



**VILLAGE COUNCIL SPECIAL MEETING  
VIA ZOOM TELECONFERENCE  
TAOS SKI VALLEY, NEW MEXICO  
TUESDAY, MARCH 21, 2023 2:00 P.M.**

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- 1. CALL TO ORDER AND NOTICE OF MEETING**
- 2. ROLL CALL**
- 3. APPROVAL OF THE AGENDA**
- 4. NEW BUSINESS**
  - A. HEARING:** Consideration and Decision on the Appeal of the Planning and Zoning Commission Approval of a Conditional Use Permit for the Property at 112 Sutton Place for the Reconstruction of the Hotel St. Bernard by Taos Ski Valley Inc.
- 5. ANNOUNCEMENT OF THE DATE, TIME & PLACE OF THE NEXT MEETING OF THE VILLAGE COUNCIL**
- 6. ADJOURNMENT**

Meeting packet can be viewed on the Village web site at  
<https://www.vtsv.org/village-government/village-council/meetings-agendas-minutes/>

## **VILLAGE OF TAOS SKI VALLEY**

### **PROCEDURES FOR APPEAL HEARING BEFORE THE VILLAGE COUNCIL FROM A DECISION OF THE PLANNING AND ZONING COMMISSION**

These written procedures are intended to provide due process to all parties appearing before the Village Council (the "Council"), the governing body of the Village of Taos Ski Valley (the "Village") on appeals from decisions of the Village's Planning and Zoning Commission. Application of these procedures need not be unduly rigid. Alternative procedures in particular cases may be appropriate based on circumstances, provided that all parties are given an opportunity to be heard and to present such testimony and evidence as they choose to provide.

#### **1. Nature of Appeal Hearing**

The appeal hearing before Council will be *de novo*. The Council is not bound or limited by the decision of the Planning and Zoning Commission, and may reverse that decision, affirm that decision in its entirety, or partially affirm that decision with such conditions, modifications, and changes as the Council deems appropriate.

The Mayor or, in the Mayor's absence, the Mayor Pro Tem shall be the presiding officer at the appeal hearing.

Parties may appear either in person or through counsel. Parties who may present testimony and evidence at the hearing will include the applicant in the underlying matter, those appellants who have filed written appeals of the Planning and Zoning Commission matter on appeal, and persons directly and individually affected by the decision if the appellant is the applicant. Comments and testimony from other persons will not be heard, unless the person is called as a witness by the applicant, the appellant, or an affected party as provided in this paragraph.

The appeal hearing may be recorded or transcribed by a certified court reporter or other appropriate person, at the discretion of the Council or the presiding officer.

#### **2. Record on Appeal**

All materials submitted into evidence before the Planning and Zoning Commission will be forwarded to Council along with the minutes or draft minutes of the Planning and Zoning Commission meeting at which the decision appealed from was made. Parties may also present testimony and may submit additional exhibits at the appeal hearing, in accordance with the procedures described in the following sections of this document.

#### **3. Witnesses**

Each party shall submit to the Village Clerk a list of witnesses who will or may testify at the appeal hearing, no later than five (5) business days before the hearing date.

At the appeal hearing, all witnesses will be sworn in as required by *State ex rel. Battershell v. City of Albuquerque*, 1989-NMCA-045, 108 N.M. 658, 777 P.2d 386. Attorneys who are not parties need not be sworn in if they restrict themselves to legal argument, but shall be sworn in as witnesses if they choose to present factual or expert testimony. All witnesses will be subject to cross-examination, the sequence being: (1) direct examination or narrative testimony; (2) cross-examination; and (3) re-direct. Additional cross-examination or direct examination will not be permitted unless the presiding officer allows additional questioning or presentation because of new material presented on re-direct examination or for other just cause.

