

COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 197

Tuesday, October 15, 1996, 1:30 p.m.

County Commission Room

Room 119

County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty
Eller
Looney
Tyndall
Walker, Chairman

Beach
Huntsinger

Glenn, Building
Inspection
Fields, Building
Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, October 11, 1996, at 2:37 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Walker called the meeting to order at 1:32 p.m.

MINUTES:

On **MOTION** of **TYNDALL**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** the **Minutes** of September 10, 1996 (No. 196).

NEW APPLICATIONS

Case No. 1455

Action Requested:

Special Exception to allow a 150' telecommunications tower in an AG district. **SECTION 220. HEIGHT EXCEPTIONS** and a Variance of the required all-weather surface on parking areas. **SECTION 1340.D.DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 4, located North of 166th Street North & East Yale Avenue, Collinsville.

Presentation:

The applicant, **Earl Higgins/John Kirby/SW Bell Services**, 11529 East Pine Street, submitted a plot plan (Exhibit A-1), plat of survey (Exhibit A-2), lease agreement (Exhibit A-3), and a site plan (Exhibit A-4). Mr. Higgins requested a height variance for a 150' monopole telecommunications tower located on a plot of ground that is part of a 160 acre plot. He stated the subject property is located near Highway 75. Mr. Higgins indicated the monopole telecommunications tower will be located 1380' north of the property owner's south property line.

Comments and Questions:

Mr. Looney asked the Staff if the City of Collinsville made any comments on this referral? Mr. Beach submitted a memo from the City of Collinsville (Exhibit A-5) stating that they did not have enough information to make a decision and therefore, there was no action taken. He further stated the City of Collinsville did express concerns with towers in general.

In response to Mr. Walker, Mr. Higgins stated that SW Bell Services is presently working with AT&T for co-locations for the towers and they are not averse to co-locations with other towers. He further stated that the tower's placement and height is an RF Engineer's call and the major cellular companies already have their sites finished. He commented that there are two or three more carriers coming into Tulsa and SW Bell Services may have a chance to co-locate with the newer companies.

Mr. Higgins approached the Board and indicated where the tower is located on the site plan.

Mr. Beach informed the Board that he did have a note from a caller who was concerned that the location of this tower could possibly be in a flood plain.

In response to Mr. Beach, Mr. Higgins stated the location is 1' higher than the highway and if the tower is in a floodplain then the flooding would overflow the highway.

In response to Mr. Higgins, Mr. Looney stated highway flooding does happen in Oklahoma.

Protestants:

Sarah Field, 16001 Highway 75 North, Skiatook, submitted a protest petition (Exhibit A-6) and stated that approximately 20 neighbors have signed the petition. She indicated that her property is immediately south of the subject property and the tower will be 1380' from her fence line. Ms. Field stated that this application is part of the telecommunications tower revolution that is occurring since the de-regulation of the industry. She commented the de-regulation has the power to turn the countryside into an eye sore. Ms. Field stated that this site may be in a 100 year floodplain and it is placed at the edge of a creek. She informed the Board that the creek will flow 666 cubic feet per second after a heavy rain fall and this tower site is on the edge of this creek that Mr. Higgins labeled a dry creek bed on his site plan. She requested an environmental assessment to determine the impact on this site. Ms. Field expressed concerns about the bulldozing work on the creek and the silt running into her 8 acre pond. She stated that the applicant has told the neighbors that there will not be any lights on the tower, but there is no guarantee that this will happen. She informed the Board that there is talk about an airport going in north of this site, which may be

Case No. 1455 (continued)

