



CITY PLANNING COMMISSION

July 13, 2005/Calendar No. 15

C 050282 ZSM

IN THE MATTER OF an application submitted by One York Property LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 111-50 of the Zoning Resolution to modify the use regulations of Section 111-103(b) to allow forty three (43) loft dwellings on the 3rd floor through 12th floor of an existing 6-story building where the lot coverage is greater than 5,000 square feet and proposed to be enlarged to 12 stories on property located at 55 Avenue of the Americas a.k.a. One York Street (Block 212, Lots 24, 26, 41, and 43), in an M1-5 District, within the Special TriBeCa Mixed Use District (Area B1), Borough of Manhattan, Community District 1.

The application for the special permit was filed by One York Property LLC on January 26, 2005 to allow for the conversion and enlargement of an existing building to loft dwelling units with community facility space and accessory parking at One York Street.

RELATED ACTIONS

In addition to the application for the special permit which is the subject of this report (C 050282 ZSM), implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

N 050281 ZRM: Text amendment to Sections 111-02, 111-111, 111-50 and a new Section 111-51 to permit the enlargement of loft buildings in Area B1 of the Special Tribeca Mixed Use District.

C 050283 ZSM: Special permit pursuant to Section 111-51(b) (a new section) to permit the enlargement of a building containing loft dwellings.

C 050284 ZSM: Special permit pursuant to Section 74-921 to permit Use Group 4A community facility use on the first, second, and third floors in an M1-5 zoning district.

C 050285 ZSM: Special permit pursuant to Section 13-561 to permit an accessory parking garage with 47 spaces.

BACKGROUND

One York Property LLC requests a special permit pursuant to Section 111-50 of the Zoning Resolution to modify the use regulations of Section 111-103(b) to allow forty three (43) loft dwellings on the 3rd floor through 12th floor of an existing 6-story building. The building will also be enlarged pursuant to another special permit (C 050283 ZSM) that is made possible through a related text amendment (N 050281 ZRM) to the Special Tribeca Mixed Use District regulations. The planned residential conversion and enlargement will contain 43 loft dwelling units, commercial/retail use on the ground floor, and a Use Group 4A community facility granted by a related special permit (C 050284 ZSM) on portions of the first, second and third floors. A 47-space accessory parking garage is also planned for the development (C 050285 ZSM).

The site is located in an M1-5 zoning district within the Special TriBeCa Mixed Use District, Area B1, which allows for commercial and manufacturing uses as-of-right and limited residential uses. Land uses in the vicinity of the site are a mix of commercial and residential uses with a large number of loft buildings having undergone conversion to residential use in recent years.

The M1-5 zoning district allows a base FAR of 5 with an FAR of 6.5 permitted along certain streets through the inclusion of community facility space.

The site is located on the block bounded by Avenue of the Americas, Canal Street, Laight Street, St. John's Lane, and York Street. The site contains four lots (Block 212, Lots 24, 26, 41, and 43) and is approximately 15,360 square feet in area. The site currently contains two six-story buildings improved to an FAR of 5.35 on Lots 43 and 24 with 82,710 square feet of floor area. The smaller, Lot 43 building currently contains five dwelling units, one of which is vacant. The larger, Lot 24 building is currently 80% vacant. Existing uses in the Lot 24 building are seven, small commercial establishments that include a messenger service, a cellular phone store, a retail store, storage space, and offices for a non-profit organization. All of the commercial tenants, with the exception of the non-profit organization, are relocating to other sites that better suit their needs and have lower rents. The non-profit organization, the Chinese American Planning Council, will occupy renovated space within the building upon completion of the project.

The project calls for the demolition of the smaller building and the conversion and enlargement of the larger building for residential, community facility, and retail use. The resulting building would consist of 76,801 sf. of floor area converted to loft dwelling use and 19,799 sf. would be used for community facility and commercial uses. In total, the proposed building would contain 96,600 sf. of floor area or an FAR of 6.29. The proposed building would rise to 12 stories or approximately 150 feet in height. The building would have 43 residential loft units (27 units in the existing structure and 15 units in the enlargement),

offices and facilities for the Chinese American Planning Council on portions of floors 1 through 3, and retail use on a portion of the ground floor.

