



ENVIRONMENTAL CONSULTANTS

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Broomfield, Colorado 80021
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TECHNICAL MEMORANDUM

To: David DeBoskey
Community and Economic Development
Adams County, Colorado

From: Jenny Malavasi, Project Manager, SWCA Environmental Consultants

Date: June 28, 2024

Re: **Re-submittal – Case Number VSP2024-00015**

Dear David DeBoskey:

On April 24, 2024, on behalf of Tower Associates, LLC (the Applicant), SWCA Environmental Consultants (SWCA) submitted an application (case number VSP2024-00015) to Adams County for a variance to construct a proposed meteorological tower. On May 30, 2024, the Applicant received the comments regarding the submittal (content included on the following pages) and request for resubmittal from David DeBoskey of Adams County Community and Economic Development. SWCA is providing responses to Adams County and resubmittal of the application on behalf of the Applicant. Both Adams County's comments and the Applicant's responses are provided herein on the following pages. The original memorandum is included in Attachment A. The resubmittal for the variance is included as Attachment B.

On behalf of the Applicant, we look forward to continuing work with Adams County and thank you for your time in completing this review.

Sincerely,

A handwritten signature in black ink that reads 'Jenny Malavasi'.

Jenny Malavasi, M.S., QSM
Lead Project Manager
SWCA Environmental Consultants
JMalavasi@SWCA.com
406.407.1412

A handwritten signature in black ink that reads 'Erik W. Hartung'.

Erik Hartung
Project Manager
SWCA Environmental Consultants
Erik.Hartung@SWCA.com
330-861-9061

ADAMS COUNTY COMMENTS AND APPLICANT RESPONSES

Comments requiring a response are listed below in bold font. Applicant responses to those comments below are in green font.

PLN1: Variance to allow a non-agricultural structure to be approximately 196 feet in height where the maximum structure height allowed is 35 feet within the Agricultural-3 zone district. Is it necessary to have the tower be this tall? Can you explain more about how this tower relates to County goals? The site plan shows the tower is 198 ft. Which height is it?

Applicant Response: The tower would be approximately 197 feet tall. The site plan and application form have been updated to reflect this height. The tower would be at this height to be in compliance with the International Electrotechnical Commission ("IEC") guidance for wind energy generation systems (IEC 61400-12-1) which states that the primary wind speed measurement level needs to be at least two-thirds of the planned hub height of the wind turbine generation infrastructure. This tower advances County goals as set forth in its most recent Comprehensive Plan ("Plan").¹ As explained in the Plan, "[t]he county has significant potential to utilize natural, renewable energy resources such as solar, wind, and geothermal." Plan at p. 34. Similarly, the County has a goal stated in Strategy NRE 3.1.04 to encourage the use of renewable energy in sustainable building and site design techniques.. *Id.* at 37. Similarly, the Plan clarifies that new development in previously undeveloped portions of the county "should prioritize . . . renewable energy". *Id.* at 41-42. This tower advances the Plan's renewable energy development goals by obtaining essential wind data that would inform and make possible development of additional renewable wind energy infrastructure in Adams County.

PLN2: The physical circumstances and conditions of the property are not necessitating this variances. The regulation of maximum height is the issue.

Applicant Response: Thank you for your comment. The Applicant has removed the following phrase from the application narrative: "The physical circumstances and conditions of the subject property do not currently allow the construction of a structure of sufficient height to effectively gather meteorological data."

PLN3: VSP2020-00005 - Approved for similar ask. Southeastern Adams, near Arapahoe border

Applicant Response: Acknowledged.

¹ Adams County. 2022. *Comprehensive Plan*. Available at: https://adcogov.org/sites/default/files/2022-09/Advancing-Adams-Comp-Plan_2022.09.27_highres.pdf. Accessed June 2024.

ATTACHMENT A

Adams County Comments and Cover Sheet





Community & Economic Development Department
Planning & Development
4430 S. Adams County Pkwy.
1st Floor, Suite W2000B
Brighton, CO 80601-8218
PHONE 720.523.6800 | FAX 720.523.6967
adcogov.org

Development Team Review Comments

The following comments have been provided by reviewers of your land use application. At this time, a resubmittal of your application is required before this case is ready to be scheduled for public hearing.

