

**APPELLANTS LELAND ET AL**

**APPEAL(S)**

Leland  
et al.

RECEIVED  
FEB 21 2023  
CK # 5177  
\$250  
Dennis Romero



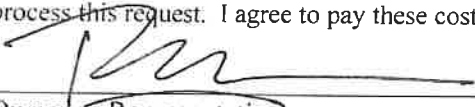
Village of Taos Ski Valley  
Planning & Community Development Department

# **LAND USE & DEVELOPMENT APPLICATION**

<u>Applicant/Developer:</u>	<u>Property Address:</u>
<u>Current Owner &amp; Address:</u>	<u>Lot/Block:</u> <u>Subdivision:</u>
<u>Architect/Engineer:</u>	<u>Contractor:</u>

## **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.

  
Owner or Representative

2/21/23  
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	\$3,000	Variance (minimum)	\$250
Category II - less than 10 lots	\$5,000	Special Use	\$500
Category III- 10 - 20 lots	\$7,500	<b>CERTIFICATE of COMPATIBILITY</b>	\$1,000
Each lot > 20	\$500	<b>PUBLIC NOTICE SIGNS</b>	\$50
Final Plat (½ cost of preliminary plat)		<b>APPEALS</b>	\$250
Summary Subdivision	\$500	<b>PERMITS</b>	
Lot Line Adjustment / Consolidation	\$250	Fence Tree Sign Lighting	\$25
Variance	\$500	Accessory Structure	\$25
<b>COMP PLAN AMENDMENT</b>	\$1,000	Excavation / Grading	\$250
		Food Truck	\$250

Application Received: Date: 2/21/23

Total Fees Paid: \$ 250

Received by:  (TSV staff)

Village of Taos Ski Valley  
Planning & Community Development Department  
**Appeal Form**



Ordinance 2022-30 Section 29:1-2 Any person aggrieved by an interpretation, decision or action of the Planning Officer in carrying out the provisions of this Ordinance may appeal such interpretation, decision, or action to the Planning and Zoning Commission as set forth herein. Any person aggrieved by a decision or action of the Planning and Zoning Commission in carrying out the provisions of this Ordinance may appeal to the Village Council. Any such appeal must set forth in writing specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision or action was not supported by evidence in the matter. Any appeal not submitted within fifteen days after the decision, which is the subject of the appeal, shall not be considered.

Name and Address of Appellant: Robert & Robyn Leland, Unit #103, Edelweiss Lodge & Spa, TSV

Decision Being Appealed: Motion to Approve CUP without Conditions  
at 112 Sutton for Taos Ski Valley Inc.

Appeal of interpretation, decision or action of the Planning Officer or Planning Commission (circle).

Date of Decision: 2/6/23

How Is Appellant Affected by the Decision? See attached notices of appeal  
setting forth how Appellants are affected/aggrieved by the decision.

Grounds for Appeal; please state clearly the error, abuse of discretion or other basis of appeal:  
(Use additional sheets if necessary)

See attached notices of appeal stating the error,  
abuse of discretion and grounds of the Appeal.

Signature of Appellant: Robert W. Leland Date: 2/21/23

Received by: [Signature] (VTSV staff) Date: 2/21/23

Robert & Robyn Leland  
Unit #103  
Edelweiss Lodge & Spa  
Taos Ski Valley

Names

Address

Taos Ski Valley, NM 87525

Tel: 505-604-5463

**NOTICE OF APPEAL 2/6/23 DECISION  
ATTACHED TO VTSV APPEAL FORM**

February 19, 2023

Village Council  
Village of Taos Ski Valley  
7 Firehouse Road  
Taos Ski Valley, NM 87525

**Re: Appeal of the Decision to Grant a Conditional Use Permit without Conditions to Taos Ski Valley, Inc. for the Hotel Saint Bernard at 112 Sutton Place**  
**Date of Decision: 2/6/23**

Dear Council Members:

We are writing to appeal the decision of the Village of Taos Ski Valley Planning & Zoning Commission granting a Conditional Use Permit ("CUP") to Taos Ski Valley Inc. for the Hotel St. Bernard ("HSB"), which was granted without any conditions, with a vote of 4 Commissioners in favor and 3 against.

