



IN THE MATTER OF an application submitted by the Judd Foundation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Sections 42-11 (Use Groups 4A, 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B) and 42-14(D)(2)(b) (Special uses in M1-5A and M1-5B Districts) to allow a non-profit institution without sleeping accommodations (Use Group 4A) within an existing 5-story building on property located at 101 Spring Street (Block 498, Lot 27), in an M1-5B District, within the SoHo-Cast Iron Historic District, Borough of Manhattan, Community District 2.

The application was filed by the Judd Foundation on March 16, 2010, for a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Sections 42-11 and 42-14D(2)(b) of the Zoning Resolution to permit Use Group 4A non-profit institution use without sleeping accommodations and accessory uses, on the sub-cellar through the fifth floors of an existing five-story building located within an M1-5B zoning district in the SoHo area in Manhattan.

BACKGROUND

The Judd Foundation is seeking a special permit, pursuant to Section 74-711 of the Zoning Resolution, to facilitate the conversion of an existing five-story building at 101 Spring Street (Block 498, Lot 27) to a non-profit institution use without sleeping accommodations (Use Group 4A) in an M1-5B District within the SoHo-Cast Iron Historic District. Use Group 4A uses are not permitted in M1-5B districts. Section 74-711 of the Zoning Resolution allows the City Planning Commission, by special permit, to modify use and bulk regulations (except floor area) in order to further the preservation of designated landmark buildings or buildings located within historic districts. The applicant is seeking a special permit pursuant to Section 74-711 to modify the use regulations of the M1-5B District in order to allow a non-profit institution use without sleeping accommodations (Use Group 4A) to occupy the entire building, including the sub-grade levels. The application includes a report from the Landmarks Preservation Commission stating that a continuing maintenance program has been established that will result in the preservation of 101 Spring Street, and that the proposed use modification contributes to a preservation purpose

101 Spring Street is located on the northeast corner of Spring and Mercer streets. It is developed

with a five-story, approximate 13,125 gross square foot, building constructed in the nineteenth century as a manufacturing loft building that was subsequently converted to artist living space and studios. The building is occupied by installations, furniture, and personal property of the late Donald Judd, a late twentieth century post-modern artist, who used the building as live-work space from 1968 until his death in 1994. The building is currently classified as a Joint Living-Work Quarters for Artists (Use Group 17D). Since 2004, the Judd Foundation, a non-profit arts organization committed to preserving and maintaining the living space and art installation of Donald Judd, has owned and managed the building.

ENVIRONMENTAL REVIEW

This application (C 100267 ZSM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a negative declaration was issued on December 13, 2010.

UNIFORM LAND USE REVIEW

This application (C 100267 ZSM) was certified as complete by the Department of City Planning on December 13, 2010, and was duly referred to Community Board 2 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 2 held a public hearing on this application on January 20, 2011, and on that date, by a vote of 38 to 0 with 0 abstentions adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on March 4, 2011, supporting the application.

City Planning Commission Public Hearing

On March 2, 2011 (Calendar No. 1), the City Planning Commission scheduled March 16, 2011, for a public hearing on this application (C 100267 ZSM). The hearing was duly held on March 16, 2011 (Calendar No. 11). There were four speakers in favor of the application and none in opposition. The speakers included representatives of the Judd Foundation and their project development team, who described the legacy of Donald Judd and their plans to operate the proposed facility as a museum focused on his life and work. The hearing was continued to March 30, 2011.

On March 30, 2011 (Calendar No. 20), the City Planning Commission continued the public hearing on this application (C 100267 ZSM). There were no speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit is appropriate.

The Commission notes that the proposed non-profit institutional use is located just west of Broadway, a retail thoroughfare with heavy pedestrian traffic. The Commission recognizes that, despite the manufacturing zoning designation, this area has undergone a transformation into a cultural center and regional shopping center in New York City. The area contains a mixture of art galleries and commercial and mixed use buildings. Many of these uses are located within buildings that have been converted to contain showrooms and galleries. The Commission believes that the proposed non-profit institutional use would have minimal adverse affect on the conforming uses in the area and that the proposed use would compliment many of the existing uses in the area.

