



DEPARTMENT OF CITY PLANNING RECOMMENDATION REPORT

**CITY PLANNING COMMISSION**

DATE: July 9, 2009
TIME: after 8:30AM
PLACE: Los Angeles City Hall
 200 North Spring Street
 Room 1010 – 10th Floor
 Los Angeles, CA 90012

CASE NO: CPC-2009-1771-CA
CEQA: ENV-2009-1772-CE
LOCATION: Citywide
COUNCIL DISTRICT: All
PLAN AREAS: All

PUBLIC HEARING REQUIRED

SUMMARY: A proposed ordinance that amends Sections 12.03, 12.21, and 91.8502.1 of the Los Angeles Municipal Code (LAMC) to specify that live/work units are primarily residential spaces with accessory commercial uses.

RECOMMENDED ACTIONS:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the findings included in Attachment 1.
3. **Adopt** the Categorical Exemption as the CEQA clearance on the subject.
4. **Approve** the proposed ordinance (Appendix A) and recommend its adoption by the City Council.

S. GAIL GOLDBERG, AICP
 Director of Planning

VINCENT P. BERTONI, AICP
 Deputy Director

MICHAEL LOGRANDE
 Chief Zoning Administrator

ALAN BELL, AICP
 Senior City Planner, Office of Zoning Administration
 Telephone: (213) 978-1322

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communication may be mailed to the Commission Secretariat, 200 North Main Street, Room 532, Los Angeles, CA 90012 (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent a week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services, and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

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SUMMARY

Currently, the City's zoning and building codes define live/work units as primarily commercial spaces with accessory living quarters. This definition is inconsistent with City policy that live/work units must comply with residential zoning and building code requirements, as well as typical real estate development practice. In addition, it has become apparent that this definition is now preventing buyers of live/work condominiums in Los Angeles from obtaining low down payment loans insured by the Federal Housing Administration (FHA).

To maintain consistency with current City policy and typical industry practice, as well as to resolve the problem of FHA mortgage insurance, the attached draft ordinance (Appendix A) amends the zoning and building codes to specify that live/work units are primarily residential spaces with accessory commercial uses. Specifically, the ordinance requires that at least 10 percent but no more than 25 percent of the total floor area in live/work units be maintained as working space.

STAFF REPORT

Initiation

Pursuant to Charter Section 558 and Section 12.32-A of the Los Angeles Municipal Code, the Director of Planning has initiated the attached, proposed ordinance (Appendix A).

Background

On June 3, 1999, the City's landmark adaptive reuse ordinance went into effect. The ordinance relaxed zoning code requirements for the conversion of pre-1974 existing commercial and industrial buildings into residential uses, including traditional apartments, hotel guest rooms, and live/work units. A companion ordinance permitted live/work units "by right" in the City's commercial zones (both for adaptive reuse and new construction projects) for accountants; architects; artists and artisans; attorneys; computer software and multimedia professionals; consultants; engineers; fashion, graphic, interior and other designers; insurance, real estate and travel agents; photographers and similar occupations. An ordinance adopted in 1982, often called the "artist-in-residence ordinance", permitted live/work units for artists, artisans, architects and designers in existing commercial and industrial buildings in manufacturing zones, subject to the approval of a Zoning Administrator.

Initially applied only to downtown Los Angeles, the adaptive reuse ordinance was incrementally amended over a period of years to apply to Hollywood, Mid-Wilshire, and Koreatown. Eventually, it was amended to apply citywide. The ordinance works by providing "by-right" regulatory incentives such as reduced parking and increased density and was adopted to implement the General Plan's goal of targeting future population growth near transit-accessible job-rich centers.

The adaptive reuse ordinance was not the only regulatory innovation that the City adopted to carry out this General Plan goal. The City also implemented alternative building standards, which are set forth in Division 85 of the building code. Pursuant to Section 17958.11 of the State's health and safety code, cities and counties may implement alternative building standards to facilitate the conversion of existing commercial or industrial buildings into "joint living and work quarters". The health and safety code defines "joint living and work quarters" as a residential occupancy that includes "adequate working space reserved for, and regularly used by, one or more persons residing therein."

