



City of Enid
401 W. Owen K. Garriott Road
Enid, Oklahoma 73701
580-234-0400

BOARD OF ADJUSTMENT

NOTICE OF MEETING

Notice is hereby given that the Enid Board of Adjustment will meet in regular session at 4:00 p.m. on the 12th day of March, 2019, in the Lower Level Conference Room in the basement of the City Administration Building, located at 401 W. Owen K. Garriott Road, Enid, Oklahoma, and the agenda for said meeting is as follows:

- AGENDA -

BOARD OF ADJUSTMENT

1. CALL TO ORDER/ROLL CALL.
2. ADMINISTRATION.
 1. CONSIDER APPROVAL OF MINUTES OF THE REGULAR BOARD OF ADJUSTMENT MEETING OF JANUARY 8, 2019.
3. VARIANCES.
 1. HEAR THE APPEAL OF TROY WILLIAMS WITH BRANCH COMMUNICATIONS REQUESTING A HEIGHT VARIANCE TO ALLOW A 119' COMMUNICATION TOWER LOCATED AT 614 NORTH GARLAND ROAD.
4. CONSIDER CONVENING INTO EXECUTIVE SESSION TO DISCUSS AND DELIBERATE ON THE APPLICATION OF TROY WILLIAMS REQUESTING A HEIGHT VARIANCE TO ALLOW A 119' COMMUNICATION TOWER TO BE LOCATED AT 614 NORTH GARLAND ROAD AND TO RECONVENE INTO REGULAR SESSION TO TAKE ANY NECESSARY ACTION.
5. ADJOURN.

Board of Adjustment

2.1.

Meeting Date: 03/12/2019

Submitted By: Karla Ruther, Assistant City Planner

SUBJECT:

CONSIDER APPROVAL OF MINUTES OF THE REGULAR BOARD OF ADJUSTMENT MEETING OF JANUARY 8, 2019.

BACKGROUND:

RECOMMENDATION:

PRESENTER:

Attachments

1-8-2019 draft minutes

MINUTES OF REGULAR MEETING OF
THE BOARD OF ADJUSTMENT OF THE CITY OF ENID, OKLAHOMA,
HELD ON THE 8TH DAY OF JANUARY 2019

The Board of Adjustment of the City of Enid, County of Garfield, State of Oklahoma, met in regular meeting in the Lower Level Conference Room of the Administration Building of the City of Enid, located at 401 West Owen K. Garriott Road in said city, at 4:00 P.M. on the 8th day of January 2019, pursuant to notice given by January 7, 2019 to the Clerk of the City of Enid, and pursuant to notice thereof displayed at the entrance to the Administration Building of said city, in prominent view and which notice was posted prior to 4:00 P.M. on the 7th day of January 2019.

Present: John Arend; Jessica Edwards; Michael Shuck; Mike Stuber; Taylor Venus

Also Present: Jerald Gilbert, City Manager
Chris Bauer, Planning Administrator
Carol Lahman, City Attorney
Karla Ruther, Assistant City Planner
Will Gill, Assistant City Attorney

CALL TO ORDER/ROLL CALL.

ADMINISTRATION.

CONSIDER APPROVAL OF MINUTES OF THE REGULAR BOARD OF ADJUSTMENT MEETING OF NOVEMBER 13, 2018.

Motion was made by Taylor Venus, seconded by Jessica Edwards to approve the minutes.

AYE: John Arend, Jessica Edwards, Michael Shuck, Mike Stuber, Taylor Venus

Passed

NONE.

VARIANCES.

HEAR THE APPEAL OF TY KNOTT WITH BRANCH COMMUNICATIONS REQUESTING A HEIGHT VARIANCE TO ALLOW A 125' COMMUNICATION TOWER LOCATED AT 1016 SOUTH GARLAND.

Motion was made by Taylor Venus, seconded by John Arend to approve the communication tower on the basis the hardship is applying the building height to a tower and significant gap in coverage; the peculiarity is the limited number of properties to choose from within the 1/4 mile need; the height will not impair the purpose and intent of the ordinance since Vance and Woodring stated it will not affect the current mission; and the minimum necessary is the 125'.

