



City of Ketchum
Planning & Building

IN RE:)	
)	
940 N Leadville Ave Work/Live)	KETCHUM PLANNING AND ZONING COMMISSION
Conditional Use Permit)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: June 14, 2022)	DECISION
)	
File Number: P22-010)	

PROJECT: 940 N Leadville Addition

APPLICATION TYPE: Conditional Use Permit

FILE NUMBER: P22-010

ASSOCIATED APPLICATIONS: Design Review (P22-011)

REPRESENTATIVE: Amy Martin

OWNER: Amy Martin

LOCATION: 940 N Leadville Ave – Ketchum Townsite Lot 3 Block 30

ZONING: Light Industrial – One (LI-1)

OVERLAY: None

RECORD OF PROCEEDINGS

The City of Ketchum received the applications for a Conditional Use Permit and Design Review on February 16, 2022. Both applications have been reviewed concurrently and were deemed complete on April 25, 2022. Staff routed the application materials to all city departments for review. Department comments were provided to the applicant on March 25, 2022. All department comments have been addressed satisfactorily through applicant revision of project plans or conditions of approval.

A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on May 4, 2022. The public hearing notice was

published in the Idaho Mountain Express the on May 4, 2022. A notice was posted on the project site and the city’s website on May 4, 2022.

The Planning and Zoning Commission (the “Commission”) considered the 940 N Leadville Design Review (Application No. P21-011) and the Conditional Use Permit (Application No. P21-010) applications during a special meeting on May 24, 2022. The development applications were considered concurrently, and the associated public hearings were combined in accordance with Idaho Code §67-6522. After considering staff’s analysis, and public comment, the Commission unanimously approved the 940 N Leadville Design Review application and Conditional Use Permit with conditions as proposed by staff.

BACKGROUND

The Applicant is requesting a Conditional Use Permit (CUP) to establish a work/live unit and Design Review approval for modifications to the existing building that replace a portion of the existing building with a two-story garage, office, and outdoor dog run area located at 940 N Leadville Ave (the “subject property”). The proposed project consists of 965 square feet of living space and 1,293 square feet of work space. The subject property is zoned Light Industrial 1 (LI-1) which allows Dog Kennels as a permitted use by right and work/live units with CUP approval. Currently, the subject property contains a 2,151 square foot one-story building consisting of a non-conforming residential use and a conforming commercial use and a 289 square foot detached shed in the rear of the property.

The dog kennel, Alpenhound, has been in operation for the past two years. The non-conforming residential use has existed since 1988. The residential use is non-conforming and does not have a valid CUP as required by the Ketchum Municipal Code (KMC). The applicant’s desire to expand the existing building triggers the requirement that the non-conforming residential use come into compliance with the KMC.

The applications submitted bring the property and use into conformance with all code requirements and allow for the expansion of the permitted business operation. The CUP is applicable to the work/live unit and configuration; however, the CUP is not related to the operation of dog kennel since the use is a permitted use in the LI-1 District. Table 1 below outlines the proposed interior square footage of each use for the proposed project as shown on the proposed project plans.

Table 1: Proposed Uses and Square Footage

Use	Square Footage	Percent SF
Work		
Ground Floor – Dog Sleeping and Supply Storage	327 SF	
Ground Floor – Storage/Dog Wash/Laundry	480 SF	
Second Floor – Office/Dog Feeding Area	486 SF	
Subtotal	1,293 SF	57% of total

Live		
Ground Floor – Existing Living	965 SF	
Subtotal	965 SF	43% of total
Total Square Footage	2,258 SF	
Dog Deck and Garage*	1,363 SF	

*Dog deck not included in total “work” square footage as it is not enclosed.

Garage not included in work as it is used for both live and work.

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.

The project proposes to construct improvements to the right-of-way per the City of Ketchum improvement standards; however, the applicant requested a waiver of the sidewalk requirement per the provisions of KMC Section 17.124.140 which allows for a payment-in-lieu of constructing the sidewalk.

FINDINGS OF FACT

The 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. 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 9-12 ensure that these provisions are in full force and effect. Additionally, the residential unit has been in this location since at least 1988. To date the city has received no known complaints regarding the residential unit.

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

- *Finding:* 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. 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:* The residential unit has existed since at least 1988 with no documented traffic or pedestrian issues related to the unit. Alpenhound has been in operation for two years with no documented issues related to pedestrian or vehicular circulation.

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 building from not only N Leadville Ave, but via the alley in the rear of the property. Service letters from Idaho Power and Clear Creek are included in Attachment B. The proposed project can 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.

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 940 N Leadville Ave 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. P21-010 this Tuesday, June 14, 2022, subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. This approval is based on the floorplan submitted by Michael Blash Architects, and attached to the staff report, dated May 11, 2022. 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 965 square feet and no more than one bedroom.
2. This conditional use permit is non-transferrable to any other property owner or business other than Alpenhound. Any change in property ownership, business operator, or residential tenant requires an amendment to this Conditional Use Permit. In the event Alpenhound 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 Alpenhound dog kennel, or an employee of Alpenhound.
4. Prior to issuance of the building permit for the expansion approved under Design Review P22-011, 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. Hours of operation of the business shall be posted and remain posted at all times.
6. 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.

7. 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.
8. 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.
9. In the event the residential unit is occupied by an employee of Alpenhound, 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.
10. 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.
11. 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.
12. 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 14th day of June 2022.

Neil Morrow, Chair
City of Ketchum
Planning and Zoning Commission