

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,  
COLORADO DENYING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF  
TELECOMMUNICATION FACILITIES IN TOWN RIGHTS OF WAY**

**RESOLUTION NO. 2024-0919-17**

WHEREAS, Toro Vertical, Inc. d/b/a Toro Blanco Group (the “Applicant”) has applied for a Conditional Use Permit (the “Application”) to authorize the installation and use of “small cell” or “5G” telecommunications equipment within several Town public rights of way including Mountain Village Boulevard and Adams Ranch Road; and

WHEREAS, pursuant to the Application, the Applicant has proposed three different designs of poles not to exceed 25 feet in height to replace existing light poles or sign poles and house the new equipment; and

WHEREAS, the Application consists of the materials submitted to the Town and itemized on Exhibit A, plus all statements, representations, and additional documents of the Applicant and its representatives made or submitted at the public meetings before the Design Review Board (“DRB”) and Town Council; and

WHEREAS, the DRB held a public hearing on July 11, 2024, to consider the Application and testimony and comments from the Applicant, Town Staff, members of the public, and voted unanimously to issue a recommendation of denial of the Application to Town Council; and

WHEREAS, the Town Council held a public hearing on July 18, 2024, to consider the Application, the DRB’s recommendation, and testimony and comments from the Applicant, Town Staff, and members of the public, and continued the matter to September 19, 2024, to allow the Applicant to revise the Application to address certain concerns of the Town Council; and

WHEREAS, the Town Council held a public hearing on September 19, 2024, to consider the Application, as amended, the DRB’s recommendation, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 6-0 to approve this Resolution, denying the Application; and

WHEREAS, the public hearings and meetings to consider the Application were duly noticed and held in accordance with the Town’s Community Development Code (“CDC”); and

WHEREAS, the Town Council has considered the general standards for review set forth in Section 17.4.14.E of the CDC, as set forth below:

1. *Location Determination.* The location of a conditional use shall be determined by a selection process by the review authority designed to identify a location that best serves the proposed use while minimizing potential adverse impacts.

2. *Conditional Use Permit Conditions.* In addition to the conditions of approval, conditional use permits may also include but not be limited to conditions on such items as:

- a. Performance standards for use;
- b. Limitations on hours of operation;
- c. Limitations on season of operation;
- d. Requirements for DRB review or Planning Division review on periodic basis; and/or

e. Mitigation of noise, glare, visual and other adverse impacts.

WHEREAS, the Town Council has considered the specific criteria for conditional use permits set forth in Section 17.4.14.D of the CDC , as set forth below:

1. The proposed conditional use is in general conformity with the policies of the principles, policies and actions set forth in the Comprehensive Plan;
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 shall 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;
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;
8. The proposed conditional use does not potentially damage or contaminate any public, private, residential or agricultural water supply source;
9. Visual impacts will be mitigated to the extent practicable;
10. Antenna height of 25” maximum is the minimum practical height and is acceptable;
11. Antennas shall remain available for colocation of other equipment;
12. The proposed locations are appropriate and necessary to address the service provider’s technical needs;
13. The proposed equipment will comply with applicable Federal Communications Commission regulations and other applicable state or federal regulations; and
14. The proposed conditional use permit meets all applicable Town regulations and standards.

WHEREAS, the Town Council has considered the specific criteria related to telecommunications set forth in Section 17.6.5 of the CDC, as set forth below:

1. Visual impacts shall be mitigated to the extent practicable;

2. Antenna height shall be minimized to the extent practical with the acceptable height permitted determined by the review authority as a part of the required conditional use permit process;

3. The antenna shall be made available for the collocation of other telecommunication providers as a condition of approval with the goal to reduce the number of antennas in the Town to the extent practical; and

4. There are no other alternative antenna sites currently in existence in the Telluride/town region that provide for collocation and the desired telecommunication service, service area and telecommunication service provider's technical needs.

WHEREAS, the Town Council has also considered the 2021 Interim Small Cell Infrastructure Design Guidelines ("Guidelines") as set forth below:

1. No towers or antennae will be permitted within 600' of any existing or proposed small cell tower or antennae equipment.

2. All small cell equipment and appurtenances shall be housed internally with regard to the pole or alternative tower structure which hosts the small cell antennas.

3. Electric metering structures and/or meters shall not be visible from the exterior of the pole or alternative tower structure which hosts the small cell antennas where the pole or alternative tower structure is located in Town right-of-way. This requirement may be wholly or partially waived by the Public Works Director where it is technically infeasible to place all or part of a meter internally.

