



Stimulating a post-pandemic recovery – Converting offices to residential use in NYC - by Daniel Braff

January 19, 2021 - New York City

It has been recently reported that both gov. Cuomo and mayor De Blasio are reviewing proposals to convert office buildings to residential use in response to high office vacancy and concerns that “work from home” may be permanent. This idea of converting office space to residential use has been bouncing around since the early days of the pandemic. While I personally believe that “work from home” is primarily a transient response to the pandemic, I also believe that flexibility may be exactly what New York City needs to claw its way out of the pandemic. Let the market determine the best path out of the crisis.

This is not a new concept. In fact, Article I, Chapter 5 of the NYC Zoning Resolution, which was enacted in 1981, already permits such conversions under certain conditions and in certain areas. Such areas originally included Manhattan south of 59th St. but was expanded to include parts of Brooklyn and Queens. It was enacted in response to illegal conversions of commercial and manufacturing loft buildings to residential use. Article I, Chapter 5 was intended to allow the conversion of some obsolete commercial and manufacturing buildings to residential use in some areas to support rapidly increasing residential demand, while at the same time putting in protections for manufacturing buildings in other areas to prevent illegal conversions to support the manufacturing industry, which was still thriving in certain areas.

Article I, Chapter 5 resulted in many successful conversions throughout New York City. Some recent examples of high-profile conversions include the conversion of the upper floors of the Woolworth Building to residential use, the entire conversion of the nearly 500,000 s/f office building at 180 Water St., the partial conversion of the Waldorf Astoria (from hotel to residential), and the conversion of one of New York City’s first skyscrapers at 212 Fifth Ave. from office to residential use. Conversions are not limited to Manhattan. The Boricua College building at North 6th St. in Brooklyn is undergoing a conversion from a school to residential use under Article I, Chapter 5.

Conversions under Article I, Chapter 5 only apply to buildings constructed prior to 1961 and where residential use is otherwise permitted (residential zoning districts and most commercial zoning districts). The key benefit in the application of this section is that a converted building is not subject to residential floor area ratio limitations, as well as density, open space ratio, yards, minimum distance between buildings and minimum distance between windows and walls or lot lines. Instead, such converted buildings are subject to light and air limitations and open space requirements,

including Section 277 of the Multiple Dwelling Law, which requires significantly less light and air for legally required windows than would otherwise be required under zoning (in some cases as little as 5 ft.). The purpose here is to facilitate the reuse of buildings that might otherwise not meet residential bulk zoning requirements. Nearly all of the examples of recent conversions I provided above exceed the residential floor area ratio that would have otherwise applied had the buildings been new residential construction.

That brings us to today. One way to facilitate the conversion of office buildings in Manhattan would be to expand Article I, Chapter 5. Article I, Chapter 5 could be amended to allow the conversion of office buildings that date after 1961 in specified areas of Manhattan. This is already permitted in lower Manhattan (buildings only need to date prior to 1977). Recent reports have placed the amount of “average” quality office buildings at more than 100 million s/f with some reports as high as around 200 million. I suspect that many of these buildings date back to the ‘60’s and ‘70’s. By targeting buildings after 1961, and by selecting certain areas where this exception would apply, owners could have the option of converting these buildings if the market supports such conversion. Of course, certain conditions can be placed on these conversions including a requirement that the owner demonstrate a level of vacancy over a certain time period. In addition, the city would almost certainly require an amount of affordable housing to be designated in such conversions.

The city could also rezone some manufacturing zoning districts in parts of Manhattan to either mixed-use districts (which allows both manufacturing and residential use) or commercial districts (which in most cases allow residential use). This would have the immediate effect of expanding the coverage of Article I, Chapter 5 as it exists today and would open many pre-1961 buildings in manufacturing zoning districts to potential conversion. It would also allow the conversion of pre-1961 hotels in current manufacturing districts to residential use. The challenge here would be balancing the benefits of allowing conversion to residential use against unintended consequences, such as the potential loss of manufacturing, industrial and warehouse uses. However, there are mechanisms that can preserve manufacturing, industrial and warehousing uses, such as targeting the rezoning to areas where many obsolete office buildings exist and where there is little active manufacturing/industrial use, requiring the preservation of an amount of manufacturing floor area in any conversion, or limiting conversions to buildings that have not had an active manufacturing use for a certain period.

The goal would be to focus the conversions on obsolete office buildings or hotels within manufacturing zoning districts, not provide a windfall for the owners of manufacturing buildings with current manufacturing uses. This is best done using a scalpel and not an axe.

Article I, Chapter 5 was successful in creating housing in New York City to meet increased demand. Today’s challenge is different. Expansion of conversions would not be intended to meet residential demand. The purpose would be to limit the economic wreckage the pandemic has rendered on the real estate industry. It is unclear what the city will look like in 2022, 2025 and 2030. Will office vacancy rates drop back down to pre-pandemic levels? Will there be demand for more housing if office vacancy rates remain low? What is clear is that the City will need to be flexible. Enabling the conversion of more obsolete office buildings to residential use makes sense as one of many

possible tools.

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