The adaptive reuse ordinance and the alternative building standards have worked synergistically, facilitating the creation of over 14,000 new live/work and residential units citywide, 2,000 of which are restricted affordable housing units. The ordinance and standards have been especially effective downtown, enabling the adaptive reuse of many historic buildings and contributing to downtown's continuing revitalization.

As part of the 1999 adaptive reuse and live/work code amendments, a definition of "joint living and work quarters" was formally introduced into the zoning code. Under this definition, a live/work unit must have a kitchen and a bathroom (enabling it to function as a complete dwelling unit) but the total residential floor area may not exceed 33 percent. The remaining 67 percent of the unit would all have to be commercial working space.

This policy was based on the City's 1982 "artist-in-residence" ordinance. As mentioned above, a Zoning Administrator may approve live/work units for artists, artisans, architects and designers in the industrial zones. The thinking at the time was that a live/work unit would primarily be a place to work and secondarily a place to live. The residential cap was also intended to facilitate emergency personnel access to live/work units by mandating an open floor plan with no separation between the commercial and residential areas. Subsequent building code updates including Division 85 have eliminated the need for such a separation for fire and life/safety reasons.

The 33 percent residential floor area cap caused, initially, some confusion as to which development standards would apply - commercial, residential, or some combination of the two. Over time, various Zoning Administrator's interpretations have been issued that clarified that live/work units are subject solely to the zoning code's residential standards, including parking, setbacks, buildable area, floor area, height, density, and open space. In addition, live/work units must pay the full Quimby parks and recreational facility impact fees, the same as traditional dwelling units. No Quimby fee discount based on the 33 percent cap is allowed.

Not only does the City treat live/work units as primarily residential properties, most real estate developers do as well. Typically, live/work units only include small home-based businesses. They do not include full-scale retail or other commercial operations, with walk-in customers, large inventories, multiple employees and commercial deliveries. Such operations would not only be incompatible with the primarily residential nature of

these projects, they would also trigger compliance with the building code's commercial occupancy standards. In a few cases, live/work units have been joined with ground floor retail operations, but these are rare and the retail has required separate compliance with parking, zoning, and building code standards for commercial uses.

Industrial Land Policy

Some industrial buildings located in areas of the city zoned for manufacturing have been converted into live/work units. It is the explicit policy of the General Plan, reiterated in all Community Plans and in a 2008 Joint Directive to staff from the Director of Planning and the Chief Executive Officer of the Redevelopment Agency to preserve industrial land for jobs and business activities that need to be located on such sites. In most cases, industrial lands should therefore not be subject to such conversion. However, in certain limited circumstances, industrial land has been so compromised by prior actions as to render it no longer viable for industrial use; in other specific cases industrial use may be enhanced by an accessory residential component. In such instances, a Zoning Administrator may approve such conversions, subject to various findings of fact. One of the required findings is that the project "will not displace viable industrial uses and will not substantially lessen the likelihood that the property will be available in the future for industrial uses."

The findings required by the Code are adequate to protect industrial land. If the findings can be made to approve a conversion from industrial to residential use, the percentage of residential floor space within each unit is not consequential. Furthermore, future community plan updates implementing the industrial land policy may establish a minimum required industrial floor area ratio for specific geographic areas.

Based on the above, staff therefore concludes that the proposed ordinance change amending the ratio of commercial and residential space in individual live/work units would not negatively affect the City's industrial land policy.

Federal Housing Administration

The Federal Housing Administration, generally known as "FHA", provides mortgage insurance on loans made by FHA-approved lenders throughout the United States and its territories. FHA mortgage insurance provides lenders with protection against losses as the result of homeowners defaulting on their mortgage loans. The lenders bear less risk because FHA will pay a claim to the lender in the event of a homeowner's default.

Unlike conventional loans that adhere to strict underwriting guidelines, FHA-insured loans require very little cash investment to close a loan. There is more flexibility in calculating household income and payment ratios. The cost of the mortgage insurance is passed along to the homeowner and typically is included in the monthly payment. FHA insurance qualifies conforming loans for the lowest interest rates and may allow down payments as low as 3.5 percent.

Although a government agency, FHA operates entirely from its self-generated income. The proceeds from the mortgage insurance paid by the homeowners are captured in an account that is used to operate the program. FHA provides a huge economic stimulation in the form of home and community development, which trickles down to local communities in the form of jobs, building suppliers, tax bases, schools, and other forms of revenue.

