



STAFF REPORT

Board of Adjustment

CASE # A-1749-H-20

BOA Date:	March 10, 2020	Planner:	Domenic Martinelli	Phone:	303-289-3670
Location:	10391 Luther Court Commerce City, CO 80022				
Applicant:	AT&T John Mariott		Owner:	Rocky Mountain Lutheran High School	
Address:	161 Inverness Drive Englewood, CO 80112		Address:	10391 Luther Court Commerce City, CO 80022	

Case Summary

Request:	The applicant is requesting the approval of a height exception for a new concealed telecommunications facility.
Project Description:	The applicant is requesting a height exception to allow for the construction of said facility at a height of 70', when a 50' max height is determined by the PUD for commercial structures.
Issues/Concerns:	<ul style="list-style-type: none">Visual impact from adjacent propertiesVisual impact from E. 104th AveUpgrades to wireless network in the area utilizing existing infrastructure
Key Approval Criteria:	<ul style="list-style-type: none">The use will not result in a substantial or undue adverse effect on adjacent property, or the character of the neighborhoodThere is a proven community need for the use at the existing location
Staff Recommendation:	Approval
Current Zone District:	PUD (Planned Unit Development)
Comp Plan Designation:	Mixed Use (Corridor and Commercial)

Attachments for Review: *Checked if applicable to case.*

<input checked="" type="checkbox"/> Applicant's Narrative Summary	<input checked="" type="checkbox"/> Vicinity Map
<input checked="" type="checkbox"/> Applicant's Supplemental Exhibits	<input checked="" type="checkbox"/> Neighborhood Meeting Summary
<input checked="" type="checkbox"/> Site Plan	

Background Information

Site Information

Site Size:	1.76 Acres
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Current Conditions:	Developed as one existing private high school site
Existing Right-of-Way:	E 104 th Ave (North), Luther Court (East)
Neighborhood:	Buckley Ranch
Existing Buildings:	Yes
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site in Floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Residential	Unincorporated Adams County – Telecomm Facility	ADCO
South	Agricultural	XCEL Transmission Line	AG
East	Undeveloped	Undeveloped	PUD
West	Undeveloped	Second Creek Floodplain	AG

Case History

<u>Case</u>	<u>Date</u>	<u>Action</u>
AN-181-03	April 2003	Approved Annexation
Z-743-03	April 2003	Zone Change to PUD
S-616-14	December 2014	Subdivision Approval (Buckley Ranch Amendment No 2)
D-251-14	December 2014	Approval of a Development Plan for High School Site
D-437-20	Under Review	Telecommunications Permit For Concealed Facility

The subject property where the planned concealed facility is proposed, was annexed into the City of Commerce City as part of case AN-181-03. The property was shortly thereafter zoned into the Buckley Ranch (Temmer) PUD. The subject property sat vacant until 2014, until a subdivision amendment was approved, further dividing “Tract Q” into 4 lots, with the subject property being lot 1. Concurrent with this request, a development plan (D-251-14) was approved for the current Rocky Mountain Lutheran High School Site.

Applicant's Request

The applicant is requesting the approval of a Height Exception to allow for the construction of a new, concealed telecommunication facility. The applicant is proposing a 70 foot concealed facility, with antennas mounted on the interior of the concealment structure, and necessary ground equipment screened by a 6 foot CMU wall. The facility is concealed in such a way to blend in harmoniously with the existing school site, and constructed as an architectural “steeple” using similar materials as the primary structure. The applicant’s proposed facility will be an unmanned, 24/7, facility requiring no vehicle parking, or utilities other than fiber interconnect and electrical power. The facility will require monthly maintenance and routine service visits.

The applicant has demonstrated a need for additional wireless coverage in the area based on existing service maps, and has demonstrated that the height exception under consideration is directly proportional to the ability to provide adequate coverage and capacity in the area. Additionally, a neighborhood meeting was conducted on November 7, 2019 with surrounding residents in the vicinity. A summary of this meeting is included within the BOA packet.

