



CITY PLANNING COMMISSION

February 8, 2010/Calendar No. 1

C 070223 ZSM

IN THE MATTER OF an application submitted by 145 Hudson Street Associates LP 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 111-103(b) (Additional Use Regulations) to allow loft dwellings to be located on the 7th – 10th floors of an existing 16-story building designed for non-residential use and erected prior to December 15, 1961, and where the lot coverage is greater than 5,000 square feet, on property located at 145 Hudson Street (Block 214, Lots 1101 – 1144), in an M1-5 District, within the Special Tribeca Mixed Use District (Area B2), within the Tribeca West Historic, Borough of Manhattan, Community District 1.

The application for the special permit was filed by 145 Hudson Street Associates LP, on December 1, 2006 and was revised on June 29, 2009, to allow a total of twelve loft dwellings on the 7th through 10th floors of the building located at 145 Hudson Street.

RELATED ACTIONS

In addition to the special permit, which is the subject of this report, implementation of the proposed development also requires action by the Chairperson of the City Planning Commission on the following application which is being considered concurrently with this application:

N 090510 ZCM Certification pursuant to Section 111-20(c) of the Zoning Resolution to allow a modification of the Open Space Equivalent requirements of Section 111-112.

BACKGROUND

145 Hudson Street (Block 214, Lots 1101 – 1144) is a sixteen-story industrial building located on the southwest corner of Hudson and Hubert streets. The building lies within Area B2 of the Special Tribeca Mixed Use District (TMU) and has underlying M1-5 zoning. The structure is also within the Tribeca West Historic District. According to materials filed with the application, the Landmarks

Preservation Commission (LPC) has found that the building “has a very prominent architectural presence within the historic district.”

145 Hudson Street (“The Building”) has lot coverage of approximately 10,849 square feet. The building was originally constructed in 1929 as a fourteen-story structure and was designed by Renwick, Aspinwall and Guard. With the exception of the applicant's office which is located on the 10th floor, the 7th through 10th floors of the building are unoccupied. The ground floor of the building is occupied by Use Group 6 retail uses and the 1st through 6th floors are occupied by 20 commercial condominium units. The 11th through 14th floors contain loft dwellings and a two-story penthouse.

In July, 2000, the City Planning Commission approved a special permit (the Original Special Permit) pursuant to Section 74-711 of the Zoning Resolution (C 990488 ZSM) to modify certain use and bulk regulations of the TMU and M1-5 districts to allow the conversion of the 11th through 14th floors of the building to loft dwellings, and to allow the construction of a two-story penthouse to be occupied by two loft dwellings. Although loft dwellings are permitted in Area B2 of the TMU District, a special permit was required because the Building's lot coverage exceeded the 5,000 square foot limit established by Z.R. Section 111-103(b) for the as-of-right conversion to loft dwelling units. The plans approved by the Commission (“CPC-approved plans”) indicated a total of 16 units.

The CPC-approved plans included rooftop recreational space on the roof of the proposed 16th floor penthouse. The TMU regulations require the provision of rooftop recreational space equal to 30% of the gross roof area for buildings containing 15 or more loft dwellings, plus 100 square feet for each additional unit beyond the first 15 units. A restrictive declaration entered into by the property owner in conjunction with the approval required strict conformity with the approved plans.

There have subsequently been three modifications (M 990488(A) ZSM, M 990488(B) ZSM & M 990488(C) ZSM) to the Original Special Permit approval, involving a reduction in the number of loft dwellings, changes to the exterior of the 15th and 16th floors to conform with the LPC Certificate of

Appropriateness, and the addition of the Rooftop Recreation Plan to the list of the CPC-approved plans.

The proposed action would modify Section 111-103(b) which states that, within Area B2 of the TMU, the as-of-right conversion of buildings to residential use is limited to those properties with lot coverage of less than 5,000 square feet. The special permit is being requested because the building's lot coverage of 10,849 s.f. exceeds the 5,000 square foot lot coverage limit.

A Chair's certification (N 090510 ZCM) is also being requested to modify the rooftop recreational space provisions of the TMU, which requires rooftop recreational space equal to 30% of the gross roof area for buildings containing 15 or more loft dwellings, plus 100 SF for each additional unit beyond the first 15 units. . The applicant has stated that the existing rooftop recreation area, provided to satisfy the open space requirement triggered by the previous loft dwelling conversion, cannot be enlarged to meet the additional recreation requirement triggered by the current application. The applicant notes that the roof over the 16th floor penthouse addition is presently almost entirely programmed as rooftop recreation space and that the remaining portions of the 16th floor roof are occupied by exhaust ducts and other mechanical equipment. The portion of the roof over the 14th floor not occupied by the penthouse addition is privately occupied as a roof deck for the exclusive use by the occupants of the 15th and 16th floor penthouse unit.

As required by the special permit, the application includes a report from the Landmarks Preservation Commission (LPC) stating that a continuing maintenance program has been established that will result in the preservation of 145 Hudson Street, and that the proposed use modification contribute to a preservation purpose.

