



City of Ketchum
Planning & Building

STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
REGULAR MEETING OF JUNE 11, 2024

PROJECT: Stewart Pictures Work/Live Conditional Use Permit

FILE NUMBER: P24-033

APPLICANT: Allyn Stewart

PROPERTY OWNER: Allyn Stewart

REQUEST: Conditional Use Permit application to establish a work/live unit in the LI-2 district

LOCATION: 471 E 10th Street (Tenth Street Light Industrial Complex, Building B, Unit 2)

ZONING: Light Industrial District No. 2 (LI-2)

REVIEWER: Adam Crutcher, Associate Planner

NOTICE: Notice was published in the Idaho Mountain Express and was mailed to properties within a 300-foot radius on May 22, 2024. Notice was posted at the subject location and on the city website on June 4, 2024.

EXECUTIVE SUMMARY

The Applicant is requesting a Conditional Use Permit (CUP) to establish a work/live unit located at 471 E 10th Street Building B Unit 2 (the "subject property"). The applicant is proposing to renovate the interior of the existing unit to include a film production studio business on the ground floor and a residential space on the second floor with an office space. No exterior changes or renovations to the lower level are proposed. If approved, the project would consist of 997 square feet of living space and 1,660 square feet of work space (1,618 ground floor, 42 square feet second floor). The subject property is zoned Light Industrial No. 2 (LI-2) which allows for commercial studios as a permitted use by right and work/live units with CUP approval.

The Applicant has been a film producer for the past 30 years, working on local projects as well projects in California. The Applicant's desire to construct a residential space within the unit triggers the requirement for a CUP for a work/live space; however, the CUP is not related to the operation of the commercial studio since the use is permitted in the LI-2 district. Table 1 below outlines the proposed interior square footage of each use for the project as shown on the project plans in Attachment B.

Table 1: Proposed Uses and Square Footage

Use	Square Footage	Percent SF
Work		
Ground Floor – Screening Room, Model Building, Film Editing, & Film Testing Area	1,618 SF	
Second Floor –Office	42 SF	
<i>Subtotal</i>	<i>1,660 SF</i>	<i>62% of total</i>
Live		
Second Floor – 1 bedroom, 1 bathroom residential space	997 SF	
<i>Subtotal</i>	<i>997 SF</i>	<i>38% of total</i>
Total Square Footage	2,657 SF	

The KMC has very specific requirements for work/live units outlined in KMC Section 17.124.090.A.5 including ownership and occupancy of the space, size of workspace compared to live space, access to each space, and parking. See Attachment C for a full evaluation of the standards for work/live units for the proposed project. As proposed, the work/live unit meets all requirements and standards in the KMC. Staff recommends 15 conditions to ensure the project stays in compliance with the requirements over time.

BACKGROUND

The City of Ketchum received the Conditional Use Permit application on April 24, 2024. Following the receipt of the application, staff routed the application materials to all city departments for review. As of the date of this letter, all departments comments have been resolved or addressed through conditions of approval recommended below.

The addition of a residential space to the subject property will classify the use as Work/Live per the zoning code and Work/Live is permitted via a Conditional Use Permit. Work/Live units are a relatively new category of residential use permitted in the Light Industrial zoning districts, made possible through the light industrial zoning amendments considered by the Planning and Zoning Commission and City Council in 2018 and 2019.

CONFORMANCE WITH ZONING AND CONDITIONAL USE PERMIT STANDARDS

Conformance with Zoning Regulations

During department review, city staff reviewed the project for conformance with all applicable zoning code requirements including permitted uses, dimensional limitations, signage, parking, development standards, and dark skies. Staff also reviewed the project for all requirements related to work/live units as outlined in KMC Section 17.124.090 – *Residential, Light Industrial Districts*. The project is in conformance with all applicable zoning code requirements and standards. Below are a few key zoning requirements of important note for the project, please see Attachment C for a full review of zoning standards.

Uses

As mentioned above, commercial studios are a permitted use by right with no special requirements for operations. Work/live units are permitted with an approved conditional use permit. Work/live units are defined as:

“Work/live units incorporate residential living space in a nonresidential building. Work/live units are held jointly in common ownership and the work and live spaces cannot be sold or platted as separate condominiums, as documented with a City-approved restrictive covenant recorded against the property.”

The proposed project meets the definition of work/live unit. Staff recommends condition of approval #4 to ensure recording of the required restrictive covenant prior to building permit application. Please see below for an overview of the work/live unit's compliance with CUP criteria.

Size limitations

The KMC requires that the live portion of the unit must be secondary to the work space, cannot exceed the square footage of the work portion, and cannot exceed 1,000 gross square feet. As outlined in the table above, the total square footage of the work/live unit is 2,657 square feet. The gross square footage of the live portion is 997 square feet, 38% of the project and less than 1,000 gross square feet. Staff recommends conditions #1-3 to ensure that any future changes to the configuration of the space or changes to the square footages of the work and live spaces will be reviewed by the Planning and Zoning Commission as an amendment to this CUP.

Business Operations

The KMC requires that the work unit be accessed by the prominent means of access, signed and posted with regular hours of operation, and associated with a business license for an allowed use. The KMC also requires the work unit be suitable for on-site employees, customers, and meet all fire and building codes.

Stewart Pictures is currently in the review process for a business license at the subject property. The outstanding items remaining in the review are with the Fire Department. As such, staff recommends condition of approval #8 to ensure that fire code compliance is met prior to issuance of certificate of occupancy. Once the building has been inspected and approved for compliance with fire code, staff recommend condition of approval #9 to ensure the owner applies and receives approval for a standard business license for Stewart Pictures at the subject location prior to issuance of certificate of occupancy.

Hours for the business are not currently posted onsite at the subject property. Staff recommends condition of approval #6 to ensure the hours of the business are posted outside the unit. The work unit is accessed by the primary entrance to the building adjacent to the garage door. The business owner and one full time employee will remain working out of this location. The work unit is suitable for both employees and customers as the work unit is completely separate from the live unit. Access to the live portion of the project is on the second floor of the building, accessed through the internal stairwell and not visible from the street. The proposed project was reviewed by the fire department and found to have a few items that need to be addressed so staff has . The building department has inspected the subject property and found no items which needed to be addressed.

Parking

A previous work/live CUP application was approved for the subject property in 2019 for a property management and house cleaning business (P19-134). In the approval for P19-134, one parking space for the residential unit and one parking space for the work square footage was required. Both the previous property management use and the proposed commercial studio use require the same parking. This results in the application requiring one space for the residential unit and one space for the work space. As the change of use does not require additional parking, staff finds the two spaces sufficient. Conditions of approval #7 ensures a parking space is dedicated for the residential use of the unit, by requiring the installation of signage dedicating one parking space in front of the unit for residential parking.

Conditional Use Permit Criteria

Pursuant to KMC Section 17.116.030, conditional use permits can be granted if and only if all criteria listed below are met. Below is the stated criteria and staff's analysis of each:

- *Criteria 1* - The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district;
 - *Analysis:* The City of Ketchum has permitted numerous work/live units through the CUP process throughout the Light Industrial zone districts. Specifically, three other work/live CUPs

were approved in the B building of the Tenth Street Light Industrial Complex (P19-045, P19-094, P19-134) with P19-134 being in the same unit as the proposed application. The anti-nuisance and notice provisions outlined in KMC Section 17.124.090 seek to minimize potential conflicts between residential and light industrial uses. Staff recommends conditions of approval #12-16 to ensure that these provisions are in full force and effect.