The City Planning Commission believes that the proposed use modifications will facilitate the renovation and preservation of 101 Spring Street. The Commission further believes that the conversion and renovation of this building, to be accomplished as a result of this special permit, will enhance the architectural and historical built fabric of the SoHo Cast-Iron Historic District.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-711 (Landmark preservation in all districts) of the Zoning Resolution:

- (1) Not applicable
- (2) Such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and finding described in this report, the application of the Judd Foundation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Sections 42-11 (Use Groups 4A, 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B) and 42-14(D)(2)(b) (Special uses in M1-5A and M1-5B Districts) to allow a (non-profit institution without sleeping accommodations (Use group 4A) within an existing 5-story building on property located at 101 Spring Street (Block 498, Lot 27), in an M1-5B District, within the SoHo Cast Iron Historic District, Borough of Manhattan, Community District 2, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 100267 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Architecture Research Office LLC, filed with this application and incorporated in this resolution:

| <u>Drawing No.</u> | <u>Title</u> | <u>Last Date Revised</u> |
|--------------------|--|--------------------------|
| CPC-01 | Zoning calculations and Site Information | 03/10/10 |
| CPC-1.3 | Proposed Cellar Plan | 03/10/10 |
| CPC-1.5 | Proposed Floor 1 Plan | 03/10/10 |
| CPC-1.7 | Proposed Floor 2 and Floor 3 Plans | 03/10/10 |
| CPC-1.9 | Proposed Floor 4 and Floor 5 Plans | 03/10/10 |
| CPC-3.0 | Building Section | 03/10/10 |
| CPC-3.1 | Building Section | 03/10/10 |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
6. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated March 29, 2011 executed by the Judd Foundation, the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.
7. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the attached restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the attached restrictive declaration.
8. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 100267 ZSM), duly adopted by the City Planning Commission on April 13, 2011 (Calendar No.8), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair

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COMMUNITY BOARD No. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

www.cb2manhattan.org

P: 212-979-2272 F: 212-254-5102 E: info@cb2manhattan.org

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January 25, 2011

Amanda Burden, *Chair*
Department of City Planning
22 Reade Street
New York, New York 10007

Dear Chair Burden:

At its Full Board meeting on January 20, 2011, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

101 Spring Street (Block 498 Lot 27) City Planning Special Permit Application, on behalf of the Judd Foundation, pursuant to Zoning Resolution Section 74-711 to modify the use regulations to permit Use Group 4A non-profit institution use without sleeping accommodations and accessory uses thereto on the sub-cellar through fifth floors of an existing building located in a M1-5B District.

WHEREAS, The surrounding area was posted and there was no community opposition to this application, And,

WHEREAS, The building will be entirely occupied as a Use Group 4A non-profit institution, And,

WHEREAS, The Building was the home and working studio of the late minimalist post-modern artist Donald Judd, and the Applicant will open the Building to the public for guided tours of its exhibition space, And,

WHEREAS, The usage is consistent and compatible with the other uses in this building and in the surrounding buildings and has had no adverse impacts on the neighborhood, And,

THEREFORE BE IT RESOLVED, that CB#2, Man. is satisfied that the applicant has met the requirements for this special permit, And,

THEREFORE BE IT FURTHER RESOLVED, that CB#2, Man. supports this application for a City Planning Special Permit Application, on behalf of the Judd Foundation, pursuant to Zoning Resolution Section 74-711 to modify the use regulations to permit Use Group 4A non-profit institution use without sleeping accommodations and accessory uses thereto on the sub-cellar through fifth floors of an existing building located in a M1-5B District.



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

March 4, 2011

**Recommendation on
ULURP Application No. C 100267 ZSM – 101 Spring Street
by the Judd Foundation**

PROPOSED ACTION

The Judd Foundation¹ seeks a **special permit pursuant to Section 74-711** of the Zoning Resolution (“ZR”) to modify use regulations of ZR §§ 42-11 and 42-14D(2)(b) to permit Use Group 4A (“non-profit institution without sleeping accommodations”) on the sub-cellar through fifth floors of an existing five-story building at 101 Spring Street (Block 498, Lot 27). The project site is located in an M1-5B zoning district in Manhattan Community District 2 and is also within the SoHo-Cast Iron Historic District (“Historic District”).

