



STAFF REPORT

Board of Adjustment

CASE # A-1749-H-20

BOA Date:	September 8, 2020	Planner:	Brayan Marin	Phone:	303-227-8853
Location:	12500 E. 104 th Ave Commerce City, CO 80022				
Applicant:	Mike Bieniek LCC Telecom Services	Owner:	Nativity Lutheran Church		
Address:	10700 Higgins Road Suite 240 Rosemont, IL 60018	Address:	12500 East 104 th Avenue		

Case Summary

Request:	LCC Telecom Services, on behalf of Vertical Bridge, is requesting a height exception of 15' to allow for the construction of a concealed telecom facility at a height of 65' for the property located at 12500 E 104th Avenue, zoned C-3 (Regional Commercial District).
Project Description:	The applicant is requesting a height exception of 15' to allow for the construction of said facility at a height of 65', when a maximum height of 50' is allowed within the C-3 District.
Issues/Concerns:	<ul style="list-style-type: none">• Visual impact from adjacent properties• Visual impact from E. 104th Ave• Upgrades 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 neighborhood• There is a proven community need for the use at the existing location
Staff Recommendation:	Approval
Current Zone District:	C-3 Regional Commercial District
Comp Plan Designation:	Mixed Use

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:	± 4.99 acres
Current Conditions:	Partially developed as a place of worship
Existing Right-of-Way:	E. 104 th Avenue
Neighborhood:	Turnberry
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	Turnberry Planned Unit Development	PUD
South	Agricultural	XCEL Transmission Line	AG
East	Undeveloped	Future Reunion Development	PUD
West	Undeveloped	RTD park and ride parking site	PUD

Case History

<u>Case</u>	<u>Date</u>	<u>Action</u>
AN-131-96	June 1996	Approved Annexation
Z-640-96	June 1996	Zone Change from ADCO AG to R-1
Z-692-98	November 1998	Zone Change from R-1 to AG
A-1403-98	November 1998	Use-by-permit for a church
Z-692-98-20	July 2020	Zone Change from AG to C-3

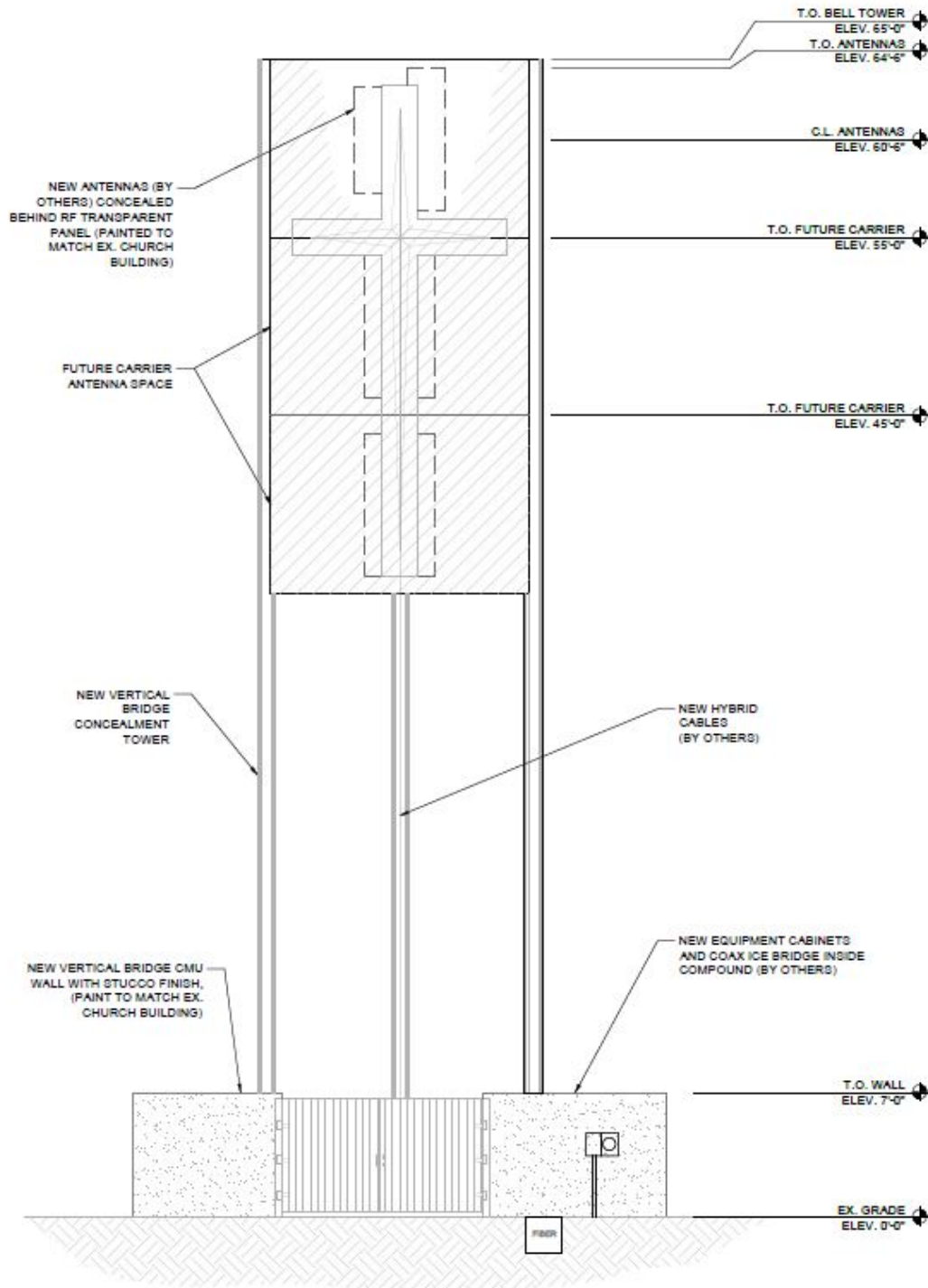
The subject property was first annexed into to the city via case AN-131-96 with a zoning designation R-1, Low density Residential. In 1998, the property owner, decided to rezone the property Agricultural (AG) in order to apply for a Use-by-Permit for a church on the site. The permit was approved in August 4, 1998 by the City's Board of Adjustment. The church has been in place on the site since 1998. In July 20, 2020 the subject property received approval of a zone change from AG to C-3 Regional Commercial District in order to be developed in a manner that is consistent with the city's comprehensive plan.

