

STAFF REPORT
MAPC-February 21, 2019
DAB VI-Feb 20, 2019

CASE NUMBER: ZON2019-00001

APPLICANT Arturo Chavez

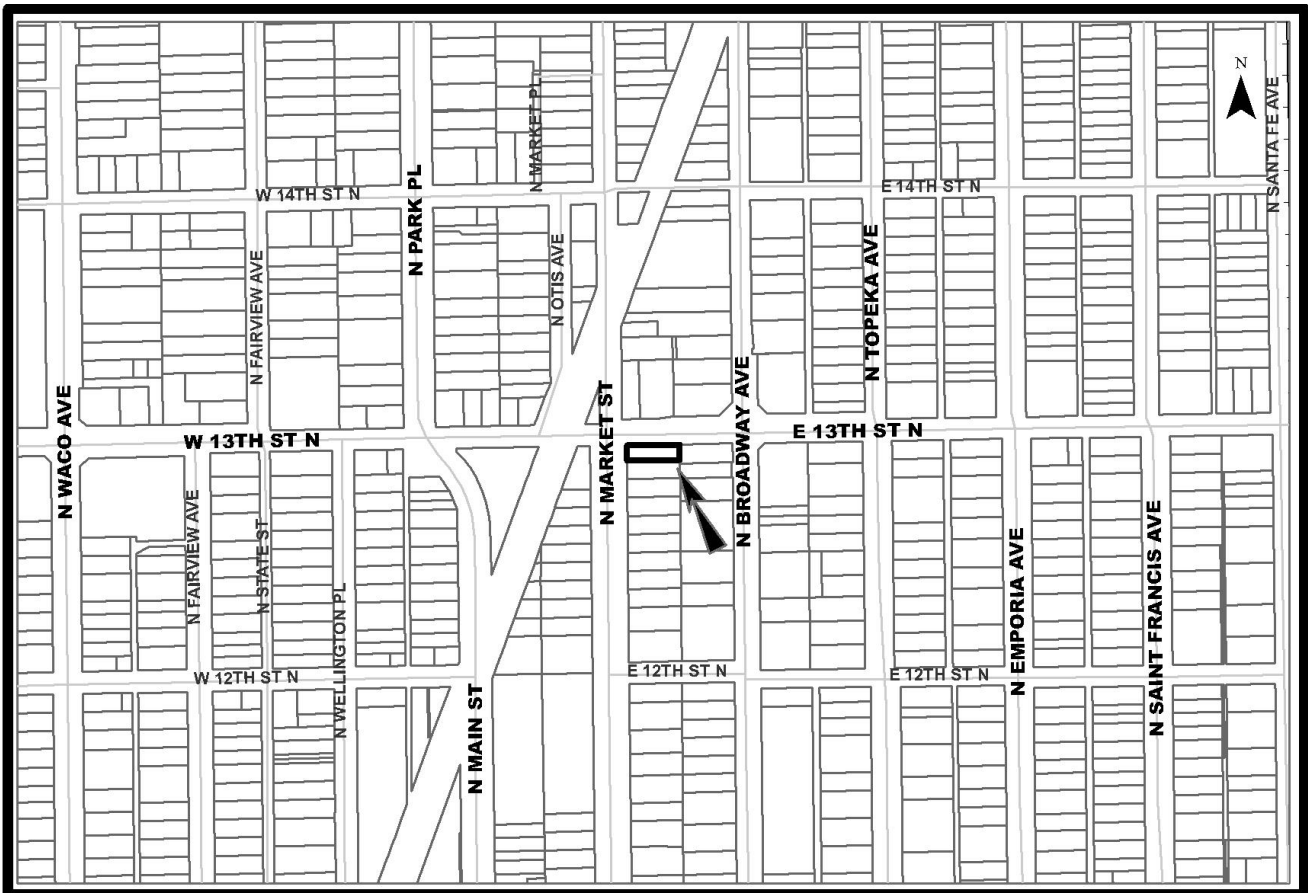
REQUEST: GC General Commercial

CURRENT ZONING: B Multi Family

SITE SIZE: 0.14 acre

LOCATION: South of West 13th Street North and West of North Market Street.

PROPOSED USE: A used car lot.



BACKGROUND: This application was filed to rezone the subject property from B Multi Family to GC General Commercial. The subject property is located at 211 and 215 East 13th Street North, on the east side of North Market Street, south of East 13th Street. With this request, the applicant would like to rezone the property to GC zoning and convert it to a used car lot.

The applicant currently operates the car lot abutting this property to the east at 13th and North Broadway (221 West 13th Street North). Said property is zoned GO General Office to which vehicle sales is a non-conforming use. This property was down-zoned during the adoption of the Midtown Neighborhood Plan in 2004, causing the non-conforming use. Prior to the adoption of the plan, this property was zoned LC Limited Commercial and case number BZA14-85 granted conditional use for a car lot. The applicant does not own this property. The property is owned by Steven Enterprises, LLC.

The existing lot of the subject property is 6,213 square feet, and has a single dwelling unit constructed on it. The lot dimensions are 43 feet by 144.5 feet. The proposed GC General Commercial has no minimum lot area for non-residential uses, so the existing lot does meet the minimum lot size for vehicle sales in a GC General Commercial district. The proposed business would be subject to all applicable setback requirements of the GC district.

