



Planning Commission Report

Meeting Date: July 17, 2014

Subject: **9301 Wilshire Boulevard**
AT&T Cellular Antennas

Request for a Variance to allow the installation of new cellular antennas and rooftop enclosures having a maximum height of 20' above the adjacent roof deck, which is 5' taller than the 15' maximum height permitted in the Municipal Code.

PROJECT APPLICANT: Robert McCormick on behalf of AT&T

Recommendation: That the Planning Commission:

1. Conduct a public hearing and receive testimony on the project; and
2. Adopt the attached resolution denying the requested Variance.

REPORT SUMMARY

The proposed project consists of the installation of new cellular antennas, antenna enclosures, and associated antenna equipment on the rooftop of the commercial building located at 9301 Wilshire Boulevard. The Municipal Code allows cellular antennas (and associated enclosures) to be constructed up to 15' in height above the roof on which they are mounted; however, the proposed antennas and enclosures would have a maximum height of 20' above the adjacent roof deck, exceeding antenna height standards set forth in the Municipal Code. In order to exceed the Municipal Code height standards, the applicant requests approval of a Variance.

This report details the proposed project and analyzes the findings required in order to grant a Variance. Staff's analysis concludes that the subject property is not deprived of privileges due to size, shape, topography, or surroundings, and in fact benefits from being taller than would currently be allowed under the Municipal Code. Consequently, staff is unable to support the Variance, and the recommendation in this report is for denial of the proposed project.

Attachment(s):

- A. Required Findings
- B. Draft Resolution
- C. Applicant Letter
- D. Architectural Plans

Report Author and Contact Information:

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BACKGROUND

File Date	4/4/2014
Application Complete	5/4/2014
Subdivision Deadline	N/A
CEQA Determination	Projects that are denied are exempt from review under CEQA
Applicant(s)	AT&T
Owner(s)	KW 9301, LLC
Representative(s)	Robert McCormick
Prior PC Action	N/A
Prior Council Action	N/A

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	9301 Wilshire Boulevard
Assessor's Parcel Number	4343-004-032
Zoning District	C-3 – General Commercial
General Plan	General Commercial – Low Density
Existing Land Use(s)	Office Building
Lot Dimensions & Area	Irregularly shaped: 19,470 SF (0.45 acres)
Year Built	1962
Historic Resource	None
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	R-1.8X – Single-Family Residential
South	C-3 – General Commercial
East	C-3 – General Commercial
West	C-3 – General Commercial

Circulation and Parking

Adjacent Street(s)	Wilshire Boulevard and Rexford Drive
Adjacent Alleys	North/South alley west of property
Parkways & Sidewalks	Wilshire Boulevard: 15' parkway/sidewalk Rexford Drive: 12.5' parkway/sidewalk

Neighborhood Character

The project site is located just outside the eastern boundary of the Business Triangle, and is situated at the northwest corner of Wilshire Boulevard and Rexford Drive. The existing building is immediately south of a single-family residential zone, and shares its northern property line with a single-family residence. Other development surrounding the project site is commercial in nature, and generally consists of buildings that are two to four stories in height.



PROJECT DESCRIPTION

The proposed project consists of the following components:

- Installation of 12 panel antennas and ancillary antenna equipment on the rooftop
- Installation of rooftop enclosures to screen the proposed antennas
- Antennas and enclosures will be 20' above the adjacent roof deck, or 101' above grade level

Requested Permits

The Beverly Hills Municipal Code allows cellular antennas to have a maximum height of 15' above the roof of the building on which they are mounted. In the case of the proposed project, the antennas and associated enclosures would have a maximum height of 20' above the roof of the subject building. Because the antennas exceed the otherwise permitted height of 15', the applicant seeks a Variance to deviate from the code.

ZONING CODE¹ COMPLIANCE

As noted above, the proposed project does not comply with the height standards set forth in the Municipal Code, and therefore requires a Variance in order to be constructed.

