



## **CITY PLANNING COMMISSION**

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March 26, 2007/Calendar No.10

C 080001 ZSM

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**IN THE MATTER OF** an application submitted by 40 Walker St. 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:

1. Sections 42-10 and 111-02 to allow Use Group 2 uses (residential uses) on the second through sixth floors; and
2. Section 111-102 (b)(1) to allow Use Group 6 uses (retail uses) on the ground floor and cellar;

of an existing six-story building on property located at 40 Walker Street (Block 194, Lot 12), in an M1-5 District, within the Special Tribeca Mixed Use District (Area B1), in the Tribeca East Historic District, Borough of Manhattan, Community District 1.

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The subject application was filed by 40 Walker St. LLC, on July 2, 2007 for a special permit pursuant to Section 74-711 of the Zoning Resolution to modify certain use regulations for the conversion to residential uses of an existing 6-story manufacturing building at 40 Walker Street (Block 194, Lot 12) within the Special Tribeca Mixed Use District and M1-5 District in Community District 1, Manhattan.

### **BACKGROUND**

The site, 40 Walker Street (Block 194, Lot 12), is located on the north side of Walker Street between Broadway and Church Street. The building is located in an M1-5 zoning district in Area B1 of the Special Tribeca Mixed Use District and in the Tribeca East Historic District (the “Historic District”). The M1-5 zoning district permits a 5.0 FAR. The building is currently vacant.

The surrounding area is characterized by commercial buildings with loft dwellings on the upper floors. On the block between Church Street and Broadway south of Canal Street, except for buildings with frontage on Broadway, the buildings are almost all small loft buildings which

contained light manufacturing, warehouse, or other non-residential uses and have been converted to residential. Currently, only two buildings on the same block as 40 Walker contain manufacturing related uses. A paint store on Canal Street has its warehouse directly behind 40 Walker Street and a garment manufacturing building located at the corner of Church and Walker streets.

The applicant proposes to convert the 2<sup>nd</sup> through 6<sup>th</sup> floors of an existing manufacturing building that is currently vacant to residential use, and the first floor to commercial or retail use. All dwellings will be floor through units.

In the M1-5 District, residential uses are not permitted and retail use is not permitted on the ground floor. Furthermore, pursuant to Section 111-02, loft dwellings are not permitted in buildings designed for non-residential use and erected prior to 1961 that have since been enlarged. The building was enlarged in 2007 to include a sixth floor for commercial and manufacturing use. The applicant also proposes to have an office or retail commercial use on the ground floor of the proposed development which is not permitted in the M1-5 District of the Special Tribeca Mixed Use District.

The applicant is requesting a special permit pursuant to Section 74-711 to modify the regulations of Section 42-10 to allow residential use in the M1-5 District, Section 111-02 to allow residential use in buildings designed for non-residential use and erected prior to 1961 that have since been enlarged, and Section 111-102(b)(1) to allow retail or office use on the ground floor.

The special permit would allow 2,667 square feet of commercial space on the ground floor and cellar and a total of 10,482 square feet of floor area for four loft dwellings on the second thru sixth stories. A duplex is proposed for the fifth and sixth stories.

Section 74-711 also requires a report from the Landmarks Preservation Commission stating that a program has been established for continuing maintenance that will result in the preservation of the subject building or buildings and that such use modifications, or restorative work required under

the continuing maintenance program, contributes to a preservation purpose.

On July 3, 2007, the Landmarks Preservation Commission issued a report stating that a program for continuing maintenance has been established for 40 Walker Street (Block 194, Lot 12) building and a restrictive declaration will be filed against the property. As part of the continuing maintenance program, the applicant has agreed to undertake work to restore the designated building and bring it up to a sound, first class condition, including the installation of a new entrance door at the east bay, and new louvers at the transoms of the east and middle bays at the storefront. On July 3, 2007, the Landmarks Preservation Commission issued a Certificate of No Effect.

### **ENVIRONMENTAL REVIEW**

This application (C 080001 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. The designated CEQR number is 07DCP092M.

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

### **UNIFORM LAND USE REVIEW**

This application (C 080001 ZSM) was certified as complete by the Department of City Planning on December 17, 2007, and was duly referred to Manhattan Community Board 1 and the Manhattan 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 1 held a public hearing on this application on January 15, 2008, and on that date, by a vote of 42 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 February 25, 2008, approving the application.

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

On February 13, 2008 (Calendar No. 15), the City Planning Commission scheduled February 27, 2008 for a public hearing on this application (C 080001 ZSM). The hearing was duly held on February 27, 2008 (Calendar No. 34).

There were two speakers in favor and none in opposition.

The Deputy Director for Land Use for the Borough reiterated his support for the project. The applicant's attorney spoke in favor and described the project.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

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

The Commission notes that the proposed residential conversion with office or retail use on the ground floor of 40 Walker Street would be consistent with the trend in Tribeca and that on the subject block, only two buildings do not have residential uses. The Commission also notes that other ground floor retail uses exist currently on Walker Street.

The Commission also notes that the Landmarks Preservation Commission considered the use of the proposed development.

### **FINDINGS**

The City Planning Commission hereby makes the following finding pursuant to Section 74-711 of the Zoning Resolution:

1. Not Applicable

2. such use modifications shall have minimal adverse effects on the conforming uses within the buildings 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 described in this report, the application submitted by 40 Walker St. 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:

1. Sections 42-10 and 111-02 to allow Use Group 2 uses (residential uses) on the second through sixth floors; and
2. Section 111-102 (b)(1) to allow Use Group 6 uses (retail uses) on the ground floor and cellar;

of an existing six-story building on property located at 40 Walker Street (Block 194, Lot 12), in an M1-5 District, within the Special Tribeca Mixed Use District (Area B1), in the Tribeca East Historic District, Borough of Manhattan, Community District 1 is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 080001 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 Flank Architects, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
1	Site Plan	11.26.2007

P-1	Proposed First Floor Plan	11.26.2007
P-2	Proposed Second Floor Plan	11.26.2007
P-3/4/5	Proposed Third, Fourth, Fifth Floor Plan	11.26.2007
P-6	Proposed Sixth Floor Plan	11.26.2007
SEC	Building Section	11.26.2007

- 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 that 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 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 restrictive declaration dated March 11, 2008, executed by 40 Walker Street, 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 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 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 080001 ZSM), duly adopted by the City Planning Commission on March 26, 2008 (Calendar No. 10), is filed with the Office of the Speaker, City Council, and the Borough President 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 M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,**

**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**

**RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. MCRAE,**

**JOHNMEROLO, KAREN A. PHILLIPS, Commissioners**