There are several areas of LC Limited zoning in the immediate area of the subject property. The lots adjacent to the north (across 13th Street) and adjacent to the west (across Market) are examples of LC zoning. There are also nearby lots zoned B Multi Family and TF-3 Two Family. Please see the attached area map so see all adjacent zoning.

ADJACENT ZONING AND LAND USE:

North: LC; Limited Commercial (gas station/convenience store)
South: B; Multi Family (single family residence)
East: GO; General Office (vehicle sales)
West: LC; Limited Commercial (retail)

CASE HISTORY: The property is platted as Lot 1245, Bush's Addition, June 18, 1885.

PUBLIC SERVICES: West 13th Street North is an improved major collector street. North Market Street is an improved minor collector street. All municipal services are available for the property.

CONFORMANCE TO PLANS/POLICIES: The *Midtown Neighborhood Plan* (DR2004-0009) depicts the subject site as appropriate for residential uses (single detached or duplex). The Plan also discourages commercial uses that are auto-related as they do not serve the local population base (page 41). The *Midtown Neighborhood Plan* was adopted in May 2004.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, it is recommended the application be **DENIED.**

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:**
 - a. The applicant is requesting GC General Commercial, as vehicle sales is a permitted use in such a district. However, a GC district could allow more intensive uses in the future and is not appropriate given the current surrounding uses. Properties surrounding the subject site are primarily zoned LC Limited Commercial and TF-3 Two Family.

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- b. The applicant is looking to expand the existing car lot located at 221 East 13th Street North. This property is zoned GO General Office to which vehicle sales is a non-conforming use. The Unified Zoning Code does not permit the expansion of outdoor, non-conforming uses without it coming into conformity to the Code (Sec VII-B.3).
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned B Multi Family. Properties to the south and west are zoned B Multi Family and TF-3 Two Family. Rezoning it to GC General Commercial will oppose the recommendations of the Midtown Neighborhood Plan which focuses on preserving and enhancing the residential uses of the area.
 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of GC zoning would be detrimental to the nearby properties as it could allow more intensive commercial use. Additionally, vehicle sales is a discouraged use for this area as identified in the Midtown Neighborhood Plan.
 4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would promote possible degradation of the character of the neighborhood as discussed in the Midtown Neighborhood Plan, which encourages the subject property to remain residential. Denial will uphold the recommendations of the Midtown Neighborhood Plan.
 5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mix," encompassing areas that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature.

This site is within the area covered by the Midtown Neighborhood Plan. The plan focuses primarily on preserving and enhancing the residential uses of the area, focusing on residential neighborhood development, and discouraging commercial uses that do not serve the neighborhood. In the chapter on Future Land Use, the plan states "The commercial zoning on the preferred land use scenario foresees the incorporation of neighborhood serving stores, and specialty shops and services, such as insurance and dentists. Commercial uses to be discouraged through this land use scenario include auto-related uses and destination uses, such as hotels and motels, which do not serve the local population base."

The proposed rezoning is inappropriate because the intended use is directly discouraged by the Midtown Neighborhood Plan.

6. Impact of the proposed development on community facilities: All public facilities are available and existing road facilities are adequate.

If, in the opinion of the Planning Commission, the request is determine to be appropriate, the Planning
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Commission should adopt alternative findings supporting approval and approval should be subject to the following conditions:

1. The subject property shall be zone GC General Commercial with a Protective Overlay District.
2. The Protective Overlay shall allow all uses permitted in NR Neighborhood Retail in addition to Vehicle and Equipment Sales, Outdoor. All conditions of the Unified Zoning Code, Section III-D.6.x. for outdoor vehicle and equipment sales shall be in effect and following conditions shall apply:
 - a. Location shall be Contiguous to a major Street as designated in the Transportation Plan adopted by the Governing Bodies, and as amended from time to time.
 - b. Visual Screening of areas Adjacent to residential zoning Districts shall be provided to protect Adjacent properties from light, debris and noise and to preserve Adjacent property values even when the change in use to Vehicle and Equipment Sales replaces a previous use that is of equal or greater intensity. In no case shall Screening be less than that required by Sec. IV- B.1-3.
 - c. All Parking, Outdoor Storage and display areas shall be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material. Parking barriers shall be installed along all perimeter boundaries Abutting streets, except at driveway entrances or where Fences are erected, to ensure that parked Vehicles do not encroach onto public Street Right-of- Way.
 - d. The lighting shall be in compliance with the lighting requirements of Sec.IV-B.4. No string-type or search lighting shall be permitted.
 - e. The noise levels shall be in compliance with the compatibility noise standards of Sec. IV-C.6. Outdoor speakers and sound amplification systems shall not be permitted.
 - f. No repair or maintenance of vehicles shall be conducted on the property.
 - g. Only those Signs permitted in the NR Neighborhood Retail District shall be permitted on this Site, except that no portable, flashing, moving or off-site Signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be permitted.
 - h. There shall be no use of elevated platforms for the display of Vehicles
3. The applicant shall submit a site plan to be approved by the Director of Planning that is in compliance with both the conditions of the Protective Overlay and the requirements of the Unified Zoning Code and the Landscape Ordinance within 60 days of approval and prior to use of the property as a vehicle sales lot.

Staff Report Attachments:

1. Aerial Map
2. Zoning Map

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3. Midtown Neighborhood Plan Future Land Use Map
4. Site Photographs







On Market looking east at the site.



On 13th, looking south /southwest at the site



At the corner of 13th and Broadway looking south/southwest at the site in relation to the existing car lot.



Looking south/southeast down Market from 13th