required by the FAA to install lights on the tower. Ms. Field stated it is upsetting to think she may have to be looking at blinking lights all the time. She further stated that most of her neighbors moved to the country to get away from this and would like to keep it that way. Ms. Field detailed several locations where towers currently exist: 1) 136th Street North, 2) 106th Street North, 3) 96th Street North. She stated what she objects to is the number of towers being built and this is just the tip of the iceberg. She informed the Board that the FCC will allow up to eight different personal communication systems within a territory. Each one of the systems equate to a network of towers and currently we have Southwestern Bell, Sprint, AT&T and Cellular One in a tower building frenzy. Ms. Field commented that there will be more towers if the cellular companies build up to what the FCC allows. She further commented that Tulsa County has very little planning concerning towers. She stated there are no guidelines on where the towers have to be placed. Ms. Field further stated that Tulsa County needs a large scale plan for the communication towers. She recommended the Board reject the application and issue a moratorium on tower building until the County can come to terms with the building of the towers. Ms. Field informed the Board that San Jose, California, delayed the local communications company's building plans because they wanted to build antennas at 52 sites around the city. She stated in Saratoga, officials imposed a moratorium on antenna installations until a master policy can be written. She further stated a County Planning Department in North Carolina recommended the denial of these requests because the visual impact created by towers was considered a detriment to the existing dwellings in the area. Spokane, Washington, imposed a moratorium on sites and provided for an expiration date. Lexana, Kansas' Planning Commission instituted some stipulations that would allow industry and local government to work together so that each tower is not an individual venture unto itself. She detailed the stipulations that Lexana, Kansas enforced: the pole color had to be light blue or gray, there has to be coordinated landscape around the tower and construction of the facility had to permit one additional user in the future. Ms. Field concluded that the neighbors are upset about the tower being built and they consider it unsightly.

Susan Field, 16001 Highway 75 North, Skiatook, stated she lives on the same property that Sarah Field lives on. She further stated her house is closer to the property line of the subject property. She indicated that her home is approximately 400' from the property line. She explained that her home has about 15 windows on the side that will be facing the tower site. She further explained that if the tower is required to have lights, either now or in the future, it will be shining into her bedroom and breakfast area. She commented that the area is made up of estates with above average homes and many are new homes. She stated the proposed tower will reduce the property values and limit the development in the adjacent area. She further stated she questions the legality of a leasee requesting a variance when the lease of record is not filed. She commented the lease is for 20 years and questioned what would happen to the tower after the 20 year lease is finished. Ms. Field stated her objection is adamant and she does not want the tower next door to her.

James Kirkland, 16001 Highway 75 North, Skiatook, stated he opposes the tower which is to be built on the Smith's property. He further stated that while discussing this application with his neighbors, it became clear to him that the community did not want this eyesore to be constructed. Mr. Kirkland commented that by saying no, the neighbors send a clear message to Southwestern Bell, and all of the future cellular phone companies that we do not now or ever want our lands devalued or defaced by the towers.

Doug Creekmore, 16200 North Sheridan, stated he will be directly west of the tower. He indicated that he has talked with his neighbors and they oppose this application. He informed the Board that the neighbors have \$100,000 homes and up. Mr. Creekmore stated he lost his investment on another piece of property where a cellular tower was built. He explained that he did not want to go through this again and asked the Board to deny this application.

Interested Parties:

Mr. Franklin Smith, owner of the subject property, stated he wants to be a good neighbor. He further stated that one of the stipulations in the agreement with SW Bell Services is that SW Bell will do some bulldozer work to control the erosion along the creek. He explained that the lake mentioned by Ms. Field is already silted in and there will be minimal silt when the creek is worked on. He further explained the work done will probably be rip-rapped rock to keep the erosion from continuing. He stated the property owners to the east and north have no opposition to the tower being located on his property. Mr. Smith acknowledged the concerns the Field's have about the tower, but it was his understanding that there will not be any lights on this tower. He stated that strobe lights on towers are used in the daytime and a red light at night, if the tower requires lights. He reiterated that this tower will not have lights because of the height of the tower, which is well below the height for light requirements. Mr. Smith concluded that he is not out to devalue anyone's property because he lives on the subject property. He stated he owns a half section of ground and will live there the rest of his life.

Protestants:

George Field, 3746 East 83rd Street, father of Sarah and Susan Field, stated he is a registered mining engineer and geologist. He further stated the 100 year flood is under the control of the Corp. of Engineers and its boundary is decided by the Corp. He explained that if the tower affects the 100 year flood, there are certain things that could happen. Mr. Field stated that if the boundary is altered in any way, he will take every advantage within the law to protect his interest. He further stated the land owner is Mr. Smith and yet the application was filed by Southwestern Bell Services. He commented he is not aware that the lease between Mr. Smith and SW Bell Services has been put of record and if it has, he would like the book and page number of the document.

Comments and Questions:

Mr. Alberty stated he can answer Mr. Field's question with regard to the owner of the subject property not filing this application. He further stated that anyone with the approval of the owner of a piece of property can file an application and many times it is done. He explained it is legal as long as the owner has given his consent in writing.

