

Lakeview Park Project Overview:

Crown Castle Corporation, with authorization from the Lakeview Park property owner, the Cherry Creek Vista Parks and Recreation District, would like to replace an existing 50-foot flagpole cellular tower with a 65-foot faux pine tree cellular tower. Replacing the tower requires two Arapahoe County approvals: a Location & Extent (L&E; case number LE21-002) to modify the height limits within Lakeview Park and a Commercial Mobile Radio Service (CMRS; case number CMRS21-001) to review the specific design for the facility. The Arapahoe County Planning Commission approved the Location and Extent allowing cellular facilities up to 65 feet in height (LE21-002) on March 15, 2022. The CMRS is still under review by County staff.

Who is involved in these applications and what are their roles?

Crown Castle owns and operates the existing 50-foot flagpole cellular tower in the park. They would like to remove that tower and replace it with a taller tower. Crown Castle has a lease agreement with Cherry Creek Vista Parks and Recreation District to place a tower and related equipment in Lakeview Park.

[Cherry Creek Vista Parks and Recreation District](#) owns and operates the park. They authorized Crown Castle to submit the Location and Extent application to Arapahoe County. The Cherry Creek Vista Parks and Recreation District board received updates on or discussed the Crown Castle proposal at 15 different public meetings between 2018 and 2021.

Arapahoe County is the reviewing authority for both the Location and Extent and the CMRS case. The Location and Extent has been approved and the CMRS is still under review.

What happens next with the CMRS application?

Crown Castle may revise their plans based on input gathered at the June 1 neighborhood meeting. As of August, Crown Castle has not submitted revised plans. After the June 1 neighborhood meeting, Arapahoe County informed Crown Castle that they must send an information packet to all property owners and HOA's within 500 feet of the facility. Arapahoe County staff will evaluate the proposal using the CMRS criteria in our Land Development Code. The Planning Division Manager will either approve, approve with conditions, or deny the application. We will post that decision on our website and inform those who previously contacted us about the project. The applicant or residents may submit an appeal within 10 business days of the Planning Division Manager's decision. If somebody appeals the decision, the Board of County Commissioners has the option to hold a public hearing on the proposal or to allow the staff decision to stand.

Even if somebody appeals the CMRS decision, that does not guarantee a public hearing with the Board of County Commissioners?

That is correct. If there is an appeal of the staff decision, the Board may hold a public hearing or the Board may choose to let the staff decision be the final action by Arapahoe County.

What is a Location & Extent?

The Location & Extent process allows public agencies like county government as well as park, fire, metropolitan, and school districts and other public entities to develop property for public use in unincorporated counties. The public agency is required by Colorado Revised Statutes section 30-28-110 to submit their plans for review and approval by the County Planning Commission. The public agency can appeal the Planning Commission's decision to that public agency's governing board.

How can the Location & Extent allow a taller height than nearby residential zoning?

Public agencies do not have to follow Arapahoe County's zoning. However, they must request Location & Extent approval so the County can consider their proposal and offer a public forum to discuss it. In this case, Crown Castle and Cherry Creek Vista Parks and Recreation District requested a 65-foot height limit for cellular facilities within Lakeview Park.

Can the County deny a Location & Extent?

Yes, however, the statute allows the public agency who submits an L&E request to overrule the county's denial. If Arapahoe County's Planning Commission were to deny an L&E request, the applicant can appeal to the Arapahoe County Board of County Commissioners. If the Board were to deny the L&E request, the agency could take it to their decision-making body and overrule the County's decision. In this case, Cherry Creek Vista Parks and Recreation District could have approved a 65-foot height limit, even if the County had denied it.

Can the public appeal a Location & Extent decision?

Yes, however, that appeal must be made to the District Court within 28 days of the Planning Commission action. For LE21-002, that 28-day window has passed. Per the Colorado Revised Statutes and the Arapahoe County Land Development Code, there is no public appeal opportunity to the Board of County Commissioners.

Many residents contacted the Arapahoe County staff and the Board of County Commissioners within the 28-day appeal period. Isn't that enough to lodge an appeal to the Planning Commission decision on the Location and Extent?

No. As mentioned above, the only public appeal avenue is through District Court and not the Board of County Commissioners or Arapahoe County staff.

Can the County hold another Location & Extent public hearing?

No. The hearing on March 15, 2022 was properly noticed and the Planning Commission voted to approve the Location & Extent after holding a public hearing, at which they heard testimony both in favor of and opposed to the proposal. As noted above, even if Arapahoe County denied the Location & Extent, the Cherry Creek Vista Parks and Recreation District could overrule the County and approve the 65-foot height limit for cellular/wireless facilities.

Was the Location & Extent hearing properly noticed?

Yes. Arapahoe County Land Development Code requires two forms of notice for a Location & Extent: mailing by first-class mail to adjacent property owners and a sign posting on the property. Both the mailing and the sign posting must be done 15 days before the hearing. Crown Castle provided signed affidavits documenting their mailing and the sign posting, so the Arapahoe County Planning Commission had jurisdiction to hold a public hearing.

What about a larger radius or different sign posting locations?

The CMRS case requires a larger 500-foot notice radius but that notice is not required for the Location & Extent. See below for more information on the CMRS notice. Crown Castle posted the notice sign at the entrance to the park on E Orchard Road; that posting was sufficient for the public hearing.

What if I did not receive a letter before the hearing, or at all?

Arapahoe County requires the applicant to provide an affidavit saying when they placed the notice letters in the mail. It is possible that the Post Office delivered the letters slowly, failed to deliver the letters, or delivered the letters to a different address. If the applicant certifies that they placed the first-class letters in the mail 15 days before the date of the public hearing, that action meets the public notice requirements in the Arapahoe County Land Development Code.

