

LAW OFFICE OF JOHN P. GIVEN
2461 Santa Monica Blvd., #438
Santa Monica, CA 90404
john@johngivenlaw.com
(310) 471-8485

September 22, 2015

Los Angeles City Council
Planning and Land Use Management Committee
Los Angeles City Hall
200 North Spring Street
Los Angeles, CA 90012

VIA HAND DELIVERY and E-MAIL to Leg. Asst. Sharon.Dickinson@lacity.org

RE: CF # 15-1013 – Hybrid Industrial (“HI”) Live/Work Zone Ordinance
CPC-2015-1938-CA; ENV-2015-1939-CE

Honorable Chairman Huizar and Committee Members:

The following comments are made on behalf of Los Angeles River Artists and Business Association and Arts District Community Council, and individual Arts District stakeholders Yuval Bar-Zemer, Paul Solomon, and Mark Borman. This letter supplements letters submitted previously to the City Planning Commission (on August 11, 2015) and PLUM Committee (on September 8, 2015) regarding the proposed Hybrid Industrial Live/Work Ordinance. These stakeholders continue to assert that the City’s failure to undertake any environmental review whatsoever or to provide any evidence in support of the use of the “common sense” exemption is contrary to state law.

This letter is specifically in response to actions taken by the PLUM Committee at its September 8, 2015 meeting where the Committee proposed several amendments to the ordinance, which it directed the Department of Planning to analyze and report back on. Planning published a revised draft ordinance for PLUM consideration on September 17, 2015, but has either failed to analyze and make a recommendation on the amendments or has not published its analysis or recommendations in a manner that permits members of the public to respond to this Committee before it takes action.

I. PLUM’s proposed amendments move the ordinance far away from its intended purpose of preserving industrially zoned land for job creation.

The City Planning Commission considered the Hybrid Industrial Live/Work Zone ordinance on August 13, 2015. At that hearing, the Planning Department repeatedly affirmed that the intent of the ordinance was job creation. Individual Commissioners also confirmed that the decision by the CPC to recommend approval by PLUM and the City Council was based on its agreement with the balance that Planning had struck among numerous provisions of the ordinance. Commissioner Mack, for example, supported job creation and said he appreciated that the ordinance strikes a delicate balance. Commission Vice President Renee Dake-Wilson stated that “[m]y entire lens to look at this project, or this zoning revision, is that this is an industrial zone

where we are creating and retaining jobs . . . I am very concerned with the industrial areas of Los Angeles being run over by housing, and I am very concerned with areas such as the Arts District being run over by high-end housing, pushing out the low-income live/work ordinance.” In her support of the ordinance, she stated “I think that Planning has really worked hard to reach that sweet spot, and I am not inclined to nickel and dime those areas . . . I think we need to go with the recommendations of the hitting the sweet spot, of encouraging that industrial live/work.” Commissioner Ahn also supported Planning’s proposal, saying he agreed with Planning Director LoGrande’s points that housing is an ancillary benefit, and that on balance the proposed ordinance does a good job balancing competing interests. No commissioners provided a countervailing view to any of these comments.

At its meeting on September 8, 2015, the PLUM Committee proposed four amendments to the ordinance. The second of the amendments eliminates the 200 square foot minimum non-residential floor area set aside per live/work unit constructed for “Arts and Productive Uses” in favor of a tiered scheme that provides considerably less floor area for this purpose. Section 4 C.1(b)(2) of the ordinance as amended calls for 50, 100, or 150 square feet to be set aside depending on the size of the development, with the greatest relief offered to the largest developments. The amendment dramatically slashes the amount of space dedicated to preserve land for jobs and foster job creation, in direct conflict with the stated purpose of the ordinance.¹

As an example, under the version of the ordinance recommended for approval by the City Planning Commission, a 150-unit project would have set aside 30,000 square feet for separate, leasable Arts and Productive Spaces. Under PLUM’s proposed amendment, the same project would provide only 15,000 square feet of space for Arts and Productive Uses, a reduction of 50 percent.² Ironically, the set aside reduction is skewed to benefit larger projects, even though, as Planning’s Patricia Diefenderfer noted to the PLUM Committee, larger projects have greater options for siting non-residential space, including siting the space in multiple buildings. Despite the intention for the ordinance to maximize job creation, under PLUM’s proposal, the larger the project, the more the ordinance moves away from its stated purpose of job creation and towards pure residential development.

