
Amendments of the Zoning Resolution pursuant to Section 200 of the New York City Charter relating to Sections 12-10, 42-02, 42-14, 42-141, 43-17 and 74-18 concerning joint living-work quarters for artists.

These amendments to the Zoning Resolution are proposed by the City Planning Commission to modify and extend the SoHo M1-5A and M1-5B Districts in which joint living-work quarters for artists are allowed.

In addition to the amendments of the Zoning Resolution which are the subject of this report (CP-23170), implementation of this proposal also requires favorable action by the City Planning Commission on an amendment of the Zoning Map (CP-23167) which is the subject of a separate report approved by the Commission on March 31, 1976.

Background

During the 1960's it became apparent that SoHo, an industrial district noted for its cast iron buildings, had developed some industrial vacancies which were being filled by artists for joint studio and living purposes. In 1968 the SoHo artists requested a zoning amendment to formally allow artist occupancy of SoHo loft buildings for joint living and working. After intensive survey the City Planning Commission determined that while SoHo remained an important source of blue-collar jobs, artist occupancy was concentrated in small structures which tend to be inadequate for industry. Moreover, art production was also an industry, and artists and manufacturers were found to have a mutually beneficial relationship. SoHo provided an excellent opportunity for artists who need large amounts of space and could not afford separate studios and residences.

In January 1971 the City Planning Commission and Board of Estimate amended the Zoning Resolution to permit artists' joint living-work quarters in Soho buildings of 3,600 sq. ft. lot coverage or smaller, thus encouraging a balance of artists and manufacturing. This solution maintained the basic M1-5 light industrial zoning while recognizing a legitimate artist community. Joint

living-work quarters for artists were established as a special type of light manufacturing use, similar in nature and compatible with light industry. Indeed, artwork, such as sculpture and jewelry making, often involves manufacturing processes. The distinction among building sizes would protect the larger buildings, which are more important job resources, while allowing smaller buildings to be occupied by certified artists.

The SoHo art community has thrived during the last five years. New galleries, art supply stores and craft shops have opened, plus a variety of restaurants and boutiques which serve SoHo residents, employees and visitors. While manufacturing has declined somewhat, the rate of job loss has been less than in both Manhattan and New York City overall. In one aspect SoHo was perhaps too successful. The growing ground floor commercialization from retail activities has resulted in competition with manufacturing for which street level space is most suitable. In view of SoHo's striking success as an artist community, and the increasing vacancies in buildings between 3,600 and 5,000 sq. ft., the City Planning Commission has decided to modify the SoHo zoning provisions to increase the availability of space for artists and to expand the area into NoHo.

Proposal

The amendments would permit: (a) Joint living-work quarters for artists in M1-5A and M1-5B Districts in buildings up to 5,000 sq. ft. lot coverage, except that for buildings along Broadway the lot coverage is limited to 3,600 sq. ft. (b) Within the M1-5A District retail activity on ground floors and basements is limited to buildings with lot coverage of 3,600 sq. ft. or less. In all other buildings the ground floor and basement must be used for industry. (c) In both districts, in buildings with more than 3,600 sq. ft. lot coverage joint living-work quarters are not permitted below the floor level of the third story.

The Commission may waive the restrictions on basement, first and second floor use under any of the following conditions: 1) The space has been vacant since January 28, 1976, 2) The space has been occupied by an artist since January 28, 1976, 3) Non-residential use of the space would preclude the building from qualification as a cooperative corporation, 4) The space is needed by an artist who works in bulky and heavy mediums which cannot be easily transported

to upper floors or 5) In the event of subsequent vacancies if a good faith effort has been made to rent the space to mandated uses for specified period of time.

On January 28, 1976 (Cal. #4) the Commission scheduled a PUBLIC HEARING on the proposed amendments. The public hearing was held on February 25, 1976 (Cal. #20, 21, 22, 23, 24, 25, and 26). Forty-two speakers appeared before the Commission expressing the need for artists housing and work space in New York City including: two councilmen, two representatives of Community Board #2; a representative of Artists Equity Association of New York; a representative of the New York State Council on the Arts; a representative of the Artists' Certification Committee of the Department of Cultural Affairs, two gallery owners; a representative of the Metropolitan Council on Housing; the President of a local business; a representative of a landlord; an architect; and numerous SoHo/NoHo residents. These people spoke of the importance of art as an industry to New York City, citing the three billion dollars in business that the arts and cultural activities contribute to New York's economy; SoHo/NoHo is a major factor in New York's prominence in contemporary art. They pointed out the need for large work space to produce this art and the difficulty and expense of finding such space when forced to compete in the general housing market.