Mr. Field asked Mr. Alberty if the owner's consent in writing is in the file? Mr. Alberty stated the Board would not have the consent. He further stated that once the consent is questioned then obviously Mr. Smith is here and can speak for himself. Mr. Alberty explained that many times the applicants do not want to commit to the ownership of the property until they can receive approval of certain uses.

Mr. Field asked if this would remain Mr. Smith's property? Mr. Alberty stated he did not know, but assumes that if it is a lease, Mr. Smith will maintain the fee of the property.

Mr. Field asked if Mr. Smith will be taxed for this tower? Mr. Alberty stated that if the taxes will be raised, then yes Mr. Smith would have to incur the taxes.

Applicant's Rebuttal:

Mr. Higgins, stated SW Bell Services does not file the lease until the Board of Adjustment approves the application. He further stated SW Bell Services has agreed in their contract to improve the property where the creek has washed out the culvert and banks with rip-wrapped rock. Mr. Higgins explained the property south of the subject property is owned by the Fields and it is heavily wooded area where the tower would be difficult to see.

Comments and Questions:

Mr. Beach reminded the Board that the issue before the Board is whether the telecommunications tower can be over 60' in height. He stated the tower can be erected in the AG district by right. He further stated the application is for a special exception to permit a 150' telecommunications tower whereas 60' or below would be permitted by right.

Mr. Alberty informed the Board that a hardship was needed for the variance of the required all-weather surface on parking areas.

Mr. Higgins stated he did not recall requesting the variance for the all-weather surface on parking areas. He further stated that the land is in AG district and the road will be used only to service the tower maybe once a month. Mr. Higgins requested a variance for the all-weather surface on parking areas.

Case No. 1455 (continued)

Mr. Looney asked what the hardship for the variance on the all-weather surface is? He stated he would have to build a 1/4 mile asphalt road for access to the tower.

In response to Mr. Beach, Mr. Higgins stated there will not be an enclosure or area that will require parking, the road is simply for access to get to the tower for maintenance.

Mr. Higgins stated the access road will be gravel and the use does not require parking.

Mr. Alberty stated this is not a typical use and it does not require parking.

Mr. Beach stated he does not know why the variance was requested on the application, however, there is no parking requirement for this use. Mr. Beach suggested that the variance request be stricken from the application.

Mr. Alberty stated he is impressed with Ms. Field's comments with regards to a study and it is something that should be requested. He further stated there are numerous requests and one of the criteria, and maybe a silent criteria, is where the towers are located and how they might affect the adjacent properties. Mr. Alberty commented that this application would certainly comply with what our unwritten location criteria is, by not being located near developed properties or properties that might have future development. Mr. Alberty stated he is concerned about the floodway, however if it is something that will infringe or impede the flow, then definitely the County Building Inspector will not approve a permit. He further stated the Board should request some input for location criteria on the telecommunication towers. He commented that the Board is going to see a lot more applications for telecommunication towers. Mr. Alberty stated he did not think the Board has enough information to decide if this is a public utility and perhaps that is a legal question.

Mr. Looney asked the Board if maybe this application should be continued to give the Board time to find out if any studies have been done or underway.

Mr. Alberty stated he felt comfortable with a 30 day continuance to allow Staff to report to the Board with some sort of input on telecommunication tower location criteria. Mr. Alberty commented he was impressed with the fact that the protestants know more about the telecommunication towers than the Board and it would be helpful to the Board if the protestants could make the information available to the Staff for further study. Mr. Alberty pointed out that this application meets any previous criteria that the Board required for location, but maybe the Board should take time to get more information before making any decisions.

Case No. 1455 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays" no "abstentions"; no "absent") to **CONTINUE** Case No. 1455 to November 19, 1996, at 1:30 p.m. to allow the Staff to report about any ongoing studies or location criteria for cellular antennas.

Additional Comments:

Mr. Alberty suggested to the Board that a continuance be granted to each of the three remaining applications for telecommunication towers.

Mr. Johnsen requested a chance to speak to Mr. Alberty's suggestion of continuing the additional three applications for towers.

Mr. Johnsen, 201 West 5th St., representing AT&T Wireless, Case No. 1460, stated he understands Mr. Alberty's concern, but generally the concerns are almost addressed when you have either a rural setting that may develop or you have protestants which gives evidence of a neighborhood concern. He further stated he would hate for the Board to commit to a policy of continuance on the remaining tower applications. He commented that any studies done that he is familiar with, have generally recognized the distinction between the residential impact and towers that are to be located in non-residential areas. He stated that AT&T Wireless' application Case No. 1460 requests location on industrial zoned property and all the property surrounding the subject property is zoned industrial. He commented that it would not be fair to his client that the application be passed for a study that will be essentially directed toward protecting residential neighborhoods.

