



**City of Ketchum
Planning & Building**

IN RE:)
)
Webb Work/Live) **KETCHUM PLANNING AND ZONING COMMISSION**
Conditional Use Permit) **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND**
Date: October 14, 2019) **DECISION**
)
File Number: 19-096)

PROJECT: Webb Work/Live Conditional Use Permit

FILE NUMBER: P19-096

APPLICANT: Rob Webb

REQUEST: Conditional Use Permit (CUP) for a work/live unit

LOCATION: 251 Northwood Way, Unit J (Redwood Industrial Condo, Unit 7)

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

OVERLAY: None

NOTICE: Notice was mailed to property owners within a 300-foot radius and was published in the Idaho Mountain Express on September 25, 2019. Notice was posted at the subject location and on the city website on October 7, 2019.

ATTACHMENT: Floorplans

FINDINGS OF FACT

1. On October 14, 2019, the Planning and Zoning Commission considered a Conditional Use Permit (CUP) application for the proposed work/live unit.
2. The subject property is located in the Light Industrial District No. 2 (LI-2) zoning district.
3. Residential dwelling units, which include work/live units, require a Conditional Use Permit in the LI-2 zoning district.
4. The work/live unit consists of 1,000 square feet of residential dwelling use on the upper floor, 642 square feet of office use associated with the business on the upper floor, and 1,492 square feet of light industrial use on the ground floor.

Table 1. Comprehensive Plan Analysis

<p>Land Use Category: Mixed-Use Industrial</p> <p>PRIMARY USES <i>Light manufacturing, wholesale, services, automotive, workshops, studios, research, storage, construction supply, distribution and offices make up the bulk of development within this district.</i></p> <p>SECONDARY USES <i>A limited range of residential housing types, and supporting retail are provided for within this category. Uses should generate little traffic from tourists and the general public.</i></p> <p>CHARACTERISTICS AND LOCATION <i>The Mixed-Use Industrial category is intended to provide critical lands for Ketchum's economic growth and entrepreneurial opportunity within a vibrant business district where people can work and live in the same area.</i></p>
<p>The proposed use, a work/live unit with a bicycle repair/maintenance business being the work component, meets both the primary and secondary intention of the light industrial area.</p>
<p>Policy E-2(e) Live-Work Opportunities and Home Businesses <i>Support small home-based businesses that allow people to live and work from their residences and evaluate existing home-occupation, live/work, and related land use standards.</i></p>
<p>The proposed use is work/live.</p>
<p>Policy H-1.4 Integrated Housing in Business and Mixed-Use Areas <i>Housing should be integrated into the downtown core and light industrial areas, and close to the ski bases, The resulting mix of land use will help promote a greater diversity of housing opportunities as well as social interactions.</i></p>
<p>The proposal integrates housing into the light industrial area in a mixed-use building.</p>

Table 2: City Department Comments

City Department Comments			
Compliant			
Yes	No	N/A	City Standards and City Department Comments
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Fire: Owner has applied for a building permit to install required fire separation between the work and live spaces. Work has not yet started. Upon Certificate of Occupancy for completion of the work the unit will be in compliance.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>City Engineer and Streets Department: This is an existing building that is not being substantially improved. No comments at this time.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Utilities: No comments at this time.</p>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Building: Owner has applied for a building permit to install required fire separation between the work and live spaces. Work has not yet started. Upon Certificate of Occupancy for completion of the work the unit will be in compliance.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Planning and Zoning: Comments are denoted throughout the Staff Report.</p>

