



## Planning & Zoning Commission

Thomas P. Wittman, Chair  
Henry Caldwell  
Richard Duffy  
Neal King  
Susan Nichols  
J. Christopher Stagg  
Jim Woodard

### Staff Report:

#### Conditional Use Permit

Block 3, Lots 6 & 7A

##### 1. Case Summary

**Date of Hearing:** February 4, 2019  
**Application Received:** January 7, 2019  
**Date of Posting:** January 18, 2019  
**Plan Review Fees:** \$1,500 - Commercial, Conditional Use Permit  
**Project Description:** Taos Ski Valley, Inc is requesting approval for a Conditional Use Permit to install a wireless communication tower on the Phoenix Restaurant property within the Kachina Basin of the VTSV.

The proposed 65' cell tower, considered an accessory use, is aimed at accommodating two (2) providers, AT&T & Verizon Wireless, in order to provide better service coverage for the Village of Taos Ski Valley. The existing temporary COW will be replaced. The proposed cell tower will have a galvanized steel finish. All supporting equipment will be housed in the Phoenix Restaurant building, minimizing impact on the surrounding landscape. The proposed tower also meets the standards and regulations of the FAA and FCC, and satisfies applicable local and state building codes and safety regulations.

The applicant's project narrative, zoning compliance, and site maps are attached.

**Prior Actions/Approvals:** The Planning & Zoning Commission (Commission) approved the Wireless Communication Master Plan on July 6, 2015 and the Village Council adopted the same on July 16, 2015.

## **2. Adherence to the Wireless Communication Master Plan**

The proposed wireless communication tower complies with the intent, goals, and policy objectives expressed in the recently adopted Village Wireless Communication Master Plan. Furthermore, the project location is in the vicinity of one of the three recommended areas for cell tower placement.

## **3. Zoning Analysis:**

Section 19 - Wireless Communication Towers & Antennas of the Village Zoning Ordinance directly addresses an array of issues and stipulates the conditions which must be met in the granting of a Conditional Use Permit for cell tower installation. The applicant has directly responded to each item in the General Requirements and more specifically, has provided information to determine compliance with Village requirements for the granting of a Conditional Use Permit for tower installation in Section 19.6.

Separation Distance Requirements – The closest parcel is unplatted and zoned Recreational-Agriculture (RA). This is the former Lake Fork Creek subdivision which reverted back to RA zoning in 2015. The setback distance, per the Ordinance, is ten (10) feet.

The proposal meets the criteria and requirements of the Village Zoning Ordinance.

4. **Recommendation:** Staff recommends a motion to **Approve** the Conditional Use Permit **Subject to the Conditions** outlined below.

## **5. Proposed Conditions:**

1. A performance bond is required to ensure the proper and timely removal of the tower if it is no longer being used and any and all associated facilities. The form and amount of the performance bond will be established administratively by Village staff.
2. The applicant shall certify that all franchises required by law for the construction and/or operation of a wireless communication system have been obtained and shall provide a copy of all required franchises to the Planning Officer.
3. Provisions to allow the applicant to locate all of the ground based equipment inside the Phoenix Restaurant building and replace the requirement for fencing with a climb-proof gate around the base of the ladder on the tower.
4. Applicant shall remove and disable the existing Celltower on Wheels, aka the COW, from the site.

5. Any substantial changes to the application must be approved by the Planning and Zoning Commission; all other changes must be approved administratively by the Planning Officer and as required by the Zoning Regulations.

**6. Public Notice & Public Comments**

The notice of public hearing was mailed to all adjacent property owners on January 18, 2019. A public notice poster was placed on the property January 18, 2019.

The application packet and Staff Report were made available at the Villages Office for public review. The following written comments were received by the public:

Letter from Mr. Peter Talty, adjacent property owner (enclosed).

**7. Staff Endorsements**

Submitted By:



Patrick Nicholson, Director & Planning Officer  
Community Development Department

**8. Attachments**

The applicant's project narrative, zoning compliance, and site maps.

