

BZA 19-92 Secretary's Report

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14. All trash receptacles and ground level mechanical equipment shall be screened from view when located within 150 feet of any street. Trash receptacles shall not be located within the east 20 feet of the south 56 feet of this site. The revised site plan required by condition #3 above shall indicate the location and screening of these items.
15. The north 238 feet of this property (existing development, plus Phase 1) shall be improved in accordance with the approved site plan, including all applicable paving, screening and landscape requirements, within one year following approval of this use exception by the Board of Zoning Appeals. The south 56.5 feet shall be improved in accordance with the approved site plan within three years following approval of this use exception.
16. Release of Resolution No. BZA 19-92 shall supersede and make null and void Resolution No. 88-84, which authorized auto leasing on Davis-Moore 3rd Addition.
17. The resolution authorizing this expanded auto leasing business, with accompanying auto sales, may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

SECRETARY'S REPORT

CASE NUMBER: BZA 19-92

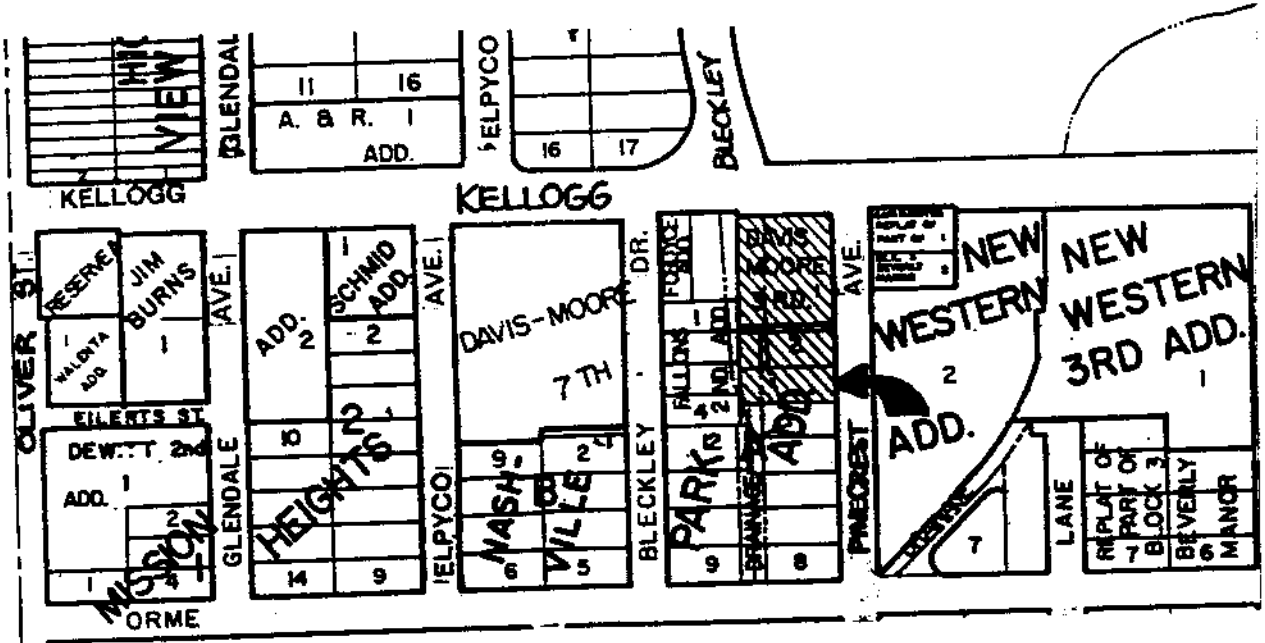
OWNER/APPLICANT/AGENT: Land Partnership, c/o David Anderson (appl.)  
Baughman Co. (agent)

REQUEST: Exception to permit expansion of an automobile leasing business and addition of used car sales.

CURRENT ZONING: "LC" Light Commercial & "RB" Four-Family Dwelling District (approved for "LC")

SITE SIZE: 44,175 sq. ft.

