

Agenda Item # \_\_\_\_\_

City of Wichita  
City Council Meeting  
November 17, 1998

Agenda Report # \_\_\_\_\_

**TO:** Mayor and City Council Members

**SUBJECT:** Z-3298 ZONE CHANGE REQUEST FROM "TF-3" TWO-FAMILY DISTRICT TO "LC" LIMITED COMMERCIAL; AND

DP-183 AMENDMENT #10 - A REQUEST FOR AN AMENDMENT TO THE DAVIS-MOORE CUP, LOCATED SOUTH OF KELLOGG AND EAST OF LIGHTNER.  
(District II)

**INITIATED BY:** Metropolitan Area Planning Department



**AGENDA ACTION:** Planning

**MAPC Recommendation:** Approve, subject to platting within 1 year and conditions (10-1).

**Staff Recommendation:** Approve, subject to platting within 1 year and conditions.

**CPO Recommendation:** Deny (5-2).

**Background:** The applicant requests a zone change from the "TF-3" Two-Family District to "LC" Limited Commercial District for Lot 8, Drivers Addition and an amendment to the Davis-Moore Community Unit Plan to: 1) add the lot proposed for rezoning to the CUP, 2) remove the required landscape buffer along Orme, Lexington and Lightner, and 3) amend the permitted uses on portions of the CUP. The zone change and CUP amendment are requested to allow for an expansion of the Davis-Moore auto dealership.

Lot 8, Drivers Addition is currently developed with a single family home. Over the past 9 years the applicant has been buying the properties north of Orme in this area. This is the last of the properties in that area not presently owned by Davis-Moore. All of the lots surrounding Lot 8 have been previously rezoned to "LC" and included in amendments to the C.U.P. The previous amendments to the CUP have allowed employee parking in this area and a customers service center on Lot 19, Drivers Addition prior to the new Zoning Code being passed. A quick lube facility has been

developed on this site which does not require approval from the MAPC.

The applicant proposes to use the south 180 feet of the west 420 feet of the C.U.P. as storage area for vehicles used in this sales operation. There would not be any display of vehicles in this area. The display of vehicles is to remain along the Kellogg frontage road. The demarcation line between these two uses needs to be better clarified. The applicant will need to provide a detailed site plan showing the areas to be used as vehicle storage areas, display area for vehicles and customer and employee parking.

As part of one of the previous approvals of this C.U.P., a ten-foot street yard landscape and screening strip was required along the south 240 feet of the frontage on Lightner; along Lexington from Orme to the south line of Lot 12; along the east side of Lexington from Lot 8 to Orme; and east from the northeast corner of Lexington and Orme, approximately 120 feet. The applicant constructed a six-foot tall fence along the Orme, Lexington and Lightner frontages; however, the fence was constructed on the property line with the landscaping in the parkway. As a result, the ten-foot landscape buffer was never provided. The applicant is requesting the ten-foot landscape and screening buffer be removed as a requirement of the C.U.P. In return, he has offered to plant street trees in the parkway area at a spacing of 20 feet -- twice the density required in the City's landscape ordinance. These trees have already been planted.

In addition, previous amendments to the C.U.P. authorized one access point to Lightner, one access point to Courtleigh and one access point to Fabrique. One emergency access point is being requested to Orme in this application.

The 12 lots will be replatted into a single lot as a requirement of this amendment to the C.U.P., and Lexington will be vacated with the plat. At the time of platting, drainage issues will be addressed.

The recent development of this property has resulted in one known issue that is not in conformance with the provisions of the C.U.P. and will need to be corrected. The applicants have constructed light poles on the southern portion of the property which are 20 feet in height and not properly shielded from the neighboring residential lots. The CUP currently requires the lights to be shielded to reflect away from the residential properties adjacent to the C.U.P. and limits the height of the lights on Lots 6, 7, and 13 through 18 to no taller than 15 feet. The light fixtures currently located on the south portion of this property do not conform to the C.U.P or the lighting standards of the Unified Zoning Code.

City Public Works previously authorized the sidewalk along Orme to be constructed along the curblineline of Orme instead of along the edge of the right-of-way. Some of the neighbors have objected to this, but the sidewalk construction complies with the City requirements.

The site is surrounded by single family homes on the south, east and west. There are also commercial properties on the east and west along Kellogg. North of the application area across Kellogg are single-family homes.

CPO 2 voted 5-2 to deny the zone change request and the amendment to the Davis-Moore CUP.

Two neighbors spoke in opposition to this request. Their concerns primarily dealt with drainage in the area. The rainwater comes from Orme and flows down Waverly to Gilbert and rises to curb height, which did not occur before the lots north of Waverly were paved by Davis-Moore. During the winter months six inch thick ice can develop on Waverly, causing additional water to flow to the other side of the street. The neighbors felt any additional development will worsen the existing drainage problem. CPO members felt that Davis-Moore and the City (storm water utility) needed to address the drainage issues before this request is approved.

At the October 29th MAPC hearing, the applicant's agent spoke about the request. One neighbor, who also spoke at the CPO hearing, spoke in opposition to the request and voiced the same concerns as at the CPO hearing. After discussion, the MAPC voted to approve this request. The Planning Commission asked that a drainage plan be submitted for the entire Davis-Moore site during the platting process. The MAPC also asked the City Council to simultaneously have Public Works staff look for solutions to drainage issues in this area and the surrounding area.

The Ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

**Recommendation:**

1. Concur with the findings of the MAPC and approve the zone change and C.U.P. amendments, subject to the condition of platting within one year, or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3rd majority vote of the membership of the governing body on the first hearing.)

( \_\_\_\_\_ ) Published in the Daily Reporter on \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY CITY OF WICHITA CODE SEC. 28.04.010.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Sec 28.04.010, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. Z-3298**

Zone change request from "TF-3" Two-Family Residential District to "LC" Limited Commercial District, described as:

Lot 1, Block 1, Davis-Moore 13<sup>th</sup> Addition, Wichita, Sedgwick County Kansas.

Generally located south of Kellogg, west of Woodlawn.

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED AT WICHITA, KANSAS,** \_\_\_\_\_

**ATTEST:**

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Pat Burnett, City Clerk

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Bob Knight, Mayor

(SEAL)

Approved as to form:

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Gary E. Rebenstorf, City Attorney