Letter from Mr. Peter Talty

Lake Fork Creek Holdings  
C/O Taos Ski Valley Inc.  
PO Box 90  
Taos Ski Valley, NM 87525

January 15, 2019

Village of Taos Ski Valley  
7 Firehouse Road  
Taos Ski Valley  
New Mexico 87525

Attn: Patrick Nicholson  
Re: Sprung Structure CUP extension request

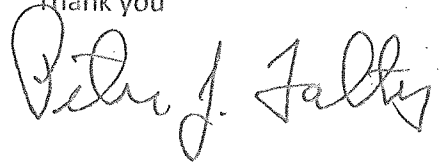
Dear Mr. Nicholson,

I am writing as the owner of Lot 1 of the Lake Fork Subdivision in the Kachina Village area, to express my support for the Proposed cell tower on the Phoenix Tract. The tower as proposed will lie within approximately 15 feet of our shared property line and, as such a circle with a radius of twice the height of the tower will fall inside the theoretical building setback line of my property.

As can be seen from the attached exhibit, the topography of the lot is particularly steep within the area that is impacted by the theoretical setback radius, which makes it difficult, if not impossible to build a residence in that part of the property. As shown on the exhibit, the most practical location for a residence to be constructed on the site lies just outside the 130' radius.

We therefore have no objection to the proposed tower and wish to express our support for the improved communications this will bring to the Basin.

Thank you



PETER J. TALTY

LAKE FORK CREEK HOLDINGS



January 15, 2019

Village of Taos Ski Valley  
7 Firehouse Road  
Taos Ski Valley  
New Mexico 87525

Attn: Patrick Nicholson  
Re: copies of Kachina cell Tower CUP application

Dear Mr. Nicholson,

Enclosed please find seven copies of the application packet for the Conditional Use Permit for the cell tower at the Phoenix lodge. In each packet you will find:

- Land use application form
- Narrative letter
- Overall Kachina Basin Site Plan
- Phoenix Lodge cell tower area site plan
- Phoenix Lodge cell tower area landscape plan
- Tower setback exhibit
- Existing facilities distance exhibit
- Construction plans for the tower

Please do not hesitate to contact me if there is anything else I can provide to help you in your evaluation of this application.

Sincerely,

Peter Johnson  
Director of Development

Village of Taos Ski Valley  
Planning & Community Development Department  
**LAND USE & DEVELOPMENT APPLICATION**



<u>Applicant/Developer:</u> Taos Ski Valley Incorporated	<u>Property Address:</u> 110 Kachina Road, Village of Taos Ski Valley
<u>Current Owner Address:</u> PO Box 90, Village of Taos Ski Valley	<u>Lot/Block:</u> <u>Subdivision:</u>
<u>Architect/Engineer:</u> N/A	<u>Contractor:</u> N/A

**Authorization and Acknowledgment**

I, the undersigned, am the owner of the above described property, or am authorized to represent the owners (proof of such authorization is attached). I recognize the fees paid with the application may not constitute the total cost to process this request and that I will be responsible for the additional costs incurred by the Village of Taos Ski Valley to review and process this request. I agree to pay these costs upon receipt of a statement from the Village.

Peter Johnson, Director of Development

December 18, 2018

Owner or Representative

Date

**APPLICATION INFORMATION**

SUBDIVISION	FEE	ZONING	FEE
Sketch Plat:	\$1,000	Conditional Use	\$1,500
Parcel Conceptual Plan (CVZ)	\$500	Zone Change	\$1,500
Preliminary Plat:		Variance	\$800
Category I - less than 3 lots	\$1,250	Variance (minimum)	\$250
Category II - less than 10 lots	\$2,500	Special Use	\$500
Category III- 10 - 20 lots	\$4,000	CERTIFICATE of COMPATIBILITY	\$1,000
Each lot > 20	\$250	PUBLIC NOTICE SIGNS	\$50
Final Plat (½ cost of preliminary plat)		APPEALS	\$250
Summary Subdivision	\$500	PERMITS	
Lot Line Adjustment	\$250	Fence Tree Sign Lighting	\$25
Variance	\$500	Accessory Structure	\$25

Application Received: Date:                      Total Fees Paid: \$ 1,500.00

Received by:                      (VTSV staff)