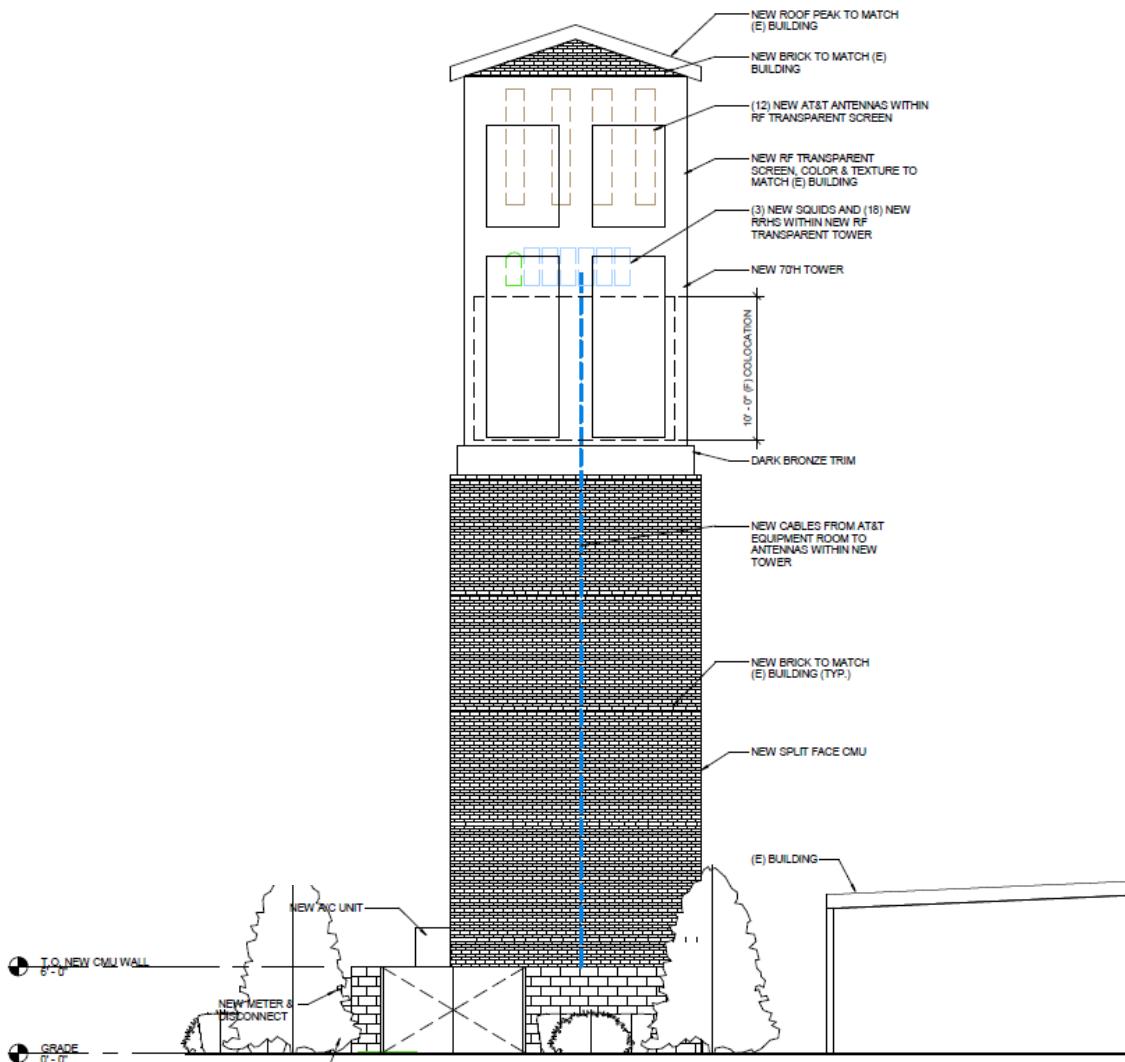


Figure 1: Architectural Elevation

According to the applicant, *“In order for AT&T to reach the maximum coverage objective in the community a center line for the antennas was calculated and engineered to be at 62 feet (the technology calls for 8-foot antennas putting the tip of the antennas at 66 feet).”* Additional height above the top of the arrays is necessary to successfully and functionally screen the facility as a church steeple, and allow for the installation of a gabled roof. Additionally, in order for the system to function without coverage or capacity “gaps”, there must be facilities that are properly located, installed and operational. If there are gaps in coverage or capacity between facilities, AT&T customers or other users who travel into the area will experience an unacceptable level of service, including failed attempts, busy signals, dropped calls, and inability to access or download data (i.e. emails, maps, etc.).