As an initial matter we are in favor of the concept of the HSB proposed by Taos Ski Valley, Inc. However, given the dire situation regarding the Village infrastructure/water delivery system, and due to the conflict of interest of Commissioner Stagg participating in the vote and the various issues raised by Commissioner Klinkmann, Commissioner Caldwell, Village Administrator Avila, Director of Public Safety/Police Chief Vigil and Director of Planning and Community Development Nicholson, granting a conditional use permit without conditions was clear error, an abuse of discretion, arbitrary and capricious, and not supported by the evidence presented during the February 6, 2023 P&Z Commission meeting.

The following is a description of the clear error, abuse of discretion, and basis for Appeal as well as how we are aggrieved and affected by the decision of the P&Z Commission:

1. A vote on the Motion to grant a CUP without conditions was taken in violation of VTSV Ordinance 22-070. Pursuant to VTSV 22-070, Section 4 (G), Commissioner Chris Stagg was required to disclose his potential conflict of interest. Mr. Stagg is employed by TSV Inc. and he is listed with the New Mexico Secretary of State as an Officer of TSV, Inc. Pursuant to the Village Ordinance Mr. Stagg was required to abstain from voting on the CUP sought by his company. Without Mr. Stagg's vote the Motion for a CUP without conditions would not have passed. Significantly, Commissioner Klinkmann requested that Commissioner Stagg recuse himself because of his employment by the Applicant Taos Ski Valley Inc. See, 2/6/23 Zoom Hearing at 24:10. The request by Commissioner

Klinkmann was rejected by Chairman Wittman who stated it was not on the Agenda and would not be discussed. However, pursuant to Village Ordinance, Commissioner Stagg had an affirmative duty to disclose his potential conflict and abstain from voting on the Application for CUP by TSV, Inc. irrespective of the agenda. *See*, VTSV Ordinance 22-070. It was clear error to allow Commissioner Stagg to participate in the vote on the Motion for the CUP for TSV, Inc.

2. Pursuant to the Governmental Conduct Act financial interest is defined as including any employment of the individual or the individual's family. *See*, §10-16-2(F)(2), NMSA 1978.
3. In light of Commissioner's Stagg's financial interest in Taos Ski Valley, Inc. Commissioner Stagg's participation in votes affecting Taos Ski Valley, Inc. also violates the Governmental Conduct Act, §10-16-4, NMSA 1978.
4. Committee Member Stagg's vote provided the majority vote on the Motion that eliminated all of the conditions of the CUP, and granted the CUP to Taos Ski Valley, Inc. without any conditions.
5. The CUP granted by the P&Z Commission did not include any of the conditions recommended by Village Staff Director of Planning and Community Development Patrick Nicholson.
6. Director of Public Safety/Police Chief Virgil Vigil expressed safety concerns about the crossing near the Gondolita, the increased pedestrian traffic by the proposed HSB, and the transition at the heated snow melt that will be an issue, recommending these safety issues be a condition of the CUP. Director/Chief Vigil, Village Administrator Avila, Director of Planning Patrick Nicholson, and Commissioner Klinkman all recommended that safety remain a condition of the CUP, but it was not included as a condition of the CUP. These safety issues affect us and all property owners in the Village. The evidence presented during the hearing did not support eliminating this condition.
7. The CUP granted does not meet the Village ordinance regarding parking and places the burden of parking on the Village community. The evidence presented during the hearing did not support eliminating this condition.
8. The Village does not currently have a water distribution system or infrastructure in place to distribute water to the proposed HSB and cannot guarantee water distribution to the HSB by the time of the HSB's proposed completion. The evidence presented during the hearing did not support excluding conditions to protect the Village and Village property owners regarding the infrastructure/water delivery system.
9. Director of Planning Patrick Nicholson presented evidence during the hearing that the current infrastructure/water delivery system cannot deliver water to the proposed HSB. Mr. Nicholson also presented evidence that there is a heck of a lot of work to do on the

water delivery system, and there are multiple leaks in the system that distributes water to the Village.

