

PERKINS + WILL

Memo

To: Thomas Rogers, City of Menlo Park

From: Mark Hoffheimer

Date: March 6, 2012

Subject: Task J. Live Work Study

Purpose

Investigate the purposes of and approaches and issues with permitting, encouraging and/or discouraging live/work spaces, including issues with “reversion” to all residential or all office uses. Make recommendations for refining the Specific Plan in regards to live/work housing.

Key Findings

- The purposes of live/work include providing affordable housing, providing appropriate housing for people with artistic endeavors, preservation of existing buildings and providing a variety of housing types, work spaces and employment opportunities.
- Live/work is typically located in “transition areas” – on residential edges between residential and commercial/industrial areas.
- While tools exist, controlling the “reversion” of live/work to live only or work only is challenging and hard to enforce. Some communities, such as Emeryville and Palo Alto, allow for reversions. If Menlo Park wants more certainty in its land use composition, the “flexible” and “fluctuating” nature of live/work may not be appropriate for the community.
- Other live/work issues include employment allowed, hours of operation, signage, parking and service.
- Currently, Menlo Park permits Home Occupation in residences.

Recommendations for Specific Plan Revisions

- Make no revisions to the Specific Plan regarding live/work. That is, remain silent on live/work, as the Specific Plan does now.
 - There does not appear to be strong reasons to explicitly include live/work in the Specific Plan area; the City's existing provisions for Home Occupation seem to meet the City's needs.
 - Because the City's current definition of a Home Occupation is fairly strict, the City at some future time could consider a modification of its definition, applicable to the Specific Plan area, which would allow for expanded use of home occupations, such as allowing for small numbers of employees or the storage of small amounts of stock or commodity.
 - The City could consider modifying the current definition of home occupation, and/or include live/work units, as part of an update of the City's Housing Element.

Methodology

Perkins+Will researched the characteristics of live/work, including definitions, land use implications and potential controls to encourage/discourage live/work. Perkins+Will also reviewed policies and codes for live/work of two Bay Area communities: the Cities of Emeryville and Palo Alto. In addition, Perkins+Will spoke with planners at the Cities of San Francisco and Emeryville about their issues and experiences with live/work.

Discussion of Findings

Purpose of Live/Work

The *Emeryville Municipal Code* states that the purpose of the Live/Work Regulations is to:

- Provide appropriate housing for persons engaged in artistic endeavors;
- Increase the supply of low-income housing, in the form of live/work units; and
- Encourage the preservation of existing buildings which are structurally sound and aesthetically worthy, while protecting the primary uses with each zoning district.

Other reasons for live/work space include¹:

- Increase the supply of affordable housing;
- Increase the variety of housing types and resident types, creating additional vibrancy in a mixed-use districts;
- Increase the variety of employment opportunities, including small- and medium-sized businesses and "incubator" space for innovative industries; and
- Reduce traffic and green-house emissions by minimizing commutes.

¹ The Live/Work Institute, Thomas Dolan Architecture

Live/work is often located in “under-developed” neighborhoods or in areas transitioning (spatially) between residential and commercial/industrial areas, between downtown commercial and industrial areas or generally on residential neighborhood edges.

The purposes of live/work may not be particularly applicable to the Specific Plan Study Area. The Study Area is in close proximity to residential neighborhoods; there are no appropriate “transition” areas.

Purposes for live/work, such as providing affordable housing, work spaces and housing types, may be accomplished in other ways using convention product types, such as multi-family housing and allowance for Home Occupation.

Types of Live/Work

There are three types of live/work: Home Occupation, Live/Work and Work/Live.

Home Occupation

Home occupation refers to an occupation undertaken at home. The space is clearly a residence, and may or may not contain a workspace, typically in the form of an office or workshop. Reversion to commercial or work only is not desirable and is often not allowed.

Menlo Park permits home occupation in residences with a home occupation permit. Likewise, the City of San Francisco permits home occupation in residences; the City does not permit live/work units.

According to the *Menlo Park Zoning Ordinance* (Section 16.04.340), "home occupation" means any activity conducted on the premises by the occupant of the dwelling as a secondary use in connection therewith, and where there are no advertising signs, no display, no stock or commodity stored or sold on the premises, no employees in connection therewith and no mechanical equipment to be used in connection therein, other than that necessary or convenient for domestic purposes. Such activity shall not be conducted in an accessory building.

Live/Work

The predominant use of a live/work unit is residential, with commercial activity as a secondary use. Employees and walk-in trade are usually not permitted.

Both Emeryville and Palo Alto permit Live/Work units with certain provisos (discussed below).

Work/Live

The predominant use of a work/live unit is commercial, with residential activity as a secondary use. The term work/live means that the needs of the work component take precedence over the quiet enjoyment expectations of residents, in that there may be noise, odors, or other impacts as well as employees, walk-in trade or sales. Work/live may increase the need for additional off-street parking.

Work/live may be best suited in existing commercial/industrial areas and is not appropriate for the Specific Plan Study Area.

Land Use Issues

There are a number of issues that should be considered with Live/Work units and/or Home Occupation.