Development Review Team Analysis

The applicant is requesting the approval of a height exception, to allow for a facility that would be 70 feet tall, which is 20 feet taller than the allowed 50-foot height for commercial structures, as defined within Article IV, Table IV-10 of the City’s Land Development Code. The Buckley Ranch PUD does not specify a specific height for commercial structures, but defaults to current C-2 standards within the Land Development Code.

The Land Development Code (LDC) allows for concealed telecommunication facilities on properties with a commercial land use as a by-right use. Article XI of the Land Development Code defines a concealed facility as *any monopole or building mounted telecommunications facility that blends into the surrounding environment in a visually unobtrusive manner through disguise as a non-telecommunications structure or architectural feature*. The proposed facility accomplishes this primarily through designing a facility that is generally designed as a steeple/tower, which is architecturally harmonious with the existing school, and uses similar brick, concrete masonry units, and beige fiberglass panel materials that are either found on the existing school building, or compatible with the existing materials. As it pertains to height, Section 21-5605(3) requires that the facility comply with the bulk standards of the object as which it is being disguised. The proposed height of the steeple is generally equivalent to the height, bulk, dimension, and design as other similar facilities that exist throughout the Denver Metro Area.

The primary character of the adjacent area consists of mostly single-family residential development. The Buckley Ranch Subdivision exists directly south of the site, past the XCEL transmission line, and the Buffalo Mesa Subdivision is to the north of the site. The planned facility will be at least 500' from the boundary of any single-family residential parcel, far exceeding the minimum 100' setback requirement stated in 21-5605(4) of the Land Development Code. Existing pockets of unincorporated Adams County exist directly adjacent to the site across E 104th Avenue. Within Tract "Q" of Buckley Ranch, the high school site is the only existing development, and the remaining commercial pad sites are currently undeveloped.



Figure 2: Site Aerial with approximate location of planned facility

Sec. 21-5605(5) of the LDC encourages the design of facilities that will allow for at least two users. The current design of the facility will allow for future co-location, in accordance with all applicable provisions of the LDC, which may reduce the need for additional telecommunication facilities in the immediate vicinity. Since the facility will be concealed, it is exempt from the 2,000' separation requirement specified in Sec. 21-5603(3)(b) of the LDC.

The applicant has also sufficiently demonstrated the need for this specific facility, based on the inability to collocate on existing facilities in the adjacent area. The existing telecommunication facility (on the unincorporated Adams County Parcel to the north, does not have additional collocation capacity, and cannot be modified in a manner that allows for additional capacity. This facility is permitted as a special use permit in the county, and upon annexation into the City of Commerce City, may not be approved permanently. While existing space exists under the existing arrays, it is not located high enough to provide adequate coverage in the surrounding area. Additionally, the applicant explored locating a facility on the existing XCEL transmission line to the south. Due to the utility provider's requirement for the facility to be located at least 12' below the lowest power line on the array, the maximum height that a facility could be located on the tower would be approximately 34', well below the necessary height to be able to provide sufficient coverage in the area.



Figure 3: Rendering of the planned facility, looking southeast from the intersection of E 104th Avenue and Kittredge Street.

The Development Review Team (DRT) believes that the approval of this concealed telecommunication facility is appropriate given the context of the neighborhood and the immediate surroundings of the

subject property, and that the existing facility would satisfy a proven community need for improved network coverage for a variety of users.

The DRT reviewed this case against the telecommunications standards and Height Exception approval criteria in the LDC. It was found that the planned facility meets all of the approval criteria for a height exception request, as defined in Section 21-3220(4) of the Land Development Code.