10. Taos Ski Valley Inc. is unwilling to accept a CUP with the condition that the Village is unable to guarantee the delivery of water to the proposed HSB by the time of the HSB's proposed completion.
11. Taos Ski Valley Inc. represented it would not require the delivery of water to the HSB until the time of the HSB's proposed completion, but there is no written agreement in place or condition placed upon the CUP to enforce this representation.
12. There is no guarantee the Village will have the water delivery system/infrastructure fixed or upgraded by the time the HSB is proposed to be completed. Until it is known when there will be sufficient funding and when the Village can complete the repairs and upgrades on the infrastructure/water delivery system, the Village cannot reasonably agree to deliver water to the proposed HSB. Agreeing to deliver water to the proposed HSB by the time of the HSB's proposed completion is to our detriment and the detriment of other property owners. Approving the CUP without conditions to ensure the proposed HSB will not negatively impact the delivery of water to our property and other properties in the Village is not supported by the evidence presented at the hearing.
13. The P&Z Commission's decision negatively impacts our property rights by compromising the distribution of water to our property and other developed properties within the Village limits. The inability of the Village to deliver water to our property due to the proposed HSB has an adverse impact on the value, use and enjoyment of our property.
14. The P&Z Commission's decision adversely affects our property rights by exposing the Village to litigation by Taos Ski Valley Inc. in the event the Village is not able to deliver water to the proposed HSB by the time construction is proposed to be completed. One of the attorneys speaking on February 6, 2023 stated that generally the Village could be liable for damages to Taos Ski Valley, Inc. if water is not supplied to the proposed HSB when construction is completed. Taos Ski Valley, Inc. did not waive its right to file suit against the Village if the Village is unable to deliver anything less than 100% of water to the proposed HSB when it is completed. Granting the CUP without conditions to protect us as property owners, the Village and Village taxpayers is not supported by the evidence presented at the hearing.
15. Given that the Village cannot reasonably guarantee the delivery of water to the proposed HSB by the time it is completed, if TSV Inc. is interested in proceeding with a CUP at this time, at a minimum, a condition of the CUP should include that the CUP is granted on the condition Taos Ski Valley Inc. is proceeding with construction of the HSB at its own risk, with no guarantee of delivery of water to the HSB, and will not claim entitlement to the distribution of water to the HSB to the detriment of our property and other developed properties in the Village.

16. The P&Z Commission's decision was in error and did not take into consideration the increased size and negative impact of the proposed HSB on neighboring properties. The proposed HSB is much more intrusive and expansive than the original hotel. The original St. Bernard had 23 rooms, a lower height and provided sight lines of the mountain scape from neighboring properties. The proposed development includes three large buildings with 53 rooms, a spa, two restaurants and a pool. Given the extent of the proposed HSB, the Village will have to dedicate resources to the HSB and as a result will deprive our property and other properties in the community of those resources. For example, with the increased number of individuals and commercial traffic anticipated at that site the Village will have to devote public safety resources to the proposed HSB in addition to providing utilities. As discussed above the water distribution system is not able to accommodate the proposed HSB. The P&Z Commission's decision did not take this into consideration or the negative impact a massive development has on the neighboring buildings, including the Edelweiss. Our property is located in the Edelweiss Condominiums and is adversely affected by the proposed HSB due to TSV, Inc.'s design choices and the burden it would place on community resources. As a further example, we are concerned about the loss of natural daylight at our property and also the loss of tree cover and other natural vegetation on the site. The trees and vegetation currently screen some of the existing infrastructure from us and provide substantial aesthetic value. The Landscape and Terrain Management standards adopted by VTSV speak to this concern – see for example (but not exclusively) provisions 4, 5, 6, 7, 8, 9, 12, and 15. This consideration is reinforced by Taos Ski Valley's commendable commitments to "environmentally friendly habits throughout all areas of the resort", meeting "the highest standards of verified social and environmental performance, sustainability, public transparency, and legal accountability" and honoring its "values of inclusion, sustainability, and respect for all", which are publicly declared in connection to its status as a certified B Corporation.

Thank you for your consideration of our appeal.

Respectfully,



Names

Name

Robert W. Leland

Robyn H. Leland

Unit #103

Edelweiss Lodge & Spa

Taos Ski Valley

**NOTICE OF APPEAL 2/6/23 DECISION  
ATTACHED TO VTSV APPEAL FORM**

February 17, 2023

Village Council  
Village of Taos Ski Valley  
7 Firehouse Road  
Taos Ski Valley, NM 87525

**Re: *Appeal of the Decision to Grant a Conditional Use Permit without Conditions to Taos Ski Valley, Inc. for the Hotel Saint Bernard at 112 Sutton Place***  
***Date of Decision: 2/6/23***

Dear Council Members:

We are writing to appeal the decision of the Village of Taos Ski Valley Planning & Zoning Commission granting a Conditional Use Permit ("CUP") to Taos Ski Valley Inc. for the Hotel St. Bernard ("HSB"), which was granted without any conditions, with a vote of 4 Commissioners in favor and 3 against.