To prepare your resubmittal, you will be expected to provide:

- A response to each comment with a description of the revisions and the page of the response on the site plan;
- Any revised plans or renderings; and
- A list identifying any additional changes made to the original submission other than those required by staff.

Resubmittal documents must be provided electronically through e-mail or a flash drive delivered to the One-Stop Customer Service Center. The following items will be expected by our One-Stop Customer Service Center:

- One digital copy of all new materials
 - All digital materials shall be in a single PDF document
 - The single PDF document shall be bookmarked
 - If a Subdivision Improvements Agreement, Legal Description, or Development Agreement is required, then an additional Microsoft Word version of these documents shall also be provided
 - Electronic copies can be emailed to epermitcenter@adcogov.org as a PDF attachment. If the files are too large to attach, the email should include an unlocked Microsoft OneDrive link. Alternatively, the resubmittal can be delivered to the One-Stop counter on a flash drive.

BOARD OF COUNTY COMMISSIONERS

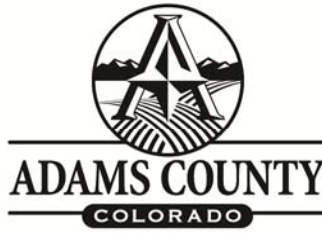
Eva J. Henry
DISTRICT 1

Charles "Chaz" Tedesco
DISTRICT 2

Emma Pinter
DISTRICT 3

Steve J. O'Doriso
DISTRICT 4

Lynn E. Baca
DISTRICT 5



Re-submittal Form

Case Name/ Number: _____

Case Manager: _____

Re-submitted Items:

- Development Plan/ Site Plan
- Plat
- Parking/ Landscape Plan
- Engineering Documents
- Subdivision Improvements Agreement (Microsoft Word version)
- Other: _____

*** All re-submittals must have this cover sheet and a cover letter addressing review comments.**

Please note the re-submittal review period is 21 days.

The cover letter must include the following information:

- Restate each comment that requires a response
- Provide a response below the comment with a description of the revisions
- Identify any additional changes made to the original document

For County Use Only:

Date Accepted:

Staff (accepting intake):

Resubmittal Active: Engineering; Planner; Right-of-Way; Addressing; Building Safety;

Neighborhood Services; Environmental; Parks; Attorney; Finance; Plan Coordination



Development Review Team Comments

Date: 5/30/2024

Project Number: VSP2024-00015

Project Name: West Fork Ranch Meteorological Tower Height Variance

Commenting Division: Planner Review

Name of Reviewer: David DeBoskey

Date: 05/30/2024

Email:

Resubmittal Required

PLN1:

Variance to allow a non-agricultural structure to be approximately 196 feet in height where the maximum structure height allowed is 35 feet within the Agricultural-3 zone district.

Is it necessary to have the tower be this tall?

Can you explain more about how this tower relates to County goals?

The site plan shows the tower is 198 ft. Which height is it?

PLN2:

The physical circumstances and conditions of the property are not necessitating this variances. The regulation of maximum height is the issue.

PLN3:

VSP2020-00005 - Approved for similar ask. Southeastern Adams, near Arapahoe border.

Commenting Division: ROW Review

Name of Reviewer: David Dittmer

Date: 05/30/2024

Email:

Complete

****ADVISORY****

ROW1: GIS line work is currently incorrect. There is a school parcel, but no strips for roads. The section line between Sections 33 and 34 has a 30' strip owned by the county and not formally dedicated. Public notice was provided for these strips of land as contained in the Public Domain Resolution, recorded 5/23/1908 in Book 33, Page 279A. The patent to the lands did not get issued until 2/19/1920 for Section 33, and 6/17/1919, and 10/4/1918 for Section 34. The county provided legal notice of this ownership even though the patents do not recognize this ownership.

ROW2: Upon confirmation of Yonder Road and E. 120th Avenues conditions they may need to be improved to Fire Dept. standards to the closest county maintained ROW. Trail Roads are only bladed twice a year, once in the spring and once in the fall. Life safety access must be provided for fire apparatus. The Access from the intersection of Yonder Road and E. 120th Ave, will need to be constructed along the counties strip of ROW to where it turns onto the property. A Private Road Maintenance Agreement will be required.