Chris Bauer informed the Board that notices were mailed to all property owners within 300' and Bobsfarm, Inc. submitted a letter of opposition and was in attendance wishing to speak at the meeting.

Carol Lahman explained the need for the item to be back in front of the Board. Ms. Lahman stated as a result of the United States Supreme Court case T-Mobile South v. City of Roswell, 135 S. Ct. 808

(2015), she recommends hearing all testimony and presentations for both items in regular public session and allow the Board to adjourn to Executive Session, deliberate and provide written findings. Those findings would then be provided at the public meeting and made part of the public record.

David Box attorney representing Branch Communications presented five exhibits which were distributed to the Board and made part of the record. Mr. Box outlined the exhibits and various case law which pertained to telecommunication towers. Mr. Box then answered questions from the Board.

Michael Altz, Senior RAN Design Engineer, Mark Kesner and Ty Knott provided information on the existing capacity of the communication tower, future capacity and acquisition of property.

Bob Berry provided copies of the Vance Air Force Base flight track maps for the Board which were made part of the record. Bobsfarm, Inc. owner property south of Lowes across from the proposed site. Mr. Berry spoke in opposition to the tower.

AYE: John Arend, Mike Stuber, Taylor Venus

NAY: Jessica Edwards, Michael Shuck

Passed

HEAR THE APPEAL OF NEAL BROWN WITH PIONEER REQUESTING A HEIGHT VARIANCE TO ALLOW A 45' COMMUNICATION TOWER LOCATED AT WOODRING AIRPORT.

Motion was made by John Arend, seconded by Taylor Venus to approve the communication tower on the basis the hardship is applying a building height to a tower and significant gap in coverage; the peculiarity is the location will not affect air traffic; the tower will not impair the purpose and intent of the ordinance since Vance and Woodring stated the tower will not affect the current mission and the minimum necessary is the 45 foot tower.

Chris Bauer informed the Board that notice was provided to property owners within 300 feet of this site and had received no objections.

Neal Brown, representative of Pioneer made a presentation to the Board and provided maps of the existing and future coverage of the site, which were made part of the record.

AYE: John Arend, Jessica Edwards, Michael Shuck, Mike Stuber, Taylor Venus

Passed

CONSIDER CONVENING INTO EXECUTIVE SESSION TO DISCUSS AND DELIBERATE ON THE APPLICATION OF TY KNOTT REQUESTING A HEIGHT VARIANCE TO ALLOW A 125' COMMUNICATION TOWER TO BE LOCATED AT 1016 SOUTH GARLAND AND DELIBERATE ON THE APPLICATION OF NEAL BROWN WITH PIONEER REQUESTING A HEIGHT VARIANCE TO ALLOW A 45' COMMUNICATION TOWER TO BE LOCATED AT WOODRING AIRPORT AND TO RECONVENE INTO REGULAR SESSION TO TAKE ANY NECESSARY ACTION.

Motion was made by John Arend, seconded by Michael Shuck to convene into Executive Session.

Board convened into Executive Session at 5:25 PM.

AYE: John Arend, Jessica Edwards, Michael Shuck, Mike Stuber, Taylor Venus
Passed

Motion was made by John Arend, seconded by Jessica Edwards to reconvene into regular session.

Board reconvened into regular session at 6:08 PM.

AYE: John Arend, Jessica Edwards, Michael Shuck, Mike Stuber, Taylor Venus
Passed

SPECIAL EXCEPTIONS.

NONE.

ADJOURN.

Motion was made by John Arend, seconded by Jessica Edwards to adjourn. The meeting adjourned at 6:12 PM.

AYE: John Arend, Jessica Edwards, Michael Shuck, Mike Stuber, Taylor Venus
Passed

Board of Adjustment

3.1.

Meeting Date: 03/12/2019

Submitted By: Karla Ruther, Assistant City Planner

SUBJECT:

HEAR THE APPEAL OF TROY WILLIAMS WITH BRANCH COMMUNICATIONS REQUESTING A HEIGHT VARIANCE TO ALLOW A 119' COMMUNICATION TOWER LOCATED AT 614 NORTH GARLAND ROAD.

