



Board of Adjustment for Zoning Appeals
 City and County of Denver
 201 West Colfax Avenue, Department 201
 Denver CO, 80202 Phone: 720-913-3050

ZONING APPEAL APPLICATION - Case No: 120-17
1480 West Arizona Avenue

NOTIFICATION OF PUBLIC HEARING:

Hearing Date: 09/12/2017 **Hearing Time:** 10:30 AM

Hearing Location: 201 West Colfax Avenue, Room 2.H.14
 Webb Municipal Office Bldg., Denver CO

Pick Up Sign Week of: 08/28/2017

Post Sign Saturday: 09/02/2017

APPEAL INFORMATION:

Date Filed: 06/29/2017 **Date of Denial:** 06/20/2017

Premises: 1480 West Arizona Avenue

Legal Description: Lengthy Legal

APPLICANT(S):	Address	Email	Primary Phone	2ndPhone
Public Service Company	PO Box 840, Denver, CO, 80201			

FILED BY:

Larry Claxton, Jr., Xcel Energy
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FEES:	Receipt #	Receipt Date	Category	Amount
	3348946	6/29/2017	4.a.	\$300.00
	3348946	6/29/2017	3.a.	\$200.00

REGISTERED NEIGHBORHOOD ORGANIZATION NO'S: 87, 473, 505

CITY COUNCIL PERSON: 7 - Jolon Clark

SUBJECT:

Request for Zoning Permit with Special Exception Review to erect a Telecommunications Tower Structure located within a Residential Zone District, and a denial of a permit to erect a 125 foot tall Telecommunications tower which will exceed the maximum allowed height of 35 feet by 90 feet, pierce the south bulk plane by approximately 20 feet 6 inches, with the tower and support equipment not providing the required landscaping / screening (landscaping / screening required for towers located within 200 feet of a residential zone district), will be located 200 feet from Single-Unit, Two-Unit, and Multi-Unit Residential units (500 foot minimum required), will be located approximately 550 feet form a city park and open space use (1000 foot minimum required), and will be located adjacent to vacant platted/unplatted residentially zoned land (500 foot minimum required), in an E-SU-DX zone

ORDINANCE SECTION(S): 11.5.2.1.D.1; 11.5.2.1.E.2; 11.5.2.6.A; 4.3.3.4.B; 11.5.2.1.E.5.a; 12.4.9; 11.5.2.6,

POSSIBLE REMEDIES: Zoning Permit with Special Exception Review (ZPSE); Variance

APPLICANT STATEMENT:

See Attached Statement

Signed: Public Service Company, Owner

Filed By: Larry Claxton, Jr., Xcel Energy



PUBLIC SERVICE COMPANY OF COLORADO

SOUTH SUBSTATION FIELD AREA NETWORK PROJECT

STANDARD ZONING APPEAL APPLICATION NARRATIVE

Date: June 29, 2017

Project Title: South Substation Field Area Network Project

Applicant: Public Service Company of Colorado

Project Address: 1480 W. Arizona Avenue, Denver

To provide the community with faster, more efficient electric and gas service and shorter, better-managed outages, Public Service Company of Colorado (PSCo) is proposing the South Substation Field Area Network Project (Project), at its 8.15-acre South Substation located at 1480 W. Arizona Avenue in the City and County of Denver, see **Exhibit A**. The Project involves the installation of three noncommercial wireless communication antennas on top of a new 125-foot tall monopole (120-foot monopole and 5-foot lightning rod), see **Exhibit B**, located within the secured substation yard. This antenna array is one of many that PSCo is installing throughout the Denver Metropolitan Area and together they will comprise PSCo's new Field Area Network (FAN). The substation property is zoned E-SU-Dx (Urban Edge – Single Unit – Dx).

1.0 Zoning Permit Denial

On June 20, 2017, the City's Community Planning and Development Department (Planning) issued an Informal Denial Form denying the Project's Zoning Permit application. As discussed in the denial, the Project requires a variance for the following:

- Height – The Project monopole's 125-foot height exceeds the allowed height of 30 feet.
- Screening and landscaping – PSCo did not propose any screening or landscaping.

