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August 2, 2023

To: Mayor and Councilmembers, City of Ketchum

From: Matthew Johnson, City Attorney

Re: 200 Leadville Administrative Appeal – Scheduling Order/Notice

Recommended Motion: I move to approve the Scheduling Order and Notice as presented, and authorize the Mayor to sign.

Background:

This is a procedural step for the City to continue to process an administrative appeal filed with respect to a decision of the Planning and Zoning Commission and give formal notice to the parties.

Under Ketchum Municipal Code §17.144.020, the Council orders and notices a hearing date for the administrative appeal and also accepts certain procedural steps, all of which are specified in the attached Order.

I met with the attorneys for the parties (Appellant and Applicant) via phone and all have accepted the schedule set forth and formalized in the Order.

This is an administrative appeal hearing where the Council will sit in a quasi-judicial role. There will be 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's review authority is focused on the record and evidence before P&Z. That review authority is specified in #7 of the Order, which is copied directly from Ketchum Municipal Code.

As the briefs are submitted, the Council will be provided information to access copies of the briefs, as well as the record including transcripts.

I will be available at the 8/7/23 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 9/18/23 hearing.



City of Ketchum
City Hall

SCHEDULING ORDER AND NOTICE

Administrative Appeal: P22-035B

An administrative appeal was filed by Appellant 240 Leadville, LLC, with respect to the above-referenced application(s). The administrative appeal was timely filed on April 26, 2023. The administrative appeal was filed pursuant to Ketchum Municipal Code 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. The City Attorney has held a scheduling meeting with the parties, who agreed to the schedule set forth in this Order.
5. Hearing Date: This matter is set for hearing before the City Council at its regular meeting and location on September 18, 2023. KMC 17.144.020(B).
6. Briefing Schedule: Appellant is to submit a brief or memorandum in support of the appeal by 5:00 p.m. on August 14, 2023. Applicant is to submit a response brief or memorandum by 5:00 p.m. on August 28, 2023. Appellant is to submit a reply brief, if any, by 5:00 p.m. on September 4, 2023. All briefs/memos are to be sent to the parties to the administrative appeal and the City Attorney. All have agreed that electronic delivery of the documents is sufficient.
7. 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).

8. Decision: A written decision will be entered within 30 days of conclusion of the appeal hearing. All parties, the Commission, 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: August 7, 2023.

Neil Bradshaw, Mayor

ATTEST

Trent Donat, City Clerk