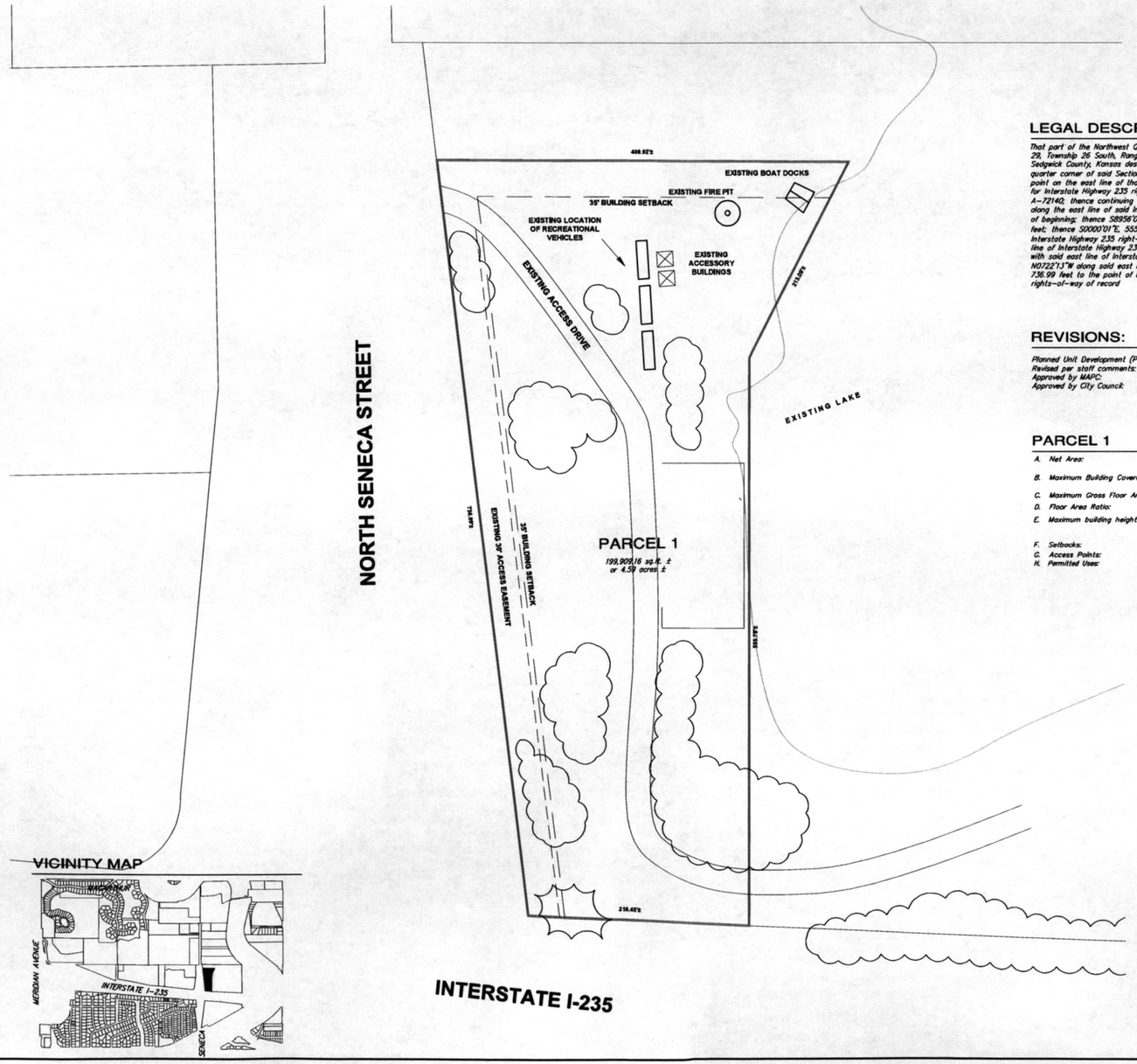
DWIRE COMMERCIAL PUD

PLANNED UNIT DEVELOPMENT

PUD-51



LEGAL DESCRIPTION:

That part of the Northwest Quarter and the Southwest Quarter of Section 29, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the west quarter corner of said Section 29; thence S89°40'52"E, 30.00 feet to a point on the east line of that part of said Southwest Quarter condemned for Interstate Highway 235 right-of-way in Condemnation Case No. A-72140; thence continuing S89°40'52"E, 20.00 feet; thence S0°22'13"E along the east line of said Interstate Highway 235, 105.19 feet to the point of beginning; thence S89°56'00"E, 400.92 feet; thence S26°55'30"W, 213.09 feet; thence S0°00'01"E, 555.78 feet to a point on the north line of Interstate Highway 235 right-of-way; thence N85°49'18"W along said north line of Interstate Highway 235 right-of-way, 210.45 feet to an intersection with said east line of Interstate Highway 235 right-of-way; thence N0°22'13"W along said east line of Interstate Highway 235 right-of-way, 738.99 feet to the point of beginning, all being subject to road rights-of-way of record

