

IN RE:)	
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North Town Center Residential)	KETCHUM PLANNING AND ZONING
Conditional Use Permit)	COMMISSION - FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND DECISION
)	
File Number: P19-121)	

BACKGROUND FACTS

OWNER: Nick & Kathleen Gyurkey

REQUEST: Conditional Use Permit (CUP) for residential unit in the Light Industrial-Number One (LI-1) zoning district

LOCATION: Amended Lot 5A, Block 30, Ketchum Townsite (911 N. Main Street)

ZONING: Light Industrial-Number One (LI-1) zoning district

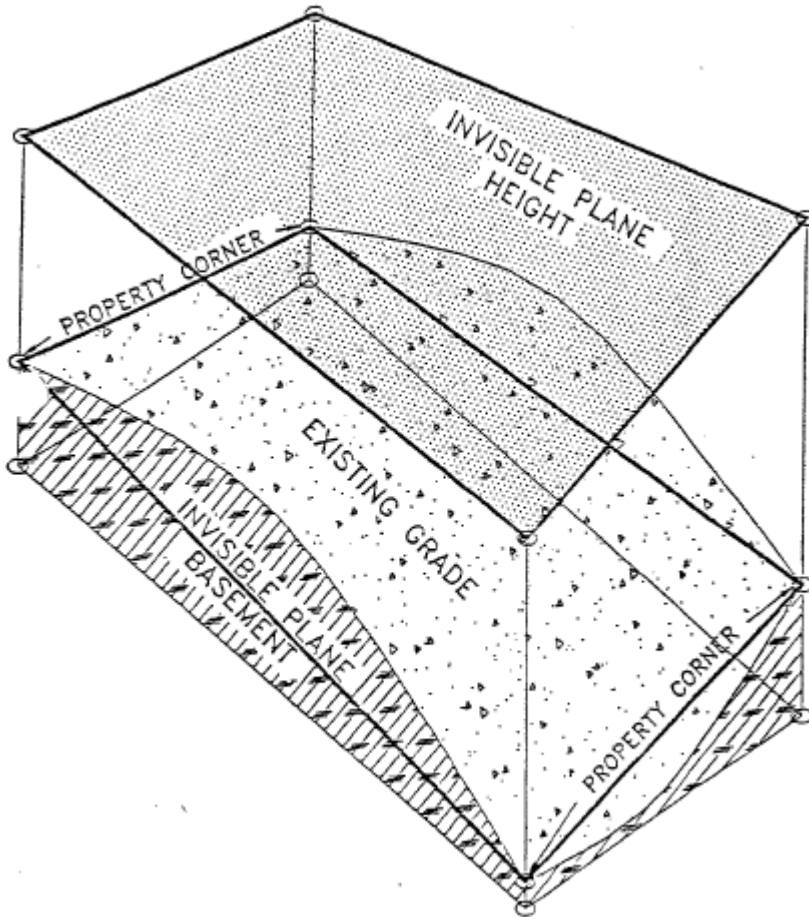
NOTICE: Notice of the Planning and Zoning Commission December 9, 2019 public hearing on subject application was mailed to property owners within a 300-foot radius and was published in the Idaho Mountain Express on November 20, 2019. Notice was posted at the subject location and on the city website on December 2, 2019. As of the publication of this Staff Report, the Planning & Building Department has received no public comment regarding this application.

GENERAL FINDINGS OF FACT

1. Applicant received a cease and desist order from the City Attorney on October 3, 2019 and has applied for a Conditional Use Permit to bring into compliance the existing non-permitted residential apartment of approximately 700 square feet within the LI-1 Zoning District.
2. Residential units are conditionally permitted in the light Industrial zoning districts subject to the standards of evaluation set forth in Ketchum Municipal Code (KMC) §17.124.090.A. as well as §17.116.030.
3. The proposed residential unit is accessed from Highway 75. A garage/light industrial unit below is accessed from 10th Street.
4. Residential units within the LI-1 are conditionally allowed on the second floor of buildings. Due to the slope of the lot, the Commission visited the property and reviewed the application submittals, photographs, and the staff report to determine if the proposed unit is a ground floor or second floor unit. Due to the age of the building, staff was unable to provide building plans. The applicant was not able to furnish building plans when requested by staff. At its public hearing of December 9, 2019, the Commission made the determination that the unit is a ground floor unit and unanimously denied the application.
5. The building in which subject unit is located consists of a first floor with basement spaces.
6. The Ketchum Zoning Code Title 17, Chapter 17.08 defines basement as follows:

BASEMENT: That portion of the lowest floor(s) of a building below the invisible plane. The basement invisible plane is created by measuring the finished grade elevation at four (4) corners of a lot and connecting each corner with a line around the perimeter of the lot. The city shall establish finished grade within the right of way of the alley and at the back of the sidewalk (see illustration A on file in the office of the city clerk).

