



CITY OF
TOPEKA

A G E N D A

BOARD OF ZONING APPEALS

Monday, May 13, 2024
5:30 P.M.

Holliday Building
620 SE Madison, 1st Floor Holliday Conference Room

MEMBERS OF THE BOARD

Tim Carkhuff (Chair)
Walter Schoemaker (Vice Chair)
Toni Beck
Carole Jordan
Laurie Niehaus

-
- The Topeka Board of Zoning Appeals holds a public hearing on the second Monday of each month to consider certain appeals, variances, and exceptions as may be granted by the Comprehensive Zoning Regulations of the City of Topeka, Kansas.
 - The following agenda identifies and describes each proposal to be considered by the Board.
 - Each item to be considered by the Board will be introduced by the Planning Department Staff. The Board will then hear and consider arguments both for and against each proposal.
 - Individuals wishing to address the Board are requested to state their name and address for the official hearing record.
 - Motions on all matters, which require a decision by the Board, are made in the affirmative. On a roll call vote, Board members then vote yes, no, or abstain based on the affirmative motion.
 - Any person, official or government agency dissatisfied with any order or determination of the Board may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the Board.



ADA Notice: For special accommodations for this event, please contact the Planning Division at 785-368-3728 at least three working days in advance.



CITY OF
TOPEKA

BOARD OF ZONING APPEALS

Agenda for Monday, May 13, 2024

- A. Call to Order
- B. Approval of Minutes from March 11, 2024
- C. Declaration of Ex Parte Communications
- D. **BZA24V/01 by Metropolitan Topeka Airport Authority** requesting a variance to the fence standards of section 18.210.040(a) of the Topeka zoning regulations for the installation of a fence exceeding four (4) feet in height beyond the front face of a principal structure at the Phillip Billard Municipal Airport at 3500 NE Sardou Avenue. The fence is located along NE Strait Avenue north of the National Weather Service office.
- E. Communications
- F. Adjournment



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CITY OF TOPEKA
BOARD OF ZONING APPEALS



MINUTES

Monday, March 11, 2024

Members present: Toni Beck, Tim Carkhuff, Carole Jordan, Laurie Niehaus, Walter Schoemaker (5)

Members Absent: (0)

Staff Present: Rhiannon Friedman, Planning and Development Director; Michael Hall, Land Use Planning Manager; Matthew Mullen, Deputy City Attorney; Amanda Tituana-Feijoo, Administrative Officer

Call to Order

The meeting was called to order by Mr. Tim Carkhuff at 5:32pm. Roll was taken with 5 members present for a quorum.

Approval of Minutes from November 14, 2022

Motion by Ms. Jordan to approve, **second** by Ms. Beck. **APPROVAL 5-0-0**

Election of 2024 Officers

Nomination of Tim Carkhuff as 2024 Chair

Nomination of Walter Schoemaker as 2024 Vice Chair

Motioned by Mr. Carkhuff and **Seconded** by Ms. Jordan. **Approval 5-0-0**

Mr. Carkhuff asked if there were any changes to any laws. Mr. Hall stated that Short Term Rentals are now allowed but they require a permit now. Over a hundred permits have been issued within the past two years. Mr. Carkhuff asked if the permit needs to be renewed, and Mr. Hall confirmed that every two years they need to be renewed. There are three different types of short-term rentals: I (operator stays in the unit), II (owner is not there), and III (bed- breakfast style with more sleeping rooms). Mr. Hall stated that there is a 500-foot separation rule for Type II permits.

Ms. Beck asked what was considered "short-term"? Mr. Hall stated that with a short-term rental, rooms are rented to transient guests, meaning someone residing for no more than 28 consecutive days. If a proposed short-term rental does not meet standards, then that person can apply for a conditional use permit. Ms. Beck asked if there was a limit for parking spaces. Mr. Hall stated that there is a requirement for parking stalls.

Mr. Hall also stated that there were some changes to the sign code in 2019. These changes reflect the Supreme Court Decision, Reed v. Town of Gilbert, Arizona. The outcome stated that the regulations of signs must be content neutral.

Mr. Hall acknowledged that the city is looking at allowing Accessory Dwelling Units with standards.

With nothing more on the agenda, the meeting was adjourned at 5:43pm

**VARIANCE EVALUATION
CITY OF TOPEKA PLANNING DEPARTMENT
FOR
TOPEKA BOARD OF ZONING APPEALS**

Case No.: BZA24V/01

Date of BZA Meeting: May 13, 2024

Applicant Name: Metropolitan Topeka Airport Authority (MTAA)

Address of Property: 3500 NE Sardou Avenue

Parcel ID No.: 1052203001004000 & 1082701001001000

Zoning of Property: "R-1" Single Family Dwelling District;
Airport Operates by Special Permit SP81/21

Regulations from which a Variance is Requested: The applicant is requesting variance to the maximum 4' fence height allowed beyond the front face of a principal structure as restricted by section 18.210.040(a)(3) of the Topeka zoning regulations. Approval of the requested variance will allow the owner to retain an existing 9' high fence (8' high chain link plus barbed wire for total height of 9 feet) at the east side of NE Strait Avenue and north of the National Weather Service Weather Forecast Office.

Section 18.210.040 (Fence Regulations) is included below in its entirety.

Actions by Applicant and City of Topeka: MTAA installed the fence without a fence permit. The Planning & Development Director received complaints about the fence. After being notified by City staff, MTAA applied for a fence permit and that permit request was denied because it does not comply with the fence regulations.

A variance is required for that part of the fence closer to NE Strait Avenue than the face of the National Weather Service Office building. The face of the building is roughly 85 feet east of the west property line on the east side of Strait Avenue.

Pursuant to paragraph (d)(2) of the fence regulations, the Planning & Development Director has approved the height of the 9' high fence, which exceeds the maximum height of 8 feet. Per the attached letter, a height exceeding 8 feet is deemed necessary for public health and safety based on the attached documentation provided by MTAA (*Wildlife Hazard Assessment* and *Federal Aviation Administration National Part 139 Cert Alert*). The director's approval does not replace the need for a variance for any part of the fence higher than 4 feet located between the National Weather Service building and the west property line.

Barbed wire constitutes a potential hazard. Following typical procedure for barbed wire fences, the proposed fence will require a Contract Fence Agreement between the applicant and City.

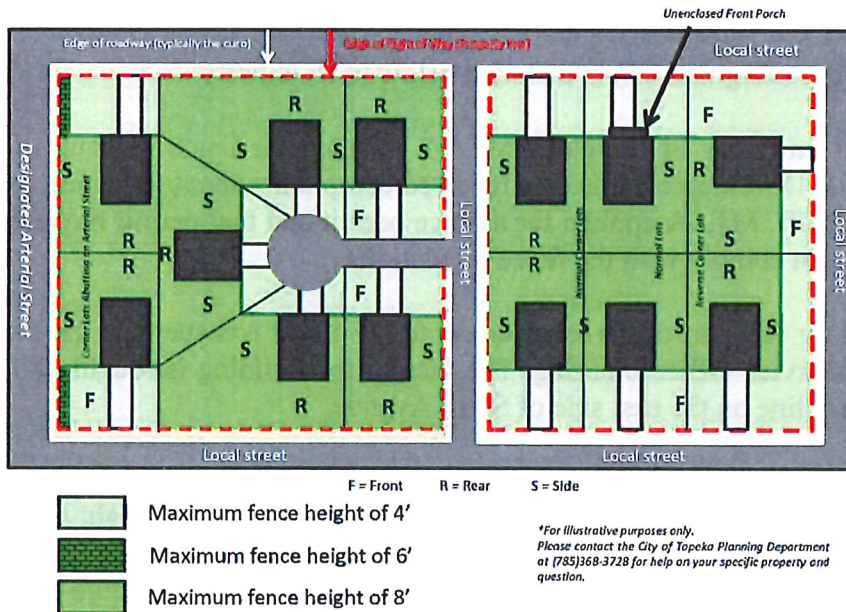
Fence Regulations:

18.210.040 Fences

(a) *Location and Height.* Fences and hedges shall be subject to the following location and height requirements:

- (1) Except as provided in subsection (d) of this section, no portion of a fence shall exceed eight feet in height.
- (2) Fences and hedges shall be located so no part thereof extends into public right-of-way or is located closer than one foot from a public sidewalk.
- (3) In R and M districts, fences beyond the front face of the principal structure shall not exceed four feet in height. On corner lots, but not including reversed corner lots, fences beyond the front face of the principal structure where the fence is located along an arterial street that runs perpendicular to the corner lot's established rear yard shall not exceed six feet in height. On reversed corner lots, fence heights shall be limited to four feet within all required front yards. On double frontage lots, fence heights shall be limited to four feet where such lots abut the established minimum front yard of any adjoining lot. The following diagram illustrates the setback requirements established in this section:

Fence Height Limit Diagram* (for "R" and "M" zoning districts)



(b) *Hazards.* Notwithstanding subsection (a) of this section, no fence shall be constructed:

- (1) Upon determination by the City Engineer that the proposed fence constitutes a traffic hazard;
 - (2) The location of the fence creates a sight obstruction, such as within a sight distance triangle, as prohibited by Chapter [12.20](#) TMC, Public Traffic Hazards; or
 - (3) In such a manner or design as to be hazardous or dangerous to persons or animals.
- (c) *Construction Methods and Materials.* Fences in all districts shall be constructed of normally used fencing materials such as chain link, wood slats, masonry, iron, vinyl, or other materials typically supplied by vendors of fencing materials. The finished side of the fence shall face the street.
- (d) The following shall constitute exceptions to the requirements of subsection [\(a\)\(1\)](#) of this section:
- (1) Fences located in or upon parks and/or recreational facilities; provided, however, this exception shall not apply to recreational facilities which are accessory to a single-family dwelling.
 - (2) Fences located in or upon public use facilities or public utility facilities, such as electrical substations or pumping stations, shall be limited to eight feet in height unless the Planning Director determines that additional height, not to exceed 10 feet, is necessary for public health and safety.
- (e) Fences in X districts shall comply with TMC [18.185.070](#). (Ord. 20062 § 33, 4-18-17.)

Project and Property Data:

| | |
|---|--|
| Proposed Fence: | 8' high chain link with 3-strand barbed wire outriggers for total of 9'. Fence runs for a length of 3,375 feet, including 1,380 feet along the east side of NE Strait Avenue and approximately 85 feet in a west to easterly direction from Strait Avenue to the plane of the front face of the National Weather Service building. |
| Property Size: | 649 acres including all contiguous parcels. |
| Existing Land Use and Property Characteristics: | Phillip Billard Municipal Airport including Ancillary Facilities. That part of the fence to which the variance request applies encloses the northwest end of the airport runway and open space adjacent to the runway. |

Zoning and
Land Uses

adjacent to the fence:

Land on the west side of NE Strait Avenue is zoned R-1 Single Family Dwelling District and most of it is occupied by single family homes.

Applicant's Stated Grounds for Variances

In the Attachment to the Application, the applicant has provided a written explanation to address the five required findings. The applicant's stated grounds are considered and in some cases incorporated into the following Analysis and Findings.

Analysis and Findings:

Pursuant to K.S.A. 12-759, and as set forth in TMC 2.220.110, the Board of Zoning Appeals shall find that **all** of the following conditions are met before a variance may be granted.

