

WHITE PETERSON

ATTORNEYS AT LAW

KELSY R. BRIGGS
MARC J. BYBEE
WM. F. GIGRAY, III
DANIEL W. GOODMAN
MATTHEW A. JOHNSON
JACOB M. JONES
WILLIAM F. NICHOLS *

WHITE, PETERSON, GIGRAY & NICHOLS, P.A.
CANYON PARK AT THE IDAHO CENTER
5700 E. FRANKLIN RD., SUITE 200
NAMPA, IDAHO 83687-7901
TEL (208) 466-9272
FAX (208) 466-4405
EMAIL: mjohnson@whitepeterson.com

BRIAN T. O'BANNON *
PHILIP A. PETERSON
WILLIAM L. PUNKONEY

TERRENCE R. WHITE
OF COUNSEL
WILLIAM F. "BUD" YOST
OF COUNSEL

* Also admitted in OR

February 20, 2024

To: City Council, City of Ketchum

From: Matthew Johnson, City Attorney

Re: 180 Leadville, LLC, Administrative Appeal of HPC Determination – Scheduling Order

Recommended Motion: *I move to approve the Scheduling Order and Notice as presented.*

Background:

This is a procedural step for the City to process an administrative appeal filed with respect to a demolition/alteration permit determination of the Historic Preservation Commission (HPC).

Under Ketchum Municipal Code § 17.20.030(F), an HPC decision on a demolition or alteration permit may be appealed to the City Council in the same manner as a Planning and Zoning Commission decision under KMC §17.144. Under Ketchum Municipal Code §17.144.020, the Council orders a hearing date for the administrative appeal and also accepts certain procedural steps, all of which are specified in the attached Order.

This is an administrative appeal hearing where the Council will sit in a quasi-judicial role in review of the HPC decision below. There will be oral arguments by the parties, but there is no public hearing and public comments will not be taken. Council will have full discretion to ask questions of the parties, staff, and/or city attorney as we needed.

The Council will be provided the briefs/memos of the parties, as well as the record including transcripts if applicable.

I will be available at the February 20, 2024 Council meeting to answer any additional questions on procedure that may arise in connection with the Scheduling Order. Questions or concerns on the substance of the administrative appeal should be reserved for the March 18, 2024 hearing.



City of Ketchum
City Hall

SCHEDULING ORDER AND NOTICE

Administrative Appeal: H23-084

Appellant: 180 Leadville, LLC

An administrative appeal was filed by 180 Leadville, LLC, (Applicant/Appellant), with respect to the above-referenced application and associated Historic Preservation Commission (HPC) Determination, dated November 7, 2023. The administrative appeal of the HPC Determination to the City Council was timely filed. The administrative appeal was filed pursuant to Ketchum Municipal Code 17.20.030(F) and 17.144.020.

The City Council hereby finds and orders that:

1. The Planning and Zoning Director has certified and reported that the procedural requirements have been met. KMC 17.144.020(A).
2. A record of the proceeding has been prepared and is accepted by the Council. KMC 17.144.020(A).
3. Verbatim transcripts of the proceedings have been prepared at the Appellant's expense and transmitted to the Council, which accepts and incorporates such into the record of proceedings. KMC 17.144.020(A).
4. Hearing Date: This matter is set for hearing before the City Council at its regular meeting and location on March 18, 2024. KMC 17.144.020(B).
5. Briefing Schedule: Appellant is to submit any brief or memorandum in support of the appeal by 5:00 p.m. on **March 1, 2024**. A response brief or memorandum, if desired, is to be submitted by 5:00 p.m. on **March 8, 2024**. A reply brief, if desired by Appellant, is to be submitted by 5:00 p.m. on **March 13, 2024**. All briefs/memos are to be sent to the parties to the administrative appeal, Planning Director, and the City Attorney. Electronic delivery of documents will be sufficient.
6. Council Review Authority: "Upon hearing the appeal, the Council shall consider only matters which were previously considered by the Commission as evidenced by the record, the order, requirement, decision or determination of the Commission and the notice of appeal, together with oral presentation and written legal arguments by the appellant, the applicant, if different than the appellant, and the Commission and/or staff representing the Commission. The council shall not consider any new facts or evidence at this point. The council may affirm, reverse or modify, in whole or in part, the order, requirement, decision or determination of the Commission. Furthermore, the council may remand the application to the Commission for further consideration with regard to specific criteria stated by the council."
KMC 17.144.020(C).

7. Decision: A written decision will be entered within 30 days of conclusion of the appeal hearing. All parties, the HPC, and any affected party of record have a right to request and/or will be provided a copy of the decision. KMC 17.144.020(B)&(D).

Date of Order: February 20, 2024.

Neil Bradshaw, Mayor

ATTEST

Trent Donat, City Clerk