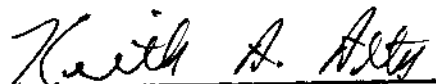


4. A 6-foot-tall solid wood fence shall be constructed along the south property line from a point 6 feet east of Marcilene to a point 6 feet west of Edgemoor. The 6-foot fence shall continue north along Marcilene at a 6-foot setback from the street right-of-way until it meets the proposed driveway. The fence shall continue north along Edgemoor at a 6-foot setback until it meets the proposed driveway. This portion of fence along Edgemoor may be eliminated and replaced by a minimum 14-inch-tall decorative masonry wall. The 6 feet between property lines and fences on Marcilene and Edgemoor parallel to the streets shall be landscaped with trees, shrubs and groundcovers. The 10-foot strip north of the property line between Marcilene and Edgemoor facing Kellogg shall be planted with grass. No structures shall be permitted within the Kellogg right-of-way. Minimum acceptable size for shade trees shall be 2-inch caliper, while ornamentals shall have a minimum 1-inch caliper. Shrubs shall be a minimum 2-gallon size.
5. All lights shall be shielded to direct light away from adjoining properties. No string-type lighting shall be permitted.
6. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted and no string-type banners shall be permitted.
7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
8. Within 60 days after approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception, the applicant shall submit 4 copies of a revised site plan *which identifies the 24 parking spaces to be designated for employees and customers and which indicates the type and location of parking barriers. The building setback line from Marcilene south of the former alley shall be changed to 25 feet, as required for the Davis-Moore 8th Addition plat. The revised plan shall also include the screening and landscaping requirements as specified in condition #4 above. The plant materials shall be identified by scientific name, quantity, size at planting, and type of container (e.g., 2-gallon, 5-gallon, balled and burlapped, etc.). The method of providing water to the plant materials shall also be shown.
9. Prior to release of the resolution authorizing this car sales business on this property, the applicant shall record the associated plat of Davis Moore 8th Addition with the Register of Deeds so that the associated zone change from "A" to "LC" will become effective.
10. 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.

ADOPTED AT WICHITA, KANSAS, this 28th day of May, 1991.


Keith A. Alter, President

ATTEST:


Louise Olivarez, Secretary

*NOTE: On July 26, 1991, a new parking code became effective (Ord. # 41-464). Required spaces for customers (6) and employees (4) now total 10, rather than 24.

BZA RESOLUTION NO. 10-91

WHEREAS, T.G. Davis, Jr., pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit a new and used car sales lot on property zoned the "LC" Light Commercial District and "A" Two-Family Dwelling District (approved for "LC") and legally described as follows:

All of Lots 1 through 11, the north 16.67 feet of Lot 12, and all of Lot 28, Block 1, Beverley Manor, Sedgwick County, Kansas (being replatted as Lot 1, Davis-Moore 8th Addition). Generally located on the south side of Kellogg between Edgemoor and Marcilene.

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 May 28, 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 a new and used car sales lot on property zoned the "LC" Light Commercial District and "A" Two-Family Dwelling District (approved for "LC"), subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita.

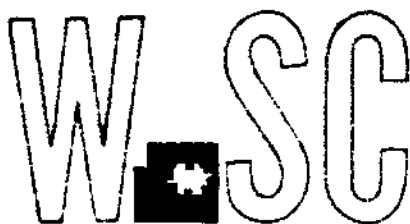
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this application be approved to permit a new and used car sales lot on property zoned the "LC" Light Commercial District and "A" Two-Family Dwelling District (approved for "LC") and legally described as follows:

All of Lots 1 through 11, the north 16.67 feet of Lot 12, and all of Lot 28, Block 1, Beverley Manor, Sedgwick County, Kansas (being replatted as Lot 1, Davis-Moore 8th Addition). Generally located on the south side of Kellogg between Edgemoor and Marcilene.

subject to the following conditions:

1. This property shall be developed in accordance with the site plan approved for this use exception. All vehicle parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers (e.g., curbs, bumper blocks, posts and chains, etc.) 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.
2. The automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or 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. A new site plan shall be submitted for review and approval if any vehicle service or repair work is proposed in the future.
3. Parking spaces for employees and customers shall be provided on the property as specified in the zoning ordinance which currently requires 1 per 250 sq. ft. of building area + 1 per 3,000 sq. ft. of lot area (less building coverage) for a total of 24 spaces. 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). These required parking spaces shall also be identified on the site plan. If the parking code is amended to reduce the number of required spaces, the applicant may submit a revised site plan to the Secretary for review and approval in accordance with the new regulations and, once approved, the actual number of spaces provided and identified on site for employees and customers may be reduced accordingly.

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

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

August 21, 1991

T.G. Davis, Jr.
P.O. Box 780047
Wichita, KS 67218

Re: BZA 10-91 - Exception to permit a new and used car sales lot on property zoned "LC" Light Commercial and "A" Two-Family Dwelling Districts, located on the south side of Kellogg between Edgemoor and Marcilene.