REVISIONS:

Planned Unit Development (PUD2016-08) Filed:	*September 12, 2016*
Revised per staff comments:	*October 13, 2016*
Approved by MAPC:	*October 20, 2016*
Approved by City Council:	*December 6, 2016*

PARCEL 1

A. Net Area:	*199,909.16 sq.ft. ± or 4.59 acres ±*
B. Maximum Building Coverage:	*40,000 sq.ft. or 20 percent*
C. Maximum Gross Floor Area:	*40,000 sq.ft.*
D. Floor Area Ratio:	*20 percent*
E. Maximum building height:	*45 feet, except for any other structures exempt by the UZC.*
F. Setbacks:	*See Drawing*
G. Access Points:	*See Drawing*
H. Permitted Uses:	*See General Provision #5.*

GENERAL PROVISIONS:

1. *Total Land Area: 199,909.16 sq.ft. ± or 4.59 acres*
   Total Gross Floor Area: 40,000 sq.ft.
   Total Floor Area Ratio: 20 percent
2. *Parking shall be per the Wichita-Sedgwick County Unified Zoning Code at the time the site is developed for any use except private recreational vehicle campground or farmer's market.*
3. *Setbacks are as indicated on the P.U.D. drawing.*
4. *A Drainage Plan shall be submitted to City Engineering for approval at the time the subject property is platted. Required guarantees for drainage shall be provided at the time of platting improvements.*
5. *Signs shall be in accordance with the City of Wichita Sign Code for the "LC" Limited Commercial district. One off-site sign may be permitted.*
6. *Parcel 1 shall be limited to the following uses permitted by the "LC" Limited Commercial district; private recreational vehicle campground. The use of the subject property as a recreational vehicle campground shall be limited as follows:*
   A. The facility shall only permit the location of recreational vehicles for the personal use of owner(s) of the subject property, and shall not be open to the public.
   B. The maximum number of recreational vehicles shall be limited to three.
   C. The existing boat docks are for the personal use of owner(s) of the subject property, and shall not be open to the public.
7. *Uses are those permitted by the approved P.U.D., and are subject to the development standards contained in the approved P.U.D.*
8. *Access shall be as indicated on the Plan, and/or as approved during the platting process. The existing drive may continue to be used to access the site in its existing condition until the site is used for any other permitted use except private recreational vehicle campground or farmer's market.*
9. *Landscaping requirements shall be per the Wichita-Sedgwick County Unified Zoning Code at the time the site is developed for any use except recreational vehicle campground, with the following modifications:*
   A. Landscape screening or buffers along the north, east, or south property lines shall not be required. Screening along the west property line may use the existing landscaping to fulfill this requirement.
   B. Screening walls or fences around the perimeter of the P.U.D. shall not be required.
   C. The property surrounding the P.U.D. is owned by the applicant, and is intended to provide a buffer between the uses allowed by the P.U.D. and neighboring properties. The waiver of standard screening and landscaping requirements are contingent upon this area remaining as open space. The applicant may define this area as a reserve when platted, and/or as a conservation easement, in order to preserve this open space.
10. *Trash receptacles shall be appropriately screened to reasonably hide them from ground view. Screening shall be constructed of materials and/or landscaping compatible with the building exterior.*
11. *All outdoor lighting shall employ cut-off luminaries to minimize light trespass and glare, and will be aimed or shielded away from neighboring properties. Lighting sources shall be limited to thirty (30) feet in height, including poles and base. No pole lighting shall be located within building setbacks.*
12. *On-site sewage systems shall be per the Municipal Code of the City of Wichita.*
13. *All applicable permits, licenses, inspections or change in use shall be obtained prior to occupancy.*
14. *Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.*
15. *The Transfer of title of all or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.*
16. *The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.*
17. *The design layout shown on the plan illustrates one development concept. Modifications to the size and/or location of improvements, building layout, and/or access locations may be permitted, provided they meet all requirements of this plan. If such modifications are determined by the Planning Director, with the concurrence of the Zoning Administrator, to be significant, the owner shall be required to file for an administrative adjustment to the P.U.D. If the change is considered greater than what can be approved administratively, the owner shall be required to file an amendment to the P.U.D., which shall be submitted to the Planning Commission for their consideration.*

APPROVED PUD

MAPC 10/20/16 DW

WCC 12/6/16 DW

MAPD 1 OF 2

SCALE: 1" = 50'

PUD-51

DWIRE COMMERCIAL PUD
PLANNED UNIT DEVELOPMENT

BAUGHMAN

OCA 150004

ORDINANCE NO. 50-390

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. PUD2016-00008

Zone change request from SF-5 Single-Family Residential ("SF-5") to Planned Unit Development #51 ("PUD" #51) on property generally located north of west Interstate Highway 235 and West 40th Street North, on the east side of North Seneca Street described as:

