



STAFF REPORT

Planning Commission

CASE # Z-692-98-20

PC Date: July 1, 2020

Case Planner: Braylan Marin

CC Date: July 20, 2020

Location: 12500 E. 104th Ave.
Commerce City, CO 80022

Applicant: Mike Bieniek, Representing T-Mobile

Owner: Nativity Lutheran Church

Address: 10700 Higgins Rd. Suite 240
Rosemont, IL 60018

Address: 12500 E. 104th Ave.
Commerce City, CO 80022

Case Summary

Request: Applicant is requesting a zone change from AG (Agricultural) to C-3 (Regional Commercial District)

Project Description: Nativity Lutheran Church is requesting to rezone from AG (Agricultural) to C-3 (Regional Commercial District), to make the existing use legally conforming and to allow the construction of a concealed telecommunication facility located at 12500 E. 104th Avenue.

Issues/Concerns:

- Consistency with the Comprehensive Plan

Key Approval Criteria:

- Visual impacts from adjacent properties
- Upgrades to wireless network in the area utilizing existing infrastructure.

Staff Recommendation: Approval

Current Zone District: AG (Agricultural District)

Requested Zone District: C-3 (Regional Commercial District)

Comp Plan Designation: Commercial

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

☒ Applicant's Narrative Summary

☒ Vicinity Map

☒ Site Plan

☐ Building Elevations

Background Information

Site Information

Site Size:	± 4.99 acres
Current Conditions:	Partially developed
Existing Right-of-Way:	Revere Street
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	Undeveloped	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	August 1998	Use-by-Permit for a church

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, rezoned 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.

Applicant's Request

The applicant is requesting the approval of a zone change from AG (Agricultural) to C-3 (Regional Commercial District) in order to bring the current use of the site, a "place of worship" into conformity with the Land Development Code. Furthermore, this will allow the property owner to move forward with plans to lease part of the property to T-Mobile and install a new concealed telecommunication tower in the form of a bell tower.

The applicant's request for zone change will allow for the height of the concealed cell tower to reach 50 feet as allowed by right under C-3 Commercial bulk standards. Additionally, concurrent with this zone change request, the applicant has applied for a height exception variance of 15 feet. If approved by the Board of Adjustment, the Height Exception would allow the proposed facility to reach a maximum height of 65 feet. According to the applicant, 65 feet is the optimal height for the proposed cell tower. The addition of this concealed facility should improve cellular service for both the surrounding neighborhoods and commuters.

Development Review Team Analysis

The Development Review Team (DRT) began by reviewing the request to change the zoning from AG to C-3 against the goals found in the City's Comprehensive Plan. The analysis is provided below:

Comprehensive Plan

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

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 1a	Future Land Use as a guide: Use the future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code (LDC)
<u>Analysis:</u>	The rezoning keeps the subject property in alignment with the future Commercial designation of the Land Use Plan. Additionally, the zone change of the subject's property brings this area of the city into further compliance with the future land use established by the Comprehensive Plan.	
<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 rezoning of this property will help alleviate the non-conforming status of the subject's property, while also allowing the owner to remain in place and maintain the character of the neighborhood.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 3.3	Compatible Uses in all Neighborhoods Protect neighborhoods from incompatible development. Infill development must consider and be sensitive to the character of stable neighborhoods. Development should be planned so that building scale, placement, size, height transitions, mature landscaping and other design measures ensure compatibility.
<u>Analysis:</u>	The rezoning of the subject's property to Commercial (C-3) will help maintain the character and density of the surrounding neighborhoods.	

Compatibility with the Area:

The area surrounding the subject property is transitioning from agricultural centered uses to more commercial and residential uses. Currently, the Turnberry residential subdivision surrounds the area to 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 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.

If approved, the zone change will allow the subject property to develop in a manner that is consistent with the surrounding properties. Moreover, the character of the area will not be disturbed, as the church will remain in place, and the proposed structure will be located far enough from adjacent property lines in order to mitigate any potential issues.

