



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

December 18, 2002

2M Construction
%Mark O Marlow
8900 Woodcrest Circle
Wichita, KS 67206

RE: BZA 2002-00069 – Appeal of an administrative interpretation by the Zoning Administrator dated October 29, 2002, regarding denial of a building permit for a proposed 115-foot high Gump Monument Pillar on the basis that it is a wireless communication facility and requires approval of a Conditional Use.

Dear Ladies and Gentlemen:

The above-referenced appeal was heard by the Board of Zoning Appeal on Tuesday, December 17, 2002. The official action of the Board was to uphold the interpretation of the Zoning Administrator. Enclosed is an official Resolution and findings for the decision. Unless this action is appealed to District Court within 30 days of the hearing, the action of the BZA will be considered final.

If you have any questions concerning this matter, please contact our office at 268-4421.

Sincerely,

Scott Knebel
BZA Assistant Secretary

SK/rs

Cc: Ferris Consulting, %Greg Ferris, P O Box 573, Wichita, KS 67201
Property Owners and All Interested Parties
Donte Martin, Neighborhood Asst., District II, Mail Stop 1-13
Joe Pisciotte, City Council, District II, Mail Stop 1-13
Kurt Schroeder, OCI, Mail Stop 1-72
J. R. Cox, OCI, Mail Stop 1-72

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichitagov.org

Paul Hays, OCI, Mail Stop 1-72

Randy Sparkman, OCI, Mail Stop 1-72

Kurt Schroeder, OCI, Mail Stop 1-72

Joe Lang, First Assistant, City Attorney, Mail Stop 1-132

Sharon Dickgrafe, Assistant, City Attorney, Mail Stop 1-132

BZA RESOLUTION NO. 2002-00069

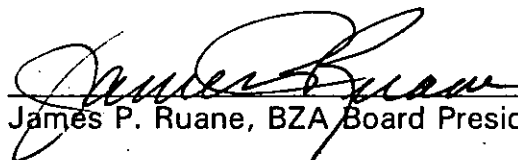
**RESOLUTION TO AFFIRM THE DECISION OF THE
ZONING ADMINISTRATOR**

HAVING CONSIDERED THE ENTIRE RECORD REGARDING THIS MATTER AND HAVING HEARD THE EVIDENCE AS PRESENTED TO THE BOARD HERE TODAY, THE BOARD MAKES THE FOLLOWING FINDINGS:

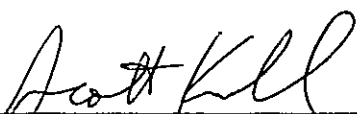
1. That the Board of Zoning Appeals has jurisdiction to hear this appeal, pursuant to K.S.A. 12-759(d) and Section 2.12.590 of the Code of the City of Wichita Kansas;
2. That the Board makes the following findings of fact:
 - a) The Zoning Administrator, pursuant to Article V, Sec. H-1 of the Wichita-Sedgwick County Zoning Code, had the authority to make the written interpretation issued on October 29, 2002.
 - b) Based on the testimony presented, documents filed by the applicant in CON 2002-38 and CON 2002-50, the proposed structure is an attempt to circumvent the Unified Zoning Codes requirement that a conditional use be granted for wireless communication facilities.
 - c) The proposed structure is most analogous to a wireless communication facility, as defined by Art. II, Sec. II-B (14)(g) of the Unified Zoning Code.
 - d) The interpretation made by Kurt Schroeder was supported by the language and definitions contained in the Unified Zoning Code.
3. The Board further finds that the interpretation of the Zoning Administrator, as set forth in his letter on October 29, 2002 was reasonable and is supported by evidence presented at this hearing.
4. The Board further finds that the appellant has not met its burden of proof to show that the interpretation was in error.

THEREFORE, BASED UPON THE FOREGOING, THE BOARD RESOLVES THAT THE INTERPRETATION OF THE ZONING ADMINISTRATOR HEREIN BE AFFIRMED.

ADOPTED AT WICHITA, KANSAS, this 17TH DAY of DECEMBER, 2002.