That part of the Northwest Quarter and the Southwest Quarter of Section 29, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the west quarter corner of said Section 29; thence S89□40'52"E, 30.00 feet to a point on the east line of that part of said Southwest Quarter condemned for Interstate Highway 235 right-of-way in Condemnation Case No. A-72140; thence continuing S89□40'52"E, 20.00 feet; thence S07□22'13"E along the east line of said Interstate Highway 235, 105.19 feet to the point of beginning; thence S89□56'00"E, 400.92 feet; thence S26□55'30"W, 213.09 feet; thence S00□00'01"E, 555.78 feet to a point on the north line of Interstate Highway 235 right-of-way; thence N85□49'18"W along said north line of Interstate Highway 235 right-of-way, 210.45 feet to an intersection with said east line of Interstate Highway 235 right-of-way; thence N07□22'13"W along said east line of Interstate Highway 235 right-of-way, 736.99 feet to the point of beginning, all being subject to road rights-of-way of record

SECTION 2. That upon the taking effect of this ordinance, the above zoning change shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 13 day of December, 2016.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk



Approved as to form: _____

Jennifer Magana, City Attorney and Director of Law

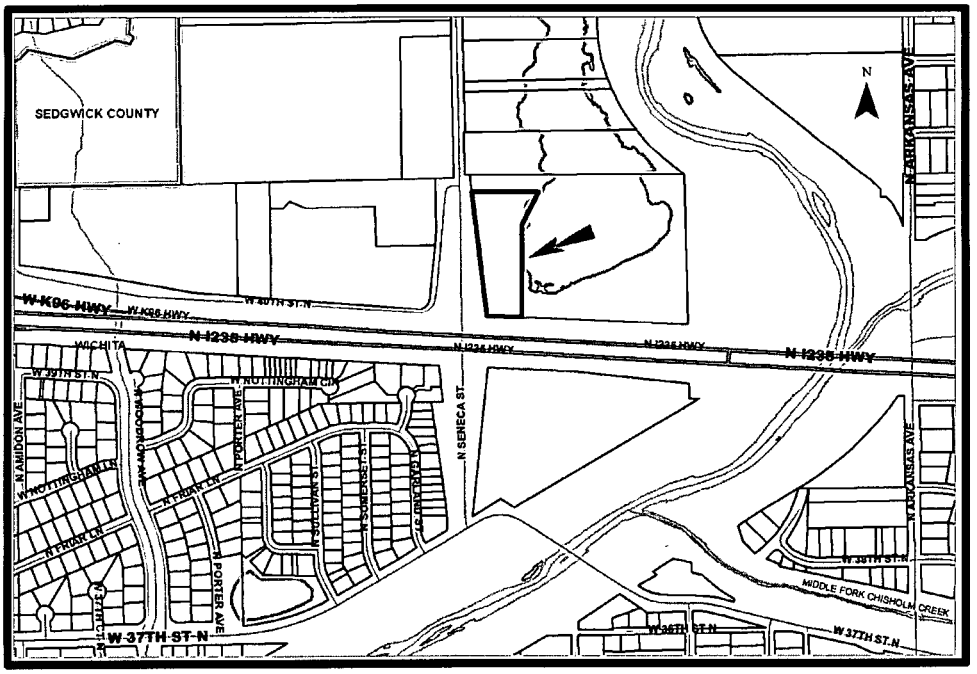
WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 12

STAFF REPORT

MAPC October 20, 2016
DAB VI October 19, 2016

CASE NUMBER:	PUD2016-00008
APPLICANT/AGENT:	John and David Dwire (applicants/owners) Baughman Company c/o Russ Ewy (agent)
REQUEST:	Zone change to PUD Planned Unit Development (Dwire Commercial PUD)
CURRENT ZONING:	SF-5 Single-Family Residential
SITE SIZE:	Approximately 4.59-acres
LOCATION:	North of West I-235/K-96 and West 40th Street North, on the east side of Seneca Street
PROPOSED USE:	Event center that allows the alcohol and music for dancing for entertainment and a private recreational vehicle campground and other commercial uses



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 (built1994-2001) are located on the east side of Seneca Street. All of these SF-5 zoned properties are located around built a sand pit. One of the SF-5 zoned single-family residences has a 0.25-acre portion of their 5.63-acre property zoned GC; 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.

Seneca Street dead-ends on its north side against the SF-5 zoned 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 bridge the 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 37th Street North.