- a. **That the variance request arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by action of the property owner or applicant;**

The variance request is based on unique conditions not ordinarily found on property with the same R-1 single family residential zoning. The size of the property and land use are unique among land in Topeka with R-1 zoning.

There is no zoning classification in Topeka's zoning regulations in which an airport is permitted by right. An airport requires a conditional use permit in any of the single family residential districts (R-1, R-2, and R-3), the Residential Reserve district (RR-1), and in the Light Industrial district (I-1).¹ An airport is a prohibited use in all other districts. Therefore, rezoning the property is not an effective remedy for the non-compliant fence and would give rise to concerns about incompatible land uses.

Phillip Billard Airport is the only public or private airport in the City's residential zoning districts and within Topeka city limits.² An airport has needs for land and land uses that are unusual in residentially zoned areas. Like other airports, the Billard Airport needs a large runway and large buildings that require much land. There is a particular need to keep people and animals off of the runway using fencing and other measures as advised by the Federal Aviation Administration (FAA).

The Billard Airport occupies over 600 acres of land. The residential land use and development for which the fence regulations are primarily intended are on parcels of land less than one acre, with most residential lots in the adjacent Oakland neighborhood being one quarter acre or less.

¹ Phillip Billard Airport is operating by a special permit SP81/21.

² Forbes Field, Topeka's Regional Airport, is outside of city limits and adjacent to an industrial area.

b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residences;

The fence for which the variance is requested has been built, although the City has not approved MTAA's request for a fence permit. Neighboring property owners consider themselves adversely affected by the fence's appearance as indicated by the complaints Planning staff have received about the fence.

The fence is constructed of chain link with three strands of barbed wire on the top for a total height of 9 feet. The fence is installed at the property line along the east side of NE Strait Avenue and so is conspicuously visible to those residents on the west side of Strait Avenue north of the National Weather Service facility.

The stark, utilitarian appearance of the fence can be seen as a detriment to the character of the adjacent residential area. Such a fence would detract from the character of other residential neighborhoods. MTAA's contention that "the fence creates a more modern professional context for Billard Airport and its business partners that can only serve to augment the value of surrounding properties" is questionable. However, the residents and owners on the west side of Strait Avenue are located across the street from the end of the airport runway where the installation of a fence of this or a similar type should be expected.

As MTAA explains in their variance application, moving the entire fence along Strait Avenue further east will encroach on a restricted area which FAA dictates be void of any structures. As a condition of the requested variance, MTAA offers to relocate the south 490-500 feet of the fence along Strait Avenue further east away from the property line so that most of the fence will be out of the required setback. The proposed relocation of the fence is depicted on page 4 of the attachment to the application. MTAA's proposed relocation of the fence will substantially reduce the fence's negative impact.

c. That the strict application of the provisions of this chapter of which the variance is requested will constitute an unnecessary hardship upon the property owner represented in the application;

Denial of the variance will result in an unnecessary hardship to the MTAA as it will impede what is necessary for the airport to thrive. MTAA supports this finding with the following statement in their application.

"The federally mandated airport guidelines which establish Billard's Building Restriction Line were adopted to promote the safety of pilots, passengers, property and bystanders. It cannot be gainsaid that an aviation accident resulting from failure to observe the Building Restriction Line would constitute a hardship for every stakeholder involved."

“Even absent the risk of such a dire outcome, the consequences of violating FAA rules and guidelines (costly regulatory proceedings, potential litigation, threatened loss of future federal grant funding) are hardship enough to justify the requested departure from strict application of the City’s code.”

Requiring the airport to meet the height and setback regulations of the fence regulations for that length of fence along the Building Restriction Line will conflict with FAA guidelines and thwart MTAA from fulfilling its duty to the citizens of Topeka and Shawnee County.

- d. **That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;**

The fence for which the variance is being sought will enhance the safety of airport users, MTAA’s business tenants, and the public. The fence enables MTAA to manage activities on airport property in an orderly and effective manner, improving the quality of the airport for airport users and the general public. Enhancing the safety and economic development potential of Billard Airport is in the interest of the citizens of Topeka and Shawnee County. Approving the requested variance on the condition that part of the fence be shifted to the east, as proposed by the applicant, allows MTAA to comply with FAA guidelines while reducing much of the negative aesthetic impact of the fence.

- e. **That granting the variance desired will not be opposed to the general spirit and intent of this chapter.**

The requested variance applies to section 18.210.040(a)(3) of the Development Code, which regulates fences only in predominantly single family residential districts (“R” districts) and multiple family residential districts (“M” districts). The restriction in this section limiting fence height to 4 feet between the face of the building and street acts to preserve the physical character, quality of life, and property values in residential neighborhoods. In most residential neighborhoods, buildings are set back 20 to 30 feet from street right-of-way. The conditions and circumstances of Billard Airport are vastly different from typical conditions under “R” and “M” zoning. Strict application of fence standards for Billard Airport would require the fence along Strait Avenue to either be reduced to a height of 4 feet or set back 80 feet or more from the east side of Strait Avenue.

Planning Staff Recommendation

Based on the above findings staff recommend the Board of Zoning Appeals **APPROVE** the variance as requested subject to the following conditions.

Conditions of Variance Approval

1. Fence shall be constructed as described in MTAA's application received April 2, 2024. MTAA shall relocate part of the fence as described on page 4 of the Attachment to MTAA's application.
2. Variations to that which is described in the application will be permitted if variation is limited to reduction in fence height, removal of a part or all of the barbed wire, or a reduction in the length of the fence.
3. MTAA shall obtain a permit for the fence.

Staff Report by: Mike Hall, AICP, Land Use Planning Manager

Exhibits:

1. Variance Application
2. Aerial Vicinity Map
3. Zoning Map
4. Letter, Height Determination by Planning & Development Director, April 15, 2024
5. Exhibit: Photographs by Staff of Fence in Context
6. Comment & Response, Elissa Wurtz
7. Property Owner Notice and Map of Owners Notified



APPLICATION TO THE BOARD OF ZONING APPEALS VARIANCE / EXCEPTION

CITY OF TOPEKA PLANNING DIVISION
620 SE MADISON, 3RD FLOOR (UNIT #11) | TOPEKA, KS 66607-1118
PHONE 785.368.3728 | EMAIL: PLANNING@TOPEKA.ORG

Applicant Information

Name: Metropolitan Topeka Airport Authority
Address: 6510 SE Forbes Ave., Ste. 1, Topeka, KS 66619
Phone: 785-862-2362 Email: ejohnson@mtaa-topeka.org

For Planning &
Development
Use Only

Case #

Hearing Date:

Property Information

Location of property: Phillip Billard Airport, Topeka, Kansas

Legal description of property: (attach additional sheets if necessary)

BILLARD AIRPORT SUB, S27, T11, R16, BLOCK A, Lot 1, ACRES 569.76, LT 1 BLK A BILLARD AIRPORT SUB IN SEC 27 & PRT SW 1/4 SD SEC BEG 407 N & 250 E SW COR SW 1/4 TH N 105(S) NELY 170(S) NELY 323.15 NE 79.21 SE 237.78 SELY 154.75 S 106.62 SELY 129.76 SW 40 NWLY 96.96 NWLY 231.79 NWLY 128.2 W 95.9 S 260.88 SWLY 291.57 TO POB ALSO, THE S 30' OF W 1000' OF VACATED BELMONT ST IN SEC 27, ALSO SEWARD LOT 1 GASSETT SUB LESS ROW & LESS 24 (M/L) AC FOR KS HWY PATROL (PARCEL 1.01)

Legal Ad Date:

Zoning District:

Action Sought:

A variance from a provision of the Zoning Ordinance
(Section to be appealed: 18-210-040)

An exception from a provision of the Zoning Ordinance
(Section to be appealed: _____)

Description of Action Sought:
See attached

Building Height:

Number of Stories:

Parcel Size:

Lot Dimensions:

Applicant offers the following as grounds for this action:

In accordance with Section 2.45.110 of the Topeka Municipal Code, the Board of Zoning Appeals must determine that ALL of the following conditions governing unnecessary hardship have been met before a variance may be granted.

All items must be addressed or the application will be deemed incomplete.

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action of the property owner or applicant (*The problem must relate to the land. Community needs or personal hardships do not qualify as legitimate grounds for issuing a variance.*);
See attached

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
See attached

3. That the strict application of the provisions of this chapter of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
See attached

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, property, or general welfare;
See attached

5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.
See attached


Authorization

Property Owner(s):

I/We the undersigned owner(s) of record hereby authorize the filing of this application and declare that all required materials are submitted along with this application and that the information and material is complete and accurate. I/We hereby acknowledge that all appropriate procedures, policies, and regulations have been reviewed and also understood that this application will be processed in sequence with respect to other submittals.

Eric M. Johnson, President and Director of Airports

Owner Name (print)



Owner Signature

Owner Name (print)

Owner Signature

Owner Name (print)

Owner Signature

Authorized Agent:

If the owner(s) of record are to be represented by legal counsel or an authorized agent, please complete the following information so that communications and correspondence pertaining to this application may be forwarded to such individual.

Authorized Agent Name (print)

Signature – Authorized Agent

Mailing Address: _____
STREET ADDRESS CITY STATE ZIP

Phone: 785-862-2362

Email: _____

Applicant:

Metropolitan Topeka Airport Authority

Applicant Name (print)



Applicant Signature



Attachment to APPLICATION TO THE BOARD OF ZONING APPEALS for a VARIANCE

Description of Action Sought:

The Metropolitan Topeka Airport Authority (“MTAA”) respectfully requests a variance in the application of Municipal Code Section 18.210.040 (a)(1) to permit location of a fence greater than 4 feet in height along approximately 630 feet of its property line on NE Strait Ave. between NE Riverside Ave. and NE Center Ave.¹

Applicant offers the following as grounds for this action:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action of the property owner or applicant (The problem must relate to the land. Community needs or personal hardships do not qualify as legitimate grounds for issuing a variance.);

Philip Billard airport is a general aviation airport under the jurisdiction of the MTAA and subject to regulation by the Federal Aviation Administration. Perhaps one of Billard’s more unique features is that it is zoned Residential. This is presumably a historical oversight which the MTAA intends to rectify through a rezoning request. Until then, insofar as the City’s fencing regulations for residential properties apply, the airport seeks a variance.²

Among the MTAA’s chief duties is ensuring its runways and taxiways are kept clear and safe for aviators and bystanders on the ground. Because the potential for aircraft-wildlife interface presents a grave, often life-threatening, risk to pilots and passengers, a key FAA priority is deterring wildlife from airport operations areas. In 2016-17, a Wildlife Hazard Assessment of Philip Billard Airport found that the existing fencing was not sufficient to deter animals or humans from entering the air operations area.³

The MTAA was instructed to investigate installing a perimeter fence around the airfield in accordance with applicable FAA guidelines.⁴ Those guidelines recommend a 10-foot fence with 3-strand barbed wire outriggers. For some airports, like Billard, an 8-foot fence with 3-strand barbed-wire outriggers is probably sufficient to deter deer and other wildlife from entering the airfield.

¹ The MTAA simultaneously requests the City Planning and Development Director determine, pursuant to section (d)(2), that the proposed fence height of 9 feet is necessary for public health and safety.