- *Criteria 2* - The conditional use will not materially endanger the health, safety and welfare of the community;
 - *Analysis:* As mentioned above, numerous work/live units exist in the light industrial district with no demonstrated impact to the health, safety, and welfare of the community. The city has not received any complaints or witnessed a degradation of the health, safety, and welfare of these units. To the contrary, work/live units provide a certain amount of housing stability not experienced in other housing situations as the residential unit must be occupied by the business owner or an employee of the business. This supports the business operations as well as the owner/employee. Staff recommends condition of approval #3 to ensure that the occupant of the residential unit is either the owner or an employee of the business.
- *Criteria 3* - The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
 - *Analysis:* Only the owner will work out of the subject property daily, therefore, staff does not anticipate increased vehicle or pedestrian traffic in the complex. No concerns have been expressed by adjacent property owners regarding the proposed work/live unit.
- *Criteria 4* - The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area, or conditions can be established to mitigate adverse impacts; and
 - *Analysis:* The property is currently served by city water and sewer, reviewed by the respective departments during department review. The existing services are adequate to serve the proposed project with no required upgrades. The fire department can access the unit from the internal drive off 10th Street. The project site will continue to be served with all utilities and city services.
- *Criteria 5* - The conditional use is not in conflict with the policies of the comprehensive plan or the basic purposes of this chapter.
 - *Analysis:* The subject property is designated as “Mixed-Use Industrial” in the 2014 Comprehensive Plan. The plan outlines primary and secondary uses within the area. Primary uses include service, workshops, studios, and offices with secondary uses including a limited range of residential housing types. Additionally, Policy E-2(e) encourages policy that supports small businesses by allowing people to live and work from their residences in live/work environments. Approval of the CUP would comply with the identified primary and secondary uses for the area and support a small business with housing on site.

In review of this application, staff believe that all criteria are met as described above. Staff recommends conditions of approval #7, 8, 9, 10, and 15 to ensure long term compliance with the work/live standards and CUP criteria. Many of these conditions are standard for work/live CUPs and not specifically triggered by the proposed project.

STAFF RECOMMENDATION

Staff believe the proposed project, as conditioned, meets all zoning requirements, criteria for conditional use permits. Staff recommends approval of the applications with recommended conditions of approval for each as outlined below:

Conditional Use Permit (P24-033)

1. This approval is based on the floorplan submitted and attached to the staff report, dated June 11, 2024. Any change to the floor plan or change in the location or configuration of the uses from what is depicted in the plans, shall be subject to an amendment to this Conditional Use Permit. The residential use shall occur in the location depicted on the plans and shall not exceed 942 square feet in size.
2. This conditional use permit is non-transferrable to any other property owner or business other than Stewart Pictures. Any change in property ownership, business operator, or residential tenant requires an amendment to this Conditional Use Permit. In the event Stewart Pictures is no longer the business operation, a new Conditional Use Permit will be required.
3. Occupancy of the live unit must be either the owner of Stewart Pictures, or an employee of Stewart Pictures.
4. Prior to issuance of a Certificate of Occupancy, a Restrictive Covenant shall be recorded against the property prohibiting the separate sale of the live unit thereby ensuring that the work/live unit remain in common ownership and cannot be sold separately.
5. Prior to issuance of certificate of occupancy, the owner shall install a sign indicating the hours of operation of the business which shall be posted and remain posted onsite at all times.
6. Prior to issuance of certificate of occupancy, the owner shall install a sign in front of the subject property dedicating one of the parking spaces to be for residential use only.
7. Ketchum Fire Department requirements shall be met prior to issuance of certificate of occupancy,
8. Upon completion of inspection for fire code compliance by the fire department, the owner shall apply and receive approval for a standard business license prior to issuance of certificate of occupancy.
9. Within one year of receipt of certificate of occupancy for the project, and each year following, the applicant shall request an inspection by the Fire Marshall to ensure all fire codes are being met. Documentation of the inspection shall be provided to the Planning and Building department.
10. Inspections by the Planning and Building staff may be scheduled at the discretion of staff to ensure all conditions of this Conditional Use Permit are met. Owner shall cooperate with facilitating the inspections at the request of the City. In the event the owner does not cooperate, this CUP may be subject to revocation.
11. The applicant is aware the mixed use of the property can result in conflict, that the light industrial use may on occasion or in certain respects be incompatible with the quiet enjoyment of the dwelling units, that due to the subordinate and junior nature of the residential use to the light industrial use, the City will not condition, limit, restrict or otherwise interfere with any lawful light industrial use solely because it interferes with a residential use.
12. In the event the residential unit is occupied by an employee of Stewart Pictures, the owner shall provide the tenant, lessee or subtenant with written notice that such unit is located within the Light Industrial Zone and, as such, is junior and, therefore, subordinate in nature to all legal light industrial activities.
13. Each and every real estate agent, sales person and broker and each and every private party who offers for rent or shows a parcel of real property and/or structure for lease or rent within such Light Industrial Zones shall, upon first inquiry, provide the prospective lessee or tenant, prior to viewing such real property, with written notice that such real property and/or structure is located within such Light Industrial Zone.
14. All brochures and other printed materials advertising rental or lease of a living unit within the Light Industrial Zones shall contain a provision designating that such unit or units are located within the Light Industrial Zone and are within a mixed use area. Lessees and tenants shall be notified that the residential uses within the Light Industrial Zone are subordinate and, therefore, junior in nature to the legal light industrial activities within the zone.
15. In the event the property is in violation of the conditions of approval, the Conditional Use Permit may be subject to revocation.

RECOMMENDED MOTION:

“I move to approve the Stewart Pictures Live/Work Conditional Use Permit application, as conditioned, and approve the Findings of Fact, Conclusions of Law, & Decision.”

ATTACHMENTS:

- A. Application Materials – CUP Application and Supporting Materials
- B. Application Materials – CUP Plan Set
- C. Zoning and Work/Live Standards Analysis
- D. Draft Findings of Fact, Conclusions of Law, and Decision
- E. Public Comment

Attachment A:
Application Materials



City of Ketchum
Planning & Building

OFFICIAL USE ONLY	
File Number:	P24-033
Date Received:	4/24/24
By:	HLN
Fee Paid:	\$3200
Approved Date:	
Denied Date:	
By:	

Conditional Use Permit Application

Submit Completed application to planningandbuilding@ketchumidaho.org Or hand deliver to Ketchum City Hall, 191 5th St. W. Ketchum, ID If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: www.ketchumidaho.org and click on Municipal Code. You will be contacted and invoiced once your application package is complete.

OWNER INFORMATION	
Project Name: Stewart Pictures Inc.	
Name of Owner of Record: Allyn Stewart	
Physical Address: 471 E. 10th St. Unit B2, Ketchum, ID 83340	
Property Legal Description: Tenth St. Light Industrial complex Building B Unit 2.039	
Property Zoning District: K/LI-2	
Lot Size: N/A	
Contact Phone: (310)963-2212	Contact Email: Allyn@flashlightfilmsLLC.com
PROJECT INFORMATION	
Description of Proposed Conditional Use: A work/living space. Owner will live in the 2nd floor apartment. Downstairs will function as a production facility for film, specifically for early pre-production building model sets and post-production, editing, sound recording and a private screening room to watch editorial works in progress.	
Description & Specification Sheet of Proposed and Existing Exterior Lighting: The exterior lighting is controlled by the Homeowners Association.	