BACKGROUND:

This appeal concerns 614 North Garland Road. The property is zoned Agriculture District. The applicant is seeking a variance that would allow a 119' communication tower on the property.

Section 11-5-5: of the zoning ordinance states "**Height Regulations: Accessory Building - thirty-five feet (35').**" Refer to the attached site plan.

A variance may be granted upon the Board of Adjustment finding that:

1. **The application of the ordinance to the particular piece of property would create an unnecessary hardship.**
2. **The conditions are peculiar to the particular piece of property involved.**
3. **Relief, if granted, would not cause substantial detriment to the public good, or impair the purpose and intent of the ordinance.**
4. **The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.**

Reviews involving cell towers require compliance with federal law as well as state law and city ordinance. The Federal Telecommunications Act of 1996 gave telecommunication providers upon the denial of a cell tower application the right to challenge the denial in federal court. To survive federal judicial scrutiny, additional federal procedural requirements impact the manner in which decisions on cell towers are to be made. The Act requires that the reviewing board's decision must be in writing and the reasons to support a denial must be supported by substantial evidence. The United States Supreme Court has determined that it is insufficient for the reviewing board to communicate its decision in writing to the applicant and have the minutes of the meeting once approved be used as the written record, effectively abrogating various Circuit Court decisions that found that a letter and minutes were sufficient under the Act. T-Mobile South, LLC v. City of Roswell, Georgia, 135 S. Ct. 808 (2015).

To accommodate the preparation of findings in the manner mandated by the United States Supreme Court, cell tower review should proceed in a bifurcated process. First, the hearing of the presentations should occur in open session. Then, the Board should go into executive session to deliberate and draft findings and return into regular open session to rule on the application and deliver written findings.

Any person or persons applying to the Board of Adjustment for a variance shall have the burden of showing that all of the criteria above have been met. Please see the attached application for the applicant's response to the criteria.

Vance Air Force Base reviewed the request and do not anticipate the development or construction process of the 119' tall communication tower would significantly or adversely affect the mission. Woodring Regional Airport also reviewed the request and have no issues with the proposed tower height and location.

RECOMMENDATION:

Hear the presentations on the application for height variance to allow a cell tower at 614 N. Garland Road.

PRESENTER:

Chris Bauer, Planning Administrator.

