



CITY PLANNING COMMISSION

December 8, 2004/Calendar No. 13

C 040048 ZSM

IN THE MATTER OF an application submitted by 380 Broadway, LLC 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 Section 42-00 (General Provisions) to allow residential use (Use Group 2 uses) on the 2nd through 5th floors of an existing five-story building located at 380-382 Broadway (Block 195, Lot 1), in an M1-5 District, within the TriBeCa East Historic District, Community District 1, Borough of Manhattan.

The application for a special permit pursuant to Section 74-711 of the Zoning Resolution was filed by 380 Broadway, LLC on August 5, 2003. The Special Permit seeks to modify the use regulations governing manufacturing districts to allow residential or Use Group 2 uses in an M1-5 zoning district at 380 Broadway in Lower Manhattan.

BACKGROUND

The applicant requests a special permit to allow a modification of the use provisions of Section 42-00 (General Provisions) to allow for residential uses on the second through fifth floors of an existing building at 380 Broadway. The site is in an M1-5 district where residential uses, Use Group 2, are prohibited as-of-right. The special permit would allow six current residential uses at the site to legally occupy space within the building.

380 Broadway is located on the northeast corner of Broadway and White Street in Lower Manhattan. The property is part of the TriBeCa East Historic District. The surrounding neighborhood is characterized by a wide range of uses that include light manufacturing as well as residential and commercial uses. The block on which 380 Broadway is located does not contain any active

manufacturing uses and is predominately commercial in character. The subject property is bounded immediately to the south and west by C6 zoning districts where residential uses are allowed as-of-right. The Special TriBeCa Mixed Use District (TMU) is mapped one block north of the site. The TMU allows for the conversion of existing loft buildings to residential uses through City Planning Commission authorizations and special permits.

In 1998, the current owner of the subject property acquired the building through a judicial sale arising out of a foreclosure. At that time, the building contained six residential tenants who had occupied their respective leased spaces for 8 to 19 years. As a consequence of a Stipulation of Settlement resulting from legal action against said residents, the owner agreed to use his best efforts to legalize the residential uses. Five of the six residential occupancies occur in conjunction with conforming commercial uses. The application seeks to legalize the six dwelling units on floors two through five in conjunction with their conforming uses.

The owner of 380 Broadway has entered into a program of continuing maintenance for the preservation of the building with the Landmark Preservation Commission (LPC) and the LPC has issued a report and Notice of Compliance to this effect.

ENVIRONMENTAL REVIEW

This application (C 040048 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 designated CEQR number is 04DCP001M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on August 23, 2004.

UNIFORM LAND USE REVIEW

This application (C 040048 ZSM) was certified as complete by the Department of City Planning on August 23, 2004, and was duly referred to Community Board 1 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 1 held a public hearing on this application on September 21, 2004, and on that date, by a vote of 32 to 0, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on October 12, 2004 approving the application.

City Planning Commission Public Hearing

On October 20, 2004 (Calendar No. 7), the City Planning Commission scheduled November 3, 2004, for a public hearing on this application (C 040048 ZSM). The hearing was duly held on November

3, 2004 (Calendar No. 17). There was one speaker in favor of the application and none in opposition.

The applicant's representative spoke in favor of the application. He provided an overview of the application, the neighborhood, and the building. He noted that, as a result of a court order, the current owner agreed to use best efforts to legalize the existing residential uses. The speaker explained that the proposed residential uses would not have a detrimental impact on conforming manufacturing uses in the area given the lack of abutting manufacturing uses, the considerable length of occupancy of the current tenants, and the adjacency of zoning districts which allow residential uses as-of-right. Finally, he noted that the resolution to approve the subject application was passed unanimously by the Community Board.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

The Commission believes that the six residential units at 380 Broadway will not adversely affect conforming uses within the building and in the surrounding area. The Commission notes the mixed use character of the surrounding neighborhood as well as the absence of immediately adjacent manufacturing uses. While the Commission believes that limits on residential uses in this portion of the City serve to protect manufacturing uses, the Commission is aware that these particular

residential occupancies have existed in the subject building for a considerable period of time. The Commission notes that as a part of this application, the applicant has agreed to preserve the building and enter into a program of continuing maintenance to ensure the preservation of the subject building which would further preservation aims in the TriBeCa East 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 that:

- (1) such bulk modifications shall have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air. (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 findings described in this report, the application of 380 Broadway, LLC for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-00 (General Provisions) to allow residential use (Use Group 2 uses) on the 2nd through 5th floors

of an existing five-story building at 380-382 Broadway (Block 195, Lot 1), in an M1-5 District, within the Tribeca East Historic District, Community District 1, Borough of Manhattan, is approved subject to the following terms and conditions:

1. The property that is the subject of this application (C 040048 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Farinella & Sam, Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-4	Revised Second Floor Plan	June 24, 2004
A-5	Revised Third Floor Plan	June 24, 2004
A-6	Revised Fourth Floor Plan	June 24, 2004
A-7	Revised Fifth Floor Plan	June 24, 2004

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 report and resolution and any subsequent modifications 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 September 20, 2004, executed by 380 Broadway, LLC, 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 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.

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 040048 ZSM), duly adopted by the City Planning Commission on December 8, 2004 (Calendar No. 13), 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, AICP, Chair
Kenneth J. Knuckles, Esq., Vice Chairman
Angela R. Cavaluzzi, R.A., Alfred C. Cerullo, III, Richard W. Eaddy, Jane D. Gol,
Christopher Kui, John Merolo, Karen A. Phillips, Dolly Williams Commissioners