2.0 Variance Criteria – Section 12.4.7.5

Section 12.4.7.5 of the Denver Zoning Code (Code) outlines the variance review criteria used by the Board of Adjustment (BOA) to find unnecessary hardship, which may be granted if the application satisfies any one of the four criteria. These criteria are listed below with PSCo's responses:

A. Unusual Conditions or Disability

1. *There is a disability affecting the owners or tenants of the property of any member of the family of an owner or tenant who resided on the property, which impairs the ability of the disabled person to utilize or access the property; or*

There are no disabilities affected.

2. *There are unusual physical circumstances or conditions, including, without limitation, irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property;*

PSCo is proposing the Project within its existing substation to capitalize on the existence of a secured setting and communication and power sources critical to the operation of the Project antennas. The substation is at an elevation that is not conducive to mitigate the challenges associated with surrounding existing development, trees/vegetation and topography, which were not caused by PSCo. This creates unusual physical circumstances or conditions to the substation property. The proposed 125-foot Project monopole height is required to overcome the signal blockage caused by these challenges, see the Feasibility Study included as **Exhibit C**. Not allowing the proposed monopole height would result in the need for additional structures and antennas to provide the necessary coverage. This could cause potential impacts to a larger section of the community.

3. *There are unusual physical circumstances or conditions arising from the existence of an existing, nonconforming or compliant structure on the affected property;*

The substation has many existing overhead and buried lines that create unusual physical circumstances and conditions that limit where the Project monopole and associated H-frame can be placed. Each of these lines has certain PSCo safety clearance requirements for maintenance purposes and to prevent electric flash-over. In fact, the proposed location of the monopole is ideal for the secured substation yard.

In regards to the screening and landscaping variance request, the monopole would be next to the existing electric equipment enclosure located near the center of the substation yard, see **Exhibit D**. A screening wall would provide minimal effectiveness since it would be substantially blocked from public view by the existing substation infrastructure. Furthermore, the wall and required buffers between the wall and the monopole/H-frame would reduce the usable space within the substation that could impact current and future uses.

Landscaping would prove minimally effective, since the base of the monopole would be screened by the existing substation infrastructure.

4. *When the hardship is based on unusual physical circumstances or conditions of the affected property:*

- a. *The circumstances or conditions do not exist throughout the neighborhood or Zone District in which the property is located, or the circumstances or conditions relate to drainage conditions and challenges found consistently throughout the neighborhood or Zone District in which the property is located; and*

The signal interference conditions found at the substation exist throughout the neighborhood and Zone District, due to the development, existing vegetation and topography of the surrounding area.

- b. *The development or use of the property cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district; however, loss of a financial advantage, hardship that is solely financial, or the fact that a more profitable use of the property might be had if a variance were granted are not ground for a variance; and*

Not applicable

- c. *The unusual physical circumstances or conditions have not been created by the applicant.*

The unusual physical circumstances or conditions of the substation property are caused by off-site existing development, trees/vegetation and surrounding topography, which were not created by PSCo.

B. Designated Historic Property or District

Not applicable

C. Compatibility with Existing Neighborhood

1. *The property could be reasonably developed in conformity with the provisions of this Code, but the proposed adjustment or variance will result in a building form that is more compatible, in terms of building height, siting, and design elements, with the existing neighborhood in which the subject property is located.*

PSCo believes that the proposed grey appearance of the galvanized treatment of the Project monopole should be considered a neutral color, as it is compatible with the existing substation setting and overhead electric transmission structures, see the photosimulations included as **Exhibit E**.

2. *“Existing neighborhood” shall mean...*

Acknowledged.

3. For purposes of a variance review only, the Board of Adjustment may consider similar building located beyond the same face block, opposite face block, or adjacent face block from the subject building of the Board deems doing so reasonable and necessary to make its determination of compatibility with the existing neighborhood. This allowance does not apply to review of a request for an administrative adjustment.

Acknowledged.

D. Nonconforming or Compliant Uses in Existing Structures

A variance to increase the floor area occupied by a nonconforming or compliant use in an existing structure may be granted only if the Board of Adjustment finds the following conditions to exist:

Not applicable – The Project does not increase the floor area of the substation use.

