



CITY PLANNING COMMISSION

July 27, 2005/Calendar No. 18

C 050218 ZSM

IN THE MATTER OF an application submitted by Wooster 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. Section 42-12 to allow a furniture store (Use Group 10A) on the 1st through 3rd floors and cellar; and
 2. Section 42-14D(2)(a) to allow Use Group 6 and Use Group 10A (furniture store) uses below the floor level of the second story;
- of an existing 6-story building located at 105-113 Wooster Street (Block 501, Lots 1001-1016), in an M1-5A District, within the SoHo-Cast Iron Historic District, Borough of Manhattan, Community District 2.
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The application for the special permit was filed by the Wooster LLC on December 14, 2004 to allow 18,855 square feet of Use Group 6 (retail) and Use Group 10A (furniture store) on the ground floor and the cellar level; and a total of 34,820 square feet of Use Group 10A use on the cellar level and first through third floors of a warehouse structure located at 105 Wooster Street.

BACKGROUND

105 Wooster Street is a six-story structure completed in 1891-1892 and designed by Charles Behrens for warehouse use. It is within an M1-5A District, situated on the west side of Wooster Street between Spring and Prince streets. The building is also within the SoHo-Cast Iron Historic District. The structure is built on a 10,000 square foot zoning lot. The cellar, ground floor, and second and third floors are occupied by a Use Group 10A furniture store that is not permitted by the current zoning. The fourth through sixth floors contain as-of-right joint living-work quarters for artists.

According to the use regulations for an M1-5A district, in buildings with lot coverage in excess of 3,600 square feet, uses below the second story are limited to wholesale, business service, warehouse and light industrial uses (Use Groups 7, 9, 11, 16, 17A, 17B, 17C and 17E). Other uses are allowed by special permit of the City Planning Commission. The building located at 105 Wooster Street completely occupies the 10,000 square foot lot. In addition, in all M1 districts large retail stores are not permitted. 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.

This application requests a modification of the M1-5A use regulations to allow approximately 9,553 square feet of Use Group 6 and Use Group 10A use on the ground floor and 9,302 square feet of Use Group 6 and Use Group 10A use in the cellar level of 105 Wooster Street. A total of 18,855 square feet of Use Group 6 and Use Group 10A use is proposed for the floor area below the second floor. In addition,, the application requests a modification of the M1 use regulations to allow a total of 34,820 square feet of Use Group 6 and Use Group 10A use in the cellar through third floors of 105 Wooster 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 105 Wooster Street, and that the proposed use modifications contribute to a preservation purpose.

The surrounding SoHo neighborhood is generally developed with four to six-story loft buildings primarily containing joint living-work quarters for artists on the upper floors and retail, gallery and restaurant uses on the ground floor.

ENVIRONMENTAL REVIEW

This application (C 050218 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 05DCP024M. 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 April 11, 2005.

UNIFORM LAND USE REVIEW

This application (C 050218 ZSM) was certified as complete by the Department of City Planning on April 11, 2005, 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 this application on May 12, 2005 and on May 19, 2005, by a vote of 36 to 0 with 0 abstentions, adopted a resolution recommending approval of the application with the following condition:

THEREFORE , BE IT RESOLVED, that CB#2, Man. supports this application for a special permit pursuant to Zoning Resolution 74-711 to modify the use regulations to permit Use Group 6/Use Group 10A commercial uses below the floor level of the second story and to permit a furniture store (Use Group 10A) providing that the applicant and the building ownership consult with CB#2. Man. before leasing the store for any Use Group 10A retail use in excess of 10,000 square feet of floor area to determine whether the proposed change in use would have detrimental and adverse effects on the community. Furniture stores and low volume, luxury retailers would be exempt from this requirement.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on June 28, 2005, approving the application with the following condition:

...that the applicant and the building ownership consult with Community Board Two before leasing the store for any Use Group 10A retail use in excess of 10,000 square feet of floor area to determine whether the proposed change in use would have detrimental and adverse effects on the community. Furniture stores and low volume, luxury retailers would be exempt from this requirement.

City Planning Commission Public Hearing

On June 22, 2005 (Calendar No. 7), the City Planning Commission scheduled July 13, 2005 for a public hearing on this application (C 050218 ZSM). The hearing was duly held on July 13, 2005 (Calendar No. 27). There was one speaker in favor of the application and none in opposition.

The applicant's attorney described the proposal and the request for the special permit.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

When the building was constructed in 1891-1892, 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 uses to joint living-work quarters for artists (Use Group 17D) and retail uses occupy much of the ground floor frontages. The Commission recognizes that, as a mixed-use neighborhood, SoHo supports a broad range of ground floor and cellar uses, from retail businesses to those oriented towards the arts. Therefore, the Commission believes that the retail use of the lower portion of the building is consistent with established land use trends in the greater SoHo neighborhood.

The Commission believes that the Use Group 10A use is consistent with uses in the general area. Broadway, to the north and to the south of the site, is characterized by large retail uses. The Commission notes that within the past few years, several high-end furniture and home furnishings retailers have located on Wooster Street. The Commission believes that the subject Use Group 10A use would be consistent with the developing character of the area as a premier high-end furniture district. In addition, the Commission believes that the Use Group 10A use would have a minimal adverse effect on the conforming uses within the building.

The proposed use modifications will facilitate the renovation and preservation of 105 Wooster Street. The 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.

The Commission notes the recommendation of the Community Board regarding the applicant and the building ownership consulting with the Community Board before leasing the cellar through third floors for any Use Group 10A retail use in excess of 10,000 square feet of floor area in the event that the current lessee vacates the subject space. While the Commission does not incorporate this recommendation as a condition of its approval, it notes that the applicant is prepared to acknowledge the CB's request.

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 for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of:

1. Section 42-12 to allow a furniture store (Use Group 10A) on the 1st through 3rd floors and cellar; and
2. Section 42-14D(2)(a) to allow Use Group 6 and Use Group 10A (furniture store) uses below the floor level of the second story;

of an existing 6-story building located at 105-113 Wooster Street (Block 501, Lots 1001-1016), in an M1-5A District, within the SoHo-Cast Iron Historic District, Borough of Manhattan, Community District 2 is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 050218 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 Harris Smith Design, Inc., filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A0-02	Zoning Calculations	2/28/05

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 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 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 20, 2005, executed by the Board of Managers of the Wooster Street Condominium, 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 050218 ZSM), duly adopted by the City Planning Commission on July 27, 2005 (Calendar No. 18), 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

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