**APPLICANT NARRATIVE OF HOW THEY MEET THE CONDITIONAL USES PERMIT
CRITERIA IN MUNICIPAL CODE 17.116.030 A-E**

The owner will not have high volume traffic, either vehicular or pedestrian, in keeping with other residents and businesses that currently occupy the neighboring work spaces.
The owner's occupation will not endanger the health, safety and welfare of the community.
The conditional use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding area. There is no conflict with the policies of the comprehensive plan or the purposes of the Conditional use permit criteria.

ADDITIONAL COMMENTS

See attachment.

ACCOMPANYING SUPPORTING INFORMATION REQUIRED

● Existing Site Plan ● Proposed Site Plan ● Landscape Plan ● Grading and Drainage Plan ● Exterior Lighting Plan and Specifications ● Other plans and studies related to the social, economic, fiscal, environmental, traffic, and other effects of the proposed conditional use, as required by the Administrator

Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortuous conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.



Applicant Signature

4 - 22 - 2024

Date

Proxy

I, John Vorzimer of 1520 LLC, owner of a certain real property in Ketchum located 471 10th St, Unit B2 ("Property") and more particularly described as a work/live space at the 10th St. Light industrial complex, Buiding B, Unit 2. I am currently under contract to sell the Property to Allyn Stewart. Allyn Stewart desires to commence an application for a Conditional Use Permit ("CUP") with the City of Ketchum ("City") for her to reside and work at the Property before closing the purchase of the Property. I am agreeable to authorize Allyn Stewart to commence the appropriate City processes and receive City approval for the CUP permit, in the name of Allyn Stewart, from the City prior to closing. Therefore, I hereby appoint Allyn Stewart, my proxy to do all things necessary to apply and obtain a CUP, in her name, from the City of Ketchum so that she may occupy the property after the close of escrow.

Dated this 11th day of April 2024



A handwritten signature in black ink, appearing to read 'John Vorzimer', is written over a horizontal dashed line.

John Vorzimer

IDAHO NOTARY ACKNOWLEDGMENT

State of Idaho

County of BLAINE

On this 11th day of April, in the year 2024, before me, Nancy L. Anderson

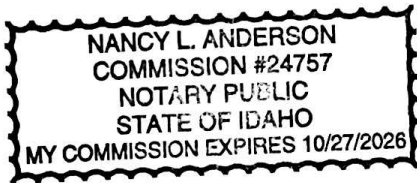
(Notary's name) a notary public, personally appeared John Vorzimer

(individual's name), personally known to me to be the person(s) whose name(s)

is (are) subscribed to the within instrument, and acknowledged to me that he

(she) (they) executed the same.

Seal



Nancy L. Anderson

Notary Public

My Commission expires on: 10-27-2026

TENTH STREET LIGHT INDUSTRIAL COMPLEX

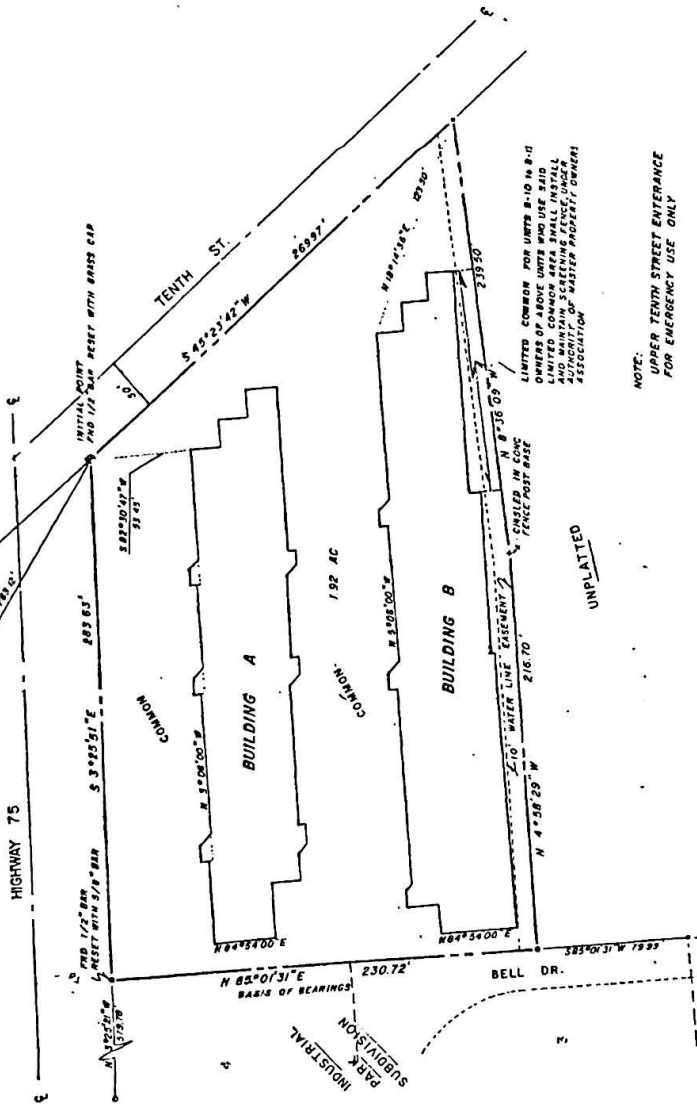
SEC. 12, T4N, R17E B.M.
KETCHUM, BLAINE COUNTY, IDAHO

APRIL 1981

1/4" PIPE
NORTH CO. ORIGINAL TOWN
OF KETCHUM
FND BR MON
12 1/2" RISE
16 RISE
TAN



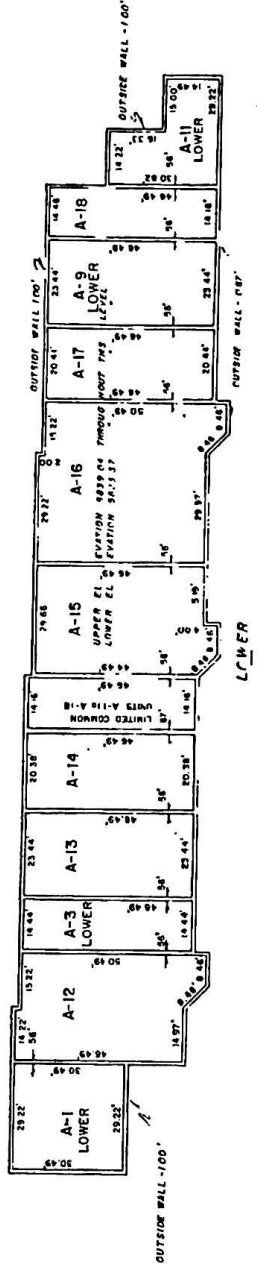
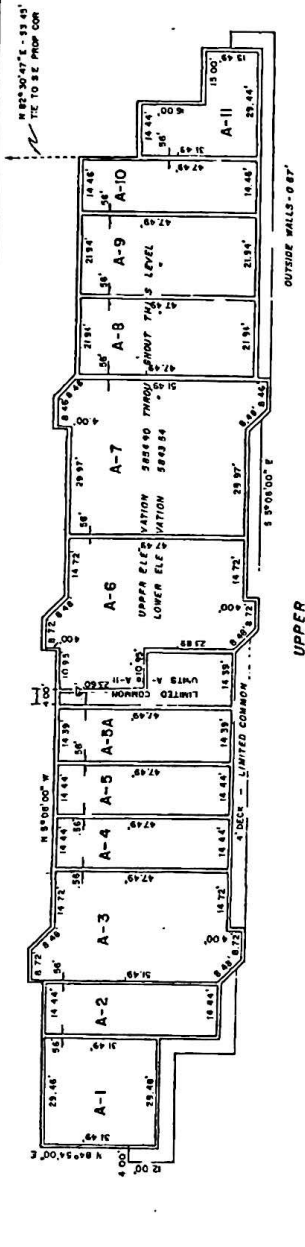
- LEGEND
- PROPERTY LINE
 - EASEMENT LINE
 - BRASS CAP
 - 1/2" BAR - FND
 - 5/8" BAR W/CAP - SET



