

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING**

FINDINGS AND DECISION

HEARING DATE: June 26, 2023

PROJECT NAME: Verizon FTC Riverside Wireless Facility Relocation

CASE NUMBER: FDP #220012

APPLICANT: Ryan Sagar
CSAi
5935 S. Zang Street, Suite 280
Littleton, CO 80127

OWNER: Big D Properties LLP
3111 S. College Avenue
Fort Collins, Colorado 80525

HEARING OFFICER: Lori B. Strand

PROJECT DESCRIPTION/BACKGROUND: This is a request for a combined Project Development Plan/Final Development Plan (“**FDP**”) for a wireless communication facility on the northeast side of Riverside Avenue at 1500 Riverside Avenue/Parcel #8718409023 (“**Subject Property**”). There are two existing access points to the Subject Property; these are located along Riverside Avenue. No changes are proposed to these access points.

The proposed wireless communication facility consists of a 60-foot tall, 3-legged, stealth wireless cell tower with associated ground-mounted equipment, including equipment cabinets, a generator, and a steel canopy (collectively, the “**Proposed Tower**”). A hybrid cable connecting the ground equipment to the antenna equipment will be routed inside the tower leg. The project also will include the installation of underground power and fiber cables from utility sources to the ground equipment area.

The Applicant currently operates a facility on a 91-foot Poudre Valley REA power transmission pole located approximately 330 feet north of the Subject Property (the “**Existing Facility**”). The Applicant intends to cease operations of the Existing Facility due to several operating challenges, including safety concerns. The Applicant’s lease of the Existing Facility terminates in February 2024. The Proposed Tower will replace service provided to Applicant’s customers from the Existing Facility.

The Proposed Tower will be wedged between an existing light industrial/manufacturing building on the Subject Property. The existing building will surround the Proposed Tower on three sides (*i.e.*, the south, west, and east sides). All of the ground-mounted equipment and a portion of the tower will be screened on the fourth side (*i.e.*, along the north side of the existing building facing the Union Pacific Railroad) by a 6-foot cedar privacy fence.

The existing building is 27 feet 7 inches in height, which means that approximately 33 feet of the tower will be visible above the roof of the building. The Applicant proposes to install on the portion of the Proposed Tower rising above the roof of the building: twelve (12) antennas, nine (9) remoted radio heads, and two (2) over-voltage protection units. There will also be opportunities for two other carriers to collocate at the Proposed Tower. Antennas, radio heads, and over-voltage protection units located on the tower above the roof of the building will be concealed with fiberglass screens that match the color of the existing building and mimic the material and pattern of the existing building walls.

Several trees are located on the south side of the Subject Property along Riverside Avenue; the trees are approximately 40 feet in height and some are projected to grow to 50 feet in height.

The Subject Property is located in the Industrial (I) zone district. As set forth in Section 4.28(B)(2)(e) of the Land Use Code (“LUC”), wireless telecommunications facilities are permitted in the Industrial (I) zone district, subject to administrative review.

“*Wireless telecommunication facility*” is defined in Section 5.1.2 of the LUC as “any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.”

The zoning and land uses surrounding the Subject Property are:

Direction	Zone District	Existing Land Uses
North	Industrial (I) and Public Open Lands (POL)	<p>Union Pacific Railroad is located directly north.</p> <p>The Kingfisher Point Natural Area is located north of the Union Pacific Railroad line.</p> <p>Supply/distribution warehouse/office is located on the same lot as the proposed facility.</p>
South	<p>Employment (E)</p> <p>LMN (Low-Density Mixed Use Neighborhood)</p> <p>RL (Low Density Residential)</p>	<p>Office and church uses are located on the south side of Riverside Avenue across from the proposed location.</p> <p>Single-family detached and single-family attached units within the Highlander Heights and Eastgate Subdivision are</p>

		located south and west of the office and church uses.
East	Industrial (I)	A veterinary office is located directly east of the proposed facility. Supply/distribution and warehouse/office.
West	Industrial (I) and Employment (E)	Supply/distribution and warehouse/office.

Additional background information and City staff’s analysis of LUC compliance are detailed in the Development Review Staff Report prepared for the Proposed Tower. This report is attached to this decision as **ATTACHMENT A** (the “**Staff Report**”) and is incorporated herein by reference.

SUMMARY OF DECISION: Approved.

ZONE DISTRICT: Industrial (I).

