

BZA RESOLUTION NO. 10-93

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 a car sales lot on property zoned the "LC" Light Commercial and "A" Two-Family Dwelling (approved for "LC") Districts and legally described as follows:

Lot 1, Davis-Moore 7th Addition, Wichita, Sedgwick County, Kansas, together with the south 10 feet of Lot 1, all of Lot 2, the north 50 feet of Lot 3, Lot 8 and Lot 9, all in Block B, Nashville Park Addition, Wichita, Sedgwick County, Kansas. Being replatted as Davis-Moore 11th Addition. Generally located on the south side of Kellogg between Elpyco and Bleckley.

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 April 27, 1993, 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 a car sales lot on property zoned or approved for 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 permit expansion of a car sales lot on property zoned the "LC" Light Commercial and "A" Two-Family Dwelling (approved for "LC") District and legally described as follows:

Lot 1, Davis-Moore 7th Addition, Wichita, Sedgwick County, Kansas, together with the south 10 feet of Lot 1, all of Lot 2, the north 50 feet of Lot 3, Lot 8 and Lot 9, all in Block B, Nashville Park Addition, Wichita, Sedgwick County, Kansas. Being replatted as Davis-Moore 11th Addition. Generally located on the south side of Kellogg between Elpyco and Bleckley.

subject to the following conditions:

1. Within 30 days following BZA approval and prior to release of the resolution authorizing this amended use exception, the applicant shall submit six copies of a landscape plan to the Secretary for review and approval which specify plant materials for the south 322 feet of the Elpyco frontage and for the south 245 feet of the Bleckley frontage. Plants previously approved for the areas included in BZA 3-91 are still acceptable, but may be changed. All Sarcocoe euonymus plants shall be replaced with healthy two-gallon or larger size plants of the same or a different species. Shrubs shall be included in the plan for the area on Elpyco between the fence and Austrian pines. All plants shall be installed prior to using the additional lot area for car sales purposes.
2. 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.
3. 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.

4. 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). (Current building size and lot size require a minimum of 50 spaces for customers and employees, 12 of which shall be near the entrance and marked for customers only.)
5. A six-foot-tall wood fence shall be constructed along (or near) the entire south property line from Elpyco to Bleckley. The six-foot fence shall continue along Bleckley and along Elpyco at a distance five feet inside the property lines until it meets the east-west driveway. This fence shall be maintained in good condition at all times and replaced or repaired as necessary. The support members shall be on the inside of the fence.
6. All lights shall be shielded to direct light away from adjoining properties. No string-type lighting or banners shall be permitted. No light fixtures taller than 15 feet above grade shall be permitted in the south 116 feet of this site. Lights shall not project beyond the perimeter of the fence.
7. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted.
8. No exterior sound projecting devices or loudspeakers shall be used.
9. The four existing driveway approaches within the south 116 feet of this site shall be removed and the curbs replaced prior to use of this south 116 feet for any non-residential purpose.
10. If the grading of this additional car sales lot area increases the lot elevation more than one foot above the elevation of the property adjacent to the south, a retaining wall shall be constructed by this applicant to prevent erosion and an unsightly appearance.
11. 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.
12. Release of this resolution shall supersede and void BZA Resolution 3-91.
13. Prior to use of the south 116 feet of this expanded car sales lot, the applicant shall record the plat of Davis-Moore 11th Addition with the Register of Deeds so that the associated zone change ordinance from "A" to "LC" will become effective.
14. If a retaining wall of at least two feet in height is required, then there shall be a five-foot setback from the south property line for the retaining wall and the fence. The five-foot setback area shall be landscaped (after submission and approval of a landscape plan). If no retaining wall is required, then a fence

can be built on the south property line as long as the top of the fence is no taller than six feet above the natural grade of the adjacent residential lot and cars are shielded from the neighbors' sight.

ADOPTED AT WICHITA, KANSAS, this 27th day of April, 1993.



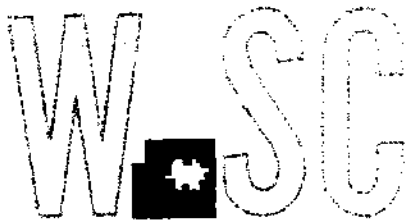
Mitchell Faroh, President

ATTEST:



Louise Olivarez, Secretary

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 268-4421

February 28, 1994

T. G. Davis, Jr.
Attn: Pete Klein
P.O. Box 780047
Wichita, KS 67278

Re: BZA 10-93 - An exception to permit expansion of a car sales lot on property generally located on the south side of Kellogg between Elpyco and Bleckley.

Dear Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on April 27, 1993. 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 landscape plan has been approved and the plat of Davis-Moore 11th Addition has been recorded.