Commenting Division: Development Engineering Review

Name of Reviewer: Laurie Clark

Date: 05/23/2024

Email:

Complete

ENG1: According to the Federal Emergency Management Agency's January 20, 2016 Flood Insurance Rate Map (FIRM Panel #08001C0525H), the project site is NOT located within a regulated 100-yr floodplain. A Floodplain Use Permit is NOT required.

ENG2: Property is NOT in Adams County MS4 Stormwater Permit area. A Stormwater Quality (SWQ) Permit is NOT required, but a State Permit COR400000 WILL be required if one (1) acre or more is disturbed. Applicant is responsible for installation and maintenance of Erosion and Sediment Control BMPs. Builder/developer is responsible for adhering to all the regulations of Adams County Ordinance 11 regarding illicit discharge.

ENG3: It appears that currently there is no permitted access to the property in a location that serves the proposed site improvements. An Access Permit will be required.

ENG4: All improvements to the property must be done outside of Adams County Right-of-Way.

Commenting Division: Addressing Review

Name of Reviewer: David Dittmer

Date: 05/23/2024

Email:

Complete

If address is required, see Address Request form available on-line

Commenting Division: Neighborhood Services Review

Name of Reviewer: Cornelia Warnke

Date: 05/16/2024

Email:

Complete

There are no open violations at this location at this time. No comments.

ATTACHMENT B
Variance Resubmittal



VARIANCE

A variance is a means whereby the literal terms of these standards and regulations need not be applied if there are practical difficulties or unnecessary hardships associated with the subject site. In granting a variance, the spirit of these standards and regulations shall be observed, public safety and welfare secured, and substantial justice done.

Please include this page with your submittal. Submittal instructions and more information about checklist items can be found on page 2.

- Development Application Form (pg. 3)
- Written Narrative
- Site Plan
- Proof of Ownership (warranty deed or title policy)
- Proof of Water and Sewer Services Water and sewer services will not be needed
- Legal Description Adams County Assessor's legal description for the parcel is SECT,TWN,RNG:33-1-58 DESC: ALL 640A .
- Statement of Taxes Paid

Number of Variance Requests:

A variance may only be approved from the dimensional requirements, performance standards, and other special physical requirements contained in the Adams County development standards and regulations.

Type of Variance Request:	# of Requests:
Setback:	
Height:	1
Lot Coverage:	
Other:	

Application Fees:	Amount:
Variance	\$500-residential \$700-non-residential <i>*\$100 per each additional request</i>

Guide to Development Application Submittal

All applications shall be submitted electronically to epermitcenter@adcogov.org. If the submittal is too large to email as an attachment, the application may be sent as an unlocked MS OneDrive link. Alternatively, the application may be delivered on a flash drive to the Community & Economic Development Department. Once a complete application has been received, fees will be invoiced and payable online at www.permits.adcogov.org

Written Explanation:

- A clear and concise explanation of the proposal and why it is necessary.
- Complete the attached Written Explanation for Variance Request form.

Scaled Site Plan:

- A site plan prepared to-scale showing at minimum: the request, any existing or proposed structures, existing and proposed setbacks of structures, any hardship, location of well, location of septic field, location of easements, surrounding rights-of-way, north arrow.
- Site plan may be hand-drawn.

Proof of Ownership (warranty deed or title policy):

- A deed may be found in the Office of the Clerk and Recorder; or
- A title commitment is prepared by a professional title company

Proof of Water and Sewer:

- Public utilities - A written statement from the appropriate water & sanitation district indicating that they will provide service to the property OR a copy of a current bill from the service provider.
- Private utilities - Well permit(s) information can be obtained from the Colorado State Division of Water Resources at (303) 866-3587. A written statement from Adams County Health Department indicating the viability of obtaining Onsite Wastewater Treatment Systems.

Legal Description:

- Geographical description used to locate and identify a property.