CASE HISTORY: The property has been cited by Code Enforcement for having multiple RVs on the SF-5 zoned site. A RV campground is not permitted in the SF-5 zoning district. RVs are still located on the site. Staff has received verbal and e-mail protests to the requested PUD.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, GC	Undeveloped land, four single-family residences, small engine repair, Westar training facility, oil/gas storage tanks
SOUTH: K-96/I-235, SF-5, MF-18, MF-29, TF-3	Multi-lane raised highway right-of-way, church, residential uses
EAST: Big Ditch, SF-5	Major flood control channel, Public Park
WEST: GC, SF-5, LI, LC	Bus parking and staging area, vehicle training track, warehouse, football and baseball playing fields, undeveloped land

PUBLIC SERVICES: The site's only access is Seneca Street, which is classified as a local street at this location. Seneca is a paved two-lane street with a 70-foot right of way at this location, which ends at the old Westar Ripley Power plant site, which is currently being used as a training facility. Seneca intersects with 37th Street North, a minor arterial, approximately ¼ mile south of the site, after it crosses over the I-235 and K-96 highways. Seneca also intersects the dirt road 40th Street North, which provides no access to other streets/roads, dead ending to the west of Seneca Street. There is no public water or sewer available to the site. All other utilities are available.

compliant RV campground Some of the PUD's uses such as retail, office or restaurant are not seasonal in their operation, which is unlike the playing fields. The proposed PUD would also introduce the consumption of alcohol into the area. The bus parking and staging area is almost a year round operation and as such somewhat resembles the proposed PUD, but is located on the west side of Seneca Street with the area's other nonresidential zoning and uses.

The area's LI, GC and LC zoned properties and their corresponding non-residential developments as well as the area's non-conforming industrial uses on SF-5 zoned land all have access only through the local road, Seneca Street, which they share with four (4) SF-5 zoned single-family residences (1994-2001) and the applicants' SF-5 zoned undeveloped/non-conforming RV park. By locational criteria, none of the non-residential uses and non-residential zoning should be located along this portion of Seneca.

RECOMMENDATION: This is an area of incompatible uses in close proximity to each other. Seneca Street separates the residential uses from the non-residential uses, with two exceptions. The SF-5 zoned applicants' property and four SF-5 single-family residences (built 1994-2001) are located on the east side of Seneca Street. One of the exceptions is that one of the SF-5 zoned single-family residences has a 0.25 portion of their 5.63-acre property zoned GC; approved 1998 for indoor car repair and sales. The non-residential zoning located on the west side of Seneca Street was established in 1972 with the approval of GC zoning for the football and baseball fields and their bleachers and concession building. The non-residential development includes GC, LI, and LC zoned football field and baseball field (with their bleachers), the bus parking and staging area, a small warehouse – office and undeveloped or vacant land. The other exception to this east-west division is the 52-acre non-compliant SF-5 zoned Westar Ripley power plant site and further north some SF-5 zoned oil/gas storage tanks. The Ripley site is no longer used as a power plant, but as a Westar training facility. Seneca Street dead-ends at the Ripley site, which abuts one of the SF-5 zoned single-family residences on the east side of Seneca Street and a LI zoned small office warehouse and LC and LI undeveloped or vacant land on the west side of Seneca Street.

The proposed 4.59-acre commercial PUD encroaches into the area's SF-5 zoned single-family residences. The commercial PUD would allow an a private RV park for three RVs, an event center/nightclub, retail use, office use, a restaurant or a farmers market all that would allow 250 people into the single-family residential side of Seneca Street. The applicants could have applied for SF-20 Single-Family Residential zoning with a Conditional Use for a private RV park to resolve their conflict with MABCD and their neighbors. Planning Staff recommends DENIAL.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: The area is a mix of SF-5, LI, GC and LC zoned lands. SF-5 zoned single-family residences and the applicants' non-conforming private RV park are located on the east side of Seneca Street. The LI, GC and LC non-residential development is located on the west side of Seneca Street and includes a football field and baseball field (with their bleachers), a bus parking and staging area, a small warehouse – office and undeveloped or vacant land. This is an area

designated open space upon platting, thus avoiding the compatibility height standards of a maximum 15-foot tall lights (including the base) when located within 200 feet of residential zoning districts. The PUD does not provide design amenities.
(3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses. *The site appears to be used as a non-compliant private RV park, with a porta-potty providing on-site sewage. There is no mention of up grading to a septic system. The sand pit is the special site characteristic, however ownership of the sand pit is parceled out to the five abutting SF-5 zoned property owners. Four of the property owners have built their homes by the sand pit, while the applicants have not. The proposed PUD does not mention any activities using the sand pit, except for the applicant using the boat dock for their personal use and not being open to the public.*
(4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code. *The proposed PUD would allow commercial uses that would allow up to 250 people, which is probably not that different than how many people that use and watch the games on the area's GC zoned football and baseball fields. The difference is these 250 people would now be allowed on the east side of Seneca Street, which is developed as single-family residences, with the exception of the applicants' non-compliant RV campground Some of the PUD's uses such as retail, office or restaurant are not seasonal in their operation, which is unlike the playing fields. The bus parking and staging area is almost a year round operation and as such somewhat resembles the proposed PUD, but is located on the west side of Seneca Street with the area's other nonresidential zoning and uses.*

The area's LI, GC and LC zoned properties and their corresponding non-residential developments as well as the area's non-conforming industrial uses on SF-5 zoned land all have access only through the local road, Seneca Street, which they share with four (4) SF-5 zoned single-family residences (1994-2001) and the applicants' SF-5 zoned undeveloped/non-conforming RV park. By locational criteria none of the non-residential uses and non-residential zoning should be located along this portion of Seneca.