3.0 Variance Criteria – Section 12.4.7.6 Review Criteria – Applicable to all Variance Requests

Section 12.4.7.6 – outlines the additional criteria that the BOA uses to grant a variance and are listed below with PSCo’s responses:

- A. *Would not authorize the operation of a primary use other than those uses specifically enumerated as allowed primary uses for the Zone District in which the property is located.*

Granting of the variance would authorize a permitted use in Zone District E-SU-Dx.

- B. *Would not grant a change to either (a) a waiver or condition attached to an approved rezoning, or (b) an approved PUD District plan that would constitute an “amendment” under Section 12.3.7.2, Amendments to Approved Applications, Plans and Permits, or (c) an approved GDP that would constitute an “amendment” under Section 12.3.7.2, Amendments to Approved Applications, Plans and Permits.*

Granting of the waiver would not change either of the three conditions listed.

- C. *Would not, other than allowed in Section 12.4.7.5.A. above to accommodate persons with disabilities, relate to either the persons, or the number of persons, who do, will, or may reside in a residential structure.*

Granting of the variance will not affect a residential structure.

D. Would not substantially impair the intent and purpose of this Code.

Granting of the variance would allow an accessory use to the existing substation and will not substantially impair the intent and purpose of this Code.

E. Would not substantially impair the intent and purpose of the applicable Zone District.

Granting of the variance would allow an accessory use to the existing substation and will not impair the intent and purpose of the applicable Zone District.

F. Would not substantially or permanently impair the reasonable use and enjoyment or development of the adjacent property.

The Project is located within an existing substation and does not expand this existing use and does not substantially increase the visibility of the substation setting. Because of this, granting of the variance would not substantially impair the reasonable use and enjoyment or development of the adjacent property.

G. Would be the minimum change that would afford relief and would be the least modification of the applicable provisions of this Code.

The 125-foot height of the Project monopole eliminates the need for additional FAN antennas in the immediate area. Existing properties and the general public would not be substantially impacted by the appearance of the galvanized treatment. Granting the variance would be the minimum change that would afford relief to PSCo and would be the least modification of the applicable provisions of this Code.

H. Would adequately address any concerns raised by the Zoning Administrator or other city agencies in their review of the application.

PSCo believes that the Project adequately addresses the concerns raised by the Zoning Administrator or other city agencies.



REGISTERED NEIGHBORHOOD ORGANIZATION NOTIFICATION:

ORGANIZATION(S) NOTIFIED:

#	Name	Address	Zip Code	Phone 1 and 2	Email 1 st , 2 nd	Representative
87	Inter-Neighborhood Cooperation (INC)	PO Box 300684	80218	303-887-2233 720-248-0156	president@denverinc.org	John Joseph (JJ) Niemann
473	Denver Neighborhood Association, Inc.	1285 Dexter St.	80220	303-994-1395 303-329-0046	bradleyzieg@msn.com secy.denverna@gmail.com	Bradley L. Zieg
505	Ruby Hill - Godsman Neighborhood Association	1399 S. Shoshone St.	80223	720-275-5866 707-616-6041	avsrawesome@yahoo.com avsrawesome01@hotmail.com	Scott Bolt

NOTICE TO ORGANIZATION:

The Neighborhood Organization registration ordinance at Section 12-96(b) D. R. M. C. requires that you be notified the attached application **Case No. 120-17** has been filed with this agency on the issue cited.

The Board of Adjustment will hear this appeal in public hearing in its office at the time and date indicated (see application), and render a decision as set out in Section 59-54 of the Zoning Code. Your organization will receive a written copy of the decision.

NOTE: Section 12-97(a) of the above ordinance requires that testimony by a Registered Neighborhood Organization shall include, in addition to the organization's name, boundaries, and number of people/households and basis of membership: **"(4) The time and date of the meeting when the organization decided its position; (5) The nature of the meeting, whether the same was a meeting of the board, of a membership subcommittee, or of the general membership; (6) The number of persons present; (7) A description of the process for reaching the decision, including if and how neighborhood citizens were informed and if and how they were invited to participate; and (8) The votes cast for and against the proposed position."**

NOTICE TO APPLICANT:

As required by Section 12-96(a), D. R. M. C., you are hereby notified that your property is within the boundaries (or within 200 feet) of a Registered Neighborhood Organization and that the organization(s) listed above has (have) been notified of your appeal.

Copies: Organization(s)
 Applicant
 File