Testimony shall be pertinent and relevant to the subject matter at issue. However, the proceedings shall not be subject to the Rules of Civil Procedure or the Rules of Evidence of the New Mexico courts. The presiding officer in his or her discretion may limit testimony to avoid presentation of material that is irrelevant or that is unduly duplicative or cumulative.

All witnesses and parties shall remain present throughout the hearing unless excused by the presiding officer.

#### **4. Exhibits**

Parties may introduce new exhibits or other matter at the appeal hearing. Any such material that any party plans to submit shall be distributed to the Village Clerk and to all other parties no later than five (5) business days before the hearing date. The proponent of each exhibit shall be clearly identified and shall specifically introduce the exhibit at hearing. Each exhibit so introduced and accepted will become part of the hearing record.

All exhibits shall be relevant to the subject matter at issue. However, strict adherence to the Rules of Evidence of the New Mexico courts or any other body is not required.

#### **5. Prehearing Motions**

Any prehearing motions, including any objections to proposed witnesses, exhibits or documents, shall be filed with the Village Clerk no later than three (3) business days before the hearing date. Any such prehearing motions will be heard and ruled upon by the presiding officer at the commencement of the appeal hearing.

#### **6. Order of Presentation**

Unless modified for good cause shown, the order of presentation at the appeal hearing will be as follows:

##### **A. Opening Statements:**

At the discretion of the presiding officer, each party may be given the opportunity to make a brief opening statement outlining the gist of the party's case, the testimony and evidence that will be presented, and the party's desired outcome.

### **B. Appellant's Case:**

The appellant presents appellant's case. If there is more than one appellant, the appellants may agree among themselves as to which of them proceeds first, or in the absence of an agreement the presiding officer will determine the order of procedure. Each witness will be subject to cross-examination by the applicant (unless the appellant is the applicant) and by all other appellants or appellees, followed by re-direct examination on behalf of the appellant calling the witness. An appellant may testify as a witness on his or her own behalf.

### **C. Appellee's Response:**

The appellee presents appellee's case. If there is more than one appellee, the appellees may agree among themselves as to which of them proceeds first, or in the absence of an agreement the presiding officer will determine the order of procedure. Each witness will be subject to cross-examination by the applicant (unless the applicant is the appellee) and by all other appellants or appellees, followed by re-direct examination on behalf of the appellee calling the witness. An appellee may testify as a witness on his or her own behalf.

### **D. Appellant's Rebuttal:**

The appellant or appellants are then given an opportunity to present testimony or evidence to rebut any testimony, evidence or claims made by the appellee or appellees. Generally, rebuttal should be directed only to material that was addressed in the appellee's response. Appellant should not be permitted to introduce wholly new material that was not presented in Appellant's initial case. Each rebuttal witness will be subject to cross-examination by the applicant (unless the appellant is the applicant) and by all other appellants or appellees, followed by re-direct examination on behalf of the appellant calling the witness.

### **E. Closing Statements:**

At the discretion of the presiding officer, each party may be given the opportunity to make a brief closing statement outlining that party's interpretation of the testimony and evidence that has been presented, and the party's desired outcome.

## **7. Decision of the Council**

The Council may, on motion duly made, seconded and approved, go into executive (closed) session to deliberate on the testimony and evidence presented, in accordance with Section 10-15-1(H)(3) NMSA 1978. The Council's decision will be made on the record in open session. The Council's decision shall be made based on the testimony and evidence presented and shall be supported by substantial evidence in the record.

## **8. Findings of Fact and Conclusions of Law**

Within fifteen (15) days following the Council's decision, the presiding officer shall cause findings of fact and conclusions of law to be adopted reflecting the evidence supporting and the legal basis

for the Council's decision. The presiding officer may, but need not, request that the parties submit proposed findings of fact and conclusions of law for consideration by the Village on a date sufficiently early that they can be considered by the Village in the preparation and adoption of the findings of fact and conclusions of law required by this Section.