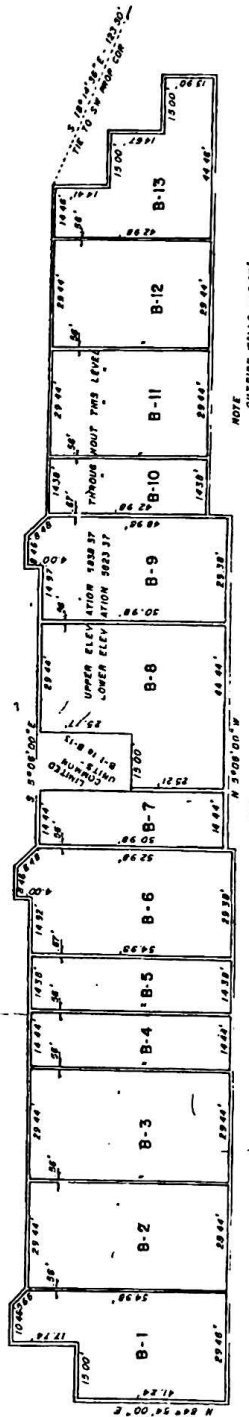
LIMITED COMMON FOR UNITS B-10 IN B-11
OWNERS OF ABOVE UNITS WHO USE SAID
LIMITED COMMON AREA SHALL INSTALL
AND MAINTAIN AT THEIR OWNERS'
AUTHORITY OF WATER PROJECT OWNERS'
ASSOCIATION

NOTE:
UPPER TENTH STREET ENTRANCE
FOR EMERGENCY USE ONLY

UNPLATTED



BUILDING - A



BUILDING - B

NOTES
 ELEVATIONS ARE REFERENCED TO U.S.C. & G.S.
 DATUM OF 1929
 ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE
 SOME STRUCTURAL MEMBERS EXTEND INTO
 UNITS



TENTH STREET LIGHT
 INDUSTRIAL COMPLEX

SHEET 2 of 3



Attachment B:
Project Plans

To the Planning Department:

I am in escrow on the space referenced in this application. I am attaching a notarized letter from the current owner, allowing me to apply for a CUP during the escrow period. I have applied for a business license.

I am a film producer and have made movies for the past 30 years. I have attached my credits at the bottom of this letter. I have lived in Ketchum for 20 years, during that time I have filmed multiple times in and outside Ketchum. One of my recent films is called LAND starring Robin Wright. We filmed north of Ketchum and did makeup and hair tests in town. I hired locals as my crew. As a founding Board Member of the Wood River Y, I made a fundraising video, with local talent, that was used during a campaign that raised millions of dollars to build the Y. I have also made fundraising videos for the Community School.

Until recently a lot of my work was in Los Angeles, but I would like to be based in Ketchum. I need a space to build model sets to conduct camera tests, as well as makeup and hair tests. My next film, SKYJACK, is a true story about a high jacking. I will create models of the plane to figure out what to build and how the set will function. I produced the film SULLY, which required the same tests. With the evolution of digital technology, I need a workspace to work on the edit of the film after it has been shot and a screening room, to watch the editorial versions of the film in progress. I will also need to record sound. I will live upstairs.

The building has a monitored Fire Suppression system with Sentinel. The front door is opened by a digital code which is registered with the fire department. I spoke with Seth Martin at the Fire Department who told me that he inspects the space every year and that it is up to code. I have also arranged for my own Fire Department inspection.