Statement of Taxes

- All taxes on the subject property must be paid in full. Please contact the Adams County Treasurer's Office.
- Or adcotax.com



DEVELOPMENT APPLICATION FORM

APPLICANT

Name(s): Phone #:

Address:

City, State, Zip:

2nd Phone #: Email:

OWNER

Name(s): Phone #:

Address:

City, State, Zip:

2nd Phone #: Email:

TECHNICAL REPRESENTATIVE (Consultant, Engineer, Surveyor, Architect, etc.)

Name: Phone #:

Address:

City, State, Zip:

2nd Phone #: Email:

DESCRIPTION OF SITE

Address:

City, State, Zip:

Area (acres or square feet):

Tax Assessor Parcel Number

Existing Zoning:

Existing Land Use:

Proposed Land Use:

Have you attended a Conceptual Review? YES NO

If Yes, please list PRE#:

I hereby certify that I am making this application as owner of the above-described property or acting under the authority of the owner (attached authorization, if not owner). I am familiar with all pertinent requirements, procedures, and fees of the County. I understand that the Application Review Fee is non-refundable. All statements made on this form and additional application materials are true to the best of my knowledge and belief.

Name:

Date:

Owner's Printed Name

Name:

Owner's Signature

Written Narrative for Variance Request

- **Which dimensional standard(s), performance standard(s), or physical requirement(s) cannot be met? (Include code section reference from [Adams County Standards and Regulations](#))**
Reach out to the Planner of the Day (cedd-plan@adcogov.org) if you have any questions.

The proposed structure would be constructed within an Agricultural-3-zoned district, where the maximum permissible height for any non-agricultural structure is 35 feet (3-10-06-05-01); (3-07-02), and the maximum height for any agricultural structure is 70 feet (3-10-06-05-02); (3-07-02). The proposed meteorological tower ("Met Tower") would be 60 meters (approximately 197 feet), therefore exceeding the height standard for this zone district. The Met Tower would be used to measure atmospheric conditions, such as wind speed, wind direction, temperature, and barometric pressure.

- **Why are you unable to meet this standard?**

The proposed Met Tower requires sufficient height to collect accurate meteorological data which is not possible under a literal interpretation or application of the relevant regulations for the property. Variances from the code's height restrictions for structures in this zone district have been granted for the construction of similar structures, including a June 5, 2020, variance for a 197-foot Met Tower. See VSP 2020-00005 (Adams County Wind Meteorological Tower). Accordingly, granting this request is consistent with the Board of Adjustment's previous variance decisions which acknowledged that Met Towers always require variances from the height dimensions in this zone district. Similarly, granting this variance will not confer on the applicant any special privilege.

The height restrictions set forth in the Adams County Development Standards were not created by the applicant or the property owner. Neither the property owner nor the applicant has created any special circumstances which preclude that construction of the desired structure on this property.

Given the presence of other Met Towers and structures of similar height in the zone district, and the fact that access to renewable energy is one of the policy objectives in the Adams County Comprehensive Plan, granting of this variance will be in harmony with the general purpose and intent of these standards and Adams County's Comprehensive Plan. Similarly, the proposed Met Tower would be located in a rural area and would not

adversely impact adjoining property owners. A variance from the strict application of the height standards is consistent with past variances for similar structures and will not cause substantial detriment to the public good or allow a use which is not otherwise permitted in the zone district.

The project would be developed completely within the property boundary and would have limited impact on the property itself. It would not affect the zoning of the property, result in non-conforming use, or adversely affect the public good and safety. The construction of the Met Tower is most similar to the construction of a telecommunications tower, which can now be approved administratively and without a variance from County height restrictions.

WHAT IS A VARIANCE *and when may it be requested?*

When a property owner cannot use their property in a way that meets the Adams County Development Standards & Regulations, a variance may be requested to allow the property owner to be exempt from one or more land use regulations.



A VARIANCE MAY BE REQUESTED FOR:

- ✓ Dimensional requirements
- ✓ Performance standards
- ✓ Other special physical requirements



A VARIANCE MAY NOT BE REQUESTED FOR:

- ✗ Change in use
- ✗ Change in zoning
- ✗ Amending a Planned Unit Development (PUD)
- ✗ Relief from airport overlays

How long does a VARIANCE LAST?

A variance runs with the land. If a variance is granted, a building permit must be obtained within one year.