**Taos Ski Valley – Phoenix Lodge Cell Tower**  
Conditional Use Permit Application

January 7, 2019

**Location:** Adjacent to Phoenix Lodge at 110 Kachina Road, Taos Ski Valley, NM 87525

**Introduction:**

This document is the narrative section of the application to the Village of Taos Ski Valley (VTSV) for a Conditional Use Permit for the Cell Tower installation at the Phoenix Lodge within the ‘Kachina Basin’ of the VTSV. The application is being submitted on January 7, 2019, 2018 for review with the VTSV Planning Commission at its February meeting. The applicant, Taos Ski Valley, Inc. (TSVI) is represented by Peter Talty, David Norden and Peter Johnson assisted by a team consisting of the following professional organizations:

- Hart Howerton, Ltd.: Architecture, Planning, Landscape Architecture, Interiors
- Russell Planning & Engineering: Civil Engineering
- Red Tail Surveying: Professional Land Surveying

**TSVI Goals**

Significant improvements are underway for Kachina Basin for the 2018/19 ski season and into the future.

1. Continue to build upon the Taos experience of the Phoenix Lodge and Bavarian by increasing indoor and outdoor dining and event space.
2. Introduce and enhance multi-season activity in the Kachina Basin and Jump off Point to Wheeler Peek.
3. Improve skier amenities, circulation and retail amenities within the Kachina Basin to enhance the guest experience.
4. Improve cellular reception within the Kachina Basin through the replacement of the existing temporary Celltower on Wheels (COW) with a new permanent Cell Tower.

With the renovation of The Phoenix Lodge and The Bavarian Lodge, TSVI is making a strong and meaningful gesture toward achieving these goals. Cumulatively, these improvements will announce a new era for Taos Ski Valley and set the tone for future redevelopment. Ultimately, the synergy between the improvements will invigorate Taos Ski Valley as a year-round destination, generate renewed interest, and reinforce the unique and special brand and ‘mystique’ of Taos Ski Valley. With this advancement, we will need to make sure the infrastructure is in place to allow this to move forward effectively. The proposed cell tower is a cornerstone of the improved infrastructure.

**Project Description**

The proposed cell tower, considered an accessory use, is aimed at accommodating two (2) providers, AT&T & Verizon Wireless, in order to provide better service coverage for the Village of Taos Ski Valley. The existing temporary COW will be replaced with the proposed new permanent cell tower just to the east of the Phoenix Lodge. To reduce visual impact, the cell tower will be placed in an area behind the Phoenix Lodge. The proposed cell tower will have a galvanized steel finish. The placement of the proposed tower complies with the Zoning Ordinance Conformance, for height, with a proposed height of 65’, which is 10’





below maximum allowable height of 75', but not for distance, as discussed further below. The tower is located behind the Phoenix Lodge, on a 20.999 acre lot. All supporting equipment will be housed in the Phoenix Lodge, minimizing impact on the surrounding landscape. The proposed tower also meets the standards and regulations of the FAA and FCC, and satisfies applicable local and state building codes and safety regulations.

#### **TSV. Wireless Communication Master Plan Conformance**

- Master Plan approved by P&Z Resolution 16-285
- Master Plan approved by Village Council Resolution 16-290

The above referenced resolutions adopting the 2015 Wireless Communications Master Plan, confirm the Village's desire to enhance the wireless communication service in order to increase safety and economic development in the community. The Master Plan identifies preferred locations for cellular communications towers within the village boundary.

The proposed tower location is in conformance with the Village's site selection criteria of:

- Coverage: This tower will significantly improve the quality of coverage over even the existing temporary Celltower on Wheels (COW), particularly in the down-valley areas
- Capacity: the proposed tower has increased capacity over the COW, and provides room for a second carrier's equipment, which will further improve the quality of cellular service in the Village.
- Continuity: In conjunction with the existing core village facilities and the recently installed transmission facilities at the top of chair 6, this tower will provide uninterrupted service to a much greater area than before. Further, the siting of the tower behind the Phoenix will minimize the visual impact of the tower from the ski area and associated commercial facilities.

