



## Letter of Intent

Land Owner:

Security Fire District  
POC: Derek Chambers, Battalion Chief  
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Colorado Springs, CO 80925  
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Applicant:

Tower Co  
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Cary, NC 27519  
(502) 552-9220  
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Consultants: (Civil, Permitting)

Power of Design Group, LLC  
Derrick Rath  
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The Special Use Permit Application Packet requires a Letter of Intent which includes what is being requested and why (“Project Overview”); how the request meets the definitions of requested use as outlined in Chapter 1 of the LDC; how the request meets Sections 5.3.2 (specifically the review criteria) of the LDC; and how the request meets the standards for the specific use as outlined in Section 5.2.19 (Commercial Mobile Radio Service Facility (CMRS) Facilities).

### Project Overview

TowerCo VI, LLC (“Applicant”) respectfully submits this application for special use permit approval to install a Commercial Mobile Radio Service Facility (the “Facility”) at 7610 Wayfarer Drive, Colorado Springs CO 80925 (Parcel #:5528211001) in the County of El Paso. The property is located in the CS CAD-0 Zoning District on a parcel owned by Security Fire District Station No. 4 (“Owner”), where the maximum height limit is forty-five feet (45’). TowerCo has secured a lease with the Owner and is proposing the construction of a sixty-foot (60’) three (3) sided stealth structure with a five-foot (5’) lightning arrestor and therefore is seeking special use approval in accordance with Section 5.2.19(B)(6)(d) of the Land Development Code (“LDC”) which states that “a freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the zoning district unless specifically authorized as part of the special use.” Additionally, TowerCo is requesting special use approval in accordance with Section 5.2.19(B)(5) where the area for accessory equipment is limited to 400 sf. TowerCo proposes a lease area of two thousand two hundred seventy-five square feet (2275sf) for the structure and attendant equipment. We require approximately 550 sf of this lease area for T-Mobile and all future carriers accessory equipment areas. The accessory equipment area for T-Mobile requires 160 sf for T-Mobile’s platform and a future generator. The remaining 390 sf is reserved for future carriers accessory equipment to co-locate on the Facility.

The enclosed information demonstrates TowerCo’s efforts to comply with all applicable requirements outlined in the El Paso LDC and Special Use Permit Application for the development of the CMRS facility while carefully selecting a location that minimizes any perceived negative impact to current property use or the surrounding community.

## **Chapter 1 - §1.15 Definition of Requested Use**

TowerCo is proposing an unmanned telecommunications facility as defined at 47 U.S.C. Section 332 (c)(7)(C) that will provide personal wireless services for residents, businesses and emergency responders from licensed carriers located at the facility. This proposal meets the definition of the requested use of a **CMRS (Commercial Mobile Radio Service) Facility** as defined in Chapter 1 of the LDC. Further, the proposed facility consists of a sixty foot (60’), three (3) sided stealth tower with a five-foot (5’) lightning rod. This CMRS facility is an alternative design of the CMRS freestanding facility, and this design will conceal the presence of antennae and is consistent with the definition of a **CMRS Facility, Stealth**.

## **Chapter 5 – Use Specific Standards**

### **§5.2.19 Commercial Mobile Radio Service (CMRS) Facility**

The proposed CMRS meets the purposes set forth in §5.2.19(A)(1). El Paso County ratified the CMRS provisions in order to facilitate the provision of wireless telecommunications services throughout El Paso County, allow the location of the CMRS subject to specified standards while encouraging co-location on the facilities and to prevent unreasonable discrimination among providers.

Below are the applicable General Standards outlined in §5.219(B) and TowerCo’s responses:

(1) **Co-Location.** Co-location of CMRS facilities is encouraged when feasible to minimize the number of CMRS facility sites. To further the goal of co-location: An applicant for a new freestanding CMRS facility shall demonstrate that a good faith effort has been made to co-locate on existing CMRS facilities. The applicant shall demonstrate that due to physical constraints, or economic or technological infeasibility, no such location or co-location is available. The applicant shall also demonstrate that contact has been made with the owners of all suitable structures within the search area of the proposed site and was denied permission to locate its CMRS facility on those structures.

*TowerCo Response:*

Selecting a location for a wireless telecommunications facility needed to improve service and provide reliable coverage depends on many factors, such as: topography, zoning regulations, existing structures, co-location opportunities, available utilities, site access, and a willing landlord. Wireless communication utilizes a line-of-sight technology that requires facilities to be in a relatively close proximity to the wireless handsets to be served. Each proposed site is unique and must be investigated and evaluated on its own merits.

