

Summary of Appeal to Cell Tower Development Project COL02266

I. The approval letter from city planner incorrectly cites legal non-conforming use and no substantial changes as reasons for approval.

II. After the approval letter was issued, as the appellant, I continued to research the details of the equipment and monopole, and on August 7th I was able to conclusively determine, the existing monopole has no transmitting antennas.*

A. The last FCC license for antennas on this tower was cancelled 1/1/2013 by request of QWEST.

B. City code states that after 12 continuous months with no use, the tower loses both legal non-conforming use status and conditional use.

C. Vertical Bridge asserted many times this monopole was a “cell tower” and that it is “in use today” misleading both the city planner’s office and the neighbors.

III. Even if it is stipulated as a “legal non-conforming use” structure, the proposed modification is against extensive sections of city code for a structure with that status and hence, the proposal should be denied.

IV. The determination of whether this is a substantial change is key to allowing the city to deny this project under federal statute.

A. The Middle Class Tax Relief and Job Creation Act of 2012 cites in 6409a that a city must approve modifications of existing towers for the purposes of collocation of cell technology as long as there are no substantial changes.

B. The approval letter from the city planner labels this project as having no substantial changes without evidence or reason for that declaration.

C. In 2014, the FCC issued guidance to define “substantial changes” indicating if **ANY** of the criteria were met, the modification was considered a substantial change.

D. Excavation and deployment outside the tower base station makes this a substantial change. Specifically, a concrete pad, equipment shelter and new fence will be deployed outside the current lease area.

E. Since the FCC defines this project as a substantial change, the city **IS NOT** bound to approve the project under 6409a.

V. CMRS development is clearly spelled out in city code and this tower, without legal non-conforming use status and as a freestanding non-stealth monopole, is against extensive sections of code on this residential land parcel.

VI. Vertical Bridge and Kimley Horn have either intentionally misled the city or showed great incompetence throughout this process in the following ways.

- A. The claim in writing at least 23 times that this is an “existing cell tower” when it is not. One false assertion is the depiction of the existing tower with an existing cell antenna in the development plan.
- B. They contend this is a modification to a current tower to hopefully invoke legal non-conforming use status, when their plans clearly state “remove and replace” existing tower.
- C. They have provided conflicting information on how many vertical segments will be for lease for antenna placement after construction.
- D. Vertical Bridge’s RF analysis is for only 2 antenna positions when their development plan shows 3 positions. The analysis references “existing Sprint equipment” as if it is already on the tower. The RF power density as a function of distance from the tower is measured at 6’ above ground level and does not account for people in their homes above that height. Together this information invalidates the maximum reported levels of RF power density exposure to those living near the tower.

VII. This proposal is in direct conflict with PlanCOS visions for Vibrant Neighborhoods and Majestic Landscapes.

VIII. Homeowners do not want this development.

- A. Our petition has 360 signatures indicating strong opposition to this development.
- B. This proposal is not permitted within the limitations of city code and neighbors have a reasonable expectation of protection from this project as citizens of Colorado Springs.
- C. Although the city cannot deny the tower based on health or environmental concerns, potential home buyers can easily find the extensive library of peer-reviewed science indicating potential health hazards and compelling them to choose a different area.
- D. The aesthetic value alone will deter homebuyers leading to decrease in home values that propagate through the neighborhood as appraisers use homes near the tower as comparables.
- E. Many current homeowners will no longer feel safe in their homes, yards, the neighborhood, or adjacent greenways.

IX. In summary, it is legal and permissible for the city of Colorado Springs to deny this tower. The proposal is against excessive sections of city code and a denial can be easily justified. The neighbors have spoken loudly and clearly that they do not want this development. Please give great consideration to our position and deny this development project. For full reference material, please refer to PowerPoint presentation. Thank you for your time.

*** The following are the steps you can follow to verify from FCC public record, the status of the existing monopole and mounted antennas. The accuracy of this process was verbally verified by the FCC Infrastructure Team.**

1. To determine FCC registered antennas and towers by geographic location go to the following website and enter a nearby address.

You can use the closest home at 4807 Avondale Circle, Colorado Springs CO 80917 as a nearby address if you need one.

<http://www.antennasearch.com>

You will be prompted to select/verify the address, after you select it, push the "process" button.

Within 2 miles, you will see 35 towers and 61 antennas. Select the gray button "view antenna results." You are also welcome to view tower results and you will find the call sign and location for the tower, but that information does not help determine the status of use for transmission.

A map will pop up, if you scroll down, you will see a list of tower sites with multiple antennas, number (3) shows Qwest Corporation and Arch Wireless Co at 0.12 miles from the address.

When you click on the names of the companies that own the antennas, the full information will pop-up including most importantly the antenna call sign. This is the search parameter you will use in the FCC Universal Licensing System.

The Qwest UHF antenna, which transmits at 451.3 Mhz, has call sign **KD0446**
The Arch Wireless VHF antenna, which transmits at 152.84, has call sign **KDN407**.

2. Once you establish the call sign of all the registered antennas on this tower, you can use the FCC Universal Licensing System to determine the status.

<https://wireless2.fcc.gov/UlsApp/UlsSearch/searchLicense.jsp>

You can then enter the call sign for each antenna.

Once you enter it, click on that call sign to pull up the entire profile.

There are several tabs for each antenna. In the "main" tab you will see the cancelled status on the second line. As you look on the "main" tab, you can find the cancellation request and activation date for both antennas.

This conclusively proves no antennas on this tower have been in use in more than 6 years.