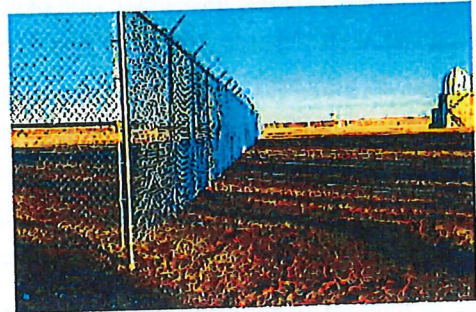
² The MTAA does not concede the applicability of the municipal code to airport operations or the relative precedence to be accorded local codes and federal regulations. Such questions need not be taken up here because the purposes of the code and the MTAA’s needs can both be met by the granting of the variance.

³ See Wildlife Hazard Assessment, excerpts attached.

⁴ See FAA CertAlert No.16-03 attached.

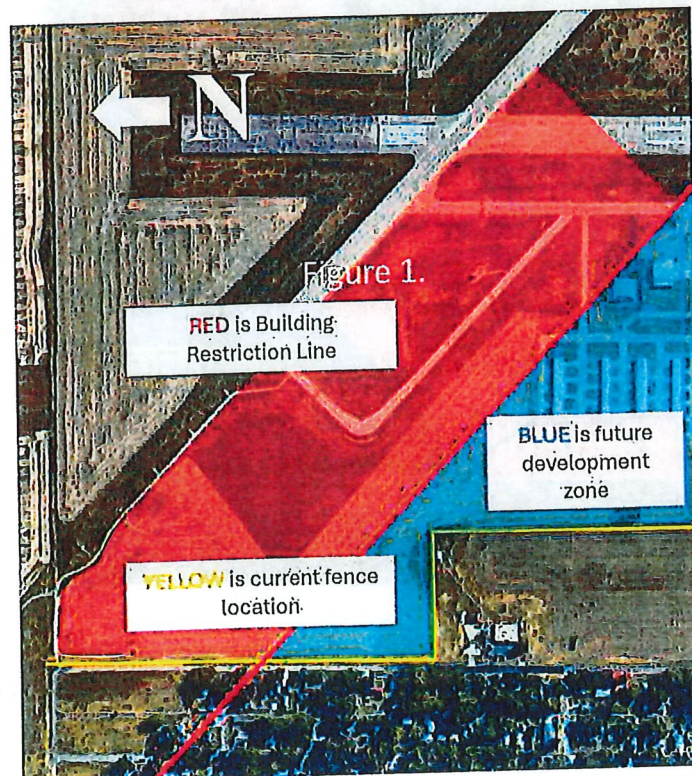
Attachment to MTAA Variance Application

On the basis of this recommendation, the MTAA planned and budgeted for the installation of an 8-foot fence with 3-strands of barbed wire on top; a total fence height of 9 feet. The fence will eventually



encompass the entire airport. The fence project will take place in phases. The first phase is the subject of this application: that portion of the fence commencing at the entrance to Billard's t-hangar complex and winding north to the southeast corner of NE Strait Avenue and NE Center Avenue.

Figure 1 depicts the current fence location in Yellow.⁵ This layout was chosen because it satisfies the recommendations of the Wildlife Hazard Assessment and also advances the MTAA's development



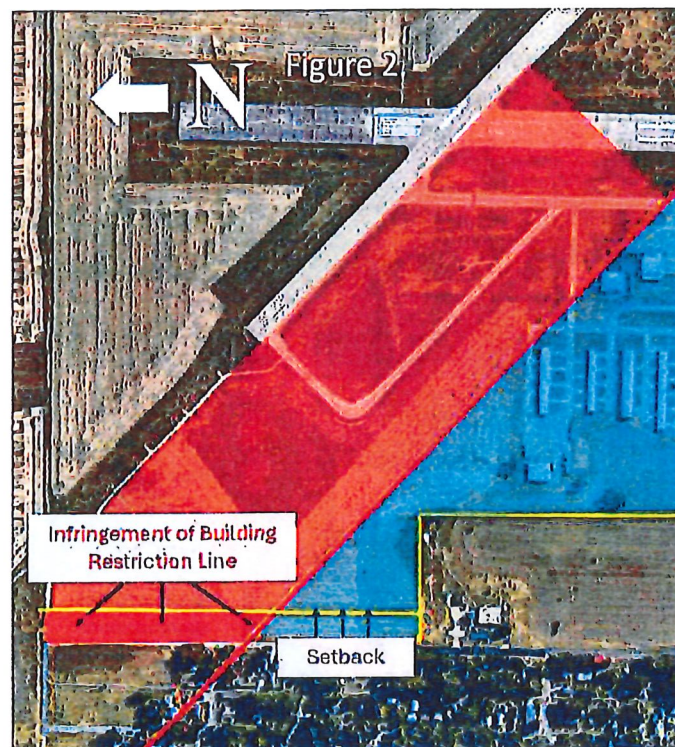
⁵ The diagrams shown here have been simplified to convey key information. More detailed schematics are attached.

Attachment to MTAA Variance Application

objectives by encompassing a large area, shaded in Blue, attractive to high-tech firms that rely on a secure operating environment. Importantly, running the fence along NE Strait Avenue avoids infringement of the Building Restriction Line beyond which the FAA prohibits construction of any structure which is not “fixed by function” (i.e. the FAA has determined the structure must be located there to serve its purpose).

Section 18.210.040 (a)(3) of the City code would seem to require the fence be set back so it is even with the front face of a principal structure on the Billard property. Application of this residential concept to an airport is challenging. Whether the “principal structure” is the National Weather Service building or the small FAA facility to the north, the fence apparently needs to be moved eastward at least forty feet.

However, as Figure 2 makes clear, moving the entire fence eastward to accommodate this setback requirement would place the northern portion of the fence within the restricted area in violation of the airport’s FAA-approved layout plan.



In a good faith attempt to meet the spirit of the City’s fencing code while remaining compliant with federally imposed requirements, the MTAA proposes to move a portion of the fence and seek a variance for the remainder.

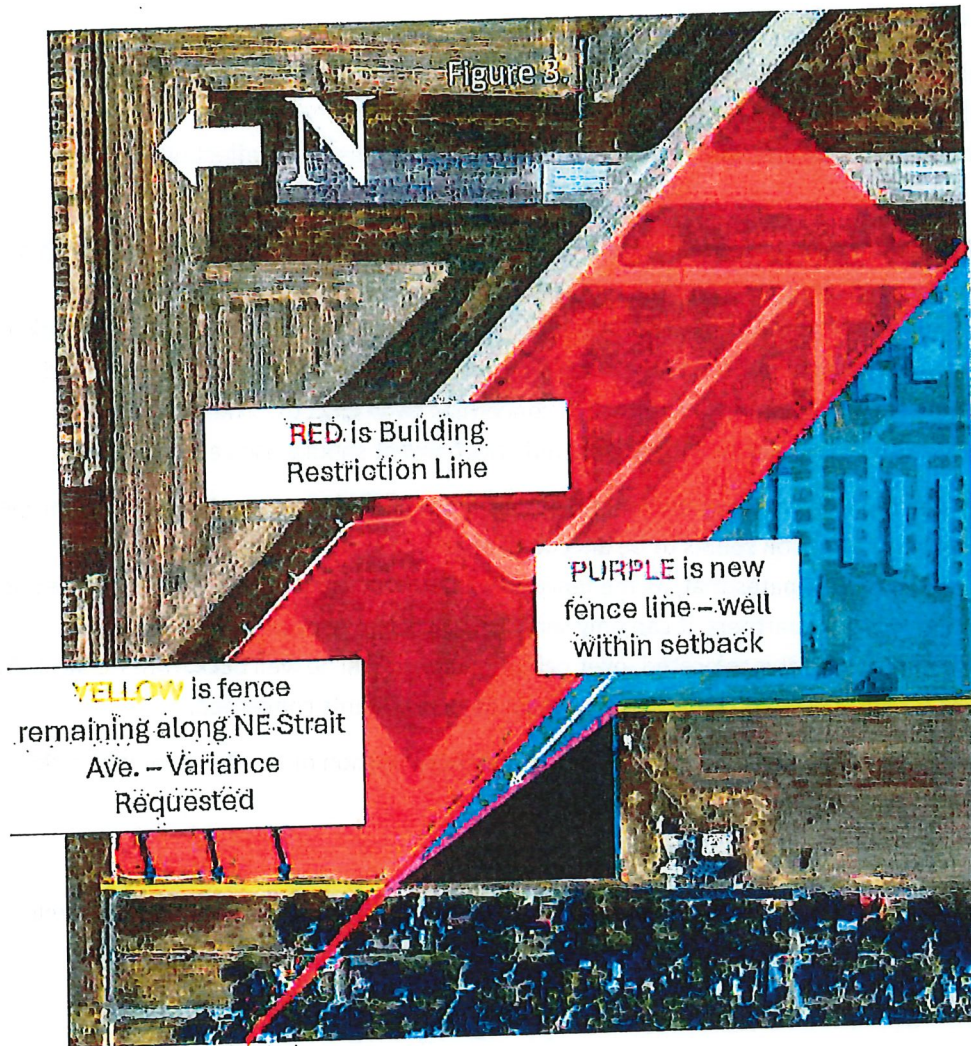


Figure 3 depicts the MTAA's proposal to relocate that portion of the fence south of NE Riverside Ave. eastward so that it extends from the existing fence at an angle until it intersects the airport's Building Restriction Line at NE Strait Ave. The fence then runs north along NE Strait Ave. to NE Center Ave. Thus, roughly 775 feet of the fence which currently runs along NE Strait Ave. would be moved back from the street, leaving approximately 630 feet of fence along the northern portion of NE Strait Ave. This is the portion for which the variance is sought.⁶

⁶ The variance would also pertain to the small stretch of fence angling in from the south from the point at which it crosses the asserted setback line to its intersection with NE Strait Ave.

Attachment to MTAA Variance Application

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

The MTAA is well-aware of the concerns expressed by some local residents who can see the fence directly across the street from their homes on the west side of NE Strait Ave. They are to be congratulated for the effectiveness with which they engage in public discourse affecting their neighborhood.

Without conceding that homeowners on the other side of the street are “adjacent” to Billard or that the fence has any impact on their property rights, as distinct from their undeniable right to be heard pursuant to due process, the MTAA does acknowledge those residents’ concerns and does not seek to dismiss them in any way. By the same token, the MTAA would submit that the safety of pilots and passengers utilizing Billard must surely be at least as concerning to all citizens. The potential for attracting new high-tech businesses to Billard’s secured environment should also carry weight.

Some have suggested the installation of the fence will have a depressing impact on surrounding property values. Evidence for this assertion seems to be anecdotal at best. Far from causing blight in the neighborhood, the MTAA anticipates that, as the fence creates a more modern professional context for Billard airport and its business partners, it can only serve to augment the value of surrounding properties. Furthermore, once it is relocated, over half of the fence will be well back from NE Strait Ave., greatly diminishing whatever impact it may have on most of the residents concerned.

On balance, the MTAA contends that the benefits of the northern portion of the fence for which the variance is sought outweigh its aesthetic drawbacks.

3. That the strict application of the provisions of this chapter of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

Safety Considerations

The federally mandated airport guidelines which establish Billard’s Building Restriction Line were adopted to promote the safety of pilots, passengers, property and bystanders. It cannot be gainsaid that an aviation accident resulting from failure to observe the Building Restriction Line would constitute a hardship for every stakeholder involved.