That said, our site acquisition specialists searched the area surrounding the fire station and found that there were nine (9) parcels (including the fire station) that might work for T-Mobile coverage. Below is a synopsis of each location suitable for placement of the wireless facility and why the fire station was preferred while the others were ruled out.

- 1) Security Fire Department Station #4 new tower: Lat Long: 38.721358° -104.678852° This fire dept is the current candidate that T-Mobile wanted us to pursue. This property is one of the rare “CS: Commercial Service” zoned properties in the area which is favorable for a tower and a height increase is allowable pursuant to the Special Use Permit Process.
- 2) Colorado State Land Board new tower: Lat Long: 38.738008° -104.681919°. This is a raw land site that is owned by the State of Colorado. Currently, T-Mobile and UCI2 are developing a temporary tower at this site. The Colorado State Land Board intends to develop this property in 5 years and could not confirm a location for a new tower that wouldn’t potentially require relocation. While this location might have worked from a technological perspective, the economic and temporal uncertainty made it infeasible for placement of a tower.
- 3) Widefield Development new tower: Lat Long: 38.722076° -104.679887°. While this location is feasible from a technological perspective, a lease was not pursued due to the superiority of the fire station location for a new structure.
- 4) Horizon Tower (existing): Lat Long: 38.740908° -104.693655°. This is a boarding school property that currently has a tower on it owned by Horizon Tower. T-Mobile’s RF engineers reviewed this tower for co-location and found that it was not feasible to satisfy the significant gap in coverage.
- 5) HPHR Properties LLC new tower: Parcel 5500000401. 38.734899° -104.668542°: This property has a very low elevation and is not technologically feasible to build a new tower. Even with a proposed height of 90’, the location would not satisfy the significant gap in coverage.
- 6) El Paso County-owned Parcel new tower: Parcel 5521407024. 38.724206° -104.673037°. This parcel has very unfavorable terrain for a tower and is substantially lower in elevation than other candidates in the area. There are no flat areas on this parcel for placement of a tower, and substantial erosion control would be needed at this location. Further, this parcel is zoned RS-6000: Residential Suburban and towers are not allowed on RS-6000 zoned property per the El Paso County LDC.

- 7) Jenkins Carolyn owned Parcel new tower: Parcel 5528000028. 38.720536° -104.681475°. While this location is comparable to the fire station property, the parcel is located within the City of Fountain which limits towers to 35' with no special use procedure to increase the height limitation. The parcel was unavailable for leasing as well.

The proposed CMRS will be designed and constructed to allow for co-location of a minimum of (2) users to thwart efforts for additional towers in the area.

## **(2) Compliance with FCC Standards**

***TowerCo Response:*** Please accept this Letter of Intent as a certification that the CMRS facility will comply with all current FCC Regulations prohibiting localized interference with reception of television and radio broadcasts; the CMRS facility will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields as further described in the Certification of Compliance, dated 7/1/2025 and completed by Neeraj Beri, T-Mobile RF Engineer.

## **(3) Abandonment and Expiration**

***TowerCo Response:*** If the CMRS facility ceases operation for any reason for a period of one year TowerCo will remove the CMRS facility within six months of the expiration and understands that any permit or approval authorizing the CMRS facility shall be considered expired.

**(4) Application Approval or Denial.** In considering an application for a CMRS facility, the County shall base its decision as to the approval or denial of the application on whether the proposed CMRS facility meets the design standards set forth in this Section and any approval criteria associated with the applicable application or review process.

***TowerCo Response:*** Understood and acknowledged

**(5) Accessory Equipment for a CMRS Facility.** All accessory equipment for a CMRS Facility shall be 100% screened from view. All equipment shelters shall be located within the lease area for the CMRS facility. No equipment storage shelter shall exceed 15 feet in height. Equipment storage shelters shall be grouped as closely together as practical, so as to minimize impact on adjoining properties. The total area of all accessory equipment, including equipment storage shelters, shall not exceed 400 square feet per CMRS facility.