As an initial matter we are in favor of the concept of the HSB proposed by Taos Ski Valley, Inc. However, given the dire situation regarding the Village infrastructure/water delivery system, and due to the conflict of interest of Commissioner Stagg participating in the vote and the various issues raised by Commissioner Klinkmann, Commissioner Caldwell, Village Administrator Avila, Director of Public Safety/Police Chief Vigil and Director of Planning and Community Development Nicholson, granting a conditional use permit without conditions was clear error, an abuse of discretion, arbitrary and capricious, and not supported by the evidence presented during the February 6, 2023 P&Z Commission meeting.

The following is a description of the clear error, abuse of discretion, and basis for Appeal as well as how we are aggrieved and affected by the decision of the P&Z Commission:

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Klinkmann was rejected by Chairman Wittman who stated it was not on the Agenda and would not be discussed. However, pursuant to Village Ordinance, Commissioner Stagg had an affirmative duty to disclose his potential conflict and abstain from voting on the Application for CUP by TSV, Inc. irrespective of the agenda. *See*, VTSV Ordinance 22-070. It was clear error to allow Commissioner Stagg to participate in the vote on the Motion for the CUP for TSV, Inc.

2. Pursuant to the Governmental Conduct Act financial interest is defined as including any employment of the individual or the individual's family. *See*, §10-16-2(F)(2), NMSA 1978.
3. In light of Commissioner's Stagg's financial interest in Taos Ski Valley, Inc. Commissioner Stagg's participation in votes affecting Taos Ski Valley, Inc. also violates the Governmental Conduct Act, §10-16-4, NMSA 1978.
4. Committee Member Stagg's vote provided the majority vote on the Motion that eliminated all of the conditions of the CUP, and granted the CUP to Taos Ski Valley, Inc. without any conditions.
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6. Director of Public Safety/Police Chief Virgil Vigil expressed safety concerns about the crossing near the Gondolita, the increased pedestrian traffic by the proposed HSB, and the transition at the heated snow melt that will be an issue, recommending these safety issues be a condition of the CUP. Director/Chief Vigil, Village Administrator Avila, Director of Planning Patrick Nicholson, and Commissioner Klinkman all recommended that safety remain a condition of the CUP, but it was not included as a condition of the CUP. These safety issues affect us and all property owners in the Village. The evidence presented during the hearing did not support eliminating this condition.
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Thank you for your consideration of our appeal.

Respectfully,

Names

Name

*Sup Mills*

*Craig M. Alister*

*8 Porcupine Rd*

Village of Taos Ski Valley  
Planning & Community Development Department  
Appeal Form



Ordinance 2022-30 Section 29:1-2 Any person aggrieved by an interpretation, decision or action of the Planning Officer in carrying out the provisions of this Ordinance may appeal such interpretation, decision, or action to the Planning and Zoning Commission as set forth herein. Any person aggrieved by a decision or action of the Planning and Zoning Commission in carrying out the provisions of this Ordinance may appeal to the Village Council. Any such appeal must set forth in writing specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision or action was not supported by evidence in the matter. Any appeal not submitted within fifteen days after the decision, which is the subject of the appeal, shall not be considered.

Name and Address of Appellant: Tim VanCamp - 190 E Pettison Loop  
Decision Being Appealed: see attached

Appeal of interpretation, decision or action of the Planning Officer or Planning Commission (circle).

Date of Decision: see attached

How Is Appellant Affected by the Decision? see attached

Grounds for Appeal; please state clearly the error, abuse of discretion or other basis of appeal:  
(Use additional sheets if necessary)

see attached

Signature of Appellant: [Signature]

Date: 2/17/23

Received by: \_\_\_\_\_ (VTSV staff) Date: \_\_\_\_\_

Village of Taos Ski Valley  
Planning & Community Development Department  
Appeal Form



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Name and Address of Appellant:

Maureen DUNN 1905 Pattison

Decision Being Appealed:

St. Bernard CUP -  
see attached

Appeal of interpretation, decision or action of the Planning Officer or Planning Commission (circle).