Also enclosed for your files are copies of the approved site plan (dated 6/8/93) and approved landscape plan (dated 8/4/93).

If you have any questions concerning this case, please call me at 268-4421.

Sincerely yours,

Louise Olivarez
Louise Olivarez, Secretary
Board of Zoning Appeals

Enclosures

cc: (Resolution only)
Everett Fettis, 120 S. Market, Suite 504, Wichita, KS 67202
Baughman Company, 315 Ellis, Wichita, KS 67211
Pat Burnett, Deputy City Clerk
Penny Atchley, MAPD
cc: (All enclosures)
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI



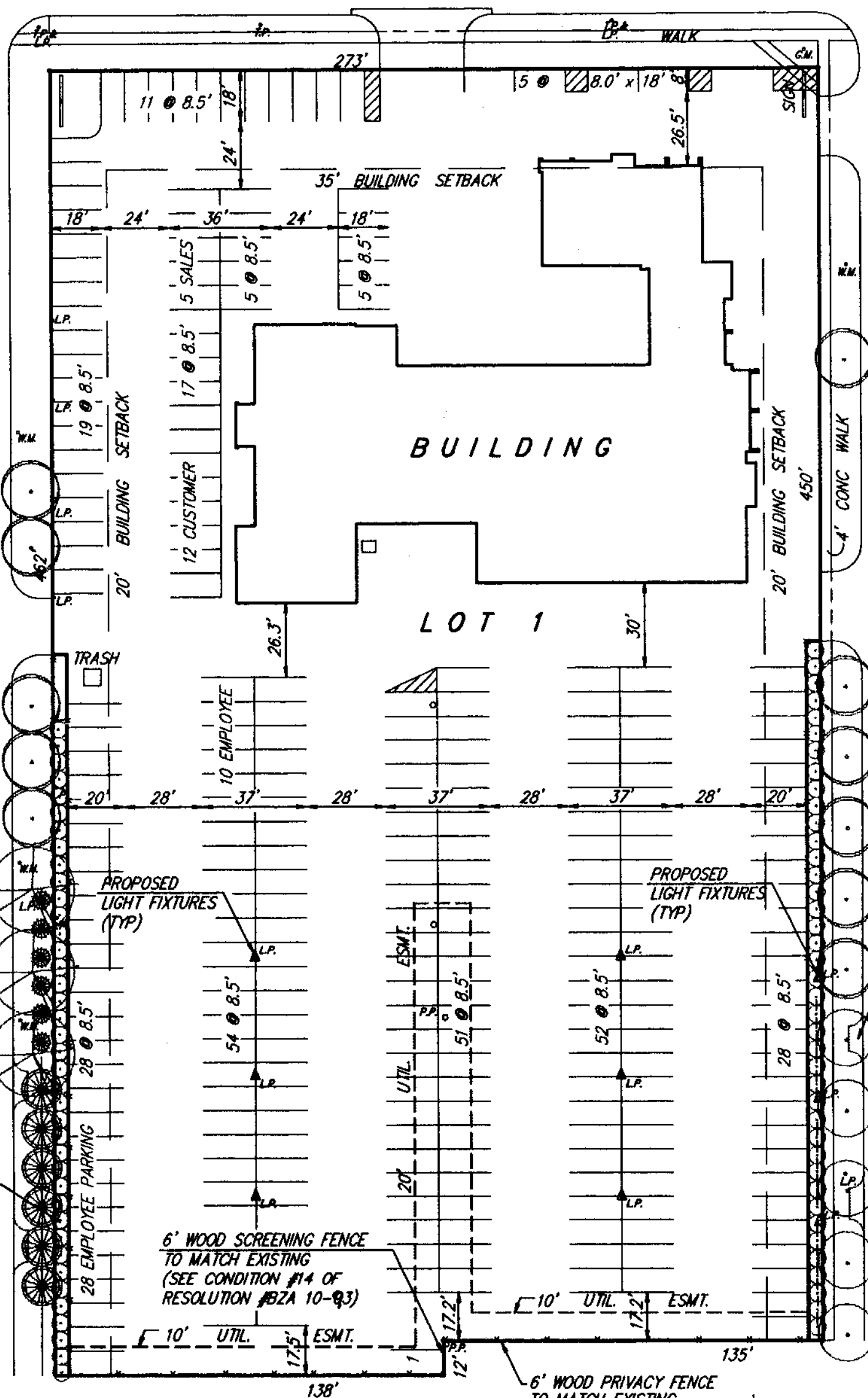
KELLOGG (US 54) ST

AVENUE

ELPYCO

DRIVE

BLECKLEY



SITE INFORMATION	
PARKING STALLS	276
DRIVE WIDTH	VARIABLE
STALL DEPTH	VARIABLE
STALL WIDTH	VARIABLE

PARKING AREA	104980 SF
BLDG AREA	17015 SF
CUSTOMER PARKING	12
EMPLOYEE PARKING	38

SITE PLAN DAVIS-MOORE 11th

SCALE: 1" = 40'
19 March 1993
Revised 1 JUNE 1993

Approved 6/8/93



BAUGHMAN COMPANY P. A.
SURVEYING & ENGINEERING
316/262-7271 • 315 ELLIS • WICHITA, KANSAS 67211

