

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

FINDINGS AND DECISION

HEARING DATE: December 15, 2021

PROJECT NAME: 2900 S. College Ave. AT&T – Wireless
Telecommunication Equipment

CASE NUMBER: PDP #210007

APPLICANT: Jacklyn Levine
AT&T, Nexius Solutions
7025 S Fulton Street STE 100
Fort Collins, CO 80112

OWNER: 3842 Mason LLC
3711 John F Kennedy Parkway STE 340
Fort Collins, CO 80525

HEARING OFFICER: Marcus A. McAskin

PROJECT DESCRIPTION: This is a request for a Project Development Plan (“PDP”) to install wireless telecommunication equipment on an existing three-story multi-tenant brick commercial building located at 2900 S. College Avenue (the “Subject Property”).

The Subject Property is zoned General Commercial (C-G).

The plan includes a roof-mounted antenna system that is screened from public view by a 10-foot-tall screen wall that is designed to match the existing building. Specifically, the Applicant proposes to screen the wireless telecommunication equipment by installing a 10-foot screen wall system that will be painted and textured to match the existing commercial building on the Subject Property.

BACKGROUND: As set forth in the table included in Section 4.21(B)(2) of the Land Use Code (“LUC”), *wireless telecommunications equipment* (not freestanding monopoles) is permitted in the General Commercial District (C-G), subject to Administrative (Type 1) Review.

The zoning and land uses for properties in the vicinity of the Subject Property are as follows:

	North	South	East	West
Zoning	General Commercial	General Commercial	Low Density Residential (RL)	General Commercial
Land Use	Office, retail and personal/business services shop	Office	Single-family detach dwellings	Vehicle sales and leasing establish and outdoor storage

SUMMARY OF DECISION: Approved.

ZONE DISTRICT: General Commercial (C-G).

HEARING: This matter was heard as one of three virtual hearings conducted on December 15, 2021. Following the conclusion of the hearings on PDP 200016 (Office and Light Industrial) and MJA 210003 (Poudre Valley Plaza Mixed-Use), the Hearing Officer re-opened the virtual hearing at approximately 7:50 p.m.

The Hearing Officer reminded those in attendance that the Order of Proceedings were previously reviewed prior to the commencement of the hearing on the first project heard on the evening of December 15th (PDP 200016).

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

1. Project Vicinity and Zoning Map.
2. Applicant Project Narrative (5 pages).
3. Site Plan for 2900 S. College Avenue (rooftop project) (9 pages) (including title sheet, general notes, site plan, roof plan, building elevations, shroud details, and electrical and utility details).
4. Photo Simulations for 2900 S. College Avenue completed by Tower Engineering Professionals, Inc. (10 pages).
5. Setback Calculations (2 pages).
6. Round 1 – Staff Comments dated April 20, 2021 (8 pages).
7. Round 2 – Staff Comments dated June 30, 2021 (6 pages).
8. Planning Department Staff Report prepared for 2900 S. College Ave AT&T – Wireless Telecommunication Equipment (PDP #210007). A copy of the Staff Report is attached to this decision as **ATTACHMENT A** and is incorporated herein by reference.

9. Copy of Notice of Public Hearing published in the Fort Collins *Coloradan* on December 5, 2021.
10. Copy of Written Notice of Public Hearing dated November 24, 2021 (per Development Review Staff Report the Written Notice of Public Hearing was distributed to 175 addresses).
11. The PowerPoint presentation prepared by City Staff for the December 15, 2021 hearing.
12. The Applicant's PowerPoint presentation (slide deck) prepared for the December 15, 2021 hearing.
13. Statement of Compliance with Fort Collins Code (4 pages).
14. Administrative (Type 1) Hearing: Order of Proceedings.
15. Rules of Conduct for Administrative Hearings.
16. The City's Comprehensive Plan, 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 participated in the virtual hearing:

From the City: Kai Kleer, City Planner
 Leslie Spencer, Comm. Dev. Support
 Marc Virata, City Engineer
 Spencer Smith, City Traffic Operations

From the Applicant/Owner: Elizabeth Walker, Wireless Policy Group, LLC
 (Applicant team)
 Jaclyn Levine, Applicant
 Julius Delacruz, Applicant
 Nick Constantine, Applicant

From the Public: None

The public comment portion of the hearing was opened at approximately 8:25 PM and was closed at approximately 8:26 PM.

The virtual hearing on this matter was closed at approximately 8:27 P.M.

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the public hearing was properly posted, mailed and published.