Table 3: Standards for Residential, Light Industrial Districts

IMPROVEMENTS AND STANDARDS: 17.124.090 – RESIDENTIAL, LIGHT INDUSTRIAL DISTRICTS:				
Residential units in the light industrial districts shall comply with the following minimum criteria:				
Yes	No	N/A	City Code	City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (1)	Dwelling units shall not occupy the ground floor.
			Staff Comments	<i>The application is for a work/live unit with the living area and part of the work area (office space related to the business) located on the upper floor and work space/storage related to the mobile bicycle repair business located on the ground floor.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (2)	Design review under chapter 17.96 of this title shall be required whether new building, addition to existing building or remodel of existing building.
			Staff Comments	<i>Design Review is not required as this application does not change the exterior of the building.</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (3)	Dwelling Units: Unless otherwise specified in this section, up to fifty percent (50%) of any light industrial building may be devoted to dwelling units and up to fifty percent (50%) of a work/live unit's gross floor area may be devoted to the residential portion of a work/live unit.
			Staff Comments	<p><i>This standard is primary for the Commission's attention and is intended to be met along with 17.124.090 A (5) c.1, which states the "live" square footage cannot exceed 1,000 square feet.</i></p> <p><i>The total square footage of the condominium unit, per the Blaine County Assessor records, is 3135 square feet with 1,492 square feet on the ground floor (48% of the unit's square footage) and 1,642 square feet on the upper floor (52%) of the unit's square footage.</i></p> <p><i>The owner/applicant has expressed that a portion of the upper story's floor area is used for office work related to the business. However, the upper story's floorplan does not clearly define (physically, with separation such as a wall) the boundaries between "working" and "living".</i></p> <p><i>When the new work/live standards for work/live in the light industrial standards were developed it was not specified that there shall be physical separation between work and live spaces. However, the topic of physical separation has been discussed in the context of other light industrial residential proposals reviewed by the Commission with previous permits.</i></p> <p><i>As such, the Commission has the discretion to require physical separation or not. For this work/live unit physical separation between the work and live areas on the upper floor was not required. Although physical separation was not required, the code regulation that no more than 1,000 square feet of the upper floor be used for residential use remains in effect.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (4)	Individual Units: Except as set forth in the following instances noted herein below, dwelling units shall not be separated in any manner for sale as individual units and may only be leased or rented. The instances where dwelling units may be sold are limited to: <ul style="list-style-type: none"> a. City approved work/live units, as defined in chapter 17.08 of this title and subsection A5 of this section; b. Three-story projects in the LI-3 where not less than one-third (1/3) of the total square footage of housing units includes deed restricted community housing that are for sale consistent with subsection B of this section; c. Four-story and five-story projects in LI-2 and LI-3 where not less than two-thirds (2/3) of the total square footage of housing units includes deed restricted community housing units that are for sale consistent with subsection A7 of this section;

				<p>d. Existing non-conforming single-family dwellings existing in the LI-1 prior to adoption of Ketchum City Ordinance #85, as enacted on May 27, 1965;</p> <p>e. Existing condominiums and work/live units with less than one thousand (1,000) square feet of residential gross floor area that have a valid residential conditional use permit prior to the adoption of this section as published.</p>
			Staff Comments	<i>This unit is eligible for individual ownership because it is a work/live unit.</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (5)	<p>5. Work/Live Units: In the approval of work/live units, the City shall also find that:</p> <p>a. 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;</p> <p>b. The work unit is:</p> <ul style="list-style-type: none"> (1) Suitable for on-site employees, foot traffic/customers, and meets applicable Building and Fire Codes; (2) Signed and posted with regular hours of operation; (3) Served by the prominent means of access for the work/live unit; and, (4) Associated with a business license for a use allowed (either conditionally or permitted) in the district. <p>c. 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:</p> <ul style="list-style-type: none"> (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 one thousand (1,000) gross square feet; (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 (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.
			Staff Comments	<p><i>Although physical separation delineating 1,000 square feet of residential use on the upper floor from work use on the upper floor was not required, the regulation remains in effect. No more than 1,000 square feet of the upper floor shall be used for residential use.</i></p> <p><i>17.124.090.A.5.b.4 – The owner has maintained a sales tax permit with the City of Ketchum for a number of years but during this process it was discovered that the owner did not have a business license with the city. Rob Webb has applied for a Ketchum business license and the license is pending approval at the time of this staff report due to an employee with the clerk's office being out of the office.</i></p>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (6)	<p>6. Size: Dwelling units in the Light Industrial District shall be a minimum of four hundred (400) square feet. In the LI-1 and LI-2 no individual dwelling unit shall exceed a maximum of two thousand (2,000) square feet, contain more than two (2) bedrooms, and all units shall not exceed a mean average of one thousand (1,000) square feet.</p>
			Staff Comments	<i>See 17.124.090 A (3) and A (5) for findings related to the 1,000 square foot living area regulation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.124.090 A (7)	<p>7. Fourth Or Fifth Floor: Buildings proposing a fourth or fifth floor with a qualifying ground floor consistent with section 17.12.050 of this title shall comply with the following minimum criteria:</p> <p>a. If dwelling units are to be sold, a minimum of two-thirds (2/3) of the total square footage of housing units shall be for deed restricted</p>