This application will accomplish objective #2, which calls for the Village to "work with private developers and property owners in construction of a wireless communication tower in the Kachina area". This objective was initially achieved by the temporary placement of the existing COW adjacent to the Phoenix Lodge. **The intent of this application is to turn that temporary wireless communication solution into a permanent one.**

TSVI has recently completed the installation of cellular equipment on the exterior of the building at the top of old Chair 6, which accomplishes the Village's Objective #4 of the Master Plan: "work with TSVI and the USFS to construct a tower near the top of lift #6"

In the conclusions section of the ordinance: "The Master Plan also includes a map which identifies the preferred locations for new towers. The Village believes these preferred locations will increase the reliability of service while minimizing the environmental and aesthetic impacts to the community"

**The proposed location adjacent to the Phoenix Lodge is a designated location on the Wireless Communications Tower Master Plan Map included in this submission.**

#### **Zoning Ordinance Conformance**

The Phoenix Lodge cell tower is proposed to meet the standards and regulations in the VTSV Ordinance NO. 17-30, Section 19-2. Following is a summary of the cell tower conformance with the major regulations of the zoning ordinance:

#### **19-2.A**





Information Required: In addition to any information required for applications for conditional use permits, pursuant to section 26 of this ordinance, applicants for a conditional use permit for a tower shall submit the following information:

1. A scaled site plan clearly indicating the location, type and height of the proposed tower and antennas, on-site land uses and zoning classification, adjacent land uses and zoning classification of the site and all properties within the applicable separation distances set forth in Tables 1 and/or 2 of this section, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Planning Officer to be necessary to assess compliance with this section.
- Please see included drawing “L1.1 Landscape Plan”
2. Legal description of the parent tract and leased parcel (if applicable).
- Description: 20.999 Acres

Within TWP 27N RGE 14E Section 15, Quad 2

• Please see included drawings “Taos Ski Valley, Inc. Phoenix Tract”
3. The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.

The proposed tower may require a variance from the VTSV zoning location standard: The tower as currently proposed falls closer than twice its height (65' x 2 =130') from the setback line on the adjacent property (lot 1 of the Lake Fork Creek subdivision), although the extreme topography on the lot precludes a building site within the area that is within twice the height of the tower. As shown on the attached exhibit, the closest practical building site is approximately 200 feet away from the proposed tower base location.

- Please see included drawing “s Celltower location exhibit”

Off Site Use/Designated Area	Separation Distance
Single-family, modular or duplex residential units.	100 feet or 200 percent height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	100 feet or 200 percent height of tower <sup>1</sup> whichever is greater
vacant unplatted residentially zoned lands	100 feet or 100 percent height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100 percent height of tower whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

Notes:

1. Separation measured from base of tower to closest building setback line.

2. Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

4. The separation distance from other towers described in the inventory of existing





sites submitted pursuant to subsection d.4. (GENERAL REQUIREMENTS) of this section shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

- TSV to provide information

5. A landscape plan showing specific landscape materials and which demonstrates compliance with all applicable landscaping requirements of this section.
  - Please see included drawing "L2.1 Landscape Plan"
6. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - Fencing will be in compliance with VTSV requirements.
  - 6'-0" green security fence
7. A narrative description of compliance with sections d.5 through 15 (GENERAL REQUIREMENTS) of this section and f.2.d. and f.2.e. (Set-backs and Separation) of this subsection and all applicable federal, state or local laws.
  - Please see previous project description
8. A notarized statement by the applicant as to whether construction of the tower will accommodate colocation of additional antennas for future users.
 

The height of the proposed tower wil allow for two tenants to collocate on the tower. To date, both AT&A and Verizon have committed to lease space on the tower. No further space is available on this tower.
9. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village.
  - N/A
10. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - The only existing tower or suitable structure in the vicinity of the proposed tower is the Celltower on Wheels (the COW) that this proposed tower is designed to replace. The roof of the Phoenix was also investigated as a potential candidate but it was determined that the roof's structure would not be adequate to support the proposed equipment

Other than the temporary COW, there are no suitable existing towers

11. A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

This tower would not change the studies that have been done and included in the Village's Communications Master Plan and it would not change other preferred locations as identified therein.