LOCATION: South of Kellogg and west of Pinecrest



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:** Early in 1985, the applicants obtained approval for an automobile leasing business on that portion of the application area currently zoned "LC" and platted as Davis-Moore 3rd Addition. One condition of approval established the maximum number of lease vehicles which could be stored or displayed on site at 28. Twenty additional spaces had to be reserved for employee and customer use. One other condition of approval was that "only occasional sales of vehicles shall be permitted from the property".

The business has grown and two residential lots to the south have been purchased and recently rezoned to the "LC" district (subject to replatting the entire ownership into one lot). The house on the north lot was removed earlier this year. The applicant intends to eventually remove the southern house (527 S. Pinecrest) also and pave the entire site for additional automobile display, storage and sales. He intends to develop Phase 1 within one year and Phase 2 within three to five years. The site plan shows a proposed 25-foot by 35-foot building near the southwest corner of the application area. The applicant has stated the building will be used for such things as washing and vacuuming the cars, applying striping to the cars, and storing the equipment needed for this type of car maintenance. He has said that no mechanical work or oil changing will occur on site.

The entire application area is in the process of being replatted as Lot 1, Davis-Moore 10th Addition. The west 43 feet of that lot is being platted as a floodway which requires that any fill or change of grade have prior approval of the governing body. Paving of the property in the manner indicated on the site plan will require several feet of fill within the floodway (shown on the BZA site plan as "drainage easement"). Also, an old 60-foot channel easement granted to the State Highway Commission in 1934 still encumbers the property and must be eliminated before the proposed building or paving can occur within the easement.

The existing use exception was granted prior to construction of the office building which now houses Dealers Leasing, Inc., but reference was made in that Secretary's Report to a proposed 8,000-square-foot building. With basement space added to the calculation, the total square footage of the building, as recorded on the building plans in OCI, is actually 11,328 square feet. The parking code in effect in 1985 would have required many more than 20 spaces for employees and customers (54 spaces, in fact). Without a parking variance being filed, justified and approved, it is uncertain how the figure of only 20 spaces for employees and customers was established. Section 28.04.183(2) of the zoning ordinance, which sets forth conditions of car sales and leasing in "LC" by use exception, does not say that the BZA may determine the number of parking spaces needed. Therefore, the number shall be as required by the parking code or as may be varied by the BZA upon the filing of a variance application. The BZA does not have the authority to approve a parking variance as part of this use exception.

Even with the reduced number of employee and customer spaces established by the BZA in 1985, this business is currently not in compliance with 1985 conditions of approval. Spaces for employee parking are being leased from The Wichita Suites across Pinecrest to the east and only two spaces are reserved on site for customers. The current number of employees is reported by the applicant to be 17. All other spaces on site (42) are being utilized by the cars which are for lease or sale. The car sales portion of the business has grown to the point where it is more than just "occasional sales". Earlier in the year, after the house at 521 S. Pinecrest was removed, parking occurred illegally on that unpaved, residentially-zoned lot until Central Inspection stopped it. The applicant finally filed a rezoning application and then this use exception application. This new application is for car sales, as well as car leasing.

The parking code now in effect is less stringent for this type of business than it was in 1985. Based on two spaces per 1,000 square feet of building (25 spaces), plus two spaces for the first 10,000 square feet of lot area used for vehicle sales, display or storage and one space for each additional 10,000 square feet (four spaces), 29 parking spaces will be required for employees and customers on this applicant's expanded site. The site plan submitted with this application shows a total of 70 parking spaces, but does not distinguish between customer, employee, and display/storage spaces. The four needed for customers are required to be located "near the entrance of the business", which is in the northeast corner of the building. Any four spaces north or east of the building would be acceptable, but must be labeled on the site plan, as well as marked on the site (by sign or paint). The 25 spaces needed for employees may be anywhere on site, but also must be labeled on the site plan, as well as marked on the site. The balance of the parking spaces may be used for the vehicles which are for lease or sale by this business. If development of the property occurs in phases, the required parking will be determined by the size of buildings and amount of lot area used for vehicle display, sales and storage during that phase.

