



CITY OF VANCOUVER

POLICY REPORT URBAN STRUCTURE

Date: August 30, 2005
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TO: Vancouver City Council

FROM: Director of Current Planning in consultation with Chief Building Official, Director of Housing Centre, General Manager of Engineering Services, Director of Finance, and Director of Legal Services

SUBJECT: Live-Work Use in the Victory Square, Gastown, Chinatown, and Hastings Street Areas

RECOMMENDATION

- A. THAT the Director of Current Planning be instructed to make application to amend the Zoning and Development By-law, Downtown District Official Development Plan, and Downtown-Eastside/Oppenheimer Official Development Plan to:
- (i) add and define Live-Work Use as a use term in Section 2 of the Zoning and Development By-law;
 - (ii) permit this use as a conditional approval use in the HA-1 and HA-1A Districts Schedule and HA-2 District Schedule of the Zoning and Development By-law, the Downtown District Official Development Plan (a portion of Area C and Area C1, corresponding to the Victory Square Plan area), and the Downtown-Eastside/Oppenheimer District Official Development Plan (Sub-area 1 Main/Hastings); and
 - (iii) replace provisions for General Office Live-Work in the Downtown District Official Development Plan with provisions for Live-Work Use;
- generally as outlined in Appendix A, and that the application be referred to a Public Hearing;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-laws, generally as outlined in Appendix A, for consideration at the Public Hearing.

- B. THAT, if the zoning amendments are approved, at the time of enactment the by-laws be accompanied by an amendment to the Parking By-law to provide parking and loading regulations for Live-Work Use generally as outlined in Appendix B;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally as outlined in Appendix B.

- C. THAT, if the zoning amendments are approved, at the time of enactment the by-laws be accompanied by the draft Live-Work Use Guidelines, generally as presented in Appendix C, for adoption by resolution of Council.
- D. THAT, if the zoning amendments are approved, the Artist Studio Guidelines be amended generally as outlined in Appendix D.
- E. THAT, if the zoning amendments are approved, the Chief Building Official be instructed to develop Building By-law requirements for Live-Work Use, for report back to Council.
- F. THAT the Director of Finance, in consultation with the Director of Current Planning, be instructed to report back to Council on potential solutions to the property assessment, classification and taxation issues related to live-work use.
- G. THAT no further expansion to live-work zoning be approved by Council until after a solution to the property assessment, classification and taxation issues has been implemented.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of A through G.

COUNCIL POLICY

Live-Work-related Policy:

- The Zoning and Development By-law permits "homecraft" which allows a wide range of work at home in any dwelling unit in the city, without requiring a development permit.
- In 1987, Council amended the Zoning and Development By-law and Building By-law to permit the provision of "artist live/work studios" (i.e., "residential unit associated and integrated with an artist studio") in existing buildings in some zones.
- In 1993, Council amended the Zoning and Development By-law and Building By-law to permit "artist live/work studios" in new buildings in some zones.

- In April 1996, Council revised regulations and guidelines for “artist live/work studios”, creating two classes (Class A and B) based on relative impact and hazard levels, and limiting opportunities for new, strata-titled “artist live/work studio” development in industrial zones.
- In June 1996, Council adopted “Live/Work and Work/Live: Vancouver Overview Including Strategic Directions” to guide the City’s future actions regarding live-work use.
- In September 2003, Council approved amendments to the Downtown District Official Development Plan to allow General Office Live-Work in the parts of Downtown South.

There is policy direction which encourages locating jobs closer to home established in Clouds of Change (1990), Central Area Plan (1991), CityPlan (1995), The Vancouver Transportation Plan (1997), and Vancouver’s Community Climate Change Action Plan (2005).

Council has also adopted various policies and incentive programs encouraging retention and restoration of heritage buildings and heritage areas and the revitalization of communities in the Downtown Eastside area.

PURPOSE AND SUMMARY

This report recommends zoning amendments to create a new use term for a low-impact, low-hazard form of live-work use, Live-Work Use, and to permit it in the heritage areas east of the downtown core: Victory Square, Gastown, Chinatown, and Hastings Street. The zoning will be introduced to these heritage areas in order to benefit their revitalization. In future, once issues related to property assessment, classification, and taxation are resolved, it may be extended to other mixed use areas in the city.

The proposed zoning would enable property owners to make application for straight-forward, low impact live-work projects without needing a CD-1 rezoning or Heritage Revitalization Agreement (HRA). It is expected to accommodate the majority of demand for live-work premises. Adoption of Live-Work Use Guidelines is recommended to assist staff and applicants in the evaluation of these projects. Finally, amendments to the Parking By-law are recommended to introduce parking and loading requirements for Live-Work Use.

This report outlines the implications of current property assessment, classification, and taxation policy and administration for live-work and how resulting economics may discourage people from lawfully working in their units. This issue has been recognised for some time. This report recommends that Finance staff work with Planning staff, the BC Assessment Authority and provincial government, the development industry, and other stakeholders to develop solutions to these issues. It is also recommended that there be no further expansion to live-work zoning beyond the areas described in this report until after a solution has been implemented.

Lastly, to facilitate Building By-law review and approvals of live-work projects under this proposal, it is recommended that staff develop Building By-law requirements for Live-Work Use.

BACKGROUND

The City of Vancouver has permitted home-based work since the adoption of “homecraft” provisions in 1956. Since then, the City has expanded opportunity for people to work at home through the adoption of various live-work provisions. The following is a brief overview of current provisions for “live-work”.

Homecraft: Under the current Zoning and Development By-law, “homecraft” provisions allow people to work in their homes (single- or multi-family) anywhere in the city, provided that the activity does not disturb the “quiet enjoyment” expectations of neighbours. Under the definition and regulations, people can work at home provided the activity is accessory to the principal residential use of a dwelling unit, and there are no employees, sales, signs (in residential districts), or objectionable effects (e.g. noise, vibration, odour). No development permit is required. Most home-based work falls into this category, although there is some demand from people who would like the opportunity to have employees and/or walk-in trade.

In March 2004, Council directed staff to report back with proposed changes to the City’s home-based business regulations to liberalise restrictions while staying within the basic intent. Staff have drafted the amended regulations, but have been held up by issues with property assessment and taxation, which are discussed later in this report.

Artist Live/Work Studios: “Artist live/work studio” use is generally permitted in Vancouver’s commercial, industrial, and historical zones. It is divided into two classes, Class A and Class B, based on the relative impact and hazard levels of studio activities. Class A permits low impact, low hazard studio activities such as drawing, painting and sculpture, and Class B permits relatively higher impact and hazard studio activities, which may involve toxic or hazardous materials or processes.

“Artist live/work studio” use is limited to the production of art, and does not allow employees or retail sales. However, over the years, there has been a market tendency for some “artist live/work studio” units to be used for some commercial use.