Mr. Alberty stated he would be in favor of listening to each application and then make a decision after presentation.

Case No. 1456

Action Requested:

Special Exception to allow a 150' telecommunications tower in an AG district.

SECTION 220. HEIGHT EXCEPTIONS - Use Unit 4, located East 114th Street South West of South 193rd East Avenue

Presentation:

The applicant, **Earl Higgins/Lee Ann Fager/SW Bell Services**, 11529 East Pine Street, submitted a site plan (Exhibit B-1), and a lease agreement (Exhibit B-2). Ms. Lee Ann Fager representing SW Bell Services stated that based on the fact that the applicants are required to come before the Board for special exception, you have by design indicated that you want to take the applications on a case by case basis and she would appreciate if the Board did take the applications case by case. She commented that the location was chosen to the proximity of the proposed South Loop, which will be a commuter route that has been approved by the City of Broken Arrow. Ms. Fager further commented that with regard to the impact the South Loop will have on property values, she would concede that residential property values will be negatively impacted, however the same property values would probably escalate a great deal in terms of commercial development. She stated this site is currently in an AG district and there is no residential development immediately surrounding the subject property.

Comments and Questions:

Mr. Looney asked Mr. Beach if the City of Broken Arrow reported back to the referral on this application. Mr. Beach answered negatively.

Protestants:

Leo Naive, 18450 East 111th Street South, stated his property adjoins the west side of the subject property. He further stated he owns 40 acres and lives in the middle of the 40 acres. Mr. Naive explained he bought the 40 acres several years ago as an investment and according to the County Assessor he has quite an investment in the land. He commented that a tower will be located outside his kitchen window that will be approximately 150' tall. He stated he has a lake that runs down into the draw and the land is designed for future residential development. He further stated he will have a problem dealing with a 150' tower while planning the residential development. He commented the tower will not enhance his property value and requested the Board to reject the application.

Naomi Medlock, 11397 South 193rd East Avenue, stated she owns the property that borders the south side of the subject property. Ms. Medlock informed the Board that she was not notified of this hearing today. She expressed concerns of de-valuation of the property in the area. She commented that the South Loop has been proposed but it is bogged down with financing. She further commented that eventually the South Loop will be developed and it will be south of this property, which is right now on the Planning Board in Broken Arrow as a commercial development. Ms. Medlock stated she is concerned about a 20 year lease and she is not sure what the changes will be in 20 years.

Case No. 1456 (continued)

Carolyn Mass, 18850 East 114th Street South, Broken Arrow, stated she received a notice several weeks ago with the assumption that her neighbors had also received a notice. Ms. Mass indicated her neighbors did not receive notice of this application. She stated that her neighbors are against this application. Ms. Mass commented that she understands the South Loop will probably be finished in three years. Ms. Mass commented that when the South Loop is developed there may be some neighbors who would like to move out farther into the country and at that point would like to at least get compensation for selling their property. She stated she understands that the issue today is whether the tower can be over 60' tall. She asked if there will be a tower erected whether it is 60' or 150' tall?

Comments and Questions:

Mr. Walker explained that the zoning regulations in agriculture zoning will allow you to have a cow, horse, pig and a tower as long as the tower is not over 60' tall.

In response to Mr. Walker, Ms. Mass asked if the dispute is whether there is actually a tower erected or whether the tower is 60' or 150' tall?

Mr. Walker stated the request to the Board is that the applicant wants a 150' tower and so the Board has decide if the applicant should have a tower taller than 60'.

Ms. Mass commented that the applicant probably wouldn't want a tower that is 60' tall because it wouldn't give the coverage they need. Mr. Walker agreed with Ms. Mass' statement.