Date of Decision:

see attached

How Is Appellant Affected by the Decision?

see attached

Grounds for Appeal; please state clearly the error, abuse of discretion or other basis of appeal:  
(Use additional sheets if necessary)

see attached

Signature of Appellant:

Maureen Dunn

Date:

4/19/23

Received by:

(VTSV staff)

Date:

Village of Taos Ski Valley  
Planning & Community Development Department  
**Appeal Form**



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Name and Address of Appellant: Michael K Klinkmann 1 Coyote Lane Taos Ski Valley NM

Decision Being Appealed: St Bernard CUP. See attached

Appeal of interpretation, decision or action of the Planning Officer or Planning Commission (circle).

Date of Decision: See Attached

How Is Appellant Affected by the Decision? See Attached

Grounds for Appeal; please state clearly the error, abuse of discretion or other basis of appeal:  
(Use additional sheets if necessary)

See Attached

Signature of Appellant:

DocuSigned by:

Michael K Klinkmann

3BAE70C77EC143E

Date: 2/20/2023

Received by: \_\_\_\_\_ (VTSV staff) Date: \_\_\_\_\_

Village of Taos Ski Valley  
Planning & Community Development Department  
Appeal Form



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Name and Address of Appellant

JOANN + STEVE RUPPERT #17 DE PATTON  
Loop,  
TSV

Decision Being Appealed:

Decision to grant a Conditional  
Appeal USE Permit without Conditions To  
TSV for Hotel St. Bernard, 112 Sutton Place

Appeal of interpretation, decision or action of the Planning Officer or Planning Commission (circle).

Date of Decision:

2/6/23

How Is Appellant Affected by the Decision?

Property Rights issues of homeowners  
Safety Issues, Parking + Water Use issues, Conflicts?

Grounds for Appeal; please state clearly the error, abuse of discretion or other basis of appeal  
(Use additional sheets if necessary)

interest

SEE NOTICE OF APPEAL 2/6/23 Decision  
ATTACHED TO TSV appeal Form  
dated 2/17/23

Signature of Appellant

Joann + Steve Ruppert

Date 2/20/23

Received by:

(TSV staff)

Date:

Names \_\_\_\_\_  
Address \_\_\_\_\_  
Taos Ski Valley, NM 87525  
Tel: \_\_\_\_\_

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ATTACHED TO VTSV APPEAL FORM**

February 17, 2023

Village Council  
Village of Taos Ski Valley  
7 Firehouse Road  
Taos Ski Valley, NM 87525

**Re:** *Appeal of the Decision to Grant a Conditional Use Permit without Conditions to Taos Ski Valley, Inc. for the Hotel Saint Bernard at 112 Sutton Place*  
**Date of Decision:** 2/6/23

Dear Council Members:

We are writing to appeal the decision of the Village of Taos Ski Valley Planning & Zoning Commission granting a Conditional Use Permit ("CUP") to Taos Ski Valley Inc. for the Hotel St. Bernard ("HSB"), which was granted without any conditions, with a vote of 4 Commissioners in favor and 3 against.

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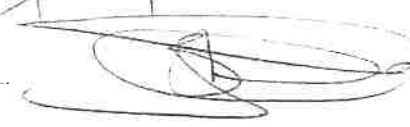



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10. Taos Ski Valley Inc. is unwilling to accept a CUP with the condition that the Village is unable to guarantee the delivery of water to the proposed HSB by the time of the HSB's proposed completion.
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12. There is no guarantee the Village will have the water delivery system/infrastructure fixed or upgraded by the time the HSB is proposed to be completed. Until it is known when there will be sufficient funding and when the Village can complete the repairs and upgrades on the infrastructure/water delivery system, the Village cannot reasonably agree to deliver water to the proposed HSB. Agreeing to deliver water to the proposed HSB by the time of the HSB's proposed completion is to our detriment and the detriment of other property owners. Approving the CUP without conditions to ensure the proposed HSB will not negatively impact the delivery of water to our property and other properties in the Village is not supported by the evidence presented at the hearing.
13. The P&Z Commission's decision negatively impacts our property rights by compromising the distribution of water to our property and other developed properties within the Village limits. The inability of the Village to deliver water to our property due to the proposed HSB has an adverse impact on the value, use and enjoyment of our property.
14. The P&Z Commission's decision adversely affects our property rights by exposing the Village to litigation by Taos Ski Valley Inc. in the event the Village is not able to deliver water to the proposed HSB by the time construction is proposed to be completed. One of the attorneys speaking on February 6, 2023 stated that generally the Village could be liable for damages to Taos Ski Valley, Inc. if water is not supplied to the proposed HSB when construction is completed. Taos Ski Valley, Inc. did not waive its right to file suit against the Village if the Village is unable to deliver anything less than 100% of water to the proposed HSB when it is completed. Granting the CUP without conditions to protect us as property owners, the Village and Village taxpayers is not supported by the evidence presented at the hearing.
15. Given that the Village cannot reasonably guarantee the delivery of water to the proposed HSB by the time it is completed, if TSV Inc. is interested in proceeding with a CUP at this time, at a minimum, a condition of the CUP should include that the CUP is granted on the condition Taos Ski Valley Inc. is proceeding with construction of the HSB at its own risk, with no guarantee of delivery of water to the HSB, and will not claim entitlement to the distribution of water to the HSB to the detriment of our property and other developed properties in the Village.