Expanding Opportunity for Live-Work: In the past 10 years, there has been a number of project-specific live-work developments in Vancouver permitted through rezonings and HRAs. In July 2003, Council approved amendments to the Downtown District Official Development Plan (DD ODP) to allow General Office Live-Work in ground-level units in parts of the Downtown South to create a richer activity mix at the street level.

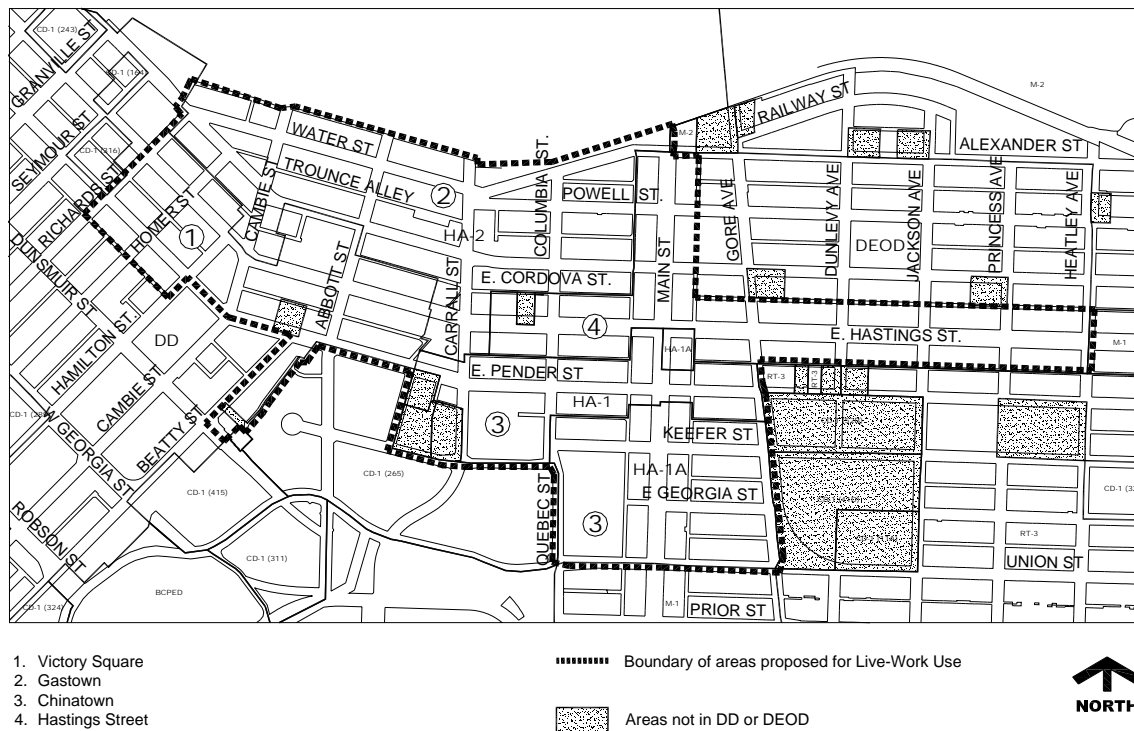
There are presently about 267 live-work units in the central area (other than “artist live/work studios”) with another 490 units proposed. The majority of units are General Office Live-Work, which by definition permits any office use except financial institutions, health care offices, and health enhancement centres. Some industrial and service uses have also been permitted in some specific live-work projects.

DISCUSSION

This report proposes to amend the zoning to create a new use called Live-Work Use for a low impact, low hazard form of live-work use, and to permit this use in the heritage areas east of the downtown core: Victory Square, Gastown, Chinatown, and Hastings Street (as indicated in

the map below). The proposed zoning amendments will enable property owners to apply for development applications for straight-forward, low impact live-work projects without needing a rezoning or HRA. The zoning will be introduced to these heritage areas in order to benefit their revitalization.

Figure 1: Areas Recommended for Live-Work Use



The discussion below covers the following:

- rationale for extending live-work opportunity;
- description of the proposed Live-Work Use;
- areas where the use would be permitted;
- density provisions for the use;
- applicability of retail continuity provisions;
- replacement of existing General Office Live-Work provisions;
- development permit requirement to change from Live-Work Use;
- guidelines for Live-Work Use;
- parking and loading requirements;
- Building By-law implications;
- implications for housing affordability;
- property assessment, classification and taxation implications; and
- public input.

1. Rationale for Extending Live-Work Opportunity

In response to social, cultural, and economic circumstances, many people in Vancouver, as elsewhere in North America, are working at home. The percentage of jobs in Vancouver that

are located at home was 8.0% in 2001, up from 6.6% in 1991. As noted in the Background above, the City has been gradually adding opportunities to combine living and working in the same space. Increasing the area in which live-work opportunities can be realised is one way for the City to accommodate the demand for this market segment.

In addition to accommodating demand, live-work meets several other City objectives. First, live-work use would provide a new use option that would support heritage conservation and revitalization efforts in the heritage areas east of the downtown core (Victory Square, Gastown, Chinatown, and Hastings Street) where many buildings remain vacant and underutilized. Second, live-work is one form of sustainable land use and development (i.e. bringing housing and employment closer together, reducing vehicle dependency). The area proposed for consideration for live-work is centrally located and well served by transit.

There is practical experience on which to base the zoning changes. In addition, research indicates that the concept is marketable. The success of three recent live-work HRA projects in Gastown heritage buildings has shown that live-work is viable in the area in terms of development economics and market acceptance.

While noting the positive potential of live-work, some challenges also need to be borne in mind at the present time:

- Because live-work use allows units to be used for both uses or all-live or all-work at the discretion of an occupant, live-work creates significant challenges for the BC Assessment Authority's ability to classify properties for taxation purposes according to the BC Assessment Act and Regulations (see Property Assessment, Classification and Taxation Implications below); and
- While live-work use would be limited to residential densities and therefore would not create additional residential potential, opportunity for live-work in these areas may result in upward pressure on land values making sites for social housing more difficult to secure, as well as the usual level of residential amenities (parks, community centres, schools) (see Housing Implications below).

In considering extending live-work to a particular location, the challenges related to this land use need to be acknowledged and managed appropriately.

2. Live-Work Use Description

The proposed new Live-Work Use will allow residential use with office, service, and artist studio activities that are low impact and have minimal hazards that would not pose significant challenges for building code requirements (see Appendix A for draft zoning amendments). Based on our research, the work activities permitted within Live-Work Use will satisfy the majority of demand for live-work.

Live-Work Use will allow almost all types of office work and certain types of service and artist studio work. Examples of the types of office work that would be permitted include consultants, researchers, analysts, writers, accountants, desktop publishers, software developers, and health care and social service practitioners. The types of service work permitted would be low hazard in nature, and would include photographers, hair stylists, aestheticians, and make-up artists. Artist Studio - Class A activities would also be permitted.