Protestants:

Ms. Mass stated she is concerned about a blinking light at the top of the tower or strobe lights. She commented that the notice she received through the mail does not give her enough information. She further commented she has not seen a picture of the tower and she doesn't know the base size of the tower. She questioned what would be hanging from the top of the tower, will it be microwave dishes? Ms. Mass stated she discussed the tower site with the owner of the subject property and he explained the tower will be in the northwest corner, which is 50' from the property line. She questioned how far the tower had to be located from the property line? Ms. Mass indicated that the owner of the subject property does not reside on the subject property, but he does keep horses on the subject property. She questioned if the tower will always be the same size for the 20 years or will it increase in size to handle more dishes. She further questioned if the road would remain gravel? Ms. Mass expressed concerns that the tower would be an eye sore and that she wouldn't be able to sell her property.

Case No. 1456 (continued)

George Easley, 18800 East 111th Street South, stated his property is north of the subject property. He further stated that if the tower is going to be 50' from the west line and 50' from the north line, then it is very close to his property. Mr. Easley stated the County Assessor thinks that he has quite an investment in his land. He further stated the subject property is only 330' x 660' and they are putting the tower in the corner, which is right across the road from his land. He commented the tower will not benefit him in any way and if the tower falls it will fall on his land. Mr. Easley indicated the subject property owner is an absentee owner and the property value will not be increased by the tower at all. He stated he does not want to look at strobe lights or the tower, even if they paint it blue. He further stated on an infrequent basis there is a ball field that children use for practice in the immediate area (within falling distance of 150' tower). He commented the tower will be an eyesore for the area.

Applicant's Rebuttal:

Ms. Fager stated she did bring a picture of a tower similar to the proposed tower and passed the picture around to the protestants (Ms. Fager did not submit the picture as an exhibit). She further stated the tower is a self-supporting tower. She further stated it is a three legged tower that is wider at the bottom than at the top. She explained the tower is not a guy-tower or monopole. She stated the self-supporting tower is one of the safest towers erected. Ms. Fager explained that none of the towers are designed to fail, but in the event the tower failed in high winds, it will fail at a joint. She further explained that the towers are constructed of steel in 20' sections and they are engineered to fail at a section. She stated the towers are built to withstand 85 mph winds with half inch radius ice. Ms. Fager commented that in the recent hurricanes in Florida the towers were still standing. She stated there will be microwave on the tower and there will be no lighting unless required by FAA. She further stated that to her knowledge the tower will not be in close proximity to an airport to require lighting. Ms. Fager indicated that the towers are grounded so if lightning should hit the tower it will prevent failure.

Comments and Questions:

Mr. Walker asked Ms. Fager if there was any particular reason for the tower to be installed in the corner that was chosen? She stated that Mr. Fox (property owner) does board horses on the subject property. She further stated the owner utilizes the rest of the field and barn area. She indicated the corner chosen is a particular area that is not utilized for anything and is sectioned off, which measures 50' x 50'. She commented the location had nothing to do with proximity to other land owners. She indicated the road leading to the site will be gravel.

Mr. Walker asked Ms. Fager how many time per year will there be someone traveling to the tower? She stated approximately once a month after construction.

Case No. 1456 (continued)

Mr. Looney stated this application falls into the same category as Case No. 1455 and should be continued so that Staff can report on studies of telecommunication towers.

Mr. Alberty stated after hearing the case he could go along with a continuance, however, his vote will probably be against this application because it cannot be made compatible with the existing land use.

Mr. Walker agreed that he could support denial of this application also.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker "aye"; no "nays" no "abstentions"; no "absent") to **DENY** finding that the application is not compatible with the existing neighborhood and would be harmful to the spirit and intent of the Code; on the following described property:

S/2, SW, NW, NE, Less N25' thereof, Sec. 36, T-18-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1457

Action Requested:

Special Exception to allow auto sales in a CS zoned district. **SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located 11601 North 113th East Avenue.

Presentation:

The applicant, **John McCoy**, 11601 North 113th E. Ave., submitted a plat of survey (Exhibit C-1), photographs (Exhibit C-2) and stated there is a vacant gas station on the subject property and he would like to sell cars on this lot. Mr. McCoy further stated that there is a Quik-Trip across the street and all the surrounding property is businesses.

Comments and Questions:

Mr. Walker asked the applicant if there would be any auto repairs done on site? He answered negatively.

Mr. Walker asked the applicant if he would be selling any accessories or heavy equipment? He stated he would be selling cars and trucks only.

Case No. 1457 (continued)

Mr. Walker asked the applicant what the size of the tract is? He stated there is a building that has approximately 100 SF and from the center of the building out to the center of the road it is 100'. He further stated the width of the property is approximately 125'. He indicated that he will be parking the cars out front and will have approximately 20 cars. Mr. McCoy stated the lot will be a small, neat car lot.