4. Freestanding antennas, and/or any supporting equipment shall not exceed 25'.

5. Antennas mounted to a structure or building shall not be more than ten percent (10%) higher than the actual, as-built building or structure height to which such antenna is mounted.

6. Concealment of all small cell equipment and appurtenances shall be required.

7. Any stand-alone small cell facility shall not block windows or any building entrances. To the extent possible, poles shall be located at mid-blocks, away from intersections. All poles shall be located so as to ensure proper sight-triangles.

8. The pole design in the Town right-of-way shall match the color, aesthetics, spacing, and architectural characteristics of existing streetlights installed adjacent to the pole, or in the vicinity.

9. Poles and towers shall incorporate banner arms and luminaries to blend with the existing streetscape. A waiver of this requirement may be granted by the Public Works Director where it is deemed in the best interest of the public to do so.

10. Wireless communications facilities and equipment should not be installed within the dripline of any tree.

11. Any area disturbed during utility construction shall be revegetated and landscaped in accordance with the Landscaping Regulations.

12. Pole caissons should be circular in nature and designed to minimize impact of adjacent and future utilities. Concrete must follow the latest Colorado Department of Transportation (CDOT) Road & Bridge

Specification for applicable design. All designs must be stamped and signed by a registered Professional Engineer in the State of Colorado.

13. The Town of Mountain Village encourages co-location of facilities and the location of facilities on existing infrastructure, such as Town-owned light poles, with the written approval of the Public Works Director.

14. Any pole/structure needs to be at least 35' from the outside edge of the designated gondola haul rope corridors.

15. The Town of Mountain Village reserves the right to remove and relocate infrastructure if necessary, or if alternative methods become available.

16. Reclamation and Abandonment. Notwithstanding the foregoing, any communication antenna that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of the antenna shall remove the same within ninety (90) calendar days of the issue date of the notice to remove the antenna.

WHEREAS, applying the applicable criteria set forth above, the Town Council now desires to deny the Application as further addressed below.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

**Section 1. Recitals.** The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Resolution.

**Section 2. Decision.** The Town Council hereby finds that the Application does not meet the requirements of the applicable criteria set forth above and, therefore, denies the Application. This decision is based on the documents, testimony, and evidence presented at the meetings before the DRB and Town Council and includes, without limitation, the following findings:

- A. Overall, the Applicant's Application does not sufficiently address the concerns expressed by the Town Council at the July 18, 2024, public hearing.
- B. The Application does not attempt to add to wireless infrastructure at the ski area. This was an item of concern expressed by the Town Council at the July 18, 2024, public hearing, and the Application does not provide additional detail about regional capacity details, which impacts the accessibility to the proposed infrastructure. As such, the Application does not comply with CDC Section 17.4.14.D.1.
- C. The Application does not provide sufficient details for each proposed location, such as a map or cut sheets of the actual poles proposed to match existing infrastructure. Without such information, the Town Council is unable to find that the Application complies with CDC Section 17.4.14.D.2 and Guideline No. 1.
- D. Although the Applicant claims its Application complies with FCC regulations, it lacks sufficient information for Town Staff to confirm this, a concern expressed by the Town Council at the July 18, 2024, public hearing. Without such information, the Town Council is unable to find that the Application complies with CDC Section 17.4.14.D.3.

- E. Without a revised deployment map or a heat map of where coverage is poor, the Application does not directly address the impacts to surrounding property owners and uses. As such, the Application does not comply with CDC Section 17.4.14.D.4 and Guideline No. 1.
- F. The Application may not follow where population density exists and, therefore, may include more infrastructure than is necessary to the Town's public rights-of-way. As such, the Application does not comply with CDC Section 17.4.14.D.5.
- G. The Application shows green light poles, but the Town's light poles are black as of 2022. As such, the Application does not comply with Guideline No. 8.

All exhibits to this Resolution are available for inspection at the Town Clerk's Office.


**Section 4. Effective Date.** This Resolution shall be in full force and effect upon its passage and adoption.

**ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on September 19, 2024.**

TOWN OF MOUNTAIN VILLAGE, COLORADO

By:   
Marti Prohaska, Mayor

ATTEST:

  
Susan Johnston, Town Clerk

APPROVED AS TO FORM:

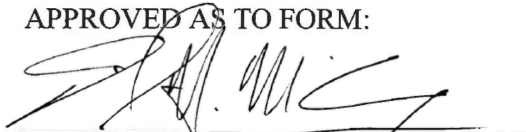
  
David McConaughy, Town Attorney

Exhibit A

[LIST OF APPLICATION MATERIALS]

Exhibit A

1. Application dated 03/18/2024
2. Submittal dated 02/06/2024
3. Resubmittal dated 09/10/2024