1
YEAR

VARIANCE APPLICATION

Contact the E-Permit Center at epermitcenter@adcogov.org or visit their website:

epermits.adcogov.org

For more information, please contact:
cedd-pod@adcogov.org | 720.523.6800

VARIANCE REQUESTS *in Adams County*



STAY CONNECTED

430 S. Adams County Pkwy., Brighton, CO 80601

 /AdamsCountyGov  @AdamsCountyGov

 Public Agencies  /AdamsCountyCo

Adcogov.org



What are the criteria for APPROVAL?

A variance application is evaluated based upon the following criteria of approval (**Sec. 2-02-23-06**):

- 1 There is a physical hardship specific to the lot.
- 2 The property owner is being deprived of a right that's commonly enjoyed by other lots in the same zone district.
- 3 The variance doesn't give a special privilege to the applicant.
- 4 The property cannot be reasonably developed in conformity of the regulations.
- 5 The circumstances that cause the need for a variance are not self-imposed.
- 6 The proposal is harmonious with the neighborhood and compatible with the purpose of the regulations.
- 7 The public good and safety is not impaired.
- 8 The proposed use is allowed in the zone district and doesn't further a non-conforming use.

What is the variance REVIEW PROCESS?

APPLICATION SUBMITTAL

Application is submitted to the E-Permit Center. You can contact this office at epermitcenter@adcogov.org or visit their website at epermits.adcogov.org.



FIRST REVIEW

35 calendar days for staff review and agency referral (school districts, fire districts, Colorado Department of Public Health & Environment etc.). Neighbors are also notified of the application at this time and are given the opportunity to make comments. At the end of this review period, a meeting is scheduled with the applicant to go over the review comments.

35 calendar days for the first review

EACH ADDITIONAL REVIEW

21 days. If a resubmittal is required, the application will undergo an additional round of review. This may happen several times depending on the quality of each submittal.

21 calendar days for each additional review


BOARD OF ADJUSTMENT (BOA) HEARING

BOA hearings are scheduled on the first and third Thursday of every month at 6 p.m. and are scheduled four weeks in advance. All review comments need to be resolved prior to scheduling the public hearing.

First & Third THURSDAY of every month BOA hearings are scheduled

BOA MAY VOTE TO...

 **Approve.**
The variance is valid upon approval by the BOA.

 **Approve with conditions.**
The BOA may attach special conditions to the variance to make sure no special privileges are being granted to the applicant.