Mr. Walker asked the applicant if the front of the car lot is facing the west or south? He stated there is a front parking area that faces the west and that is where he plans to display the cars.

Mr. Looney asked the applicant what type of paving surface is on the lot? He stated it is a concrete surface.

Mr. Looney asked the applicant if the covered canopy is on the subject property? He answered affirmatively.

Mr. Alberty stated he is familiar with this area called "German Corner" and the subject property has been a service station with a canopy. He further stated the subject property has had numerous uses since the service station was vacated. Mr. Alberty indicated that three of the corners have CG zoning, which would permit automobile sales as a use by right. He stated that due to the fact that this was formerly an automotive use, then automotive sales will be entirely appropriate especially with the limitation of 20 cars.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, White "aye"; no "nays" no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to allow auto sales in a CS zoned district. **SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, per plan submitted; subject to the limitation of a maximum of 20 cars; subject to no outside storage of auto parts or accessories; subject to no auto repair work done on site; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Beg SW/c, Sec. 5, T-21-N, R-14-E, Tulsa County, Oklahoma; TH E175, N265, W65, N30, W110, S295, POB.

Case No. 1458

Action Requested:

Special Exception to permit a 150' cellular telephone antenna tower in an AG zoned district. **SECTION 220. HEIGHT EXCEPTIONS** - Use Unit 4, located 6409 North 114th East Avenue.

Presentation:

The applicant, **Earl Higgins/SW Bell Services**, 11529 East Pine Street, submitted a site plan (Exhibit D-1) and stated the property is located east of Highway 169 before you get to 66th Street North. He further stated that the location will be east of the two new "find bulletin signs". Mr. Higgins stated there was a hydrology study done on the property and the building will be elevated above ground on four piers. He further stated that there will be some trees removed to eliminate a floodplain.

Comments and Questions:

Mr. Walker asked the applicant where the tower will be located? He stated the tower will be in the northeast corner of the subject property.

Mr. Walker asked the applicant who is the neighbor to the north? He stated he wasn't sure because it is a fill area.

Mr. Higgins stated the property owner for the subject property is Mr. Eanes, who owns five acres.

Mr. Alberty asked the applicant who owns the tower to the north on the west side? Mr. Higgins stated he thought it was Sprint, but he wasn't sure.

Comments and Questions:

Mr. Walker stated that this application for the tower is another one that has the tower located in the corner that he does not care for. He further stated that this particular tower however will be abutting a drainage area and rough area to the north.

Mr. Glenn stated the subject property is in regulatory floodplain and no houses or businesses will be going in the area.

Mr. Alberty stated that this application is located within a mile radius of another telecommunications tower approved for Sprint. He further stated he did not know what the Staff's study will show regarding the placement of towers, but he would not want to pre-empt an approval of a location that may be negatively impacted. He commented he couldn't see any reason why this application would be negatively impacted because it is in a floodplain and there will not be any development in the area. He further commented he did not see how the tower could impede any flow of surface water, but in the event the Staff study may indicate a reason not to place this tower on the subject property, Mr. Alberty suggested the application be continued for 30 days in order to see what recommendations the Staff will have.

Case No. 1458 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; no "absent") to **CONTINUE** Case No. 1458 to November 19, 1996, 1:30 p.m. to allow the Staff to report about any ongoing studies or location criteria for cellular antennas.

Case No. 1459

Action Requested:

Special Exception to permit a single-wide mobile home in an RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9, located 4949 South 65th West Avenue.

Presentation:

The applicant, **Kevin S. Kelly**, 3109 East 25th Place, submitted a building permit and application (Exhibit E-1). Mr. Kelly stated he purchased the subject property in 1979, and was granted a special exception to move a mobile home onto the property. He further stated that there was a mobile home on the property until 1987 or 1988 and then the mobile home was sold. He explained that a neighbor would like to lease the subject property and move a mobile home on the land for his nephew to live in.

Protestants: None.

Comments and Questions:

Mr. Walker asked the applicant what size the mobile home will be? He stated the mobile home will be a 12' x 65'.

Mr. Looney asked the applicant what year the previous mobile home was removed? He stated the mobile home was removed in either '87 or '88. He further stated that there are several mobile homes in the area.

