



## City of Ketchum

September 8, 2020  
Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Approve Findings of Fact, Conclusions of Law and Order on Appeal of Administrator Decision**

#### Recommendation and Summary

Staff is recommending the council adopt the following motion:

**I move to adopt the attached Findings of Fact, Conclusions of Law and Order on the Appeal of the Administrator Decision**

The reasons include:

- The City Council conducted an administrative hearing on the Planning and Zoning Commission determination and upheld the Zoning Administrator's decision based on the information in Attachment A.

#### Analysis

On August 17, 2020, the City Council conducted an administrative hearing on the appeal of the Planning and Zoning Commission's decision to modify the determination of the Zoning Administrator's decision related to 201 Garnet Street. The City Council must adopt findings of fact to document the decision (Attachment A).

#### Financial Impact

There is no financial impact associated with adoption of the findings.

Attachments:

Attachment A:

**BEFORE THE CITY COUNCIL  
OF THE CITY OF KETCHUM**

In the Matter of the	)	
Application of:	)	
	)	<b>Appeal #20-063</b>
	)	
<b>Craig A. Nalen</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW, AND</b>
For Appeal of Planning and Zoning	)	<b>ORDER ON APPEAL OF</b>
Commission Decision	)	<b>ADMINISTRATOR DECISION</b>
	)	

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This matter having come for an administrative appeal hearing before the Planning and Zoning Commission, pursuant to Ketchum Municipal Code 17.144.010, on June 8, 2020, and June 22, 2020, and then for adoption of findings of fact on July 13th, 2020. The decision of the Planning and Zoning Commission was administratively appealed on July 23, 2020, pursuant to Ketchum Municipal Code 17.144.020, and an appeal hearing was conducted on August 17, 2020 by the Ketchum City Council. The Council does hereby make and set forth their Findings of Fact, Conclusions of Law, and Order on Appeal as follows:

**I. FINDINGS OF FACT**

1. The City of Ketchum is a duly formed municipal corporation organized and existing by virtue of the laws of the State of Idaho, and is organized, existing, and functioning pursuant to Title 50, Idaho Code.
2. That the Subject Real Property is as follows: 201 Garnet Street, Ketchum, Idaho.
3. That the Subject Real Property is located in the Limited Residential (LR) zoning district.
4. The owner of Subject Real Property is Craig A. Nalen
5. The attorney for the Applicant is Fritz X. Haemmerle, Haemmerle Law, P.L.L.C.

6. The architect for the Applicant is Janet Jarvis, The Jarvis Group Architects, AIA, P.L.L.C.
7. The Subject Real Property does not have frontage along a dedicated public right-of-way. Instead, the Subject Real Property contains a 15' public access easement, governed by the Garnet Street Agreement (Instrument #403847) through which a paved vehicular street traverses.
8. Standard front setbacks from front property lines are defined in Section 17.13.030 of Ketchum Municipal Code.
9. Minimum standards required for one-family dwellings are set forth in Section 14.124.170 of the Ketchum Municipal Code.
10. Construction of one-family dwellings must comply with all Ketchum Municipal Code standards.
11. The Applicant's architect met with the City regarding the proposed location for a new single-family residence with respect to front yard setback requirements because the access easement traverses the Subject Real Property.
12. Citing Minimum Standards for One-Family Dwellings contained in Sections 17.124.170.A and 17.124.170.C of Ketchum Municipal Code, and based on calculations by the City Engineer for minimum swale and snow storage widths needed along the Subject Real Property's front property line to accommodate snow storage and drainage, the Planning and Building Director (Administrator) sent a determination letter dated March 9, 2020 (Administrator's Determination) regarding the minimum setback needed for structures and vertical impediments from front property line to the Applicant's architect, Janet Jarvis, via certified mail postmarked March 12, 2020.

