

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: **Zoning Ordinance Text Amendment** to amend the Section 18A: (i) to eliminate the requirement that a live work loft must be on an upper level of an industrial structure; (ii) to delete provisions requiring ground floor commercial/industrial use; (iii) to eliminate requirements for three years of marketing efforts to retain commercial or industrial uses before live work loft units may be considered and that the structures be shown to be of such size and configuration as to make nonresidential use unlikely and; (iiii) that live work loft units be developed consistent with certain residential standards and that open space must be maximized.
Applicant: 441 Chapel LLC

REPORT: 1496-04
ADVICE: Approve

BACKGROUND

The applicant is proposing to eliminate current provisions of Section(s) 18A. of the New Haven Zoning Ordinance. All of these proposals involve live-work loft conversion spaces. They are individual units located above first floor industrial or commercial uses in existing loft style structures that were originally constructed no later than 1963. They are intended for combined residence and limited work use in each unit. Section 18 was originally incorporated into the Zoning Ordinance in December of 2002. Office records appear to indicate that no approvals have been applied for or granted for any live-work loft space subsequent to that time.

Currently Section 18 of the Zoning Ordinance limits live-work loft conversions to commercial/industrial structures located in both Residence and Non- Residence Districts. The proposed amendments would remove language that requires that a live work lofts must be on an upper level of an industrial structure and that commercial use must be maintained on ground floors, three years of marketing efforts to retain commercial or industrial uses before live work loft units may be considered and that the structures be shown to be of such size and configuration as to make nonresidential use unlikely, and finally, that live work loft units be developed consistent with certain residential standards and that open space must be maximized.

PLANNING CONSIDERATIONS

These proposed amendments address portions of the existing ordinance that in the view of the applicant are unrealistic, unnecessarily restrictive and which demonstrate a somewhat limited commitment to the use itself. The current set of development standards, while designed to ensure that these conversions are able to provide an alternative residential experience without compromising the character of the existing structures or neighborhoods, does so to an extent that not only limits the likelihood of such development but also affects its character to an extent that it loses much of its relevance to an urban environment.

The amendments regarding first floor prohibition of these units is of the most significance. Requiring continued first floor use for strictly commercial purposes appears too unreasonable for a number of reasons. First of all it minimizes the importance of the commercial element of a live/work unit. First floor occupancy provides unit owners a unique to display and sell work in what are essentially storefronts. This type of activity at ground level may not only improve the character of the existing neighborhood but may also improve the economic viability of upper story loft inhabitants. It also lessens the possibility of upper story lofts in a building with a vacant first floor at ground level. Moreover it addresses the implicit assumption of the current regulation that lofts are generally appropriate located above commercial or most especially industrial uses.

The marketing requirement appears to represent an attempt to ensure that owners of older commercial buildings consider live/work lofts only after it is clear that no commercial or industrial use is economically viable. The Commission is of the view that this may be based on two misconceptions. First of all the level of demand for this specialized type of living arrangement is probably somewhat limited and does not represent "the easy way out" for a property owner that some might assume. Secondly, it seems counterproductive, to say nothing

of unfair to require a property owner to offer property for a use or uses for which it is clearly unsuited for a period of three years before the Commission may even consider live/work lofts on the property.

The third group of amendments involves requirements that are in some ways the inverse of those discussed in the second paragraph. If the regulations concerning first floor commercial use seem to reflect a hesitance to compromise commercial and industrial standards in either a building, a neighborhood or both, the existing development and open space standards seem reflective of the desire to maintain some residential character associated with these lofts. Open space requirements, fencing, signage, accessory structures are all issues Commonly addressed in conventional residential zoning ordinances.

Although not explicit in the applicant's narrative, review of the proposed changes appears to indicate intent to remove portions of Section 31 that in an attempt to define the character of a live/ work loft relate too closely to existing uses or patterns of development (residential/industrial). Removal of these "outlying" requirements will allow the use to function in its own distinctive way. While on the one hand, it is unlikely that many live/work lofts will end up over first floor industrial uses it is also not realistic to expect to see live/work lofts with open space and other amenities associated with a more completely residential experience at the expense of establishing a unique character.