Even absent the risk of such a dire outcome, the consequences of violating FAA rules and guidelines (costly regulatory proceedings, potential litigation, threatened loss of future federal grant funding) are hardship enough to justify the requested departure from strict application of the City’s code.

Economic Development

As noted, one reason the MTAA has pursued the fence project is to drive economic development at the airport. The fence will create a secure environment attractive to high-tech firms. Disallowing the proposed fence would thwart the MTAA’s economic objectives. These are not the ambitions of a private capitalist. They are the fulfilment of the MTAA’s statutory directive to, “acquire, own, maintain, operate,

Attachment to MTAA Variance Application

improve and dispose of ... properties ... which may be essential, suitable or desirable for the development, improvement, operation and maintenance of public airport facilities.”⁷

Perhaps under most circumstances mere monetary loss does not constitute a hardship justifying a variance. We hope the Board will recognize that the MTAA is not chasing incremental profits. It is trying to fulfil its duty to the taxpayers of Shawnee County.⁸ However it may calculate the broader economic implications of its decision, we hope the Board will receive as evidence of the MTAA’s good faith the fact that the proposed relocation of the fence will place roughly five acres outside the airport’s future development zone, the darkened triangle in the bottom center of Figure 3.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, property, or general welfare;

From its outset, this fencing project has been designed to enhance the safety of airport users, MTAA’s business tenants and the public. The fence also enables MTAA to manage activities on airport property in a more orderly and effective manner, thus improving the quality of the airport for everyone.

5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.

Section 18.50.010 sets forth the Purpose of the Zoning Code. Pertinent excerpts include:

- to encourage the most appropriate use and development of land throughout the metropolitan area
- to stabilize and conserve the value of property
- to provide adequate air, light, and reasonable access
- to secure safety from fire and other dangers
- to facilitate the provisions of transportation, water, sewers, schools, parks and open space, and other community and public improvements
- to ensure that [the operational characteristics and effects of some uses] ...will not contribute to the blighting or downgrading of the surrounding neighborhood

Far from being opposed to these purposes, this fencing project, aligns closely with them. Indeed, the alignment between these stated purposes and the MTAA’s overall mission is striking.

⁷ K.S.A. 27-331 (c).

⁸ This broader economic perspective brings into sharp relief the misalignment inherent in applying residential zoning, designed to mediate the interests of one or two individuals, to an airport with a public mission.



Wildlife Hazard Assessment



of the
Philip Billard Municipal Airport
2016-2017

Prepared by:

*Clayton Faidley, Airport Wildlife Biologist
Shawn Ferdinand, Airport Wildlife Biologist
Cody Baciuska, Airport Wildlife Biologist*

However, the fence is not acting as a deterrent to keep animals or humans from entering the AOA. A game camera did capture an individual walking a dog near Taxiway Echo in the late winter/early spring time.

The airport should investigate installing a perimeter fence surrounding the airfield. Fencing installed should follow guidelines provided by the FAA in CertAlert 16-03 in regard to proper fence heights and buried portions preventing dig-outs. To aid in access in monitoring the perimeter fence, TOP should also install a perimeter road around the airfield. Once installed, TOP staff should routinely monitor the fence line for any gaps or holes. Vegetation along the fence line should be regularly maintained, with at least 50 foot buffer cleared on the outside of the fence. The buffer will allow for easy access for monitoring and help prevent damage from fallen trees on the fence.

4. Harassment and Control

The airport should increase their harassment and control efforts. Loomacres recommends that the airport attempt to make regular patrols of the AOA to ensure that wildlife is not present. Airport personnel should survey and harass wildlife from the Kansas River whenever possible and along the tree lines to the south of the airport. When harassment becomes less effective, it should be reinforced with lethal control. Removal of white-tailed deer from the airfield should be increased. TOP staff has a copy of a USFWS Depredation at Airports permit to be authorized to remove hazardous migratory birds, such as Canada geese, mourning doves, turkey vultures and red-tailed hawks.

5. Continuation of Monitoring

TOP staff should attempt to increase their monitoring for the presence of wildlife on the airport. This should be done monthly. The airport should use the protocol followed during the Wildlife Hazard Assessment, although they may modify the observation protocol to meet the airport needs and resources.

6. Record Keeping and Strike Reporting

Staff at TOP should increase documentation of wildlife observations and control work conducted. This data is valuable, and it can be used to identify trends in wildlife activity. Strike reporting should be carried out using the FAA wildlife strike database. Loomacres will provide strike collection kits to the airport upon request and will assist with strike reporting if needed. Any significant strikes should be reviewed to address any needed changes or new management techniques to the airport wildlife control program.

7. Wildlife Coordinator

Loomacres recommends that the airport assign an individual to oversee the wildlife mitigation efforts at the airport. Ideally this person should have a background in airport wildlife mitigation. The person would be responsible for implementing the airport WHMP. This would include;

- Daily patrols and surveys
- Record collection and keeping
- Control work



Federal Aviation Administration

National Part 139 CertAlert

AdvisoryCautionary**Non-Directive**Advisory**Cautionary**Non-Directive**Advisory**Cautionary**Non-Directive**

Date: 08/03/2016 **No. 16-03**
To: Airport Operators and FAA Airport Certification Safety Inspectors (ACSI)s
Subject: Recommended Wildlife Exclusion Fencing
Point of Contact: Amy Anderson, AAS-300, (202) 267-7205
Email: amy.anderson@faa.gov

1. Purpose.

This CertAlert contains airfield exclusion methods for deer and other large mammals.

2. Cancellation.

This CertAlert cancels CertAlert 01-01, Deer Aircraft Hazard, dated February 1, 2001; CertAlert 02-09, Alternative Deer Fencing, dated December 12, 2002; and CertAlert 04-16, Deer Hazard to Aircraft and Deer Fencing, dated December 13, 2004.

3. Background.

Elevated deer and coyote populations in the United States represent an increasingly serious threat to both Commercial and General Aviation Aircraft. According to the National Wildlife Strike Database, deer and coyote are the most frequently struck terrestrial mammals (37 and 34 percent, respectively). Deer are responsible for 92 percent of the mammal strikes that resulted in damage. From 1990 to 2015, over 1,107 deer-aircraft collisions and 487 coyote-aircraft collisions were reported to the Federal Aviation Administration (FAA). Of these reports, 932 of the deer strikes (84%) and 43 of the coyote strikes (9%) indicated the aircraft was damaged as a result of the collision.

The FAA reminds airport operators that controlling deer and other medium to large terrestrial mammals on and around airfields is very important. Two recent incidents include a Cessna 195B sustaining significant damage on landing as a result of veering off the runway to avoid striking white-tailed deer in Virginia and a Cessna 310 that was destroyed on approach to an airport in Michigan when it collided with a white-tailed deer.

4. Recommendations.

Proper fencing is the best way of keeping deer and coyotes off aircraft movement areas. In some cases, deer have been observed jumping over 8-foot fencing and coyotes have been observed scaling 6-foot fencing. Deer and coyotes can fit through very small gaps between

discuss eligibility for AIP funding or requirements for a Modification to Standards (MOS).

In limited situations, the use of non-conductive, composite, frangible electric fence posts and fence conductors may allow the installation of electric fence closer to the aircraft movement area than would normally be allowed with standard link fencing material. Please note that electric fencing may produce radio frequency interference that could be disruptive to NAVAIDS and airport communications and should be considered when determining types of fencing.

The key for excluding deer and coyotes is the proper installation and maintenance of a fence that is:

- Of sufficient height to deter jumping and scaling
- Constructed of a material that is difficult to penetrate
- Constructed fully around the airfield without gaps below the fence or at the gates or that mitigates the gaps with other exclusionary materials
- Constructed to deter digging or burrowing under the fence

The most suitable fence for an airport depends on many factors, including the observed wildlife hazards, the potential impacts of certain types of fencing, seasonality of hazards, costs (both for construction and maintenance), and adjacent habitat types. Airport sponsors must contact their local ADO to discuss what types of fencing are eligible for AIP funding.

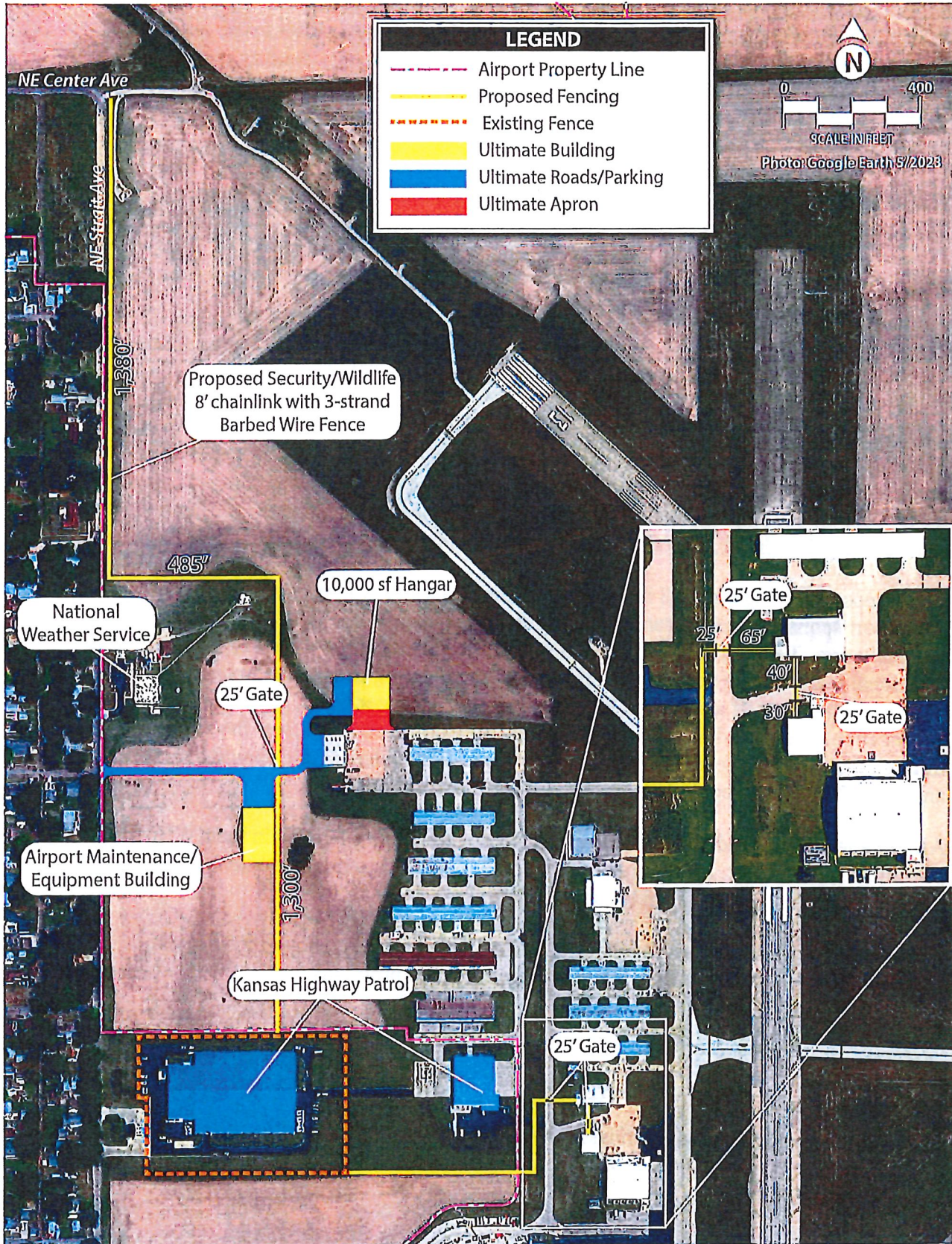
For proposed fencing that will intersect wetlands or surface waters (streams, rivers, etc.), the airport sponsor should determine what state and federal permits will be required prior to installation. Fencing that is located in wetlands or over surface waters typically requires additional maintenance and/or cleaning due to debris getting caught and potentially damaging the fence. If a culvert is located along the perimeter fence, grates or some other barrier should be placed over the culvert to ensure wildlife cannot access the airfield through the culvert. The barrier should allow for water movement and should be inspected and cleared of debris regularly to ensure water is flowing efficiently.