HEARING: The Hearing Officer opened the virtual public hearing on Monday, June 26, 2023 at approximately 5:30 PM. At the public hearing, the Hearing Officer reviewed the Order of Proceedings and Rules of Conduct for Administrative Hearings with the Applicant. There were no members of the public present during the hearing.

EVIDENCE: Prior to or at the hearing, the Hearing Officer accepted the following documents as part of the record of this proceeding:

1. Staff Report (8 pages).
2. Applicant narrative by Ryan Sagar, CSAi, dated August 15, 2022 (7 pages).
3. Zoning drawings/plan set (12 sheets).
4. Applicant height justification, dated May 22, 2023 (2 pages).
5. Copy of written notice of virtual public hearing, dated June 9, 2023 (2 pages).
6. Confirmation of published notice in the Coloradoan (1 page).
7. Rules of Conduct for Administrative Hearings.
8. City Staff PowerPoint presentation (19 pages).
9. Applicant PowerPoint presentation (20 pages).
10. The City’s Comprehensive Plan, the LUC, and the formally promulgated polices of the City are all considered part of the record considered by the Hearing Officer.

TESTIMONY: The following persons testified at the virtual public hearing:

From the City: Katelyn Puga, City Planner

From the Applicant: Ryan Sagar, CSAi

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the public hearing was properly posted, mailed, and published.
2. The Hearing Officer incorporates the information provided in the Project Description/Background section of this decision as factual findings. The Hearing Officer also finds that:
 - (a) Based on testimony provided by Mr. Sagar during the hearing, the Proposed Tower will provide greater opportunities for collocation than currently exist on the Existing Facility. Specifically, whereas the Existing Facility only serves the Applicant, the Proposed Tower will have room for the collocation of two additional carriers.¹
 - (b) The Proposed Tower will be buffered from residential uses located to the south of Riverside Avenue by existing industrial and light manufacturing buildings and uses, existing (and growing) trees along both sides of Riverside Avenue, and existing commercial uses along the south side of Riverside Avenue.
 - (c) Ground equipment will be screened on all sides and not visible from any adjacent rights-of-way or properties.
 - (d) The location of the Proposed Tower at the Subject Property is appropriate given its close proximity to the Existing Facility and ability to serve Applicant's customers currently served by the Existing Facility.
3. Based on testimony provided at the public hearing and a review of the materials in the record of this case, the Hearing Officer concludes as follows:
 - A. The FDP complies with the applicable procedural and administrative requirements of Article 2 of the LUC.
 - B. The FDP complies with the applicable General Development Standards contained in Article 3 of the LUC.
 - C. The Project complies with the applicable standards in Division 4.28 of the LUC.

¹ Note that on page 5 of the Staff Report, staff states that collocation is *not* feasible at the Subject Property. Ms. Puga, City Planner, testified during the hearing on June 26, 2023 that this statement was made in error. Ms. Puga and the Applicant confirmed during the hearing that collocation is feasible and that there will opportunities for two other carriers to collocate at the Proposed Tower.

4. The FDP's satisfaction of the applicable Article 2, 3 and 4 requirements of the LUC is sufficiently detailed in the Staff Report and the testimony and materials in the record.

DECISION

Based on the findings set forth above, the Hearing Officer approves the Verizon FTC Riverside Wireless Facility Relocation (FDP #220012).

DATED this 27th day of June, 2023.



Lori B. Strand
Hearing Officer

ATTACHMENT A

Staff Report

Verizon FTC Riverside Wireless Facility Relocation (FDP #220012)