2. As required by City Council Ordinance 079, Series 2020 (the “**City Ordinance**”), the Hearing Officer, in consultation with City staff, determined that it was desirable to conduct the hearing by remote technology so as to provide reasonably available participation by parties-in-interest and by the public, consistent with the requirements of the City Ordinance, because meeting in person would not be prudent for some or all persons due to a public health emergency.
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 Application complies with the applicable procedural and administrative requirements of Article 2 of the LUC;
 - B. the Application complies with the applicable General Development Standards contained in Article 3 of the LUC. The Hearing Officer specifically finds that the Application complies with Section 3.8.13 of the LUC as follows:

3.8.13(A)—**Location**. The Application complies with subsection (A) of Section 3.8.13 of the LUC because the wireless telecommunication equipment is proposed to be attached to an existing commercial building located on the Subject Property that is not a residential building containing four (4) or fewer dwelling units.

3.8.13(B)—**Co-Location**. The Application complies with subsection (B) of Section 3.8.13 of the LUC because AT&T has agreed to not exclude any other wireless carrier from utilizing the wireless telecommunication equipment. The Site Plan includes a note (Sheet N-1, General Note #19) which reads as follows:

NO WIRELESS TELECOMMUNICATION FACILITY OR EQUIPMENT OWNER OR LESSEE OR EMPLOYEE THEREOF SHALL ACT TO EXCLUDE ANY OTHER WIRELESS TELECOMMUNICATION PROVIDER FROM USING THE SAME BUILDING, STRUCTURE OR LOCATION. WIRELESS TELECOMMUNICATION FACILITY OR EQUIPMENT OWNERS OR LESSEES OR EMPLOYEES THEREOF, AND APPLICATIONS FOR THE APPROVAL OF PLANS FOR THE INSTALLATION OF SUCH FACILITIES OR EQUIPMENT, SHALL COOPERATE IN GOOD FAITH TO ACHIEVE CO-LOCATION OF WIRELESS TELECOMMUNICATIONS AND EQUIPMENT

In addition, the Statement of Compliance with Fort Collins Code (prepared by the Applicant) includes the following Applicant response on page 1: “AT&T acknowledges [the requirements set forth in Section 3.8.13(B) of the LUC] and will not act to exclude any other wireless carrier from utilizing this location.”

3.18.13(C)—*Standards*. The Application either complies with applicable subsection (C) requirements of Section 3.18.13 of the LUC, or such subsection standards are not applicable to the Application, as detailed below:

(1) *Setbacks*. The standard set in Section 3.18.13(C)(1) of the LUC is not applicable because the wireless telecommunication equipment proposed is not a freestanding facility or monopole.

(2) *Wireless Telecommunication Facilities*. The standard set in Section 3.18.13(C)(2) of the LUC is satisfied because the design proposes utilizing screen walls that will camouflage the antennas (in a color to match the existing building as closely as possible) consistent with the architecture of the commercial building on the Subject Property, and other architecture in the general vicinity of the Subject Property.

(3) *Wireless Telecommunication Equipment*. The standard set in Section 3.18.13(C)(3) of the LUC is satisfied because the antenna will not extend over 15 feet over the height of the roof and the camouflaging screens will match the building in color as closely as possible. Further, the Applicant has submitted sufficient justification for why the antennas must be as close to the roof edge as possible due to service constraints. Further, the Hearing Officer agrees with Staff's conclusion that the design of the proposed screen wall demonstrates a high level of design that is compatible with the existing commercial building on the Subject Property.

(4) *Landscaping*. The standard set in Section 3.18.13(C)(4) of the LUC is not applicable because the wireless telecommunication equipment proposed is not ground-mounted. No ground-mounted equipment is proposed.

(5) *Fencing*. The standard set in Section 3.18.13(C)(5) of the LUC is not applicable because the Applicant is not proposing fencing to screen the wireless telecommunication equipment. Fencing is not proposed.

(6) *Berming*. The standard set in Section 3.18.13(C)(6) of the LUC is not applicable because the Applicant is not proposing berming. Berming is not proposed.

(7) *Irrigation*. The standard set in Section 3.18.13(C)(7) of the LUC is not applicable because the Applicant is not proposing landscaping or berming, and thus no irrigation is required. No irrigation is proposed.

(8) *Color.* The standard set in Section 3.18.13(C)(8) of the LUC is satisfied because the Applicant is proposing to install screens that will match the color and texture of the existing commercial building on the Subject Property.

(9) *Lighting.* The standard set in Section 3.18.13(C)(9) of the LUC is satisfied because the Applicant has agreed to comply with lighting regulations including that the light source for security lighting will comply with the requirements of Section 3.2.4 of the LUC.

