



PLANNING AND ZONING COMMISSION AGENDA-SPECIAL MEETING

Friday, July 7, 2017

4:00 p.m.

Ketchum City Hall

480 East Avenue North, Ketchum, ID 83340

- 1. 4:00 PM - CALL TO ORDER: City Hall, 480 East Avenue North, Ketchum, Idaho**
2. COMMUNICATIONS FROM STAFF
3. CONSENT CALENDAR
 - a. Appeal of an Administrative Decision: Bracken Station: 911 North Main Street, Ketchum, Idaho (AM Lot 5A, Block 30, Ketchum Townsite): Findings of Fact and Conclusions of Law
4. ADJOURNMENT

Any person needing special accommodations to participate in the meeting should contact the City Clerk's Office as soon as reasonably possible at 726-3841. All times indicated are estimated times, and items may be heard earlier or later than indicated on the agenda.

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF KETCHUM**

In the Matter of the)	
Application of:)	
)	Appeal #17-027
)	
RRJ LLC/ Penguin LLC)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
For Conditional Use Permit)	ORDER ON APPEAL OF
)	ADMINISTRATOR DECISION
)	

This matter having come for an administrative appeal hearing pursuant to Ketchum Municipal Code 17.144.010 on June 8, 2017, and then for adoption on July 7, 2017, the Board of Commissioners of the City of Ketchum Planning and Zoning Commission do 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: 911 N. Main Street, Ketchum, Idaho.
3. The owner of Subject Real Property is North Town Partners, LLC.
4. The Applicant for a Conditional Use Permit (CUP) on the Subject Real Property is RRJ, LLC/ Penguin, LLC.
5. The Applicant previously applied on April 29, 2016 via Application No. 16-034 (First Application) for a CUP on the Subject Real Property for a motor vehicle fueling station and retail store, generally referred to as Bracken Station.

6. Application 16-034 was denied by the Ketchum Planning and Zoning Commission in Findings of Fact, Conclusions of Law, and Decision signed and dated February 13, 2017.
7. Applicant submitted a new CUP application on April 10, 2017 (Second Application) for a motor vehicle fueling station and retail sales on the Subject Real Property.
8. Upon review of the Second Application by the Planning and Building Director (Administrator) and staff, the Administrator determined that the Second Application was a re-submittal that was the same or substantially the same as the previously denied Application 16-034. This determination was documented in a letter to Applicant (Decision) dated April 26, 2017.
9. The Administrator returned the Second Application as untimely pursuant to the one year resubmission requirement of Ketchum Municipal Code 17.116.070.
10. The Applicant appealed the Administrator's decision on May 8, 2017 pursuant to Ketchum Municipal Code 17.144.010.
11. An administrative appeal hearing was held before this Commission on June 8, 2017 at 2:00 p.m.
12. There is no substantial change in the proposed use from the First Application to the Second Application. Both applications reference substantially the same proposed use: "motor vehicle fueling station and retail."
13. There is no substantial change in conditions between the denial of the First Application and submission of the Second Application.
14. There is a material change in circumstances between the First Application and the Second Application, in particular there are pending proposed zone changes that could impact the Applicant's proposal.

15. The Second Application has substantial, material, and relevant differences from the First Application, primarily as to proposed traffic circulation based on proposed changes related to delivery access and blockage, fueling station orientation, pinch-points, and potential impact on Highway 75.
16. Differences on the Second Application as to the following referenced factors are not substantial and material: demolition of existing building, construction of convenience store at the south side, construction of a triangular shaped convenience store building, the fueling canopy, pedestrian circulation, landscaping plan, and a tweak to entrance to the site.

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. When a CUP application has been denied, a new CUP application that is "the same or substantially the same" may not be resubmitted for a period of one year from the previous denial pursuant to Ketchum Municipal Code 17.116.070.

III. ORDER

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

1. The Applicant's Second Application has substantial and material differences from the First Application and therefore is appropriate for re-submission; the Decision of the Administrator is reversed.
2. That the Administrator receive and review the Second Application for completeness, and upon determination that such is complete, initiate the typical CUP application review process as set forth in Ketchum Municipal Code and pursuant to the Idaho Local Land Use Planning Act.

A majority of the Commission hereby adopts these Findings of Fact, Conclusions of Law, and Order and authorizes the Chair to execute the same with the record of the June 8, 2017 appeal hearing reflecting Commissioner Jeff Lamoureux and Commissioner Erin Smith in favor of reversing the Administrator's Decision and Commissioner Mattie Mead opposed.

Chairman, Ketchum Planning and Zoning Commission

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 on this ____ day of _____, 2017.

By: _____
City Clerk

NOTICE OF RIGHT TO APPEAL

An appeal may be taken to the City Council from this Order by the applicant, by any officer or department of the City, or by an affected person as defined by Idaho Code § 67-6521. The time for filing the appeal is within fifteen days from the date of this Order. An appeal is filed by physically filing a notice of appeal with the City pursuant to the procedures of Ketchum Municipal Code 17.144.