Consistent with previous zoning changes for office live-work, financial institutions (banks, credit unions, trust companies) and health enhancement centres (involving therapeutic touch techniques) would not be permitted, and a limiting condition would exclude offices for any dating service, exotic dancer business, social escort service, or other similar business. In addition, health regulations would prohibit tattooing, piercing, branding, or any such similar service from occurring in live-work.

Consistent with current regulations for “artist live/work studios”, staff recommend a minimum size of 47 m² (500 sq. ft.) for Live-Work units to ensure adequate space for both live and work activities. This size can accommodate the minimum dwelling unit size of 29.7 m² (320 sq. ft.) required by the zoning, as well as the smallest, reasonable work space.

(Depending on market demand and the availability of staff resources, staff will prepare a separate report for a second class of live-work use which would allow additional work activities with potentially higher impacts for which there may be some building code challenges. There would then be two classes of Live-Work Use, Class A and Class B).

3. Live-Work Use Location

Live-Work Use is proposed to be permitted as a conditional approval use in the heritage areas east of the downtown core: Victory Square (a portion of DD Area C and Area C1 corresponding to the Victory Square Plan area), Gastown (HA-2), Chinatown (HA-1 and HA-1A), and the Hastings Street area (corresponding to Downtown-Eastside/Oppenheimer Sub-area 1 Main/Hastings). The proposed zoning amendments will enable property owners to apply for development applications for Live-Work Use without needing a rezoning or HRA.

Live-Work Use will provide a new use option in these heritage areas. It will be compatible with the office, service, and residential uses permitted in the zoning for these districts. The proposed zoning is only being introduced to this limited geographic area in order to encourage revitalization and support heritage conservation efforts and incentive programs. At a later time, when issues related to property assessment and taxation discussed below are resolved, the use may be extended to other mixed use zones.

4. Live-Work Use Density

A number of zones have a limit for residential density which is less than the total density that is permitted in the zone. These limits on residential density may be to ensure a mix of land uses, to protect employment potential, or to mitigate land value increases. Because live-work units may become all-live and are likely to sell at residential prices, live-work space will be subject to the density limits for residential use, to ensure that residential density provisions are not inadvertently undermined in these areas.

Most zones have provisions that exclude residential balconies and sun decks and residential storage space, up to certain limits, from the calculation of density. These exclusions are intended to encourage the provision of these amenities in residential premises, and would be extended to Live-Work Use.

5. Retail Continuity

Some areas of the city have provisions requiring retail or service use continuity on street frontages for pedestrian interest, “eyes on the street”, and shopping area viability. In general, Live-Work Use will not meet this intent, because it may be used entirely for residential use. Where existing zoning provisions require retail continuity or prohibit residential use on street frontages, Live-Work Use will not be permitted. In Victory Square and Hastings Street, the wording of the current retail continuity provisions in the DD ODP and Downtown-Eastside/Oppenheimer District (DEOD) ODP is sufficient. In Chinatown, a minor amendment to the HA-1 and HA-1A Districts schedule is needed to ensure that the zoning intention is maintained (see Appendix A). In Gastown in the HA-2 District schedule, no amendments are needed.

6. Replacement of Existing General Office Live-Work Provisions

In July 2003, Council approved amendments to the DD ODP allowing General Office Live-Work in ground-level units in parts of the Downtown South. For consistency staff recommend amendments to the DD ODP to replace General Office Live-Work with Live-Work Use. While expanding the potential mix of activity at the street level, Live-Work Use will maintain the same low impact and hazard levels as general office use and will have comparably minimal impacts for residential use.

7. Development Permit Requirement to Change from Live-Work Use

Under the Zoning and Development By-law a property owner is not required to apply for a development permit to change a use in a building to another use that is permitted “outright” in the zoning. Under this provision, the use of live-work units within a development could be changed without the benefit of development review. Because the zoning for Gastown and Chinatown permits some outright uses which may not be compatible (e.g. financial institutions, health enhancement centres), an amendment is recommended that would require development permit approval to change the use of a Live-Work unit to a use that is not otherwise allowed under Live-Work Use.

8. Live-Work Use Guidelines

This report recommends that Council adopt a set of guidelines which will assist staff in the evaluation of Live-Work proposals, and to provide clear guidance to owners, developers, and architects. Live-Work projects will need to be designed to provide units that may be flexibly used for live and work activities, or that may become entirely all-live or all-work. Staff believe that this flexibility can be achieved while ensuring that live-work premises are functional, liveable, and safe.

Draft guidelines are included in Appendix C. They may be modified prior to adoption by resolution when enactment occurs. The guidelines address:

- circumstances for “borrowed” daylight;
- security aspects of combining live and work;
- live-work options for artist studio use;
- location of loading facilities; and
- amenity and open space.

PARKING AND LOADING REQUIREMENTS

As the Parking By-law does not include parking and loading requirements for live-work (other than for “artist live/work studios”), new requirements for Live-Work Use in Victory Square, Gastown, Chinatown, and Hastings Street need to be adopted (see Appendix B for draft by-law amendments).

With respect to parking, amendments are proposed that would apply the residential standards of the zoning districts in which Live-Work is added as a use. Staff believe that the residential parking standard is appropriate, given application of residential parking requirements in prior downtown live-work projects, proximity to local and regional transit, and the overriding objective of heritage conservation for these areas.

With respect to loading, the current residential standard, which has no loading requirement for projects smaller than 100 units, would not be sufficient. Alternatively the non-residential standard, which anticipates greater loading demand, would be too onerous. As such, a reduced non-residential standard will be applied to Live-Work. Relaxation will be considered in projects where there is opportunity for live-work to share loading facilities with other uses, such as ground floor retail.

BUILDING BY-LAW IMPLICATIONS

Building Code: The Vancouver Building By-law regulates the design and construction for new buildings, as well as alterations to existing buildings, with respect to fire; life and health safety; structural safety; and accessibility for persons with disabilities objectives. As proposed, Live-Work Use would allow only low hazard work uses, which when combined with residential premises, would not pose any significant challenges in meeting Building By-law (building code) requirements.

For the range of uses allowed under Live-Work Use, development will need to comply with Building By-law requirements for both residential and non-residential occupancies. In cases where there is difficulty meeting a requirement, developers have the option of proposing an equivalent solution which meets the intended performance level and objectives of the Building By-law.

Over the last few years, Building By-law staff have gained substantial experience with low hazard live-work through a number of site specific projects. Recommendation E is that staff develop Building By-law requirements for Live-Work Use based on this experience, pending availability of resources within the Chief Building Official’s work program. This would be similar to work undertaken for “artist live/work studios” resulting in Building By-law requirements in 1987 and later in 1999.

Staff propose that it be required that projects receiving development permit approval for Live-Work Use follow through with meeting all Building By-law requirements for the use, so that live-work units fulfill their intention to provide space that can be flexibly used by occupants for both live and work purposes.

