

AGENDA ITEM REQUEST

Proposed Agenda Item: DER2016-00005 AMENDMENTS TO CERTAIN SECTIONS OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE TO PERMIT EVENT CENTERS, CHURCHES, FARMER'S MARKETS, COMMUNITY ASSEMBLY AND BED AND BREAKFAST USES BY RIGHT SUBJECT TO DEVELOPMENT STANDARDS IN CERTAIN ZONING DISTRICTS.

Presented By: Dale Miller, Director of Planning

Recommended Action: Adopt the findings of the Metropolitan Area Planning Commission (MAPC), approve the proposed amendments to the Wichita-Sedgwick County Unified Zoning Code as recommended by the MAPC, and approve the resolution.

Proposed Agenda Date: October 5, 2016

Outside Attendees: Not applicable

Multimedia Presentation: PowerPoint

Donations: Not applicable

Background: Some time ago staff was approached by two county residents who have agricultural facilities that were not being fully utilized. The citizens requested staff to review the current Wichita-Sedgwick County Unified Zoning Code (UZC) with the intention of developing a series of amendments that would assist agricultural producers to better utilize their properties and facilities. To accomplish the goal of assisting producers to better utilize their property and facilities, it was determined that the use “Event Center in the County” should be defined in the UZC, and be permitted as a use by right provided the use and the property can comply with specified development standards.

One of the issues that arose once it was determined that it was appropriate to make an “Event Center in the County” a use by right in the RR district was what to do with “Church or Place of Worship” and “Community Assembly.” Currently “Church or Place of Worship” and “Community Assembly” require conditional use approval in the RR district. In order to not violate the Religious Land Use and Institutionalized Persons Act (RLUIPA), which is a United States federal law that requires that from a land use perspective religious facilities must be treated in a similar manner as any other nonreligious use. If “Event Center in the County” is going to be a use by right then churches and other similar assembly uses need to be treated in a similar fashion. So the proposed amendments would allow church and community assembly uses as a use by right in the RR district provided they comply with the same development standards that apply to “Event Center in the County.”

In general, the proposed amendments:

- 1 Article II, Section II-B.1.h. Clarifies that roadside agricultural stands selling products produced onsite are agriculture. Provides additional examples of uses that are considered to be agriculture, for example: winery tours, pumpkin patch sales or hayrides.
- 2 Article II, Section II-B.4.n. Adds the use and definition “Event Center in the County” to the code’s list of uses.
- 3 Article II, Section II-B.4.p. Modifies the definition of “Farmer’s Market” by deleting references to the City of Wichita and Environmental Services, making the definition appropriate for the County as well as the City.
- 4 Article III, Section III-B.2.b(2). Moves “Church or Place of Worship” and “Community Assembly” from a conditional use in the RR district to use by-right provided the use complies with the development standards contained in a new Article III, Section III-D.6.nn. If the use does not comply with the development standards contained in Article III, Section III-D.6.nn, “conditional use” approval would be required. (p. 4 of the draft resolution)
- 5 Article III, Section III-B.2.b(3). Moves “Bed and Breakfast Inn” to a use by-right in the RR district; currently it is a conditional use. Adds “Event Center in the County” as a listed use by-right in the RR district subject to Article III, Section III-D.6.nn provided it complies with Article III, Section III-D.6.nn. If the “Event Center in the County” does not meet said development standards, then conditional use approval is required. Adds “Farmer’s Market in the County” subject to Article III, Section III-D.6.nn as a use by-right in the RR district.

- 6 Article III, Section III-B.2.c(2). Removes “Church or Place of Worship” and “Community Assembly” as a listed conditional use in the RR district provided it complies with proposed Article III, Section III-D.6.nn. If it does not comply with Article III, Section III-D.6.nn it requires conditional approval.
- 7 Article III, Section III-B.2.c(3). Removes “Bed and Breakfast Inn” as a conditional use in the RR district (now that it is proposed to be a use by-right).
- 8 Article III, Section III-B.14.b(3). Adds “Event Center in the County” and “Farmer’s Market in the County” as a use by-right in the LC district.
- 9 Article III, Section III-B.14.c(5). Capitalizes the “U” in “Agricultural uses.”
- 10 Article III, Section III-B.16.b(2). Capitalizes the “P” in “place of worship.”
- 11 Article III, Section III-B.16.b(3). Adds “Event Center in the County” and “Farmer’s Market in the County” as a use by-right in the GC district.
- 12 Article III, Section III-B.20.b(3). Adds “Event Center in the County,” “Farmer’s Market in the County” and “Riding Academy or Stable” as a use by-right in the LI district.
- 13 Article III, Section III-B.21.b(3). Adds “Event Center in the County” and “Farmer’s Market in the County” as a use by-right in the GI district.
- 14 Article III, Section III-D.5.a (matrix). Modifies the matrix to reflect text changes: “Bed and Breakfast Inn” as permitted use in the RR district; adds “Event Center in the County” and “Farmer’s Market in the County” as a permitted use in the RR, LC, GC, CBD, LI, GI and AFB, subject to development standards; “Riding Academy or Stable” as a permitted use in LI.
- 15 Article III, Section III-D.6.nn. Lists the 12 development standards for an “Event Center in the County,” “Churches or Places of Worship,” “Community Assembly” or “Farmer’s Market in the County” to be permitted as a use by right in the RR district.

Attached is a resolution containing in detail the proposed UZC amendments.

Analysis: On August 18, 2016, the Metropolitan Area Planning Commission (MAPC) reviewed the proposed amendments. The MAPC voted 8-0 to recommend approval. Two citizens spoke in favor of the proposed amendments and offered suggested changes. The MAPC recommended additional changes. The amendments presented today reflect citizen and MAPC comments.



A simple majority of three votes is required to approve the request as recommended by the MAPC.

Alternatives:

1. Take the recommended action indicated above (requires a simple majority vote).
2. Take action to override the MAPC’s recommended action and either reject or otherwise modify the recommended action (requires a two-thirds majority vote of the entire Board of County Commissioners or four votes).
4. Return such recommendation to the MAPC with a statement specifying the basis for the BoCC’s failure to approve or disapprove (requires a simple majority vote).

Financial Considerations: Not applicable

Policy Considerations: The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

Legal Considerations   ***Approved as to form and signed by County Counselor's Office:*** Pursuant to K.S.A. 12-757, the various options and vote requirements are included in the "Alternatives" section above.