They asked for certain modifications to the proposed amendments to remove some of the burdens placed on artists. A representative of the Real Estate Board of New York spoke against any amendments which did not address loft living in other areas of Manhattan. Correspondence in support of the artists' positions were received from 376 people including an assemblyman, the SoHo Artists Association; the NoHo Artists Association; Community Board #2 and many residents of the area; one letter was received in opposition from a manufacturer threatened with forced relocation.

Consideration

The Commission considered several alternate proposals. The major issues deliberated were: the degree of flexibility in reserving the lower floors for industry, how to protect industry in the Broadway Corridor, and whether to extend the concept of joint living-work quarters for artists into NoHo rather than opening NoHo to the general housing market. The Commission finds that since 1970 when it first allowed joint-living work quarters for artists

in SoHo, the area has developed into a major cultural center of international renown. The SoHo Art Center, much like the Theater District and our many famous cultural institutions, contributes significantly to both the quality of life in this City and to its economy. According to the Mayor's Report on Cultural Policy dated October 1974 "artistic and cultural activities generate over 3 billion dollars in expenditures and receipts annually" in New York City. Art related uses have grown and expanded in SoHo and the contiguous area of NoHo. The proposed zoning actions will increase space available for artists in SoHo and NoHo. To reinforce and protect the manufacturing predominance the Commission is maintaining prime ground floor space and the larger (over 5,000 sq. ft.) buildings exclusively for industry. In addition the job intensive Broadway corridor will have a more restrictive conversion policy than the rest of SoHo and NoHo.

The Commission has decided to protect the available space in SoHo as well as in NoHo. While opening the door to further development, the Commission is confining conversion to certified artists. By so doing, it is reiterating its earlier findings that artists' work is similar in nature and compatible with light industry. Moreover, the Commission believes that the use of buildings by certified artists in SoHo and in NoHo is worthy of protections similar to those afforded other specialized uses, such as light industry, which its past zoning regulations have protected.

The Commission firmly believes that a reasonable balance of land use can be achieved in SoHo/NoHo between art related uses and manufacturing. Even if all the space for artists were occupied as joint living-work quarters, 70% of SoHo's floor space could remain in manufacturing use.

The Commission has monitored the SoHo experiment since 1970 and will continue to do so. Further actions to assure realistic and economically viable use of SoHo/NoHo loft buildings may be necessary in the future. Several artists, building owners and businessmen testified at the public hearing that a recent

influx of incompatible commercial uses are threatening the quality of the Art Center. The Commission will review commercialization of SoHo with the community and will develop proposals to prevent intrusion of detrimental uses that might threaten the quality of life in this area of unique character.

The Commission has determined that the amendments as heard and modified are appropriate and adopt the following resolution which is duly filed with the Secretary of the Board of Estimate.

Matter in Bold Type is new;

Matter in brackets [] is old, to be omitted;

Matter in italics is defined in Section 12-10.

12-10 DEFINITIONS

~~Joint Living-Work Quarters for Artists~~

A "joint living-work quarters for artists" consists of one or more rooms in a non-residential building, on one or more floors, which are arranged and designed for use by, and are used by not more than four non-related artists, or an artist and his family maintaining a common household, with lawful cooking space and sanitary facilities including the requirements of the Housing Maintenance Code, and including adequate working space reserved for the artist or artists residing therein. An artist is a person so certified by the New York City Department of Cultural Affairs. Regulations governing joint living-work quarters for artists are set forth in Section 42-14D (Use Group 17-- Special Uses), 43-17 (Special Provisions for Joint Living-Work Quarters for Artists), 74-48 (Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts) and 42-141 (Modification by certification of the City Planning Commission of uses in M1-5A and M1-5B Districts).

Artist

An "artist" is a person so certified by the New York City Department of Cultural Affairs.

42-01

Definitions (repeated from Section 12-10)

Joint Living-Work Quarters for Artists

A "joint living-work quarters for artists" consists of one or more rooms in a non-residential building, on one or more floors, which are arranged and designed for use by, and are used by not more than four non-related artists, or an artist and his family maintaining a common household, with lawful cooking space and sanitary facilities including the requirements of the Housing Maintenance Code, and including adequate working space reserved for the artist or artists residing therein. An artist is a person so certified by the New York City Department of Cultural Affairs. Regulations governing joint living-work quarters for artists are set forth in Section 42-14D (Use Group 17--Special Uses) and 43-17 (Special Provisions for Joint Living-Work Quarters for Artists), 74-48 (Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts) and 42-141 (Modification by City Planning Commission special permit of uses in M1-5A and M1-5B Districts).

Artist

An "artist" is a person so certified by the New York City Department of Cultural Affairs.

