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February 1, 2024

To: City Council, City of Ketchum

From: Matthew Johnson, City Attorney

Re: Sawtooth Serenade Administrative Appeal – 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 determination of the Planning Director and administrative appeal decision of the Planning and Zoning Commission.

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 Planning and Zoning Commission 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 of the parties, as well as the record including transcripts if applicable.

I will be available at the February 5, 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 4, 2024 hearing.

The City will be engaging a conflict counsel for purposes of assisting the Council procedurally at the March 4, 2024 hearing and for purposes of helping prepare the Council's decision. Abbey Germaine, with the law firm of Elam & Burke, will be serving in this role. This is because I will be serving in the role of representing the Planning and Zoning Commission's decision for the March 4, 2024 hearing, including answering any questions about the Planning and Zoning Commission's hearing.



City of Ketchum
City Hall

SCHEDULING ORDER AND NOTICE
Administrative Appeal: Sawtooth Serenade Design Review

An administrative appeal was filed by Scott and Julie Lynch & Yah Bernier and Elizabeth McCaw & Distrustful Ernest Revocable Trust (Applicant/Appellant), with respect to the above-referenced applications and associated Planning Director Determination, dated August 24, 2023, and associated Planning and Zoning Commission Administrative Appeal Decision, dated November 28, 2023. The administrative appeal of the Planning and Zoning Decision was timely filed to the City Council. 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 schedule for the hearing and any briefing shall be as 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 March 4, 2024. KMC 17.144.020(B).
6. Briefing Schedule: Appellant is to submit any brief or memorandum in support of the appeal by 5:00 p.m. on February 19, 2024. A response brief or memorandum, if desired, is to be submitted by 5:00 p.m. on February 26, 2024. A reply brief, if desired by Appellant, is to be submitted by 5:00 p.m. on February 29, 2024. All briefs/memos are to be sent to the parties to the administrative appeal, Planning Director, 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: February 5, 2024.

Neil Bradshaw, Mayor

ATTEST

Trent Donat, City Clerk