The area surrounding 145 Hudson Street is generally characterized by six- to nine-story loft buildings. The 40-story Travelers Group headquarters building is located on the west side of Greenwich Street, two blocks directly to the west of 145 Hudson Street. Uses in the area are mixed and include a number of remaining warehouse and printing firms, as well as new media, graphic design, and film production offices and photography studios. Buildings in the area are increasingly

being converted to loft dwellings, including 25 North Moore Street, 24-30 Laight Street, 169 Hudson Street, 185 Hudson Street, 195 Hudson Street and a series of buildings at 41-47 Vestry Street. The St. John's Rotary (the exit loop from the Holland Tunnel) is directly across Hudson Street from the subject building.

ENVIRONMENTAL REVIEW

This application (C 070223 ZSM), in conjunction with the application for the related action (N 090510 ZCM), 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 07DCP057M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on September 21, 2009.

UNIFORM LAND USE REVIEW

This application (C 070223 ZSM), in conjunction with the application for the related action, was certified as complete by the Department of City Planning on September 21, 2009, 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 October 27, 2009, and on that date, by a vote of 41 to 0 with no 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 December 10, 2009.

City Planning Commission Public Hearing

On December 2, 2009 (Calendar No. 1), the City Planning Commission scheduled December 16, 2009, for a public hearing on this application (C 070223 ZSM). The hearing was duly held on December 16, 2009 (Calendar No. 16). There were three speakers in favor of the application and no speakers in opposition.

The applicant's attorney, architect, and a representative from the Borough President's office spoke in favor of the application. The attorney for the project reviewed the prior land use applications which had facilitated the conversion of the eleventh through fourteenth floors of the building as well as the current request to allow the conversion of the seventh through tenth floors. In response to an inquiry by the Commission, the speaker explained that the units below the seventh floor are occupied as commercial condominium units and therefore would not be likely to convert to residential use in the near future. The speaker also noted that the architects for the project have their offices in one of the aforementioned commercial condominium units.

The attorney detailed the scope of work required by LPC as part of the maintenance program for the building and noted that the required work is almost completed. The speaker noted that LPC did not require additional obligations in relation with the current application.

The architect for the project noted that mechanical deductions had been taken for the subject floors. The speaker also reviewed the background of the rooftop recreation space; noting that while the reduced number of units approved pursuant to the first modification to the original special permit no longer triggered the open space requirement, the building sponsor had nevertheless chosen to construct the space.

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 is appropriate.

Approval of the special permit application (C 070223 ZSM) pursuant to Section 74-711 of the Zoning Resolution modifies the use regulations of Section 111-103(b) of the Special Tribeca Mixed Use District. The special permit will allow residential loft use on the 7th through 10th floors of 145 Hudson Street.

When the building was constructed, this portion of Tribeca contained warehouse and printing industry uses. Over the last fifteen to twenty years many buildings in this area have been converted to residential use and also to commercial uses related to new media and design. The Commission notes that the 11th through 14th floors and two newly constructed penthouse floors have been converted to residential loft use pursuant to an earlier special permit (C 990488 ZSM). The lower floors of the building were retained for commercial uses. The mixed-use occupancy of the building is consistent with established land use trends in the surrounding portion of the Tribeca neighborhood.

The Commission believes that the conversion to residential use of floors seven through ten will have a minimal adverse effect on the conforming uses in the building. The Commission notes that first through sixth floors of the building are occupied as commercial condominium units, and therefore unlikely to convert to residential use in the foreseeable future.

The Commission believes that the approved use modification will facilitate the restoration and preservation of 145 Hudson Street and, thereby, enhance the architectural and historical built fabric of the Tribeca West Historic District. The Commission notes that pursuant to the restrictive

declaration signed by 145 Hudson Street Associates as Declarants, a regular maintenance and inspection program has been established, as required under Section 74-711. The program ensures that the building is kept in sound condition and will include an inspection of the building every three years by a preservation architect whose credentials must be approved by the LPC. The program will be administered and monitored by the LPC. The declaration binds the declarant and all heirs, successors and assigns of the declarant, and is to be recorded at the County Register's Office.

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 submitted by 145 Hudson Street Associates pursuant to Section 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 permit the modification of the following use regulations:

Section 111-103(b): to allow the conversion of the 7th through 10th floors to loft dwellings in an existing 16-story building with lot coverage greater than 5,000 square feet; on property located at 145 Hudson Street (Block 214, Lot 18), within the Tribeca West Historic District, in Area B2 of the Special Tribeca Mixed Use District, in an M1-5 district, Community

District 1, Borough of Manhattan, is approved, pursuant to Section 74-711 of the Zoning Resolution, subject to the following terms and conditions:

1. The property that is the subject of this application (C 070223 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 Rogers Marvel Architects, PLLC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
CP 1	Plot Plan, Zoning Calculations, Notes, Drawing Index, Floor Area Schedule	May 28, 2009
CP 1A	Site Plan	May 28, 2009
CP 8	Proposed 7-10 Floor Plan(s)	March 24, 2009
CP 13	Roof Plan	March 24, 2009
CP 13B	Roof Top Recreation Plan	March 24, 2009

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 restrictive declaration attached hereto as Exhibit A, 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 070223 ZSM), duly adopted by the City Planning Commission on February 8, 2010 (Calendar No. 1), 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, RICHARD W. EADDY,

NATHAN LEVENTHAL, ANNA HAYES LEVIN, KAREN A. PHILLIPS, Commissioners