Attachments

Location map & layout

BOA Petition

Vance Letter

FAA Letter

W Chestnut Ave

Tower location



R-1

A

C-1

R-7

R-5

A

A

N Garland Rd

Wilderness Cove

Chimberland Ln

R-5

Jaguar Ln

Grizzly Lane

Envision Enid Comprehensive Land Use Map



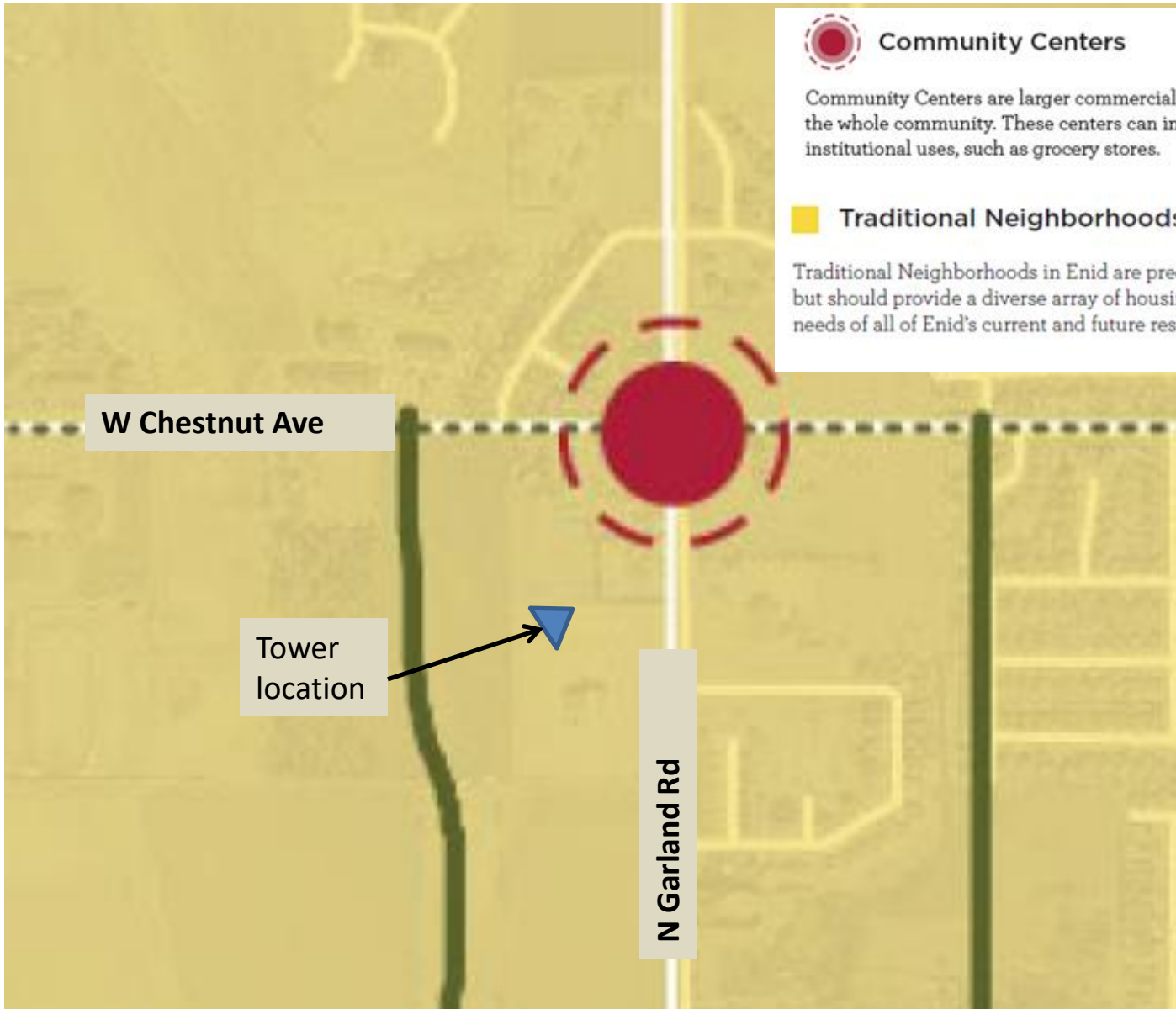
Community Centers

Community Centers are larger commercial centers meant to serve residents of the whole community. These centers can include more intense commercial and institutional uses, such as grocery stores.



Traditional Neighborhoods

Traditional Neighborhoods in Enid are predominantly residential in character, but should provide a diverse array of housing options that meet the lifestyle needs of all of Enid's current and future residents.



W Chestnut Ave

Tower location

N Garland Rd



PARCEL #3650-00-00-001-0-001-00

LOT 1, BLOCK 0
NOLAN'S 1ST ADDITION
PLAT BOOK 12, PAGE 38

PARCEL #3650-00-000-001-0-002

LOT 2, BLOCK 0
NOLAN'S 1ST ADDITION
PLAT BOOK 12, PAGE 38

EXISTING HOUSE

EXISTING TREES

NORTH ADJACENT
DENNIS L. R...
PARCEL #3650-00-000-001-0-003-00

LOT 4, BLOCK 0
NOLAN'S 1ST ADDITION

25 Parking Spaces

EXISTING PROPERTY LINE

20 Parking Spaces

20 Parking Spaces

10 Spaces

Grass Field

11 Parking Spaces

6 Spaces

PROPOSED AT&T FENCED
COMPOUND AND LEASE
AREA

PROPOSED 115' MONOPOLE
RE: 2/A3

EXISTING POWER
POLE

EXISTING OVERHEAD
POWER LINES, TYP.