The City of Greenwood Village did not receive a referral or have an opportunity to comment on the Location & Extent or the CMRS application.

Referrals to outside agencies are an optional part of the process. If Arapahoe County failed to send the referral to Greenwood Village or sent the referral to the wrong recipient at Greenwood Village, we regret the error. However, that does not affect the validity of the Planning Commission public hearing or decision. Arapahoe County received Greenwood Village's letter objecting to the proposed faux pine tree on April 11, 2022, and staff will consider it as we evaluate the Crown Castle CMRS proposal.

The Location & Extent public hearing was scheduled during Cherry Creek School District's spring break.

The Planning Commission meets regularly on the first and third Tuesdays of the month. County staff schedules hearings as soon as an applicant's submittal materials are adequate for decision makers to review. In addition to attending in person, people who wish to participate in our Planning Commission hearings can send a letter/email before the hearing or use a call-in number to listen and offer testimony from anywhere, even if they are travelling.

Nearby HOA's and property owners within 500 feet were not notified about the L&E hearing.

The CMRS application requires notification to nearby HOA's and to property owners within 500 feet; the L&E does not require the same notification. The L&E notice requirements were described above and the applicant met those requirements. The applicant also mailed notification to the Cottonwood Grove HOA as part of the L&E notice because that HOA owns property adjacent to the park.

The notice letters for the Location & Extent did not accurately describe the height of the tower.

The mailed notice indicated that the new tower would be 60 feet tall and not the 65 feet requested by the applicant. At the public hearing, the applicant clarified that the actual pole would be 60 feet tall with an additional five feet of faux evergreen branches to help conceal the pole, for a total of 65 feet.

Was there any notice or discussion before the Arapahoe County Planning Commission hearing?

As soon as an applicant submits their proposal and we load it into our project tracking software, the project will appear on our planning cases map: <https://gis.arapahoegov.com/cpc/>. Both the CMRS and the L&E have been displayed on that map since March 2021.

Based on meeting minutes, the Cherry Creek Vista Park & Recreation District discussed or received updates on the Lakeview Park Crown Castle lease and design proposal at fifteen separate public meetings on 3/15/2018, 5/17/2018, 6/21/2018, 9/20/2018, 10/18/2018, 11/15/2018, 1/24/2019, 3/21/2019, 4/18/2019, 8/15/2019, 9/19/2019, 10/21/2019, 11/14/2019, 10/15/2020, and 4/15/2021.

What can be done to protect our health from radiofrequency (RF) emissions from the proposed antennas, which are more powerful than the ones on the existing tower?

We often hear that concern about cellular/wireless facilities, especially since carriers started rolling out 5G antennas. Federal rules and regulations preempt local governments like Arapahoe County from considering radiofrequency health concerns when we make decisions on cellular facilities. Basically, the

FCC has said that they're the ones who will enforce rules regarding cell tower health concerns. The [FCC webpage](#) states, "The statute [Section 332(c)(7) of the Communications Act] also preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, assuming that the provider is in compliance with the Commission's RF rules." So Arapahoe County cannot consider any RF health concerns when we make our decision. We can and we do require all cellular facilities to meet Federal Communications Commission rules.

The proposed structure is too tall and incompatible with surrounding homes.

The Location & Extent approval allows cellular/wireless structures in Lakeview Park to be up to 65 feet tall. If a 65-foot tall CMRS structure meets other Arapahoe County code requirements, it can be approved.

Will the proposed tower interfere with Centennial Airport operations?

The site is located in the Centennial Airport Approach Zone of the Airport Influence Area, and it will be subject to numerous aircraft overflights. Centennial Airport responded to the referral on April 19, 2021 stating, "[t]his development will require filing and approval of a FAA form 7460-1." The FAA will evaluate any potential hazards prior to construction; Centennial airport did not oppose the proposal.

The proposed faux tree does not meet the Arapahoe County definition for a "Concealed Structure."

Arapahoe County staff is evaluating the proposed faux pine tree for compliance with our CMRS regulations. The regulations do not necessarily require that fake tree installations believably appear to be real trees, they do not require verisimilitude (see, for example, the nearby fake tree located south of Belleview on the east side of Cherry Creek Drive).

What about the effect of the cell tower on property values?

The Arapahoe County Comprehensive Plan and Land Development Code strive to protect the general health, safety and welfare. Both the plan and the code recognize the need for infrastructure and utilities like electricity, gas, internet, and cellular service. Utilities can have an effect on surrounding property, so the code requires public outreach and it tries to balance infrastructure needs with rules requiring concealment of cellular facilities. There is an existing 50-foot-tall cellular tower in Lakeview Park, so if towers do affect property values, that effect could already be happening.

The CMRS process requires notification to property owners and HOA's within 500 feet of the facility; was this done and will it be done?

Crown Castle said they provided CMRS notice to residents within 500 feet of the tower on March 18, 2021; however, we do not have documentation showing that the notice met our code requirements. After the Planning Commission approval for the Location & Extent, Crown Castle agreed to host a neighborhood meeting and provide additional notice. Crown Castle mailed letters to property owners and HOA's within 1,000 feet of the Lakeview Park property and hosted a neighborhood meeting on June 1, 2022.

Can Crown Castle use a different type of installation to provide service, like a network of small cellular facilities in the street right of way?

Crown Castle and the wireless providers are best equipped to answer technical questions like this one.

Will there be any additional communication about the project?

After Crown Castle makes any revisions to the proposal resulting from input at the June 1 neighborhood meeting, they will send information packets to all property owners and HOA's within 500 feet of



Lakeview Park. We will also post the information packet, along with any other relevant project updates, on our website.