Mr. Walker asked the applicant if the mobile home will be on a septic system? He answered affirmatively.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a single-wide mobile home in an RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9, subject to tie downs, skirting, Health Department approval and a building permit, finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

S/2 Lot 5 and all Lot 6, Block 1, John Hale Addition, Tulsa County, Oklahoma.

Case No. 1460

Action Requested:

Special Exception to permit a 150' monopole tower in an IM zoned district. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4, located 5702 East 66th Street North.

Presentation:

The applicant, **Troy L. Williams/AT&T Wireless**, represented by Roy Johnsen, 201 West 5th Street, Suite 440, submitted a plat of survey (Exhibit F-1), application for building permit (Exhibit F-2) and stated the property is zoned industrially as well as all the property around the subject property. Mr. Johnsen indicated the proposed location for the telecommunications tower on his map and discussed the surrounding area with the Board. Mr. Johnsen stated that, in regard to the surrounding businesses and being in an IM district, this would be one of the locations where a telecommunications tower should be permitted by right and without height limitations. Mr. Johnsen stated that the proposed tower is a 150' monopole, gray color and no lights will be on this tower. Mr. Johnsen discussed the aerial photo with the Board.

Comments and Questions:

Mr. Looney asked the applicant if there were any other telecommunication towers in the area? He answered negatively.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a 150' monopole tower in an IM zoned district. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 4, Block 5, Cherokee Expwy Ind. Dist., Tulsa County, Oklahoma.

Case No. 1461

Action Requested:

Variance to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, located 6322 North 129th East Avenue.

Presentation:

The applicant, **Michael Freeman**, represented by Dick Goodwin, 6322 N. 129th East Avenue, submitted a plat of survey (Exhibit G-1) and an application for a building permit (Exhibit G-2). Mr. Goodwin stated he works out of town and his wife keeps their granddaughter while her parents are at work. He further stated he would like to move a 16' x 80' mobile home on the subject property for his daughter's family. He explained that the mobile home will be tied down, skirted and have utility hookups. Mr. Goodwin stated he has had a perc test done and a new septic system will be installed. He further stated he has already received approval from Rural Water District #3. He submitted photographs (Exhibit G-3) and stated there are other mobile homes in the area.

Comments and Questions:

Mr. Walker asked the applicant if there were other homes with two dwellings on their property? He answered affirmatively.

Mr. Looney asked the applicant who will be living in the mobile home? He stated his daughter and son-in-law will be living in the mobile home.

Mr. Looney asked the applicant if he lives in the home currently on the subject property? He answered affirmatively.

Mr. Tyndall asked the applicant if the lot is a large lot? He stated he owns 2 1/2 acres.

Mr. Alberty asked the applicant what the dimensions are from the creek bank to his property? Mr. Goodwin stated his property is about 60' from the water and it has never flooded his land. He further stated his side of the bank is high and the opposite side is low, which causes the water to flood the other side of the bank. He indicated he is not in the flood area.

Mr. Alberty asked the applicant if the floodplain is restricted to the creek bank? He answered affirmatively.

Protestants:

Aurthur Jenks stated he owns the 40 acres that abuts the applicant's property. He further stated he has a problem with the applicant splitting the land. He indicated that he called the Rural Water District #3 when he tried to develop a spot for his daughter and himself as well. Mr. Jenks stated he was only able to get one water meter and his neighbor, Mr. Carnegie received one water meter. He further stated he was told that there would not be any additional water meters released and he now has 40 acres of land with only one water meter. He explained that he was told if he wanted to do any

Case No. 1461 (continued)

development, he would have to drill a water well. He further explained there are already two mobile homes by his property that are using the same septic system which has a tendency to overflow into his pond. Mr. Jenks stated he did not have any problems with the applicant moving a trailer in for his family, but the problem is the water meter. Mr. Jenks questioned why he couldn't get three more meters for his land. He stated he has talked to the Rural Water District #3 and they told him that the applicant has not been given permission to receive another water meter. He further stated he is concerned about the septic system and does not want to see human waste come across his fence line where he is trying to raise cattle. He questioned if the applicant's perc test passed because there is a lot of limestone in the area. Mr. Jenks informed the Board that he had to go 600' for his land to pass the perc test.

Comments and Questions:

Mr. Alberty stated that with regard to whatever the Board decides today, it should be conditioned upon the water district approving a water meter and if he doesn't get the approval then he could not move the trailer on his land. He further stated the Health Department would have to approve the septic system and if it is not approved then the applicant could not live on the property. Mr. Alberty explained that typically the Board agrees to this type of application for the family members only and if the family member decides to move on then the applicant does not have another use.