LOT 1, DAVIS-MOORE 7TH ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, TOGETHER WITH THE SOUTH 10 FEET OF LOT 1 AND THE NORTH 50 FEET OF LOT 2, THE SOUTH 10 FEET OF LOT 2 AND THE NORTH 50 FEET OF LOT 3, LOT 8, AND LOT 9, ALL IN BLOCK B, NASHVILLE PARK ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS

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11. 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.
12. Release of this resolution shall supersede and void BZA Resolution 3-91.
13. Prior to use of the south 116 feet of this expanded car sales lot, the applicant shall record the plat of Davis-Moore 11th Addition with the Register of Deeds so that the associated zone change ordinance from "A" to "LC" will become effective.

April 27, 1993

SECRETARY'S REPORT

CASE NUMBER: BZA 10-93

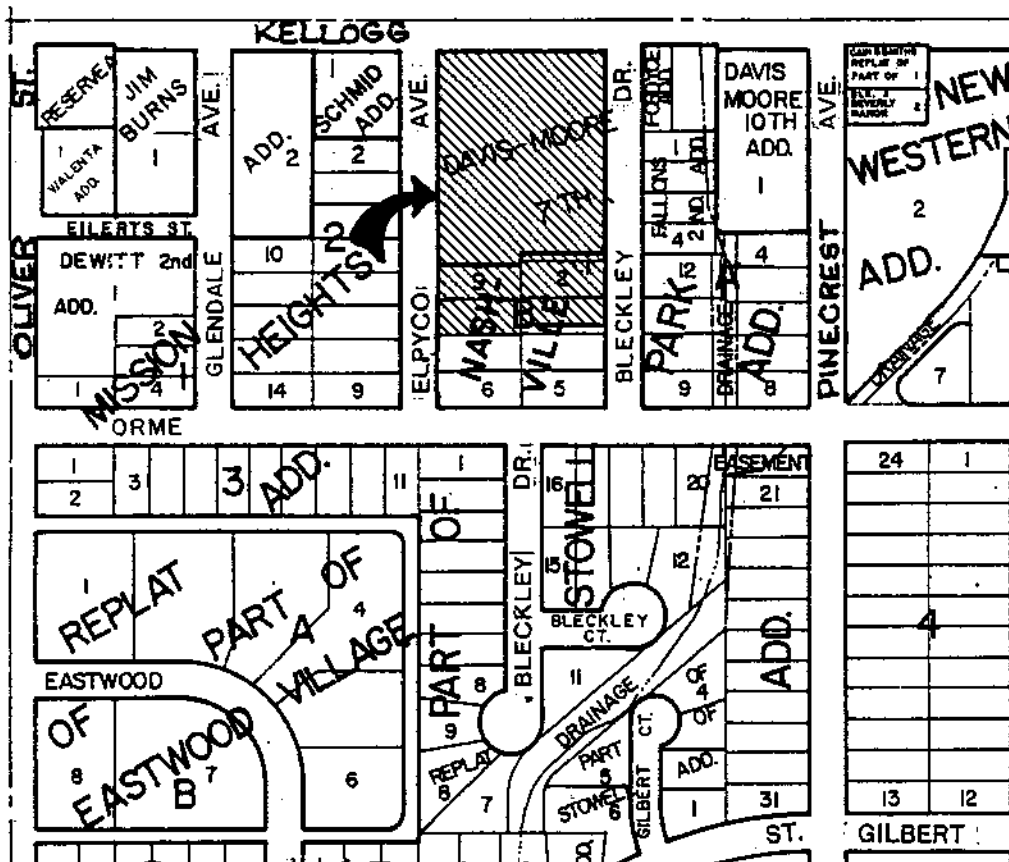
OWNER-APPLICANT/AGENT: T.G. Davis, Jr./Everett Fettis

REQUEST: Exception to permit expansion of a car sales lot

CURRENT ZONING: "LC" Light Commercial & "A" Two-Family Dwelling Districts (approved for "LC")

SITE SIZE: 273 ft. x 462 ft. (2.9 acres)