GENERAL PLAN² POLICIES

The General Plan includes numerous goals and policies intended to help guide development in the City. Some policies relevant to the Planning Commission's review of the project include:

- Policy LU 2.4 Architectural and Site Design. Require that new construction and renovation of existing buildings and properties exhibit a high level of excellence in site planning, architectural design, building materials, use of sustainable design and construction practices, landscaping, and amenities that contribute to the City's distinctive image and complement existing development.
- Policy LU 5.8 Encroachment of Incompatible Land Uses. Protect residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the extent possible. Zoning and design review should assure that compatibility issues are fully addressed when nonresidential development is proposed near or within residential areas.
- Policy LU 12.2 Building, Parking Structure, and Site Design. Require that buildings, parking structures, and properties in commercial and office districts be designed to assure compatibility with abutting residential neighborhoods, incorporating such elements as setbacks, transitional building heights and bulk, architectural treatment of all elevations, landscape buffers, enclosure of storage facilities, air conditioning, and other utilities, walls and fences, and non-glare external lighting.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A		7 Days
Newspaper Notice	10 Days	7/10/2014	7/4/2014	13 Days
Mailed Notice (Owners & Residents - 300' Radius)	10 Days	7/10/2014	7/10/2014	10 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	7/10/2014	7 Days

Public Comment

The City has not received any public comments regarding the project as of the writing of this report.

¹ Available online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

² Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp

ANALYSIS³

Project approval, conditional approval, or denial is based upon specific findings for a Variance. The below analysis relates to the required findings, and is intended to help guide the Commission in its deliberations.

Required Findings. The required findings for granting a Variance are very specific, and have been established by the State in order to ensure equitable treatment of property owners and applicants. Specifically, a Variance can only be granted if the reviewing authority finds that there are special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, and that such special circumstances would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Furthermore, the reviewing authority must also find that the granting of a Variance shall not constitute a grant of special privileges. Accordingly, staff recommends that the Commission consider whether the subject property is in fact being deprived of privileges enjoyed by other property owners.

Existing Building Height. The Municipal Code limits the height of new commercial buildings to three stories or 45', whichever is less. However, the subject commercial building was constructed prior to existing development standards, and has a height of six stories or 81'. Accordingly, the subject building exceeds current Municipal Code standards by three stories or 36'. This existing condition is considered to be legally nonconforming, but has the effect of placing the subject property at a distinct height advantage relative to code-compliant buildings when it comes to the installation of cellular equipment. The increased building height is advantageous because taller antennas are less likely to experience interference from surrounding development. In the case of the proposed project, the applicant asserts that reducing the height of the antennas to a code compliant height would impact the antenna's performance. While the antenna's performance may be reduced at a code-compliant height, no documentation has been provided to demonstrate that the antenna's performance would be reduced below that of what could be achieved on surrounding and/or code-compliant buildings. Finally, the antennas and enclosures would further increase the height of an already-over-height building, which is immediately adjacent to single-family uses.

City-Wide Cellular Antenna Installations. Over the past few decades, cellular antennas have become increasingly common and have been installed throughout the City of Beverly Hills. The majority of cellular antennas are located on commercial rooftops, and to date, all antennas have been constructed in accordance with Municipal Code standards. Moreover, no height Variances have been granted to allow for improved signal strength, and cellular companies have been able to establish successful networks while working within the Municipal Code's parameters. Based on this past experience, staff is unable to support the increased antenna height.

³ The analysis provided in this section is based on draft findings prepared by the report author prior to the public hearing. The Planning Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to modify the findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.

Potential Pros and Cons. Beyond the possibility of improved cell service in the vicinity of the proposed project, staff is unable to identify any pros associated with the project. The potential cons would include increased building height/massing, as well as the possible granting of special privileges to a commercial building that already exceeds the otherwise permitted maximum height in the commercial zones.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution denying the requested Variance.

Alternatively, the Planning Commission may consider the following actions:

1. Approve the project with modified findings or conditions of approval.
2. Deny portions of the project, based on revised findings.
3. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines.

