted and approved, subject to replatting. The replat, Davis-Moore 5th Addition, is scheduled for City Council review on September 13 and should be recorded shortly thereafter. One of the conditions of platting was that a sidewalk be constructed along the south side of Kellogg Drive at the time of site development. It is the policy for sidewalks to be constructed within the street right-of-way, but immediately adjacent to the property line. This BZA site plan indicates that application has been made for a minor street permit to utilize the recently dedicated right-of-way for the display of cars, with construction of the sidewalk being at the curb. A minor street permit has also been requested on Lightner so that ten feet of the street "parking" area (between curb and property line) can be utilized by this car agency. The sidewalk would be reconstructed at the curb line. There is more than ample area on private property for the display and customer parking stalls, and it is recommended that a revised site plan be submitted which does not utilize public right-of-way for private purposes.

A separate site plan showing future car sales uses on the current Burger King site has also been submitted, although it may be years before the restaurant use ceases. It is recommended that for this portion of the BZA exception area, a site plan be required to be submitted to the Traffic Engineer for review and approval prior to remodeling of the building and use of the site for car sales purposes. All other conditions of approval of this case would apply, except the one-year development time limit.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	One-family dwellings
SOUTH	"A"	One-family dwellings
EAST	"LC"	Car wash
WEST	"LC"	Retail sale of plants

RECOMMENDATION: Should the Board determine that a new and used car sales lot is appropriate at this location, it is recommended that the exception be approved, subject to the following conditions:

1. An automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business. The Burger King restaurant at 5927 E. Kellogg may remain until its lease expires or is otherwise terminated and provided that no auto sales or service uses occur on that portion of the property until a site plan has been submitted to and approved by the City Traffic Engineer.

2. Any motor repair work shall be conducted entirely within an enclosed building and no body or fender work shall be conducted on site unless "C" zoning is obtained.

3. As long as the property to the south remains residentially zoned, a solid fence or wall 6 to 8 feet tall shall be maintained in good repair along the south property line. Such fence or wall may be reduced to a height of 3 feet within the west 25 feet of the site. There shall be no access through the fence or wall to Lexington.

4. All storage and display areas shall be paved with concrete, asphalt, or asphaltic concrete.

5. All lights shall be shielded to reflect or direct light away from adjoining property. No string-type lighting shall be permitted.

6. Ground or pole signs shall not exceed the height, area or number permitted by the zoning regulations for the "LC" Light Commercial District.

7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.

8. Off-street parking spaces shall be provided on the property, as required by the zoning ordinance (1 space per 3,000 sq. ft. lot area, plus 1 space per 250 sq. ft. building area) and in conformance with the standards established by the Traffic Engineer's office. These required customer/employee parking spaces shall be so designated and shall not be used for display or sale of cars.

9. Parking barriers of bumper blocks, curbs, or posts and chain shall be installed to prevent parked cars from encroaching onto public right-of-way.

10. Within 60 days after approval by the Board, and prior to release of this resolution, the applicant shall submit four copies of a revised site plan which does not utilize public right-of-way for private uses; indicates the required fence along the south property line; and shows the building setback lines and utility easements which were designated on the Davis-Moore 5th Addition plat; and shows the sidewalk at the property line, not the curb line.

SEDGWICK COUNTY

METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

September 28, 1988

Everett C. Fettis, Attorney
120 S. Market, #504
Wichita, KS 67202

Re: BZA 44-88 - Exception to permit new and used car lot on south side of Kellogg Drive, east of Lightner.

Dear Mr. Fettis:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 27, 1988. 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.

Although the Board authorized release of the resolution prior to receiving revised site plans, they did require the plans to be submitted prior to November 1, 1988. Please make sure the revised plans include all the information listed in condition #10.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

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

Sincerely,

Louise Olivarez

Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO/jcm
Enclosure

cc: T. G. Davis, Jr., P. O. Box 780047, Wichita, KS, 67278
Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

3. As long as the property to the south remains residentially zoned, a solid fence or wall 6 to 8 feet tall shall be maintained in good repair along the south property line. Such fence or wall may be reduced to a height of 3 feet within the west 25 feet of the site. There shall be no access through the fence or wall to Lexington.