				<p>community housing units that are for sale and the deed restricted community housing units shall be designed and administered in accordance with the Blaine-Ketchum housing authority guidelines;</p> <p>b. The area designated as light industrial shall be as follows:</p> <p>(1) The area designated as light industrial shall be a minimum of twenty five percent (25%) of the gross floor area in four story buildings.</p> <p>(2) The area designated as light industrial shall be a minimum of twenty percent (20%) of the gross floor area in five story buildings.</p> <p>(3) Subject light industrial use shall not be for personal storage by dwelling occupants;</p> <p>c. Up to seventy five percent (75%) of the gross square footage of any four-story building and up to eighty percent (80%) of the gross square footage of a five story building may be devoted to dwelling units; and</p> <p>d. Unless otherwise deemed appropriate by the Administrator, common area allocation shall be assessed at a LI to residential ratio of 1:1 for four story buildings and 2:3 for five story buildings.</p>
			Staff Comments	N/A
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (8)	<p>8. Anti-Nuisance And Notice Provisions:</p> <p>a. 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.</p> <p>b. All persons who rent or sublet any residential living unit within the Light Industrial Zones 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.</p> <p>c. 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.</p> <p>d. 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.</p>
			Staff Comments	<i>The applicant currently works and lives within the unit, is aware of the nature of the light industrial zone and is aware of the other standards within this section.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (9)	<p>Compliance: Compliance with all applicable code sections, including among others, the City's parking and loading standards as set forth in chapter 17.125 of this title, except that if a parking reduction is requested through a Transportation Demand Management Plan per section 17.125.090 of this title, the reduction request shall be submitted to the Zoning Administrator and the Ketchum City Council will determine if such request shall be approved.</p>
			Staff Comments	<i>The applicant is required one parking space for the residential unit and two parking spaces for the work square footage. There are two interior parking spaces and several exterior parking spaces allocated to the unit.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (10)	<p>10. Conditions: Conditions including, but not limited to, the following may be attached to the conditional use permit approval:</p> <ul style="list-style-type: none"> a. Access to the residential units relative to design and relationship to light industrial uses, including suitable access consistent with adopted City standards; b. Separation of residential and light industrial parking on the site to minimize conflicts; c. Restrictions on exterior storage of personal property of tenants; d. Certificate of occupancy required prior to occupancy of units; e. Ketchum Fire Department and Ketchum Building Department requirements shall be met prior to occupancy; f. Snow removal required to ensure utility of residential spaces and non-interference with continuous LI operations; g. Any portion or all waived fees become due and payable upon conversion of resident housing unit(s) to light industrial uses; h. Construction techniques that aid sound proofing and limit externalities of LI noise and use impacts on residences is encouraged; i. Provision for and reasonable extension of sidewalks to assure safe pedestrian access; and/or, j. Any other condition deemed to enhance the purposes under this use, or to establish or promote the criteria referenced in subsections A1 through A10 of this section.
			Staff Comments	<i>Conditions of approval are as noted in the decision section of this permit.</i>