Development Review Staff Report

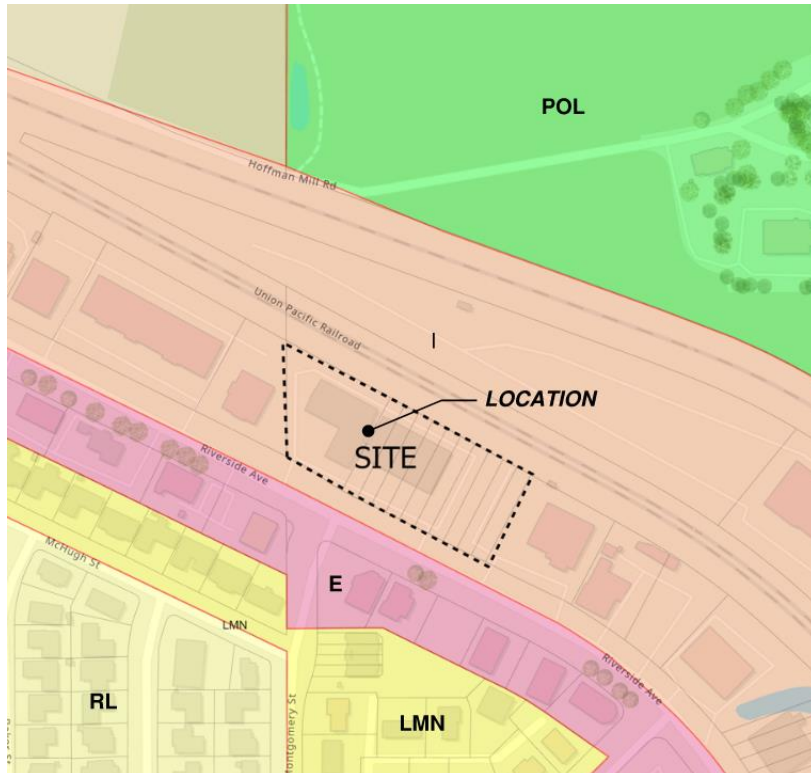
Administrative Hearing: June 26, 2023

Verizon FTC Riverside Wireless Facility Relocation #FDP220012

Summary of Request

This is a request for a combination Project Development Plan (PDP) and Final Development Plan (FDP) for a 60-foot screened cell tower on a lot within an existing commercial business located on the northeast side of Riverside Avenue at 1500 Riverside Avenue.

Zoning Map



Next Steps

If approved by the Hearing Officer, the applicant will be eligible to submit Final Development Plan mylars and apply for construction and building permits.

Site Location

1500 Riverside Avenue, located northeast of Riverside Avenue, directly south of the Union Pacific Railroad.

Parcel #8718409023

Zoning

Industrial (I) Zone District

Owner

Big D Properties LLP
3111 S. College Avenue
Fort Collins, CO 80525

Applicant/Representative

Ryan Sagar
CSAI
5935 S Zang St., Suite 280
Littleton, CO 80127

Staff

Katelyn Puga, City Planner

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Staff Recommendation

Approval

1. Project Introduction

A. PROJECT DESCRIPTION

This is a request for a Project Development Plan (PDP) to construct a wireless communication facility at 1500 Riverside Avenue. The proposed wireless cell tower facility is a relocation of the existing facility located on the Poudre Valley REA power transmission poles that has experienced operating challenges. To replace the service previously provided on the transmission poles, a 60-foot tall concealed (stealth) wireless cell tower facility is proposed at the 1500 Riverside Avenue site. The concealed facility is proposed to be located internal to the site, located between three sides of the existing building to further screen the equipment area and integrate the facility with the existing land use on site.

The site is in the Industrial (I) zone district and the proposal is subject to Administrative (Type 1) Review. The wireless facility is proposed to be located in an open passageway area within the building footprint, on the north side of the building, closer to the Union Pacific Railroad. The placement and positioning of the facility provides greater screening and distance from the residential zone districts and land uses on the south side of the existing building.

The wireless cell tower facility consists of the 60-foot tall, 3-legged facility with fiberglass screens and legs that are painted to match the existing building. In comparison, the existing building is 27 feet 7 inches in height.

The proposal includes the installation of twelve (12) antennas and nine (9) remoted radio heads. The equipment cabinets and generator will be screened on the ground by a six-foot tall cedar privacy fence.



The photo simulation image above, provided in the application, shows the public view with the highest visibility of the facility, south of Riverside Avenue.

B. SITE CHARACTERISTICS

1. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	Industrial (I) Public Open Lands (POL)	Employment (E) LMN (Low-Density Mixed Use Neighborhood) RL (Low Density Residential)	Industrial (I)	Industrial (I) Employment (E)
Land Use	Union Pacific Railroad located directly north. The Kingfisher Point Natural Area is located north of the Union Pacific Railroad line. Supply/Distribution Warehouse/Office located on the same lot as the proposed facility (northwest).	Office uses and Church uses are located on the south side of Riverside Avenue across from the proposed location. Single-Family Detached and Single-Family Attached units within the Highlander Heights and Eastgate Subdivision are located south and west of the Office and Church uses.	Veterinary Office located directly east of proposed facility. Supply/Distribution Warehouse/Office	Supply/Distribution Warehouse/Office

2. Site History

The land was annexed in 1973 as part of the East Prospect Street 1st Annexation. The site is within the Riverside Seventh Subdivision approved in 1976. The proposed location of the wireless communication facility is within Lots 31, 32, 33, and 34 of the subdivision. A Subdivision Plat is also under review with the application to combine lots and provide the required easements related to the project.