PROPOSED 12' ACCESS

20' INGRESS/EGRESS &
UTILITY EASEMENT

Grass Field

PARENT TRACT OWNER
NEW HOPE UNITED METHODIST CHURCH OF ENID
BOOK# 2273 PAGE# 349
PARCEL #0000-09-22N-07W-1-250-00

Church Building

EXISTING
PROPERTY LINE

GARLAND ROAD Public Asphalt Road

13' Stimulatory R/W

Parent Tract Boundary

Neptune Pad
Fire Hydrant

BOOK# 2273, PAGE# 349
PARCEL #0000-09-22N-07W-1-250-00



Planning & Zoning Department
Chris Bauer, Planning Administrator
cbauer@enid.org
580-616-7217
PO Box 1768, 401 West Garriott
Enid OK 73702

Zoning Variance Petition

(Due to Community Development 15 days prior to Zoning Board of Adjustment meeting date)

For Board of Adjustment meeting dates visit http://www.enid.org/index.aspx?page=383.

- 1. I, or We, hereby petition the ZONING BOARD OF ADJUSTMENT for a variance to the following provision(s) of the City of Enid Ordinance, Section(s) 11-7D-4 part A Height: No building shall exceed thirty-five (35') in height measured from the mean elevation of the lot, to allow construction of a 119' wireless communication tower.
2. The Burden of Proof: Any persons applying for a variance shall have the burden of showing that all of the following factors described below have been met. The applicant must respond to each. Additional pages may be added.
A. The application of the ordinance to the particular piece of property would create an unnecessary hardship; Please see item "2A" in attached sheet
B. Such conditions are peculiar to the particular piece of property involved; The location at the Church is in the NW corner of the Parcel. The Church also owns the Parcel to the West. Please see item "2B" in attached sheet for abutting zoning tracts.
C. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the comprehensive plan; and Please see item "2C" in attached sheet
D. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship. AT&T's Radio Frequency engineers have designed the minimum necessary antenna centerline height to meet the coverage objectives.
3. Reasons for desiring the variance: 119' Tower to meet the coverage objective and close a significant coverage gap
4. I, or we have attached a site plan of the proposed construction.
5. Address and/or general location of property: 614 N. Garland Road, Enid OK 73703
6. Legal description of site: The E 1/2 of N 1/2 of NE 1/4 of Section 9, Township 22 North, Range 7 West, I.M. See item "6" in attached sheet
7. Zoning classification of property: Agriculture
8. Please provide zoning variance petition application and a list containing the names and mailing addresses of all owners of property lying within 300 feet of the exterior boundary of the subject property, as certified by a licensed and bonded abstracting company, or title insurance to kruther@enid.org.

FEB 08 2019 KR

9. Send \$100.00 fee to Karla Ruther at the address above or if you prefer to pay electronically, contact the City Clerk at (580) 616-1815.

10. Applicant's signature: Troy Williams

Printed Name: Troy Williams

Date: 2-8-19

Address: 1900 NW Expressway, Suite 800, OKC, OK 73118

Email: troy.williams@branchcomm.net

Telephone: 405.833.2040

Cell phone: 405.833.2040

Section 11-3-10

Appeal Process:

Appeal to the Garfield County District Court by filing a Notice of Appeal with the City Clerk and the Secretary of the Board of Adjustment within ten (10) days of the decision or order of the Board of Adjustment.

If you have any questions, please contact Community Development at (580) 616-7218

THANK YOU!

2A.

In order to propagate AT&T's radio frequency and effectively work cohesively within their existing RF network, AT&T needs a minimum antenna centerline of 95'. Additionally, since the ordinance does not provide any zoning district the ability to build a structure to 115', and a 4' lighting rod (119' Total height), AT&T respectfully request approval of this variance request in order to meet the minimum standards required for their cellular network.

2B.

The proposed location for the tower site is located on property zoned "A" fronting S. Garland Rd. Adjacent parcels to the West and South are zoned "A", and the adjacent parcel to the North is zoned R-1 and the West is Zoned R-5 & R-2. No zoning district provides the ability to build a structure to the required height.

