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August 25, 2020

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Department of Building and Safety

CASE NO. ZA-2019-3671-ZAI
ZONING ADMINISTRATOR'S
INTERPRETATION
701-715 South Hill Street, 400-406 West
7th Street

Central City Planning Area

Zone : C5-4D

D. M. : 129A209

C. D. : 14

CEQA : Not Applicable/Exempt

Legal Description: Lot Nos. FR 4 - FR 5,
Mueller Subdivision of the North ½ of
Block 26 Ord's Survey

The development of a full service hotel with kitchen facilities in the guest room is considered a hotel for the purpose of classifying the use under the City's Zoning Regulations and the Department of City Planning's Use List. As a Hotel, the use is subject to all regulations and requirements applicable to such use under the City's Zoning Regulations.

The definition of such a use, however, is somewhat ambiguous and contradictory under the different definitions of the Los Angeles Zoning Code used to describe the rooms contained in a hotel. The clearest definition in Section 12.03 of the Code is a "Light Housekeeping Room" which is defined as:

Any guest room which is designed and used as a bedroom and for the cooking and preparing of food, in conformance with the provisions of Section 91.4930.1 (now 91.8116.1 of the revised Building and Safety Code) of Article 1, Chapter 9 of this Code (The Building and Safety Code within the LAMC). For the purpose of

applying the lot area and automobile parking space requirements of the various zones, each light housekeeping room shall be considered as a separate guest room.

There is also contained in Section 12.03 a definition for an "Efficiency Dwelling Unit" which is defined as:

A room located within an apartment house or apartment hotel used or intended to be used for residential purposes which has a kitchen and living and sleeping quarters combined there in, and which complies with the requirements of Section 91.4930.2 of this Code.

These definitions in the Zoning Code would satisfy the needs of such hotel uses which are becoming more and more prevalent in the modern hospitality industry and are a staple of such hotel chains as Marriott Corporation's Residence Inn, Extended Stay America and other suite hotel firms which rent their rooms for less than 30 days.

There are, however, problems with the use of both definitions. Though the definition of a Light Housekeeping Room is located in the Zoning Code, it is further limited in its use by the fore mentioned Section 91.4930.1 of the Building and Safety Code which limits the use of Light Housekeeping Rooms to buildings erected prior to September 20, 1963. While the limitation on when such a use may be used in a building is contained in the Building and Safety Code, it is not contained in the Zoning Code. The definition for an Efficiency Dwelling Unit describes the use as a Dwelling Unit which has different regulations in the Zoning Code than the Light Housekeeping Room including applying lot area regulations that are double that of a guest room and parking regulations for a multiple unit building instead of a hotel. A problem arises because, in previous Zoning Administrator Interpretations for such hotel guest room uses, the Zoning Administrator used the definition of an Efficiency Dwelling Unit instead of a Light Housekeeping Room which have different parking and lot area requirements.

Section 12.21 A.2 of the Los Angeles Municipal Code (LAMC) provides:

"2. Other Use and Yard Determinations by the Zoning Administrator. The Zoning Administrator shall have authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code to provide clarity where ambiguity exists.

BACKGROUND

The project site is located generally at 701 – 715 South Hill Street within the Central City Community Plan area. The site has a land use designation of Regional Center Commercial and is zoned C5-4D and is subject to the Development "D" Limitations contained within Ordinance No. 164,307 Subarea 1895. The D Limitations states "the

total floor area contained in all buildings on a lot shall not exceed six (6) times the buildable area of lot” and contains exceptions to permit additional floor area. The subject site is located within the boundaries of the Adaptive Reuse Incentive Area, Greater Downtown Housing Incentive Area, and is within a designated Transit Priority Area.

The subject site is currently developed with a 122,356 square-foot commercial office building known as the Foreman and Clark Building, which was constructed in 1929 and is designated as a Los Angeles Historic Cultural Monument (Monument No. 953). The building is identified as a 13-story commercial office building; however, the building includes a penthouse area which was utilized for mechanical equipment. The Project currently proposed by the applicant is to renovate the building, maintaining ground floor commercial uses and to convert the upper stories, including the mechanical penthouse area, into hotel guest rooms pursuant to Section 12.22 A.26 of the LAMC, or the Adaptive Reuse Ordinance (ARO). This Section of the Code, though written primarily for residential apartment and condominium conversions of older office buildings in the Central City Community Plan Area, has been used for the conversion of older underutilized office buildings into such hotels as the Ace on Broadway, the Freehand on Olive Street and recently The NoMad also on Olive.