Comprehensive Planning Documents

The DRT recommendation for this case is supported by the following Comprehensive Planning Goals:

Section	Goal	Description
Land Use & Growth	LU 1.1	<i>Growth and Future Land Use Plan Consistency:</i> Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code.
<u>Analysis:</u>		The land use of the subject property is commercial, and all adjacent properties are generally either undeveloped, unincorporated, or residential. The facility will be designed in such a way that it is compatible with current land uses and future land use for the site (and character of the surrounding area in general).
Section	Goal	Description
Public Facilities & Infrastructure	PF 1.10	<i>Telecommunication</i> Work with telecommunication providers to ensure that all residents and businesses have access to telecommunication services, encouraging marketplace competition.
<u>Analysis:</u>		The existing facility supports this goal by continuing to provide increased cellular capacity to an area of the city that is currently requires it. The facility will provide access to both residents & businesses in the area.

Criteria Met?	Sec. 21-3220. Height Exceptions	Rationale
<input checked="" type="checkbox"/>	4b(i) The structure and development, if applicable, complies with all other standards not specifically waived by the city;	The subject property and proposed structure do and will continue to comply with all other standards of the city.
<input checked="" type="checkbox"/>	4b(ii) The exception would have minimal effect upon adjacent properties with respect to solar access, visual access, and rights of privacy, light, and air	The proposed structure would not impede residential solar access in any significant capacity, as the maximum shadow length of the proposed facility during the winter solstice (where shadow lengths are longest in a calendar year) would not impede on residential development that exists more than 500 feet away from the facility. Visual access, and rights of privacy, light, and air have not been demonstrated to be impacted from the proposed facility.
<input checked="" type="checkbox"/>	4b(iii) The exception will not interfere with the city's ability to provide public services to the site at the level currently enjoyed by the area, or at adequate levels per existing city policies and regulations	The proposed structure will have no impact on the city's ability to serve the subject property. Public roads, fiber-optic, and electrical service lines, already serve the site.

Criteria Met?	Sec. 21-3220. Height Exceptions	Rationale
<input checked="" type="checkbox"/>	4b(iv) There is no evidence to suggest that the exception would interfere with or complicate emergency services or otherwise impair public safety; and	There has been no indication that emergency services will be impacted by the proposed structure.
One of the following criteria is met:		
<input checked="" type="checkbox"/>	4c(i) The exception provides a demonstrated benefit to the city	The applicant has demonstrated a need for additional wireless coverage in the area based on existing service maps, and has demonstrated that the height exception under consideration is directly proportional to the ability to provide adequate coverage and capacity in the area. The facility would provide a significant increase in cell coverage in the general vicinity.
<input checked="" type="checkbox"/>	4c(ii) The architecture and character of the proposed building or structure that will exceed the height standards are compatible with existing development on surrounding or adjacent parcels.	<p>There will be minimal impact on adjacent properties from a visual intrusion standpoint, as the architectural enhancements proposed will</p> <ol style="list-style-type: none"> <li data-bbox="910 903 1481 1009">1. Adequately conceal the facility in such a way that it is not immediately identifiable as a telecommunication facility <li data-bbox="910 1009 1481 1157">2. Compliment and harmoniously blend with the existing Lutheran High School site through the use of similar exterior façade materials <li data-bbox="910 1157 1481 1258">3. Soften the visual prominence of the facility through the materials proposed on the facades of the facility.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Height Exception set forth in the Land Development Code and recommends that the Board of Adjustment approve the request.

Recommended Motion

To recommend approval subject to condition(s):

I move that the Board of Adjustment find that the requested Height Exception for the property located at **10391 Luther Court** contained in case **A-1749-H-20** meets the criteria of the Land Development Code and, based upon such finding, approve the Height Exception

Alternative Motions

To recommend approval:

I move that the Board of Adjustment find that the requested Use-By-Permit for the property located at **10391 Luther Court** contained in case **A-1749-H-20** meets the criteria of the Land Development Code and, based upon such finding, approve the Use-By-Permit

To recommend denial:

I move that the Board of Adjustment deny the requested Use-By-Permit for the property located at **10391 Luther Court** contained in case **A-1749-H-20** because it fails to meet the following criteria of the Land Development Code:

List the criteria not met

To continue the case:

I move that the Board of Adjustment continue the requested Use-By-Permit for the property located at **10391 Luther Court** contained in case **A-1749-H-20**.