Thank you for your consideration of our appeal.

Respectfully,

Names	Name	
Cheryl St. Michel	Cheryl St. Michel	02/17/2023
TRUDY DILEO	Trudy Dileo	2-17-2023
JAMES B. WILKINS II		2/17/23
THOMAS MCCULLOUGH	Tom McCullough	2-17-23
ALBERT I. DICKERSON	Albert I. Dickerson	2-19/23
Sarah Dickerson		2-19/23
MONICA M. WEED	Monica M. Weed	2/20/23
Frank D. Smith		2/20/23
FRANCES PARKER		2/21/23

Ben and Jacquie Cook  
4 Porcupine Road  
Taos Ski Valley, NM 87525  
Tel: (505) 238-5406

**NOTICE OF APPEAL 2/6/23 DECISION  
ATTACHED TO VTSV APPEAL FORM**

February 17, 2023

Village Council  
Village of Taos Ski Valley  
7 Firehouse Road  
Taos Ski Valley, NM 87525

***Re: Appeal of the Decision to Grant a Conditional Use Permit without Conditions to Taos Ski Valley, Inc. for the Hotel Saint Bernard at 112 Sutton Place  
Date of Decision: 2/6/23***

Dear Council Members:

We are writing to appeal the decision of the Village of Taos Ski Valley Planning & Zoning Commission granting a Conditional Use Permit ("CUP") to Taos Ski Valley Inc. for the Hotel St. Bernard ("HSB"), which was granted without any conditions, with a vote of 4 Commissioners in favor and 3 against.

As an initial matter we are in favor of the concept of the HSB proposed by Taos Ski Valley, Inc. However, given the dire situation regarding the Village infrastructure/water delivery system, and due to the conflict of interest of Commissioner Stagg participating in the vote and the various issues raised by Commissioner Klinkmann, Commissioner Caldwell, Village Administrator Avila, Director of Public Safety/Police Chief Vigil and Director of Planning and Community Development Nicholson, granting a conditional use permit without conditions was clear error, an abuse of discretion, arbitrary and capricious, and not supported by the evidence presented during the February 6, 2023 P&Z Commission meeting.

The following is a description of the clear error, abuse of discretion, and basis for Appeal as well as how we are aggrieved and affected by the decision of the P&Z Commission:

1. A vote on the Motion to grant a CUP without conditions was taken in violation of VTSV Ordinance 22-070. Pursuant to VSTV 22-070, Section 4 (G), Commissioner Chris Stagg was required to disclose his potential conflict of interest. Mr. Stagg is employed by TSV Inc. and he is listed with the New Mexico Secretary of State as an Officer of TSV, Inc. Pursuant to the Village Ordinance Mr. Stagg was required to abstain from voting on the CUP sought by his company. Without Mr. Stagg's vote the Motion for a CUP without conditions would not have passed. Significantly, Commissioner Klinkmann requested that Commissioner Stagg recuse himself because of his employment by the Applicant Taos Ski Valley Inc. See, 2/6/23 Zoom Hearing at 24:10. The request by Commissioner Klinkmann was rejected by Chairman Wittman who stated it was not on the Agenda and would not be discussed. However, pursuant to Village Ordinance, Commissioner Stagg had an affirmative duty to disclose his potential conflict and abstain from voting on the

Application for CUP by TSV, Inc. irrespective of the agenda. *See*, VTSV Ordinance 22-070. It was clear error to allow Commissioner Stagg to participate in the vote on the Motion for the CUP for TSV, Inc.