Airport sponsors should include new and/or improved wildlife fencing in their WHMP as a prioritized action item. If deer are observed on or near the aircraft movement area, immediate action must be taken to remove them.

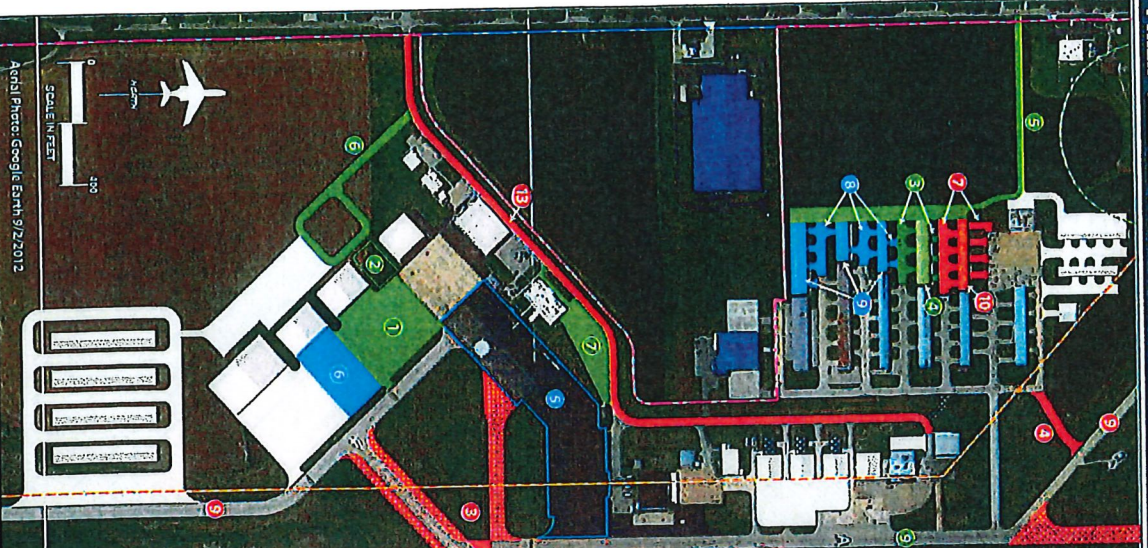
Airport operators can contact the State Wildlife Management Agency or the nearest USDA, Wildlife Services Office for assistance with deer problems.



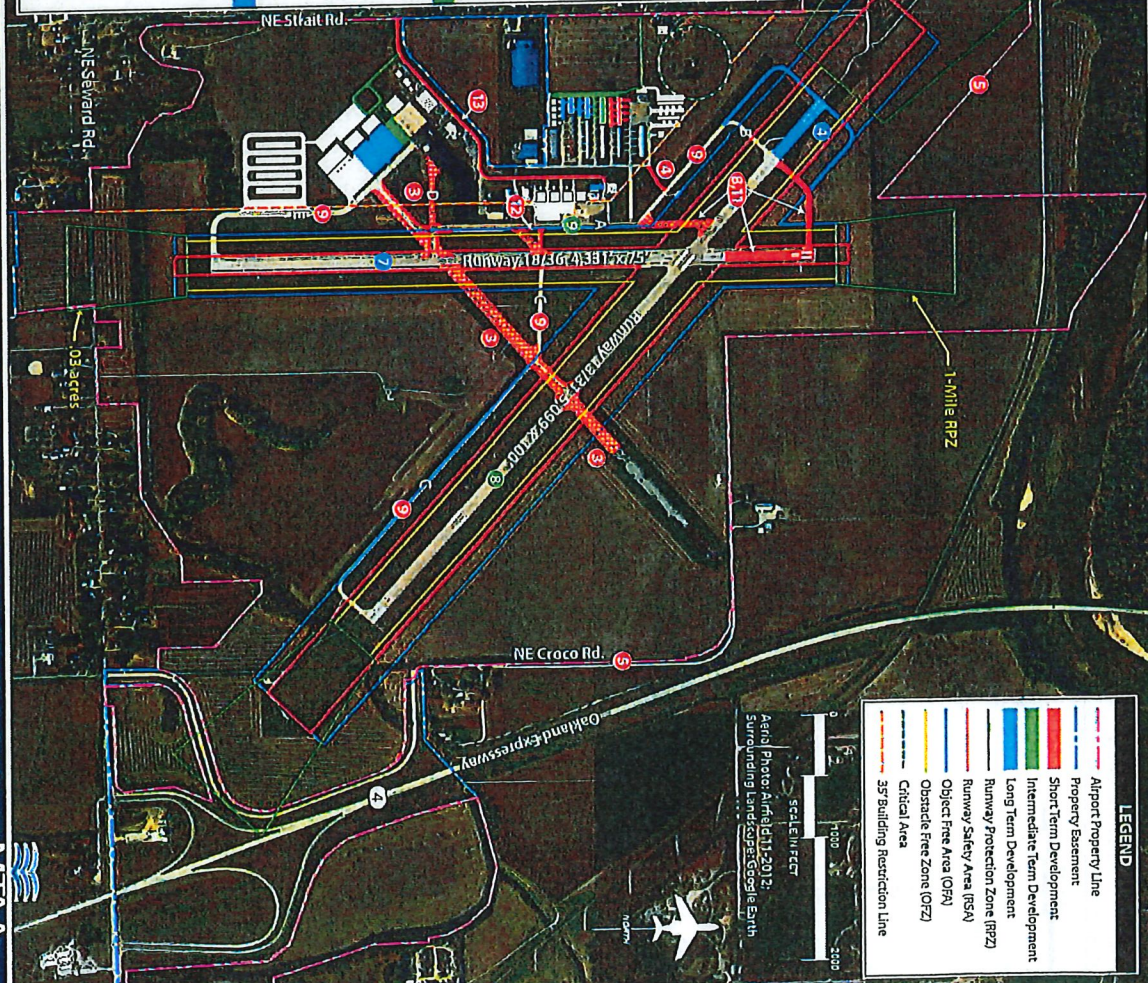
Brian Rushforth, Manager
Airport Safety and Operations Division, AAS-300