There is an existing building that is approximately 35,000 square feet in size on the property. Industrial manufacturing, processing, and office land uses currently occupy the building.

C. OVERVIEW OF MAIN CONSIDERATIONS IN STAFF’S REVIEW

Location. The proposed location of the facility is within an Industrial zone district. Industrial uses, railroad, and open space directly abut the northern property line where the facility may be most visible. Although there are residential uses on the south sides of the proposed location, the Riverside Avenue right-of-way and buffer of commercial office uses provides additional buffering and separation between the facility and residential land uses.

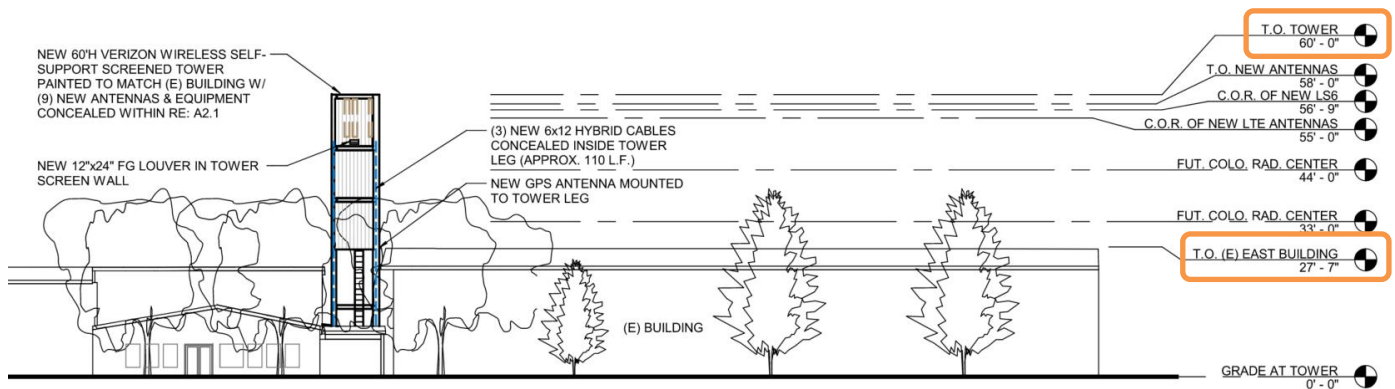
The applicant is proposing to relocate the existing facility due to issues related to the operations of the wireless at its current location on the Poudre Valley REA power transmission poles. To ensure that adequate service was provided to the same area, the applicant surveyed a limited number of properties for the relocation of the facility. The applicant demonstrates through the narrative and supplemental feasibility analysis that although the proposed location provides less service coverage than the previous location on the PRPA poles, it is a level of service that meets their standards and will not create any new coverage gaps. The applicant identified industrial uses to be the most compatible sites for a wireless telecommunication facility. The project site was chosen because of its ability to meet adequate spacing, setback requirements, and suitability for a stealth wireless facility.

Appearance. The next fundamental consideration is the consistency of the design for the wireless telecommunication facility with the surrounding “architectural character” and “natural environment” as required by a standard in the Land Use Code, subsection 3.8.13(C)(2). The applicant has proposed a stealth design by fully concealing the antenna array using fiberglass panes that match the materials and colors of the existing building. The initial design only featured two fiberglass screening panels. City staff worked with the applicant to extend the screen panels down an additional 10-feet to further screen the legs of the facility and provide better continuity and architectural compatibility with the site.

Height and Setbacks. The consideration for height of the tower was thoroughly discussed with the applicant. There are no structures within the surrounding context that are near 60 feet in height besides the PRPA power lines. City staff requested that the applicant demonstrate that 60 feet in height was the minimum height that was required to meet the network feasibility.

To demonstrate that the proposed height was necessary, the applicant provided a narrative about the height justification and the feasibility analysis. The height justification states that the existing building height is 27 ft. 7 inches and helps to conceal the full height of the tower so that only 33 feet of the tower is visible above the building. Existing trees near the proposed tower location are near 40 ft. tall and projected to grow to 50 ft. in height. The 60-foot height of the tower takes the future height of the existing trees on site into consideration.

