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November 9, 2023

To: Planning and Zoning Commissioners, City of Ketchum

From: Matthew Johnson, City Attorney

Re: 121 Badger Lane Administrative Appeal – Scheduling Order/Notice

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

Background:

This is a procedural step for the City to continue to process an administrative appeal filed with respect to a determination of the Planning Director.

Under Ketchum Municipal Code §17.144.010, the Commission 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/or email, and all have accepted the schedule set forth and formalized in the Order.

This is an administrative appeal hearing where the Commission 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.

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

I will be available at the 11/14/23 Commission 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 12/12/23 hearing.



City of Ketchum
City Hall

**SCHEDULING ORDER AND NOTICE OF APPEAL HEARING
BEFORE PLANNING AND ZONING COMMISSION
Administrative Appeal: P23-014 – 121 Badger Lane**

An administrative appeal was filed by Appellant, with respect to the above-referenced application(s) and Director's determination. The administrative appeal was filed on July 11, 2023. The administrative appeal was filed pursuant to Ketchum Municipal Code 17.144.010.

The Planning and Zoning Commission hereby finds and orders that:

1. The Planning and Zoning Director has certified and reported that the procedural requirements have been met. KMC 17.144.010(A).
2. A record of the proceeding has been prepared and is accepted by the Commission. KMC 17.144.010(A).
3. The City Attorney has held scheduling discussions with the parties, who agreed to the schedule set forth in this Order.
4. Hearing Date: This matter is set for hearing before the Commission at its regular meeting and location on December 12, 2023. KMC 17.144.010(B).
5. Briefing Schedule: Appellant has already submitted a brief or memorandum in support of the appeal. Applicant is to submit a response brief or memorandum by 5:00 p.m. on November 28, 2023. Appellant is to submit a reply brief, if any, by 5:00 p.m. on December 5, 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.
6. Commission Review Authority: Upon hearing the appeal, the Commission shall consider the record, the order, requirement, decision or determination of the administrator and the notice of appeal, together with oral presentation and written legal arguments by the appellant, [applicant (if different than appellant)], and the administrator. The Commission shall not consider any new facts or evidence at this point. The Commission may affirm, reverse or modify, in whole or in part, the order, requirement, decision or determination of the administrator. KMC 17.144.010(C).
7. 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 17.144.010(B)&(D).

Date of Order: November ____, 2023.

Neil Morrow, Chair

ATTEST

Trent Donat, City Clerk