The existing 122,356 square-foot building was constructed prior to the adoption of the D Limitation and is considered to be non-conforming due to its 10.62:1 Floor Area Ratio (FAR). On October 24, 2014, the Chief Zoning Administrator issued a Zoning Administrator’s Interpretation, Case No. ZA-2014-3943-ZAI, which states that FAR within Adaptive Reuse projects can be relocated throughout the building, provided that there is no new net increase in floor area. The renovations to the building would result in the reallocation of floor area, resulting in a building with 122,172 square feet of floor area or a 10.60:1 FAR including the fore mentioned mechanical penthouse being used as habitable area.

The owner of the property proposes to improve the building with the intention of allowing an internationally operated hotel brand to operate the building as a hotel. The business plan of the brand is to provide an alternative to the conventional hotel model by providing hotel guests with hotel amenities, as well as providing non-traditional amenities such as in-suite kitchen facilities. The provision of these amenities is intended to allow hotel guests to have alternatives to dining out when away on travel.

The Project would renovate the ground floor of the building for general commercial uses with a hotel lobby and the upper floors into hotel guest rooms. The proposed guest rooms would range from 470 to 1,075 square feet of floor area. The hotel will include studios, one-bedroom, and two-bedroom guest rooms, which will include a bathroom, closet, sitting area, and a kitchen area. The kitchen area would include a refrigerator, an electric stovetop burner limited to two burners, a microwave, a sink with hot and cold running water, a hot water line, electrical outlets, as well as countertops and cabinets. This proposed use is more in line with the definition of a “light housekeeping room” especially as further defined by Section 91.8116.1 of the Building and Safety Code which regulates the type, size and safety regulations of the cooking equipment which may be placed in

such a room. As indicated on the plans submitted as part of the administrative file, no ovens are proposed to be installed within the guest rooms. Pursuant to LAMC Section 12.22 A.26(h)(3), no parking is proposed or required, to be provided on-site as the building was constructed without parking.

It is not anticipated that any discretionary approvals would be required as a hotel use is permitted in the C5 Zone, and there are no residentially zoned properties within 500 feet which would require a conditional use for a hotel. The Project complies with the provisions of LAMC Section 12.22 A.26. As such, the Project would be exempt from the provisions of Site Plan Review, LAMC Section 16.05.

DISCUSSION

The Department of City Planning and the Department of Building and Safety have indicated that a hotel room with a kitchen is not deemed a Guest Room, but would rather be considered an Efficiency Dwelling Unit under the strict application of the Zoning Code. The definitions that are applicable and establish this interpretation are as follows:

HOTEL. A residential building designated or used for containing six or more guest rooms, or suites of rooms, which may also contain not more than one dwelling unit, but not including institutions in which human beings are housed or detained under legal restraint.

GUEST ROOM. Any habitable room except a kitchen, designed or used for occupancy by one more persons and not in a dwelling unit.

EFFICIENCY DWELLING UNIT. A room located within an apartment house or apartment hotel used or intended to be used for residential purposes which has a kitchen and living and sleeping quarters combined therein, and which complies with the requirements of Section 91.4930.2 of this Code.

LIGHT HOUSEKEEPING UNIT. Any guest room which is designed and used as a bedroom and for the cooking and preparing of food, in conformance with the provisions of Section 91.4930.1 of Article 1, Chapter 9 of this Code. For the purpose of applying the lot area and automobile parking space requirements of the various zones, each light housekeeping room shall be considered as a separate guest room.

However, as mentioned previously, an Efficiency Dwelling Unit is considered to be and by definition is a Dwelling Unit. This means that they are subject to the lot area and parking requirements of a dwelling unit. Hotels and guest rooms have lower lot area and parking requirements, and thus, the Light Housekeeping Room is a better fit for a hotel use. Under the strict application of the Zoning Code, hotels could not be comprised of an Efficiency Dwelling Unit and any building comprised of Efficiency Dwelling Units would be considered an apartment or an apartment hotel. The Project proposes to be renovated as and to operate as a hotel. In a majority of the City, there would be differences between hotels and apartments as it relates to the calculation of density, required discretionary approvals, and the construction and type of fees and taxes. In this instance, the subject

site is not only located within the Greater Downtown Housing Incentive area, but the Adaptive Reuse Incentive area. Within both incentive areas, dwelling units and guest rooms are not subject to a minimum lot area per dwelling unit calculations. While the provisions of the Adaptive Reuse Ordinance establishes minimum dwelling unit sizes and an average dwelling unit size, there is no such restriction for guest rooms. The applicant has not filed for any other discretionary approvals related to the adaptive reuse of the building with ground floor commercial uses and guest rooms in the upper floors.