#### 19-2.B

Factors Considered in Granting Conditional Use Permits For Towers: In addition to any standards for consideration of conditional use permit applications the Commission shall





consider the following factors in determining whether to issue a conditional use permit, although the Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Commission concludes that the goals of this section are better served thereby:

1. Height of the proposed tower;
  - 65'-0" (maximum 75'-0")
2. Proximity of the tower to residential structures and residential zones;
  - Distance to closest residential zone building setback is less than the 200% (130'-0") height requirement as stated in VTSV zoning regulations.
3. Nature of uses on adjacent and nearby properties;
  - Commercial/Business (C/B)
    - Bavarian Lodge
    - The Phoenix Lodge
  - Residential
    - Bavarian Condominiums
    - Residential Lots
  - National Forest Land
  - Ski Resort
4. Surrounding topography;
  - Please see included drawing "L1.1 Landscape Plan"
5. Surrounding tree coverage and foliage;
  - Please see included drawing "L2.1 Landscape Plan"
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - Majority of the tower is visually blocked from the Ski area trails and the Williams Lake trail by the renovated Phoenix Lodge building.
  - All of the support equipment will be housed within the Phoenix lodge to lessen visual impact.
7. Proposed ingress and egress; and
  - Please see included drawing "L2.1 Landscape Plan"
8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection f.2.c. (AVAILABILITY OF SUITABLE EXISTING TOWERS, OTHER STRUCTURES, OR ALTERNATIVE TECHNOLOGY) of this section.
  - This permanent structure is meant to replace and enhance the existing temporary COW currently in use at Kachina Basin

19-2.C

Availability of Suitable Existing Towers, Other Structures, or Alternative Technology: No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:





- No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - There are no existing towers in the immediate vicinity
- Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - The Phoenix lodge has sufficient height but its structure was found to be inadequate to support proposed equipment.
- Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - See response to #2
- The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - The only existing tower will be removed upon completion of the proposed tower
- The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
  - There is no existing tower to share
- The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - There are no existing towers
- The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
  - There is no currently available technology that does not require the use of towers as the primary means of transmission

#### 19-2.D

Setbacks: Towers and accessory must be set back a distance equal to at least 10 feet from any adjoining lot line, provided, however, that the Commission may reduce or increase the standard setback requirements if the goals of this section would be better served thereby.

- For setbacks, please see attached drawing "L2.1 Landscape Plan"

#### 19-2.E

Separation: The separation requirements identified in Table 1 shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the Commission may reduce or increase the standard separation requirements if the goals of this section would be better served thereby.

1. Separation From Off Site Uses/Designated Areas: Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1 of this section, except as otherwise provided in Table 1 of this section.





Off Site Use/Designated Area	Separation Distance
Single-family, modular or duplex residential units.	100 feet or 200 percent height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	100 feet or 200 percent height of tower <sup>1</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>2</sup>	100 feet or 100 percent height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100 percent height of tower whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

Notes:

1. Separation measured from base of tower to closest building setback line.
2. Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

- Separation distance to off site uses is less than the 100' or 200% (130'-0") guideline set by Table 1 above. Applicant requests that the Commission consider a reduction in the setback criteria based on the topography of the neighboring property and support statements from the property owner.

19-2.F

Separation Distances Between Towers (Not applicable)

- There is no existing or proposed antenna within relative area. Proposed tower replaces existing temporary COW

19-2.G

Security Fencing: Towers shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Commission may waive such requirements, as it deems appropriate.

Chain link fencing is prohibited.

- The proposed fencing conforms with fencing requirements pending direction on elimination of anti climb fence
- Zehren to provide fencing details

Applicant proposes to locate all of the ground based equipment inside the Phoenix Lodge and replace the requirement for fencing with a climb-proof gate around the base of the ladder on the tower. An alternative (as shown as "optional" on the site plan would be the installation of an 8' tall coyote fence

19-2.H

Landscaping: The following requirements shall govern the landscaping surrounding towers; provided, however, that the Commission may waive



1. Tower and tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
  - Please see attached drawing "L2.1 Landscape Plan"
2. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
  - Please see attached drawing "L2.1 Landscape Plan"
  - Existing trees are not impacted

-End of Narrative-