Applicant's Request

The applicant is requesting the approval of a Height Exception of 15 feet to allow for the construction of a new, concealed telecommunication facility. The applicant is proposing a 65 foot concealed facility, with antennas mounted on the interior of the concealment structure, allowing the structure to resemble a bell tower. Additionally, a 6-foot CMU wall will be erected at the base of the tower to conceal the necessary ground equipment. In order to conceal the facility from daily traffic and residents of the neighborhood, the facility will use architectural materials that match those of the existing church building in order to create a cohesive blend between the two structures. 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 August 10, 2020 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, *“The proposed 65’-0” stealth bell tower is necessary for T-Mobile and various other wireless telecommunications providers in order to provide uninterrupted telecommunication services to the growing community.”*

Development Review Team Analysis

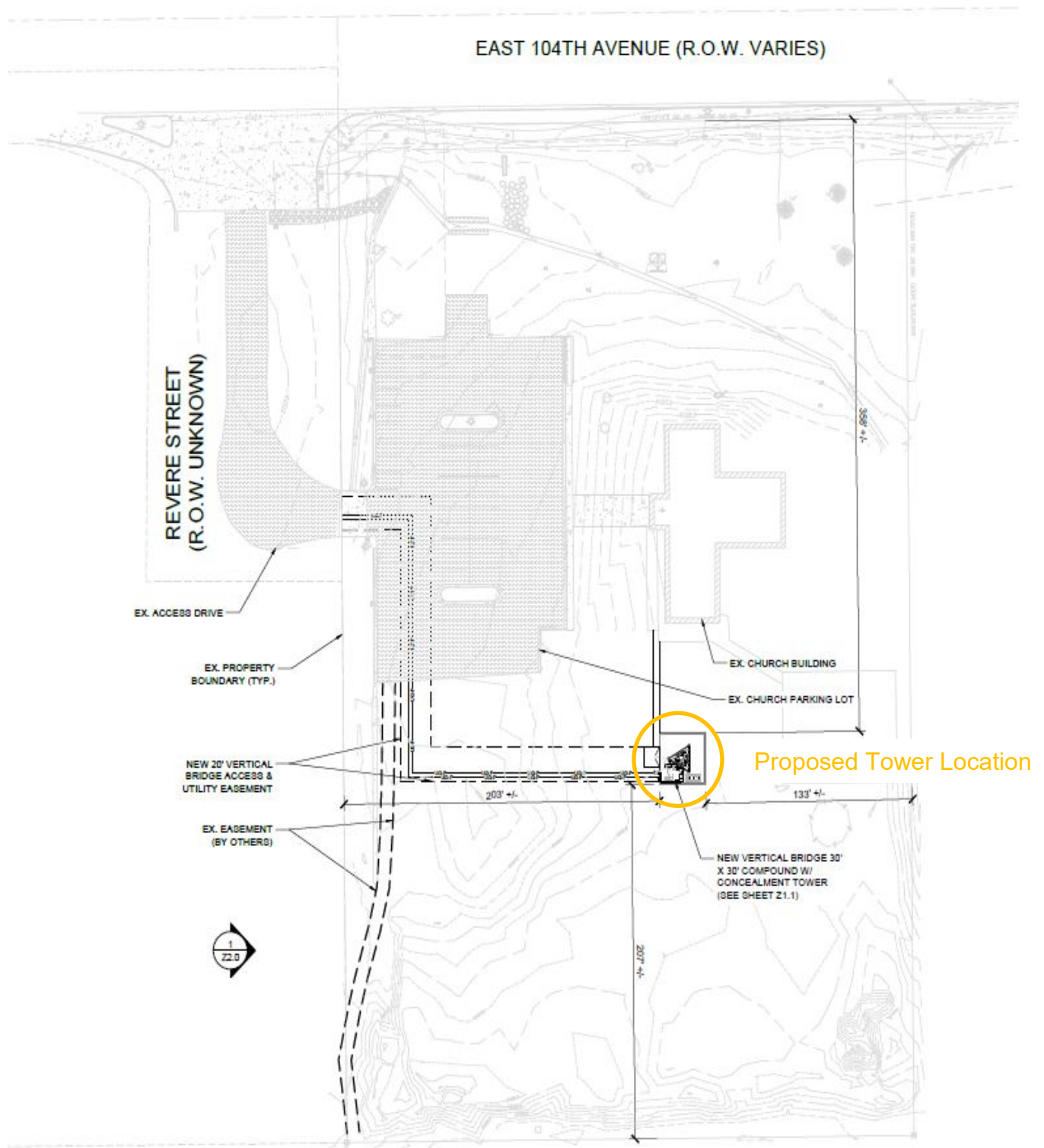
The applicant is requesting the approval of a height exception, to allow for a facility that would be 65 feet tall, which is 15 feet taller than the allowed 50-foot height for commercial structures, as defined within Article IV, Table IV-11 of the City’s Land Development Code.

