



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

1. CALL TO ORDER AND NOTICE OF MEETING

The special Meeting of the Village of Taos Ski Valley Council was called to order by Mayor Pro Tem Wittman at 2:00 p.m. Notice of the meeting was properly posted.

2. ROLL CALL :

Ann M. Wooldridge, Village Clerk, called the role and a quorum was present. All Councilors were in attendance

3. APPROVAL OF THE AGENDA

MOTION: To approve the agenda as written

MOTION: Councilor Stagg **SECOND:** Councilor Knox **PASSED:** 4-0

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.

The Hearing was held and is summarized in the required Findings of Fact and Conclusions of Law document, attached. The Findings were accepted by Mayor Pro Tem Wittman on April 3, 2023. The document outlines the activities of the meeting and the final decision made by Council to approve the Hotel St. Bernard Conditional Use permit with certain conditions, by a vote of 3-0. Councilor Stagg recused himself. The Findings are now being submitted as part of the recorded minutes of the March 21, 2023 Council meeting.

5. ANNOUNCEMENT OF THE DATE, TIME & PLACE OF THE NEXT MEETING OF THE VILLAGE COUNCIL: The next meeting of the Village Council will be the regular meeting on March 28, 2023 at 2:00 p.m. via zoom.

6. ADJOURNMENT

MOTION: To adjourn the meeting

MOTION: Councilor Knox **SECOND:** Councilor Caldwell **PASSED:** 4-0

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

**BEFORE THE VILLAGE COUNCIL
OF THE VILLAGE OF TAOS SKI VALLEY**

***Appeals from the Decision of the Village of Taos Ski Valley's
Planning and Zoning Commission (February 6, 2023) Granting a Conditional Use Permit
(CUP) to Appellee Taos Ski Valley, Inc. for its Hotel St. Bernard Property***

FINDINGS OF FACT AND CONCLUSIONS OF LAW

THIS MATTER came before the Village Council ("Council") of the Village of Taos Ski Valley (the "Village" or "VTSV") for hearing on March 21, 2023, on appeal from the decision of the Village's Planning and Zoning Commission ("Commission") granting a Conditional Use Permit ("CUP") for a proposed hotel complex, the Hotel St. Bernard ("HSB"), on property located at 112 Sutton Place in the Village. After considering the testimony and evidence presented by the parties and reviewing the record made before the Commission and the Council, the Council determined, by a vote of 3-0, that the CUP should be granted with conditions, as hereinafter set forth.

The Council by its Chair adopts the following findings of fact and conclusions of law in accordance with VTSV Ordinance No. 22-030, ¶ 29.5.

I. Findings of Fact

1. Taos Ski Valley, Inc. ("Applicant") is a New Mexico for-profit corporation.
2. Appellants J. Scott Hall and Chris Hall; Felicia Weingartner, Tom Weingartner, Greg McAlister, Tim Van Camp, Maureen Dunn, Michael K. Klinkmann, JoAnn Ruppert, Steve Ruppert, Cheryl St. Michel, Trudy DiLeo, James B. Willets II, Thomas McCullough, Albert I. Dickerson, Sarah Dickerson, Monica M. Weed, Frank D. Smith, Frances Parker, Ben Cook, Jacquie Cook; and Robert W. Leland and Robyn H. Leland (collectively, "Appellants") are residents and property owners in the Village.

3. Applicant filed its application for a CUP for the proposed HSB on August 2, 2022, with the Village's Planning Department.

4. The new HSB is planned to be constructed on property owned by the Applicant on the site of a former Hotel St. Bernard, no longer in existence, but will be significantly larger than the former hotel.

5. The HSB site is located within the Core Village Zone of the Village.

6. On February 6, 2023, the CUP application was heard at public hearing before the Commission.

7. Planning Director Patrick Nicholson's Staff Report for the Commission hearing initially recommended approving the CUP application with nine conditions. Two conditions, regarding the delivery capacity of the Village's water utility system and the Village's Development Impact Fees respectively, were deleted by the Planning Officer prior to presentation of the Staff Report to the Commission at the February 6, 2023, meeting.

8. The Staff Report presented to the Commission at the February 6, 2023, meeting contained one proposed new condition not in the original Staff Report, relating to protection of a wetland in proximity to proposed staff and guest overflow parking.