James P. Ruane, BZA Board President

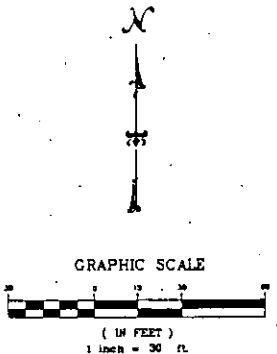
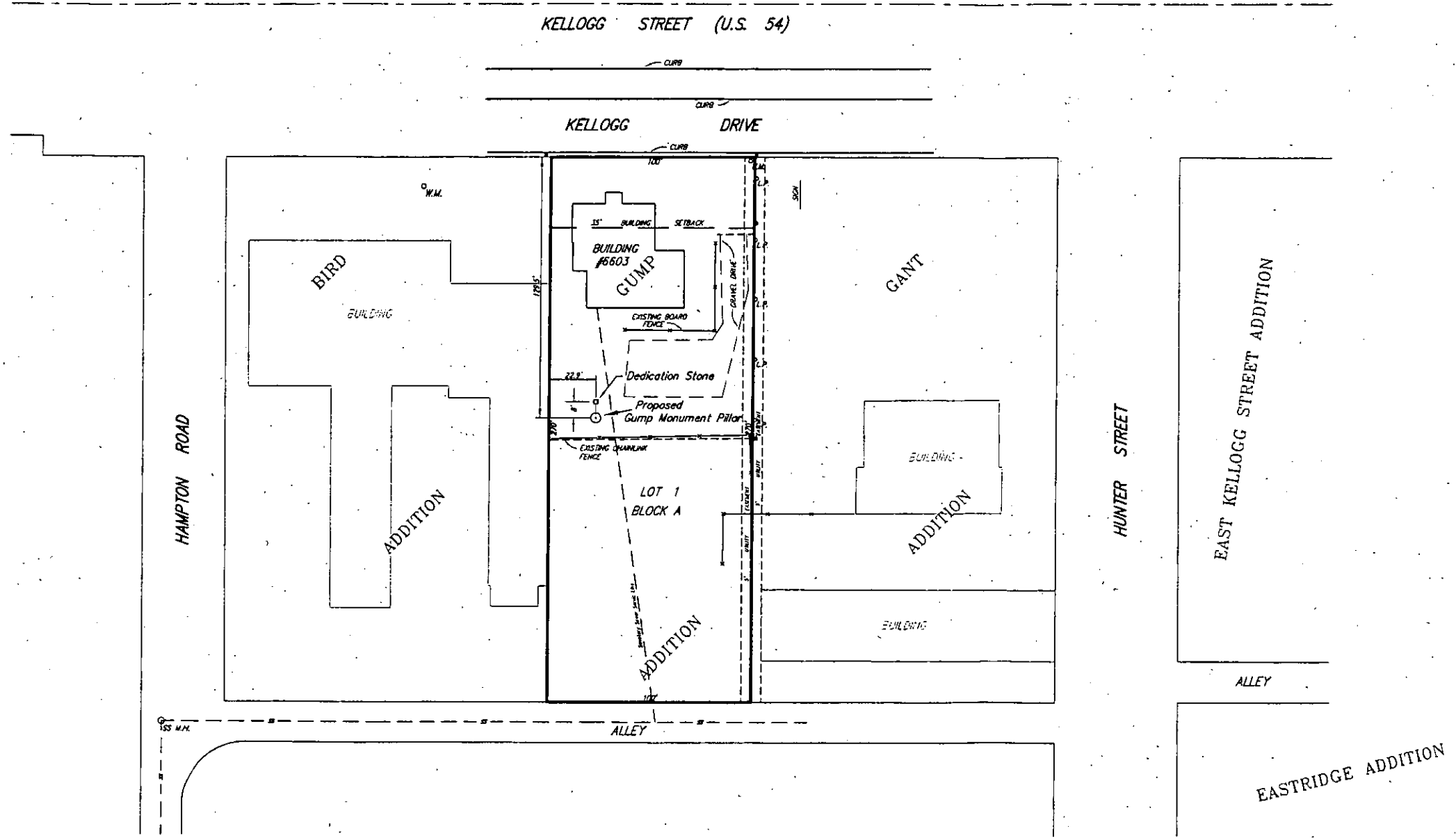
ATTEST:


Scott Knebel, BZA Secretary

SITE PLAN GUMP MONUMENT PILLAR

6603 E. KELLOGG
WICHITA, KANSAS

PROPERTY DESCRIPTION:
Lot 1, Block A, Gump Addition to Wichita, Sedgwick County, Kansas.



- LEGEND
- SS = SANITARY SEWER
 - ° L.P. = LIGHT POLE
 - = POWER POLE
 - ° W.M. = WATER METER
 - ° SS W.M. = SANITARY SEWER MANHOLE

