

**RESOLUTION APPROVING A SECOND AMENDMENT TO A CONDITIONAL USE PERMIT
TO ALLOW FOR A RED BEACON TO BE INSTALLED PER FAA ON A NEW 100' TALL
TELECOMMUNICATIONS TOWER LOCATED NEXT TO THE EXISTING TOWER ON OSP-
49R AS ORIGINALLY APPROVED BY RESOLUTION 2015-0423-08 AND AMENDED BY
RESOLUTION 2017-0216-04**

Resolution No. 2017-1005-14

- A. TSG Ski & Golf, LLC (“Owner”) is the owner of record of real property described as OSP-49R (“Property”).
- B. The Owner submitted an applications for a second amendment to the original conditional use permit for the installation of a new 100 foot tall freestanding telecommunications tower on the Property to allow a red beacon light as required by the Federal Aviation Administration (FAA) (“Application”).
- 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. Staff referred the Application to the San Miguel County Planning Department and the Town of Telluride Planning and Building Department for comment on August 31, 2017 per the stipulations of the Ridge Covenant recorded at Reception No. 329093 which limits the height and lighting of structures on Coonskin Ridge.
- E. The Board of County Commissioners discussed the application at their September 27, 2017 regular meeting and directed staff to prepare a letter acknowledging the proposed light is in conflict with the provisions of the Ridge Covenant however would not enforce the covenant subject to certain conditions.
- F. The Commissioners ratified the letter outlining their referral comments at their September 27, 2017 meeting which included the following two conditions:
 - 1. The applicant, TSG, as the site owner/lessor, and/or the tower owner/operator/lessee who TSG enters into an agreement with to own/operate the Tower, enter into a legally binding written commitment with SMCo, both the BOCC and Sheriff, as well as with SMETSA, and the State of Colorado OIT, to allow the relocation of the State of Colorado's DTRS 800 Radio System equipment located on the existing 90' communication tower (KOTO tower) onto the proposed new 100' communication tower in a manner and at locations acceptable to the SMCoSO, SMETSA, and the Colorado Office of Information Technology.
 - 2. The applicant, TSG, and or its Tower Company shall commit to a one-year review after construction of the Tower is completed to provide an update to the County Board of Commissioners to address possible lighting mitigation of the red light beacon.
- G. The Town of Telluride’s referral comments to Mountain Village dated September 27, 2017 expressed the importance of balancing the provisions of the Ridgeline Covenant with the public benefits that will be provided by the new tower.

- H. The Design Review Board (“DRB”) considered the Application, along with evidence and testimony, at a joint public meeting with the Town Council held on October 5, 2017. Upon concluding their review, the DRB recommended approval of the Application by a unanimous vote of 7 to 0 to the Town Council subject to certain conditions.
- I. The Town Council considered and approved the Application, along with evidence and testimony, at a public meeting held on October 5, 2017.
- J. The public hearings referred to above were preceded by publication of public notice of such hearings on such dates 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.
- K. After the public hearings referred to above, the DRB and the Town Council each individually considered the Application’s submittal materials, and all other relevant materials, public letters and public testimony, and approved the Application with conditions as set forth in this Resolution.
- L. The Owner has, agreed to address, all conditions of approval of the Application imposed by Town Council.
- M. The Town Council finds the Applications meets the conditional use permit criteria for decision contained in CDC Section 17.4.14(D) as follows:

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 MODIFICATION TO THE CONDITIONAL USE PERMIT FOR A NEW 100’ TALL TELECOMMUNICATIONS TOWER LOCATED ON LOT 0SP-49R AS ORIGINALLY

APPROVED BY RESOLUTION 2015-0423-08 AND 08 AND AMENDED BY RESOLUTION 2017-0216-04 AUTHORIZES THE MAYOR TO SIGN THE RESOLUTION SUBJECT TO CONDITIONS SET FORTH IN SECTION 1 BELOW:

Be It Further Resolved that OSP-49R may be developed as submitted in accordance with Resolution NO. 2017-1005-14

Section 1. Conditions of Approval

1. The tower may include a light beacon as required by the Federal Aviation Administration (“FAA”).
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 and/or TSG and any other intervening property owner’s land is necessary for access, 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.
10. The applicant, TSG, as the site owner/lessor, and/or the tower owner/operator/lessee who TSG enters into an agreement with to own/operate the Tower, enter into a legally binding written commitment with SMC Co, both the BOCC and Sheriff, as well as with SMETSA, and the State of Colorado OIT, to allow the relocation of the State of Colorado's DTRS 800 Radio System equipment located on the existing 90' communication tower (KOTO tower) onto the proposed new 100' communication tower in a manner and at locations acceptable to the SMC CoSO, SMETSA, and the Colorado Office of Information Technology.
11. The applicant, TSG, and or its Tower Company shall commit to a one-year review after construction of the Tower is completed, and every three years thereafter, to provide an update to the Town of Mountain Village and the County Board of Commissioners to

address possible lighting mitigation of the red light beacon. The update would include an assessment of available technology including but not limited to possible light shielding or light switching.

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 October 5, 2017 (the "Effective Date") as herein referenced throughout this Resolution.

Section 5. Public Hearing

A public meeting on this Resolution was held on the 5th day of October, 2017 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 October 5, 2017.

Town of Mountain Village, Town Council

By: 
Laila Benitez, Mayor

Attest:

By: 
Jackie Kennefick, Town Clerk

Approved as to Form:


James Mahoney, Assistant Town Attorney