The PLUM amendment is particularly striking because it was specifically rejected by the City Planning Commission in August. Numerous developers and their lobbyists requested that the CPC consider reducing the Arts and Productive Use set aside to 100 square feet per unit. The CPC flatly rejected the suggestion, and applauded the “delicate” balance that Planning achieved with a set aside of 200 square feet per unit. But the PLUM amendment goes much further than granting what the CPC previously rejected. For projects with more than 150 units, the Arts and

¹ Section 4 of the ordinance relates the “Purpose” of the “HI” Hybrid Industrial Live/Work Zone: “The purpose of this Zone is to regulate Live/Work and Arts and Productive Uses in areas of the City with a General Plan land use designation of Hybrid Industrial *as a means to preserve land for jobs and to foster job creation.*” Draft Ordinance Section 4 (emphasis added).

² The amendment requires the first 50 live/work units to set aside 150 square feet per unit (7,500 sq.ft.), the next 50 units would require 100 square feet per unit (5,000 sq.ft.), and the next 50 units would require only 50 square feet per unit (2,500 sq.ft.), for a total of 15,000 square feet.

Productive Use set aside requirement falls below the level that the CPC rejected for being too low. The following table illustrates that the larger the project, the lower the set aside would be. PLUM's amendment effectively scuttles the biggest job creation benefit of the ordinance and turns what is intended to be a job creation ordinance into a housing ordinance. The amendment is counter to the City's standing policy of preserving industrially zoned land for industrial and other productive uses.³

Table – Comparison of Ordinance Reviewed by CPC with PLUM Amendment 2

No. of L/W Units	Arts & Productive Uses		PLUM Am. Prod. Use Avg. Sq. Ft./LW Unit	% Reduction CPC to PLUM
	CPC Sq. Ft.	PLUM Am. Sq. Ft.		
150	30,000	15,000	100.0	50%
200	40,000	17,500	87.50	56.3
250	50,000	20,000	80.00	60.0
300	60,000	22,500	75.00	62.5
350	70,000	25,000	71.44	64.3
400	80,000	27,500	68.75	65.6
450	90,000	30,000	66.67	66.7
500	100,000	32,500	65.00	67.5

In addition, PLUM proposes an amendment to increase the number of hotel rooms permitted under the ordinance from 100 to 149. The request to either increase this number or remove the 100-room cap altogether was also specifically rejected by the City Planning Commission. The CPC adopted Planning's recommendation for 100 hotel rooms, as representing an appropriate balance between the 70-150 hotel rooms that advocates requested, and the fact that hotel uses are not permitted within industrial zones.

II. Planning was charged with studying and reporting on the PLUM amendments and performing additional stakeholder outreach, but failed to do more than produce a revision of the ordinance.

At the end of the PLUM hearing the Committee directed Planning to “explore [the amendments], give some feedback, give a report, talk to stakeholders who are interested and see what the outcome would be.” To date, Planning has provided a revision of the ordinance including the PLUM amendments (posted to the online Council File on September 17, 2015), but has not

³ For sake of comparison, the proposed interim live/work ordinance drafted by Arts District stakeholders provided a much more robust job creation mechanism than either the CPC-approved or PLUM-amended version of the pending ordinance. It would have required 50% of built space up to a FAR of 3.0:1 to be set aside for non-residential job producing uses unless Type I/II construction was employed. Shortly after Arts District stakeholders shared this proposal with City Planning, the interim live/work ordinance was expanded to be applicable citywide, and interim controls (live/work unit and hotel room caps) were removed from the ordinance.

provided any analysis of the amendments for community review, and has not reached out to Arts District stakeholders, including my clients. Based on comments provided by Senior Planner Patricia Diefenderfer at the September 8 PLUM hearing, Planning's analysis would likely agree with the conclusion of community members that the second PLUM amendment cuts the heart of the job creation benefit out of the ordinance, in direct conflict with the purpose of the ordinance to preserve industrially zoned land for job creation. With no analysis performed or report provided to interested members of the public, as requested by the PLUM Committee, community members are at a loss to comment further, and seek the opportunity to do so once Planning's analysis is provided, and before the ordinance is passed along to the full Council.