Proposed Development:

The applicant intends to lease an area of 900 square feet from the property owner to construct a new 65 foot concealed telecommunication tower. The tower will be built to resemble a typical church bell tower and it will use materials to match the current church. Additionally, the proposed concealed telecommunication tower will be placed behind the principal building in order to conceal the base of

the tower. The base of the concealed tower will feature a 7 foot CMU wall that will match the church building in order to blend the proposed structure with its surroundings. Furthermore, the proposed structure will have a setback of at least 130 feet from any property line and Right-of-Way in order to avoid potential disturbances on the adjacent neighbors or traffic patterns.

Outside Agency Review:

This proposal was reviewed by several City departments, as well as outside agencies. No conflicts or objections to the proposed C-3 zoning have been received.

DRT has also reviewed the rezoning application against the approval criteria for a zone change as outlined in the analysis below:

Criteria Met?	Sec. 21-3232. Rezoning or Zone Changes	Rationale
The zone change meets all of the following:		
<input checked="" type="checkbox"/>	The proposed zone district and allowed uses are consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city;	<i>The proposed C-3 zoning is consistent with the City's Comprehensive Plan designation for Commercial in the area.</i>
<input checked="" type="checkbox"/>	The proposed zone district and allowed uses are compatible with proposed development, surrounding land uses and the natural environment;	<i>The proposed C-3 zoning designation is compatible with the proposed development of the site and its surrounding areas. The subject property will remain a place of worship and the proposed concealed cell tower will not be detrimental to the character of the area.</i>
<input checked="" type="checkbox"/>	The proposed zone district will have, or future development can provide, efficient and adequate provision of public services, including but not limited to, water, sewerage, streets, and drainage;	<i>There are adequate public services for the subject property. No additional public services will be required due to this zone change.</i>
<input checked="" type="checkbox"/>	There proposed zone district will have, or future development can provide, efficient and adequate provision of public uses including but not limited to, parks, schools, and open space;	<i>There are adequate parks, schools, and open space for the subject property. No additional public uses will be required due to this zone change.</i>
<input checked="" type="checkbox"/>	There is a community need for the zoning district in the proposed location, given need to provide or maintain a proper mix of uses both within the city and the immediate area of the proposed use; and	<i>The requested zone change will bring the current use (a church) into conformance with the LDC, thereby affording it the ability to remain in place, expand, and upgrade the property in accordance with the vision of the City's comprehensive Plan.</i>
<input checked="" type="checkbox"/>	The area for which the change is requested has changed or is changing to such a degree that it is in the public interest to allow a new use or density.	<i>The area surrounding the subject property is currently changing, as new developments are in progress. This zone change will allow the church to come into conformity with current regulations. There is a public interest in transitioning properties from non-conforming to conforming status. Non-conformity properties have limited availability for adequate insurance, financing, and expansion/improvement.</i>

Summary:

Therefore, DRT has concluded that the requested zone change meets the approval criteria required for consideration of a zone change. The proposed zone change and land use complies with the intent of the Comprehensive Plan and it will match the Commercial character of the surrounding area. Through the DRT review, it is clear that the proposed zone change meets the criteria for zone change from AG (Agricultural) to C-3 (Regional Commercial District). The applicant intends to develop the site in accordance to the current requirements of Commerce City's Land Development Code for commercial standards. This zone change will not create adverse effects to the surrounding properties as the services necessary to serve the applicants proposed concealed telecommunication tower are already in place. Based on the analysis above, DRT is recommending approval of the requested zoning district for the subject property.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application **meets** the criteria for a zone change as set forth in the Land Development Code and recommends the Planning Commission forward the zone change request to the City Council with a **favorable** recommendation.

Recommended Motion

To recommend approval:

I move that the Planning Commission enter a finding that the requested zone change for the property located at 12500 E. 104th Avenue, contained in case Z-692-98-20, meets the criteria of the Land Development Code and based upon such finding, recommend that City Council approve the zone change.

Alternative Motions

To recommend denial:

I move that the Planning Commission enter a finding that the requested zone change for the property located at 12500 E. 104th Avenue, contained in case Z-692-98-20, fails to meet the following criteria of the Land Development Code:

List the criteria not met

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the proposed zoning.