Fire Inspections: The Fire Department inspects non-residential occupancies to ensure compliance with Vancouver Fire By-law requirements for fire and life safety. These inspections are intended to verify functionality of fire extinguisher, sprinkler, and fire alarm

systems, as well as compliance with combustible and hazardous material requirements. On the basis that Live-Work Use anticipates non-residential occupancy, owners and tenants in live-work suites would be expected to make their premises available for inspection on request of the Fire Department.

HOUSING IMPLICATIONS

One of the dilemmas faced in revitalization planning for the heritage areas, and the Downtown Eastside generally, is that measures to promote development, such as the Heritage Incentive Program, can result in land value increases which make it more difficult for the City to meet affordable housing objectives.

Coriolis Consulting Corporation was asked to consider the implications of the proposed live-work zoning amendments on land values (study available at City Clerks office). The study concluded that the proposed amendments will increase market interest in the area which will put upward pressure on land values, creating new competition for site acquisition of social housing. This is part of the overall increase in demand in this area, as a result of general market activity and public initiatives including the Victory Square Plan and the Heritage Incentive Program. The Coriolis study was not able to provide any estimate of order of magnitude in relation to the larger background factors of the Heritage Incentive Program and general market forces. It should be noted that the DEOD ODP provisions requiring 20% social housing will continue.

The Housing Plan for the Downtown Eastside, which was considered by City Council in September 2005, proposes ways to encourage a diversity of housing while also encouraging security of the low-income housing stock. The proposed live-work zoning amendments will encourage more market housing, and the Housing Plan recommends actions to also maintain a low income housing stock. These include continued social housing development (through City land acquisition and senior government housing programs), SRO purchase and upgrade, and continuation and possibly enhancing the Single Room Accommodation by-law. The Housing Plan was revised prior to consideration by Council to emphasize the need to match the rate of market development with low income housing, and includes a monitoring process with reporting back to Council so that if redevelopment pressures accelerate, actions such as an accelerated social housing site acquisition program could be implemented.

Staff also note that in addition to the low income housing stock referred to above, the area has a number of artists with studios, and often informal living accommodation, in the existing buildings. New developments can accommodate artists through the new Live-Work Use, or through the existing "artist live/work studio" provisions. However, new construction is generally more expensive than older stock, and will likely not be affordable to many artists.

PROPERTY ASSESSMENT, CLASSIFICATION AND TAXATION IMPLICATIONS

Municipal zoning that allows live-work use has created significant challenges for the classification of property for tax purposes. These are not challenges for the City, but rather for the BC Assessment Authority (BCAA), who is mandated with the responsibility of classifying and valuing properties for the purposes of property taxation. Because of the interrelationship between the City's zoning regulations and the BC Assessment Act's property class definitions, if the City wishes to proceed with further expanding live-work use beyond what is proposed in

this report, there must be cooperation between the City and the BCAA and provincial government in working out a solution.

The classification challenge for the BCAA is that the present property assessment and classification legislation and administrative process do not anticipate the “dual-use” zoning presented by live-work. Under the BC Assessment Act, property is assessed according to “highest and best use”, which in Vancouver is currently residential (valued between ± 1.5 to 2.2 times higher per square foot than commercial property). For taxation purposes, however, the BCAA is required to classify property according to “actual use”, which means that the part of a live-work unit used for commercial purposes is assigned to the business class (which in Vancouver is taxed at a rate that is ± 5.2 times higher than that of the residential class).

The result is that, in the current land value and property tax environment, many properties approved for live-work use will likely be used for all or largely residential, since occupants that work in all or part of a live-work unit would pay significantly higher property taxes than those who operate out of conventional commercial space. Alternatively, occupants may conceal commercial use of their premises from the BCAA to avoid paying higher commercial taxes, resulting in an advantage over other businesses paying commercial taxes.

The BCAA has thus far been able to classify live-work premises (through interviews with owners, inspections of individual units, etc.). However, as the number of live-work units in Vancouver increases, this becomes increasingly difficult and costly to perform. The BCAA is also confronted with incremental costs related to increased appeals of assessments associated with live-work use. These costs are ultimately assumed by Vancouver taxpayers.

Staff have done some preliminary investigation into the scope of the property classification issue and potential solutions. It has been concluded that there are no ready short-term solutions, and that it is likely that any feasible long-term solution would involve provincial legislative changes, and may also involve taxpayer participation in the property classification process (e.g. via an annual declaration of use). Any changes to the BC Assessment Act would have to be assessed by the provincial government in terms of their province-wide impact.

In addition to the property classification issue described here, there are some other issues surrounding live-work use that relate to property assessment and taxation which are outlined in Appendix D. In short, these issues centre around the fact that in an environment where there is a large difference between residential and commercial property values and property tax rates, the majority of properties approved for live-work use will be used for residential purposes only. According to the BCAA 94% of all live-work properties were classified as fully residential in 2004.

It is important that the assessment, classification, and taxation issues that have emerged in relation to live-work be resolved for the realization of the use, and for the benefit of occupants, the City, and the BCAA. Recommendation F is that Finance staff work with Planning staff, the BCAA and provincial government, the Urban Development Institute (UDI), and other stakeholders to develop and assess the feasibility of potential solutions to these issues. Recommendation G is that there be no further expansion to live-work zoning beyond the subject area of this report until after a solution to the property assessment, classification, and taxation issues has been implemented.

PUBLIC INPUT

There are a number of interest groups that are concerned with aspects of the Victory Square, Gastown, Chinatown, and Hastings Street areas, including several City committees. Staff attended meetings of the Gastown Historic Area Planning Committee (GHAPC) in April 2004 and July 2005 and the Chinatown Historic Area Planning Committee (CHAPC) in April 2004 and September 2005. Both committees generally supported the live-work proposal, with each passing a resolution in support (see Appendix F).

Staff also hosted two information meetings in June 2004 to which representatives from fifteen local community and business groups were invited to provide feedback on the initiative. Representatives from approximately half of these groups attended and were generally supportive of the proposal.

Comments from CHAPC and GHAPC members and from local group representatives were generally concerned with:

- resolving property assessment and taxation issues for live-work property;
- ensuring that parking requirements do not discourage live-work use;
- allowing opportunity for as many business types as possible;
- safeguarding existing and potential retail continuity;
- balancing liveability concerns with the constraints of heritage buildings;
- ensuring that building upgrades do not impact heritage fabric/interiors;
- addressing whether live-work could be affordable given building code requirements and costs;
- providing appropriate building security;
- incorporating noise mitigation measures;
- informing and educating the public of the concept; and
- determining the implications of federal and provincial legislation and regulations.

Recently, a letter was sent to these groups, as well as additional groups interested in opportunities for artist studio space, to notify them about this staff report, and to advise them of the possible Public Hearing. (See Appendix G for the list of the groups). Staff also recently notified the Urban Development Institute (UDI).