#### **9. Finality of Decision**

The decision of the Council shall be the final decision of the Village, and may be appealable to the Eighth Judicial District Court of the State of New Mexico in accordance with applicable statutes and rules of procedure of the New Mexico courts.

**CANEPA & VIDAL, P.A.**

Attorneys and Counselors at Law

Joseph F. Canepa

1660 Old Pecos Trail #A  
Santa Fe, New Mexico 87505

505-982-9229  
Telephone

James E. Riley, Of Counsel \*  
Timothy Vidal, Retired

Post Office Box 8980  
Santa Fe, New Mexico 87504-8980

505-982-8141  
Facsimile

\*Also admitted in Massachusetts

[www.canepavidal.com](http://www.canepavidal.com)  
Website

February 24, 2023

***By First Class Mail and Email:***  
**[awooldrige@vtsv.org](mailto:awooldrige@vtsv.org)**

To: Village Council  
Village of Taos Ski Valley  
c/o Village Clerk Ann Marie Wooldridge  
7 Firehouse Road  
Taos Ski Valley, NM 87525

***By First Class Mail and Email:***  
**[topwit@aol.com](mailto:topwit@aol.com)**

To: Tom Witman, Mayor *Pro Tem*  
Village of Taos Ski Valley  
7 Firehouse Road  
Taos Ski Valley, NM 87525

***By First-Class Mail and Email***  
**[jappel@coppler.com](mailto:jappel@coppler.com)**

To: John L. Appel, Esq., Village Attorney  
Coppler Law Firm PC  
645 Don Gaspar Ave  
Santa Fe, NM 87505-2696

**APPLICANT / APPELLEE TAOS SKI VALLEY, INC.'S  
REQUEST FOR EXPEDITED HEARING ON OR BEFORE  
MARCH 21, 2023 ON THE APPEAL OF THE VILLAGE'S  
PLANNING & ZONING COMMISSION'S FEBRUARY 6, 2023  
DECISION GRANTING APPLICANT A CONDITIONAL USE PERMIT  
FOR ITS HOTEL ST. BERNARD PROJECT**

COMES NOW, Taos Ski Valley, Inc., the Applicant (and the Appellee herein) for a Conditional Use Permit for its pending Hotel St. Bernard Project in the Village of Taos Ski Valley, New Mexico, by and through its attorney, Joseph F. Canepa, Canepa & Vidal, P.A., and hereby requests that the Village Council set their public hearing on the appeal of the Village's Planning

and Zoning Commission's decision of February 6, 2023, granting Applicant a Conditional Use Permit on Applicant's Hotel St. Bernard project at its earliest, lawful opportunity but no later than Tuesday, March 21, 2023 at a Special Council Meeting.

As grounds therefor, Applicant states that any delay beyond March 21, 2023, will necessarily cause the Applicant irreparable economic harm due to administrative delay in obtaining building permits for the construction of this Hotel St. Bernard Project beyond the short Taos Ski Valley 2023 construction season (April – October 2023).

CANEPA & VIDAL, P.A.

By: 

Joseph F. Canepa  
Attorney for Applicant/Appellee  
Taos Ski Valley, Inc.  
P.O. Box 8980  
Santa Fe, NM 87504-8980  
(505) 982-9229  
[jfcanepa@newmexico.com](mailto:jfcanepa@newmexico.com)

Copy to Applicant    Taos Ski Valley, Inc.  
                                 c/o Peter J. Talty, Vice President  
                                 [peter.talty@bllc.com](mailto:peter.talty@bllc.com)

Copy to Appellants (by First-Class Mail)

1.     T.S. and Chris Hall  
       13 Falling Star Circle  
       Santa Fe, NM 87506
2.     Robert and Robyn Leland  
       Edelweiss Lodge & Spa  
       106 Sutton Place, Unit #103  
       Taos Ski Valley, NM 87525
3.     Tom and Felicia Weingartner, et al.  
       4 Cliffhanger Loop  
       Taos Ski Valley, NM 87525