FHA mortgage insurance is only available on properties that meet certain standards, including that the property contain no more than 25 percent commercial space. Given the current shortage of credit and the continuing downturn in the real estate market, FHA insurance may be critically important toward maintaining the financial viability of for-sale developments built and entitled as live/work. FHA's recent denial to several local live/work for-sale projects due to the City's outdated residential cap is thus troubling. The residential cap presents a barrier toward homeownership in commercial districts, including downtown, areas of the city where mixed use development is encouraged.

Recent actions increasing the loan amounts that FHA will insure in high-cost areas such as Los Angeles have increased the importance of this program. FHA only insures conforming loans consistent with a limit set by the federal government. Current federal law sets the conforming loan limit at \$729,750. (On Jan. 1, 2010 it drops to \$625,000, unless the higher limit is extended.) Thus if the loan costs more than \$729,750, FHA cannot insure it. The increased conforming loan limit means that many more home buyers in the Los Angeles region, with its historically high housing costs, can obtain FHA insured loans.

FHA's mission is to promote broad, middle class home ownership, especially among first time homebuyers, because typically they are the ones purchasing housing within the conforming loan limit. But due to the City's outdated code definition, buyers of live/work condominiums cannot benefit from this federal housing program.

Proposed Ordinance

The proposed ordinance removes the 33 percent cap on total residential floor area in live/work units. It requires that at least 10 percent but no more than 25 percent of the total floor area in live/work units be maintained as working space. The remaining floor area would be residential.

This code change merely aligns the definition of live/work units with typical industry practice and City policy that live/work units are to be treated as dwelling units for purposes of determining compliance with the zoning and building codes.

The proposed change is consistent with the health and safety's code's live/work regulations. Specifically, the provision of 10 to 25 percent working space is significant and constitutes "adequate working space" as the health and safety code requires. Consequently, the proposed ordinance maintains the City's ability to apply alternative building standards to existing commercial and industrial buildings converted into

live/work units. This is important, because without these alternative building standards the City's adaptive reuse ordinance will not continue to work.

Implementation

The proposed new regulations are not retroactive and thus will not apply to existing live/work units entitled and built under the current standard. These units have "non-conforming rights" and thus may continue to maintain working space that equals 67 percent of total floor area. All new live/work units, however, must comply with the new standard.

Live/work projects are required to indicate on their building plans the percentage of working space for each unit. If existing projects wish to benefit from the new regulations, they may submit revised building plans to the Department of Building and Safety. The Department would review the plans and if they conform to the new standard issue the appropriate documentation.

Conclusion

The proposed ordinance (Appendix A) amends an obsolete definition of live/work units. The amendment aligns the definition with current City policy that live/work units are subject to residential zoning and building code standards. The change also removes a barrier to buyers of live/work units qualifying for FHA-insured loans, thus improving the City's ability to expand opportunities for home ownership.

ATTACHMENT 1

LAND USE FINDINGS

The Department of City Planning recommends that the City Planning Commission find:

1. In accordance with Charter Section 556, that the proposed ordinance (Appendix A) is in substantial conformance with the purposes, intent, and provisions of the General Plan. Specifically, the proposed ordinance implements Housing Element Objective 1.1, "Plan the capacity and develop incentives for the production of an adequate supply of rental and ownership housing for households of all income levels and needs."; and Housing Element Policy 1.1.1., "Promote home ownership opportunities and support current homeowners in retaining their homeowner status." The proposed ordinance promotes live/work development by changing a regulation that impedes the financing of for-sale projects comprised of live/work units. By specifically encouraging live/work development, the ordinance helps implement Air Quality Element Objective 2.1, "It is the objective of the City of Los Angeles to reduce work trips as a step toward attaining trip reduction objectives necessary to achieve regional air quality goals."