* * *

42-14

Use Group 17

[Delete existing Use Group 17D special use provisions]

D. Special Uses

Joint living-work quarters for artists in buildings in M1-5A and M1-5B Districts, provided:

(a) Such building was erected prior to December 15, 1961;

(b) The lot coverage of such building does not exceed 5,000 square feet except that in buildings with frontage along Broadway, the lot coverage shall not exceed 3,600 square feet. However, such quarters may also be located in a building occupying more than 5,000 square feet of lot area if the entire building was held in cooperative ownership by artists on September 15, 1970;

(c) In M1-5B Districts in buildings occupying less than 3,600 square feet of lot area, joint living-work quarters for artists may not be located below the floor level of the second story unless modified by the City Planning Commission pursuant to Section 42-141 (Modification by certification of the City Planning Commission of uses in M1-5A and M1-5B Districts).

(d) In buildings occupying more than 3,600 square feet of lot area, joint living-work quarters for artists may not be located below the floor level of the third story, unless modified by the City Planning Commission pursuant to Section 42-141 (Modification by certification of the City Planning Commission of uses in M1-5A and M1-5B Districts);

(e) In M1-5A Districts, in buildings occupying more than 3,600 square feet of lot area, only uses listed in Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E shall be allowed below the floor level of the second story of such buildings, unless modified by the City Planning Commission pursuant to Section 42-141 (Modification by certification of the City Planning Commission of uses in M1-5A and M1-5B Districts) or Section 74-48 (Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts);

(f) In M1-5B Districts, in any building only uses listed in Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E shall be allowed below the floor level of the second story of such buildings unless modified by the City Planning Commission pursuant to Section 42-141 (Modification by certification of the City Planning Commission of uses in M1-5A and M1-5B Districts) or Section 74-48 (Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts);

(g) In M1-5A and M1-5B Districts, any uses allowed in M1-5 Districts may be allowed on the second story of any buildings.

(h) Any use which was permitted prior to the effective date of this amendment shall be governed by Article V of this Resolution (Non-Conforming Uses and Non-Complying Buildings);

(i) In any building which as a result of zoning map change CP-23167 is zoned M1-5B, any existing occupant of a joint living-work quarters for artists which cannot meet the qualifications of the Department of Cultural Affairs may remain as a lawful use. This lawful use is non-transferable and ceases immediately upon the vacating of such space. Such occupants must register with the Department of Cultural Affairs in order to preserve their lawful status in their existing space;

(j) In a building for which an alteration permit for joint living-work quarters for artists was requested prior to the effective date of this amendment (CP-23170), such alteration shall comply with the regulations effective prior to such date.

* * *

Modification by certification of the City Planning Commission of uses in M1-5A and M1-5B Districts

A developer must send a copy of any request for modification pursuant to this section to the applicable Community Board at least ten days prior to the next regularly scheduled Community Board meeting. If the Community Board elects to comment on such requests it must do so within 30 days of such modification.

In M1-5A and M1-5B Districts the requirements of Sections 42-14D, c, d, e or f may be modified provided that either:

1. Such space was vacant as of January 28, 1976; or
2. Such space was occupied by a joint living-work quarters for artists as of January 28, 1976; or
3. The Commission finds that a modification of the restriction on use of the space is necessary for the building to qualify as a non-profit Cooperative Corporation; or
4. The Commission finds that the space below the floor level of the second story is required by an artist whom the Department of Cultural Affairs has certified as working in a heavy or bulky medium which is not easily transported to the upper floors.

* * *

43-17

Special Provisions for Joint Living-Work Quarters for Artists M1-5A
M1-5B

In the districts indicated, no building containing joint living-work quarters for artists shall be enlarged, except that mezzanines are allowed within individual quarters, provided that such mezzanines do not exceed 33 1/3 percent of the gross floor area of such individual quarters. No mezzanine shall be included as floor area for the purpose of calculating minimum required size of a joint living-work quarters for artists.

In the districts indicated no building containing joint living-work quarters for artists shall be subdivided into quarters of less than 1,200 square feet except where no story contains more than one joint living-work quarters for artists.

* * *

74-48

Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts

In M1-5A and M1-5B Districts the City Planning Commission may, after public notice and hearing and subject to Board of Estimate approval, permit modification of Section 42-14D, c,d,e or f provided that:

The Commission finds that the owner of the space has made a good faith effort to rent such space to a mandated use at fair market rentals. Such efforts shall include but not be limited to: advertising in local and City wide press, listing the space with brokers, and informing local and City wide industry groups. Such efforts shall have been actively pursued for a period of no less than six months for buildings under 3,600 square feet and one year for buildings over 3,600 square feet prior to the date of the application for a special permit.

VICTOR MARRERO, Chairman;
MARTIN GALLENT, Vice-Chairman, _____

SYLVIA DEUTSCH, HOWARD B. HORNSTEIN, CHESTER RAPKIN, Commissioners.