III. PLUM's amendments substantially change the nature of the ordinance in conflict with existing City policy to preserve industrially zoned land for jobs and job creation, and require further review by the City Planning Commission under Los Angeles City Charter Section 558.

Los Angeles City Charter Section 558 controls the adoption of zoning ordinances such as the Hybrid Industrial Zone Live/Work ordinance. *See* Los Angeles City Charter § 558(a)(1)-(2). Charter Section 558 requires that when a land use ordinance is initiated that the City Planning Commission be provided an opportunity to review and report, including making a recommendation of approval or disapproval along with making specific findings. Charter § 558(b)(2). Because the Planning Commission's recommendation changes the procedure for adoption by the Council, it is the City's practice when an ordinance has been substantially changed by amendment to provide the Planning Commission another opportunity to review and comment. *See, e.g.*, CPC-2015-3059 (CF Nos. 08-2020, 11-1705, among others).⁴ Arts District stakeholders submit that PLUM amendments one and two (to increase the number of permitted hotel rooms from 100 to 149 and slash the Arts and Productive Use requirement) substantially change the ordinance, thus requiring further review by the Planning Commission. The proposed changes are in conflict with existing City Policy to preserve industrially zoned land, and in conflict with the purpose of the ordinance to preserve land for jobs and to foster job creation.

IV. The City has failed to analyze whether the Hybrid Industrial Zone conflicts with any River Improvement Overlay Districts.

The proposed Hybrid Industrial Zone ordinance is initially expected to apply to the two community plan areas where the Hybrid Industrial designation is already in use, the Central City North and Northeast Los Angeles Community Plans. Arts District stakeholders note that the LA River flows through both of these community plan areas and the recently enacted Los Angeles River Improvement Overlay District is incorporated within substantial portions of both communities. The City's review of the HI Zone ordinance has not provided even limited

⁴ This is the CPC review of changes to the Citywide sign ordinance revision proposed by the Council's PLUM committee. The ordinance was first reviewed by the CPC in March 2009, and is scheduled for a new CPC hearing in two days on Thursday, September 24, 2015 to review the numerous changes proposed by the PLUM Committee since then.

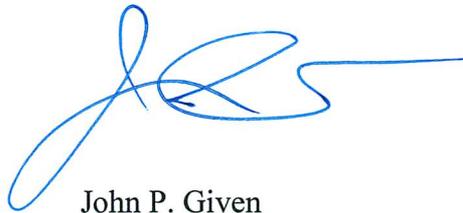
discussion or analysis of how the proposed Hybrid Industrial Zone would interact with the LA-RIO, as required by the California Environmental Quality Act.

V. Conclusion.

Based on this and past letters, the City should not proceed with approval of the proposed ordinance, but should provide the appropriate level of environmental review as required by CEQA, most likely within a tiered environmental review process as discussed in my letter to the PLUM Committee dated September 8, 2015.

Alternately, Arts District stakeholders would be satisfied to carve the Arts District out of the currently proposed ordinance and continue working with the City to enact an Arts District-specific ordinance.

Sincerely,

A handwritten signature in blue ink, appearing to read "John P. Given". The signature is stylized with a large loop on the left and a horizontal line extending to the right.

John P. Given

Cc (by email only):

Honorable Jose Huizar (CD14)

Members of the PLUM Committee

Michael LoGrande, Director of City Planning

Christopher Fudurich, President, LARABA

Dr. Ran Boytner, President, Arts District Community Council LA

Yuval Bar-Zemer

Paul Solomon

Mark Borman