9. During the Commission's public hearing on the matter, no members of the public spoke against approval of the CUP nor did any member of the public introduce written documents or exhibits against the proposed HSB reconstruction. There was significant discussion relating to the individual conditions recommended by the Planning Director.

10. Applicant objected to, and/or questioned, the Planning Director's proposed conditions relating to traffic, water availability, development impact fees, professional documentation of potential avalanche hazard, and approval of a roof snow retention system for the completed HSB,

and as to the need for protection of the wetland area near the proposed overflow parking area on the Strawberry Hill land, stating that these conditions had been met or else should not be required at the CUP stage of the development process.

11. The Commission approved the application for the HSB's CUP without any conditions, by a vote of 4-3, on February 6, 2023.

12. Appellants timely filed notices of appeal on February 21, 2023.

13. As grounds for their appeals, Appellants stated that the Commission erred procedurally due to a potential conflict of interest by Commissioner Chris Stagg; erred by failing to adopt the Planning Officer's recommended conditions; erred by failing to address traffic safety, water availability, development impact fees, viewscape protection, and related concerns stated by participants at the February 6, 2023 meeting; and, therefore the Commission's decision was arbitrary and capricious and/or not supported by substantial evidence.

14. Commissioner Stagg is an employee of the Applicant, an appointed member of the Commission, and a duly elected member of the Council.

15. On March 21, 2023, the Council heard the Appellants' appeal of the Commission's February 6, 2023 decision at a public meeting (the "Council Hearing"). The Council Hearing on the HSB CUP application was held *de novo*.

16. Councilor Stagg voluntarily recused himself from participating, deliberating or voting on the matter at the outset of the Council Hearing.

17. Appellants testified and submitted evidence at the Council Hearing supporting their allegations that Commission Member Stagg had a conflict of interest and should have recused himself at the February 6, 2023 meeting; that concerns related to traffic safety on Sutton Place should be addressed; that the Village's water utility system lacks sufficient capacity to serve the

proposed HSB; and that the proposed HSB will be more massive than the former structure, impairing light access and views for residents of adjacent properties.

18. Applicant submitted additional evidence at the Council Hearing related to traffic safety, parking, and the capacity of the Village's water utility system.

19. The former HSB had a total of 27 guest rooms and a restaurant, while the proposed new HSB when completed is planned to have a total of 57 guest rooms and two restaurants.

20. Based on Village design standards, the Planning Director recommended that the HSB should provide on-site parking for a total of 109 vehicles to accommodate guests and staff.

21. Applicant originally proposed to provide 65 guest parking spaces within the HSB structure, in a lower level garage, and an additional 44 parking spaces in a nearby lot for staff parking and overflow guest valet parking.

22. At the Council Hearing, Applicant presented a revised parking plan (Option 2, Applicant/Appellee's Exhibit 6) providing for more guest valet parking on site and for staff to park at another location called "Deer Lot" that is away from any wetland area on the Strawberry Hill land, with shuttle service to HSB.

23. Applicant stated that it recognized the limitations of the Village's water utility distribution system, but was working with the Village to resolve the problems related to excessive leakage and anticipated that those problems would be resolved by the time the new HSB is completed and ready for occupancy, at least to an extent that would allow for water supply to the HSB as well as existing water utility customers.

24. At the Council Hearing, Applicant submitted a revised streetscape and roadway improvement plan with modified designs for the southern end of Sutton Place and the vehicle

entrance to HSB, addressing traffic safety concerns expressed at the Commission meeting, subject to final approval by the Village.

II. Conclusions of Law

25. The Council has *de novo* jurisdiction over these appeals. VTSV Ordinance No. 22-030, ¶ 29.5 and NMSA 1978, § 3-21-8(C)(2).

26. A proceeding *de novo* is a proceeding “anew,” as if no proceeding had occurred previously. *City of Farmington v. Sandoval*, 1977-NMCA-022 , 90 N.M. 246, 561 P.2d 945. Because the Council Hearing was a hearing *de novo*, the Council was not limited or bound by the prior procedures or decision of the Commission hearing on February 6, 2023, and was entitled to render its own decision on the merits.

27. Because of the *de novo* nature of the proceedings, the Council was not required to consider or address the question whether Commissioner Stagg’s participation and vote in the Commission proceedings constituted a conflict of interest.