CONCLUSION

Staff recommend that the Director of Current Planning be instructed to make application to amend the HA-1 and HA-1A Districts Schedule (Chinatown Historic Area) and HA-2 District Schedule (Gastown Historic Area) of the Zoning and Development By-law, the Downtown-Eastside/Oppenheimer District Official Development Plan (Sub-area 1 Main/Hastings), and the Downtown District Official Development Plan (a portion of Area C and Area C1 corresponding to the Victory Square Plan area) to define and add Live-Work Use as a use term and to permit it as a conditional approval use, and that this application be referred to a Public Hearing. Staff recommend that provisions for Live-Work Use replace existing provisions for General Office Live-Work in the Downtown District Official Development Plan. Also recommended are amendments to the Parking By-law and adoption of guidelines for Live-Work Use. Finally, Council direction is sought for staff to develop Building By-law requirements for Live-Work Use, and to report back on solutions to the assessment, classification and taxation issues for

live-work property. While the proposed zoning amendments will be introduced to these heritage areas to benefit their revitalization, staff recommend that there be no further expansion to live-work zoning until a solution to the property assessment, classification, and taxation issues has been implemented.

* * * * *

**PART 1
DRAFT AMENDMENTS TO ZONING AND DEVELOPMENT BY-LAW**

By-law amendments will be prepared generally in accordance with the provisions listed below and are subject to change and refinement prior to By-law posting:

Section 2 - Definitions

Amend section 2 by adding the following definition in proper order:

“Live-Work Use means the use of premises for:

- (a) a Dwelling Unit,
- (b) General Office, Health Care Office, Barber Shop or Beauty Salon, Photofinishing or Photography Studio, or Artist Studio - Class A, or
- (c) any use referred to in subsection (b) in conjunction with a Dwelling Unit use,

but does not include:

- (d) any dating service, entertainment service, exotic dancer business, social escort business, or other similar business, as determined by the Director of Planning in consultation with the Chief License Inspector, or
- (e) any tattooing, piercing, branding, or other similar service, as determined by the Director of Planning in consultation with the Vancouver Coastal Health Authority;”

Section 5 - Exemptions from Development Permit Requirements

Amend section 5.14, column A, by adding to the end of sub-section 3:

“, except for Live-Work Use.”

Section 11 - Additional Regulations

Amend section 11 by adding the following regulations in proper order:

“11.23 Live-Work Use

11.23.1 The size of a Live-Work unit must be at least 47 m².

HA-1 AND HA-1A Districts Schedule (Chinatown Historic Area)

Section 3 - Conditional Approval Uses

Amend section 3.2 by adding the following conditional approval use in proper order:

“3.2.LW Live-Work Use, subject to section 11.23 of this By-law.”

Amend section 3.3 by adding the following conditions of use in proper order:

“3.3.3 Any development permit issued for Live-Work Use must stipulate as permitted uses:

- (a) Live-Work Use;
- (b) Dwelling Unit; and
- (c) General Office, Health Care Office, Barber Shop or Beauty Salon, Photofinishing and Photography Studio, and Artist Studio - Class A.

3.3.4 No portion of any floor of a Live-Work unit, except entrances, shall be permitted within 2.0 m of street grade along a fronting or flanking street.”

HA-2 District Schedule (Gastown Historic Area)

Amend the HA-2 District Schedule, with appropriate re-numbering, the same as the amendments proposed in the preceding sections for the HA-1 and HA-1A Districts Schedule, except that section 3.3.4 must not be added.

* * * *

PART 2 DRAFT AMENDMENTS TO THE DOWNTOWN-EASTSIDE/OPPENHEIMER OFFICIAL DEVELOPMENT PLAN

Section 3 - Sub-area Development Guidelines (General)

Amend section 3.3 by deleting the present wording and adding:

“All regulations and conditions of use set out in the Zoning and Development By-law that affect uses set out in this Plan apply.”

Section 4 - Sub-area 1 Main/Hastings

Section 4.2 - Uses

Amend section 4.2 by inserting the following use in proper order and re-numbering the subsequent clauses:

“(f) Live-Work Use, subject to section 11.23 of the Zoning and Development By-law.”

Section 4.3 - Conditions of Use

Amend section 4.3 by striking out “or other commercial use” in sub-section (a) and substituting “, other commercial, or live-work use”, and by adding sub-section (b):

“(b) any development permit issued for Live-Work Use must stipulate as permitted uses:

- (i) Live-Work Use;
- (ii) Dwelling Unit; and
- (iii) General Office, Health Care Office, Barber Shop or Beauty Salon, Photofinishing or Photography Studio, and Artist Studio - Class A.”

Section 4.5 - Density

Amend section 4.5.1 (a) by adding another sub-section that says “for Live-Work Use”.

Amend section 4.5.1 (b) by striking out “floor area” and substituting “and Live-Work floor area combined”.

Amend section 4.5.1 (c) by striking out “floor area” and substituting “or Live-Work floor area”.

Amend section 4.5 by adding the following section:

“4.5.5 Live-Work floor space is eligible for floor space exclusions pursuant to sections 4.5.2, 4.5.3, and 4.5.4.”

* * * *

PART 3 DRAFT AMENDMENTS TO THE DOWNTOWN DISTRICT OFFICIAL DEVELOPMENT PLAN

Definitions

Amend the Definitions section by deleting the definition for “General Office Live-Work”.

Section 1 - Land Use

Amend section 1 by replacing the second paragraph of sub-section 2 with the following:

“In the areas denoted by the letters “C” and “C1”, Live-Work Use may be permitted, subject to section 11.23 of the Zoning and Development By-law, but limited to sites identified on Map 1A, except that Live-Work Use is to be limited to premises having direct access to grade and having a principal entrance to the non-residential component being within 1.5 m of fronting street grade on Nelson Street, Seymour Street, and Smithe Street.

Any development permit issued for Live-Work Use must stipulate as permitted uses:

- (a) Live-Work Use;
- (b) Dwelling Unit; and
- (c) General Office, Health Care Office, Barber Shop or Beauty Salon, Photofinishing or Photography Studio, and Artist Studio - Class A.”