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9. Parking barriers of bumper blocks, curbs, or posts and chain shall be installed to prevent parked cars from encroaching onto public right-of-way.

10. The applicant shall give up the minor street permit recently issued on this site and prior to November 1, 1988, shall submit four copies of a revised site plan which does not utilize public right-of-way for private uses; indicates the required fence along the south property line; and shows the building setback lines and utility easements which were designated on the Davis-Moore 5th Addition plat; and shows the sidewalk at the property line, not the curb line.

11. Within one year after approval by the Board, the west 310 feet of this application area shall be utilized as a car sales lot in accordance with conditions 1 through 9 above, or this resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 27th day of September, 1988.

Sharon Ryan, President

ATTEST:

Jack H. Galbraith, Secretary

11-17-88

This legal should have excluded the north 10' of Lot 1 Hudson Addition as that had been dedicated for street purposes (see D-1485) All replatted as part of Davis Moore 5th addition !!!

BZA RESOLUTION NO. 44-88

WHEREAS, T. G. Davis, Jr., pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the expansion of a new and used car lot on property partially zoned the "LC" Light Commercial District and the balance approved for "LC", legally described as follows:

> Lot 1, Low's Addition; Lot 1, Hudson Addition; the west 10 feet of Lot 2, Hudson Addition; the east 100 feet of Lot 2, Hudson Addition; the west 30 feet of the north 312.86 feet of vacated Waverly; the west 20 feet of the east 30 feet of the north 312.86 feet of vacated Waverly, except the north 100 feet thereof; Lots 1, 10, 11 and 20, Drivers Addition, together with Lexington Street lying between said Lots 10 and 11; all in Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg Drive in an area east of Lightner.

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 September 27, 1988, 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 expansion of a new and used car lot on property partially zoned the "LC" Light Commercial District and the balance 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 the expansion of a new and used car lot on property partially zoned the "LC" Light Commercial District and the balance approved for "LC", and legally described as follows:

> Lot 1, Low's Addition; Lot 1, Hudson Addition; the west 10 feet of Lot 2, Hudson Addition; the east 100 feet of Lot 2, Hudson Addition; the west 30 feet of the north 312.86 feet of vacated Waverly; the west 20 feet of the east 30 feet of the north 312.86 feet of vacated Waverly, except the north 100 feet thereof; Lots 1, 10, 11 and 20, Drivers Addition, together with Lexington Street lying between said Lots 10 and 11; all in Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg Drive in an area east of Lightner.

subject to the following conditions:

1. An automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business. The Burger King restaurant at 5927 E. Kellogg may remain until its lease expires or is otherwise terminated and provided that no auto sales or service uses occur on that portion of the property until a site plan has been submitted to and approved by the City Traffic Engineer.

