

# WHITE PETERSON

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July 17, 2024

To: Mayor and Councilmembers  
City of Ketchum

From: Matthew Johnson, City Attorney

Re: 308 East Canyon Run, LLC – Request for Reconsideration

### Background:

On May 20, 2024, the Council denied a right-of-way encroachment permit application submitted by 308 East Canyon Run, LLC ("Applicant").

On June 3, 2024, the Applicant submitted to the City a Request for Reconsideration, referencing Idaho Code § 67-6535.

Idaho Code § 67-6535 provides a required process for land use applicants to request reconsideration on land use decisions, prior to pursuing judicial review. A right-of-way encroachment permit is not a land use permit.

A draft determination on this Request for Reconsideration, based upon the above and upon the previous discussion and permit decision by the Council has been prepared and is attached.

While a determination may not be required, and such a request would be deemed denied after 60 days anyway (if IC §67-6535 were to be applicable), staff does recommend the Council adopt a determination to help give the Applicant some finality on this attempted step.

### Recommended Motion:

Based on the above, staff recommends the following motion:

"I move to deny the Request for Reconsideration and approve the draft Determination as presented by the City Attorney."

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

In the Matter of:	)	
	)	
308 East Canyon Run, LLC	)	<b>DETERMINATION ON APPLICANT'S</b>
(Applicant/Owner)	)	<b>REQUEST FOR RECONSIDERATION</b>
	)	
Application for Right-of-Way	)	
<u>Encroachment Permit,</u>	)	

This matter comes before the Council pursuant to Applicant's Request for Reconsideration, dated June 3, 2024 ("Applicant's Request"). Applicant's Request is designated as having been submitted pursuant to Idaho Code §67-6535(2)(b). The Council does hereby make and set forth this Determination as follows:

1. Applicant's relevant application was not for a land use permit, and therefore Idaho Code §67-6535 is not applicable. This application and requested permit fall under the City's general powers and duties with respect to the City's streets and rights-of-way within Title 12 of Ketchum City Code.
2. Applicant's dilemma is a situation of Applicant's own making, and could have been avoided upon proper and timely pursuit of the necessary permit before proceeding with construction. It is not the City's responsibility to reconsider or provide exceptions to policy goals and determinations because of an applicant's failure to act with reasonable diligence.
3. No hearing or further procedure is required in this matter under Ketchum City Code or Idaho Code.

Based upon the foregoing, and good cause appearing from the record in these proceedings, the Council DENIES Applicant's Request.

\_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

By: \_\_\_\_\_  
Trent Donat, City Clerk