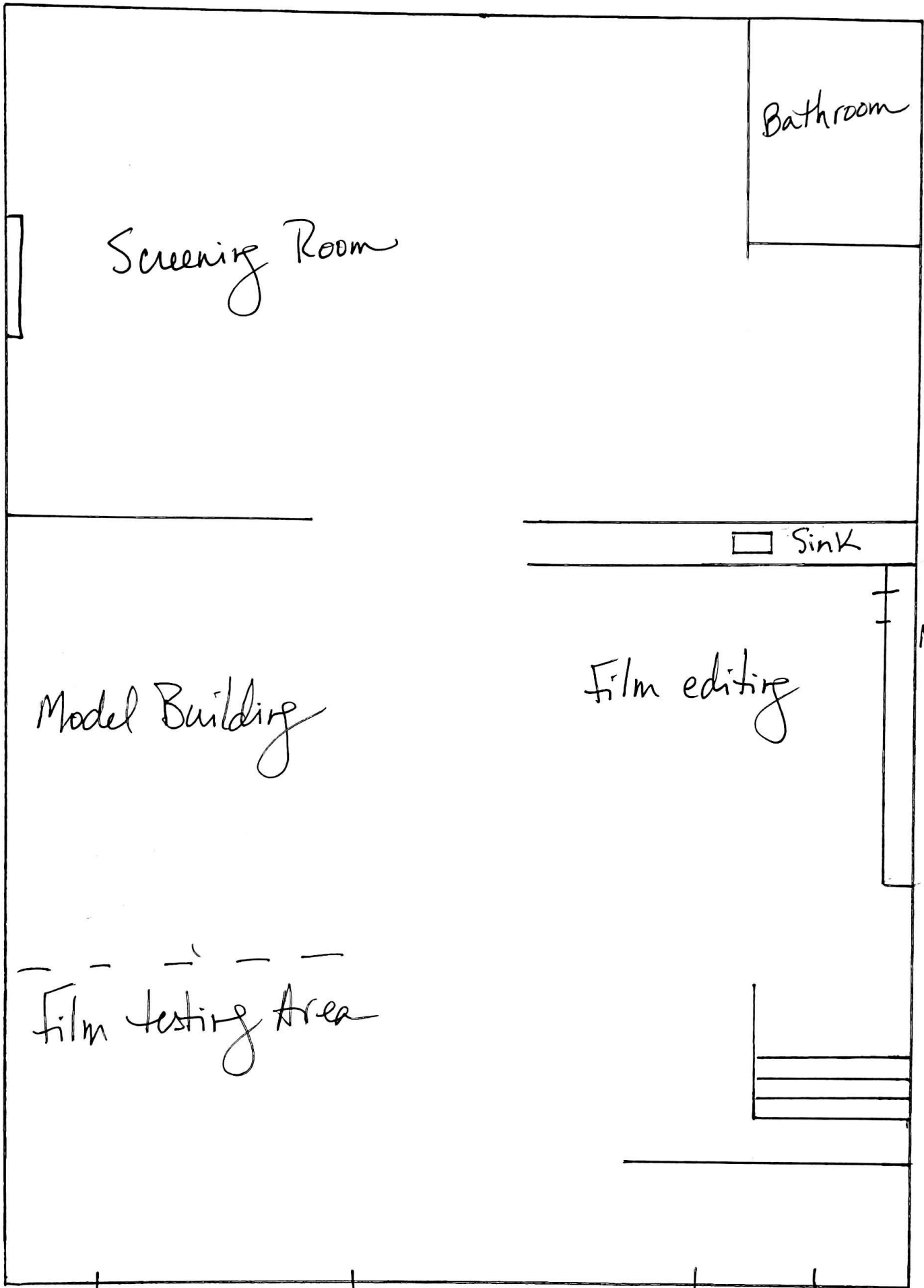
My best,
Allyn Stewart

Work Credits

<https://pro.imdb.com/name/nm0829162/overview>

LAND <https://vimeo.com/332031397/0eedb9aaf5>

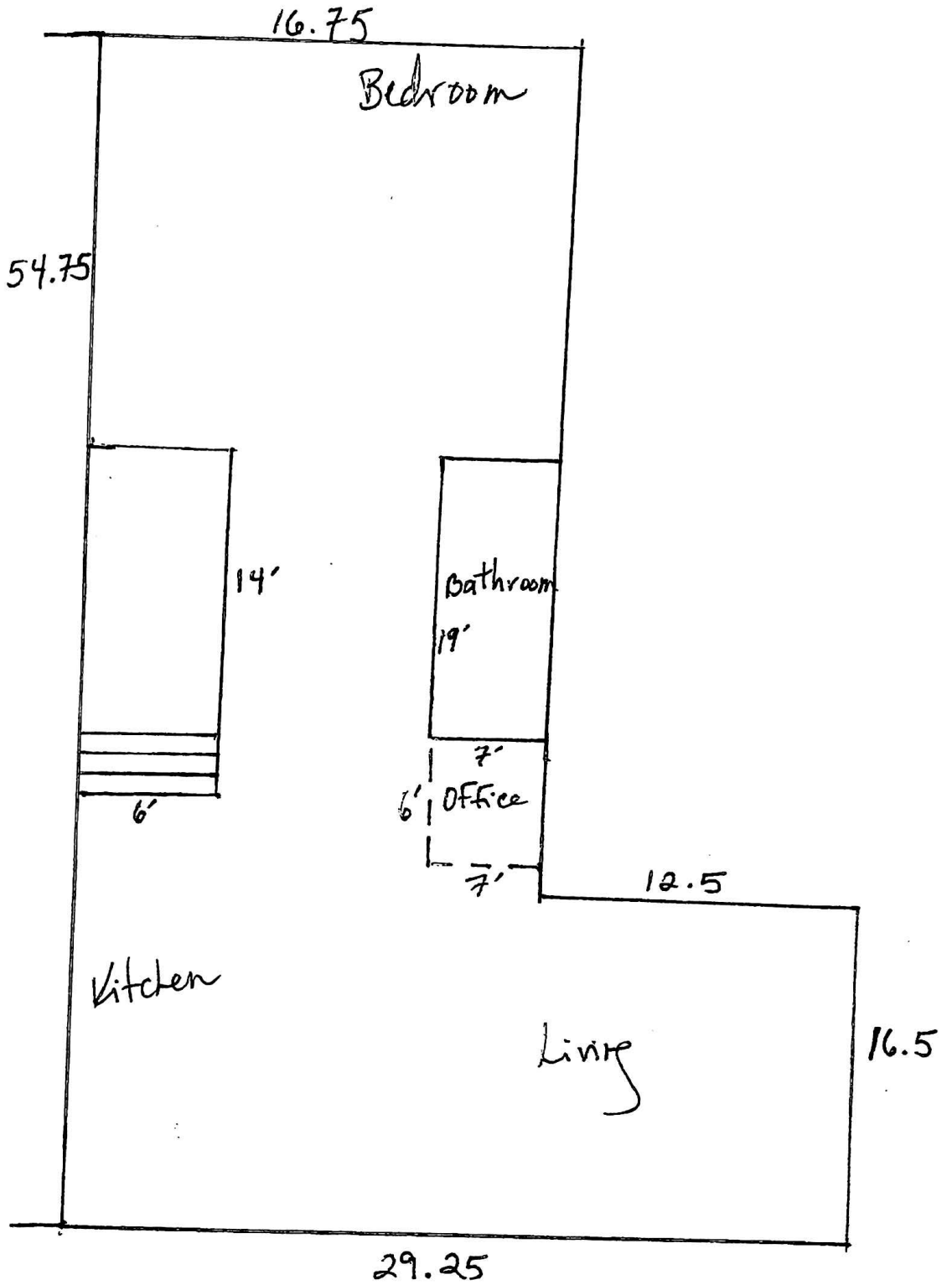




Garage Door

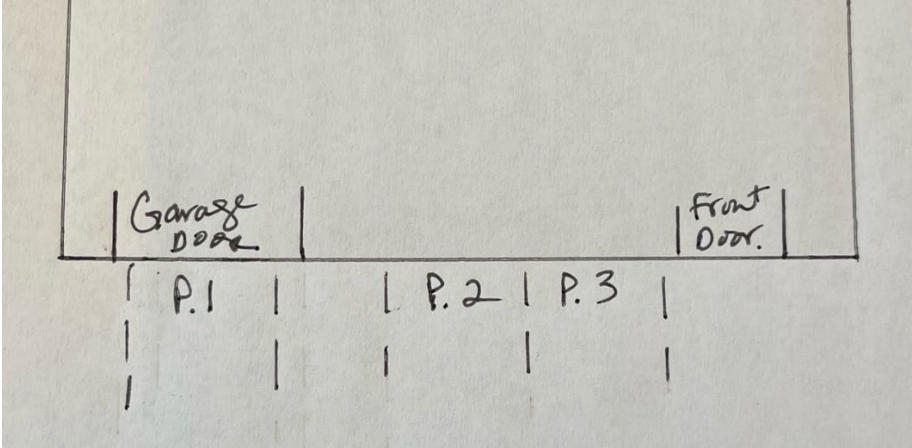
1618 Sq.Ft.