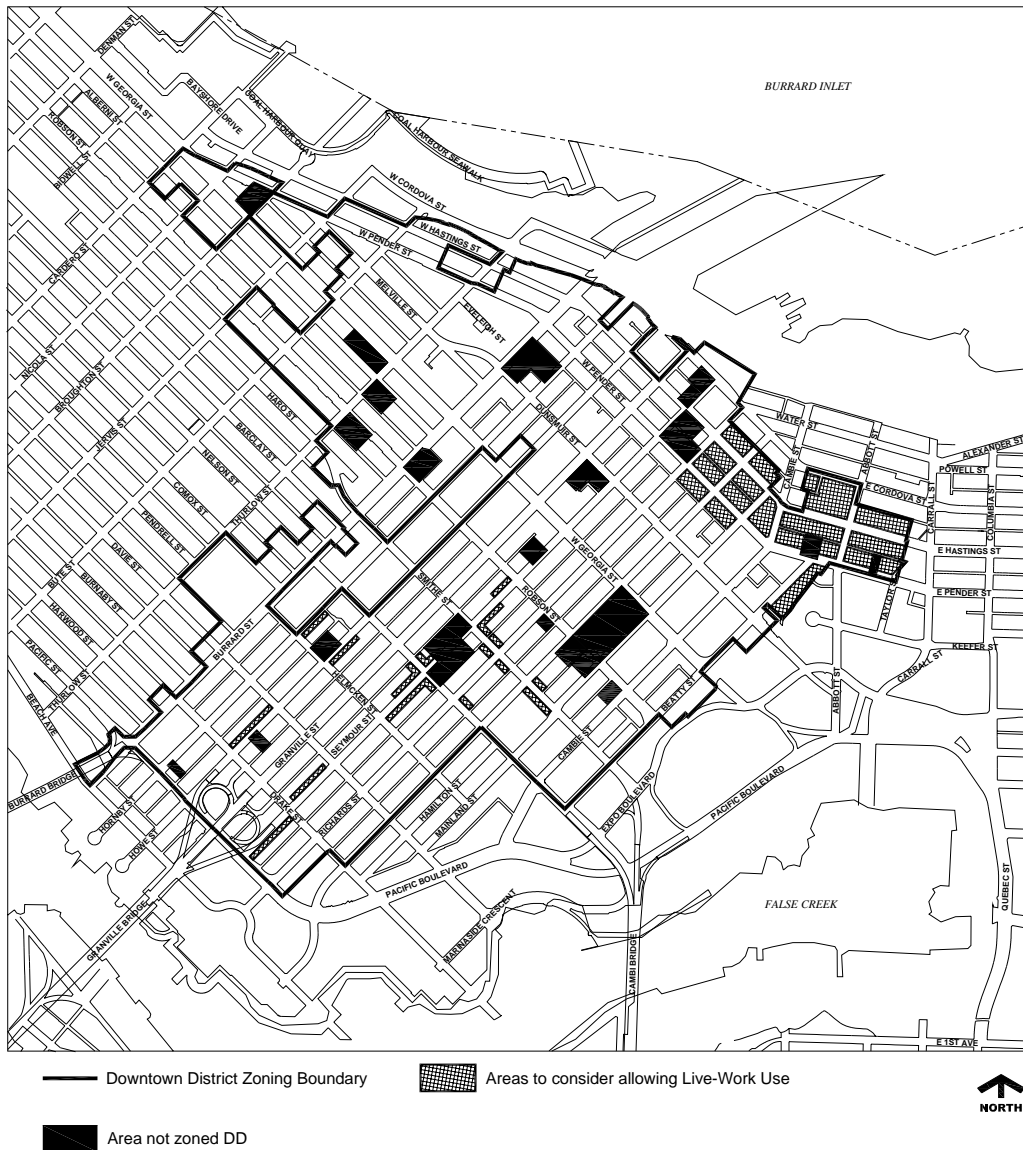
Amend section 1 by replacing the second paragraph of sub-section 3 with the following:

“In the areas denoted by the letters “L1”, “M” and “N”, Live-Work Use may be permitted, subject to section 11.23 of the Zoning and Development By-law, but limited to sites identified on Map 1A, except that Live-Work Use is to be limited to premises having direct access to grade and having a principal entrance to the non-residential component being within 1.5 m of fronting street grade on Hornby Street, Howe Street, Nelson Street, Seymour Street, and Smithe Street.

Any development permit issued for Live-Work Use must stipulate as permitted uses:

- (a) Live-Work Use;
- (b) Dwelling Unit; and
- (c) General Office, Health Care Office, Barber Shop or Beauty Salon, Photofinishing or Photography Studio, and Artist Studio - Class A.”

Amend section 1 by replacing Map 1A with the map diagram below.



Section 3 - Density

Amend section 3 by adding the following in the proper order and re-numbering:

- “5. Despite subsections 1 and 4, the density of Live-Work Use, or residential use and Live-Work Use combined, must not exceed a floor space ratio 3.00 in the area denoted by the letter ‘C’ on Map 1.”; and
- “12. Live-Work floor space is eligible for floor space exclusions pursuant to sub-sections 5, 6, and 10 [as presently numbered].”

* * * *

DRAFT AMENDMENTS TO PARKING BY-LAW

By-law amendments will be prepared generally in accordance with the provisions listed below and are subject to change and refinement prior to By-law posting:

Section 4 - Off-street Parking Space Regulations

Section 4.1.4 - DEOD District Requirements

Amend section 4.1.4 by replacing sub-section (b)(i) with the following:

- “(i) office commercial, Live-Work, and residential uses shall require not more than one parking space for each 93 square metres of gross floor area of such uses;”

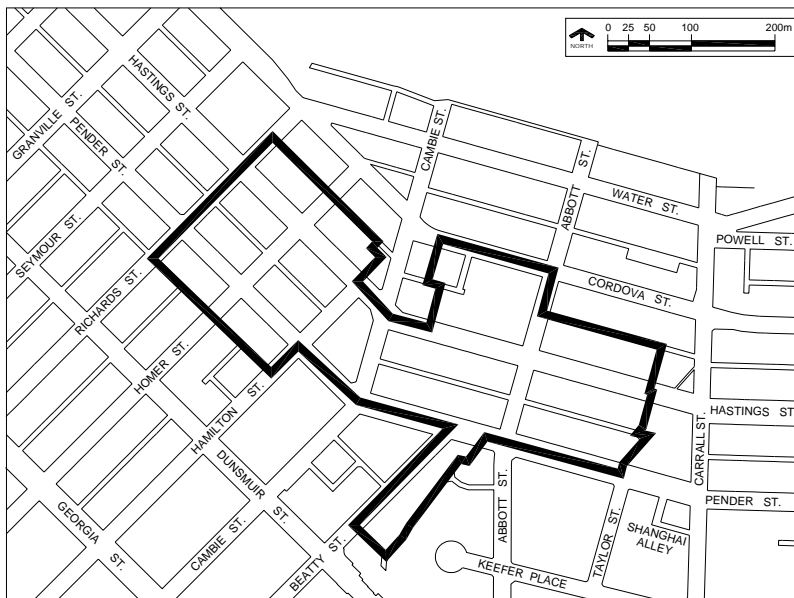
Section 4.3 - Table of Number of Required and Permitted Accessory Parking Spaces in DD and CWD Districts (except for Designated Heritage Sites), and in HA Districts

Amend section 4.3 by adding the following section and map:

“4.3.10 Live-Work Use - HA Districts and DD District (Victory Square)

For the purposes of this section, Council considers Live-Work Use in the HA Districts and in the area outlined by the heavy black line on Map 4.3.10 to be Dwelling Use, and calculation of the number of spaces required and permitted for the off-street parking of motor vehicles accessory to any development in the HA Districts and in the area outlined by the heavy black line on Map 4.3.10 is to be in accordance with section 4.3.7.”