***TowerCo Response:*** As noted above, TowerCo is requesting to build a Facility for multiple carriers. The lease area for both the tower and the equipment is 2275sf, with 550sf reserved for accessory equipment used by the carriers. TowerCo respectfully requests the additional space of 150sf (i.e. 400sf + 150sf) for the seamless co-location of future carriers and to avoid additional hearings for the increase when the carrier wishes to place its equipment.

## **(6) Standards for Freestanding CMRS Facilities.**

**(a) Tower/Structure Removal Agreement.** Prior to commencing construction of a new freestanding CMRS facility or any alteration of an existing freestanding CMRS facility, a Tower/Structure Removal Agreement shall be signed by the owner of the property and filed for recording with the Clerk and Recorder.

***TowerCo Response:*** Understood and acknowledged. TowerCo has signed the CMRS Facility Removal Agreement form provided by El Paso County.

**(b) Financial Assurance Required.** Prior to commencing construction of a new freestanding CMRS facility or any alteration of an existing freestanding CMRS facility, the owner of a freestanding CMRS facility shall be required to provide the County with adequate financial assurance to cover removal of the facility if abandoned. The form of financial assurance shall be approved by the PCD Director. New financial assurance will be required prior approval of alteration of an existing freestanding CMRS facility and when the ownership of the lease or facility changes hands.

*TowerCo Response:* Understood and acknowledged. TowerCo has signed the CMRS Facility Removal Agreement form provided by El Paso County and will provide security in the form of a Bond or other documentation as required by El Paso County.

**(c) Minimum Setbacks for Freestanding CMRS Facilities.**

(i) Located Within 250 Feet of Residential Zoning District. A freestanding CMRS facility located within 250 feet of any property zoned for residential use shall be set back from any residential property line one foot of distance for every foot of facility height (as measured from grade elevation), plus an additional 10 feet.

(ii) Located Over 250 Feet from Residential Zoning District. A freestanding CMRS facility located greater than 250 feet from property zoned for residential use shall meet the minimum setback requirements for structures and structures of the underlying zoning district and located in a manner to contain any freefall or icefall on the same property.

*TowerCo Response:* Understood and acknowledged.

**(d) Maximum Height for Freestanding CMRS Facilities.** A freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the zoning district unless otherwise specifically authorized as a part of the special use or variance of use approval.

*TowerCo Response:* The maximum height in the CS Zoning District is 45'. TowerCo is filing the Special Use Permit application for review and approval of a 60' stealth structure in the CS Zoning District.

**(e) Administrative Special Use or Variance of Use Amendment.**

*TowerCo Response:* This paragraph of the Use Standards is not applicable as it pertains to modifications of an existing site. However, TowerCo acknowledges and understands this provision will apply to any modification requests to the proposed facility.

**(f) Design Standards for Freestanding CMRS Facilities.**

*TowerCo Response:* This paragraph of the Use Standards is not applicable as it pertains to freestanding, non-stealth CMRS Facilities and TowerCo is proposing a 3-sided stealth structure.

**(g) Photo Simulations Required.**

*TowerCo Response:* This paragraph of the Use Standards is not applicable as it pertains to freestanding, non-stealth CMRS Facilities and TowerCo is proposing a 3-sided stealth structure.

(7) **Stealth CMRS Facility Design Standards.** A stealth CMRS facility shall meet the same design standards and maximum height allowance of a freestanding CMRS facility.

*TowerCo Response:* Understood and Acknowledged. The maximum height in the CS Zoning District is 45'. TowerCo is filing the Special Use Permit application for review and approval of a 60' stealth structure in the CS Zoning District.

## **Chapter 5 – Section 5.3 Standards for Review, Approval and Administration of Uses**

### **§5.3.2 Special Use**

**(C) Criteria.** In approving a special use, the following criteria may be considered:

- The special use is generally consistent with the applicable Master Plan;

*TowerCo Response:* El Paso County's Master Plan projects a growth rate of nearly one million people by 2050 and has created the master plan to accommodate for that growth in specific areas of the County. The county aspires to maintain the special character, uniqueness and environmental and natural amenities of the region. The inclusion of a stealth CMRS in El Paso County is consistent with the goals of the Master Plan. A CMRS will encourage growth, provide coverage to the existing and upcoming neighborhoods and business and will not impact the visual, environmental or natural amenities within the County. In fact, it will help the County attract more people and encourage economic growth by providing a key infrastructure element.

