

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A NEW 100' TALL
TELECOMMUNICATIONS TOWER LOCATED NEXT TO THE EXISTING TOWER AND A
VARIANCE TO ALLOW FOR THE PROPOSED 100' TOWER STRUCTURE HEIGHT ON
OSP-49R**

Resolution No. 2015-0423-08

- A. TSG Ski & Golf, LLC ("Owner") is the owner of record of real property described as OSP-49R ("Property").
- B. The Owner has authorized AT&T and its agent, Black and Veatch, to submit applications for (1) a conditional use permit for the installation of a new 100 foot tall freestanding telecommunications tower on the Property located by the existing tower; and (2) a height variance to allow for the proposed 100 foot tower ("Applications").
- C. The proposed development is in compliance with the provisions of sections 17.4.14 and 17.4.16 of the Community Development Code ("CDC").
- D. The Design Review Board ("DRB") considered the Application, along with evidence and testimony, at a public meeting held on April 2, 2015. Upon concluding their review, the DRB recommended approval of the Applications by a unanimous vote of 7 to 0 to the Town Council subject to certain conditions.
- E. The Town Council considered and approved the Applications, along with evidence and testimony, at a public meeting held on April 23, 2015.
- F. The public hearings referred to above were preceded by publication of public notice of such hearings on such dates and/or dates from which such hearings were continued on the Town website, and by mailing of public notice to property owners within four hundred feet (400') of the Property, as required by the public hearing noticing requirements of the CDC.
- G. After the public hearings referred to above, the DRB and the Town Council each individually considered the Applications' submittal materials, and all other relevant materials, public letters and public testimony, and approved the Applications with conditions as set forth in this Resolution.
- H. The Owner and AT&T have addressed, or agreed to address, all conditions of approval of the Applications imposed by Town Council.
- I. The Town Council finds the Applications meets the conditional use permit criteria for decision contained in CDC Section 17.4.14(D) and the variance criteria for decision contained in CDC Section 17.4.16(D) as follows:
 - Variance Findings:
 - 1. The strict application of the CDC building height regulations would result in exceptional and undue hardship upon the property owner in the development of the property because an antenna must have adequate height to clear surrounding trees, provide adequate cellular coverage and meet the Town's colocation requirement;
 - 2. The variance can be granted without substantial detriment to the public health, safety and welfare due to visual mitigation, and will actually will help protect the public health, safety and welfare by ensuring the provision of critically needed cellular infrastructure;

3. The variance can be granted without substantial impairment of the intent of the CDC, with the proposed use meeting the Telecommunication Antenna Regulations;
4. Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district;
5. Reasonable use of the property for a telecommunications antenna is not otherwise available without granting of a variance, and the variance being granted is the minimum necessary to allow for reasonable use;
6. The lot for which the variance is being granted was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created;
7. The variance is not solely based on economic hardship alone; and
8. The proposed variance meets all applicable Town regulations and standards unless a variance is sought for such regulations or standards.

Conditional Use Permit Criteria:

1. The proposed conditional use is in general conformity with the principles, policies and actions set forth in the Comprehensive Plan because adequate cellular communication is critical to the town's economic development and for maintaining a world class resort destination;
2. The proposed conditional use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure;
3. The design, development and operation of the proposed conditional use will not constitute a substantial physical hazard to the neighborhood, public facilities, infrastructure or open space;
4. The design, development and operation of the proposed conditional use shall not have significant adverse effect to the surrounding property owners and uses, and visual mitigation will minimize visual impacts;
5. The design, development and operation of the proposed conditional use shall not have a significant adverse effect on open space or the purposes of the facilities owned by the Town;
6. The design, development and operation of the proposed conditional use shall minimize adverse environmental and visual impacts to the extent possible considering the nature of the proposed conditional use;
7. The design, development and operation of the proposed conditional use shall provide adequate infrastructure, with the antenna users providing crucially needed community service and public safety functions;
8. The proposed conditional use does not potentially damage or contaminate any public, private, residential or agricultural water supply source; and
9. The proposed conditional use permit meets all applicable Town regulations and standards.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL HEREBY APPROVES A CONDITIONAL USE PERMIT FOR A NEW 100' TALL TELECOMMUNICATIONS TOWER LOCATED NEXT TO THE EXISTING TOWER AND A VARIANCE TO ALLOW FOR THE PROPOSED 100' TOWER STRUCTURE HEIGHT ON OSP-49R AND AUTHORIZES THE MAYOR TO SIGN THE RESOLUTION SUBJECT TO CONDITIONS SET FORTH IN SECTION 1 BELOW:

Be It Further Resolved that OS-3U may be developed as submitted in accordance with Resolution No. 2015-0423-08

Section 1. Conditions of Approval

1. The tower shall not include a light beacon or be brightly painted to stand out to aircraft. If the Federal Aviation Administration ("FAA") requires either a light beacon or bright

paint for the tower to stand out, the antenna shall be lowered to a height where these FAA requirements do not apply.

2. The proposed towers and antennas shall be painted to match the surrounding tree color below the tree line and a blue gray above the tree line to mitigate visual impacts. The applicant shall provide color samples to the Town and San Miguel County for review and approval prior to or concurrent with submitting for a building permit.
3. New antennas or equipment placed on the existing tower shall be painted to match the surrounding tree color below the tree line and a blue gray above the tree line to mitigate visual impacts, with the color reviewed and approved by the Town and San Miguel County.
4. The new tower shall be designed to co-locate the number of antennas shown on the Proposed Site Elevations plan, Sheet C-3.1 dated 4/15/15.
5. The current and proposed towers shall be made available for colocation of new telecommunication equipment so long as: (A) there is enough room on the tower for the new equipment (given the vertical & horizontal separation requirements of the current users), (B) there is enough structural capacity for the new equipment, and (C) the new equipment will not cause interference to the current users.
6. Prior to issuing a building permit, the applicant shall submit long-term easements from The Ridge, TSG and any other intervening property owner for (1) the access road to the tower site; (2) the tower site; and (3) utility routes for existing and new utilities to the site. Prior to executing such easements, the Town shall review and approve the easements to ensure long-term vehicular and utility access across intervening land and long term tower siting.
7. Prior to issuing a building permit, the applicant shall submit a composite utility plan to show the planned routes for power, fiber and any other necessary utilities to the site.
8. The approved conditional use permit application is for the benefit of the existing tower that is owned by Telluride Ski and Golf, LLC (“TSG”) and the proposed new tower on TSG owned land. Therefore the conditional use permit is hereby granted to TSG and any successors or assigns.
9. The conditional use permit shall be valid for a period of twenty (20) years from the Effective Date subject to meeting the conditions specified herein.

Section 2. Resolution Effect

- A. This Resolution shall have no effect on pending litigation, if any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions repealed or amended as herein provided and the same shall be construed and concluded under such prior resolutions.
- B. All resolutions, of the Town, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 3. Severability

The provisions of this Resolution are severable and the invalidity of any section, phrase, clause or portion of this Resolution as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of this Resolution.

Section 4. Effective Date

This Resolution shall become effective on April 23, 2015 (the “Effective Date”) as herein referenced throughout this Resolution.

Section 5. Public Hearing

A public meeting on this Resolution was held on the 23rd day of April, 2015 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

Approved by the Town Council at a public hearing held on April 23, 2015.



Town of Mountain Village, Town Council

By: _____
Dan Jansen, Mayor

Attest:

By: _____
Jackie Kennefick, Town Clerk

Approved as to Form:

James Mahoney, Assistant Town Attorney