Land Use Conflicts between Residential and Non-Residential Uses

Land use conflicts between residential and non-residential uses become apparent when live/work is located in industrial zones and its associated noise, odors, traffic and other hazards. Work/live (rather than live/work) units may be more appropriate for these areas.

The City of Emeryville is considering a new Live/Work category called “Heavy Live/Work” intended for industrial areas.

“Work” Type

Work type refers to the type of work activities permitted in live/work units. If not specified in an ordinance, the work undertaken may include hazards (materials, odors, hazardous materials, etc.) inappropriate in residential areas.

The City of Palo Alto allows for a variety of commercial activities (see Sample Controls below) but explicitly disallows restaurants, cafes or any business involving the storage or use of hazardous materials in excess of Title 15 of the Municipal Code.

“Work” Operations

Because live/work units are places of work, other issues arise which should be carefully considered. Such issues include:

- Employment allowed;
- Hours of operation;
- Signage allowed;
- Customers allowed;
- Storage/warehousing;
- Additional parking for employees and customers, which could be on- or off-site; and
- Service of building, particularly those with on-site stock-in-trade, which can generate truck traffic.

The City of Palo Alto allows for up to two employees who do not reside within the unit.

The City of San Francisco does not permit live/work units within San Francisco, but it does permit Home Occupation. With Home Occupation, the City does not allow employment, signage and customers/walk-in traffic. It restricts the hours of operation and disallows storage of stock-in-trade. The City of San Francisco does allow professional services and those who visit by appointment (e.g. to see an accountant, therapist, etc.).

Impact Fees

Live/work units, particularly when they revert to pure residential use, may not generate the amount of developer impact fees for schools and other services, or create the amount of open space, appropriate for residential use.

Reversion to Pure Residential or Office Use

Challenging to regulate, a live/work unit can “revert” to live only or work only uses. Such a reversion can result in many of the issues summarized above, including increasing student enrollment at local schools.

In Palo Alto, a live/work unit may be converted to an entirely residential unit where residential use on the ground floor is not otherwise prohibited. The City of Emeryville has no policy relating to reversions.

Enforcement

Once a live/work unit is permitted, it can be challenging to enforce rules related to reversion, work activity, etc. Cities typically enforce such regulations only in response to a formal complaint.

Potential Controls to Encourage/Discourage Live/work

There are a variety of potential controls for encouraging or discouraging live/work, as summarized below.

- Zone to locate live/work in suitable areas
- Zone for appropriate work activity
- Require conditional use permit (e.g. Emeryville Municipal Code)
- Slow residential reversion through the use of regulations, sanctions/enforcement, financial incentives, tax policy incentives and design of unit for the appropriate level of proximity between living and working spaces.
 - In general, the limiting of reversions can be challenging to enforce.
- Allow artists to retain control of their spaces through ownership, long-term rent subsidies or the creation – and enforcement – of “Artists Protections Zones”, providing long-term affordable live/work
- Designate certain live/work areas as rental only in existing buildings
- Create deed restrictions
- Designate certain areas of a city off-limits for condominium live/work, but appropriate for rental or limited equity coop ownership.
 - Make part of conditional use permit
- Create incentives for developers to include artists in their projects, through such means as density bonuses, parking requirement relaxations and other building code relaxations.
- Encourage non-profit developers to view low- and moderate income artists as an underserved group deserving of their support through the development of affordable live/work projects.

Sample Controls for the Design of Live/Work

Emeryville Municipal Code – Selected Elements

- The floor area of each live/work unit shall be 750 SF minimum to 2,000 SF maximum
- Not more than 50% of the floor area for each live/work unit shall be devoted to living area
- Parking standard: 1.5 off-street spaces per unit or 1.5 off-street spaces per 1,000 net SF, whichever is greater
- Open space standard: 36 SF of private or common usable outdoor recreation or landscaped open space per live/work unit
- Work activity per the zoning district regulations of the district
- Preference for ground-floor commercial activity

Palo Alto Pedestrian and transit Oriented Development (TOD) Combining District Regulations – Selected Elements

- The floor area of each live/work unit shall not exceed 2,500 SF
- Not less than 60% of the floor area for each live/work unit shall be devoted to living area
 - Resident of the living space must be the owner/operator of the work area
- Work area shall be located on the ground floor, oriented to the street and provide at least one external entrance/exit separate from the living space
- Work activity may be used for office, retail, personal services, or handcrafted goods, but shall not be used for restaurants or cafes or for any businesses involving the storage or use of hazardous materials in excess of Title 15 of the Municipal Code.
 - Maximum number of employees who do not reside within the unit is two.

References

- City of Emeryville Municipal Code
- City of Menlo Park Zoning Ordinance
- City of Palo Alto Municipal Code
- Diana Keena, Associate Planner, City of Emeryville, phone conversation, February 2012
- Joshua Switzky, Planner, City of San Francisco, phone conversation, February 2012
- The Live/Work Institute, Thomas Dolan Architecture, <http://www.live-work.com/lwi/>

cc: Menlo Park El Camino Real/Downtown
Specific Plan – SA #498012.006

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