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October 21, 2024

To: City Council, 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 an appeal decision of the Planning and Zoning Commission on a determination of the Planning Director with respect to a floodplain permit.

Under Ketchum Municipal Code §17.144.020, the Council orders and notices a hearing date for the administrative appeal and also accepts certain procedural steps, which are specified in the attached Order.

The city attorney met with the attorneys for the parties (Appellant and Applicant) via phone and/or email, and have attempted to formulate a schedule addressing the parties concerns. Concerns were raised by the Appellant with respect to the schedule in relation to preparation of the transcript of the P&Z appeal proceedings. However, upon further review and the anticipated schedule for delivery of such transcript, as well as the fact that a recording of the P&Z proceedings was already fully available for review by any party, the schedule in the attached Order provides sufficient and reasonable time for briefing and avoid this matter potentially being delayed until the next calendar year.

This is an administrative appeal hearing where the Commission will sit in a quasi-judicial role. There will be arguments by the parties and explanation by staff of the staff determination, 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 access to copies of the briefs, as well as the record including transcripts as applicable.

Questions or concerns on the substance of the administrative appeal should be reserved for the actual appeal hearing.



City of Ketchum
City Hall

**SCHEDULING ORDER AND NOTICE OF APPEAL HEARING
BEFORE CITY COUNCIL
Administrative Appeal: P23-014 – 121 Badger Lane**

An administrative appeal was filed by Appellant, with respect to the above-referenced application(s), Director's Determination, and Planning Zoning Commission Decision on Appeal. 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 proceedings, if any, has been prepared and will be accepted by the Council as part of this process. KMC 17.144.020(A).
3. The City Attorney has held scheduling discussions with the parties, attempting to coordinate and allow for input by the parties on the schedule set forth in this Order.
4. Hearing Date: This matter is set for hearing before the Council at its regular meeting and location on December 2, 2024. KMC 17.144.020(B).
5. Briefing Schedule: Appellant is to submit any brief or memorandum in support of the appeal by 5:00 p.m. on **November 8, 2024**. An Applicant response brief or memorandum, if desired, is to be submitted by 5:00 p.m. on **November 18, 2024**. A reply brief, if desired by Appellant, is to be submitted by 5:00 p.m. on **November 25, 2024**. All briefs/memos are to be sent to the parties to the administrative appeal, Planning Director, and the City Attorney. Electronic delivery of documents will be sufficient.
6. 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).
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 17.144.020(D).

Date of Order: October 21, 2024.

Neil Bradshaw, Mayor

ATTEST

Trent Donat, City Clerk