Although the proposed height of 60-feet was a minimum height requirement for the network, it was also the maximum height that could be possible because of the setback requirements which state that if the tower is not engineered to collapse rather than topple then it is required to be setback from the property lines by a distance equal to the height of the tower. The tower is proposed to be setback from the nearest property line by 60 feet to meet this standard.



2. Land Use Code Article 2 Procedural Requirements

A. FINAL DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR 210074

A conceptual review meeting was held on September 23, 2021.

2. Neighborhood Meeting

A neighborhood meeting was not required, nor held, for this Type 1 review process.

3. Submittal

The project was submitted on August 19, 2022. The project was routed to all reviewing departments with four rounds of review conducted to reach the proposed plan.

4. Notice (Posted, Written and Published)

Posted notice: September 9, 2022, Sign #691

Written notice: June 9, 2023, 197 letters sent.

3. Land Use Code Article 3 - Applicable Standards

Because the plan involves a facility on an existing fully developed property, the only applicable development standards in Land Use Code are those in Section 3.8.13, Section 3.2.4, and Section 3.3.1 as reviewed below.

A. SECTION 3.8.13 – WIRELESS TELECOMMUNICATION

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
Location 3.8.13(A)	<p>This standard states that wireless telecommunication equipment may be attached to or mounted to any existing building or structure located in any zone district of the city but cannot be attached or mounted to any residential building containing four (4) or fewer dwelling units.</p> <ul style="list-style-type: none"> The proposed location is not attached or mounted to a residential building. 	Complies
Co-location 3.8.13(B)	<p>This standard requires that a facility or owner or lessee must not attempt to exclude any other wireless telecommunication provider from using the same structure or location. Applicants shall cooperate in good faith to achieve co-location of wireless telecommunication facilities and equipment.</p> <p>Any application for the approval of a plan for the installation of wireless telecommunication facilities or equipment shall include documentation of the applicant's good faith efforts toward such cooperation.</p> <ul style="list-style-type: none"> The narrative provided with the application states that the proposed wireless facility at this site will replace an existing facility that is failing on a power transmission pole. The applicant states that the existing site will be terminated upon completion of the facility located at 1500 Riverside Avenue. Co-location is not feasible for this location because of the proposed shorter height than the existing equipment on the PRPA poles. The narrative provided demonstrates no existing buildings or structures within the service ring were available for co-location. 	Complies
Setbacks 3.8.13(C)(1)	<p>This subsection requires towers to be set back from property lines by one foot for every foot of height unless it can be demonstrated that the structure will collapse rather than topple, in which case this requirement can be waived by the Director.</p> <ul style="list-style-type: none"> The proposed height of the cell tower was strategically planned to accommodate for the setback requirements. The tower is 60 ft. tall at its tallest point and the tower is setback 60 ft. from the closest property line (north property line). 	Complies
Wireless Telecomm Facilities	<p>This subsection requires wireless telecommunication facilities to be “consistent with the architectural style of the surrounding architectural environment”. Considerations are to include “materials, roof form, scale, mass, color, texture</p>	Complies

<p>Subsection 3.8.13(C)(2)</p>	<p>and character”. Facilities must also be “compatible with the surrounding natural environment.”</p> <p>Staff interprets the standard to invoke the built environment in its totality inclusive of building architecture, landscape architecture, and infrastructure design, with the purpose to mitigate visual impact on the cityscape and skyline.</p> <ul style="list-style-type: none"> In this case, the incorporation of the stealth cell tower with the existing building would inform the architectural style of the facility. The fiberglass screening panels use the same material and color as the existing building. The panels will extend down the tower legs to meet the roof line of the building so that it appears to be integrated with the design of the existing building. 	
<p>Landscaping subsection 3.8.13(C)(4)</p>	<p>This standard requires landscaping based on the unique nature of wireless telecommunication facilities. Landscaping may be required to achieve a total screening effect at the base of such facilities to screen the mechanical characteristics. A heavy emphasis on coniferous plants for year-round screening may be required.</p> <ul style="list-style-type: none"> The location is a rear area of the building and surrounded by the building on three-sides. The location of the equipment has very low public visibility between the nearby commercial/light industrial buildings, and no visibility from the ground along the Riverside Avenue frontage. In lieu of landscape plantings, a six (6) foot-tall cedar privacy fence is proposed to screen the mechanical equipment from the rear of the property. 	<p>Complies</p>
<p>Stealth Technology subsection 3.8.13(C)(15)</p>	<p>This standard requires that to the extent reasonably feasible, the applicant shall employ "stealth technology" to convert the wireless telecommunication tower into wireless telecommunication <i>equipment</i> integrated into an existing structure, as the best method for mitigating and/or camouflaging visual impacts.</p> <p>The standard mentions examples such as grain bins, silos or elevators, church steeples, water towers, clock towers, bell towers, false penthouses or other similar "mimic" structures.</p> <ul style="list-style-type: none"> The wireless telecommunication equipment uses stealth technology and is fully concealed by three fiberglass screens that match the existing materials and colors of the building on site. The panels will be extended to the lowest point possible on the tower legs to appear more seamless with the existing roof of the building. 	<p>Complies</p>