(5)Impact of the proposed development on community facilities: By locational criteria none of the non-residential uses and non-residential zoning should be located along this portion of Seneca Street, which is a two lane dead-end local street. Seneca Street was not designed or built to convey the additional traffic generated by the proposed commercial PUD when combined with the school bus traffic. There is no public water or sewer available to the site or the area, making the request for a commercial PUD with a cap of 250 people too ambitious for the site, which currently handles on-site sewage with a porta-potty.

However, if the MAPC finds that this is an appropriate use staff recommends the approval of the proposed PUD as presented, with the exception that office, retail, and restaurant not be permitted, all development will be per City Standards and that the PUD not be in effect until on-site sewage is reviewed and approved by Public Works.

Agenda Report No._____

City of Wichita
City Council Meeting
December 6, 2016

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)

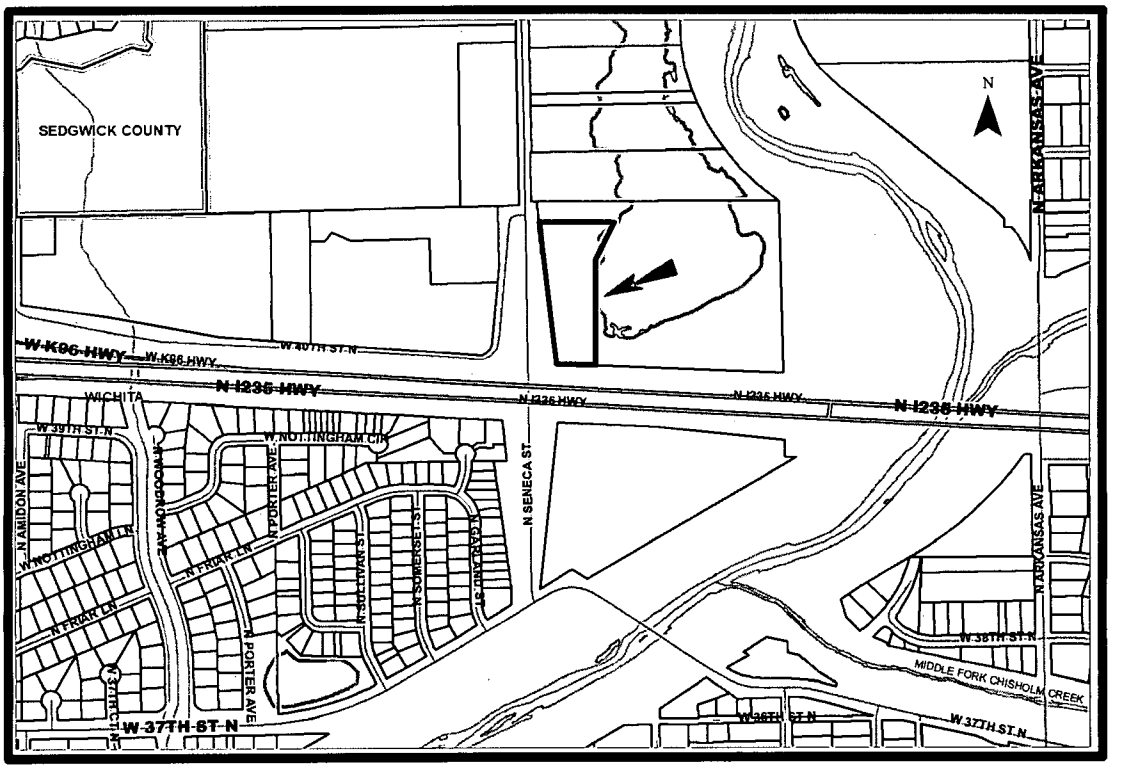
INITIATED BY: Metropolitan Area Planning Department DM

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).

EXCERPT MINUTES OF THE OCTOBER 20, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: PUD2016-00008 - John and David Dwire (applicants/owners) and Baughman Company, PA, c/o Russ Ewy (agent) request a City rezone from SF 5 Single-family Residential to PUD Planned Unit Development on property described as:

That part of the Northwest Quarter and the Southwest Quarter of Section 29, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the west quarter corner of said Section 29; thence S89□40'52"E, 30.00 feet to a point on the east line of that part of said Southwest Quarter condemned for Interstate Highway 235 right-of-way in Condemnation Case No. A-72140; thence continuing S89□40'52"E, 20.00 feet; thence S07□22'13"E along the east line of said Interstate Highway 235, 105.19 feet to the point of beginning; thence S89□56'00"E, 400.92 feet; thence S26□55'30"W, 213.09 feet; thence S00□00'01"E, 555.78 feet to a point on the north line of Interstate Highway 235 right-of-way; thence N85□49'18"W along said north line of Interstate Highway 235 right-of-way, 210.45 feet to an intersection with said east line of Interstate Highway 235 right-of-way; thence N07□22'13"W along said east line of Interstate Highway 235 right-of-way, 736.99 feet to the point of beginning, all being subject to road rights-of-way of record.