Map 4.3.10



Section 4.4 - Table of Number of Required and Permitted Accessory Parking Spaces for Heritage Sites Outside HA Districts

Amend section 4.4 by adding the following section in proper order:

“4.4.6 Live-Work Use

For the purposes of this section, Council considers Live-Work Use on heritage sites outside of HA Districts to be Dwelling Use, and calculation of the number of spaces required and permitted for the off-street parking of motor vehicles accessory to any development is to be in accordance with section 4.4.4”

Section 4.8.4 - Required Disability Parking Spaces

Amend section 4.8.4 (a) by adding “Live-Work premises” .

Section 5 - Off-street Loading Space Regulations

Section 5.2 - Table of Number of Required Off-street Loading Spaces

Amend section 5.2 by adding the following section in proper order:

	Column 1 - Building Classification	Column 2 - Required Loading Spaces		
		Class A Loading Spaces	Class B Loading Spaces	Class C
5.2.9	Live-Work Use	No requirement for less than 7 500 square metres of gross floor area. At least one space for 7 500 to 20 000 square metres of gross floor area; at least two spaces for more than 20 000 to 35 000 square metres of gross floor area; and at least one additional space for any portion of each additional 15 000 square metres of gross floor area.	No requirement for less than 5 000 square metres of gross floor area. At least one space for 5 000 to 10 000 square metres of gross floor area; at least 2 spaces for more than 10 000 to 28 000 square metres of gross floor area; and at least one additional space for any portion of each additional 30 000 square metres of gross floor area.	No requirement

Section 6 - Off-street Bicycle Space Regulations

Amend section 6.2 by adding the following section in proper order:

	Column 1 - Building Classification	Column 2 - Required Bicycle Spaces	
		Class A Bicycle Spaces	Class B Bicycle Spaces
6.2.9	Live-Work Use	A minimum of 1.25 spaces for every Live-Work unit.	A minimum of 6 spaces for any development containing a minimum of 20 Live-Work units.

* * * * *

DRAFT LIVE-WORK USE GUIDELINES

Note: These guidelines are organized under standardized headings. As a consequence, there are gaps in the numbering sequence where no guidelines apply.

1 Application and Intent

These guidelines are to be used in conjunction with a District Schedule of the Zoning and Development By-law or the Official Development Plans which permit Live-Work Use. These guidelines should be consulted in seeking approval for this conditional use. As well as assisting the applicant, the guidelines will be used by City staff in the evaluation of development applications.

The intent of the guidelines is to encourage functional, liveable, and safe Live-Work units and developments.

Discretion may be used, and exemption may be considered, in the application of these guidelines in cases where a heritage building will be preserved.

There are guideline documents for some District Schedules and Official Development Plans, such as design guidelines for the Downtown (DD), Gastown (HA-2), Chinatown (HA-1 and HA-1A), and Downtown-Eastside/Oppenheimer (DEOD) districts. The Guidelines for Live-Work should be used in conjunction with the approved guidelines for the relevant District Schedule or Official Development Plan.

1.1 Vancouver Building By-law Requirements

For the range of uses allowed under Live-Work Use, development will need to comply with Vancouver Building By-law requirements for both residential and non-residential occupancies. In cases where there is difficulty meeting a requirement, an applicant has the option of proposing an equivalent solution which meets the intended performance level and objectives of the Building By-law.

Projects receiving development permit approval for Live-Work Use will need to follow through with meeting Building By-law requirements for both residential and non-residential occupancies, including accessibility requirements for persons with disabilities, so that units may be used for both live and work purposes. Applicants are encouraged to consider consulting a building code professional early in the development process, notably in cases where an existing building is proposed to be rehabilitated, to ensure that Building By-law issues are identified and considered at the design stage.

2 General Design Considerations

2.6 Light and Ventilation

Provision of sufficient daylight access for living and work areas in live-work units may be difficult especially in existing buildings originally constructed for non-residential purposes. The use of “borrowed light” may be necessary.

- (a) Where direct access to daylight cannot be provided to a living or work area, when located at the rear of a unit, daylight may be borrowed from exterior

wall windows through a living or work area adjacent to these windows. Where it is proposed to enclose a living or work area that does not have direct access to daylight, at least one wall of the enclosed area with primary exposure to the building's exterior wall windows should be located no more than 7.6 m (25 ft.) back of the building's exterior wall windows and of no less than 60% transparent or translucent glazing.

- (b) Mechanical ventilation of live-work space should be exhausted at a location having the least impact on residential livability. This should ideally be at the roof in a location that does not affect air quality for open space or air intake units.

2.10 Safety and Security

Safety and security provisions in live-work development can present some challenges, particularly because occupants, employees, and clients are likely to share underground parking, lobbies, elevators, hallways, etc.

- (a) Live-Work development should take into consideration the principles of Crime Prevention Through Environmental Design (CPTED). In addition, the safety sections of guidelines related to a District Schedule or Official Development Plan should be supplemented with the following considerations:
 - i. Public access to floors above the ground level should be limited to established business hours and restricted by intercom and pass-code systems or equivalent security solutions;
 - ii. Each unit, including ground level units, should have secure internal access through a corridor to parking, garbage, and mailbox areas. For ground level units, additional security features such as electronic security systems should also be considered. Standard window security grill bars would not be supported on building elevations that flank the street; and
 - iii. Live-work parking should be separate and secure, similar to security provisions for separating residential parking from commercial parking.
- (b) A security report by a licensed security professional addressing the treatment of security issues, including parking area security, should be provided for developments that include more than one other use (e.g. dwelling use and commercial use) in addition to live-work use.

3 Uses

3.1 Artist Studio - Class A Live-Work

There are two use options in the Zoning and Development By-law that permit Artist Studio - Class A use in live-work premises – Live-Work Use and “Residential Unit associated and integrated with an Artist Studio”. An applicant's choice of option should be made with an awareness of the differences as discussed below.

- (a) Under Live-Work Use, occupants including artists are permitted to have employees and walk-in trade in their units. As noted in Application and Intent above, Live-Work units need to comply with Vancouver Building By-law requirements for both residential and non-residential occupancies.

- (b) Under “Residential Unit associated and integrated with an Artist Studio”, occupants are limited to the production of art only, and employees and walk-in trade are not permitted. The Vancouver Building By-law allows these units to be designed as a residential occupancy, provided they comply with certain sprinklering and structural floor load requirements (i.e., generally the building code requirements are less onerous under this option).

There are separate zoning regulations and guidelines for each of these live-work uses. For “Residential Units associated and integrated with an Artist Studio” refer to the Artist Studio Guidelines.

4 Guidelines Pertaining to the Regulations of the Zoning and Development By-law and Parking By-law

4.9 Off-Street Parking and Loading

Loading bays should be adjacent to a direct route to an elevator, and access and corridors between a loading bay and an elevator should be designed to accommodate larger, work-related products.

