



## **CITY PLANNING COMMISSION**

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January 9, 2008/Calendar No.13

C 070055 ZSM

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**IN THE MATTER OF** an application submitted by 309 Canal, 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 requirements of Section 42-10 to allow U.G. 2 uses (residential use) on the second through fourth floors and a portion of the fifth floor of an existing 5-story building on property located at 309 Canal Street (Block 231, Lot 5), in an M1-5B District, within the SoHo Cast Iron Historic District, Community District 2, Borough of Manhattan.

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The application for a special permit was filed by 309 Canal, LLC on August 15, 2006, pursuant to Section 74-711 of the Zoning Resolution, to allow 17 dwelling units (Use Group 2) on the second through fourth and a portion of the fifth floors of the building located at 309 Canal Street.

### **BACKGROUND**

309 Canal Street is an eight-story store building constructed 1856-1862. This property is located within an M1-5B District, and occupies the entire northern blockfront of Mercer Street, between Canal and Howard streets. The building is also within the SoHo-Cast Iron Historic District. The Landmarks Preservation Commission (LPC) has found that the building's "style, scale, materials and details are among those features that contribute to the special architectural and historic character of the SoHo-Cast Iron Historic District." The building has lot coverage of 5,983 square feet. The upper four floors of the building are vacant with the exception of one Interim Multiple Dwelling (IMD) unit on the fifth floor. The ground floor is occupied by a non-conforming (Use Group 6) use.

Residential use is not permitted in the M1-5B District. 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 17 dwelling units (Use Group 2) on the second through fourth and a portion of the fifth floors of 309 Canal Street. 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 309 Canal Street, and that the proposed use modification contributes to a preservation purpose.

The surrounding SoHo neighborhood is generally developed with five- to six-story loft buildings along Broadway and nearby streets. The upper floors in many of these buildings have been converted to dwelling units, including joint living-work quarters for artists (JLWQAs) and IMD units. Ground floor uses in the vicinity primarily consist of a mix of restaurants, and home furnishing and clothing stores.

## **ENVIRONMENTAL REVIEW**

This application (C 070055 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 07DCP045M. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on September 17, 2007.

### **UNIFORM LAND USE REVIEW**

The application was certified as complete by the Department of City Planning on September 17, 2007 and was duly referred to Community Board 2 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 2 held a public hearing on October 11, 2007, and on October 20, 2007, by a vote of 42 to 2 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 November 13, 2007, recommending approval of the application.

### **City Planning Commission Public Hearing**

On December 5, 2007 (Calendar No. 10), the City Planning Commission scheduled December 19, 2007 for a public hearing on this application (C 070055 ZSM). The hearing was duly held on December 19, 2007 (Calendar No. 32). There were two speakers in favor of the application and none in opposition.

A representative of the Borough President reiterated the Borough President's support of the application. The applicant's attorney also appeared in favor.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this special permit (C 070055 ZSM) is appropriate.

When the building was completed in 1862, and continuing throughout the better part of the last century, the area known as SoHo contained a mix of commercial, warehouse and industrial uses. However, over the last fifteen to twenty years many buildings in this area have been converted from manufacturing use, such that the surrounding area now contains a significant number of dwelling units. The Commission notes that the upper floor residential use proposed for the building is analogous to the uses occupying many of the surrounding buildings. Therefore, the Commission believes that Use Group 2 residential use on the upper floors of 309 Canal Street will be consistent with established land use trends in the greater SoHo neighborhood.

The proposed use modifications will facilitate the renovation and preservation of 309 Canal Street. 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 findings described in this report, the application of 309 Canal, LLC for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of Section 42-10 to allow U.G. 2 uses (residential use) on the second through fourth floors and a portion of the fifth floor of an existing 5-story building on property located at 309 Canal Street (Block 231, Lot 5), in an M1-5B District, within the SoHo Cast Iron Historic District, Community District 2, Borough of Manhattan is approved, subject to the following terms and conditions:

- 1. The property that is the subject of this application (C 070055 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 Pasanella + Klein Stolzman + Berg Architects, PC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
CP-2	Site Plan	07.20.07
CP-3	Zoning Analysis and Floor Area Calculations	01.15.07
CP-5	Ground and Mezzanine Plan	07.20.07

CP-6	Typical Plan	07.20.07
CP-7	Fifth Floor Plan	07.20.07

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 July 24, 2006 executed by 309 Canal 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 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 070055 ZSM), duly adopted by the City Planning Commission on January 9, 2008 (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**

**IRWIN CANTOR, P.E., ANGELA R. CAVALUZZI, R.A., ALFRED C. CERULLO, III,  
BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY, JOHN MEROLO,  
KAREN A. PHILLIPS**  
Commissioners

**SHIRLEY MCRAE, Commissioner, ABSTAINING**