Report Reviewed By:



Ryan Gohlich, Senior Planner

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ATTACHMENT A
Required Findings

VARIANCE

1. *Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and*
2. *The granting of a Variance shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.*

ATTACHMENT B
DRAFT RESOLUTION

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DENYING AN APPLICATION FOR A VARIANCE TO ALLOW CELLULAR ANTENNAS TO EXCEED THE OTHERWISE PERMITTED HEIGHT FOR CELLULAR ANTENNAS ON THE COMMERCIAL BUILDING LOCATED AT 9301 WILSHIRE BOULEVARD.

The Planning Commission of the City of Beverly Hills hereby finds, resolves, and determines as follows:

Section 1. Robert McCormick, representative on behalf of AT&T and KW9301, LLC (collectively the “Applicant”), have submitted an application for a Variance to allow the installation of cellular antennas and associated enclosures above the maximum allowed height for cellular antennas on the commercial building located at 9301 Wilshire Boulevard (the “Project”).

Section 2. The Project includes the installation of new cellular antennas and equipment as follows:

- Installation 12 panel antennas and ancillary antenna equipment on the rooftop
- Installation of rooftop enclosures to screen the proposed antennas
- Antennas and enclosures will be 20’ above the adjacent roof deck, or 101’ above grade level

The Project site is located just outside the eastern boundary of the Business Triangle, and is situated at the northwest corner of Wilshire Boulevard and Rexford Drive. The existing building

is immediately south of a single-family residential zone, and shares its northern property line with a single-family residence. Other development surrounding the project site is commercial in nature, and generally consists of buildings that are two to four stories in height.

Section 3. Pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA")), and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), a project that is denied or rejected is exempt from the requirements of CEQA.

Section 4. Notice of the Project and public hearing was mailed on May 30, 2014 to all property owners and occupants within a 300-foot radius of the Project site. Notice was also published in two newspapers of local circulation, the *Beverly Hills Courier* and the *Beverly Hills Weekly*. On June 12, 2014 the Planning Commission considered the application at a duly noticed public hearing. Evidence, both written and oral, was presented at the meeting.

Section 5. In reviewing the request for a Variance, the Planning Commission considered whether it could make the following findings in support of the Project:

1. Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and

2. The granting of a Variance shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

Section 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Variance:

The subject property is zoned for commercial uses and is developed with a commercial building. The existing building is three stories or 36' taller than would otherwise be permitted for a new commercial building on the subject property. Additionally, the subject building is taller than many buildings in its vicinity. The subject building's height places it at a distinct advantage with respect to the siting of cellular antennas, and code-compliant cellular antennas have been installed on numerous buildings throughout the City. Moreover, there are no special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, such that the strict application of the provisions of the Municipal Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Furthermore, the granting of additional height for cellular antennas would constitute a grant of special privileges, as no other building, code-compliant or otherwise, has required additional height for the successful installation of cellular antennas. Consequently, the required findings for a Variance cannot be made in support of the Project.

Section 7. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: June 12, 2014

Brian Rosenstein
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
City Planner



ATTACHMENT C

APPLICANT LETTER



City of Beverly Hills Planning Department
Wireless Telecommunication Facility

Project Description

Applicant: AT&T
12900 Park Plaza Drive
Cerritos, CA 90703

Owner: KW 9301, LLC
9701 Wilshire Blvd, Suite 700
Beverly Hills, CA 90212

Rep.: McCormick Consulting Company, LLC
3618 W. Estates Lane, Suite B
Rolling Hills Estates, CA 90274

Robert McCormick
(310) 547-7413

Site No.: EL0462

Location: 9301 Wilshire Blvd, Beverly Hills, CA 90210

Project Description

AT&T Mobility Corporation is requesting the review and approval of a CUP and variance for a permanent wireless telecommunications facility at 9301 Wilshire Blvd, Beverly Hills, CA 90210.