2C.

AT&T has designed the minimum necessary antenna centerline height to meet the coverage objectives. If the variance is authorized it will represent the minimum variance which will afford relief and the least modification possible to the intent of the ordinance. The proposed wireless communication facility will be unmanned, with no significant increase in noise, fumes, odor or traffic count, and will be a benefit to the community by allowing AT&T to provide the wireless voice, data and WiFi experience that their customers rely on.

6.

PARENT TRACT DESCRIPTION

***The E½ of N½ of NE½ of Section 9, Township 22 North, Range 7 West, I.M., except the West 165 feet end except the North 660 feet of the East 660 feet, Enid, Garfield County, Oklahoma. Being a 25 acre tract of property, more or less.
(QUIT CLAIM DEED AS RECORDED IN BOOK 2273, PAGE 349, DEED RECORDS OF GARFIELD COUNTY, OKLAHOMA.)***



DEPARTMENT OF THE AIR FORCE

71ST FLYING TRAINING WING
VANCE AIR FORCE BASE OKLAHOMA

22 Feb 2019

Colonel Corey A Simmons
Commander, 71st Flying Training Wing
246 Brown Parkway, Suite 224
Vance AFB OK 73705-5015

Mr. Chris Bauer
City of Enid Planning Administrator
P.O. Box 1768
Enid, OK 73702-1768

Dear Mr. Bauer

In response to the City of Enid's request, members of the Vance Installation Encroachment Management Team (IEMT) have evaluated the proposed 119-foot monopole tower to be constructed near New Hope Methodist Church at 614 N. Garland Road. Based on the information provided, we do not anticipate that the development or its construction process will significantly or adversely affect our mission.

If you have any additional questions or concerns, you may contact the Vance Airspace Office at (580) 213-6276 or via e-mail at VanceAirspace@us.af.mil.

Sincerely

COREY A. SIMMONS, Colonel, USAF

RECEIVED
FEB 25 2019
BY:

Develop, Deliver, Deploy and Demonstrate...To Fly, Fight, and Win!



Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2018-ASW-2516-OE

Issued Date: 03/13/2018

ATT
 Dave Cundiff (CP)
 208 S. Akard St.
 Dallas, TX 75202

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Monopole WESTWIND ENID (OK1471)
 Location: Enid, OK
 Latitude: 36-24-12.08N NAD 83
 Longitude: 97-56-44.61W
 Heights: 1308 feet site elevation (SE)
 160 feet above ground level (AGL)
 1468 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 1.

This determination expires on 09/13/2019 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 222-5933, or andrew.hollie@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2018-ASW-2516-OE.

Signature Control No: 358111403-359568763

(DNE)

Andrew Hollie
Specialist

Attachment(s)
Case Description
Frequency Data
Map(s)