A zoning text amendment (N 050281 ZRM) to Sections 111-02 (General Provisions), 111-111 (Loft dwelling requirements), 111-50 (Special Permit for Conversion to Loft Dwellings or Joint Living-Work Quarters for Artists), and a new Section 111-51 (Special Permit for Enlargement of Buildings Containing Loft Dwellings), is also being sought that would allow for the enlargement of loft buildings in Area B1 of the TriBeCa Mixed Use District. At present, while existing loft buildings can be converted to residential use and existing loft building can be enlarged for commercial or manufacturing uses, loft buildings cannot be enlarged for new loft dwellings. This text amendment would establish a new special permit that would allow the enlargement of existing loft buildings for new loft dwellings provided that the new loft dwellings comply with existing requirements for loft dwellings and that the enlarged portion of the building complies with the requirements of Sections 23-47 (Minimum Required Rear Yards) and 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) applicable to R8 Districts. Only buildings located within Area B1 and that exist outside of a Historic District would be eligible for the special permit. The floor area for all loft dwellings, in both the existing and enlarged portion of the building combined, shall not exceed an FAR of 5.0. In order to grant the special permit, the City Planning Commission must find that the process of enlargement will not unduly burden commercial and manufacturing uses in the building and the neighborhood in which the enlargement is taking place will not be excessively burdened by increased residential activity.

The applicant also seeks a special permit (C 050283 ZSM) pursuant to the new Section 111-51(b) to permit the enlargement of the existing Lot 24 building. This enlargement would add six floors to the loft building, increasing its height from 72 to 142 ft. The enlarged portion of the building would contain 15 units and the total loft dwellings, both in the existing and enlarged portion of the building, would occupy space equivalent to an FAR of 5.0.

The applicant further seeks a special permit (C 050284 ZSM) pursuant to Section 74-921 to permit a Use Group 4A community facility use on the first, second and third floors of the existing Lot 24 building. The special permit would facilitate the improvement and retention of the Chinese American Planning Council. The inclusion of community facility space would allow the development to seek a maximum FAR of 6.5. The proposed project will have an FAR of 6.29.

Finally, the applicant seeks a special permit (C 050285 ZSM) for a 47-space, accessory parking garage which will allow the applicant to meet the parking needs of the new residents within the building. Access to the garage would be via a 23-foot curb cut on York Street and egress from an adjacent 11-foot curb cut. The proposal would relocate and consolidate existing curb cuts currently on Avenue of the Americas to York Street. The garage would occupy approximately 8,700 square feet of floor area. The floor area of the garage within the ground and second floors would be exempt from the definition of floor area. The accessory garage would provide nine (9) reservoir spaces, as required for a garage of this capacity.

The garage would employ new technology whereby all vehicles are to be parked by a fully automated system. After a vehicle has entered the garage and the driver has exited the vehicle, the vehicle will be moved onto an elevator and placed in racks similar to those employed by current stackers. Vehicles will be retrieved in the same manner when the owner requests their vehicle either from a computer terminal located in the garage or via a computer in their dwelling unit. Users are protected from the automated parking device by gates when the machine is in operation.

ENVIRONMENTAL REVIEW

This application (C 050282 ZSM), in conjunction with the applications for the related actions, 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 05DCP037M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on March 28, 2005 stating the following:

The applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which

would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

UNIFORM LAND USE REVIEW

This application (C 050282 ZSM), in conjunction with the applications for the related actions, (C 050283 ZSM, C 050284 ZSM, and C 050285 ZSM), was certified as complete by the Department of City Planning on March 28, 2005, 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 along with the related non-ULURP action (N 050281 ZRM) which was referred for comment.

