

# WHITE PETERSON

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November 9, 2023

To: Planning and Zoning Commissioners, 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 stipulated and presented, and ratify the previous signature of the City Attorney.*

### Background:

This is a procedural step for the City 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 attorney for the Appellant/Applicant via phone and/or email, and all have accepted the schedule set forth and formalized in the Order. Due to some delays and timing considerations, this Order is being presented for approval of the Commission on the same day and at the same meeting as the stipulated hearing will be held. For these reasons I previously signed the Order in my capacity as City Attorney so as to provide timely notice to the Appellant/Applicant, which was accepted. So, the motion in this circumstance is to ratify (approve) my signature/previous action.

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 11/14/23 hearing.



City of Ketchum  
City Hall

**SCHEDULING AND NOTICE OF APPEAL HEARING  
BEFORE PLANNING AND ZONING COMMISSION  
Administrative Appeal: Sawtooth Serenade Design Review Applications**

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. The administrative appeal of Director Determination was timely filed on September 7, 2023. The administrative appeal was filed pursuant to Ketchum Municipal Code 17.144.010.

1. The Planning Director has certified and reported that the procedural requirements have been met and the Director's Determination provided. KMC 17.144.010(A).
2. The City Attorney has worked with legal counsel for the Applicant/Appellant and the parties have agreed to the schedule set forth in this Order.
3. Briefing Schedule: Appellant has already submitted a brief or memorandum in support of the appeal on September 7, 2023. The Planning Director is to submit a reply brief or memorandum by mid-day on November 3, 2023. Applicant is to submit a further response brief or memorandum by 5:00 p.m. on November 9, 2023. The Commission Packet is anticipated to go out on November 9, 2023, with all of the briefings included.
4. Hearing Date: This matter is set for hearing before the Commission at its regular meeting and location on November 14, 2023. KMC 17.144.010(B).
5. 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 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).
6. Decision: A written decision will be entered within 30 days of conclusion of the appeal hearing. All parties 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(D).

Date of Notice: November 3, 2023.

Matthew A. Johnson, City Attorney

*Delivered electronically to [jrl@lawsonlaski.com](mailto:jrl@lawsonlaski.com)*