Dear Mr. Davis:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on May 28, 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 conditions 8 and 9 have been completed.

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

Sincerely,

Louise Olivarez, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Everett Fettis, 120 S. Market, 67202
Brent Wooten, Baughman Co., 315 Ellis, 67211
Paul Hays, OCI
Lance Flowers, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

FILE COPY

BZA 10-91 Secretary's Report

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6. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted and no string-type banners shall be permitted.
7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
8. Within 60 days after approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception, the applicant shall submit 4 copies of a revised site plan which identifies the 24 parking spaces to be designated for employees and customers and which indicates the type and location of parking barriers. The revised plan shall also include the screening and landscaping requirements as specified in condition #4 above. The plant materials shall be identified by scientific name, quantity, size at planting, and type of container (e.g., 2-gallon, 5-gallon, balled and burlapped, etc.). The method of providing water to the plant materials shall also be shown.
9. Prior to release of the resolution authorizing this car sales business on this property, the applicant shall record the associated plat of Davis Moore 8th Addition with the Register of Deeds so that the associated zone change from "A" to "LC" will become effective.
10. 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.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 6

May 28, 1991

SECRETARY'S REPORT

CASE NUMBER: BZA 10-91

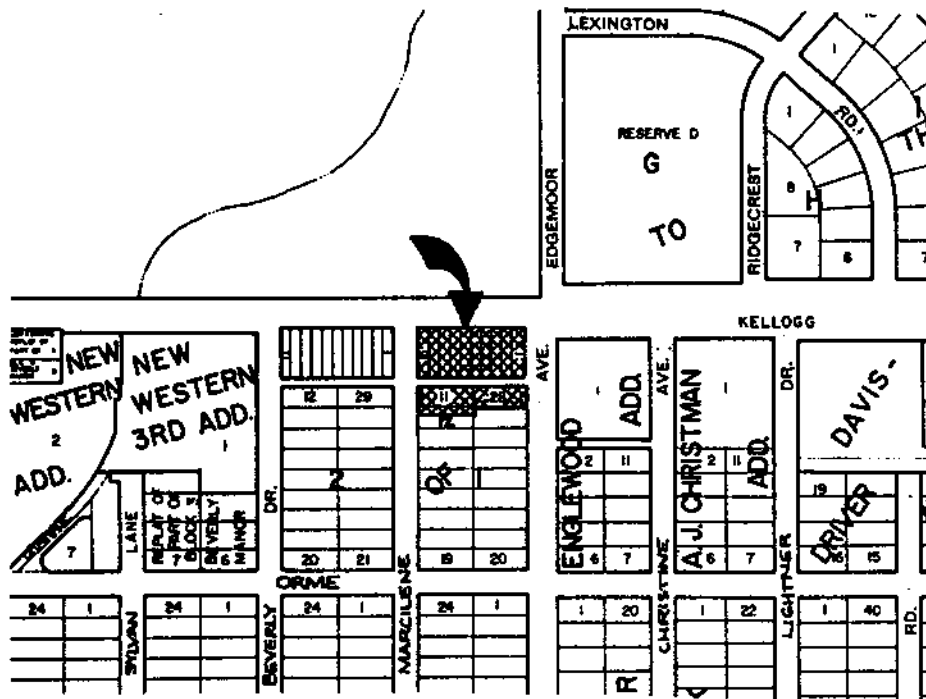
OWNER/APPLICANT/AGENT: T.G. Davis, Jr. (applicant/contract purchaser)
Everett Pettis (agent)

REQUEST: Exception to permit a new and used car sales lot.

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

SITE SIZE: 1.2 acres

LOCATION: South side of Kellogg between Edgemoor and Marcilene.



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: The applicant has purchase contracts for all of the properties in this application, as well as one additional property on Edgemoor (Lot 27). That additional lot could not be included in this current use exception application because its rezoning request from "A" to "LC" (Z-3022) had not been considered by the City Council at the time this use exception had to be advertised. (That application is scheduled for the City Council on May 21, 1991.) If this use exception is approved and if Z-3022 is approved, an expanded site plan and use exception application will probably be submitted next month. The current application area coincides with Z-3018 ("A" & "LC" to "LC"), which has been approved subject to replatting into one lot.

As indicated on the site plan submitted with this application, access will be limited to one driveway on Edgemoor and one driveway on Marcilene. These driveways are at the former alley openings. All existing buildings are to be removed and a new 40 ft. x 50 ft. sales office will be constructed in the southwest portion of the site. Parking for 128 vehicles is shown on the plan. Based on the current parking code, 24 of these spaces must be reserved for employees and customers (1 per 250 sq. ft. building area + 1 per 3,000 sq. ft. lot area). If parking code amendments are adopted as currently proposed, only 10 spaces would have to be reserved for employees and customers (2 per 1,000 sq. ft. building area + 2 per first 10,000 sq. ft. lot area + 1 per each additional 10,000 sq. ft. lot area). These calculations are based on the assumption that there will be no vehicle service or repair on this site.