Pursuant to ZR § 74-711, applicants may request special permits to modify use regulations of zoning lots that contain landmarks or are within Historic Districts as designated by the Landmarks Preservation Commission (“LPC”). In order for the City Planning Commission (“CPC”) to grant a use modification, the applicant must first meet the following conditions: 1) LPC has issued a report that states the applicant will establish a continuing maintenance program for the preservation of the building and that such modification or restorative work will contribute to a preservation purpose²; and 2) the maximum number of permitted dwelling units is as set forth in ZR § 15-111³. Further, the CPC must find that such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

PROJECT DESCRIPTION

The Judd Foundation seeks a special permit to modify use regulations to allow Use Group 4A (“non-profit institution use without sleeping accommodations”) and accessory uses in an existing five-story building at 101 Spring Street. The subject building is located on the northeast corner of Spring and Mercer Streets. It contains a total floor area of 8,633 SF⁴ and is approximately 76

¹ Barbara Hunt McLanahan is the Executive Director of the Judd Foundation.

² The LPC issued such a report on August 21, 2009. A Certificate of Appropriateness and Certificate No Effect were also granted on August 21, 2009. LPC’s determinations have not been re-examined in this recommendation.

³ Since the applicant does not propose dwelling units, this finding is not applicable.

⁴ The building consists of approximately 13,125 GSF.

property is properly rehabilitated and maintained in perpetuity. The LPC has found that the proposed use change and the building's restoration plan will contribute to a preservation purpose worthy of allowing the applicant to request this use waiver from the CPC.

The proposed use modification is consistent with the area's existing land uses, and is unlikely to have adverse effects on the conforming uses within the surrounding neighborhood. The non-profit's mission to exhibit Donald Judd's work and organize art related programming is appropriate for the area. The Foundation's program will complement SoHo's historic character as an artist community and will relate harmoniously to its mix of uses that include offices, JLWQAs, showrooms and art galleries. Additionally, the site will be accessible to the public only through scheduled guided tours that will limit the number of visitors at any given time of the day. The proposed use, therefore, will be unlikely to add significant traffic and pedestrian impacts in and around the nearby area. Further, the non-profit institutional space will not disrupt other conforming uses within the building, since the applicant will be the sole occupant.

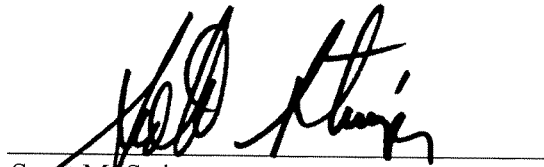
The primary purpose of the proposed use modification is to preserve and maintain the late artist Donald Judd's works and to allow parts of the building to be used for public guided tours and exhibition space. However, an important element to the proposed program is to recreate the space in which the artist lived and worked—a time when the neighborhood primarily consisted of artists who produced work and lived in SoHo. As such, the Foundation has paid special attention to the building's exterior and interior details. The Foundation's proposed restorative work will bring the building to at least a similar physical condition as it existed during Judd's residency, if not better. The restoration includes maintaining parts of the building Judd personally installed, such as the hardwood floors, bookshelves and a puppet theater that he constructed for his children. Judd's personal items, including his art pieces and collections by his contemporaries, will be placed as he left them and intended them to be displayed. These restoration efforts will not only provide a snapshot of the artist's life and work, it will also help preserve a piece of SoHo's history.

In applying for the special permit, the applicant is undertaking extensive work to bring this historic building to a sound, first class condition. The property owner is also entering into a restrictive declaration to ensure continued maintenance of the building will be in perpetuity.

BOROUGH PRESIDENT'S RECOMMENDATION

This application meets the conditions and findings for a special permit regarding a use modification pursuant to ZR §74-711.

Therefore, the Manhattan Borough President recommends approval of ULURP application No. 100267 ZSM.



Scott M. Stringer
Manhattan Borough President