The applicant proposes to renovate the building with guest rooms that include a kitchen area. The proposed design is intended to address the evolution of the hospitality industry, as indicated by the applicant, and to provide an additional amenity to hotel guests. By providing kitchen facilities within the guest rooms, hotel guests will be provided an alternative to dining out and would be able to store and/or prepare meals within the guest rooms as long as such meals do not require the use of a stove.

As previously discussed, the kitchen area would include a refrigerator, a two burner electric stovetop, microwave, sink, hot water line, electrical outlets, as well as countertops and cabinets. No ovens are proposed to be installed in the guest rooms. The limited kitchen facilities would also include storage and cabinet spaces as required by both the Building and Safety Code and the State of California Government Code for Efficiency Dwelling Units. The Government Code makes no distinction between Efficiency Dwelling Units and Light Housekeeping Units.

DETERMINATION

As previously discussed, LAMC Section 12.22 A.2 has been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's Zoning Regulations.

The City's Zoning Code was written prior to the present trend of hotels having limited, but not full, kitchen facilities within the guest rooms which are designed to provide some limited amenities of a dwelling unit and has not been updated to address this new model of hotel use. Previous Zoning Administrator Interpretations have been written to resolve this question (ZAI's 2002-4510, 97-0768 and 98-0578) all of which have used the definition of an Efficiency Dwelling Unit. In this case, the subject building was erected in 1929 well before the Building and Safety Code's September 20, 1963 limitation, and thus, the Zoning Administrator believes that the use of the term Light Housekeeping Room is more analogous to the requested use for a hotel room. The Building and Safety Code refers to the date of the building's erection not to the date that the hotel rooms were installed in the existing building. This Interpretation was also needed, because while other hotels have received permission by Conditions of Approval of Department of City Planning determinations such as the Residence Inn at L.A. Live, this project was accomplished through the Adaptive Reuse Ordinance in which the Department did not have the opportunity to establish Conditions of Approval that would permit the use of kitchens in guest rooms. Thus, the need for the Zoning Administrator's Interpretation.

Concerns may be raised that such a use constitutes a “Transient Occupancy Residential Structure (TORS)”. That is not the case with this building conversion. The definition for a TORS requires that the building is a residential building used for one or more dwelling units or a combination of three or more dwelling units and not more than five guest rooms or suites of rooms wherein occupancy is for less than 30 days. Because the hotel’s guest rooms meet the definition of a Light Housekeeping Unit, the structure contains more than the five guest room limit and thus, does not qualify as being a TORS by definition. Additionally, the building has never been used as a residential building with dwelling units and the intent of the adaptive reuse of the former office building has been as a hotel with guest rooms.

While this interpretation addresses this issue, there is a concern that the use could be converted into a residential building containing Dwelling Units, Joint Live and Work Quarters, or other residential uses which may be subject to other regulations or discretionary approvals without the benefit of the Department of City Planning or Department of Building and Safety review. To eliminate this possibility, a Covenant and Agreement must be recorded agreeing to maintain and operate the proposed full service hotel as a commercial hotel only, and shall comply with all applicable City rules, regulations and fees for commercial hotels.

Further, the proposed hotel shall not be converted nor operated as any other type of residential building, other than a commercial hotel, without obtaining the necessary approvals and permits from the Department of City Planning and Department of Building and Safety. This agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. Further, the agreement must be submitted to the Development Services Center for approval before being recorded. After recordation, a copy bearing the Recorder’s number and date must be given to the Development Services Center for placement within the administrative file.

This interpretation shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

APPEAL PERIOD – EFFECTIVE DATE

The Zoning Administrator’s determination in this matter will become effective after **September 9, 2020**, unless an appeal therefrom is filed with the Department of City Planning. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator’s action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available online at <http://planning.lacity.org>. Public offices are located at:

Downtown

San Fernando Valley


West Los Angeles

Figueroa Plaza
201 North Figueroa Street,
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(213) 482-7077

Marvin Braude San
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West Los Angeles
Development Services
Center
1828 Sawtelle Boulevard,
2nd Floor
Los Angeles, CA 90025
(310) 231-2598

If you see judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



CHARLES J. RAUSCH, JR.
Associate Zoning Administrator
CJR:MS:bk

Council District 14
Interested Parties List