Live/work development by its nature increases opportunities for City residents to avoid the necessity of commuting to distant work sites, which reduces the number of vehicles on the City's street system, which in turn reduces noxious vehicle air emissions which degrade regional air quality. Similarly to vertical and horizontal mixed use development, live/work development also tends to reduce vehicle trips and vehicle miles traveled. Joint living and work quarters are the ultimate form of mixed use development because residential and commercial uses are combined in the same unit rather than in the same building or neighborhood. Individual practitioners working out of live/work units will generate fewer trips by automobile than those who work in general office buildings because there will be no need for a morning or evening work commute ("telecommuting.") The location of live/work units in both vertical and horizontal mixed use settings will also tend to reduce the rate of trip generation; and

2. in accordance with Charter Section 558 (b) (2), that the proposed ordinance (Appendix A) is directly related to the General Plan. Specifically, the proposed ordinance substantially conforms with and furthers the purposes, intent, and provisions of the General Plan, as set forth above. In addition, the proposed ordinance does not modify any provisions of the General Plan; and
3. in accordance with Charter Section 558 (b) (2), that the proposed ordinance (Appendix A) is in substantial conformance with public necessity, convenience, general welfare and good zoning practice. Consistent with City policy that live/work units are residential occupancies subject to zoning and building code residential standards, the ordinance adjusts downward the amount of working space permitted in live/work units and states that such units are used as dwelling units. Accordingly, the impact of live/work units is mitigated using the same regulations and controls as are imposed on traditional dwelling units with home

occupations. The ordinance does not increase allowable density or provide any new development rights to live/work projects.

ENVIRONMENTAL FINDING

In accordance with the California Environmental Quality Act (CEQA), this ordinance meets the criteria of a Categorical Exemption pursuant to Article II, Section 2, Subsection (m) of the City of Los Angeles CEQA Guidelines. On all measures, the proposed ordinance (Appendix A) will have no effect on the physical environment. The ordinance makes no changes to existing zoning, any specific plans, or any other land use regulations that affect the physical environment. The proposed ordinance merely adjusts the ratio of residential and working space allowed in live/work units, but does not change the zoning where such units are allowed or their maximum density. It also does not change any discretionary approval processes and procedures specified in the zoning code that may authorize the development of live/work units. In addition, since the proposed ordinance specifies that live/work units are dwelling units, it is consistent with current City policy that live/work units must comply with the residential standards set forth in the zoning and building codes.

**APPENDIX A
PROPOSED ORDINANCE FOR DISCUSSION**

An ordinance amending Sections 12.03, 12.21 and 91.8502.1 of the Los Angeles Municipal Code concerning the definition of joint living and work quarters and the amount of working space required in such quarters.

Section 1. The following definition in Section 12.03 of the Los Angeles Municipal Code is amended to read:

JOINT LIVING AND WORK QUARTERS - ~~A combined living and work unit that includes a kitchen and a bathroom. The residential portion of the unit, including the sleeping area, kitchen, bathroom, and closet areas, occupies no more than 33 percent of the total floor area, and the living space is not separated from the work space. Living and work spaces which are independently accessible from one another shall not be considered joint living and work quarters but rather a separate dwelling unit and a separate commercial work space – a residential occupancy of one or more rooms or floors used as a dwelling unit with adequate working space reserved for, and regularly used by, one or more persons residing therein pursuant to Health and Safety Code Section 17958.11 (a)~~

Sec. 2. A new Subdivision 9 of Subsection C of Section 12.21 of the Los Angeles Municipal Code is added to read:

9. Working Space for Joint Living and Work Quarters. At least ten percent but no more than 25 percent of the total floor area in a joint living and work quarters shall be working space.

Sec. 3. Section 91.8502.1 of the Los Angeles Municipal Code is amended to read:

91.8502.1 Use or Occupancy. When applying this division, a Joint Living and Work Quarters shall be classified as ~~Group R Division 1~~ Group R-2 occupancy and comply with all ~~Group R, Division 1~~ Group R-2 occupancy requirements of the Code, except as provided in this ~~division. chapter.~~ Not more than 33 percent of the total floor area of a Joint Living and Work Quarter shall be used or arranged for residential purposes such as sleeping area, cooking space, sanitary facilities and closet area.

Sec. 4. The City Clerk shall certify ...