13. The Administrator's Determination letter refers to the site plan submitted by Janet Jarvis and analyzed by the City Engineer and the City Engineer's snow storage calculations and found:

- a. The proposed snow storage area west of the driveway to be generally adequate for the storage of snow for the two driveway parking stalls and front door exterior entry area.
- b. The proposed 111.17' (132.17' of frontage minus the 21'-0" for the new 12" culvert under the driveway) borrow ditch recontour area along the Subject Real Property's Garnet Street frontage to be too narrow as shown. As noted by the City Engineer, the proposed 2' to 3' wide drainage ditch is insufficient and needs to be improved to 15' in width (8' permeable material and 7' grasses) based on city standards and unique characteristics of the site.
- c. A new snow storage area needs to be added to the proposed site plan. Subject designated snow storage area may be co-located with the revised 15' wide borrow ditch required for drainage and toward the Applicant's proposed home along the entire length of his Garnet Street frontage, excepting the driveway and front entry. Based upon evidence provided by the Ketchum Street Department, City Engineer drainage and snow storage calculations, the aforementioned ordinance provisions, the need to maintain 20' of free clear and unobstructed fire access along Garnet Street for safety reasons, and the minimum requirement provisions set forth in KMC §17.04.040.B, it is the Administrator's finding that 15', as measured from edge of asphalt, is necessary for drainage and snow storage purposes.

- d. Vertical improvements, such as trees and fences, are not allowed within subject 15' wide drainage swale and snow storage area adjacent the Garnet Street edge of asphalt on the Subject Real Property.
14. The Applicant appealed the Administrator's decision to the Planning and Zoning Commission (Commission) on March 23, 2020 pursuant to Ketchum Municipal Code 17.144.010.
15. Administrative appeal hearings were held before the Commission on June 8, 2020 and June 22, 2020 at 5:30 p.m.
16. At the June 8, 2020 hearing the Commission requested the Applicant submit a revised site plan for consideration by the City Engineer. The revised site plan, dated June 9, 2020, indicates the proposed new structure to be located as close as 11'-8" from the edge of the Garnet Street asphalt. The revised site plan, dated June 9, 2020, did not reflect additional vertical impediments, such as a fence within 2'-7" of the edge of the pavement, that were indicated previously on the site plan dated March 6, 2020.
17. The City Engineer's calculations for swale and snow storage sizing are based on roadway widths. Adjustments made to the proposed encroachments by the Applicant do not influence the swale and snow storage calculations.
18. At the June 22, 2020 continued hearing, the Commission modified the determination of the Administrator and on July 13, 2020 adopted their Findings of Fact, Conclusions of Law, and Order on the appeal.
19. On July 23, 2020 the decision of the Planning and Zoning Commission was appealed to the Ketchum City Council by the Administrator. The Ketchum City Council conducted

an appeal hearing on August 17, 2020, reversed the decision of the Planning and Zoning Commission, and upheld the determination of the Administrator.

20. On September 8, 2020, the City Council adopted these Findings of Fact, Conclusions of Law, and Order.

## **II. CONCLUSIONS OF LAW**

1. The City shall exercise the powers conferred upon it by the State of Idaho in the “Local Land Use Planning Act”, codified at Chapter 65 Title 67 Idaho Code .
2. The Planning and Building Director (Administrator) has the authority to administer and enforce the City zoning regulations pursuant to Title 17 of Ketchum Municipal Code.
3. A decision of the Administrator may be appealed to the Planning and Zoning Commission pursuant to Ketchum Municipal Code 17.144.010. The Commission may affirm, reverse, or modify, in whole or in part, a determination of the Administrator.
4. A decision of the Planning and Zoning Commission may be appealed to the City Council pursuant to Ketchum Municipal Code Section 17.144.020. The City Council may affirm, reverse, or modify, in whole or in part, a determination of the Planning and Zoning Commission.

## **III. ORDER**

Based upon the above Findings of Fact, Conclusions of Law, and good cause appearing from the record, the City Council makes the following Orders:

1. The City Council upholds and affirms the March 9, 2020 determination and findings of the Administrator as appropriately consistent with application of the provisions of KMC stated in the Findings of Fact above, and reverses the decision and any modification of the Administrator decision by the Commission.

A majority of the City Council hereby adopts these Findings of Fact, Conclusions of Law, and Order and authorizes the Mayor to execute the same with the record of the August 17, 2020 appeal hearing.

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Mayor,  
Neil Bradshaw

A copy of these Findings of Fact, Conclusions of Law, and Order has been provided to the Applicant and the City Attorney, and the original has been retained in the records of this City.

By: \_\_\_\_\_  
Robin Crotty, City Clerk