The Commission understands that the live/work concept, while incorporating elements of both work and home into a single unit is a unique use that stands on its own. It recognizes that it is an urban form that allows for residence in commercial or industrial structures and as such little in the manner of conventional accessory residential regulation is appropriate. It also recognizes the concept as a form of commercial and industrial development that need not be restricted to certain portions of existing commercial and industrial buildings.

PUBLIC HEARING

ADVICE

Consistent with its responsibilities to "carry on a continuous review of the effectiveness and appropriateness of the zoning ordinance," based on the above analysis the Commission finds the proposed text amendments to be consistent with the standards for review as contained in Section 64(d)(2) of the New Haven Zoning Ordinance and recommends approval as submitted.

ADOPTED: September 17, 2014
Edward Mattison
Chair

ATTEST: _____
Karyn M. Gilvarg, AIA
Executive Director

CITY OF NEW HAVEN
BOARD OF ALDERS

In re: Petition of 441 Chapel, LLC to Amend the following Sections of the Zoning Ordinance (i) Section 18A(b) to eliminate the requirement that a work-live loft must be on an upper level of an industrial structure; (ii) Section 18A(b)(1) to delete the entire provision that "The ground floor of the structure shall remain in industrial or commercial use"; (iii) Section 18A(c)(1) to eliminate the requirement that reasonable marketing efforts for permitted commercial and industrial use have been made over a minimum period of three years prior to application; (iv) 18A(c)(2) to eliminate the requirement that the size and configuration of the structure makes future use for commercial and industrial use unlikely; (v) 18A(d)(1) to eliminate the requirement that the live-work loft must be developed consistent with the residential structures; and (vi) to eliminate the requirement that the applicant must demonstrate the site plan maximize the area of exterior landscaped open space on the property

**PETITION FOR AMENDMENT OF SECTION 18A(b), 18A(b)(1), 18A(c)(1), 18A(c)(2),
18A(d)(1) AND 18A(d)(2) OF THE ZONING ORDINANCE**

Pursuant to 1925 Special Act No. 490 §5, the Charter of New Haven, Article XIII, §§ 2A and 2E, and §64(d)(1) of the Zoning Ordinance, City of New Haven (the "Zoning Ordinance"), Petitioner, 441 Chapel, LLC ("Petitioner"), through its undersigned counsel, hereby respectfully petitions the Board of Alders of the City of New Haven to amend Section 18A of the Zoning Ordinance (Live-Work Loft Conversions) as more specifically set forth in Schedule A attached hereto.

In support of this Petition, the Petitioner represents as follows:

1. The Petitioner seeks to amend the provisions of §18A(b) that conversions to Live-Work Lofts are not permitted on the ground floor.
2. The Petitioner seeks to amend the provisions of §18A(b)(1) to delete the requirement that the ground floor be industrial or commercial.
3. The Petitioner seeks to amend the provisions of §18A(c)(1) to eliminate the requirement that reasonable marketing efforts for commercial and industrial use be made for three (3) years prior to the Application.
4. The Petitioner seeks to amend the provisions of §18A(c)(2) to eliminate the requirement that the size and configuration of the structure make future use for commercial and industrial use unlikely.
5. The Petitioner seeks to amend the provisions of §18(d)(1) to eliminate the requirement that the Live-Work Loft be developed consistent with residential structures.
6. The Petitioner seeks to amend the provisions of §18(d)(2) requiring the area of open space on the property be maximized.
7. The proposed amendments to §18A, if approved, will maximize the use and development without changing the character of a building.
8. As required by Article XIII, §§2B and 2C (previously §181 and §182) of the City of New Haven Charter, the proposed Zoning Ordinance text amendments are in accordance with the Comprehensive Plan of Development and promote the health and general welfare of the residents of the City of New Haven.

9. The proposed Zoning Ordinance text amendments are in accordance with the provisions of §64(d)(2) of the Zoning Ordinance.

WHEREFORE, the Petitioner respectfully requests that the Board of Alders approve the proposed amendments to §18A, 18A(b)(1), 18A(c)(1), 18A(c)(2), 18A(d)(1) and 18A(d)(2) of the Zoning Ordinance by making the changes described above and as more specifically set forth on Schedule A attached to this Petition.

Respectfully submitted,
441 Chapel, LLC

By: 

Lawrence J. Greenberg, Its Attorney
Bernblum & Greenberg
142 Temple Street
New Haven, CT 06510
Telephone: (203) 624-7233