Table 4: Conditional Use Permit Requirements

Conditional Use Requirements				
EVALUATION STANDARDS: 17.116.030 and § 67-6512 of Idaho Code				
A conditional use permit shall be granted by the commission only if the applicant demonstrates the following:				
Compliance and Analysis				
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(A)	<p>The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.</p> <p><i>The Light Industrial Number Two (LI-2) District allows for a variety of permitted and conditionally permitted uses ranging from manufacturing to personal service to wholesaling to automotive uses. Per KMC §17.18.150, the purpose of the LI-2 Zone is to, “provide for a permanent year round employment base and the location of light manufacturing, wholesale trade and distribution, research and development, service industries, limited related, bulk retail and offices related to building, maintenance and construction and which generate little traffic from tourists and the general public.”</i></p> <p><i>Many permitted light industrial uses, such as manufacturing, maintenance service facilities, repair shops, and motor vehicle service, may not occur elsewhere within the City of Ketchum, and these uses are largely permitted by-right in this district by right. In contrast, residential dwellings are permitted by Conditional Use Permit only – in order to both mitigate the impact of residential uses on light industrial operations and to ensure the proposed residential will be located and constructed in such a manner that existing light industrial has limited negative externalities on it.</i></p> <p><i>The proposed work/live unit includes a use that aligns with the LI zoning districts, a bicycle repair/maintenance business, and the conditionally permitted residential use.</i></p> <p><i>The Redwood Industrial Condominium building is a fully-sprinklered, modern condominium building (built 1990) that has adequate indoor and outdoor parking for owners/tenant and business patrons. The building has one other work/live unit (Unit 8,</i></p>
			Staff Comments	

				<p>which was permitted under a prior version of the zoning code in 2011) and residential occupancy and commercial occupancy on the same floor and ground floor have co-existed since that time.</p> <p>The proposed live/work use is not unreasonably incompatible with the types of uses permitted in this district.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(B)	<p>The conditional use will not materially endanger the health, safety and welfare of the community.</p> <p><i>Staff Comments</i></p> <p>The building inspector and Fire Marshal have conducted a walk-through of this unit and identified the lack of adequate fire separation between the work and live spaces. The unit owner has applied for a building permit (B19-089) to install two self-closing fire rated doors and additional drywall that will provide adequate fire separation. This building permit has been approved but construction has not yet commenced.</p> <p>As a condition of approval staff recommends requiring that the scope of work approved with the building permit be complete by January 1, 2020 and that all building and fire code requirements, including the installation of a handrail on the stairway, are met. Upon receipt of the Certificate of Occupancy or Certification of Completion the work/live unit will not endanger the health, safety, and welfare of the public.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(C)	<p>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.</p> <p><i>Staff Comments</i></p> <p>The Redwood Industrial building has an adequately sized parking lot, defined curb cuts providing ingress and egress to the parking lot and has sidewalk along the street frontage. The work/live use is not anticipated to generate a high volume of trips as an integral part of the business model is traveling to clients' homes and performing bicycle maintenance off-site. As such, hazards to pedestrian and vehicular traffic will not be generated by this proposal.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(D)	<p>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.</p> <p><i>Staff Comments</i></p> <p>The existing building and this unit are adequately served by public facilities and services. Use of this unit for the proposed live/work will not adversely affect the delivery of public services to the surrounding area.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(E)	<p>The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this section.</p> <p><i>Staff Comments</i></p> <p>As described in Table 2 of this staff report and 17.116.030(A) of this table, the conditional use aligns with, rather than conflicts with, the policies of the Comprehensive Plan and the basic purposes of this section.</p>

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 Commission has the authority to hear the applicant's Conditional Use Permit Application pursuant Ketchum Municipal Code Title 17;
4. The Planning and Zoning Commission's October 14th, 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 application meets the standards of approval under Chapter 17.116, Conditional Uses of Ketchum Zoning Code Title 17 and the 2014 Comprehensive Plan;

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission approves this Conditional Use Permit application allowing for a work/live unit on this 12th day of November 2019 subject to the following conditions 1 - 11:

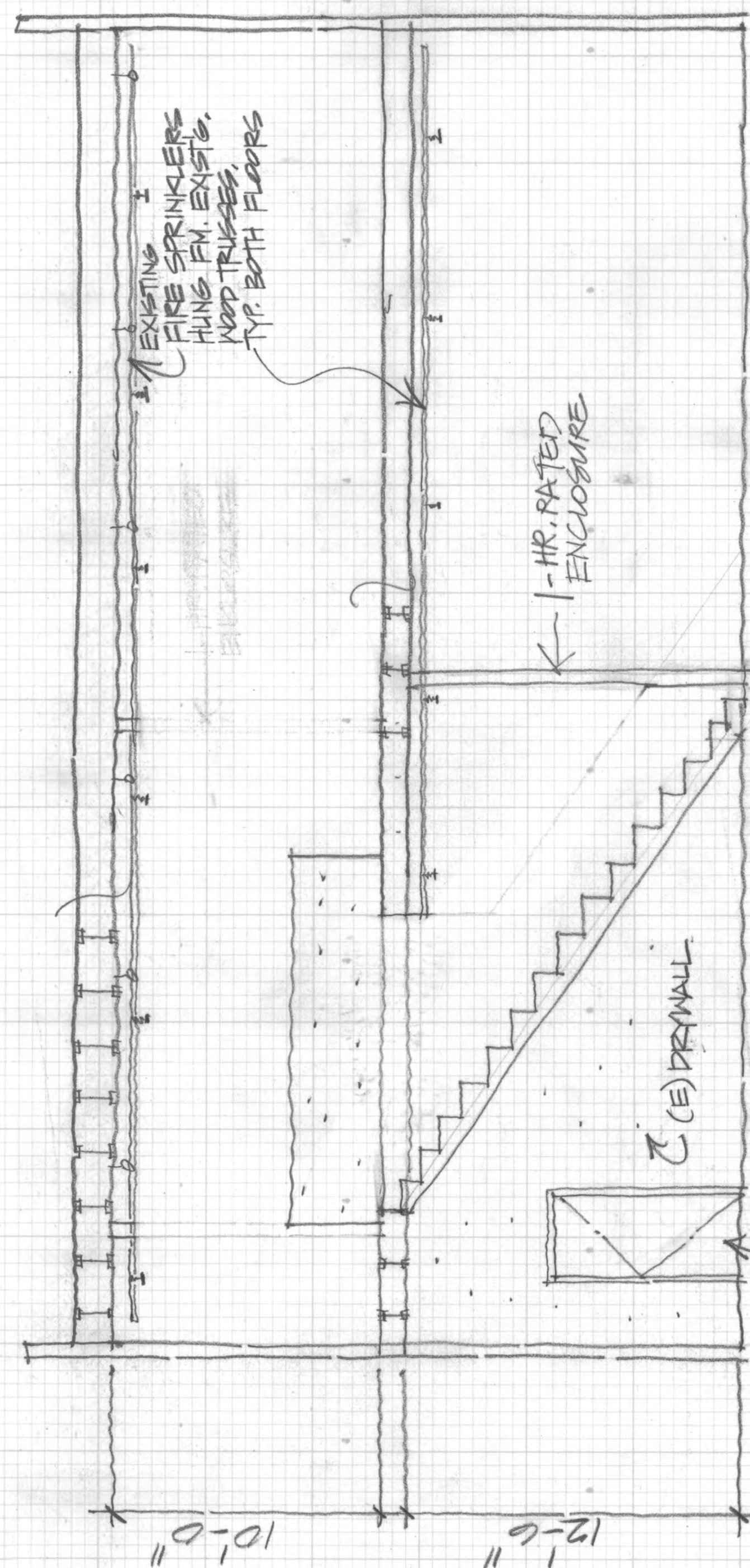
1. The Conditional Use Permit is non-transferable;
2. Hours of operation for the business shall be posted and remain posted;
3. The residential living area shall not exceed one thousand (1,000) square feet total and shall contain no more than two (2) bedrooms;
4. No residential use shall occur on the ground level (first floor);
5. Because of the mixed-use nature of this space, and in order to ensure compliance with the zoning code requirement that residential dwellings do not exceed 1,000 square feet in the LI-2 zoning district, the Fire Marshal shall conduct routine inspections of the work/live building;
6. Inspections by Planning staff to ensure requirements with the Conditional Use Permit conditions may be scheduled at the discretion of staff;
7. 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.
8. All persons who rent or sublet any residential living unit within the light industrial zones 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.
9. 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.
10. 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.
11. The unit, as evidenced by a Certificate of Occupancy or Completion, shall meet all building and fire codes, including the requirement that handrail(s) for the staircase providing access to the upper floor be installed. Work shall be complete by January 1, 2020.

Findings of Fact **adopted** this 12th day of November 2019.