(10) *Interference.* The standard set in Section 3.18.13(C)(10) of the LUC is satisfied because the Applicant has agreed to comply with FCC licensed frequencies, and the operation of the proposed wireless telecommunication equipment will not cause interference with other electronics such as radios, televisions or computers.

(11) *Access Roads.* The standard set in Section 3.18.13(C)(11) of the LUC is not applicable because no new access roads are being proposed as part of the Application.

(12) *Foothills and Hogbacks.* The standard set in Section 3.18.13(C)(12) of the LUC is not applicable because the wireless telecommunication equipment proposed is not located in or near the foothills or hogbacks.

(13) *Airports and Flight Paths.* The standard set in Section 3.18.13(C)(13) of the LUC is or will be satisfied because the Applicant has agreed to obtain all required FAA clearances or obtain a no-hazard letter from the FAA.

(14) *Historic Sites and Structures.* The standard set in Section 3.18.13(C)(14) of the LUC is not applicable because the existing commercial building on the Subject Property (on which wireless telecommunication equipment is proposed to be attached) is not historic.

(15) *Stealth Technology.* The standard set in Section 3.18.14(C)(15) of the LUC is satisfied because the Applicant proposes stealth technology and has incorporated same into design elements shown in the Site Plan and Photo Simulations reviewed as part of the record of this hearing.

3.18.13(D)—Subsection (D) of Section 3.18.13 of the LUC does not apply, as the Applicant is not seeking to install a small-cell facility.

- C. The proposed wireless telecommunication equipment is a permitted use subject to Type 1 review and hearing in the General Commercial (C-G) Zone District in Article 4 – Districts, Division 4.21 of the LUC.

4. The Application's satisfaction of the applicable Article 2, 3 and 4 requirements of the LUC is sufficiently detailed in the Staff Report, a copy of which is attached to this written decision as **ATTACHMENT A** and is incorporated herein by reference.

DECISION

Based on the findings set forth above, the Hearing Officer approves the 2900 S. College Ave AT&T – Wireless Telecommunication Equipment project (PDP #210007).

DATED this 29th day of December, 2021.



Marcus A. McAskin
Hearing Officer

ATTACHMENT A

Staff Report
2900 S. College Avenue - Wireless Telecommunications Equipment
(PDP#210007)

Development Review Staff Report

Administrative Hearing: December 15, 2021

2900 S College Ave AT&T – Wireless Telecommunication Equipment, PDP210007

Summary of Request

This is a request for a Project Development Plan (PDP) to install wireless telecommunication equipment on an existing commercial building at 2900 S College Avenue. The plan includes a roof-mounted antenna system that is screened from public view by a 10-foot tall screen wall that is designed to match the existing building.

Zoning Map



Next Steps

If approved by the Hearing Officer, the applicant will be eligible to proceed to filing of final plans and then to a building permit.

Site Location

2900 S College Avenue., approximately 500 feet northeast of the S College Avenue and Swallow Rd intersection. Parcel #9725267003.

Zoning

General Commercial (C-G)

Owner

3842 Mason LLC
3711 John F Kennedy Parkway STE 340
Fort Collins, CO 80525

Applicant/Representative

Jacklyn Levine
AT&T, Nexius Solutions
7025 S Fulton Street STE 100
Fort Collins, CO 80112

Staff

Kai Kleer, City Planner
p. (970) 416-4284 e. kkleer@fcgov.com

Contents

1. Project Introduction	2
2. Article 2 Procedural Requirements	2
3. Article 3 - Applicable Standards.....	3
4. Article 4 – Applicable Standard.....	4
5. Findings of Fact/Conclusion	4
6. Recommendation	4
7. Attachments	4

Staff Recommendation

Approval of the PDP.

1. Project Introduction

A. PROJECT DESCRIPTION

- The plan proposes to install rooftop wireless telecommunication equipment on the 3-story multi-tenant brick commercial building at 2900 S College Avenue.
- All associated equipment will be located within the roof area of the building. No impacts to existing site improvements are proposed.
- The equipment is proposed to be screened by a 10-foot screen wall system that will be painted and textured to match the existing building.

B. SITE CHARACTERISTICS

1. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	General Commercial	General Commercial	Low Density Residential (RL)	General Commercial
Land Use	Office, retail and personal/business services shop	Office	Single-family detached dwellings	Vehicle sales and leasing establishment with outdoor storage

C. OVERVIEW OF MAIN CONSIDERATIONS IN STAFF’S REVIEW

Appearance. The fundamental consideration has been the visual impact on the existing character of the building. The goal of the screen wall design was to integrate the structure so that it appears to have been part of the original design of the building.