PHILIP BILLARD MUNICIPAL AIRPORT

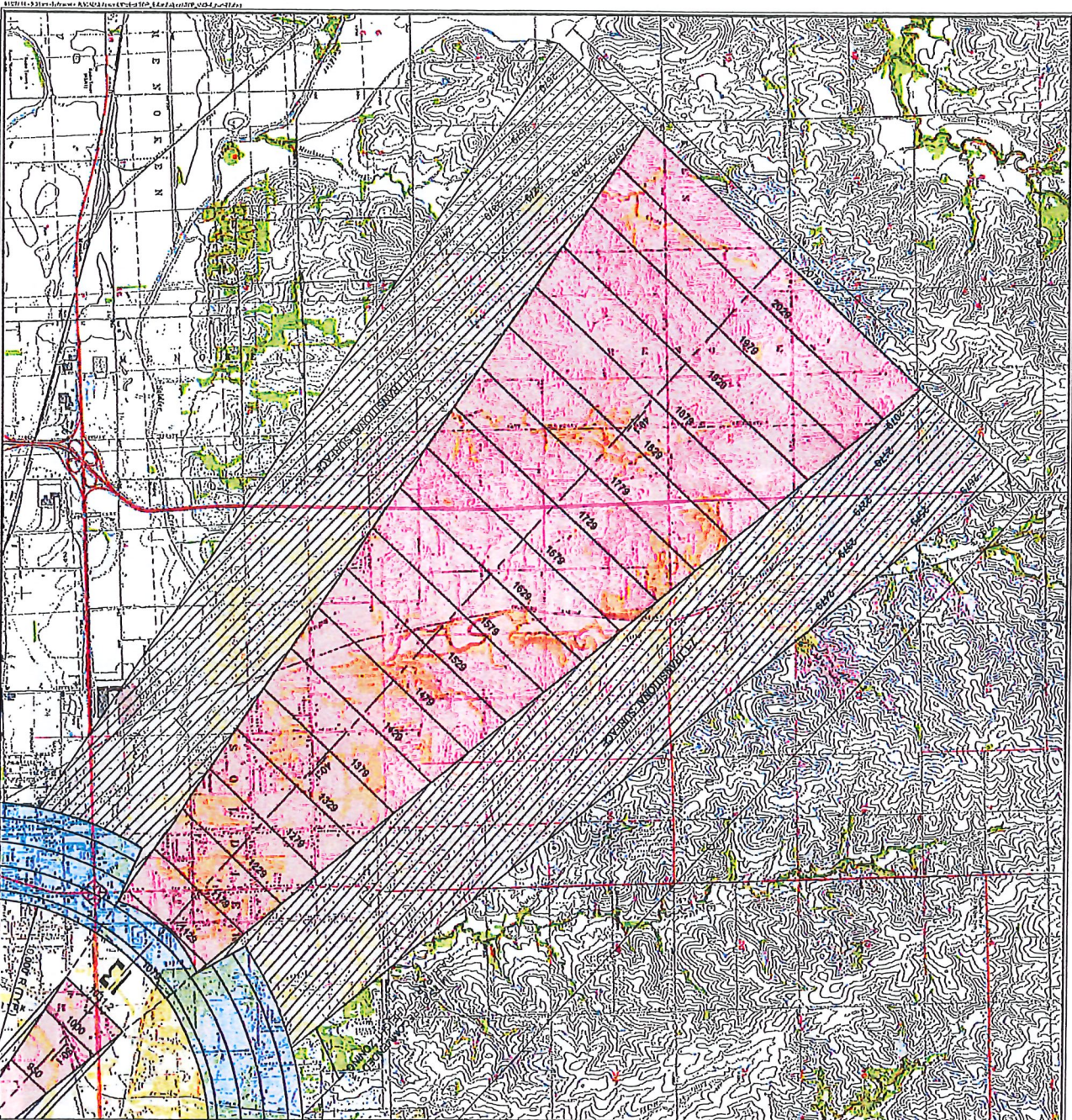


- Short Term Development**
- 1 Wildlife Hazard Assessment (not pictured) (WP)
 - 2 Environmental Documentation to Close Runway 4-22 (NP)
 - 3 Close Runway 4-22, Reconfigure Portions of Taxiways, Close Hwy D
 - 4 Extend North Hangar Area Taxiway to Taxiway 8 (Design/Construct)
 - 5 Install Wildlife Perimeter Fence
 - 6 EA to Establish Taxiway Access to Runway 18 (NP)
 - 7 Taxiway Taxiway (Phase 1) (Design/Construct)
 - 8 Design of Taxiway Access to Runway 18 (Design)
 - 9 Rehabilitate Taxiways B, C, E (Mill and Overlay)
 - 10 Construct 4-Unit Hangar Structure
 - 11 Construct Taxiway Access to Runway 18 (Extend Runway 738 Feet Seal and Mark Entire Hwy, Close Portion of Taxiway A) (Design/Construct)
 - 12 Reconstruct West Portion of Taxiway C at 90 Degree Angle (Design/Construct)
 - 13 Rehabilitate Airport Entrance Road
- Intermediate Term Development**
- 1 Construct South Terminal Area Apron (Phase 1)
 - 2 Construct Fuel Farm with Self Serve
 - 3 Construct North Hangar Area Taxiway (Phase 2)
 - 4 Construct 6-Unit Hangar Structure
 - 5 Construct North Hangar Area Entrance Road
 - 6 Construct South Hangar Area Access Road
 - 7 Construct Terminal Area Parking Lot
 - 8 Rehabilitate Runway 13-31 (Seal and Mark)
 - 9 Rehabilitate Taxiway A (Slurry Seal)
- Long Term Development**
- 1 Install New Airfield Lighting (Runways and Taxiways) (NP)
 - 2 EA for Runway 13 Extension and RFPZ Property Acquisition (NP)
 - 3 Acquire Runway 13 RFPZ Property (22 Acres)
 - 4 Extend Runway 13 Northwest 601 Feet (Design/Construct)
 - 5 Mill/Overlay Terminal Area Apron
 - 6 Construct Extension of South Terminal Area Apron (Phase 2)
 - 7 Rehabilitate Runway 18-36 (Seal and Mark)
 - 8 Construct North Hangar Area Taxiway (Phase 3)
 - 9 Construct 4-Unit and 2-Unit Hangars and 4 Box Hangars in North Area
 - 10 Master Plan Update (NP)



LEGEND

- Airport Property Line
- Property Easement
- Short Term Development
- Intermediate Term Development
- Long Term Development
- Runway/Protection Zone (RFPZ)
- Runway Safety Area (RSA)
- Object Free Area (OFA)
- Obstacle Free Zone (OFZ)
- Critical Area
- 35' Building Restriction Line



OBSTRUCTION LEGEND

| | |
|--|-------------------------|
| | OBSTRUCTION |
| | TOPOGRAPHIC OBSTRUCTION |

OBSTRUCTION TABLE

| Color | Obstruction | Obstacle | Obstacle | Obstacle |
|--------|-------------|----------|----------|----------|
| Blue | Obstruction | Obstacle | Obstacle | Obstacle |
| Pink | Obstruction | Obstacle | Obstacle | Obstacle |
| Orange | Obstruction | Obstacle | Obstacle | Obstacle |
| Yellow | Obstruction | Obstacle | Obstacle | Obstacle |
| Green | Obstruction | Obstacle | Obstacle | Obstacle |
| Red | Obstruction | Obstacle | Obstacle | Obstacle |

- GENERAL NOTES**
1. Obstructions, obstructions, and heights are indicated from the ground surface.
 2. Obstructions, obstructions, and heights are indicated from the ground surface.
 3. Obstructions, obstructions, and heights are indicated from the ground surface.
 4. Obstructions, obstructions, and heights are indicated from the ground surface.

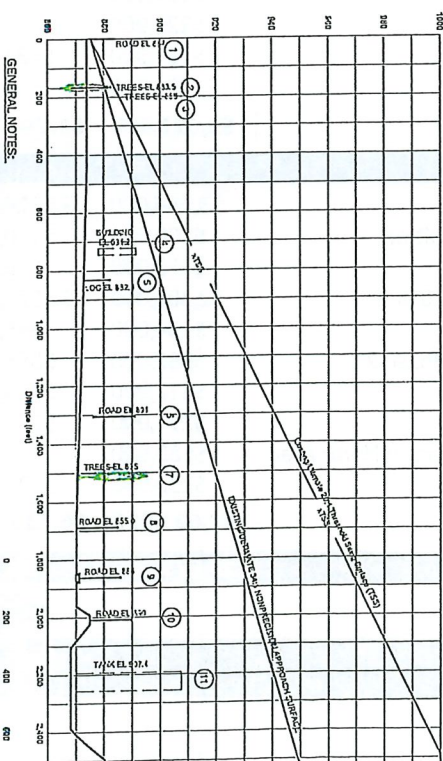
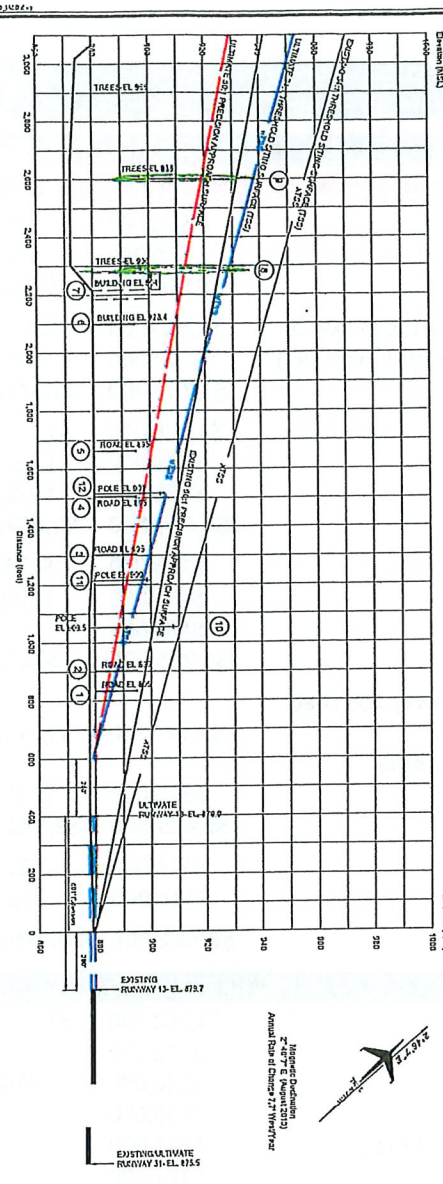
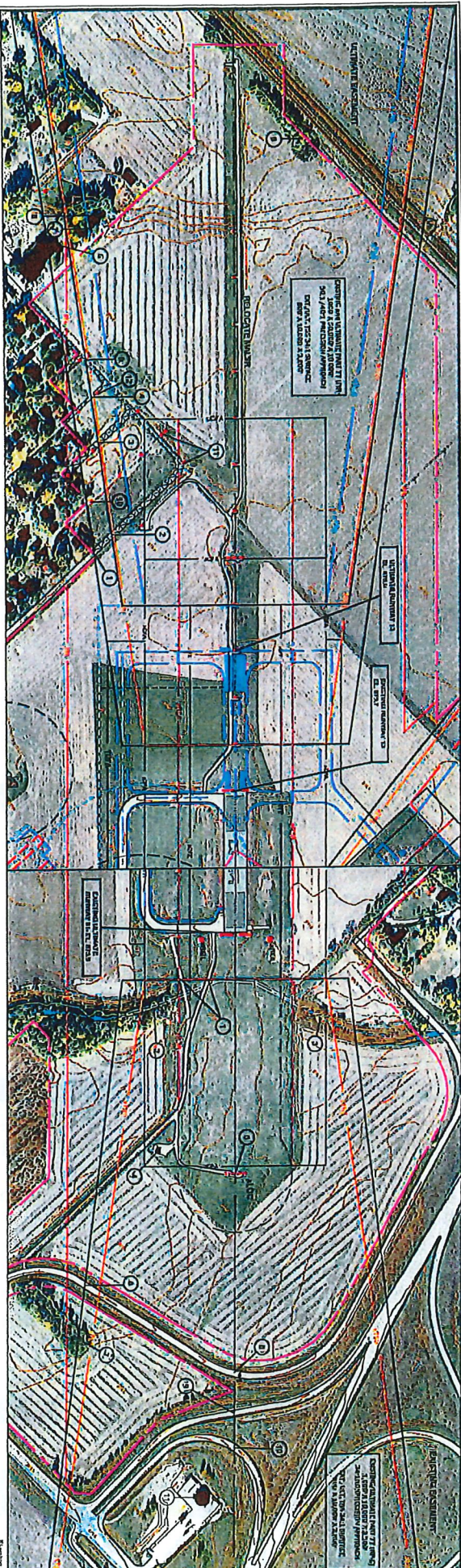


PHILIP BILLARD MUNICIPAL AIRPORT
 AIRPORT AIRSPACE DRAWING
 PART 77 OUTER LIMITS
 Topeka, Kansas

| No. | REVISIONS | DATE | BY |
|-----|--|----------|--------|
| 1 | Initial Issue | 10/27/13 | JOP/PL |
| 2 | Obstruction Data, Data Expanded by FAA | 10/27/13 | JOP/PL |

PLANNED BY: Michael W. Sells
 DESIGNED BY: George W. Sells
 APPROVED BY: Bill W. Sells
 DATE: 10/27/13
 SHEET 4 OF 13





RUNWAY 13 OBSTRUCTION TABLE

| Object Description/Elevation | Part 77 System | | | Threshold Surface System | | | Description |
|------------------------------|----------------|-------------|------|--------------------------|-------------|------|-------------------------|
| | Dist. (ft) | Height (ft) | Code | Dist. (ft) | Height (ft) | Code | |
| 1. ROAD-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | CLOSE ROAD/TBR |
| 2. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | THIN TREES |
| 3. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 4. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 5. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 6. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 7. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 8. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 9. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 10. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 11. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |
| 12. TREE-EL. 335 | 0' | 0' | 0' | 0' | 0' | 0' | BURN LINE/RESIDUE POLES |

RUNWAY 31 OBSTRUCTION TABLE

| Object Description/Elevation | Part 77 System | | | Threshold Surface System | | | Description |
|------------------------------|----------------|-------------|------|--------------------------|-------------|------|-------------|
| | Dist. (ft) | Height (ft) | Code | Dist. (ft) | Height (ft) | Code | |
| 1. SERVICE ROADS-EL. 334 | 6.2' | 6.5' | 0' | 6.2' | 6.5' | 0' | CLOSED ROAD |
| 2. TREE-EL. 333 | 3.1' | 3.1' | 0' | 3.1' | 3.1' | 0' | THIN TREES |

GENERAL NOTES:

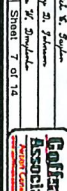
- Obstructions and features are calculated from vertical datum and are shown as indicated on drawings. Obstructions are shown as solid lines and features as dashed lines. Obstructions are shown as solid lines and features as dashed lines. Obstructions are shown as solid lines and features as dashed lines.
- Depiction of features and objects within the primary, transitional, and secondary surface areas, are illustrated on the airport ASPAC drawing.