BACKGROUND: The applicant proposes a zone change from SF-5 Single-Family Residential (SF-5) to the Dwire Commercial PUD Planned Unit Development (PUD). The 4.59-acre unplatted site is located north of I-235/K-96 and 40th Street North, on the east side of 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, least two "recreation vehicles" (RVs) with a vehicle parked at each RV, a porta-potty, a tractor and a dump truck on the site. The site's SF-5 zoning does not allow this type of storage.

The PUD would allow a private RV campground for the applicant's 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 boat docks. 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 shows a proposed 'future event center building' on the south side of the site. The proposed facility can be rented out for corporate or professional events, life cycle 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 subject to the City of Wichita's noise ordinance.

All events will be scheduled 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. 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. The outdoor preparation of food and beverages, including alcohol is permitted. Outdoor speakers for the outdoor activity area are permitted 10 a.m. – 8:00 a.m. and will be oriented towards the south side of the site. The PUD would also allow a farmer's market, office, retail and restaurant.

This area's development and zoning is divided by the dead-end 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) and SF-5 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 World 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 SF-5 zoned training track used for truck drivers that 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 (built1994-2001) are located on the east side of Seneca Street. All of these SF-5 zoned properties are located around built a sand pit. One of the SF-5 zoned single-family residences has a 0.25-acre portion of their 5.63-acre property zoned GC; 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.

Seneca Street dead-ends on its north side against the SF-5 zoned 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 bridge the 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 37th Street North.

CASE HISTORY: The property has been cited by Code Enforcement for having multiple RVs on the SF-5 zoned site. A RV campground is not permitted in the SF-5 zoning district. RVs are still located on the site. Staff has received verbal and e-mail protests to the requested PUD.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, GC	Undeveloped land, four single-family residences, small engine repair, Westar training facility, oil/gas storage tanks

SOUTH: K-96/I-235, SF-5, MF-18, MF-29, TF-3	Multi-lane raised highway right-of-way, church, residential uses
EAST: Big Ditch, SF-5	Major flood control channel, Public Park
WEST: GC, SF-5, LI, LC	Bus parking and staging area, vehicle training track, warehouse, football and baseball playing fields, undeveloped land

PUBLIC SERVICES: The site's only access is Seneca Street, which is classified as a local street at this location. Seneca is a paved two-lane street with a 70-foot right of way at this location, which ends at the old Westar Ripley Power plant site, which is currently being used as a training facility. Seneca intersects with 37th Street North, a minor arterial, approximately ¼ mile south of the site, after it crosses over the I-235 and K-96 highways. Seneca also intersects the dirt road 40th Street North, which provides no access to other streets/roads, dead ending to the west of Seneca Street. There is no public water or sewer available to the site. All other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The "Community Investment Plan's 2035 Wichita Future Growth Map", identifies the application area as "Parks and Open Space." This category includes major parks, golf courses, public open space, private development reserves and recreational facilities/corridors, including floodplain, natural drainage channels, easements, abandoned railway corridors, etc. All of the sand pit and parts of its shore line are shown in the FEMA proposed 100-year flood plain. Parks and open space could be developed with the site's current SF-5 zoning, as could a single-family residence. The site's current use as possibly a non-conforming private RV park and its proposed uses as an event center that permits the consumption of alcohol and music, outdoor activities (including the serving of alcohol and food and outdoor music), a farmer's market, office, retail and restaurant are not permitted in the SF-5 zoning district. The proposed multiple uses would require LC zoning and multiple Conditional Uses, thus the request for PUD zoning.

The PUD zoning District is a special purpose zoning district that is intended to encourage innovative land planning and design and avoid the monotony sometimes associated with large developments by:
(1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots. *As previously stated, the proposed multiple uses would require LC zoning and multiple Conditional Uses*
(2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities. *The proposed PUD does not provide direction on access, except that the existing drive shall continue to be used until platting determines what is appropriate. A building permit is contingent on platting, so the proposed private RV parking and the farmer's market could possibly operate upon final action on the PUD. The applicant's request for 30-foot tall lights is contingent on the applicant's north, abutting SF-5 undeveloped land remaining under the current ownership or it becoming designated open space upon platting, thus avoiding the compatibility height standards of a maximum 15-foot tall lights (including the base) when located within 200 feet of residential zoning districts. The PUD does not provide design amenities.*