- The special use will be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;

*TowerCo Response:* The proposed CMRS is a stealth structure which blends into the character of the neighborhood surrounding Wayfarer Drive. It will enhance the area by providing necessary means of communications and will be designed for multiple users. CMRS facilities are allowed in the CS Zoning District and a key component of the County's master plan.

- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;

*TowerCo Response:* The special use will neither overburden or exceed the capacity of public facilities and services. The increased height of 15' will provide necessary cell coverage to the area and will effectively lessen the need for additional towers in the area. The additional square footage for the future carriers' equipment is necessary to ensure seamless co-location.

- The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;

*TowerCo Response:* The CMRS facility is an unmanned facility 24/7. The only traffic to the site is during routine maintenance checks and during emergencies. The access to the site is safe and reliable and consistent with the local building and fire codes.



- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;

*TowerCo Response:* The Special Use will comply with all local, state federal laws. Air, water, light and noise pollution are not by-products of a CMRS facility. Future generators will only run during routine checks and in an emergency and meets the noise requirements of the LDC.

- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or

*TowerCo Response:* The CMRS facility complies with all health and safety guidelines as outlined by the FCC and local laws. The presence of a CMRS facility will increase the likelihood of a quicker response time to any potential or specific emergencies in the area.

- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

*TowerCo Response:* The special use will conform to all county rules, regulations and ordinances.

### **Relevant Federal Law and Legal Principles**

The Telecommunications Act of 1996 (“TCA”), **47 U.S.C. § 332(c)(7)(B)(i)(II)**, governs federal, state, and local control over the siting of wireless communications facilities. Congress enacted the Telecommunications Act to facilitate expansion of cell phone service across the United States and encourage competition between cell phone service providers. To achieve this purpose, the TCA places certain limitations on the traditional power of state and local authorities to regulate the placement of personal wireless service facilities. **47 U.S.C. § 332(c)(7)**. The TCA prohibits state and local governments from regulating "the placement, construction, and modification of personal wireless service facilities" so as to "prohibit or have the effect of prohibiting the provision of personal wireless services." **47 U.S.C. § 332(c)(7)(B)(i)(II)**.

In the Declaratory Ruling, the FCC clarified the standard of review for determining whether a municipal action has prohibited or effectively prohibited a carrier from providing personal wireless services or telecommunications services. “[A]n effective prohibition [of service] occurs where a state or local legal requirement ‘materially inhibits’ a provider’s ability to engage in any of a variety of activities related to its provision of a covered service.” **Declaratory Ruling at ¶ 37**. This is referred to as the “materially inhibit” standard. The FCC explained that “a state or local legal requirement could materially inhibit service in numerous ways – not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services.” **Id.** A local government materially inhibits a provider “not only when filling a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities.” **Id.**

To simplify, Courts have identified an “effective prohibition” when 1) a wireless carrier demonstrates a “significant gap” in wireless service coverage; [In declaratory Ruling at ¶ 37 the FCC clarified that “significant gap” includes “new wireless builds ... designed to add network capacity and take advantage of new technologies...”] and 2) the proposed facility would provide the “least intrusive means,” in relation to the land use values embodied in local regulations, to provide the service coverage necessary to fill that gap.

When this 2-prong test is met, the municipality must approve the wireless facility; and the burden shifts to the municipality to prove that a less intrusive alternative exists to meet the significant gap in coverage, and it is “less intrusive” than the proposed facility.

The request for a variance made under the TCA should be granted because the Applicants have shown that there is a substantial gap in coverage (see Exhibits F and G regarding the coverage gap). A variance under the TCA can be found when there is evidence of a substantial coverage gap and that the proposed facility would substantially address that coverage gap. See, e.g., *Galbi v. Sachs*, 19 MISC 389, 32 LCR 192, 204; 2024 WL 1917157, 2024 Mass LCR Lexis 56 (2024)(gap in coverage and no feasible alternative site requires variance under TCA).

### **Health & Safety**

According to the Telecommunications Act of 1996, local governments cannot regulate the placement of telecommunications facilities based on health concerns related to radiofrequency (RF) emissions if the facility complies with FCC radiation exposure guidelines, essentially preempting local zoning laws that would deny a facility solely due to perceived health risks from RF emissions. Local governments must rely on the FCC's established safety limits for RF radiation when evaluating the health impact of a telecommunications facility.

The proposed application conforms with El Paso County's LDC and is compliant with the RF emissions requirements and standards established by the FCC.