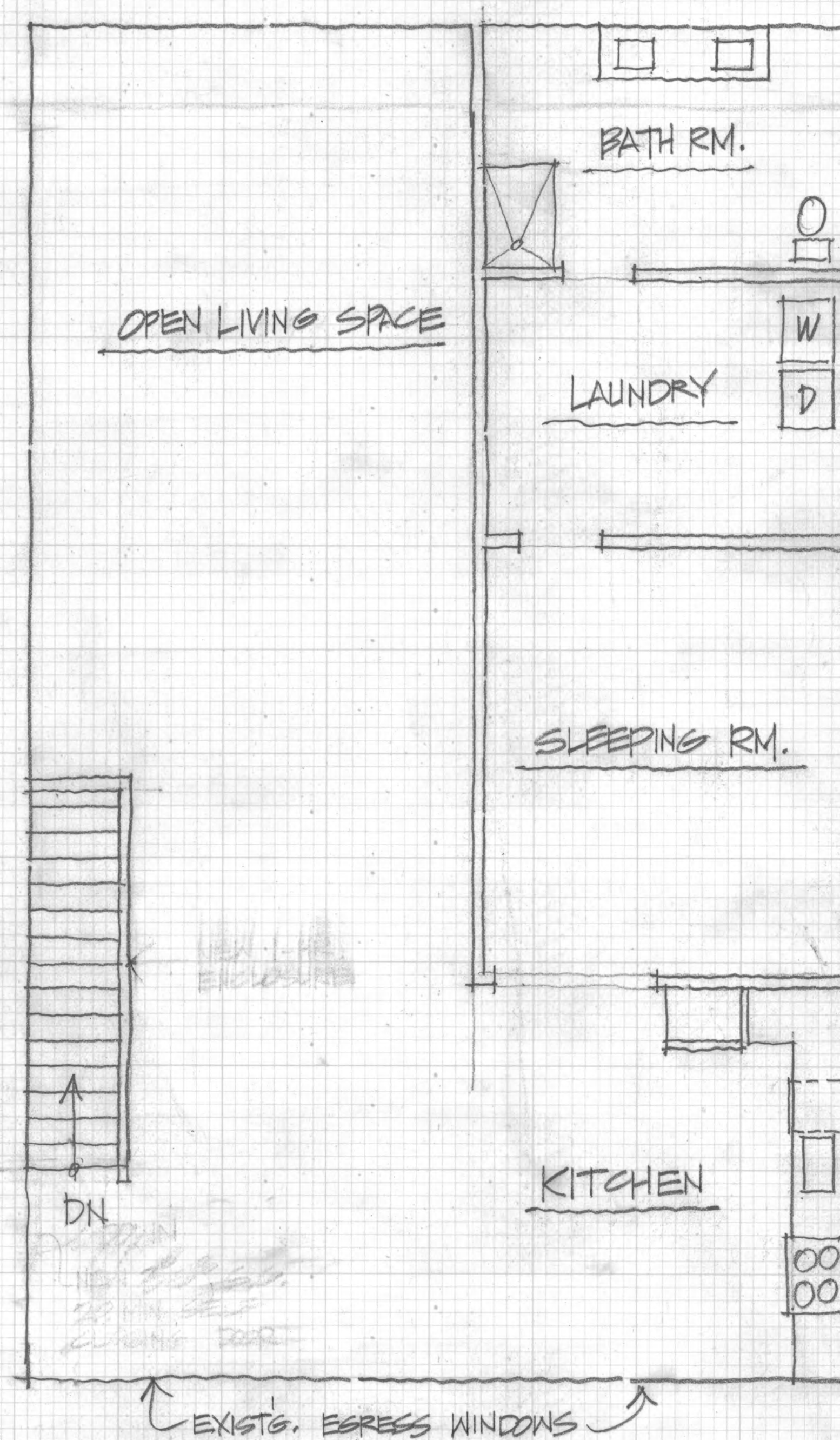
Neil Morrow
Chair
Planning and Zoning Commission

Attachment A.

