Agenda Item #_____

City of Wichita
City Council Meeting
May 25, 1999

Agenda Report #_____

TO: Mayor and City Council Members

SUBJECT: **Z-3290 - ZONE CHANGE REQUEST FROM "SF-6" SINGLE-FAMILY RESIDENTIAL, "TF-3" TWO-FAMILY RESIDENTIAL AND "LC" LIMITED COMMERCIAL TO "GC" GENERAL COMMERCIAL, LOCATED SOUTH OF CENTRAL AND EAST OF PERSHING.** (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation: Deny (12-1).

Staff Recommendation: Deny.

CPO Recommendation: Deny (7-0).

Background: The applicant is requesting to rezone a 0.14 acre tract (46 feet by 120 feet) from "SF-6" Single-family residential, "TF-3" Two-family residential and "LC" Limited Commercial to "GC" General Commercial located south of Central and east of Pershing. If this application is approved, the applicants have stated it is their intention to construct a 180-foot communication tower. The applicant has stated that there are three potential users on this site (Cellular One, Sprint, and Western Wireless). This site is a vacant residence that was previously used for child day-care.

The applicants have stated that there is currently an area where cellular phone service is limited, bounded by Hillside, Kellogg, 17th Street and Rock Road. Therefore, the applicants contend that this address is the only viable solution in these boundary limits to construct a cellular tower. However, no documentation has been submitted on the extent or the severity of the phone service problem by the applicant or any of the three potential users.

The applicants have submitted a site plan which shows the removal of the existing home on-site to allow for the construction of an 180 foot self-supporting "lattice"-type tower surrounded by five pad sites (12 feet by 20 feet). Self-supporting towers are designed to collapse in on themselves should there be a structural failure. The tower is shown to be 77 feet east of Pershing right-of-way, 17 feet south of the north property line, 19 feet north of the south property line and 28 feet west of the east

property line. The entire area would be enclosed with a six-foot concrete fence around the perimeter with a wooden gate at the entrance to Pershing. The concrete fence may have to be moved to accommodate landscaping materials at least along Pershing, if this request is approved. An asphalt area (approximately 45 feet by 45 feet) is shown west of the proposed pad sites. The applicant has stated it is their intention to provide four parking spaces on-site. Since parking standards are not specifically listed for a communication tower, the Superintendent of Central Inspection will need to interpret which parking standard will apply.

The Unified Zoning Code permits communication towers in the "GC" General Commercial and more intensive districts "by-right." However, the Zoning Code requires the applicant to provide the following information:

(1) there is no available space on existing or approved towers or other structures which can be utilized to meet the applicant's communication needs;

(2) there is no other physically and/or fiscally feasible opportunity to rebuild an existing tower or other such structure on which the communication equipment may be located, or to modify an approved tower or other structure. A rebuilding opportunity will be considered fiscally feasible if the cost of rebuilding an existing tower is no more than the cost of building a new tower on a new site;

(3) the owner of the tower shall agree in writing at the time of the issuance of a building permit the following;

(a) that the tower is designed to accommodate at least three communication companies and that reasonable accommodations will be made to lease space on the tower to other communication companies so as to avoid having a proliferation of towers which are not fully utilized, and

(b) the owner of the land and the tower will make available in the future the opportunity for another party to pay the cost to rebuild the tower to support additional communication equipment where physically and fiscally feasible.

If approved, the applicant will be required to meet the City of Wichita Landscape Ordinance which includes: a landscape street yard where the application area is located across the street from residential zoning, a landscaped buffer along the rear and side properties except on the north, and screening of the parking lot on the west side. Also, the applicant will be required to file a variance request with the Board of Zoning Appeals to reduce the compatibility setback requirement for this 180 foot tower, from a distance of 515 feet from the adjacent "SF-6"zoning district boundaries to just 25 feet.

The applicant has met with neighboring property owners. In addition to land use compatibility concerns and issues of property values, ice build up was a topic of concern. The applicant has stated that because this is constructed of galvanized metal, it tends not to collect ice. If ice does collect on

the tower then it should fall straight down or slide down the tower, according to the applicant. The applicant also maintains several million dollars of insurance in case a problem occurs.

The site is surrounded by residential uses to the west, south and east. There are mostly single-family residences in the area, but a couple of multi-family units are also located nearby. North of the site is a gas station on property zoned "LC."

The staff report indicated that the zoning and the proposed land use would be out of character with the surrounding pattern of zoning and land uses, and commented that there were a number of other potential solutions to improving wireless service to this general area that had not been sufficiently studied. These include several tall residential and non-residential buildings on the edges of the area in need of service improvement, and two church steeples inside the area. One of the carriers, which supposedly would be located on this tower, has a separate application to construct a tower in the Carriage Parkway shopping area.

Attached is an article on "microcells" written by the consultant who conducted a local workshop sponsored by the MAPC in January 1997 on the subject of telecommunication towers. The article indicates that microcells should be considered as a more appropriate response than towers to increasing demand in residential areas. Microcells are already in operation locally, including one at Douglas and Woodlawn in Eastborough and a mobile facility parked near Woodlawn and Central. They have more limited range, and it is apparently more expensive to install a number of these microcells as opposed to one tower site, at this time. But with no dollar amounts provided, and no documentation of the extent of service problems in this area, there was no evidence that microcells are not a viable solution for the three users.

At the April 26th CPO 2 hearing, the applicant's agent presented the request. Five persons spoke in opposition to the request. Their objections included the following: this is not the only viable location for a communication tower; the neighbors do not feel that this solution is the best possible solution for fixing the cellular phone service problem; there are other alternatives to solve this problem; no carrier present to speak about the service problem; General Commercial zoning is not compatible with the zoning and uses which surround the application area; and a communication tower will significantly impact property values in the area.

At the April 29th MAPC hearing, the applicant's agent requested a deferral of the request, due to what they believe is an error in the notices sent out to the neighborhood. An existing zoning classification for a small portion of the lot in question was inadvertently left out of the notices sent to the neighborhood. City legal staff reviewed this request and stated that the notice is sufficient to meet state statutory requirements. The MAPC, based on the City's legal staff opinion, agreed to hear this request.

In his presentation to MAPC, the applicant's agent submitted photos of properties in three other areas of Wichita and referred to their study, which purported to demonstrate that towers do not devaluate property values. In his rebuttal the end of the hearing, the agent submitted information

WICHITA – SEDGWICK COUNTY

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FILE COPY

May 28, 1999

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RE: Z-3290 - Zone change from "LC" Limited Commercial and "TF-3" Two-Family Residential to "GC" General Commercial. Generally located at 444 N. Pershing.

On May 25, 1999, the Wichita City Council considered the above-referenced request. The action of the Council was to DENY the request.

If you have any further questions concerning this matter, please contact the Planning Department office at 268-4421.

Sincerely,

Keith Gooch

Keith Gooch
Senior Planner

KG/rs

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