Community Board Public Hearing

Community Board 1 held a public hearing on this application on April 19, 2005, and on that date, by a vote of 36 to 4 with 2 abstentions, adopted a resolution recommending approval of the application subject to the following conditions:

...that the Department of Buildings pay particular attention to the level of construction immediately adjacent to the proposed project by appointing a construction coordinator to coordinate construction of all projects in this area as well as the overall level of construction activity in Lower Manhattan, and

...that the applicant appoint a neighborhood construction liaison to address concerns of neighboring residents, that no application will be made to permit work on after hours or on weekends, and that the applicant work with DOT to arrange for the installation of improved traffic safety equipment and signage

in the area, and particularly on York Street and St. John's Lane, which will both be used for access to the building and proposed accessory garage, and...

...that the proposed accessory parking garage be used only for accessory parking for the occupants of 55 Avenue of the Americas and their guests and in strict compliance with any other conditions imposed by the City Planning Commission, and not for transient or permanent public parking, that there will be no signage whatsoever advertising transient parking or any other exterior signage other than that required or permitted by law, and that failure to comply with these restrictions on use shall be grounds for revocation of the requested Special Permit, and...

...that the Department of City Planning evaluate the height of the proposed building at 150 feet in light of the Community Board's possible future proposal to change the M1-5 zoning district designation to a C6-2A zoning district with a 120 foot height limit, and ...

...that [the developer] work with Community Board #1, for any reason, the Chinatown Planning Council deal [to be retained in the converted building] does not go through.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on May 4, 2005.

City Planning Commission Public Hearing

On May 25, 2005 (Calendar No. 5), the City Planning Commission scheduled June 8, 2005, for a public hearing on this application (C 050282 ZSM). The hearing was duly held on June 8, 2005 (Calendar No. 17). There were two speakers in favor of the application and none in opposition.

The first speaker was the applicant's attorney who described the requested actions necessary to complete the project. The representative explained the physical and architectural constraints of

the site and how the redevelopment of the building would improve the site and the surrounding neighborhood. The representative noted that the proposed parking garage would only serve residents and guests of the existing building undergoing conversion to residential use. The representative further noted that the renovated building would better serve the needs of the Chinese American Planning Council, an existing non-profit service organization that intends to reoccupy a portion of the building upon completion of the renovation.

The second speaker was the project's architect. The architect noted that the proposed development would respond to the peculiarities of the site created when Avenue of the Americas was established. The architect further noted that the development's ground floor retail and increased landscaping would improve conditions for pedestrians.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

The Commission notes that the project site is located in an area of the City that contains a mix of commercial, manufacturing, and residential uses. Within the immediate vicinity of the site are other residential buildings, telecommunication operations, and a hotel that is currently under construction. The Commission believes that none of these uses directly conflicts with the proposed development at the project site. The Commission further notes the increasing

residential character of the neighborhood which will benefit from the responsive and innovative architecture proposed for the site.

The Commission notes that at present the two existing buildings on the site contain limited commercial or manufacturing uses. The Commission further notes the high vacancy rate within the Lot 24 building and limited use of the building for active manufacturing and commercial uses. With the exception of the Chinese American Planning Council which views their proximity to Chinatown and space as suitable, and intends continue to operate on the site after the project is complete, the remaining commercial tenants are relocating to smaller spaces that better suit their needs, as stated by the applicant's representative at the public hearing.

The Commission believes that the increased residential activity resulting from the conversion will have a minimal impact on surrounding neighborhood. The Commission notes the project site is located in an area that has seen increased residential activity through the conversion of former industrial properties. Further, the residents of the proposed 43 loft units represent a small number of the total population currently living within Tribeca.

Specific to the proposed community facility use, the Commission notes the conditions of the building and site would separate community facility from non-residential uses. The community facilities main entrance would be on St. John's Lane which is a quiet street with limited vehicular activity. The community facility would also be located in a building with substantial brick walls with newly insulated window casements to protect from noise.

The Commission notes that the proposed operator of the community facility, the Chinese American Planning Council, would be serving residents of the nearby Chinatown neighborhood. This organization's service base relies mainly on pedestrian access and public transportation to the facility. This community facility space would be located centrally for population that it is intended to serve and is located proximate to numerous bus and subway stops, the closest being the A, C, E, and 1, 9 Canal Street subway stations, which are located within one block of the site.