Floorplans

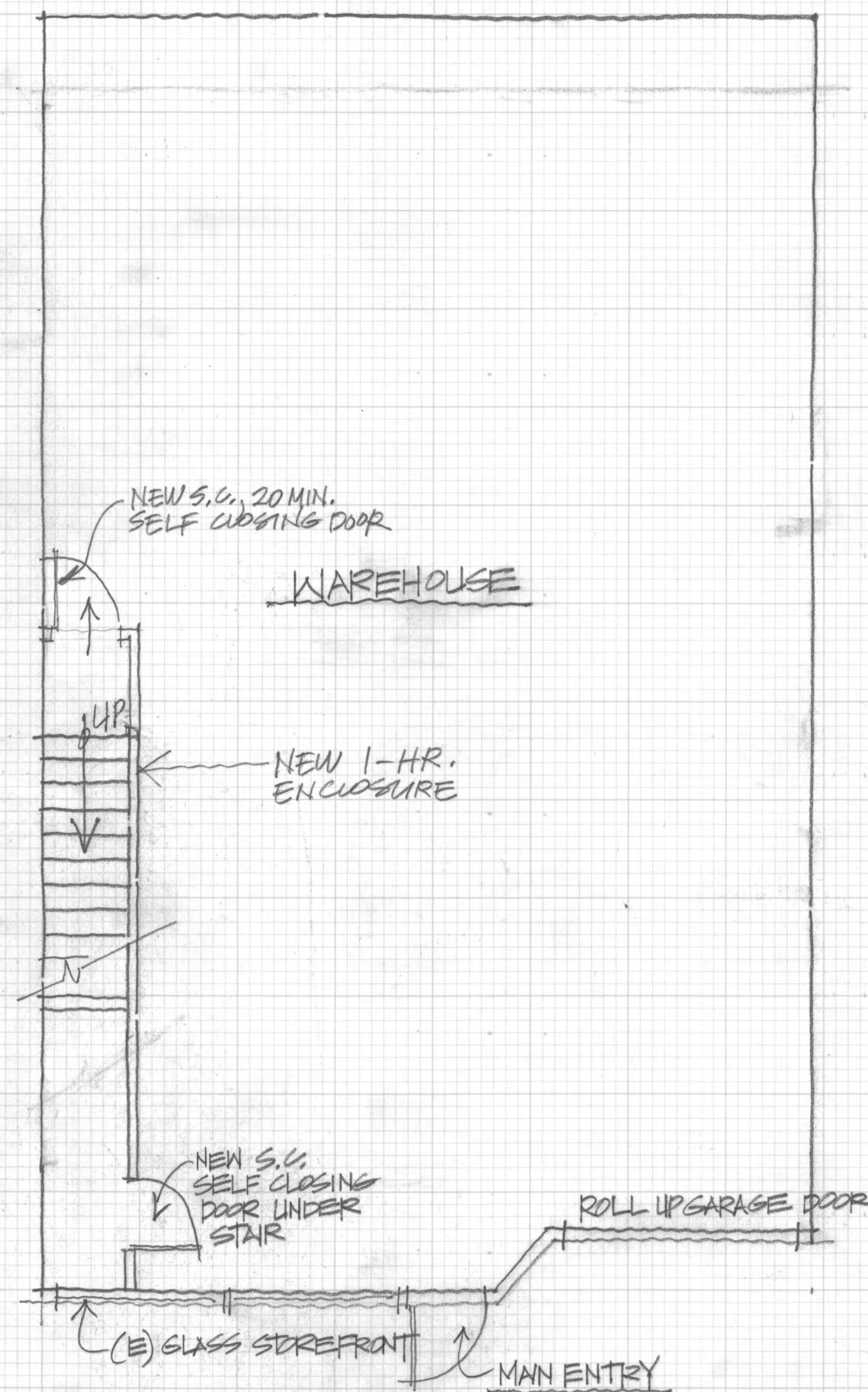


BUILDING SECTION
1/4"=1'-0"



EXISTING SECOND FLOOR PLAN

1/4"=1'-0"



EXISTING GROUND FLOOR PLAN

1/4"=1'-0"

REVISIONS BY

251 NORTHWOOD WAY, UNIT 7
CITY OF KETCHUM

Date 08/20/19

Scale AS NOTED

Drawn T.E.M.

Job NA

Sheet

Of Sheets