

VARIANCE OF USE (Approved)

Commissioner Carlson moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. VA-21-005
ATC FALCON TOWER VARIANCE OF USE RENEWAL

WHEREAS, American Tower, did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zone district to allow a freestanding Commercial Mobile Radio Service (CMRS) facility where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on March 3, 2022; and

WHEREAS, based on the evidence, testimony, exhibits, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the Planning Commission Members during the hearing, this Commission finds as follows:

1. That the application was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. That all exhibits were received into evidence.
5. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That the proposed variance of use conforms to Chapter 5, Use and Dimensional Standards, Section 5.3.4, Variance of Use, of the El Paso County Zoning Resolutions.

7. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County, and

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Planning Commission considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or Federal regulations during construction and upon completion of the project;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED that the application of American Tower for a variance of use within the RR-5 (Residential Rural) zoning district allow a freestanding Commercial Mobile Radio Service (CMRS) facility for the following described unincorporated area of El Paso County be approved:

AND BE IT FURTHER RESOLVED that the Planning Commission recommends the following condition(s) and notation(s) shall be placed upon this recommendation:

CONDITIONS

1. Approval is limited to one (1) commercial tower and associated antenna(s) as depicted in the applicant’s letter of intent and site plan drawing, with a maximum height of the CMRS facility of 241 feet above natural ground elevation.
2. Any subsequent co-location, additional equipment shelter or additional antenna on the tower site other than that shown on the site plan shall be subject to administrative review and approval by the Planning and Community Development Department Director.
3. The variance of use approval shall be deemed abandoned, and of no further force and effect, if the primary intended use and/or activity has been discontinued for a period of one (1) year. For the purpose of this condition, the variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.
4. A dimensional variance shall be applied for and approved prior to building permit authorization for the CMRS Facility.

NOTATIONS

1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.

AND BE IT FURTHER RESOLVED that this Resolution and recommendations be forwarded to the El Paso County Board of County Commissioners for its consideration.

Commissioner Lucia-Treese seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

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|----------------------------|-----|
| Commissioner Risley | aye |
| Commissioner Bailey | aye |
| Commissioner Fuller | aye |
| Commissioner Lucia-Treese | aye |
| Commissioner Brittain Jack | aye |
| Commissioner Carlson | aye |
| Commissioner Moraes | aye |

Commissioner Schuettpelz
Commissioner Whitney

aye
aye

The Resolution was adopted by a vote of 9 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: March 3, 2022



Brian Risley, Chair

EXHIBIT A

Property located in El Paso County, Colorado
Gary L. Anderson and Anita L. Anderson Revocable Trust

All that real property situated in City of Colorado Springs, County of EL Paso, State of Colorado, described as follows:

A parcel of land being a portion of Lot 3 in the Northwest One-quarter of Section 5, Township 14 South, Range 64 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, more particularly described as follows:

Commencing at the North One-quarter corner of said Section 5:

Thence South $89^{\circ} 54' 00''$ West along the North line of the Northwest One-quarter of said Section 5 a distance of 250.00 feet; thence South $00^{\circ} 06' 00''$ East a distance of 30.00 feet to a point on the South line of the 30 foot road right-of-way established by the County commissioners of said El Paso County in the Document recorded in Book A at Page 78, said point being the true point of beginning; thence continuing South $00^{\circ} 06' 00''$ East a distance of 500.00 feet; thence South $89^{\circ} 54' 00''$ West a distance of 500.00 feet; thence North $00^{\circ} 06' 00''$ West a distance of 500.00 feet to a point on the South line of said 30 foot road right-of-way; thence North $89^{\circ} 54' 00''$ East along said South right-of-way line a distance of 500.00 feet to the true point of beginning.

Containing 250,000 Square feet or 5.7392 acres, more or less, (5.74 acres, more or less)

AND BEING the same property conveyed to Gary L. Anderson from Gary L. Anderson, Trustee of the Declaration of Trust of Marvin R. Anderson and Ethel M. Anderson dated November 14, 1998 recorded as Reception No. 98172029, as amended by Marvin R. Anderson on February 6, 2013, Recorded as Reception No. 213033516 by Warranty Deed dated May 21, 2014 and recorded May 03, 2014 in Instrument No. 214047186.

AND BEING the same property conveyed to Gary L. Anderson and Anita L. Anderson Revocable Trust from Gary L. Anderson by Quitclaim Deed dated June 22, 2017 and recorded June 27, 2017 in Instrument No. 217074641.

Tax Parcel No. 4405000007