Mr. Alberty explained to Mr. Jenks that the reason the applicant is here today is because he does not want to split his lot and would like to keep the land under one ownership. He further explained that this is considered a temporary kind of use, but the temporary use for a family member may be for 20 or 30 years.

Applicant's Rebuttal:

Mr. Freeman stated he has had a perc test performed and it has been approved.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Variance** to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, per plan submitted; subject to a building permit and Health Department approval; subject to tie downs and skirting; subject to water meter approval; subject to this family member only; finding that the property cannot be split and meet the requirements of the AG district; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Beginning 1429.1' S, NE/c, Sec. 5, T-20-N, R-14-E, I.B.M., Tulsa County, Oklahoma, according to the U.S. Government survey thereof; thence S 297'; thence W 366.76'; thence N 297'; thence E 366.76' to POB.

Case No. 1462

Action Requested:

Special Exception to permit expansion of an existing bar in an IM zoned district.

SECTION 910. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 19a, located 6528 South Charles Page Boulevard.

Presentation:

The applicant, **Mitchell D. O'Donnell**, no address given, representing Phyllis Mann, submitted a plot plan (Exhibit H-1), site plan (Exhibit H-2) and an application for a building permit (Exhibit H-3). Mr. O'Donnell stated Ms. Mann owns a bar in a strip shopping center located on the subject property. He further stated that there is one other business located in the strip shopping center. Mr. O'Donnell explained that Ms. Mann's bar was originally constructed with a notch out of the corner of it, which was originally a beauty shop. He stated the subject property currently has 1,439 SF and the area requested will add 191.5 SF. He further stated the additional space will be convenient for Ms. Mann because it will allow her to increase the size of her storage facility and customer seating. He indicated that there are 63 parking spaces available in the strip shopping center. He further indicated that there is one other business in the shopping center, but the rest is vacant and has been vacant for a long time. He commented the owner of the shopping center doesn't seem inclined to rent the rest of the space available. He explained that on the south side of the property there were some mobile homes, however they have been moved out. He further explained that across from Charles Page Boulevard is a railroad and to the west is the levy. He stated the uses in the area have remained consistent and he does not see any future development or changes in the businesses. He commented he did not think that approval of this special exception will violate the spirit and harmony of the Code. He further commented the additional space will benefit Ms. Mann as well as the landlord of the subject property. He requested the approval of the special exception to allow Ms. Mann to increase the size of the bar.

Comments and Questions:

Mr. Alberty stated he noticed that there are seven addresses. Mr. Alberty asked the applicant how many occupants are in the shopping center? Mr. O'Donnell stated there are only two occupants. He indicated the space west of Ms. Mann is occupied by another bar.

Mr. Looney asked the applicant if the bar would end up with 1750 SF? He answered affirmatively.

Mr. Looney asked the applicant if there was enough parking available? He answered affirmatively.

Case No. 1462 (continued)

Mr. Walker stated he is familiar with the area and it has supported at least one bar in the area for a long time. He further stated the subject property used to be a thriving shopping center, but the area seems to be in a transition. He commented he did not see any future retail activity moving into the area, other than a bar.

Mr. Alberty stated the applicant is asking for a small area to be converted and the use is already there.

Board Action:

On **MOTION of LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit expansion of an existing bar in an IM zoned district. **SECTION 910. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 19a; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

N 200', NE, NE, lying S of US Hwy 64, LESS W 569.11' & LESS TR Beginning 279.73' S & 26.46' SW; NE/c, NE; thence SW along SL HWY 211.05'; thence SE 174.83', NE 59.55', E 81.06' to a Point, 24.75' W, EL, NE; thence N 215.81' to POB, Sec. 7, T-19-N, R-12-E, Tulsa County, Oklahoma

Case No. 1463

Action Requested:


Variance of the minimum lot width from 200' to 109.56' in an AG district. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 3, located 1/4 mile west of Peoria, North side of 91st Street.

Presentation:

The applicant, **Jean Little/Frisco Title Corp.**, was stricken due to the fact that the subject property is in the City limits of Tulsa, Oklahoma and will need to go before the City Board of Adjustment.

There being no further business, the meeting was adjourned at 3:20 p.m.

Date approved: 11-19-96


Chair