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: This request represents the second southward expansion of the Davis-Moore Mazda dealership since it was first approved for this east Kellogg site in 1990. Two additional houses on Bleckley (537 and 543) and two on Elpyco (538 and 544) have now been purchased and rezoned to "LC", subject to replatting. The new site plan shows no direct access to either street from the new car lot area. All four existing residential driveways will be closed. The six-foot wood perimeter fence will be extended around the new site at the same five-foot setback from the streets as was approved for the previous use exceptions in this block. An extension of landscaping similar to that existing is proposed adjacent to the fence and between the sidewalk and curb on Bleckley. On Elpyco, evergreen trees are proposed between the curb and fence. Six tall arborvitae have already been transplanted to this area. Eight Austrian pines are proposed further south on Elpyco.

During the most recent rezoning hearings, neighbors voiced concern about several aspects of this business which have been problems for them. One was loudspeakers which could be heard beyond the property lines. This is specifically prohibited by the conditions of the use exception. These loudspeakers have been removed since the rezoning hearing and should not be replaced. Another problem was lights. While some neighbors like the security these lights provide, others are bothered by them. Although the intensity of light is not excessive (according to a study conducted by a consulting engineer hired by the applicant), the height of the light poles and the stray lighting which escapes from these fixtures contributes to the non-residential character of the area. It is recommended that no additional lights taller than the perimeter fence be permitted in this added sales lot area.

The third problem mentioned by neighbors is the minimal landscaping. Board members may recall that when the previous use exception was approved (BZA 3-91), only a five-foot-wide landscaped area outside the screening fence was required. That case was approved before the adoption of the City's landscape ordinance in September 1991. If this property was just beginning to develop today, the landscape ordinance would require considerably more landscaped area than shown on the applicant's site plan. Because the applicant is not expanding the gross floor area by 30% or more, nor is he adding more than 50% to the value of the development, compliance with the landscape ordinance is not required. The Board of Zoning Appeals is free to determine the degree of landscaping and screening appropriate for this use at this location.

The applicant has tried to respond to some of the neighbors' concerns regarding the landscaping by planting six large arborvitae mid-block on Elpyco. These "trees" were approved for planting in street right-of-way by the City forester. Austrian pines are proposed to be planted south of these arborvitae. The forester has also approved

these as long as they are no closer than 30 feet to a driveway. As these pines will be small for a number of years and are to be planted 12 to 15 feet apart, there should also be shrubs planted just west of the fence to soften the visual effect of a 250-foot-long wooden fence across the street from single-family homes. The Sarcoxie euonymous shrubs which were planted two years ago should be well-established by now, but are not. They should be replaced with healthy euonymous plants or some other approved type of shrub. This applies to both the Elpyco and Bleckley planting areas. Proposed plantings on Bleckley consist of additional ornamental trees and shrubs similar to existing ones.

The parking requirement for the previous application consisted of 44 spaces for customers and employees, with at least nine of these near the front door and marked for "customers only." An addition to the building was made last fall which increases this parking requirement slightly. The currently proposed lot area increase will also add to the parking requirement. Staff will be prepared to discuss the specific parking requirements at the meeting after reviewing the various building uses with OCI. Certainly sufficient parking exists; it is only a matter of determining how many of the spaces must be reserved for customers and employees. All others may be used for the display and storage of cars which are for sale.

ADJACENT ZONING AND LAND USE:

NORTH	"B" & "LC"	Undeveloped & fourplexes
SOUTH	"A"	One-family dwellings
EAST	"B" & "A"	Medical clinic & one-family dwellings
WEST	"LC" & "RB"	Auto repair & one-family dwellings

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

1. Within 30 days following BZA approval and prior to release of the resolution authorizing this amended use exception, the applicant shall submit six copies of a landscape plan to the Secretary for review and approval which specify plant materials for the south 322 feet of the Elpyco frontage and for the south 245 feet of the Bleckley frontage. Plants previously approved for the areas included in BZA 3-91 are still acceptable, but may be changed. All Sarcoxie euonymous plants shall be replaced with healthy two-gallon or larger size plants of the same or a different species. Shrubs shall be included in the plan for the area on Elpyco between the fence and Austrian pines. All plants shall be installed prior to using the additional lot area for car sales purposes.

2. 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.
3. 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.
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7. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted.
8. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
9. The four existing driveway approaches within the south 116 feet of this site shall be removed and the curbs replaced prior to use of this south 116 feet for any non-residential purpose.
10. If the grading of this additional car sales lot area increases the lot elevation more than one foot above the elevation of the property adjacent to the south, a retaining wall shall be constructed by this applicant to prevent erosion and an unsightly appearance.