6 Internal Design and Facilities

6.2 Facilities

An amenity room for the use of occupants in live-work development is encouraged, similar to residential developments. The amenity room can be used for, among other functions, meeting space or an exercise facility.

7 Open Space

Private and/or semi-private open space is desirable to provide an amenity. Open space should be provided consistent with the open space guidelines for residential development related to the relevant District Schedule or Official Development Plan.

DRAFT AMENDMENTS TO THE ARTIST STUDIO GUIDELINES

Amend Section 3 Uses by adding:

3.4 Artist Studio - Class A Live-Work

There are two use options in the Zoning and Development By-law that permit Artist Studio - Class A use in live-work premises – Live-Work Use and “Residential Unit associated and integrated with an Artist Studio”. An applicant’s choice of option should be made with an awareness of the differences as discussed below.

- (a) Under Live-Work Use, occupants including artists are permitted to have employees and walk-in trade in their units. As noted in the Live-Work Use Guidelines, Live-Work units need to comply with Vancouver Building By-law requirements for both residential and non-residential occupancies.
- (b) Under “Residential Unit associated and integrated with an Artist Studio”, occupants are limited to the production of art only, and employees and walk-in trade are not permitted. The Vancouver Building By-law allows these units to be designed as a residential occupancy, provided they comply with certain sprinklering and structural floor load requirements (i.e., generally the building code requirements are less onerous under this option).

There are separate zoning regulations and guidelines for each of these live-work uses. For Live-Work Use refer to the Live-Work Use Guidelines.

SUMMARY OF PROPERTY ASSESSMENT, CLASSIFICATION AND TAXATION ISSUES FOR LIVE-WORK

The following is an overview of current property assessment, classification, and taxation issues related to live-work property.

Property classification of live-work can be challenging and requires manual inspections

In administering the BC Assessment Act, the BC Assessment Authority (BCAA) is obligated to classify each property according to the “actual use” of that property, as defined in the Assessment Act and Regulations. However, live-work zoning allows the “dual use” of floor area, potentially spanning more than one property tax class, i.e. residential (Class 1) and business (Class 6).

The BCAA conducts owner interviews and/or inspections of live-work units to determine their “actual use”. If commercial activity is determined to take place within a unit, the property’s assessment is apportioned between the residential and business classes accordingly. This is a more labour-intensive process for the BCAA, as compared to classifying purely residential or commercial units, and represents an increased cost to the BCAA that is ultimately assumed by the City.

Taxation economics can discourage commercial use in live-work units

As a result of how live-work units are classified and valued for taxation purposes, occupants of live-work units that are all or partially classified in the business class will pay significantly more property taxes than their competitors who are operating out of conventional commercial space. If this differential is too great, it can discourage the uptake of commercial activity in live-work units.

This occurs because while the BCAA classifies property for the purposes of taxation according to “actual use”, it values property according to “highest and best use”. Highest and best use is defined by the BCAA as the “... most probable use of the property and which use would return the highest value, considering legal, economic and social factors.” With other land uses there is generally not much discrepancy between “actual use” and highest and best use. However, with live-work use, in current market conditions, there is a significant distinction between the two which leads to higher taxes because of the following dynamics:

- Regardless of “actual use”, highest and best use for a live-work unit in Vancouver is currently residential, and residential properties are presently valued between ± 1.5 to 2.2 times higher per square foot than are commercial properties.
- For a live-work unit being used for commercial purposes, “actual use” dictates that the part of this property being used for commercial purposes be assigned to the business class, and thus taxed at a rate that in Vancouver is ± 5.2 times higher than that of the residential class.

Occupants of live-work units who are operating a business will therefore pay significantly more property taxes than those operating a similar business out of conventional commercial space. According to the BCAA, in May 2004, 94% of Vancouver’s existing live-work units are classified as entirely residential space.

Evasion of business property taxes for live-work units is a possible consequence

Because there is a large differential in the tax rates paid by residential and business property classes, there may be a strong economic motivation for occupants to want their live-work unit to be classified as completely residential, despite possibly having a business. If such an occupant pays 100% residential taxes while working from live-work space, they will pay significantly less than their competitors who are operating in conventional commercial space.

Live-work is resulting in more appeals to the BC Assessment Authority

Because of the economic motivation for an owner not to have any portion of their property classified in the business class, the BCAA has found that there are increased appeals associated with live-work zoning, representing an increased cost that is ultimately assumed by the City.

There is some purchaser confusion regarding taxation of live-work units

Some purchasers of live-work property do not understand and/or ascertain that they will be classified at least partially in the business class, and therefore will pay significantly higher property taxes if they choose to work from all or part of their live-work unit.

RESOLUTIONS FROM THE GASTOWN HISTORIC AREA PLANNING COMMITTEE AND
CHINATOWN HISTORIC AREA PLANNING COMMITTEE

Following a staff presentation to the Gastown Historic Area Planning Committee (GHAPC) on July 20, 2005 and the Chinatown Historic Area Planning Committee (CHAPC) on September 13, 2005 on the proposal to amend the zoning to allow opportunity for Live-Work Use in the Victory Square, Gastown, Chinatown, and Hastings Street heritage areas, GHAPC and CHAPC passed the following resolutions, respectively:

Gastown Historic Area Planning Committee (GHAPC)

“RESOLVED,

THAT the Gastown Historic Area Planning Committee:

- a) Supports the document titled “Live-Work - Class A in Victory Square, Gastown, Chinatown and Hasting Street”, dated July 20, 2005, as presented;
- b) Recognizes property assessment issues as a problem for the live-work zoning; and
- c) Requests a better understanding of building code issues.

CARRIED UNANIMOUSLY”

Chinatown Historic Area Planning Committee (CHAPC)

“RESOLVED,

THAT the Chinatown Historic Area Planning Committee supports the proposal for live-work use in Victory Square, Gastown, Chinatown and Hastings Street.

CARRIED UNANIMOUSLY”

LIST OF NOTIFIED GROUPS

The following is the list of groups to which a letter was sent to notify about this staff report, and to advise of a possible Public Hearing. Representatives from those groups marked with an asterisk (*) were invited to attend information meetings on the proposal in June 2004.

- Alliance for Arts and Culture
- Artists for a Creative Environment
- Atira*
- Carnegie Action Committee
- Carrall Street Greenway Committee*
- Central City Mission*
- Downtown Eastside Residents' Association (DERA)*
- Eastside Movement for Business & Economic Renewal Society (EMBERS)*
- Fast Track to Employment (FTTE)*
- Friends of Victory Square*
- Gastown Business Improvement Society*
- Main & Hastings Community Development Society*
- Portland Hotel Society (PHS)*
- St. James Community Service Society*
- The Salvation Army*
- Strathcona Business Improvement Association & Strathcona Area Merchants Association*
- Tenants Rights Action Coalition*
- Vancouver Chinatown Business Improvement Association*