cc: FCC

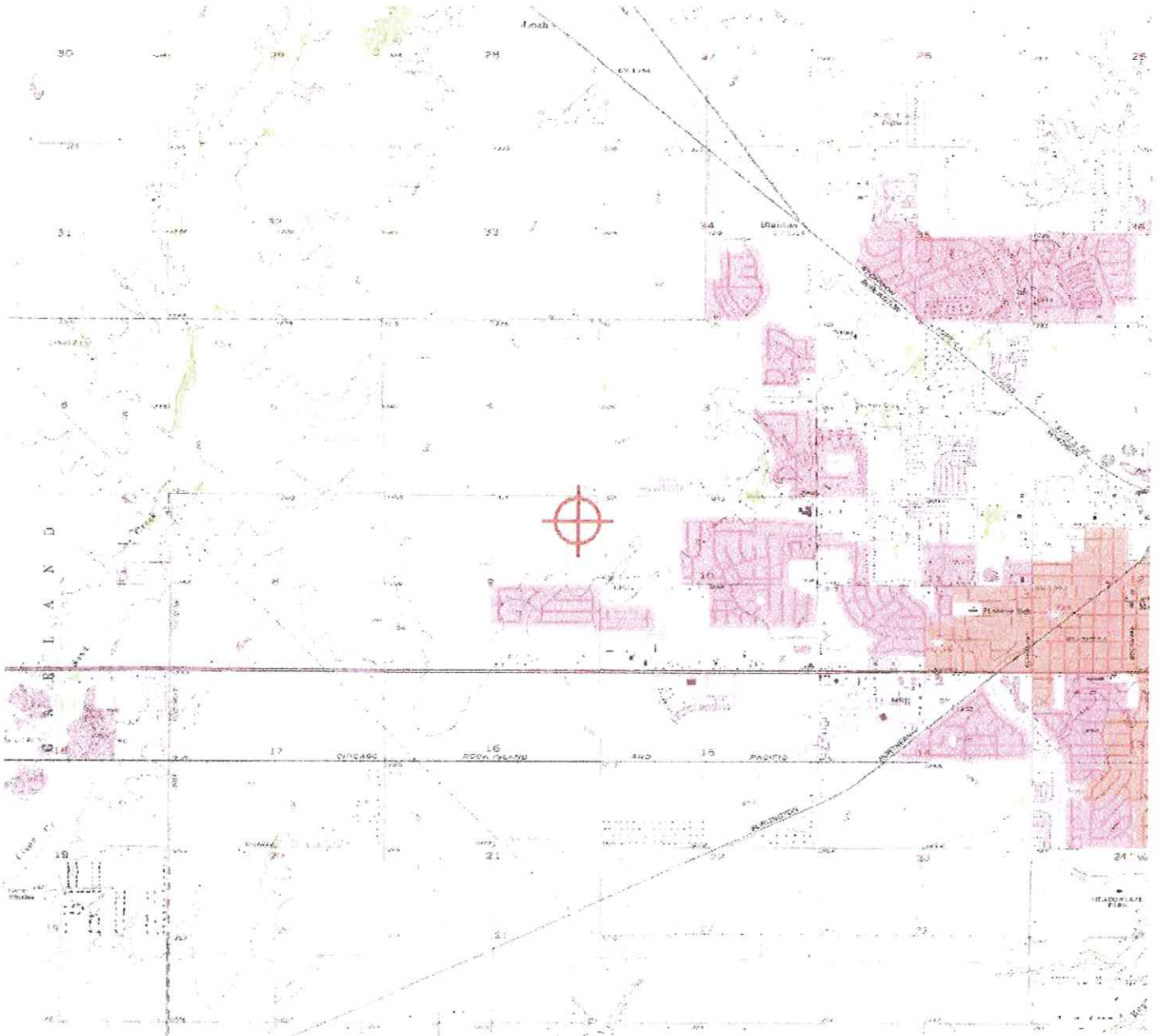
Case Description for ASN 2018-ASW-2516-OE