COUNTY CLERK'S USE **CITY OF LOS ANGELES** CITY CLERK'S USE
 OFFICE OF THE CITY CLERK
 ROOM 615, CITY HALL EAST
 LOS ANGELES, CALIFORNIA 90012
CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION
 (Article III, Section 3—City CEQA Guidelines)

Submission of this form is optional. The form shall be filed with the County Clerk, 111 No. Hill St., Los Angeles, California 90012, pursuant to Public Resources Code Section 21252 (b). Pursuant to Public Resources Code Section 21188 (d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY
Department of City Planning COUNCIL DISTRICT
All

PROJECT TITLE
Code Amendment – Working Space in Joint Living and Work Quarters (CPC-2009-1771-CA) LOG REFERENCE
ENV-2009-1772-CE

PROJECT LOCATION
Citywide

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT: **A proposed ordinance that amends Sections 12.03, 12.21, and 91.8502.1 of the Los Angeles Municipal Code (LAMC) to specify that live/work units are primarily residential spaces with accessory commercial uses. Specifically, the ordinance requires that at least 10 percent but no more than 25 percent of the total floor area in live/work units be maintained as working space.**

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT, IF OTHER THAN LEAD CITY AGENCY:
N/A

CONTACT PERSON
Alan Bell AREA CODE
213 TELEPHONE NUMBER
978-1322

EXEMPT STATUS: (Check One)

	CITY CEQA GUIDELINES	STATE EIR GUIDELINE
<input type="checkbox"/> MINISTERIAL	Art. III, Sec. 2b	Sec. 15073
<input type="checkbox"/> DECLARED EMERGENCY	<input type="checkbox"/> Art. III, Sec. 2a (1)	<input type="checkbox"/> Sec. 15071 (a)
<input type="checkbox"/> EMERGENCY PROJECT	<input type="checkbox"/> Art. III, Sec. 2a (2) & (3)	<input type="checkbox"/> Sec. 15071 (b) & (c)
<input type="checkbox"/> GENERAL EXEMPTION	<input type="checkbox"/> Art. III, Sec. 1	<input type="checkbox"/> Sec. 15060
<input type="checkbox"/> CATEGORICAL EXEMPTION	<input type="checkbox"/> Art. VII, Sec. 1	<input type="checkbox"/> Sec. 15100
<input type="checkbox"/> Class Category (City CEQA Guidelines)		
<input checked="" type="checkbox"/> OTHER (See Public Resources Code Sec. 21080 (b) and set forth state and city guideline provision. Exemption Art. II, Sec. 2 (m))		

JUSTIFICATION FOR PROJECT EXEMPTION: **In accordance with the California Environmental Quality Act (CEQA), this ordinance meets the criteria of a Categorical Exemption pursuant to Article II, Section 2, Subsection (m) of the City of Los Angeles CEQA Guidelines. On all measures, the proposed ordinance will have no effect on the physical environment. The ordinance makes no changes to existing zoning, any specific plans, or any other land use regulations that affect the physical environment. The proposed ordinance merely adjusts the ratio of residential and working space allowed in live/work units, but does not change the zoning where such units are allowed or their maximum density. It also does not change any discretionary approval processes and procedures specified in the zoning code that may authorize the development of live/work units. In addition, since the proposed ordinance specifies that live/work units are dwelling units, it is consistent with current City policy that live/work units must comply with the residential standards set forth in the zoning and building codes.**

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.

SIGNATURE <i>Alan Bell</i>	TITLE Senior City Planner	DATE June 30, 2009
FEE: N/A	RECEIPT NO. N/A	RECEIVED BY N/A
		DATE N/A

DISTRIBUTION: (1) County Clerk, (2) City Clerk, (3) Agency Record
 Form Gen. 183 (Rev. 8-90) (Appendix A) (C.S. 4/98)

THE APPLICANT CERTIFIES THAT HE OR SHE UNDERSTANDS THE FOLLOWING:
 Completion of this form by an employee of the City constitutes only a staff recommendation that an exemption from CEQA be granted. A Notice of Exemption is only effective if, after a public review and any required public hearings, it is adopted by the City agency having final jurisdiction (including any appeals) over the project application. If a CEQA exemption is found inappropriate, preparation of a Negative Declaration or Environmental Impact Report will be required. IF THE INFORMATION SUBMITTED BY THE APPLICANT IS INCORRECT OR INCOMPLETE SUCH ERROR OR OMISSION COULD INVALIDATE ANY CITY ACTIONS ON THE PROJECT, INCLUDING CEQA FINDINGS.

NAME (PRINTED) **Alan Bell** SIGNATURE *Alan Bell*