B. DIVISION 3.2 – SITE PLANNING AND DESIGN

<p>Applicable Code Standard</p>	<p>Summary of Code Requirement and Analysis</p>	<p>Staff Findings</p>
<p>Exterior Site Lighting Section 3.2.4 (A)(C)(I)</p>	<p>This Code section requires that exterior lighting meet the functional and security needs of the project and are met in a way that does not adversely affect the adjacent properties or neighborhood.</p> <ul style="list-style-type: none"> The proposal includes the addition of two flood lights for security of the operation of the cell tower and ground equipment. The lights are directed toward the equipment area. 	<p>Complies</p>

	<ul style="list-style-type: none"> • The site is in the Lighting Context Area 1 – Low ambient lighting and meets the requirements for the backlight, uplight, and glare (BUG) ratings. • The new lighting fixtures meet the Design Standards of this section and will reinforce the lighting fixture style of the existing land use. 	
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C. DIVISION 3.3 - ENGINEERING

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
Plats and Easements Section 3.3.1	<p>This Section requires dedication of easements as necessary for drainage, utilities, and access as needed to serve the development. Several easements are needed on for access, drainage, and temporary construction access on abutting property.</p> <ul style="list-style-type: none"> • The plat removes lot lines running through the existing building/proposed facility and the necessary utility and emergency access easements, with the easement documents to be recorded in conjunction with approval of Final Plans. 	Complies

4. Land Use Code Article 4 – Applicable Standard

DIVISION 4.28 - The Industrial District is intended to provide a location for a variety of work processes and work places such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, child care centers and housing. While these Districts will be linked to the City's transportation system for multiple modes of travel, some may emphasize efficient commercial trucking and rail traffic as needed. Industrial and manufacturing processes used in this District may, by necessity, be characteristically incompatible with residential uses.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
4.28 – Permitted Uses	<p>This section ensures that a change of use or addition of use on the property would go through the prescribed Development Review process as determined in this section.</p> <ul style="list-style-type: none"> • The proposed wireless telecommunication facility is permitted subject to review by a Hearing Officer at a public hearing (Type 1 review). 	Complies
4.28.E.3.b – Development Standards	<p>This section ensures that proposed land uses meet the intent of the zone district through design elements such as screening. Storage, loading and work operations shall be screened from view along all district boundary lines and along all public streets.</p> <ul style="list-style-type: none"> - All work areas related to the Wireless Telecommunication Facility are screened from boundary lines and along all public streets. The facility is fully screened from the west, east, and south. 	Complies

5. Findings of Fact/Conclusion

In evaluating the request for the Verizon FTC Riverside Wireless Facility Relocation # FDP220012, staff makes the following findings of fact:

1. The FDP complies with process requirements located in Division 2.2 – Common Development Review Procedures for Development Applications of Article 2 – Administration.
2. The FDP complies with pertinent standards located in Article 3 – General Development Standards.
3. The proposed Wireless Telecommunication Facility is a permitted use subject to Type 1 review and hearing in the Industrial Zone District in Article 4 – Districts.
4. The 60-foot height is the absolute maximum permissible height due to the setback requirements.

6. Recommendation

Staff recommends that the Hearing Officer approve the Verizon FTC Riverside Wireless Facility Relocation Final Development Plan # FDP220012 based on the Findings of Fact and supporting explanations found in the staff report.

7. Attachments

1. Project Submittal Narrative
2. FDP Plans
3. Height Analysis