



CITY PLANNING COMMISSION

November 17, 2004 / Calendar No. 21

C 040412 ZSM

IN THE MATTER OF an application submitted by Ladies Mile, Inc. 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 Section 15-12 (Open Space Equivalent) to allow a reduction of the required rooftop recreation space from 8,323 square feet to 4,184 square feet to facilitate the conversion to residential use of an existing 5-story and proposed 2-story penthouse building on property located at 655 Sixth Avenue (Block 796, Lots 36 and 47), in C6-2A and C6-3A Districts, within the Ladies Mile Historic District, Community District 4, Borough of Manhattan.

The application for a special permit was filed by Ladies Mile, Inc., on April 21, 2004 pursuant to Section 74-711 of the Zoning Resolution to permit a reduction in the required rooftop recreation area of Section 15-12 to facilitate a conversion to residential use and enlargement of an existing 5-story building.

BACKGROUND

The subject zoning lot occupies the full blockfront on Sixth Avenue between West 20th and West 21st streets within the Ladies Mile Historic District. The lot is currently occupied by an existing, 5-story commercial building, known as the Hugh O'Neill Building, that is largely vacant.

The property is comprised of two tax lots: Lots 36 and 47. The subject building is located on Lot 36. The applicant has entered into a zoning lot merger and easement agreement with the Congregation of Shearith Israel, owners of the Shearith Israel Cemetery occupying Lot 47. The zoning lot merger will facilitate the addition of two penthouse floors to the existing building.

The resulting merged zoning lot is partially within a C6-2A district (6.0 FAR commercial, 6.02 FAR residential) and partially within a C6-3A district (6.0 FAR commercial, 7.52 FAR residential).

Land uses directly bordering the project site include a five-story residential building with ground floor adult day-care use on West 20th Street and the Shearith Israel Cemetery and a new thirteen-story residential building with ground floor retail on West 21st Street. The buildings located across West 20th and West 21st Streets from the project site are commercial in nature, with an eight-story office building being located across West 20th Street and a six-story building across West 21st Street. Both office buildings have ground floor retail uses. Properties located across Sixth Avenue from the project site include the landmarked Church of the Holy Communion complex, currently occupied by a nightclub; three, four-story residential buildings with ground floor retail space; and a two-story commercial building.

The applicant intends to convert four floors of the existing five-story commercial building to residential use and enlarge the structure through the addition of two penthouse floors. Retail use on the ground floor of the building would remain. The two penthouse floors would be set back from the street wall and constructed with sloping roofs to satisfy the requirements of the Landmarks Preservation Commission that the visibility of the enlargement from the street be minimized.

The special permit would allow for a reduction in the amount of rooftop recreation space required by Section 15-12 of the Zoning Resolution. Section 15-12 states that, for non-residential buildings converted to residential use with at least 15 dwelling units, a minimum of 30 percent of the gross roof area must be developed for recreational uses. The Section further requires that, for each additional dwelling unit above 15, 100 square feet of additional rooftop area be developed as recreational space, up to a maximum of 50 percent of the gross roof area. Under these provisions, the proposed conversion to 44 units would require 8,323 square feet of rooftop space as recreational area.

The applicant will use the setback areas in front of the upper-story penthouses as private space for those units, leaving 4,184 square feet for recreation space on the roof of the uppermost story.

In order to grant the special permit pursuant to Section 74-711, the Commission must make findings related to the effects of bulk and use modifications, if any, on structures, open spaces, and conforming uses within the area.

ENVIRONMENTAL REVIEW

This application (C 040412 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 and Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 04DCP049M. The lead agency is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on July 26, 2004.

UNIFORM LAND USE REVIEW

This application (C 040412 ZSM) was certified as complete by the Department of City Planning on July 26, 2004, and was duly referred to Community Board 4 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 4 held a public hearing on this application on September 8, 2004, and on that day, by a vote of 32 in favor, 0 opposed, and no abstentions, adopted a resolution in favor of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on September 27, 2004, approving the application.