Front Door



997 sq. Ft

PARKING – 3 spaces



Lighting – one light only



Rear of Building

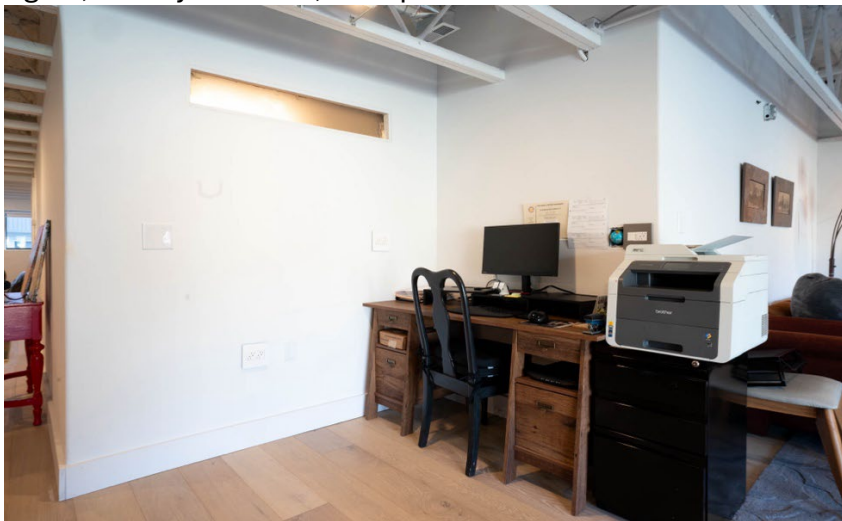


INTERIOR 2nd FLOOR – Current owner's furniture



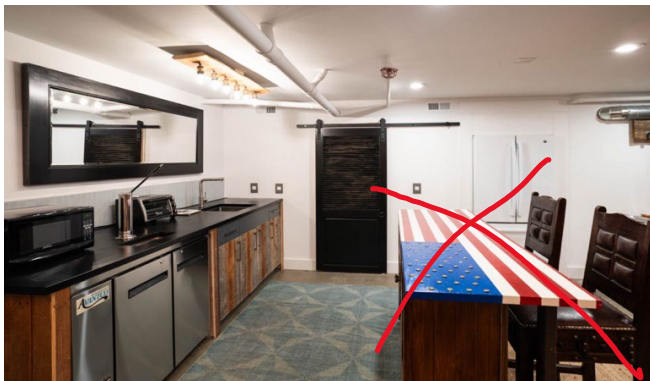


Again, not my furniture, the upstairs office will be screened off.





INTERIOR 1st FLOOR – current owner’s furniture. NOT my proposed use of space, see attached plan. NO construction required. I need an empty space with some tables, with some seating. As well as storage for equipment.
Front Door





Attachment C:
Zoning Standards Evaluation



City of Ketchum
Planning & Building

471 E 10th ST UNIT 2-B [STEWART PICTURES] - ZONING AND WORK/LIVE STANDARDS ANALYSIS

17.12.020 – District Use Matrix	Conformance
<i>Zone District: Light Industrial – Two (LI-2)</i>	YES
<p>Finding: The subject property includes a “commercial studio” operation and is proposing a residential unit, together classified as a “work/live” unit. KMC 17.12.020 outlines permissible uses in the LI-2 zone district, which includes commercial studios as a permitted use. Work/live units are permitted with a conditional use permit (CUP) approval. The applicant has requested approval of a work/live CUP.</p>	

17.125.040 – Off Street Parking and Loading Calculations	Conformance
<p><i>Minimum amount of parking spaces required per use.</i></p> <p><i>Per section 17.125.020.A.3, any change of use or change of operation that would result in a requirement for more parking than the existing use. Additional parking shall be required only in proportion to the extent of the change, not the entire building or use.</i></p>	<p>YES Condition #6</p>
<p>Finding: <u>Required:</u> A previous work/live CUP application was approved for the subject property in 2019 for a property management and house cleaning business (P19-134). In the approval for P19-134, one parking space for the residential unit and one parking space for the work square footage was required. Both the previous property management use and the proposed commercial studio use require the same parking. This results in the application requiring one space for the residential unit and one space for the work space. As the change of use does not require additional parking, the Commission finds the two spaces sufficient. Conditions of approval #7 ensures a parking space is dedicated for the residential use of the unit, by requiring the installation of signage dedicating one parking space in front of the unit for residential parking.</p>	

17.124.090.A.5.a – Work/Live Units	Conformance
<p><i>The work portion of the unit meets the definition of work/live unit set forth in section 17.08.020 of this title, including that the project is subject to council approval of a restrictive covenant.</i></p>	<p>YES Condition #4</p>
<p>Finding: <u>Required:</u> Work/live units incorporate residential living space in a nonresidential building. Work/live units are held jointly in common ownership and the work and live spaces cannot be sold or platted as separate condominiums, as documented with a City-approved restrictive covenant recorded against the property.</p> <p><u>Proposed:</u> The living space is within a non-residential building within the Tenth Street Light Industrial Complex. Three other CUP approved work/live units (P19-045, P19-094, & P19-134) exist in Building B of the complex. In all scenarios, the living space has been secondary to the work space and always within same ownership. To date, a restrictive covenant has not been recorded. Staff recommends condition #4 to ensure the covenant is recorded prior to issuance of a Certificate of Occupancy.</p>	

17.124.090.A.5.b – Work Unit Standards	Conformance
<p><i>The work unit is:</i></p> <p><i>(1) Suitable for on-site employees, foot traffic/customers, and meets applicable building and fire codes;</i></p> <p><i>(2) Signed and posted with regular hours of operation;</i></p> <p><i>(3) Served by the prominent means of access for the work/live unit; and</i></p> <p><i>(4) Associated with a business license for a use allowed (either conditionally or permitted) in the district.</i></p>	<p>YES Condition #5, #7, and #8</p>
<p>Finding:</p> <p>5b.1. The property owner will work out of the subject property and finds the space suitable to run business operations. The fire department reviewed the existing unit and provided feedback on items necessary for the unit to come into compliance with fire code. Condition of approval #7 requires the applicant to resolve the outstanding fire code compliance requirements prior to occupancy of the work/live unit.</p> <p>5b.2. Condition of approval #5 requires the business hours to be posted and remain posted at all times.</p> <p>5b.3. The work area is accessed via the front entry door and garage door. This is the prominent access to the work unit. The residential unit is accessed through a separate door on the second floor on the shared internal stairwell.</p> <p>5b.4. The applicant has a business license which is under review for the subject location. Staff recommends conditions of approval #7 & #8, requiring the owner to resolve all Fire Department comments prior to issuance of a business license and Certificate of Occupancy.</p>	

17.124.090.A.5.c – Live Unit Standards	Conformance
<p><i>The residential portion of the living space is secondary to the primary use as a place of work. A finding that the residential space is secondary to the work space shall be based on measurable findings, including but not limited to:</i></p> <p><i>(1) The size of the live portion of the work/live unit is both smaller than the work portion of the unit and, further, the live portion of the work/live unit does not exceed 1,000 gross square feet;</i></p> <p><i>(2) Means of access to the residential portion of the unit is not prominent and, preferably, is located to the side or rear of the property; and</i></p> <p><i>(3) Suitable residential parking that does not interfere with snow removal or the operation of proximate LI uses and, further, is in accordance with the parking and loading requirements set forth in chapter 17.125 of this title.</i></p>	<p>YES</p>
<p>Finding:</p> <p>The total square footage of the proposed project is 2,657 square feet, 997 square feet of which is the live unit. This represents 38% of the total project. The residential unit is not visible from the street as it is located on the second floor within the unit. The primary use is the commercial studio, which is the prominent space visible from the complex’s internal drive. The one dedicated residential parking space is sufficient for the unit and will not interfere with snow removal or operation of adjacent uses.</p>	

Attachment D: Draft
Findings of Fact,
Conclusions of Law, &
Decision



City of Ketchum
Planning & Building

IN RE:)	
)	
Stewart Pictures Work/Live)	KETCHUM PLANNING & ZONING COMMISSION
Conditional Use Permit)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: June 11, 2024)	DECISION
)	
File Number: 24-033)	

PROJECT: Stewart Pictures Work/Live Conditional Use Permit

APPLICATION TYPE: Conditional Use Permit

FILE NUMBER: P24-033

APPLICANT: Allyn Stewart

OWNER: Allyn Stewart

LOCATION: 471 E 10th Street (Tenth Street Light Industrial Complex, Building B, Unit 2)

ZONING: Light Industrial No. 2 (LI-2)

OVERLAY: None

RECORD OF PROCEEDINGS

The City of Ketchum received the Conditional Use Permit application on April 24, 2024. Following the receipt of the application, staff routed the application materials to all city departments for review. As of the date of this letter, all departments comments have been resolved or addressed through conditions of approval recommended below.