The site will consist of the placement of an AT&T wireless facility on the roof of an 108' commercial building located at the NW intersection of Wilshire Blvd and Rexford Drive, consisting of twelve (12) 8' panel antennas and ancillary antenna equipment mounted with a tip height of 101'. One sector will be located in the SW area of the roof, transmitting west along Wilshire Blvd with an antenna tip height at 101', twenty feet above the height of the roof, placed behind a new FRP screen wall extending 14' above the existing parapet. Two additional sectors will be located on top of the existing rooftop stairwell and adjacent, transmitting north into Beverly Hills and SE along Wilshire Blvd, with an antenna tip height of 101', placed behind a new FRP

screen wall extending 14' above the existing parapet. The outdoor radio cabinets will be placed within a 18' x 15' steel equipment platform on the roof of the building.

The Property

The subject property is in a Commercial zone and is located in the C-3 zone. The subject property is surrounded by residential uses to the north, and commercial uses to the south, west and east. The overall height of the building is 108', consisting of an existing rooftop penthouse which is currently used as part of a law office. The height of the existing parapet is 87'. Due to the existing window-washing system currently existing on the property, the proposed antennas need to be setback at least 10' from the edge of the parapet. Technological parameters require that the antennas, setback appropriately from the parapet and window-washing system, be elevated at a minimum height of 12' above the parapet order to allow the antenna signal to freely transmit/receive without being truncated by the top of the parapet, and severely impacting the performance of the wireless facility.

Objective

The purpose of construction the facility at this location is to fill a significant gap in LTE / 4G coverage along Wilshire Blvd, Rexford Drive, and the southeastern portion of the Beverly Hills Business Triangle.

About AT&T Mobility Corporation

As a licensee authorized by the Federal Communications Commission to provide wireless services in this region, AT&T must establish a network of wireless telecommunications facilities in the metropolitan area and beyond. Each wireless telecommunications facility, or base station, will consist of transmitting and receiving antennas mounted on a communication tower or other suitable structure and electronic equipment cabinets. It will also consist of radios for receiving and transmitting wireless communications and complex electronic equipment to operate the radios, interface with other cellular sites, provide connections to the landline telephone network, and link the facility with the main switching center.

AT&T will operate this facility in full compliance with the regulations and licensing requirements of the FCC, FAA, and CPUC as governed by the Telecommunications Act of 1996 and other applicable laws.

In order to meet the basic level of operational radio signal coverage, radio frequency (RF) engineers have designed a network of wireless telecommunications facilities for the Southern California area. The applicant's engineers choose specific sites after lengthy analysis. Selection criteria include: limitations imposed by surrounding

topography, the intended service area of the site, and the ability of the new site to "see" other sites in the network from its proposed location. Other selection factors include suitable access, availability of electrical and telephone service, and a willing property lessor. Where the necessary design criteria can be met, co-location with existing telecommunication facilities is a preferred option. The antennas and equipment are screened or integrated with the building whenever possible. Only after careful analysis of many candidates and successful lease negotiations has been completed is a land use application such as this one submitted.

The cellular site is a passive use and will have no impact on other properties in the surrounding area. The facility is unstaffed. After an initial construction period of 30 to 45 days, the only traffic generated will be for routine maintenance visits, typically once or twice a month. There are no activities that will produce airborne emissions, odor, vibration, heat, glare, or noxious and toxic materials. All equipment and materials needed to operate the site are located in the equipment shelter. The cellular site does not require water or sanitary facilities and therefore will generate no wastewater.

SITE DESIGN AND TECHNOLOGY INFORMATION

1. LTE, short for Long Term Evolution, is considered by many to be the obvious successor to the current generation of UMTS 3G technologies, which is based upon WCDMA, HSDPA, HSUPA, and HSPA. LTE is not a replacement for UMTS in the way that UMTS was a replacement for GSM, but rather an update to the UMTS technology that will enable it to provide significantly faster data rates for both uploading and downloading.
2. The proposed site will provide enhanced LTE coverage along with serving as a capacity site for the surrounding area. The capacity objective is to achieve the optimal network performance in the coverage area in addition to *maintaining a high level of functionality and coordination with the adjacent 'hand-off' sites.*
3. Co-location efforts - All efforts to co-locate have been examined. There are no other existing or proposed structures available for co-location that will meet the coverage objective.

ATTACHMENT D
ARCHITECTURAL PLANS
(PROVIDED AS A SEPARATE ATTACHMENT)