| Symbol | Description |
|----------------------|-------------|
| (Circle with number) | Obstruction |
| (Circle with letter) | Feature |
| (Circle with 'A') | Obstruction |
| (Circle with 'B') | Obstruction |
| (Circle with 'C') | Obstruction |
| (Circle with 'D') | Obstruction |
| (Circle with 'E') | Obstruction |
| (Circle with 'F') | Obstruction |
| (Circle with 'G') | Obstruction |
| (Circle with 'H') | Obstruction |
| (Circle with 'I') | Obstruction |
| (Circle with 'J') | Obstruction |
| (Circle with 'K') | Obstruction |
| (Circle with 'L') | Obstruction |
| (Circle with 'M') | Obstruction |
| (Circle with 'N') | Obstruction |
| (Circle with 'O') | Obstruction |
| (Circle with 'P') | Obstruction |
| (Circle with 'Q') | Obstruction |
| (Circle with 'R') | Obstruction |
| (Circle with 'S') | Obstruction |
| (Circle with 'T') | Obstruction |
| (Circle with 'U') | Obstruction |
| (Circle with 'V') | Obstruction |
| (Circle with 'W') | Obstruction |
| (Circle with 'X') | Obstruction |
| (Circle with 'Y') | Obstruction |
| (Circle with 'Z') | Obstruction |

PHILIP BILLARD MUNICIPAL AIRPORT
INNER PORTION OF RUNWAY 13-31
APPROACH SURFACE DRAWING
 Topolia, Kansas

Prepared by: PHILIP BILLARD
 Checked by: PHILIP BILLARD
 Date: 1/14/14

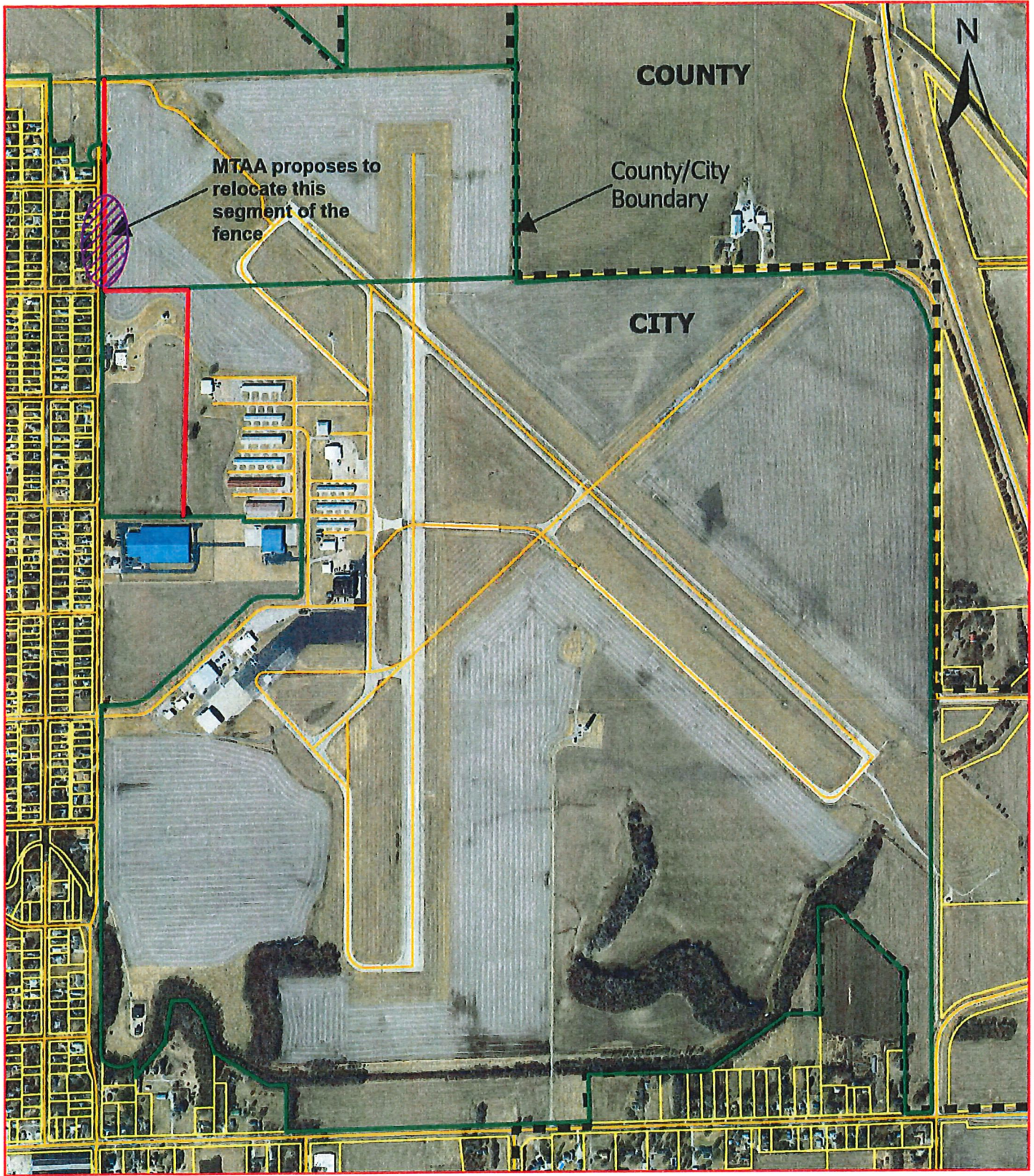
Scale: HORIZONTAL SCALE IN FEET: 1" = 200'
 VERTICAL SCALE IN FEET: 1" = 20'



PHILIP BILLARD MUNICIPAL AIRPORT

| Project Description | | Project Cost | FAA Eligible | Total Local |
|---|--|---------------------|---------------------|--------------------|
| SHORT TERM PROGRAM (1-5 YEARS) | | | | |
| 2014 | 1 Wildlife Hazard Assessment | \$70,000 | \$63,000 | \$7,000 |
| | 2 Environmental Documentation to Close Runway 4-22 | \$80,000 | \$72,000 | \$8,000 |
| | TOTAL | \$150,000 | \$135,000 | \$15,000 |
| 2015 | 3 Close Runway 4-22, Reconfigure Portions to Taxiways, Close Twy D | \$1,579,000 | \$1,421,100 | \$157,900 |
| | 4 Extend North Hangar Area Taxilane to Taxiway B (Design/Construct) | \$128,000 | \$115,200 | \$12,800 |
| | TOTAL | \$1,707,000 | \$1,536,300 | \$170,700 |
| 2016 | 5 Install Wildlife Perimeter Fence | \$1,378,000 | \$1,240,200 | \$137,800 |
| | 6 EA to Establish Taxiway Access to Runway 18 | \$200,000 | \$180,000 | \$20,000 |
| | 7 T-hangar Taxilane (Phase 1) (Design/Construct) | \$203,000 | \$182,700 | \$20,300 |
| | TOTAL | \$1,781,000 | \$1,602,900 | \$178,100 |
| 2017 | 8 Design of Taxiway Access to Runway 18 (Design) | \$196,000 | \$176,400 | \$19,600 |
| | 9 Rehabilitate Taxiways B, C, E (Mill and Overlay) | \$656,000 | \$590,400 | \$65,600 |
| | 10 Construct 8-Unit T-Hangar Structure | \$400,000 | \$0 | \$400,000 |
| | TOTAL | \$1,255,000 | \$769,500 | \$485,200 |
| 2018 | 11 Construct Taxiway Access to Runway 18: (Extend Runway 769 Feet; Seal and Mark Entire Rwy; Close Portion of Taxiway A) | \$2,124,000 | \$1,911,600 | \$212,400 |
| | 12 Reconstruct West Portion of Taxiway C at 90 Degree Angle (Design/Construct) | \$301,000 | \$270,900 | \$30,100 |
| | TOTAL | \$2,425,000 | \$2,182,500 | \$242,500 |
| 2019 | 13 Rehabilitate Airport Entrance Road (20% FAA Eligible) | \$114,000 | \$22,800 | \$91,200 |
| | TOTAL | \$114,000 | \$22,800 | \$91,200 |
| TOTAL SHORT TERM PROGRAM | | \$7,432,000 | \$6,249,000 | \$1,183,000 |
| INTERMEDIATE TERM PROGRAM (6-10 YEARS) | | | | |
| | 1 Construct South Terminal Area Apron (Phase 1) | \$1,180,000 | \$1,062,000 | \$118,000 |
| | 2 Construct Fuel Farm With Self Serve | \$406,000 | \$0 | \$406,000 |
| | 3 Construct North T-hangar Area Taxilane (Phase 2) | \$240,000 | \$216,000 | \$24,000 |
| | 4 Construct 6-Unit T-Hangar Structure | \$450,000 | \$0 | \$450,000 |
| | 5 Construct North Hangar Area Entrance Road and Parking Lot | \$418,000 | \$0 | \$418,000 |
| | 6 Construct South Hangar Area Access Road | \$187,000 | \$0 | \$187,000 |
| | 7 Construct Terminal Area Parking Lot | \$223,000 | \$0 | \$223,000 |
| | 8 Rehabilitate Runway 13-31 (Seal and Mark) | \$424,000 | \$381,600 | \$42,400 |
| | 9 Rehabilitate Taxiway A (Slurry Seal) | \$94,000 | \$84,600 | \$9,400 |
| | TOTAL INTERMEDIATE TERM PROGRAM | \$3,622,000 | \$1,744,200 | \$1,877,800 |
| LONG TERM PROGRAM (11-20 YEARS) | | | | |
| | 1 Install New Airfield Lighting (Runways and Taxiways) | \$3,694,000 | \$3,324,600 | \$369,400 |
| | 2 EA for Runway 13 Extension and RPZ Property Acquisition | \$200,000 | \$180,000 | \$20,000 |
| | 3 Acquire Runway 13 RPZ Property (22 acres) | \$110,000 | \$99,000 | \$11,000 |
| | 4 Extend Runway 13 Northwest 601 Feet (Design/Construct) | \$2,308,000 | \$2,077,200 | \$230,800 |
| | 5 Mill/Overlay Terminal Area Apron | \$384,000 | \$345,600 | \$38,400 |
| | 6 Construct Extension of South Terminal Area Apron (Phase 2) | \$987,000 | \$888,300 | \$98,700 |
| | 7 Rehabilitate Runway 18-36 (Seal and Mark) | \$817,000 | \$735,300 | \$81,700 |
| | 8 Construct North T-hangar Area Taxilanes (Phase 3) | \$291,000 | \$261,900 | \$29,100 |
| | 9 Construct 4-Unit and 2-Unit T-Hangars and 4 Box Hangars in North Area | \$580,000 | \$0 | \$580,000 |
| | 10 Master Plan Update | \$250,000 | \$225,000 | \$25,000 |
| | TOTAL LONG TERM PROGRAM | \$9,621,000 | \$8,136,900 | \$1,484,100 |
| TOTAL PROGRAM COSTS | | \$20,675,000 | \$16,130,100 | \$4,544,900 |