ADJACENT ZONING AND LAND USE:

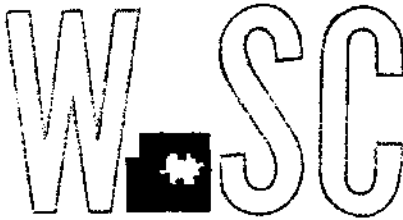
NORTH	"BB"	V.A. Hospital
SOUTH	"RB"	One-family dwelling
EAST	"LC"	Restaurant and hotel
WEST	"B"; "RB"; "A"	Medical clinic; one-family dwellings

RECOMMENDATION: Should the Board determine that expansion of an automobile leasing business and addition of automobile sales is appropriate at this location, it is recommended that the exception be approved, subject to the following conditions:

1. Prior to release of the resolution authorizing this expanded use exception, the applicant shall complete the replatting of the property (Davis-Moore 10th Addition) in order to obtain the conditionally-approved light commercial zoning on the south portion of the site. This plat shall be completed by August 11, 1993, which is the deadline established by rezoning case Z-3062.
2. Prior to release of the resolution authorizing this expanded use exception, the applicant shall obtain written approval from the City's engineering and flood control offices that the proposed change of grade within the floodway is acceptable.
3. Prior to release of the resolution authorizing this expanded use exception, and after a determination is made about the acceptability of the change of grade within the floodway, the applicant shall obtain approval from the Traffic Engineer for the parking layout as to compliance with requirements for stall size, aisle width, turning radii, etc. Six copies of the approved parking layout shall be submitted to the Secretary.
4. Customer and employee parking spaces shall be provided as required by code, which currently is calculated for an auto sales/leasing business at two per 1,000 square feet of building area, plus two for the first 10,000 square feet of lot area used for vehicle sales, display or storage and one for each additional 10,000 square feet of lot area. Based on the preliminary site plan submitted with this application, this calculation results in a total parking requirement of 29 spaces, with four of those (based on lot area) being required to be reserved for customers and 25 (based on building area) for employees. These shall be identified on the site plan, as well as on the actual site. The four spaces required for customers shall be located near the entrance to the business. Only those parking spaces in excess of the number required for customers and employees may be utilized for vehicle sales, display and storage. If development of the property occurs in phases, these parking requirements may also be phased in. Use of the buildings for purposes other than auto sales and leasing may result in different parking requirements. If some employee spaces are to continue to be leased off site, the applicant shall provide Central Inspection with the required documentation about the lease agreement. After approval by Central Inspection, a copy shall be submitted to the BZA Secretary. The number of on-site employee parking spaces may be reduced by the number of off-site leased employee spaces. The off-site number shall not exceed 50% of the required number.
5. The two existing residential-width driveways on Pinecrest shall be closed upon redevelopment of that portion of the property if they are not to be utilized for access to the site. If they are to be used, they shall be reconstructed to commercial drive standards.

6. The accessory building to be located on this property shall not exceed 1,000 square feet in size. Due to proximity to residential uses, there shall be no doors or operable windows in the south, west or east sides of this building, except as may be required by the building or fire codes. The accessory building may not be constructed until the house at 527 S. Pinecrest has been removed from the property, unless it is located within the north 230 feet of the site. The accessory building may be used for maintenance and repair of vehicles associated with this business, but may not include an automatic car washing machine. No body or fender work shall be done on site without first obtaining "C" zoning. No repair of vehicles shall occur outside of a building.
7. A solid wood fence or masonry wall at least six feet tall shall be installed along the south side of this site, adjacent to any residential zoning district or residential use. The six-foot height shall be measured from the top of any retaining wall which may be required along the south property line due to change in grade between properties. If the additional parking is installed in phases, the fence shall be installed wherever commercial use abuts residential use.
8. 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, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not extend beyond the property boundaries.
9. All lights shall be shielded to direct light away from adjoining properties. Stray lighting may not trespass more than five feet onto any adjoining residential property. No string-type lighting 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 and no string-type banners shall be permitted.
11. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
12. The applicant shall obtain a parking lot permit from Central Inspection prior to using any of the south 120 feet of this property for car leasing, sales or storage.
13. Three to four additional honeylocust trees with a minimum caliper of one inch measured six inches above the ground shall be planted along Pinecrest within the south 120 feet at the time of redevelopment. These shall be shown on the revised site plan required by condition #3 above.

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4421

February 10, 1993

David Anderson  
Land Partnership & Wolf Investment  
5119 E. Kellogg  
Wichita, KS 67218


Re: BZA 19-92 - Exception to permit expansion of an auto leasing  
business & the addition of used car sales (5119 E. Kellogg).