The Commission notes the applicant was unable to locate suitable space for the Chinese American Planning Council, which requires proximity to its client base in Chinatown, and easy accessibility via walking or public transportation. Further, the Commission notes that present site meets the space and tenancy needs of the community facility.

As mentioned previously, the project site is located in a mixed use district and the Commission believes that the operation of the community facility will not impair the character of the surrounding neighborhood.

The Commission notes that the parking garage is an accessory garage for residents, guests, and employees of the building. On-street parking is limited on surrounding streets with a number of no parking and no standing zones within the immediate vicinity of the project site. Therefore the Commission believes that at present there is insufficient parking available for the future residents and tenants of the building.

The Commission notes that the proposed garage will consolidate existing curb cuts off of Avenue of the Americas and onto York Street, a short street that connects Avenue of the Americas and St. John's Lane and has limited vehicular activity. The consolidation of existing curb cuts and location of the garage entrance on York Street will reduce current vehicular conflicts by eliminating access from the heavily traveled Avenue of the Americas. The garage is unlikely to impact local residential streets as vehicles will utilize Avenue of the Americas en route to and from the garage. The Commission further notes that few pedestrians and vehicles utilize York Street where the actual garage entrance is located.

Finally, the Commission notes that in response to concerns raised by local residents at the community board hearing on this application, the applicant stated at the Commission's public hearing that it would establish and implement a plan for the staging of construction which shall constrain construction activities to the site and largely eliminate potential conflicts generated by the process of conversion.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 111-50 (Special Permit for Conversion to Loft Dwellings or Joint Living-Work Quarters for Artists) of the Zoning Resolution:

- (a) the conversion will not harm the commercial and manufacturing sectors of the City's economy;
- (b) the conversion will not harm the commercial and manufacturing character of the surrounding area;
- (c) the process of conversion will not unduly burden commercial and manufacturing uses in the building; and
- (d) the neighborhood in which the conversion is taking place will not be excessively burdened by increased residential activity.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; subject to the condition that the applicant, One York Property LLC, agrees via a restrictive declaration to prepare a hazardous materials testing protocol, including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan, including a health and safety plan, to DEP for approval. If necessary, remediation measures would be taken pursuant to the mediation plan.

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 One York Property, grant of a special permit pursuant to Section 111-50 of the Zoning Resolution to modify the use regulations of Section 111-103(b) to allow forty three (43) loft dwellings on the 3rd floor through 12th floor of an existing 6-story building where the lot coverage is greater than 5,000 square feet proposed to be enlarged to 12 stories on property located at 55 Avenue of the Americas a.k.a. One York Street (Block 212, Lots 24,26, 41, and 43), in an M1-5 District, within the Special TriBeCa Mixed Use District (Area B1), 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 050282 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plan, prepared by TEN Arquitectos, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-1	Zoning Tables	March 17, 2005
Z-3	Site Plan	March 17, 2005
Z-5	Floor Plans – Cellar thru 2 nd	March 17, 2005
Z-6	Floor Plans – 3 rd Thru 6 th (Conversion)	March 17, 2005
Z-7	Floor Plans – 7 th through 12 th (Enlargement)	March 17, 2005

Z-8 Parking Garage Ground Floor March 17, 2005
Plan and Section

Z-9 Parking Garage Plans - March 17, 2005
Cellar and 2nd thru 4th Level

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. The applicant, One York Property LLC, agrees via a restrictive declaration to prepare a hazardous materials testing protocol, including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan, including a health and safety plan, to DEP for approval. If necessary, remediation measures would be taken pursuant to the mediation plan.
4. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
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. 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.

7. 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 050282 ZSM), duly adopted by the City Planning Commission on July 13, 2005 (Calendar No. 15), 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 G. CANTOR, P.E., RICHARD W. EADDY, JANE D. GOL, LISA A. GOMEZ,
CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS Commissioners