BZA24V/01 Metropolitan Topeka Airport Authority

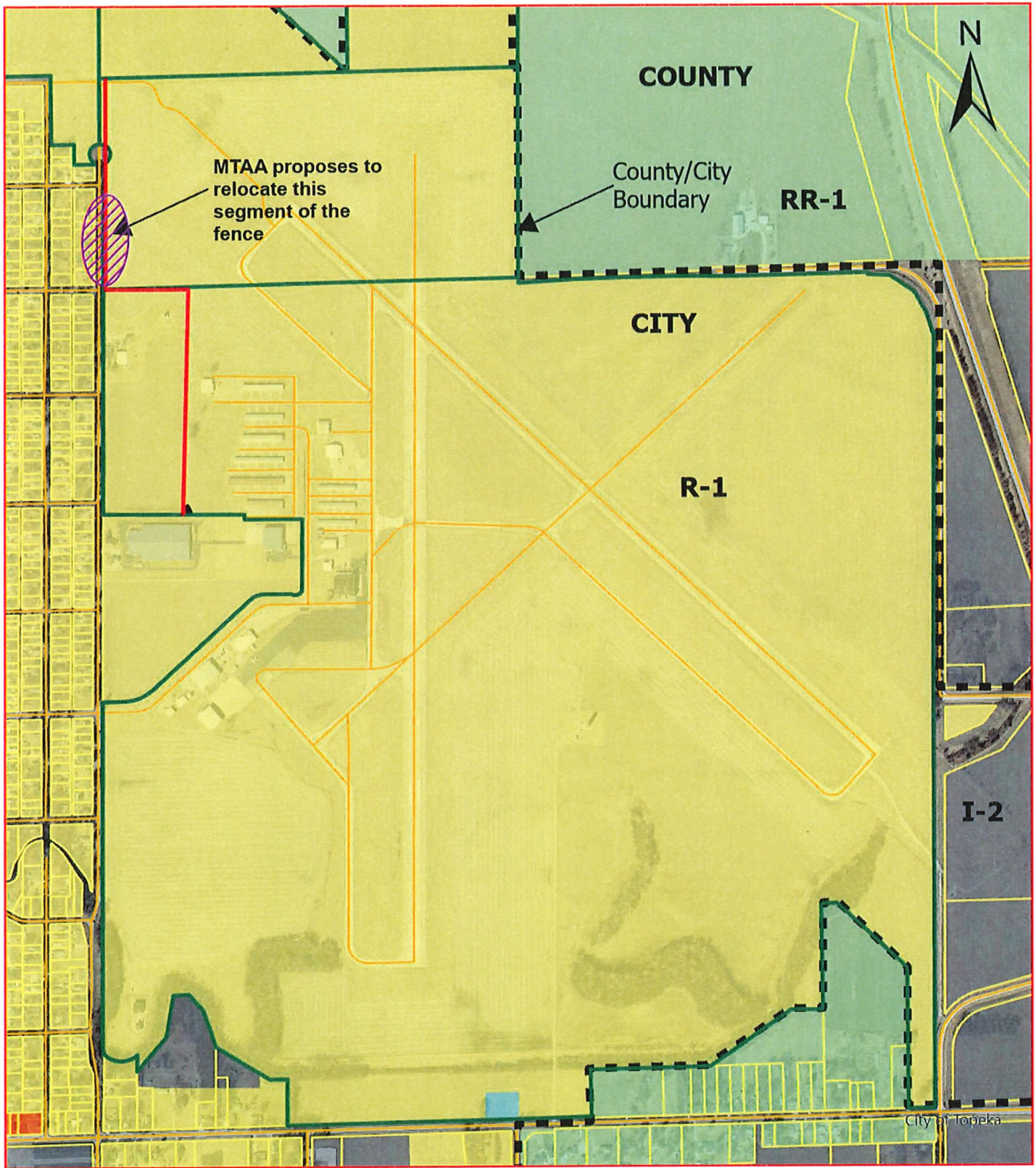


 Subject Property

 Fence line

BZA24V/01 By: MTAA requesting a variance to the maximum 4' maximum fence height allowed beyond the front face of the principal structure as restricted by by Section 18.210.040(a)(3) of the zoning regulations.
(HALL)

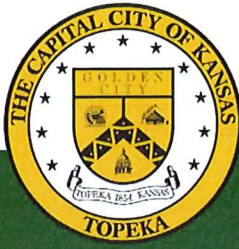
BZA24V/01 Metropolitan Topeka Airport Authority



 Subject Property

 Fence line

BZA24V/01 By: MTAA requesting a variance to the maximum 4' maximum fence height allowed beyond the front face of the principal structure as restricted by by Section 18.210.040(a)(3) of the zoning regulations. (HALL)



CITY OF TOPEKA

Planning & Development Department
Holliday Building, 620 SE Madison St., Unit 11
Topeka, KS 66607

Rhiannon Friedman, Director
Tel: 785-368-3728
www.topeka.org

April 15, 2024

Curtis Sneden
Director of Development
Metropolitan Topeka Airport Authority
6510 SE Forbes Ave., Ste.1
Topeka, KS 66619

Re: Request for Fence Height Determination pursuant to Municipal Code Section 18.210.040(d)(2)

Mr. Sneden,

The City of Topeka Planning & Development Department has received and reviewed Metropolitan Topeka Airport Authority's request to exceed the maximum fence height of 8' defined by Municipal Code Section 18.210.040(a)(3). Paragraph (d)(2) of the regulations in 18.210.040 provides the Planning & Development Director the authority to approve fence height exceeding 8 feet for public use facilities when deemed necessary for public health and safety.

The supporting documentation presented included a Wildlife Hazard Assessment of Philip Billard Airport that specifically calls out the recommendation to consider the installation of a perimeter fence built to Federal Aviation Administration guidelines to deter deer and other wildlife from entering the airfield. Provided along with the assessment was Federal Aviation Administration's National Part 139 CertAlert No. 16-13 which speaks directly to recommended wildlife exclusion fencing. This document states "The FAA recommends a 10-foot fence with 3-strand barbed wire outriggers. In some cases an airport may be able to use an 8-foot fence with 3-strand barbed wire outriggers, depending on the amount of deer activity in the local area." This documentation meets the threshold required by 18.210.040(d)(2) that the fence is necessary for public health and safety of the airport.

The fence in question is an 8-foot fence with 3-strand barbed wire outriggers which is consistent with the recommendation provided by the FAA. Given these findings, I approve your request for a fence at a height totaling 9-foot with the 3-strand barbed wire outriggers.

Our office has received your application for a variance for a fence exceeding a height of 4 feet beyond the front face of principal building on site. The approval of fence height per this letter does not replace or satisfy the need for a variance for any part of the fence higher than 4 feet located between the principal building and the west property line along NE Strait Avenue. Please also note that a Contract Fence Agreement is required for any fences in the City of Topeka that include barbed wire. This approval will be pending an executed Contract Fence Agreement.

Regards,

Rhiannon Friedman, Planning & Development Director

Photographs of Fence in Context and Photos prior to Fence Installation



Looking Northeast from South End of Fence on NE Strait Avenue



Looking North from South End of Fence on NE Strait Avenue



Looking North/Northwest from NE Strait Avenue 200 feet North of NE Belmont Intersection



Looking East from West Side of NE Strait Avenue

Before Fence Installation



Looking North, September 2023



Looking North, September 2023

Michael G Hall

From: Michael G Hall
Sent: Tuesday, April 30, 2024 8:59 AM
To: 'Elissa Wurtz'; Amanda Tituana-Fejoo; Annie M. Driver; Bryson M. Risley; Dan Warner; Michael G Hall; Paul T. Turner; William J. Sharp
Cc: Dawn Gomez; Allen WURTZ; Rhiannon M. Friedman
Subject: RE: Fence exceeding 4 ft in height.
Attachments: BZA24V_01 owners notified.pdf

Good morning. Thank you for your interest in this case.

In response to your questions:

- Notice was sent via regular mail to the owners of the parcels identified in the attached map. For each owner, notice is sent to the mailing address in the Shawnee County Appraiser's records.
- Notices were mailed in accordance with Topeka Municipal Code section 2.220.090 which states that notices are to be sent to "adjoining property owners." Some of the owners receiving notice are not directly adjacent (not adjoining) the part of the fence requiring a variance but they were sent notice as a courtesy.
- That part of the fence closer to NE Strait Avenue than the face of the National Weather Service Office building does not comply with fence regulations. The face of the building is roughly 85 feet east of the west property line on the east side of Strait Avenue. That part of the fence is the subject of the variance case to be considered on May 13th. That part of the fence behind (east of) and immediately north of the National Weather Service building meets fence standards, although, per typical procedure for barbed wire fences, the use of barbed wire will require a Contract Fence Agreement between the applicant and City. The use of barbed wire does not require action by the Board of Zoning Appeals.

Please feel free to contact me if you have any questions.

Thank you.

Mike Hall
Land Use Planning Manager
Planning & Development Department
City of Topeka
785-368-3008

From: Elissa Wurtz <elissawurtz@gmail.com>
Sent: Monday, April 29, 2024 6:11 PM
To: Planning Distribution <planning@topeka.org>
Cc: Dawn Gomez <dawngomez84@gmail.com>; Allen WURTZ <allenwurtz67@gmail.com>
Subject: Fence exceeding 4 ft in height.

This message originated from outside your organization



This message needs your attention

- You've never replied to this person.
- This is a personal email address.

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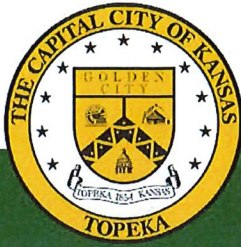
We recieved a letter that you are holding a hearing May 13 @ 5:30 pm. Re: in section 17.30.240 (TMC) for Metropolitan violation of section 18.210.040(a).

Who exactly did notices go out too? The 7 home owners where the fence is out to the street feom Belmont and Strait North. Or everyone on Strait street? We feel it was a deplorable impulsive decision for the fence to swing out to the street in the last section heading North. For this to go out for us to make an exception after the fact is never going to happen. We have 8 ft fence with razor wire within 40 ft of my property. As for the rest of the fence heading south behind weather station and state trooper behind the farm land, is this out of compliance as well?

Please help me to understand if the entire fence is out of code or section at Belmont and Strait going north?

Thank you

Elissa Wurtz



CITY OF TOPEKA

Planning Division
620 SE Madison, Unit 11
Topeka, KS 66607

Dan Warner, AICP, Division Director
Tel: 785-368-3728
www.topeka.org

April 17, 2024

RE: Board of Zoning Appeals Public Hearing

Please be advised the Topeka Board of Zoning Appeals will hold a public hearing on **Monday, May 13, 2024 at 5:30 p.m.** at the Holliday Building, 620 SE Madison, 1st floor, Holliday Conference Room, Topeka, Kansas as provided in Section 17.30.240 of the Topeka Municipal Code (TMC) for the item listed below.

BZA24V/01 by Metropolitan Topeka Airport Authority requesting a variance to the fence standards of section 18.210.040(a) of the Topeka zoning regulations for the installation of a fence exceeding four (4) feet in height beyond the front face of a principal structure at the Phillip Billard Municipal Airport at 3500 NE Sardou Avenue. The fence is located along the east side of NE Strait Avenue at the airport's western boundary.

If you have questions or comments concerning the proposal reference above, please contact the Topeka Planning Division. Phone 785.368.3728 or email planning@topeka.org.

Sincerely,

Michael Hall, AICP, Secretary
Board of Zoning Appeals



ADA Notice: For special accommodations for this event, please contact the Planning Division at 785-368-3728 at least three working days in advance.

BZA24V/01 by MTAA

Property Owners Notified