(3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses. *The site appears to be used as a non-compliant private RV park, with a porta-potty providing on-site sewage. There is no mention of upgrading to a septic system. The sand pit is the special site characteristic, however ownership of the sand pit is parceled out to the five abutting SF-5 zoned property owners. Four of the property owners have built their homes by the sand pit, while the applicants have not. The proposed PUD does not mention any activities using the sand pit, except for the applicant using the boat dock for their personal use and not being open to the public.*

(4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code. *The proposed PUD would allow commercial uses that would allow up to 250 people, which is probably not that different than how many people that use and watch the games on the area's GC zoned football and baseball fields. The difference is these 250 people would now be allowed on the east side of Seneca Street, which is developed as single-family residences, with the exception of the applicants' possible non-compliant RV campground Some of the PUD's uses such as retail, office or restaurant are not seasonal in their operation, which is unlike the playing fields. The proposed PUD would also introduce the consumption of alcohol into the area. The bus parking and staging area is almost a year round operation and as such somewhat resembles the proposed PUD, but is located on the west side of Seneca Street with the area's other nonresidential zoning and uses.*

The area's LI, GC and LC zoned properties and their corresponding non-residential developments as well as the area's non-conforming industrial uses on SF-5 zoned land all have access only through the local road, Seneca Street, which they share with four (4) SF-5 zoned single-family residences (1994-2001) and the applicants' SF-5 zoned undeveloped/non-conforming RV park. by locational criteria, none of the non-residential uses and non-residential zoning should be located along this portion of Seneca.

RECOMMENDATION: This is an area of incompatible uses in close proximity to each other. Seneca Street separates the residential uses from the non-residential uses, with two exceptions. The SF-5 zoned applicants' property and four SF-5 single-family residences (built 1994-2001) are located on the east side of Seneca Street. One of the exceptions is that one of the SF-5 zoned single-family residences has a 0.25 portion of their 5.63-acre property zoned GC; approved 1998 for indoor car repair and sales. The non-residential zoning located on the west side of Seneca Street was established in 1972 with the approval of GC zoning for the football and baseball fields and their bleachers and concession building. The non-residential development includes GC, LI, and LC zoned football field and baseball field (with their bleachers), the bus parking and staging area, a small warehouse – office and undeveloped or vacant land. The other exception to this east-west division is the 52-acre non-compliant SF-5 zoned Westar Ripley power plant site and further north some SF-5 zoned oil/gas storage tanks. The Ripley site is no longer used as a power plant, but as a Westar training facility. Seneca Street dead-ends at the Ripley site, which abuts one of the SF-5 zoned single-family residences on the east side of Seneca Street and a LI zoned small office warehouse and LC and LI undeveloped or vacant land on the west side of Seneca Street.

The proposed 4.59-acre commercial PUD encroaches into the area's SF-5 zoned single-family residences. The commercial PUD would allow an a private RV park for three RVs, an event center/nightclub, retail use, office use, a restaurant or a farmers market all that would allow 250 people into the single-family residential side of Seneca Street. The applicants could have applied for SF-20 Single-Family Residential zoning with a Conditional Use for a private RV park to resolve their conflict with MABCD and their neighbors. Planning Staff recommends DENIAL.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: The area is a mix of SF-5, LI, GC and LC zoned lands. SF-5 zoned single-family residences and the applicants' non-conforming private RV park are located on the east side of Seneca Street. The LI, GC and LC non-residential development is located on the west side of Seneca Street and includes a football field and baseball field (with their bleachers), a bus parking and staging area, a small warehouse – office and undeveloped or vacant land. This is an area of incompatible uses in close proximity to each other. It is also an area that has had a very contiguous zoning case in the 6-years, which allowed a school bus parking, staging area and its offices. The point of contention was the number of buses that would be using Seneca Street. The applicants' request significantly increases the traffic in the area.

(2) The suitability of the subject property for the uses to which it has been restricted: The site's SF-5 zoning is not out of character with the areas other SF-5 zoned properties located on the east side of Seneca Street. The site could be developed as a single-family residence, like its SF-5 zoned neighbors located on the east side of Seneca Street.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: Allowing a commercial PUD, with a private RV park for three RVs and an event center/nightclub, a restaurant, office, retail and farmer's park for up to 250 people is entirely out of character with the SF-5 zoned single-family residences located on the east side of Seneca Street. The proposed PUD would compromise the site's neighbor's ability to enjoy and invest in their property.

(4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Community Investment Plan's 2035 Wichita Future Growth Map", identifies the application area as "Parks and Open Space." This category includes major parks, golf courses, public open space, private development reserves and recreational facilities/corridors, including floodplain, natural drainage channels, easements, abandoned railway corridors, etc. All of the sand pit and parts of its shore line are shown in the FEMA proposed 100-year flood plain. Parks and open space could be developed with the site's current SF-5 zoning, as could a single-family residential. The site's current use as possibly a non-conforming private RV park and its proposed uses as an event center that permits the consumption of alcohol and music, outdoor activities (including the serving of alcohol and food and outdoor music), a farmer's market, office, retail and restaurant are not permitted in the SF-5 zoning district. The proposed multiple uses would require LC zoning and multiple Conditional Uses, thus the request for PUD zoning.