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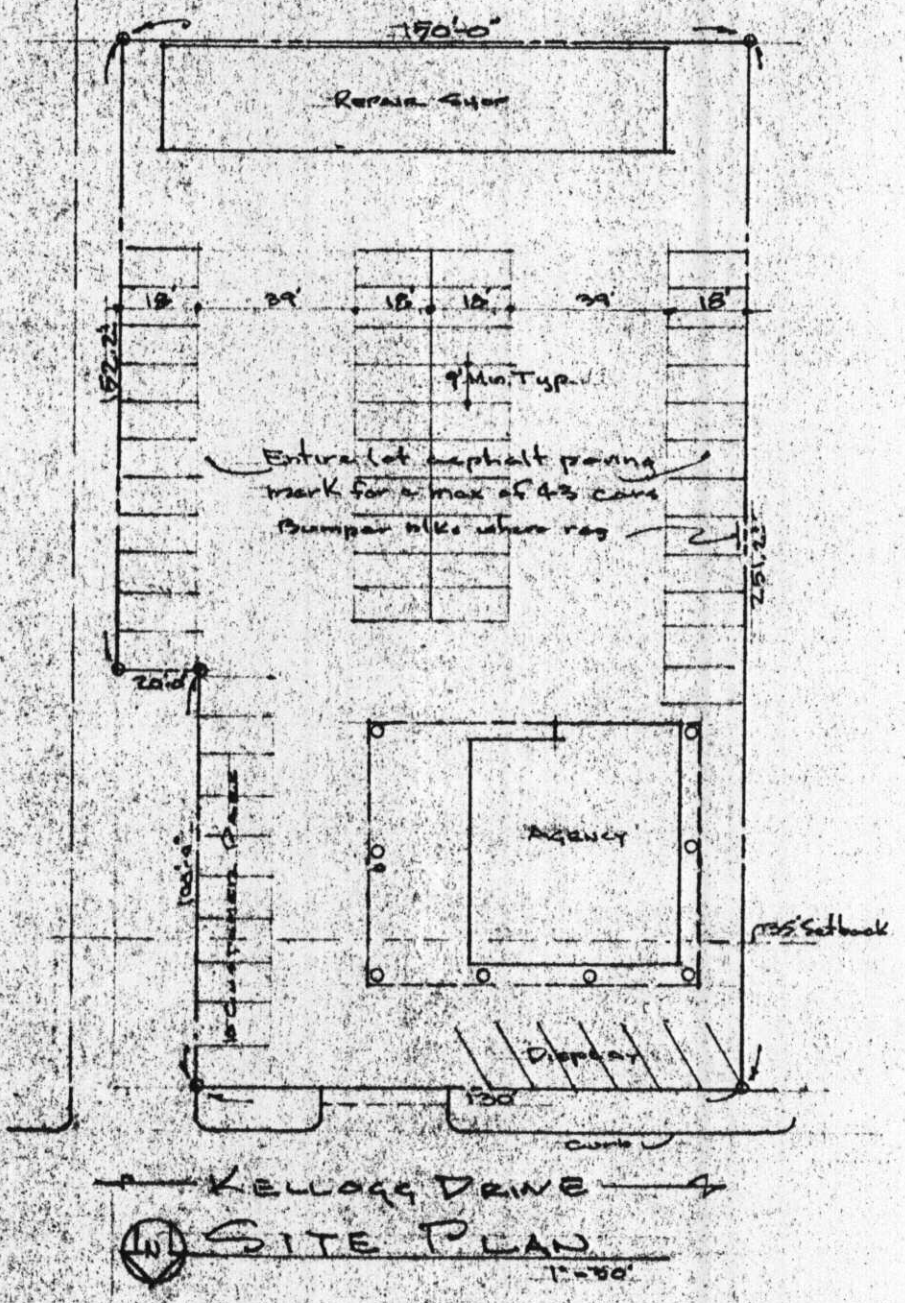
Sharon Ryan, President

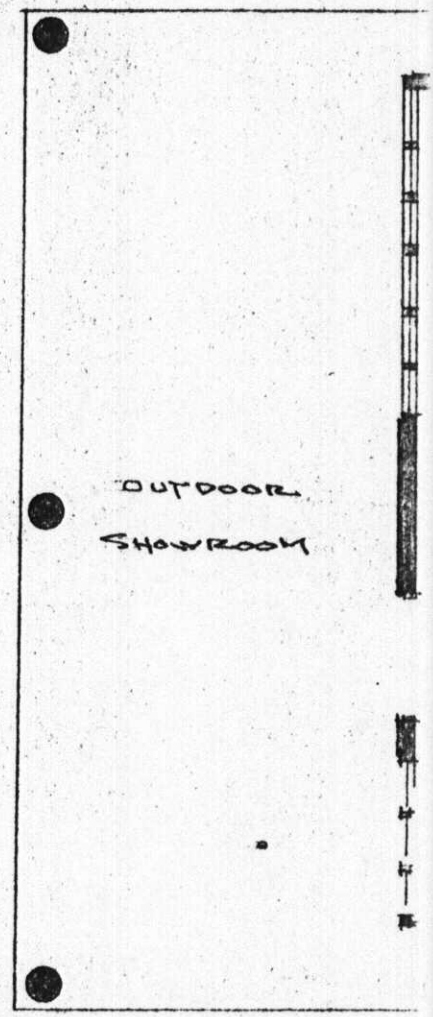
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11-17-88

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LEGAL:
THE EAST 130' OF LOT 2 - HUDSONS ADDITION
AND THE WEST 20' OF VACATED WAVERLY DR
EXCEPT FOR THE NORTH 100' OF SAME