City Planning Commission Public Hearing

On October 6, 2004, (Calendar No. 4) the City Planning Commission scheduled October 20, 2004, for a public hearing on this application (C 040412 ZSM). The hearing was duly held on October 20, 2004, (Calendar No. 11). There was one speaker in favor of the application and no speakers in opposition.

The applicant's attorney briefly described the project and the requested action.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

The special permit would facilitate the conversion and enlargement of a mostly vacant building to 44 dwelling units as well as the reconstruction and rehabilitation of an important architectural feature of the Ladies Mile Historic District. The Commission believes that it is appropriate to permit modification of the requirements related to rooftop recreation areas necessitated by the conversion to residential use and enlargement of an existing 5-story building located at 655 Sixth Avenue. The Commission recognizes that the applicant has, after consultation with and approval of the Landmarks Preservation Commission, agreed to enhance and restore a building of significant

architectural character. The Commission also notes that the applicant has modified the envelope and layout of the proposed enlargement to satisfy requirements of the LPC that the visibility of such enlargements from nearby streets be minimized and that such modifications are in part responsible for the reduction in rooftop recreation space that would be provided.

The Commission notes that the Landmarks Preservation Commission, on June 30, 2004, issued a report stating that the applicant has agreed to establish a program for continuing maintenance of the building. A Restrictive Declaration will also be filed against the property that will bind both the applicants as well as any future owners to the conditions of the maintenance agreement.

The Commission acknowledges that a Certificate of Appropriateness was issued by the LPC on June 30, 2004. The Commission notes that the LPC found that no significant architectural features of the subject building would be compromised as a result of the proposed modifications and that such modifications would integrate with and enhance the existing architectural character of the building.

The Commission recognizes that the maximum number of dwelling units proposed for the building in question fall within the maximum allowable number of units as specified in Section 15-111 of the Zoning Resolution. Under the provisions of Section 15-111, the maximum number of dwelling units permitted is 133. The applicant proposes to create 49 dwelling units, which the Commission

notes is below the maximum allowable amount.

The Commission believes that the requested reduction in rooftop recreation area will not affect the scale, massing, or appearance of the building in question. Therefore, because the physical envelope of the building would not change as a result of the proposed action, the Commission believes that there will be no adverse impacts on structures or open space in the vicinity of the building. Additionally, the Commission notes that the LPC, in its June 30, 2004, report and Certificate of Appropriateness, found that the visual impact of proposed enlargements and facade modifications had been successfully minimized.

The Commission recognizes that there are no proposed use modifications on the project site and that no adverse impacts on conforming uses within the building would arise from the proposed action.

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) that such bulk modifications shall have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air;
and
- 2) that 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 Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by Ladies Mile, Inc., 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 Section 15-12 (Open Space Equivalent) to allow a reduction of the required rooftop recreation space from 8,323 square feet to 4,184 square feet to facilitate the conversion to residential use of an existing 5-story and proposed 2-story penthouse building on property located at 655 Sixth Avenue (Block 796, Lots 36 and 47), in C6-2A and C6-3A Districts, within the Ladies Mile Historic District, is approved.

1. The property that is the subject of this application (C 040412 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 Cetra/Ruddy Incorporated, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
3	Site Plan	April 15, 2004
7	Required Rooftop Recreation Plan	April 15, 2004

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 plan listed above which has 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 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, and terms or conditions of this resolution, 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 powers of the City Planning

Commission, or of any 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.

7. The Development pursuant to this Resolution shall be permitted only after the Restrictive Declaration dated October 14, 2004, and executed by Ladies Mile, Inc., the terms of which are hereby incorporated into this Resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

The above resolution (C 040412 ZSM), duly adopted by the City Planning Commission on November 17, 2004, (Calendar No. 21) 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 Chair
ANGELA M. BATTAGLIA, IRWIN G. CANTOR, ANGELA R. CAVALUZZI, R.A.,
ALFRED C. CERULLO, III, RICHARD W. EADDY, JANE D. GOL, CHRISTOPHER KUI,
JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners