



CITY PLANNING COMMISSION

June 6, 2012 / Calendar No. 12

C 100149 ZSM

IN THE MATTER OF an application submitted by 83 Walker LLC pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-712 of the Zoning Resolution to modify the height regulations of Sections 23-633 (Street wall location and height and setback regulations in certain districts) and 23-692 (Height limitations for narrow buildings or enlargements) to facilitate the development of a nine-story residential building, on property located at 83 Walker Street (Block 195, Lot 12), in a C6-2A District within the Tribeca East Historic District, Borough of Manhattan, Community District 1.

The application for the special permit was filed by 83 Walker LLC on November 12, 2009, to facilitate the construction of a new nine-story building containing nine residential dwelling units. The subject building is located at 83 Walker Street (Block 195, Lot 12), within a C6-2A zoning district in the Tribeca East Historic District in Community District 1, Manhattan.

BACKGROUND

The subject property (the “Site”) has a lot area of 2,400 square feet. It is located within a C6-2A zoning district, on the south side of Walker Street between Broadway and Lafayette Street; it is also within the New York City Landmarks Preservation Commission-designated Tribeca East Historic District. Previously occupied by a five-story building demolished in 1963, the site is currently used as a public parking lot.

Portions of the Tribeca neighborhood in the vicinity of the project site are generally developed with five- to ten-story loft buildings containing either retail or office uses on the lower floors, and residential, office or studio uses on the upper floors. On the subject block that includes the site, there are a few buildings occupied exclusively by commercial uses and one building that is exclusively occupied with community facility uses. Ground-floor commercial uses include retail, banking, office space and art galleries; upper-floor commercial uses include office or studio space. The western half of the block is located within the Tribeca East Historic District, which includes the applicant’s property.

The applicant seeks to construct a new nine-story building on the site, which would be exclusively residential, containing a total of nine residential units. The proposed total zoning floor area of the building would be 14,295 s.f., creating a built FAR of 5.96, below the maximum FAR of 6.02 allowed within the C6-2A district. Section 23-633 requires that buildings in C6-

2A districts have a maximum base height of 85 feet and a maximum building height of 120 feet. The proposed building would exceed this base height, rising without a setback to the proposed building height of 100 feet, 11 inches.

Section 23-692, also known as the “Sliver Rule”, limits the heights of new buildings with less than 45 feet of street frontage in certain districts, including C6-2A districts. Specifically, the text provides that if the street wall of a new building on a narrow street abuts a contiguous and fully attached existing building street wall that exceeds the height permitted in that section, such new street wall may reach the lowest of such abutting building walls, subject to the governing sky exposure plane and underlying maximum building heights. The site has 24 feet of street frontage on a 50-foot-wide street, and it is adjacent to two existing buildings built to the street line, with street wall heights of 81 feet and 94 feet. Therefore, Section 23-692 limits the street wall height of the proposed building to 81 feet. The proposed building would exceed this street wall limit, rising to a height of 104 feet, 11 inches, to the top of the parapet.

Section 74-712 allows the City Planning Commission, by special permit, to modify use and bulk regulations (except floor area) for proposed developments on underbuilt sites located within historic districts. Specifically, it would allow the modification of Section 23-633, which establishes the maximum base height, and Section 23-692, which establishes the maximum permitted streetwall height. To grant the special permit the Commission must make the findings detailed in Section 74-712(b), including that the proposed bulk modifications: 1) would have minimal adverse effects on structures or open space in the vicinity in terms of scale, location and access to light and air, and 2) would relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

ENVIRONMENTAL REVIEW

This application (C 100149 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 12DCP102M. 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 March 12, 2012. The project site previously received an (E) designation for air quality, noise and hazardous materials, E-208, as part of the White Street Rezoning (CEQR Number 08DCP012M; Negative Declaration dated January, 28, 2008). The (E) designation would ensure that the proposed action would not result in significant adverse impacts on air quality, noise and hazardous materials. The requirements of the E-208 still apply.

UNIFORM LAND USE REVIEW

This application (C 100149 ZSM) was certified as complete by the Department of City Planning on March 12, 2012, 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 March 14, 2012, and on March 27, 2012, by a vote of 41 in favor with no opposition or abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on May 2, 2012.

City Planning Commission Public Hearing

On April 25, 2012 (Calendar No. 2), the City Planning Commission scheduled May 9, 2012, for a public hearing on this application (C 100149 ZSM). The hearing was duly held on May 9, 2012 (Calendar No. 12). There were two speakers in favor of the application and no speakers in opposition.

The applicant's attorney and a representative from the Borough President's office spoke in favor of the application. The applicant's attorney briefly summarized the proposed project, noting that the building's owner, in response to questions raised by the Borough President, would ensure that it would be in compliance with all construction standards. A representative of the Manhattan Borough President reiterated the Borough President's approval of the application.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit (C 100149 ZSM) is appropriate.

Approval of the special permit application (C 100149 ZSM) pursuant to Section 74-712 of the Zoning Resolution modifies the bulk regulations of Sections 23-633 and 23-692. The special permit will allow the height of the building's front wall and its overall height to exceed the maximum permitted height limits pursuant to those sections.

The Commission believes that the street wall height and overall height of the proposed building is consistent with the built context of the surrounding buildings. The Commission additionally notes that all of the buildings on the subject block similarly do not set back before reaching their maximum height. The Commission believes that the requested increase in the maximum height of the proposed building, as well as the modification of the street wall height regulations on Walker Street, which is a narrow street, and the waiver of the required front setback are minimal and would not adversely affect structures or open space in the vicinity in terms of access to light and air.

The Commission notes that on July 28, 2011, the Landmarks Preservation Commission issued a Certificate of Appropriateness approving the design of the proposed building on the site. As evidenced by this Certificate of Appropriateness, the Commission believes that the proposed building relates harmoniously to other buildings in the Historic District. The Commission believes that the proposed building will fill a gap in this blockfront of the Tribeca East Historic District and that it will further be consistent with and supportive of the character of the surrounding mixed-use area.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-712(b) (Developments in Historic Districts) of the Zoning Resolution:

such bulk modifications:

- (1) shall not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and

- (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the actions 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 submitted by 83 Walker LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712 of the Zoning Resolution to modify the height regulations of Sections 23-633 (Street wall location and height and setback regulations in certain districts) and 23-692 (Height limitations for narrow buildings or enlargements) to facilitate the development of a nine-story residential building, on property located at 83 Walker Street (Block 195, Lot 12), in a C6-2A District within the Tribeca East Historic District, Borough of Manhattan, Community District 1 is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 100149 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 Morris Adjmi Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
2	Site Plan	December 21, 2011
3	Zoning Calculations	December 21, 2011
4	Block and Building Section	December 21, 2011
5	Building Section	December 21, 2011

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. 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.
5. 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.
6. 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 100149 ZSM), duly adopted by the City Planning Commission on June 6, 2012 (Calendar No. 12), 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
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE DE LA UZ,
MARIA M. DEL TORO, RICHARD W. EADDY, ANNA HAYES LEVIN
ORLANDO MARIN, SHIRLEY A. MCRAE, Commissioners

COMMUNITY BOARD #1 – MANHATTAN
RESOLUTION

DATE: MARCH 27, 2012

COMMITTEE OF ORIGIN: TRIBECA

COMMITTEE VOTE:	6 In Favor	0 Opposed	0 Abstained	0 Recused
PUBLIC MEMBERS:	2 In Favor	0 Opposed	0 Abstained	0 Recused
BOARD VOTE:	41 In Favor	0 Opposed	0 Abstained	0 Recused

RE: ULURP Application # C 100149 ZSM
CEQR Number: 12DCP102M
83 Walker Street, application for special permit under section 74-712 of the Zoning Resolution authorizing waiver of height and setback requirements

WHEREAS: The applicant, 83 Walker LLC, is seeking a special permit pursuant to Section 74-712(b) of the Zoning Resolution to modify the maximum base height requirements and the maximum street wall height provisions of Section 23-692 to facilitate the construction of a nine-story residential building, and

WHEREAS: The Landmarks Committee of Community Board 1 recommended approval of and the Landmarks Preservation Commission approved a Certificate of Appropriateness for the proposed residential building in the Tribeca East Historic District on June 14, 2011, and

WHEREAS: The proposed building has a street wall height of 100 feet 11 inches and limiting the street wall of the building to 81'-0" or the base height of the building to 85'-0" as required by the Zoning Resolution would result in a 7-story building which would create a uniform roofline that is out of character with the staggered building heights that characterize the Tribeca East Historic District, and

WHEREAS: The Landmarks Preservation Commission stated that the "height of the building is in keeping with the varying building heights on this block and in the historic district," and

WHEREAS: The bulk modifications requested are necessary for reasons of economic feasibility as well as design and will not adversely affect structures or open space in the vicinity, now

THEREFORE
BE IT
RESOLVED

THAT: Community Board 1 recommends that the City Planning Commission approve the request for a special permit under section 74-712 of the Zoning Resolution authorizing waiver of height and setback requirements for 83 Walker Street.

**Borough President
Recommendation**

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: C 100149 ZSM

Docket Description:

C 100149 ZSM - IN THE MATTER OF an application submitted by 83 Walker LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712 of the Zoning Resolution to modify the height regulations of Sections 23-633 (Street wall location and height and setback regulations in certain districts) and 23-692 (Height limitations for narrow buildings or enlargements) to facilitate the development of a nine-story residential building on property located at 83 Walker Street (Block 195, Lot 12), in a C6-2A District within the Tribeca East Historic District, Borough of Manhattan, Community District 1.

COMMUNITY BOARD NO: 1

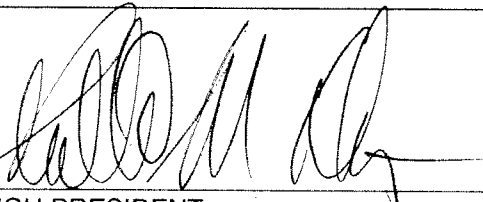
BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached


BOROUGH PRESIDENT

DATE



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

SCOTT STRINGER
BOROUGH PRESIDENT

May 02, 2012

Recommendation on
ULURP Application No. C 100149 ZSM – 83 Walker Street
by 83 Walker LLC

PROPOSED ACTION

83 Walker LLC seeks a **special permit pursuant to §74-712 of the Zoning Resolution** (“ZR”) to modify the height regulations of ZR §§ 23-633 (Street wall location and height and setback regulations in certain districts) and 23-692 (Height limitations for narrow buildings or enlargements) to facilitate the development of a nine-story residential building on property located at 83 Walker Street (Block 195, Lot 12) in a C6-2A District within the Tribeca East Historic District in Manhattan Community District 1. The City Planning Commission (“CPC”) issued a negative declaration for this application on March 12, 2012.

ZR §74-712 addresses requests for special permits to allow use and bulk modifications for new developments on predominantly vacant lots within a Historic District and in M1-5A and M1-5B zoning districts.¹ In order to grant a bulk modification pursuant to ZR §74-712, the CPC must find that the proposed modification: (1) shall not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and (2) will relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

PROJECT DESCRIPTION

The applicant seeks to construct a new, nine-story residential building in the middle of the block on the south side of Walker Street between Lafayette Street and Cortlandt Alley. The 17,392-SF building will contain nine residences, a private rear yard, rear-facing balconies (on the 3rd through 9th floors) and a shared rooftop. The building is proposed to be 100 feet and 11 inches high with no setback and is designed as a contemporary response to neighboring cast iron loft buildings.

¹ Special permits pursuant to ZR §74-712 must be for lots that are vacant, are land with minor improvements, or do not have more than 20 percent of lot area occupied by existing buildings as of December 15, 2003.

The project site is located in a C6-2A zoning district (R8A equivalent) and is currently a vacant, unimproved lot used for parking. Pursuant to ZR § 23-633, the C6-2A zoning district requires that buildings have a maximum base height of 85 feet and a maximum building height of 120 feet. Further, § 23-692 limits the height of the building to be no greater than the lowest abutting building height, which is 81 feet tall.

The site is in the Tribeca East Historic District, which is characterized by ornate store and loft buildings from the late 19th and early 20th centuries. The Landmarks Preservation Commission issued a Certificate of Appropriateness for the building on July 28, 2011. Walker Street between Broadway and Lafayette Street is 50 feet wide with buildings between five and nine stories high, many of which have footprints that occupy the entirety of their lots. Absent the proposed special permit, the site would be developed with a seven-unit, seven-story, 81-foot-tall residential building.

The two blocks bounded by Broadway, Lafayette Street, White and Walker streets were rezoned from an M1-5 to a C6-2A zoning district in 2008. The rezoning was intended to bring existing residential uses into conformance and facilitate a new commercial and residential development at 84 White Street located at the southern edge of the subject property. 84 White Street is currently under construction. Surrounding building uses include residential lofts, artist studios, a house of worship, commercial offices and some light manufacturing.

COMMUNITY BOARD'S RECOMMENDATION

At a regularly scheduled Full Board meeting on March 27, 2012, Manhattan Community Board 1 voted unanimously to recommend approval of the application (41 in favor).

BOROUGH PRESIDENT'S COMMENTS

Based on the submitted materials, the application meets all conditions of a bulk modification pursuant to ZR §74-712(b). ZR §74-712 provides the commission broad discretion to alter use and bulk regulations in historic districts. Any such bulk modification, however, must not adversely affect structures or open spaces in terms of scale, location and access to light and air.

The proposed building is consistent, in both scale and design, with the surrounding built environment. While the proposed building is taller than immediately neighboring buildings, the block is typified by a moderate variation in building heights. The proposed building is consistent with the general character of the area. Further, the absence of a setback strengthens streetwall continuity.

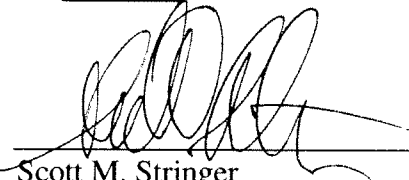
On March 12, 2012, the CPC issued a negative declaration for this application, suggesting that the building would have minimal adverse impact on the environment. The surrounding structures are not distinguished with light-sensitive receptors, such as stained glass windows, and there are no open spaces in the immediate vicinity. As such, the additional two stories will be unlikely to create significant shadows or adversely affect surrounding structures.

As stated, the project site is in the Tribeca East Historic District. The Landmarks Preservation Commission (“LPC”) issued a Certificate of Appropriateness for the proposed project on July 28, 2011. As such, the LPC has determined that the new construction is anticipated to relate harmoniously to buildings in the Historic District. However, careful consideration should be given to potential construction impacts on historic resources in sensitive areas. The Tribeca East Historic District has a high water table and there is a history of building collapse, leaning and destabilization due to dewatering and vibration associated with construction. As such, it is important that any construction take all necessary steps to ensure a safe construction process. To mitigate any potential construction impact, the applicant’s representative has indicated that the applicant is aware of and plans to comply with the Department of Buildings’ Technical Policy and Procedure Notice #10/88 (Procedures for the Avoidance of Damage to Historic Structures Resulting from Adjacent Construction).

BOROUGH PRESIDENT’S RECOMMENDATION

This application for special permits meets the required applicable conditions and findings for a special permit pursuant to ZR § 74-712(b) regarding bulk waivers. The proposed residential building will have a minimal, if any, adverse impact on the surrounding community and will be consistent with the character of the historic district.

Therefore, the Manhattan Borough President recommends approval of ULURP Application No. C 100149 ZSM.



Scott M. Stringer
Manhattan Borough President