The proposal reflects multiple rounds of staff review, offline conversations, and design iterations to create a rooftop installation that balances the bulk, mass and scale of the screen wall, preserves the architectural character of the building, and meets the AT&T’s needs for network operation.

2. Article 2 Procedural Requirements

A. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR190036

A conceptual review meeting was held on May 19, 2019

2. Neighborhood Meeting

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

3. Submittal

The project was previously submitted on July 10, 2019, but did not proceed to a decision and expired on 5/27/2020. The project was then resubmitted by another consultant under a new PDP on March 31, 2021.

4. Notice (Posted, Written and Published)

Posted notice: April 12, 2021, Sign #507
Written notice: December 1, 2021, 175 letters sent.
Published Notice: December 6, 2021.

3. Article 3 - Applicable Standards

Because the plan involves wireless equipment on an existing fully developed property, the only applicable development standards in Land Use Code are those in Section 3.8.13 as reviewed below.

A. SECTION 3.8.13 – WIRELESS TELECOMMUNICATION

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
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 plan includes note on the site plan that the owner or lessee will not attempt to exclude any other wireless providers from the site and can be found on Sheet N-1, General Notes, #19. 	Complies
3.8.13(C)(3) – Wireless Telecommunication Equipment	<p>This standard requires the following:</p> <ul style="list-style-type: none"> • That wireless telecommunication equipment shall be of the same color as the building or structure to which or on which such equipment is mounted. • Whenever equipment is attached to a building roof, the height of the antenna shall not be more than fifteen (15) feet over the height of the building. • All wireless telecommunication equipment shall be located as far from the edge of the roof as possible. Even if the building is constructed at or above the building height limitations contained in Section 3.8.17, the additional fifteen (15) feet is permissible. • Roof and ground-mounted wireless telecommunication equipment shall be screened by parapet walls or screen walls in a manner compatible with the building's design, color and material. <p>The PDP proposes a 10 foot screen wall that is a balances bulk mass and scale of the screen wall system when compared to the building's architectural character. The project proposes a fiberglass screen wall system that will be textured and colored to match the brick of the building. Further, the screen wall design includes brick coursing texture that matches the existing building and demonstrates a high level of design that is compatible with existing structure.</p>	Complies
3.8.13(C)(4) – Landscaping	No ground mounted equipment is proposed.	N/A
3.8.13(C)(5) – Fencing	Fencing is not proposed.	N/A
3.8.13(C)(6) – Berming	Berming is not proposed.	N/A
3.8.13(C)(7) – Irrigation	The existing site is already developed and irrigated. This project does not propose landscaping nor irrigation and improvements are solely contained within the roof area of the existing building.	N/A

3.8.13(C)(8) – Color	<p>All wireless telecommunication facilities and equipment shall be painted to match as closely as possible the color and texture of the wall, building or surrounding built environment. Muted colors, earth tones and subdued colors shall be used.</p> <p>The equipment will be screened with a screen wall system that is painted and textured to match the brick of the existing building.</p>	Complies
3.8.13(C)(9) – Lighting	<p>The light source for security lighting shall comply with the requirements of Section 3.2.4. Light fixtures, whether freestanding or tower-mounted, shall not exceed twenty-two (22) feet in height.</p> <p>The project only proposes emergency lighting for the rooftop equipment cabinet. This lighting will only be used during the service of equipment.</p>	Complies

4. Article 4 – Applicable Standard

Article 4 of the Land Use Code contains standards for the various zoning districts throughout the city. The subject lot is zoned General Commercial (C-G) Division 4.21 of the Land Use Code.

The proposed wireless telecommunication equipment is permitted subject to review by a Hearing Officer at a public hearing (Type 1 review). No other zone district standards pertain to the project.

5. Findings of Fact/Conclusion

In evaluating the request for the 2900 S College Ave – Wireless Telecommunication Equipment #PDP210007, staff makes the following findings of fact:

1. The PDP complies with process requirements located in Division 2.2 – Common Development Review Procedures for Development Applications of Article 2 – Administration.
2. The PDP complies with pertinent standards located in Article 3 – General Development Standards.
3. The proposed Wireless Telecommunication Equipment is a permitted use subject to Type 1 review and hearing in the General Commercial Zone District in Article 4 – Districts.

6. Recommendation

Staff recommends that the Hearing Officer approve the 2900 S College Ave AT&T – Wireless Telecommunication Equipment, Project Development Plan #PDP210007 on the Findings of Fact and supporting explanations found in the staff report.

7. Attachments

1. Vicinity Map
2. Project Narrative
3. Site Plan
4. Photo Simulations
5. Setback Calculation
6. Round 1 – Staff Comments
7. Round 2 – Staff Comments