28. There is no requirement or mandate, by state statute or local ordinance, that the Commission or Council adopt any or all of the Planning Officer’s Staff Report recommendations. VTSV Ordinance 22-030, ¶ 26.2; *see* NMSA 1978, § 3-19-4; § 3-21-1.

29. The Applicant’s revised streetscape and roadway improvement plan, subject to final approval by the relevant Village department directors, sufficiently addresses the traffic safety concerns raised by Appellants and Village staff.

30. The Applicant’s revised parking plan (Option 2, Applicant/Appellee’s Exhibit 6) fully satisfies the relevant ordinance requirements. VTSV Ordinance 22-030, ¶¶ 22.2 and 22.3.

31. Development Impact Fees (“DIF”) have been assessed on an estimated basis, pending submittal of final design drawings for HSB, and will be collected at the latest possible time (prior

to Building Permit issuance, which includes the Foundation Permit) pursuant to Village Ordinance No. 22-030, ¶ 23.6 and NMSA 1978, § 5-8-8.

32. Final determination of DIF will take into account final HSB design drawings and specifications, and Applicant will have the opportunity to apply for credits against DIF based on applicable pre-existing conditions of the old HSB, applicable discounts due under the Master Development Agreement between Applicant and the Village, or other reason consistent with the foregoing and with NMSA 1978, § 5-8-15.

33. The Village has an obligation to supply water to the HSB to the extent of the Village's capacity, in common with other properties located in the Core Village Zone.

34. Upon completion and submittal of final design plans, drawings, and specifications for HSB, Applicant must comply with all applicable parts, sections, subsections and paragraphs of Village Ordinance No. 22-030, including but not limited to roof snow retention systems, approval of any changes in Applicant's application for CUP approval, and timely obtaining necessary building permits.

35. Based on the foregoing considerations, the CUP application should be approved, and the Council by a vote of 3-0, one member not participating, approves the application for a CUP for the HSB reconstruction project with the following conditions:

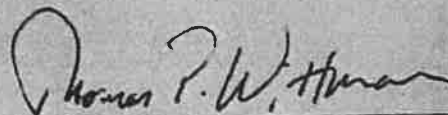
- a. The Applicant shall submit revised streetscape and roadway improvement plans to the satisfaction and approval of the Village Directors of Public Safety and Public Works, consistent with what was presented at hearing.
- b. Due to the current lack of water supply capacity, attributable to deficiencies in the delivery system, to serve the proposed project, the developer, TSVI, proceeds at their own risk. After considering fire suppression requirements and existing

demand needs among other factors, the Village Public Works Director in consultation with Village Planning Director, shall determine when to issue a Will-Serve Letter.

- c. All development impact fees must be received by the Village of Taos Ski Valley prior to issuance of any project related Building Permit, which includes a Foundation Permit.
- d. Ensure that foundation and structure are adequate to withstand potential avalanche hazard.
- e. The design and installation of the roof snow retention system shall be independently reviewed by a Village authorized professional, experienced and credentialed in such matters. The Village Building Official and other staff members will participant in any recommendation to change the current roof configuration in consultation with TSVI. As permitted under VTSV Ordinance 22-030, the developer shall pay all fees and associated expenses related to this matter.
- f. Any substantial changes to the application must be approved by the Planning and Zoning Commission; all other changes may be approved administratively by the Planning Officer.
- g. If no Building Permit is issued, the Conditional Use Permit will expire three (3) years from issuance.

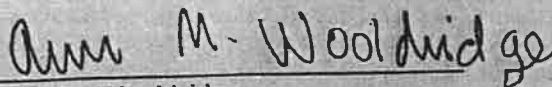
36. The Council's granting of a CUP to the Applicant/Appellee for its HSB reconstruction project with the above stated conditions is based on the substantial evidence in the record, the *de novo* evidentiary Council Hearing on the matter of March 21, 2023, and in accordance with state statutes and local ordinances.

ADOPTED AND APPROVED BY THE VILLAGE OF TAOS SKI VALLEY, NEW
MEXICO, ON THE 3rd DAY OF APRIL, 2023.



Tom Wittman
Mayor Pro Tem

FILED OF RECORD IN THE OFFICE OF THE VILLAGE CLERK ON THE 3rd
DAY OF APRIL, 2023:



Ann Marie Wooldridge
Village Clerk