2. Pursuant to the Governmental Conduct Act financial interest is defined as including any employment of the individual or the individual's family. *See*, §10-16-2(F)(2), NMSA 1978.
3. In light of Commissioner's Stagg's financial interest in Taos Ski Valley, Inc. Commissioner Stagg's participation in votes affecting Taos Ski Valley, Inc. also violates the Governmental Conduct Act, §10-16-4, NMSA 1978.
4. Committee Member Stagg's vote provided the majority vote on the Motion that eliminated all of the conditions of the CUP, and granted the CUP to Taos Ski Valley, Inc. without any conditions.
5. The CUP granted by the P&Z Commission did not include any of the conditions recommended by Village Staff Director of Planning and Community Development Patrick Nicholson.
6. Director of Public Safety/Police Chief Virgil Vigil expressed safety concerns about the crossing near the Gondolita, the increased pedestrian traffic by the proposed HSB, and the transition at the heated snow melt that will be an issue, recommending these safety issues be a condition of the CUP. Director/Chief Vigil, Village Administrator Avila, Director of Planning Patrick Nicholson, and Commissioner Klinkman all recommended that safety remain a condition of the CUP, but it was not included as a condition of the CUP. These safety issues affect us and all property owners in the Village. The evidence presented during the hearing did not support eliminating this condition.
7. The CUP granted does not meet the Village ordinance regarding parking and places the burden of parking on the Village community. The evidence presented during the hearing did not support eliminating this condition.
8. The Village does not currently have a water distribution system or infrastructure in place to distribute water to the proposed HSB and cannot guarantee water distribution to the HSB by the time of the HSB's proposed completion. The evidence presented during the hearing did not support excluding conditions to protect the Village and Village property owners regarding the infrastructure/water delivery system.
9. Director of Planning Patrick Nicholson presented evidence during the hearing that the current infrastructure/water delivery system cannot deliver water to the proposed HSB. Mr. Nicholson also presented evidence that there is significant work to do on the water delivery system, and there are multiple leaks in the system that distributes water to the Village.
10. Taos Ski Valley Inc. is unwilling to accept a CUP with the condition that the Village is unable to guarantee the delivery of water to the proposed HSB by the time of the HSB's proposed completion.

11. Taos Ski Valley Inc. represented it would not require the delivery of water to the HSB until the time of the HSB's proposed completion, but there is no written agreement in place or condition placed upon the CUP to enforce this representation.
12. There is no guarantee the Village will have the water delivery system/infrastructure fixed or upgraded by the time the HSB is proposed to be completed. Until it is known when there will be sufficient funding and when the Village can complete the repairs and upgrades on the infrastructure/water delivery system, the Village cannot reasonably agree to deliver water to the proposed HSB. Agreeing to deliver water to the proposed HSB by the time of the HSB's proposed completion is to our detriment and the detriment of other property owners. Approving the CUP without conditions to ensure the proposed HSB will not negatively impact the delivery of water to our property and other properties in the Village is not supported by the evidence presented at the hearing.
13. The P&Z Commission's decision negatively impacts our property rights by compromising the distribution of water to our property and other developed properties within the Village limits. The inability of the Village to deliver water to our property due to the proposed HSB has an adverse impact on the value, use and enjoyment of our property.
14. The P&Z Commission's decision adversely affects our property rights by exposing the Village to litigation by Taos Ski Valley Inc. in the event the Village is not able to deliver water to the proposed HSB by the time construction is proposed to be completed. One of the attorneys speaking on February 6, 2023 stated that generally the Village could be liable for damages to Taos Ski Valley, Inc. if water is not supplied to the proposed HSB when construction is completed. Taos Ski Valley, Inc. did not waive its right to file suit against the Village if the Village is unable to deliver anything less than 100% of water to the proposed HSB when it is completed. Granting the CUP without conditions to protect us as property owners, the Village and Village taxpayers is not supported by the evidence presented at the hearing.
15. Given that the Village cannot reasonably guarantee the delivery of water to the proposed HSB by the time it is completed, if TSV Inc. is interested in proceeding with a CUP at this time, at a minimum, a condition of the CUP should include that the CUP is granted on the condition Taos Ski Valley Inc. is proceeding with construction of the HSB at its own risk, with no guarantee of delivery of water to the HSB, and will not claim entitlement to the distribution of water to the HSB to the detriment of our property and other developed properties in the Village.

Thank you for your consideration of our appeal.

Respectfully,



Ben and Jacquie Cook