A public hearing notice was published in the Idaho Mountain Express and was mailed to properties within a 300-foot radius on May 22, 2024. Notice was posted at the subject location and on the city website on June 4, 2024.

BACKGROUND

The Applicant is requesting a Conditional Use Permit (CUP) to establish a work/live unit located at 471 E 10th Street Building B Unit 2 (the "subject property"). The applicant is proposing to renovate the

interior of the existing unit to include a film production studio business on the ground floor and a residential space on the second floor with an office space. No exterior changes or renovations to the lower level are proposed. If approved, the project would consist of 997 square feet of living space and 1,660 square feet of work space (1,618 ground floor, 42 square feet second floor). The subject property is zoned Light Industrial No. 2 (LI-2) which allows for commercial studios as a permitted use by right and work/live units with CUP approval.

The Applicant has been a film producer for the past 30 years, working on local projects as well projects in California. The Applicant’s desire to construct a residential space within the unit triggers the requirement for a CUP for a work/live space; however, the CUP is not related to the operation of the commercial studio since the use is permitted in the LI-2 district. Table 1 below outlines the proposed interior square footage of each use for the project as shown on the project plans.

Table 1: Proposed Uses and Square Footage

Use	Square Footage	Percent SF
Work		
Ground Floor – Screening Room, Model Building, Film Editing, & Film Testing Area	1,618 SF	
Second Floor –Office	42 SF	
<i>Subtotal</i>	<i>1,660 SF</i>	<i>62% of total</i>
Live		
Second Floor – 1 bedroom, 1 bathroom residential space	997 SF	
<i>Subtotal</i>	<i>997 SF</i>	<i>38% of total</i>
Total Square Footage	2,657 SF	

The KMC has very specific requirements for work/live units outlined in KMC Section 17.124.090.A.5 including ownership and occupancy of the space, size of workspace compared to live space, access to each space, and parking. As proposed, the work/live unit meets all requirements and standards in the KMC. There are 15 conditions of approval to ensure the project stays in compliance with the requirements over time.

FINDINGS OF FACT

The Planning & Zoning Commission, having reviewed the entire project record, provided notice, and conducted the required public hearing, does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

FINDINGS REGARDING CONDITIONAL USE PERMIT CRITERIA

Pursuant to KMC Section 17.116.030, conditional use permits can be granted if and only if all criteria listed below are met. The Commission finds the following:

Criteria 1 - The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district;

- *Finding:* The City of Ketchum has permitted numerous work/live units through the CUP process throughout the Light Industrial zone districts. Specifically, three other work/live CUPs were approved in the B building of the Tenth Street Light Industrial Complex (P19-045, P19-094, P19-134) with P19-134 being in the same unit as the proposed application. The anti- nuisance and notice provisions outlined in KMC Section 17.124.090 seek to minimize potential conflicts between residential and light industrial uses. Conditions of approval #12-16 ensure that these provisions are in full force and effect.

Criteria 2 - The conditional use will not materially endanger the health, safety and welfare of the community;

- *Finding:* Numerous work/live units exist in the light industrial district with no demonstrated impact to the health, safety, and welfare of the community. The city has not received any complaints or witnessed a degradation of the health, safety, and welfare of these units. To the contrary, work/live units provide a certain amount of housing stability not experienced in other housing situations as the residential unit must be occupied by the business owner or an employee of the business. This supports the business operations as well as the owner/employee. Condition of approval #3 ensures that the occupant of the residential unit is either the owner or an employee of the business.

Criteria 3 - The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;

- *Finding:* Only the owner will work out of the subject property daily, therefore, the Commission does not anticipate increased vehicle or pedestrian traffic in the complex. No concerns have been expressed by adjacent property owners regarding the proposed work/live unit.

Criteria 4 - The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area, or conditions can be established to mitigate adverse impacts; and

- *Finding:* The property is currently served by city water and sewer, reviewed by the respective departments during department review. The existing services are adequate to serve the proposed project with no required upgrades. The fire department can access the unit from the internal drive off 10th Street. The project site will continue to be served with all utilities and city services.

Criteria 5 - The conditional use is not in conflict with the policies of the comprehensive plan or the basic purposes of this chapter.

- *Finding:* The subject property is designated as “Mixed-Use Industrial” in the 2014 Comprehensive Plan. The plan outlines primary and secondary uses within the area. Primary uses include service, workshops, studios, and offices with secondary uses including a limited range of residential housing types. Additionally, Policy E-2(e) encourages policy that supports small businesses by allowing people to live and work from their residences in live/work environments. Approval of the CUP would comply with the identified primary and secondary uses for the area and support a small business with housing on site.

FINDINGS REGARDING COMPLIANCE WITH ZONING AND WORK/LIVE REGULATIONS

17.12.020 – District Use Matrix	Conformance
<i>Zone District: Light Industrial – One (LI-1)</i>	YES
<p>Finding: The subject property includes a “commercial studio” operation and is proposing a residential unit, together classified as a “work/live” unit. <u>KMC 17.12.020</u> outlines permissible uses in the LI-2 zone district, which includes commercial studios as a permitted use. Work/live units are permitted with a conditional use permit (CUP) approval. The applicant has requested approval of a work/live CUP.</p>	

17.125.040 – Off Street Parking and Loading Calculations	Conformance
<i>Minimum amount of parking spaces required per use.</i>	YES
<i>Per section 17.125.020.A.3, any change of use or change of operation that would result in a requirement for more parking than the existing use. Additional parking shall be required only in proportion to the extent of the change, not the entire building or use.</i>	Condition #7
<p>Finding: Required: A previous work/live CUP application was approved for the subject property in 2019 for a property management and house cleaning business (P19-134). In the approval for P19-134, one parking space for the residential unit and one parking space for the work square footage was required. Both the previous property management use and the proposed commercial studio use require the same parking. This results in the application requiring one space for the residential unit and one space for the work space. As the change of use does not require additional parking, the Commission finds the two spaces sufficient. Conditions of approval #7 ensures a parking space is dedicated for the residential use of the unit, by requiring the installation of signage dedicating one parking space in front of the unit for residential parking.</p>	

17.124.090.A.5.a – Work/Live Units	Conformance
<i>The work portion of the unit meets the definition of work/live unit set forth in section 17.08.020 of this title, including that the project is subject to council approval of a restrictive covenant.</i>	YES Condition #4

Finding:

Required: Work/live units incorporate residential living space in a nonresidential building. Work/live units are held jointly in common ownership and the work and live spaces cannot be sold or platted as separate condominiums, as documented with a City-approved restrictive covenant recorded against the property.

Proposed: The living space is within a non-residential building within the Tenth Street Light Industrial Complex. Three other CUP approved work/live units (P19-045, P19-094, & P19-134) exist in Building B of the complex. In all scenarios, the living space has been secondary to the work space and always within same ownership. To date, a restrictive covenant has not been recorded. Condition #4 ensures the covenant is recorded prior to issuance of a Certificate of Occupancy.