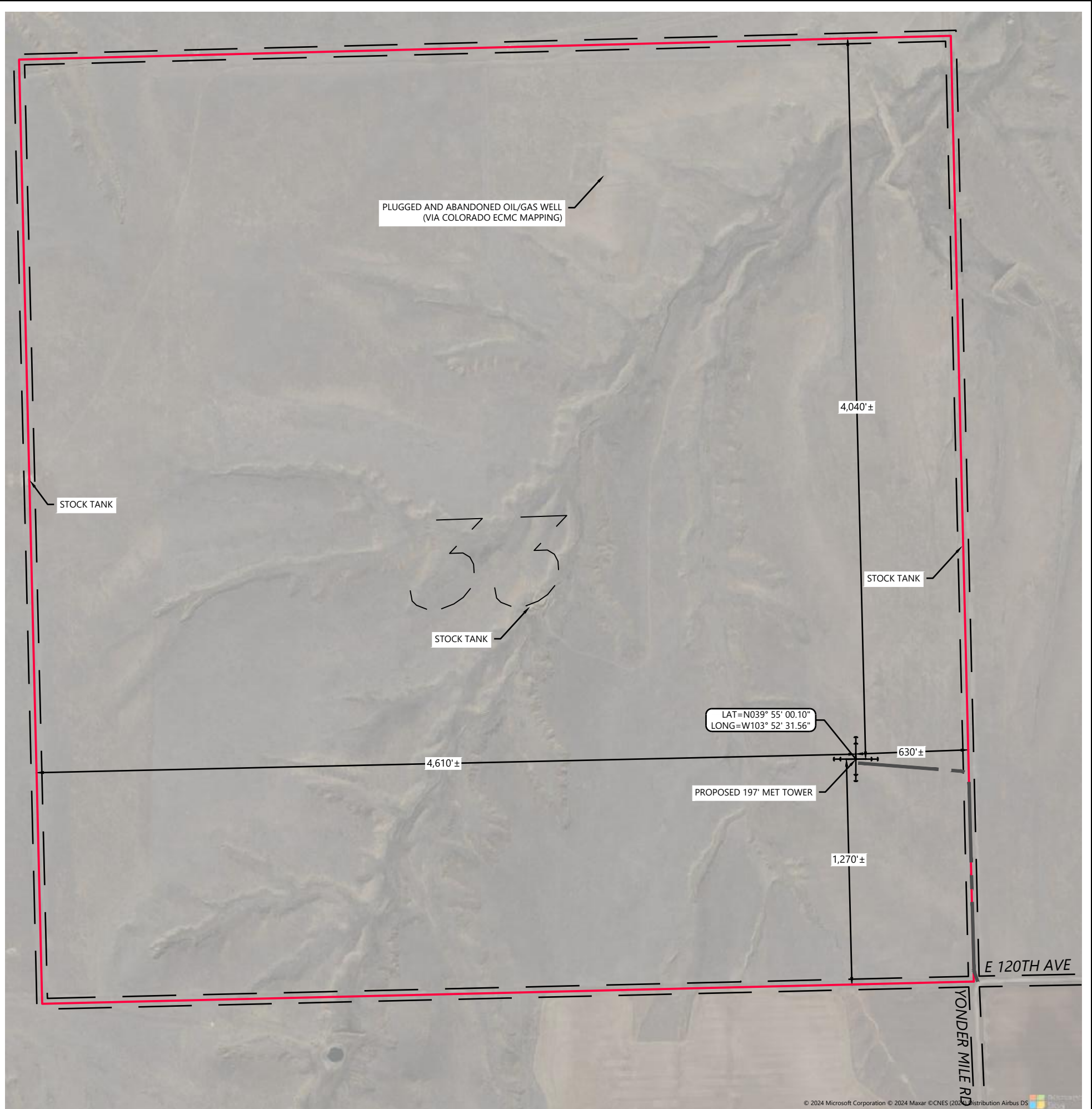
 **Deny.**

The variance process can take three months or longer, depending on the number of resubmittals and available Board of Adjustment hearing dates.






3
MONTHS+

If a building permit is not issued within one year of the variance approval or the use associated with the variance has not been established, the variance will expire. Extensions may be requested — see **Sec. 2-02-23-10**.

1
YEAR



LEGEND:

-  PROPOSED MET TOWER LOCATION
-  SECTION NUMBER
-  APPROXIMATE PARCEL LINE
-  APPROXIMATE RIGHT-OF-WAY
-  PROPOSED ACCESS

GENERAL NOTES:

1. PARCEL LINES ARE FROM PUBLICLY AVAILABLE SOURCES AND ARE APPROXIMATE.
2. NO FIELD SURVEY WORK WAS PERFORMED IN THE DETERMINATION OF THE BOUNDARY LINES SHOWN ON THIS SITE PLAN.
3. 30 FEET RESERVED FOR PUBLIC RIGHT-OF-WAY ON BOTH SIDES OF ALL SECTION LINES PER COUNTY COMMISSIONERS RESOLUTION, RECORDED IN BK 33, PG 279 IN THE ADAMS COUNTY RECORDS.
4. SUBJECT PARCEL, SECTION 33, TOWNSHIP 1 SOUTH, RANGE 58 WEST OF THE 6TH P.M.
5. BASED ON PUBLICLY AVAILABLE AERIAL IMAGERY, EXCEPT AS SHOWN, THE SITE CONTAINS NO EXISTING PERMANENT STRUCTURES OR SEPTIC FIELDS.
6. THE PROPOSED MET TOWER REQUIRES SUFFICIENT HEIGHT TO COLLECT ACCURATE METEOROLOGICAL DATA WHICH IS NOT POSSIBLE UNDER A LITERAL INTERPRETATION OR APPLICATION OF THE RELEVANT REGULATIONS FOR THE PROPERTY.