This site is similar to the recent car lot case on Elpyco in that there are one-family dwellings across the street (Marcilene) to the west of the south portion of this site. The CPO and MAPC discussed screening and landscaping when Z-3018 was considered, and it was stated that the BZA would establish appropriate requirements when the use exception was reviewed. The zoning ordinance directs that approval of car sales lots in "LC" shall be subject to "such screening for areas contiguous to residential zoning districts as may be determined appropriate and necessary to protect adjacent properties from light, debris and noise and to preserve adjacent property values ...". It is properties to the south, as well as to the west, which must be protected. Although a 6-foot screening fence will provide protection from car headlights, blowing debris, and to a limited extent noise, it does little to preserve aesthetic values when located at a property line parallel to a street. To preserve property values of adjacent properties, especially residential properties to the south and west, the following screening and landscaping is recommended:

A 6-foot-tall solid wood fence shall be constructed along the south property line from a point 20 feet east of Marcilene to a point 10 feet west of Edgemoor. The 6-foot fence shall continue north along Marcilene at a 20-foot setback from the street right-of-way until it meets the proposed driveway. The fence shall continue north along Edgemoor at a 10-foot setback until it meets the proposed

driveway. This portion of fence along Edgemoor may be at a reduced height, but no less than 3 feet tall. The 10 to 20 feet between property lines and fences parallel to the streets shall be landscaped with trees, shrubs and ground-covers. The trees on Marcilene shall include a minimum of 2 shade trees or 4 ornamental trees. The trees on Edgemoor shall include a minimum of 2 shade trees or 3 ornamental trees. Landscaping along the Kellogg frontage shall include a minimum of 5 shade trees or 10 ornamental trees. These Kellogg trees shall be placed in planter areas of sufficient size and design to accommodate the growth of the trees. A minimum of 25 square feet of permeable ground surface area per tree is recommended. These trees along Kellogg may be within the area between property line and curb. A minor street privilege is necessary only if raised planters are proposed. No other structures shall be permitted within the Kellogg right-of-way. Minimum acceptable size for shade trees shall be 2-inch caliper, while ornamentals shall have a minimum 1-inch caliper. Shrubs shall be a minimum 2-gallon size.

These landscaping requirements will cause a loss of only one of the 8-car rows of double-stacked cars west of the building. The layout of stalls east of the building can be adjusted to accommodate the 10-foot landscaped yard on Edgemoor without reduction in number of car spaces there. Approximately 20 spaces will be added when the next lot south on Edgemoor is added to this car sales lot.

ADJACENT ZONING AND LAND USE:

NORTH	"BB"	Veteran's Administration Hospital
SOUTH	"A"	One-family dwellings
EAST	"LC"	Kellogg Auto Supply & McLeod's Stationary Store
WEST	"LC" & "A"	Keller's Radiator Service & one-family dwelling

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. This property shall be developed in accordance with the site plan approved for this use exception. All vehicle parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers (e.g., curbs, bumper blocks, posts and chains, etc.) 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.

2. The automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or 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. A new site plan shall be submitted for review and approval if any vehicle service or repair work is proposed in the future.
3. Parking spaces for employees and customers shall be provided on the property as specified in the zoning ordinance which currently requires 1 per 250 sq. ft. of building area + 1 per 3,000 sq. ft. of lot area (less building coverage) for a total of 24 spaces. 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). These required parking spaces shall also be identified on the site plan. If the parking code is amended to reduce the number of required spaces, the applicant may submit a revised site plan to the Secretary for review and approval in accordance with the new regulations and, once approved, the actual number of spaces provided and identified on site for employees and customers may be reduced accordingly.
4. A 6-foot-tall solid wood fence shall be constructed along the south property line from a point 20 feet east of Marcilene to a point 10 feet west of Edgemoor. The 6-foot fence shall continue north along Marcilene at a 20-foot setback from the street right-of-way until it meets the proposed driveway. The fence shall continue north along Edgemoor at a 10-foot setback until it meets the proposed driveway. This portion of fence along Edgemoor may be at a reduced height, but no less than 3 feet tall. The 10 to 20 feet between property lines and fences parallel to the streets shall be landscaped with trees, shrubs and groundcovers. The trees on Marcilene shall include a minimum of 2 shade trees or 4 ornamental trees. The trees on Edgemoor shall include a minimum of 2 shade trees or 3 ornamental trees. Landscaping along the Kellogg frontage shall include a minimum of 5 shade trees or 10 ornamental trees. These Kellogg trees shall be placed in planter areas of sufficient size and design to accommodate the growth of the trees. A minimum of 25 square feet of permeable ground surface area per tree is recommended. These trees along Kellogg may be within the area between property line and curb. A minor street privilege is necessary only if raised planters are proposed. No other structures shall be permitted within the Kellogg right-of-way. Minimum acceptable size for shade trees shall be 2-inch caliper, while ornamentals shall have a minimum 1-inch caliper. Shrubs shall be a minimum 2-gallon size.
5. All lights shall be shielded to direct light away from adjoining properties. No string-type lighting shall be permitted.