TO: Mayor and City Council

SUBJECT: PUD2016-00008 – City Zone Change from Single-Family Residential to Planned Unit Development #51 on Property Generally Located North of West Interstate Highway 235 and West 40th Street North, on the east side of North Seneca Street (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended approval of a modified request (8-2-2).

DAB Recommendation: District Advisory Board VI recommended denial of the request by the applicant (6-2).

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended denial of the request.
**Background:** The applicants are requesting a zone change from SF-5 Single-Family Residential (SF-5) to the Dwire Commercial Planned Unit Development (PUD #51). The 4.59-acre unplatted site is located north of Interstate Highway 235/Kansas Highway 96 and West 40th Street North, on the east side of North Seneca Street and the southeast end of a sand pit. The site is gated and posted no trespassing, which limits access to the site in regards to describing its current use. The Metropolitan Area Building and Construction Department’s Code Enforcement division (MABCD – OCI) has observed from Seneca Street, at least two “recreational vehicles” (RVs), a porta-potty, a tractor, a dump truck and other vehicles on the site. The site’s SF-5 zoning does not allow an RV campground or vehicle storage.

The PUD would allow a private RV campground for the applicants’ personal use. The site plan shows three existing RVs on the north end of the site with an existing fire pit, two accessory buildings and a boat dock. The PUD limits the number of RVs to three and notes that the boat dock will not be open to the public.

The proposed PUD also showed a proposed “future event center building” on the south side of the site. The proposed facility could be rented out for corporate or professional events, life cycle events and other special events. Examples of these events include: seminars, meetings, lectures, retreats, birthdays, anniversaries, weddings, reunions, charitable events, fund raisers, art shows, holiday festivals, photography shoots and similar events. The consumption of alcohol would be permitted at these events. The site plan’s “general provisions” states that no business that is classified as a drinking establishment, tavern, Class A Club or Class B Club shall be allowed. Live music or music provided by a DJ would be permitted at these events and will be located in the proposed future event center building. Events located in a proposed ‘outdoor activity area’ for the future event center may have outdoor music and serve alcohol and food. The music would be subject to the City of Wichita’s noise ordinance. The options of the consumption alcohol and providing music would allow the event center to operate as a nightclub on an as need basis every day of the year, but not repeated on a weekly basis and not be open to the general public.

As noted, all events will be scheduled on an as needed basis every day of the year, but not repeated on a weekly basis and not be open to the general public. The proposed hours of operation are 8:00 a.m. - 1:00 a.m., Friday thru Saturday and 8:00 a.m. – midnight, Sunday thru Thursday, with clean-up for these events ending a half hour after the closing times. The outdoor activity area has the slightly different hours of 10:00 a.m. – 10:00 p.m. Outdoor speakers for the outdoor activity area are permitted 10 a.m. – 8:00 p.m. and will be oriented towards the south side of the site. The proposed PUD’s uses also include a farmers market, retail uses, office uses and a restaurant. The event center and farmer’s market are proposed to be limited to 250 people. The retail uses, office uses and a restaurant are proposed to be open to the general public with no listed restrictions on the days or hours they are open.

This area’s development and zoning is divided by the dead-end North Seneca Street. Non-residential zoning and development is located on the west side of Seneca Street. Residential zoning (with one exception) and development is located on the east side of Seneca Street. A GC General Commercial (GC) zoned school bus (USD-259) parking and staging area and its offices are located on the west and northwest side of Seneca Street, as are the Word of Life Ministries owned GC zoned football field and baseball field and their seating. A former owner of a now vacant vocational school, also constructed a training track used for truck drivers that is zoned SF-5 zoned and is also located on the west side of Seneca Street. Further northwest are a LI Limited Industrial (LI) zoned warehouse-office combination, a LI zoned a vacant single-family residence, undeveloped LC Limited Commercial (LC) and SF-5 zoned land.

The applicants’ undeveloped SF-5 zoned land and four SF-5 zoned single-family residences (built 1994-2001) are located on the east side of Seneca Street. All of these SF-5 zoned properties are located around a sand pit. One of the SF-5 zoned single-family residences has a 0.25-acre portion of its 5.63-acre property zoned GC. The GC zoning was approved in 1998 for indoor car repair. These four single-family residential properties have called to protest the request. The Big Ditch marks the north and east boundary
of the site and the four single-family residences. I-235 and K-96 highways mark the south side of the area.

North Seneca Street dead-ends on its north side against the SF-5 zoned non-conforming Westar Ripley power plant site, which is appears to be the oldest development in the area. The Ripley site has not been used as a power plant for decades, but still has power plant infrastructure. It is now used as a Westar training facility. The Ripley site also has a 300-foot tall tower for a wireless communication tower/facility. Beyond the Ripley site are SF-5 zoned non-conforming oil/gas storage tanks.

A MF-18 Multi-Family Residential zoned church is located south of the site, across the North Seneca Street Bridge that crosses over K-96/I-235. This church is the newest development (built 2015) in the area. Mostly SF-5 and a few MF-29 Multi-Family Residential and TF-3 Two-Family Residential zoned urban density residential developments are located south of the highways and West 37th Street North.

The only access to the site and the area is the North Seneca Street Bridge over I-235/K-96. In 2017, the Kansas Department of Transportation (K-DOT) will be letting a project that will ultimately remove the Seneca Bridge over I-235/K-96 and extend and improve West 40th Street North west to North Meridian Street. There is no public sewer or water that could be extended to the site and the area and there are no plans for the extension of these services to the area. The site’s water is provided by well and a porta-potty currently provides on-site sewage.

Analysis: On October 19, 2016, District Advisory Board (DAB) VI considered the request. Several of the north, adjacent single-family residents that have built their homes around the sand pit protested the proposed commercial development. These neighbors noted that the applicants had been ticketed by a Metropolitan Area Building and Construction Department’s Code Enforcement officer for having an illegal RV campground and generally failing to keep up their property. DAB VI voted to deny (6-2) the requested PUD zoning

On October 20, 2016, the Metropolitan Area Planning Commission (MAPC) considered the requested PUD zoning. At the meeting the applicant modified the PUD by removing office, retail and restaurants as permitted uses, which was not an option presented to DAB VI. The MAPC approved the PUD allowing a private RV campground for the applicant’s personal use with a private boat dock, a farmers market, and an event center rented out on an as need basis every day of the year, but not repeated on a weekly basis and not open to the general public. The event center was also approved with an outdoor area. Food, music and alcohol for these events are an option. The attached provisions reflect what was approved with the exceptions that:

(a) Sections 26.04.120 (c) through (f) and (h) through (j) and Section 26.04.130 of the Municipal Code dealing with ‘manufacturing home parks’ and ‘recreational vehicle campgrounds’ cannot be removed by the Planned Unit Plan, via the MAPD or the MAPC; remove as referenced in Provision 6.A.

(b) Provision 12 shall be per the Municipal Code for on-site sewage.

There were no protesters at the MAPC meeting, but the neighboring single-family residences have sent staff a list of court dates issued to the applicants for code violations. Planning staff has not received any valid protests or appeals.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the requested zone change and place the ordinance on the first reading (requires four votes or a simple majority vote), or; deny the requested zoning (requires five votes or a two-thirds majority vote) adopting the MAPD’s findings in support of the denial, or; return the requested zone change to the MAPC with a statement of the reasons for return (requires four votes or a simple majority vote).
Attachments:
- MAPC minutes
- DAB memo
- PUD document with attached provisions
- Ordinance