17.124.090.A.5.b – Work Unit Standards	Conformance
<p><i>The work unit is:</i></p> <p><i>(1) Suitable for on-site employees, foot traffic/customers, and meets applicable building and fire codes;</i></p> <p><i>(2) Signed and posted with regular hours of operation;</i></p> <p><i>(3) Served by the prominent means of access for the work/live unit; and</i></p> <p><i>(4) Associated with a business license for a use allowed (either conditionally or permitted) in the district.</i></p>	<p>YES</p> <p>Condition #6, #8, and #9</p>
<p>Finding:</p> <p>5b.1. The property owner will work out of the subject property and finds the space suitable to run business operations. The fire department reviewed the existing unit and provided feedback on items necessary for the unit to come into compliance with fire code. Condition of approval #7 requires the applicant to resolve the outstanding fire code compliance requirements prior to occupancy of the work/live unit.</p> <p>5b.2. Condition of approval #5 requires the business hours to be posted and remain posted at all times.</p> <p>5b.3. The work area is accessed via the front entry door and garage door. This is the prominent access to the work unit. The residential unit is accessed through a separate door on the second floor on the shared internal stairwell.</p> <p>5b.4. The applicant has a business license which is under review for the subject location. Conditions of approval #7 & #8, require the owner to resolve all Fire Department comments prior to issuance of a business license and Certificate of Occupancy.</p>	
17.124.090.A.5.c – Live Unit Standards	Conformance

<p><i>The residential portion of the living space is secondary to the primary use as a place of work. A finding that the residential space is secondary to the work space shall be based on measurable findings, including but not limited to:</i></p> <p><i>(1) The size of the live portion of the work/live unit is both smaller than the work portion of the unit and, further, the live portion of the work/live unit does not exceed 1,000 gross square feet;</i></p> <p><i>(2) Means of access to the residential portion of the unit is not prominent and, preferably, is located to the side or rear of the property; and</i></p> <p><i>(3) Suitable residential parking that does not interfere with snow removal or the operation of proximate LI uses and, further, is in accordance with the parking and loading requirements set forth in chapter 17.125 of this title.</i></p>	<p>YES</p>
<p>Finding:</p> <p>The total square footage of the proposed project is 2,657 square feet, 997 square feet of which is the live unit. This represents 38% of the total project. The residential unit is not visible from the street as it is located on the second floor within the unit. The primary use is the commercial studio, which is the prominent space visible from the complex’s internal drive. The one dedicated residential parking space is sufficient for the unit and will not interfere with snow removal or operation of adjacent uses.</p>	

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant’s Conditional Use Permit application for the development and use of the project site.
2. The Commission has authority to hear the applicant’s Conditional Use Permit Application pursuant to Chapter 17.116 of Ketchum Municipal Code Title 17.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §17.116.040.
4. The Conditional Use Permit application is governed under Ketchum Municipal Code Chapter 17.116.
5. The 471 E 10th Street (Tenth Street Light Industrial Complex, Building B, Unit 2) Work/Live Conditional Use Permit application meets all applicable standards specified in Title 17 of Ketchum Municipal Code.

DECISION

THEREFORE, the Commission **approves** this Conditional Use Permit Application File No. P24-033 this Tuesday, June 11, 2024, subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. This approval is based on the floorplan submitted and attached to the staff report, dated June 11, 2024. Any change to the floor plan or change in the location or configuration of the uses from what is depicted in the plans, shall be subject to an amendment to this Conditional Use Permit. The residential use shall occur in the location depicted on the plans and shall not exceed 942 square feet in size.
2. This conditional use permit is non-transferrable to any other property owner or business other than Stewart Pictures. Any change in property ownership, business operator, or residential tenant requires an amendment to this Conditional Use Permit. In the event Stewart Pictures is no longer the business operation, a new Conditional Use Permit will be required.
3. Occupancy of the live unit must be either the owner of Stewart Pictures, or an employee of Stewart Pictures.
4. Prior to issuance of a Certificate of Occupancy, a Restrictive Covenant shall be recorded against the property prohibiting the separate sale of the live unit thereby ensuring that the work/live unit remain in common ownership and cannot be sold separately.
5. Prior to issuance of certificate of occupancy, the owner shall install a sign indicating the hours of operation of the business which shall be posted and remain posted onsite at all times.
6. Prior to issuance of certificate of occupancy, the owner shall install a sign in front of the subject property dedicating one of the parking spaces to be for residential use only.
7. Ketchum Fire Department requirements shall be met prior to issuance of certificate of occupancy,
8. Upon completion of inspection for fire code compliance by the fire department, the owner shall apply and receive approval for a standard business license prior to issuance of certificate of occupancy.
9. Within one year of receipt of certificate of occupancy for the project, and each year following, the applicant shall request an inspection by the Fire Marshall to ensure all fire codes are being met. Documentation of the inspection shall be provided to the Planning and Building department.
10. Inspections by the Planning and Building staff may be scheduled at the discretion of staff to ensure all conditions of this Conditional Use Permit are met. Owner shall cooperate with facilitating the inspections at the request of the City. In the event the owner does not cooperate, this CUP may be subject to revocation.
11. The applicant is aware the mixed use of the property can result in conflict, that the light industrial use may on occasion or in certain respects be incompatible with the quiet enjoyment of the dwelling units, that due to the subordinate and junior nature of the residential use to the light industrial use, the City will not condition, limit, restrict or otherwise interfere with any lawful light industrial use solely because it interferes with a residential use.
12. In the event the residential unit is occupied by an employee of Stewart Pictures, the owner shall provide the tenant, lessee or subtenant with written notice that such unit is located within the Light Industrial Zone and, as such, is junior and, therefore, subordinate in nature to all legal light industrial activities.
13. Each and every real estate agent, sales person and broker and each and every private party who offers for rent or shows a parcel of real property and/or structure for lease or rent within such Light Industrial Zones shall, upon first inquiry, provide the prospective lessee or tenant, prior to viewing such real property, with written notice that such real property and/or structure is located within such Light Industrial Zone.

14. All brochures and other printed materials advertising rental or lease of a living unit within the Light Industrial Zones shall contain a provision designating that such unit or units are located within the Light Industrial Zone and are within a mixed use area. Lessees and tenants shall be notified that the residential uses within the Light Industrial Zone are subordinate and, therefore, junior in nature to the legal light industrial activities within the zone.
15. In the event the property is in violation of the conditions of approval, the Conditional Use Permit may be subject to revocation.

Findings of Fact **adopted** this 11th day of June 2024.

Neil Morrow, Chair
City of Ketchum
Planning and Zoning Commission

Attachment E:
Public Comment

Participate

From: Kingsley Murphy <nakllc@yahoo.com>
Sent: Monday, May 27, 2024 8:30 AM
To: Participate
Cc: Allyn Stewart
Subject: Stewart Pictures Live/Work Conditional Use Permit

Follow Up Flag: Follow up
Flag Status: Flagged

As a long time owner of Tenth Street properties and as the President of the Tenth Street Association I would like to say that I fully support this Conditional Use Permit. Ms. Stewart meets the association rules in maintaining the ground space as a production area and keeping the living area on the second floor. I look forward to having Ms. Stewart join our industrial area. Thank you for all the work your commission does.

Sincerely, Kingsley H. Murphy. Tenth Street Association President. 208-720-0403 nakllc@yahoo.com