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The area's LI, GC and LC zoned properties and their corresponding non-residential developments as well as the area's non-conforming industrial uses on SF-5 zoned land all have access only through the local road, Seneca Street, which they share with four (4) SF-5 zoned single-family residences (1994-2001) and the applicants' SF-5 zoned undeveloped/non-conforming RV park. By locational criteria none of the non-residential uses and non-residential zoning should be located along this portion of Seneca.

(5)Impact of the proposed development on community facilities: By locational criteria none of the non-residential uses and non-residential zoning should be located along this portion of Seneca Street, which is a two lane dead-end local street. Seneca Street was not designed or built to convey the additional traffic generated by the proposed commercial PUD when combined with the school bus traffic. There is no public water or sewer available to the site or the area, making the request for a commercial PUD with a cap of 250 people too ambitious for the site, which currently handles on-site sewage with a porta-potty.

However, if the MAPC finds that this is an appropriate use staff recommends the approval of the proposed PUD as presented, with the exception that office, retail, and restaurant not be permitted, all development will be per City Standards and that the PUD not be in effect until on-site sewage is reviewed and approved by Public Works.

BILL LONGNECKER, Planning Staff presented the Staff Report. He referred to a handout which were revised General Provisions dated October 20, 2016. He said DAB VI denied the application 6-2, but that was before the General Provisions were amended. He said this is a different application than what was considered by the DAB. He referenced the Staff Report which recommended denial; however, he said an alternative recommendation if the Commission finds this an appropriate use recommends removal of general office, restaurant and retail as uses.

LONGNECKER referenced provision A. under "use of the subject property as a recreational vehicle campground" and commented that provisions of the Unified Zoning Code (UZC) cannot be waived by staff or the Planning Commission. He said those provisions will have to be negotiated between the applicant and the MABCD.

RUSS EWY, BAUGHMAN COMPANY, PA, AGENT FOR THE APPLICANTS DAVID AND JOHN DWIRE who he said were also present. He said there was extensive discussion of the proposal at DAB VI last night where they explained not only the plan but the general process of PUD's. He referred to the zoning map (attached to the General Provisions handout) of the area which reflected not only the zoning, but land use in the area. He commented that the family has owned the property for approximately 40 years. He said it is a private sand pit/lake and that there were a number of them located throughout Sedgwick County. He said the brothers utilize the three recreation vehicles as "cabins" for lack of a better term. He said at one point the applicants had a code violation so they are trying to remedy that. He said the process began in July with an idea of a zone change with a conditional use. He said after discussion, staff suggested the PUD as a way to accomplish what the applicants had in mind for the property. He said although a lot of the language used is similar to previous PUD's that have been approved by the Commission, this is unique in that it is well buffered and further away from residential than previously approved PUD's. He said the applicant's would like to continue using the area as a private recreational area for their families, which includes use of the recreational vehicles and port-a-potties on site. He said although this is not a Recreational Vehicles Park, the UZC lumps those and campgrounds together which also includes many of the same provisions for mobile home parks. He said this proposed use is radically different from any of those uses; however, they felt they should address them in the PUD document as they try to legalize the proposed use.

EWY commented that after the DAB discussion it was agreed to eliminate the three more intensive uses (of general office, restaurant and retail). He said it was probably his fault that he did not offer up those concessions at last night's DAB meeting. He concluded by stating that although an event center is included in the proposal that will not be possible until municipal services are extended to the location. He said once the commercial frontage road is built in the area he believes some of the traffic concerns of the neighbors will be lessened.

RICHARDSON clarified that the drive and parking lot of the event center would be paved.

EWY responded yes, it will comply with the provisions of the City Code.

> **MOTION:** To approve subject to staff recommendation including the elimination of general office, restaurant and retail as uses.
>
> **WARREN** moved, **TODD** seconded the motion.

There was brief discussion concerning the lake and its uses; and **EWY** briefly explained the concept of "clean fill/rubble" with regard to sand pit usage, which includes concrete.

CHAIR FOSTER commented that he is struggling with who was at the location first.

EWY explained that the applicant owned their property before the four adjacent single-family homes were built. He gave a brief background of land use in the area stating that the four residential homes were developed between 1994 and 1999.

CHAIR FOSTER commented that the residential use is in advance of the event center. He said traffic in the area is a nightmare now. He said he supported the recreational vehicle use but he thinks the event center will eventually adversely affect too many people down the road.

CHAIR FOSTER called the question and the **MOTION** carried (8-2). **ELLISON** and **FOSTER** – No.