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Sedgwick County

525 North Main Street 3rd
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Wichita, KS 67203

Legislation Text

File #: 16-789, Version: 1

DER2016-00002: UPDATES TO THE WIRELESS COMMUNICATION MASTER PLAN AND THE UNIFIED ZONING CODE REGULATIONS OF WIRELESS COMMUNICATION FACILITIES (ALL DISTRICTS).

Presented by: Scott Knebel, Planning Manager.

RECOMMENDED ACTION: Adopt the findings of the MAPC; approve the Wireless Communication Master Plan, September 2016, and adopt the associated amendments to the Wichita-Sedgwick County Unified Zoning Code, authorize the Chairman to sign the resolutions and authorize the resolutions to be published

Public Comment.

Background: Senate Substitute for House Bill No. 2131 was recently passed by the Kansas State Legislature and has numerous mandates regarding how local units of government can regulate wireless communication facilities. The bill prohibits the following Sedgwick County practices established by the Wireless Communication Master Plan and associated Unified Zoning Code regulations:

- 1) Requiring applicants to document that no collocation opportunity is available prior to permitting construction of a new wireless communication facility.
- 2) Requiring applicants to demonstrate that a wireless communication facility addresses a wireless service provider need rather than being constructed as a speculative facility.
- 3) Evaluating the merits of an application based on collocation opportunities.
- 4) Requiring small cell facilities in lieu of macro facilities in visually/ environmentally sensitive locations.
- 5) Requiring applicants to agree to permit collocation on their facility by other service providers as a condition of approval.

The bill also requires equal treatment of wireless communication facilities with utility installations when applying to locate in right-of-way. This requirement was addressed by the Board County Commissioners by amending Chapter 22, Article II of the Sedgwick County Code on September 28, 2016.

Analysis: The attached Wireless Communication Master Plan, September 2016, was adopted on September 29, 2016, by the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) as an amendment of the Wireless Communication Master Plan adopted in March 2011 in order to comply with changes to Kansas law. The policies of the Wireless Communication Master Plan are implemented through the regulations of the Wichita-Sedgwick Unified Zoning Code. On September 29, 2016, the MAPC voted (10-1) to recommend the attached Amendments to the Wichita-Sedgwick County Unified Zoning Code. The recommended amendments also include amendments related to the D-O Delano Neighborhood Overlay District. On September 12, 2016, the Delano Advisory Committee reviewed the provisions of the D-O District and recommended that wireless

communication facilities be permitted in the D-O District with Conditional Use approval rather than prohibited. The MAPC concurred with the Delano Advisory Committee recommendation.

At the November 2, 2016, the Board of County Commissioners deferred the item to the November 14, 2016, meeting to allow the Wichita City Council to take first action on the item since the proposal is for Wichita and Sedgwick County to adopt the same plan and zoning regulations. At the November 8, 2016, meeting of the Wichita City Council concerns were expressed regarding statutory limitations placed on the City's ability to regulate wireless communication facilities in public right-of-way. The Wichita City Council deferred the item to the December 6, 2016, meeting. On November 14, 2016, the Board of County Commissioners deferred the item to the December 7, 2016, meeting.

Alternatives: Alternatives:

1. Adopt the findings of the MAPC; approve the Wireless Communication Master Plan, September 2016, and adopt the associated amendments to the Wichita-Sedgwick County Unified Zoning Code, authorize the Chairman to sign the resolutions and authorize the resolutions to be published (requires a simple majority vote).
2. Deny the Wireless Communication Master Plan, September 2016, and associated amendments to the Wichita-Sedgwick County Unified Zoning Code, with the Board of County Commissioners adopting additional or alternative findings in support of denial (requires a two-third majority vote).
3. Return the Wireless Communication Master Plan, September 2016, and associated amendments to the Wichita-Sedgwick County Unified Zoning Code to the MAPC for reconsideration with a statement specifying the basis for the Board of County Commissioners' failure to approve or disapprove and adopt the amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to the Delano Overlay District, authorize the Chairman to sign the Delano Overlay District resolution and authorize the Delano Overlay District resolution to be published (requires a simple majority vote).

Financial Considerations: There are not any additional financial considerations to the County associated with this application.

Legal Considerations: Approved as to form and signed by County Counselor's Office: Pursuant to K.S.A. 12-747 and K.S.A. 12-757, the various options and vote requirements are included in the "Alternatives" section above.

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

Outside Attendees: Not applicable

Multimedia Presentation: PowerPoint