



STAFF REPORT

Board of Adjustment

CASE # A-1753-H-20

BOA Date:	December 8, 2020	Planner:	Matt Post	Phone:	303-817-7560
Location:	9975 E. 104 th Ave Henderson, CO				
Applicant:	Crown Castle on Behalf AT&T Mobility	Owner:	Schlumberger Technology Corporation		
Address:	2055 S. Stearman Dr. Chandler, AZ 85286	Address:	1675 Broadway St. Suite 900 Denver, CO 80202		

Case Summary

Request:	Approval of a Height Exception to modify an existing telecommunication facility
Project Description:	The applicant is requesting a height exception to increase the height of the telecommunications tower from 93' to 113' on the property located at 9975 E 104th Ave
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• Eligible Facilities Request – Spectrum Act § 6409(a) (2012)
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• Conformance to all other city standards• Substantial Change determination
Staff Recommendation:	Approval
Current Zone District:	I-3 (Heavy Intensity Industrial District)
Comp Plan Designation:	General Industrial

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"/> Site Plan | |

Background Information

Site Size:	21.37 Acres
Current Conditions:	Developed with four warehouse buildings, existing monopole
Existing Right-of-Way:	Florence Street to the east
Neighborhood:	Di Giorgio
Existing Buildings:	Yes – none related to telecommunication use
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	Industrial	BASF Construction Chemicals	I-3
South	Industrial	Groendyke Transport	PUD
	Industrial	ACT Underground LLC	I-3
East	Public	South Adams County Fire	Public
	Industrial	Recycling Connections	I-3
West	Industrial	Union Pacific Railroad	I-1

Case History

<u>Case</u>	<u>Date</u>	<u>Action</u>
AN-220-07	2007	Approved
Z-876-08	2008	Rezone
AU-1747-19	2019	Approved

Case AN-220-07 annexed approximately 940.5 acres into the City of Commerce City as part of the Northern Enclave Annexation, which included the property where the subject monopole is located. Case Z-876-08 rezoned the property to I-3 with no conditions, while case AU-1747-19 approved a use-by-permit for the subject site allowing for a non-concealed monopole in an industrial zone district.

Applicant's Request

The applicant is requesting the approval of a Height Exception to allow an existing non-concealed monopole to be increased in height from 93 feet to 113 feet. The modification will include a 20-foot addition to the tower, and a new collocated antenna (AT&T) with associated ground-mounted equipment. The maximum permitted height for monopole in industrial zone districts is 70 feet.

The applicant represents that the facility has been in operation for 20 years and provides crucial telecommunication services to the area. The collocation of AT&T equipment on the tower will increase network speeds, connectivity, and capacity. The ability to collocate on the existing tower will also ensure that another tower would not be necessary in the direct vicinity.

The request for modification of this tower is eligible to be reviewed under the provisions of Section 6409(a) of the Middle Class Tax Relief Act, commonly known as the "Spectrum Act", which mandates that state and local governments "may not deny, and shall approve, any Eligible Facilities Request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station".

[illegible]

Development Review Team Analysis

The applicant is requesting the approval of a Height Exception to allow an existing non-concealed monopole to be increased in height from 93 feet to 113 feet, which is 43 feet taller than the 70-foot height limit allowed in the zone district.

The Land Development Code (LDC) allows for non-concealed monopoles on properties with an industrial land use designation to a maximum height of 70 feet. The site on which this non-concealed monopole is located was annexed into Commerce City in 2007 as part of the Northern Enclave annexation. Prior to annexation, the facility had operated legally in Adams County under a series of approved conditional use permits. In the time since annexation in 2007, the City has not received any complaints regarding the height, location, or appearance of the monopole to the knowledge of current staff.

The monopole currently stands 93 feet tall, which is 23 feet taller than the allowed 70-foot height in industrial zone districts. Section 21-3220 (Height Exceptions) of the LDC states that a structure shall not be considered non-conforming due to its height only as long as the structure existed on the effective date of the LDC. This provision applies, and as such, the height of the monopole does not render the structure nonconforming.

The existing monopole is an unmanned 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 base of the monopole and associated ground-mounted equipment are currently screened by an 8-foot privacy fence in accordance with Sec. 21-5603(5)(a) of the LDC.

Sec. 21-5603(6) of the LDC encourages the design of monopoles that will allow for at least two users. The current proposal will allow for an additional user to collocate on the existing tower in accordance with all applicable provisions of the LDC, which will reduce the need for additional telecommunication facilities in the immediate vicinity. Additionally, the existing monopole is located more than 2,000 feet from surrounding freestanding telecommunication facilities as required per Sec. 21-5603(3)(b) of the LDC.

The primary character of the adjacent area consists of heavy industrial uses, and the majority of buildings are large warehouses with outdoor storage. The subject monopole has been in place and operating continuously at this site since 1997. Due to the height and location of the monopole, it is visible from both East 104th avenue and Florence Street, the latter of which was completed in 2014 and serves multiple industrial uses to the north. The nearest residential area is the Belle Creek PUD, which is more than 1,700 feet northwest of the site.



Figure 2: Site Aerial with approximate location of planned facility

The Development Review Team (DRT) acknowledges the Eligible Facilities Request in accordance with Section 6409(a) of the Spectrum Act, and believes approval is appropriate given the federal requirements for review of an Eligible Support Structure as defined Section 6409(a) of the Spectrum Act, the context of the neighborhood and the immediate surroundings of the subject property, and the knowledge 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 modification 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 Industrial, and all adjacent properties are generally either undeveloped or industrial. 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).	
<u>Section</u>	<u>Goal</u>	<u>Description</u>

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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 increase in height would not impede solar access in any significant capacity due to its location. 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 increase in height 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"/>	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. Access to emergency services will be expanded through the additional network capacity.
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, 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 additional antenna 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.	The structure is located in an industrial area and consist of an extension of existing design.

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 **9975 E. 104th Ave** contained in case **A-1753-H-20** meets the criteria of the Land Development Code and, based upon such finding, approve the Height Exception.

Alternative Motions

To recommend approval with condition(s):

I move that the Board of Adjustment find that the requested Height Increase for the property located at **9975 E. 104th Ave** contained in case **A-1753-H-20** meets the criteria of the Land Development Code and, based upon such finding, approve the Height Exception.

List Conditions of Approval