The Land Development Code (LDC) allows for concealed telecommunication facilities on commercial zoned properties 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 a facility that is generally designed as a bell tower, which is architecturally harmonious with the existing church, and uses similar brick, concrete masonry blocks, and other materials that are compatible with the existing building. 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 bell tower is generally equivalent to the height, bulk, dimension, and design as other similar facilities that exist throughout the Denver Metro Area. Additionally, the proposed bell tower will feature a cross as part of its design over the antenna sections of the tower. This feature is currently not regulated for size, or color by our Land Development code. Furthermore, although there already is a cross structure located on the front of the property, this structure will remain in place as the height is not suitable for a telecom facility, and it is not counted as a sign in the property.

The area surrounding the subject property is transitioning from agricultural centered uses to more commercial and residential uses. Currently, the Turnberry PUD Residential Subdivision surrounds the area on the north. To the East is the Reunion PUD residential subdivision that is currently in the beginning stages of development. The area directly west of the subject property has a commercial designation and is currently occupied by RTD’s park and ride site. Finally, the area south of the property has an agricultural zoning designation and is currently in use as an easement by Xcel Energy to place their regional transmission lines.

The applicant intends to place the future concealed telecommunication tower behind the principal structure in order to provide sufficient distance between the facility and adjacent properties. Once in place, the planned facility will have an average of 150’ 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.

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 three additional future co-locators, in accordance with all applicable provisions of the LDC, which will 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 applicant explored locating a facility on the existing XCEL transmission line to the south, but 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. On average, transmission lines are between 100 to 125 feet in height.



Figure 3: Rendering of the planned facility, looking southeast from the intersection of East 104th Avenue and Revere 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. Furthermore, Northern Range residents have recurrently asked for greater telecommunication coverage in the area.

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:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
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, commercial, 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	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
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 proposed facility will support 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
(4) Approval Criteria. An application for a height exception may be approved if:		
<input type="checkbox"/>	(a) The requested structure height is required in order to reasonably comply with state or federal regulatory changes or needed to overcome technological limitations; OR	
<input checked="" type="checkbox"/>	(b) All of the following criteria are met:	
<input checked="" type="checkbox"/>	(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"/>	(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 100 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"/>	(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.
<input checked="" type="checkbox"/>	(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.

Criteria Met?	Sec. 21-3220. Height Exceptions	Rationale
<input checked="" type="checkbox"/>	(c) One of the following criteria is met:	
<input checked="" type="checkbox"/>	(i) The exception provides a demonstrated benefit to the city; or	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"/>	(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.	There will be minimal impact on adjacent properties from a visual intrusion standpoint, as the architectural enhancements proposed will <ol style="list-style-type: none"> 1. Adequately conceal the facility in such a way that it is not immediately identifiable as a telecommunication facility 2. Compliment and harmoniously blend with the existing church site through the use of similar exterior façade materials 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:

I move that the Board of Adjustment find that the requested Height Exception for the property located at **12500 East 104th Avenue** contained in case **A-1750-H-20** meets the criteria of the Land Development Code and, based upon such finding, approve the Height Exception.

Alternative Motions

To recommend approval subject to conditions:

I move that the Board of Adjustment find that the requested Use-By-Permit for the property located at **12500 East 104th Avenue** contained in case **A-1750-H-20** meets the criteria of the Land Development Code and, based upon such finding, approve the Use-By-Permit subject to the following conditions:

List Conditions

To recommend denial:

I move that the Board of Adjustment deny the requested Use-By-Permit for the property located at **12500 East 104th Avenue** contained in case **A-1750-H-20** because it fails to meet the following criteria of the Land Development Code:

List the criteria not met