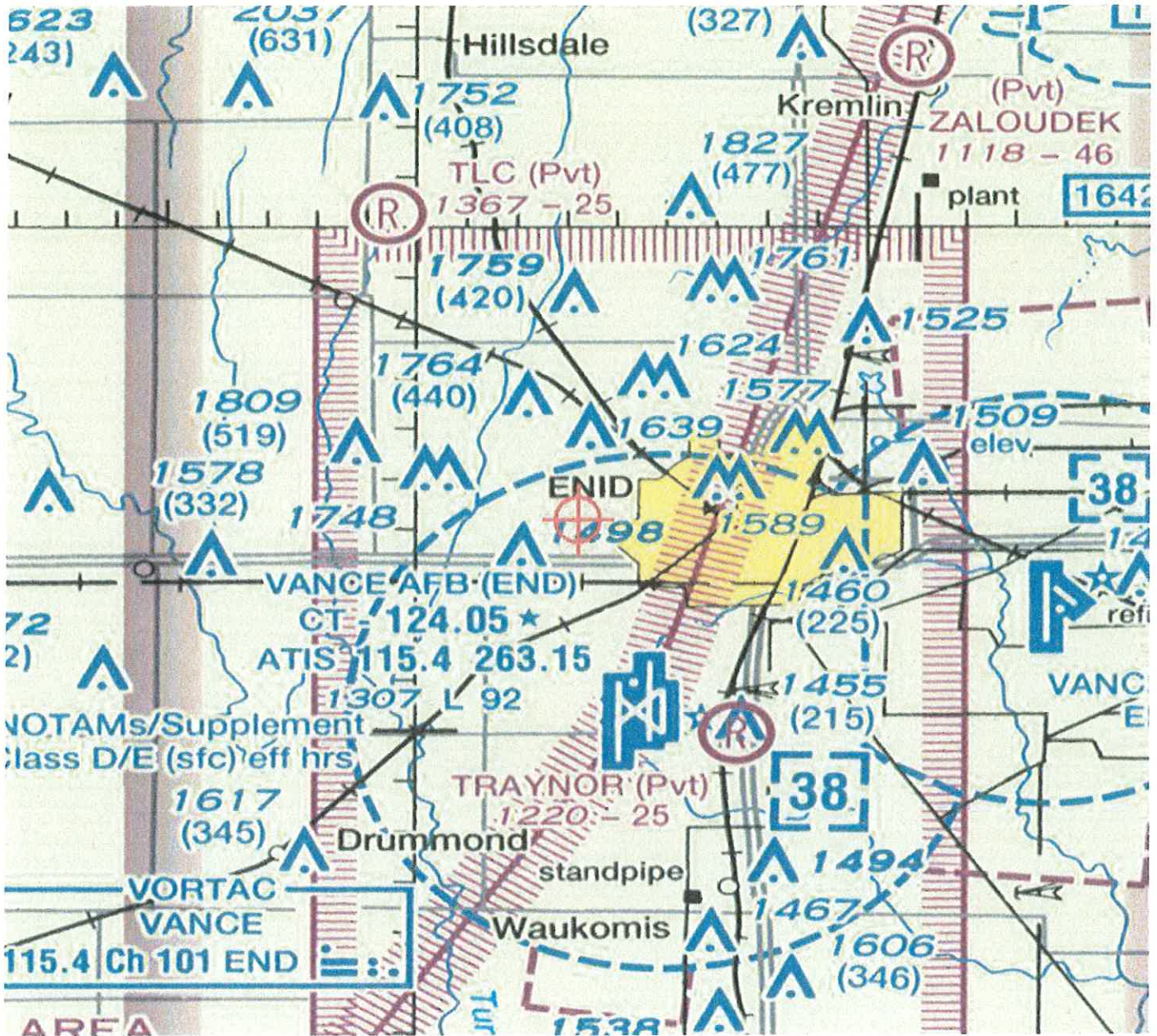
Applicant request FAA @ 160' for New Monopole. Survey is attached

Frequency Data for ASN 2018-ASW-2516-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	1000	W
614	698	MHz	2000	W
698	806	MHz	1000	W
806	901	MHz	500	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	W
1710	1755	MHz	500	W
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W

TOPO Map for ASN 2018-ASW-2516-OE





Board of Adjustment

4.

Meeting Date: 03/12/2019

Submitted By: Korina Crawford, Executive Assistant

SUBJECT:

CONSIDER CONVENING INTO EXECUTIVE SESSION TO DISCUSS AND DELIBERATE ON THE APPLICATION OF TROY WILLIAMS REQUESTING A HEIGHT VARIANCE TO ALLOW A 119' COMMUNICATION TOWER TO BE LOCATED AT 614 NORTH GARLAND ROAD AND TO RECONVENE INTO REGULAR SESSION TO TAKE ANY NECESSARY ACTION.

BACKGROUND:

The City Attorney recommends that the Board of Adjustment go into Executive Session pursuant to 25 O.S. §307(B)(4), pending action, and the attorney/client privilege to engage in confidential communications concerning this pending application for a cell tower variance and to prepare written findings because disclosure would impair the ability of the public body to proceed appropriately. Upon reconvening into regular public session the Board of Adjustment will make a motion to render its decision and approve written findings.

RECOMMENDATION:

Convene into Executive Session.

PRESENTER:

Carol Lahman, City Attorney.