Illustration A:



Consistent with Illustration A and city definitions, as set forth in KMC §17.08.020, the 10th Street garage/light industrial unit is a basement.

Consistent with Illustration A and city definitions, as set forth in KMC §17.08.020, the proposed residential unit accessed from Highway 75 is on the ground floor:

GROUND FLOOR: The floor of a building that is at or nearest to the level of the ground around the building; also referred to as first floor or ground level.

7. The Commission found that the proposed residential unit occupies the ground floor and, as such, does not comply with KMC §17.124.090.A (1).

EVALUATION STANDARDS

17.116.030 CONDITIONAL USE PERMIT CRITERIA:

1. **A conditional use permit shall be granted by the Commission only if the applicant demonstrates that:**

A. The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.

Findings: Unlike other residential units in the Light Industrial (LI) areas, this residential unit will have its main entrance on the same floor as adjacent light industrial uses. The majority of other residential units in the LI are on the floor above the LI uses, possibly sharing common walls or entrances with administrative offices. The other uses within this building include, among others, the Wood River Lock shop.

After reviewing the application materials, staff report, and conducting a duly noticed public hearing, the Commission found that the proposed CUP does not conform to the following zoning code provisions:

Section 17.124.090 (A) (1): Dwelling units shall not occupy the ground floor.

Section 17.124.090 (A) (5) (c3): 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.

Conclusion: The Commission found that the application does not meet this standard.

B. The conditional use will not materially endanger the health, safety and welfare of the community.

Findings: The one bedroom residential unit does not appear to materially endanger the health, safety, and welfare of the community. The Commission cited concerns about potential conflicts between the residential use and the adjacent light industrial uses, but were generally supportive of residential use in the LI, when it meets code requirements.

Conclusion: The Commission found that if the unit met zoning code requirements, this standard could be met.

C. 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.

Findings: A wide curb cut currently exists on the property with parking spaces for the units. The Commission did not find that an additional traffic concern would be caused by the addition of this residential unit.

Conclusion: Standard is met.

D. 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.

Findings: Emergency and essential services are adequate to service the building and residential use.

Conclusion: Standard is met.

E. The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this Section.

Findings: As noted in the analysis pertaining to KMC Sections 17.116.030(A)(1) and (5), the conditional use conflicts with the basic purposes of the Light Industrial Residential Use section. The application is not in conformance with the City Comprehensive Plan because the Commission found that the unit is a ground floor unit, not a second floor unit and, as such, is in conflict with Comprehensive Plan Policy E-2(e), which states the live/work opportunities should be supported that adhere to related land use standards.

Conclusion: The Commission found the standard is not met due to the Commission finding that the proposed unit is a ground floor unit.

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and zoning ordinance, Title 17.
3. The Planning and Zoning Commission has authority to hear the applicant's Conditional Use Permit application pursuant to Idaho Code Section 67-6512 of the Local Land Use Planning Act and Chapters 17.116 and 17.72 of Ketchum Zoning Code Title 17.
4. The Commission's December 9, 2019 public hearing and consideration of the applicant's Conditional Use Permit application was properly noticed pursuant to the Local Land Use Planning Act, Idaho Code Section 67-6512.
5. The Commission found that the application does not comply with Ketchum Zoning Code Title

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission unanimously **denies** this Conditional Use Permit application this 9th day of December 2019. The project does not comply with either CUP standard of evaluation 17.116.030(A) or (E). Notably, the Commission finds the characteristics of the conditional use will be unreasonably incompatible with the types of uses permitted in the applicable zoning district and will conflict with the policies of the Comprehensive Plan and the basic purposes of this Section. The proposed CUP does not conform to KMC §17.124.090 (A)(1) as the dwelling unit, as proposed, would occupy the ground floor, which is prohibited. Further the means of access to the residential portion of the unit, in contradiction to KMC §17.124.090 (A)(5)(c3) is both prominent and not located to the side or rear of the property. For instance, unlike other residential units in the Light Industrial (LI) areas, this residential unit will have its main entrance on the same floor as adjacent light industrial uses. The information provided in the application and staff report proved that the unit was a ground floor unit proposed for residential use.

In order to receive approval for a conditional use permit for residential use in this specific unit, the applicant may choose to pursue one of the following options:

1. Apply to build a second story on the unit.
2. Apply for a zoning text amendment or rezone pursuant to a development agreement.

Findings of Fact **adopted** this 13th day of January 2020.

Neil Morrow, Chair
Planning and Zoning Commission