Dear Mr. Anderson:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 22, 1992. 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 1, 2 and 3 have been completed. I received notice today that the plat of Davis-Moore 10th Addition was recorded on February 5, 1993. We have asked the City Clerk to publish the associated zone change ordinance.

Also enclosed is a copy of the approved site/landscape plan for your files. If you have questions concerning this matter, please call our office.

Sincerely,

  
Louise Olivarez, Secretary  
Board of Zoning Appeals

LO:jcm  
Enclosure

cc: Baughman Co., ATTN: Phil Meyer, 315 Ellis, 67211  
Paul Hays, OCI  
J.R. Cox, OCI  
Ray Sledge, OCI  
Pat Burnett, Deputy City Clerk

13. Three to four additional ornamental trees with a minimum caliper of one inch measured six inches above the ground shall be planted along Pinecrest within the south 120 feet at the time of redevelopment. These shall be shown on the revised site plan required by condition #3 above.
14. All trash receptacles and ground level mechanical equipment shall be screened from view when located within 150 feet of any street. Trash receptacles shall not be located within the east 20 feet of the south 56 feet of this site. The revised site plan required by condition #3 above shall indicate the location and screening of these items.
15. The north 238 feet of this property (existing development, plus Phase 1) shall be improved in accordance with the approved site plan, including all applicable paving, screening and landscape requirements, within one year following approval of this use exception by the Board of Zoning Appeals. The south 56.5 feet shall be improved in accordance with the approved site plan within three years following approval of this use exception.
16. Release of Resolution No. BZA 19-92 shall supersede and make null and void Resolution No. 88-84, which authorized auto leasing on Davis-Moore 3rd Addition.
17. The resolution authorizing this expanded auto leasing business, with accompanying auto sales, may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 22nd day of September, 1992.

  
\_\_\_\_\_  
Mitchell Faroh, President

ATTEST:

  
\_\_\_\_\_  
Louise Olivarez, Secretary

BZA RESOLUTION NO. 19-92

WHEREAS, Land Partnership, c/o David Anderson, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit expansion of an automobile leasing business and addition of used car sales on property zoned the "LC" Light Commercial & "RB" Four-Family Dwelling Districts (approved for "LC") and legally described as follows:

Lot 1, Davis Moore 3rd Addition, and the south 6.5 feet of Lot 1 and all of Lot 2 and Lot 3, Block A, Nashville Park Addition, Wichita, Kansas (being replatted as Lot 1, Davis Moore 10th Addition). Generally located south of Kellogg and west of Pinecrest (5119 E. Kellogg, 521 & 527 S. Pinecrest).

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 22, 1992, 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 automobile leasing business and the addition of used car sales on property zoned or to be zoned 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 an automobile leasing business and addition of used car sales on property zoned the "LC" Light Commercial & "RB" Four-Family Dwelling District (approved for "LC") and legally described as follows:

Lot 1, Davis Moore 3rd Addition, and the south 6.5 feet of Lot 1 and all of Lot 2 and Lot 3, Block A, Nashville Park Addition, Wichita, Kansas (being replatted as Lot 1, Davis Moore 10th Addition). Generally located south of Kellogg and west of Pinecrest (5119 E. Kellogg, 521 & 527 S. Pinecrest).

subject to the following conditions:

1. Prior to release of the resolution authorizing this expanded use exception, the applicant shall complete the replatting of the property (Davis-Moore 10th Addition) in order to obtain the conditionally-approved light commercial zoning on the south portion of the site. This plat shall be completed by August 11, 1993, which is the deadline established by rezoning case Z-3062.
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7. A solid wood fence or masonry wall at least six feet tall shall be installed along the south side of this site, adjacent to any residential zoning district or residential use. The six-foot height shall be measured from the top of any retaining wall which may be required along the south property line due to change in grade between properties. If the additional parking is installed in phases, the fence shall be installed wherever commercial use abuts residential use. The applicant shall be responsible to maintain sufficient vegetation to screen the west side of this property from the residential neighbors from excessive light and sound.
8. 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, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not extend beyond the property boundaries.
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