



## **CITY PLANNING COMMISSION**

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September 23, 2009/Calendar No.6

C 040455 ZSM

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IN THE MATTER OF an application submitted by Lispenard Group 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 use regulations of Sections 111-02, 111-101 and 111-102(b)(1) to allow twelve loft dwellings on the 1<sup>st</sup> through 7<sup>th</sup> floors of an existing seven-story building that was designed for non-residential use, erected prior to December 15, 1961, and that have since been enlarged, on property located at 46-48 Lispenard Street (Block 194, Lot 26), in an M1-5 District, within the Special Tribeca Mixed Use District (Area B1), Community District 1, Borough of Manhattan.

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The subject application was filed by Lispenard Group, LLC, on May 12, 2004 for a special permit pursuant to Section 74-711 of the Zoning Resolution to modify certain use regulations for the conversion to loft dwelling of an existing 7-story manufacturing building at 46 Lispenard Street (Block 194, Lot 26) within the Special Tribeca Mixed Use District and M1-5 District in Community District 1, Manhattan.

### **BACKGROUND**

The site, 46 Lispenard Street (Block 194, Lot 26), is located at a mid-block lot on the south side of Lispenard Street between Church Street and Broadway. The building is located in an M1-5 zoning district in Area B1 of the Special Tribeca Mixed Use District and in the Tribeca East Historic District (the "Historic District"). The M1-5 zoning district permits a 5.0 FAR. The total building height is approximately 107 feet high and the existing FAR is 4.99. The building is currently vacant.

The surrounding area is characterized by commercial buildings with loft dwellings on the upper floors. On the same block, buildings across the street from 46 Lispenard have converted their upper floors to loft dwelling use, and other manufacturing buildings on the block are used primarily for storage or warehousing.

The applicant proposes to convert the 1<sup>st</sup> through 7<sup>th</sup> floors of an existing manufacturing building that is currently vacant to loft dwelling use. All dwellings will be floor through units.

In Area B1 of the Special Tribeca Mixed Use District, loft dwelling uses are not permitted below

the third floor. Furthermore, pursuant to Section 111-02, loft dwellings are not permitted in buildings designed for non-residential use and erected prior to 1961 that have since been enlarged. The building was enlarged in 2007 to include sixth and seventh floors for commercial and manufacturing use and has remained vacant. The applicant is, therefore, requesting a special permit pursuant to Section 74-711 to modify the regulations of Sections 111-02, 111-101, and 111-102. The special permit would allow 22,188 square feet of floor area for twelve loft dwellings on the first thru seventh floors.

Section 74-711 requires a report from the Landmarks Preservation Commission stating that a program has been established for continuing maintenance that will result in the preservation of the subject building or buildings and that such use modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose.

On January 20, 2004, the Landmarks Preservation Commission issued a report stating that a program for continuing maintenance has been established for 46 Lispenard Street (Block 194, Lot 26) and a restrictive declaration will be filed against the property. As part of the continuing maintenance program, the applicant has agreed to undertake work to restore the designated building and bring it up to a sound, first class condition, including façade work, the replacement of missing or damaged cast iron elements, and replacement of windows. On May 12, 2005, the Landmarks Preservation Commission issued a Certificate of Appropriateness.

## **ENVIRONMENTAL REVIEW**

This application (C 040455 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 lead agency is the City Planning Commission. The designated CEQR number is 09DCP079M.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on May 18, 2009.

## **UNIFORM LAND USE REVIEW**

This application (C 040455 ZSM) was certified as complete by the Department of City Planning on May 18, 2009, and was duly referred to Manhattan Community Board 1 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 1 held a public hearing on this application on June 30, 2009, and on that date, by a vote of 37 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application was considered by the Borough President who issued a recommendation on August 6, 2009, approving the application.

### **City Planning Commission Public Hearing**

On August 5, 2009 (Calendar No. 5), the City Planning Commission scheduled August 19, 2009 for a public hearing on this application (C 040455 ZSM). The hearing was duly held on August 19, 2009 (Calendar No. 35).

There were two speakers in favor and none in opposition.

The Director of Land Use for the Manhattan Borough President reiterated the Borough President's support for the project. The applicant's attorney spoke in favor and described the project.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

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

The Commission notes that the proposed conversion to loft dwelling use of 46 Lispenard Street would be consistent with the trend in Tribeca and that on the subject block there are few

manufacturing uses remaining.

The Commission notes that there would be twelve loft dwelling units which would have a minimal adverse impact on the surrounding area. It would not interfere with existing manufacturing or commercial uses.

The Commission also notes that the building was already vacant before the process of conversion and the conversion to loft dwelling use will not have any adverse effects on conforming uses in the building as none exist.

## **FINDINGS**

The City Planning Commission hereby makes the following finding pursuant to Section 74-711 of the Zoning Resolution:

1. Not Applicable
2. such use modifications shall have minimal adverse effects on the conforming uses within the buildings 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 described in this report, the application submitted by Lispenard Group, 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 use regulations of Sections 111-02, 111-101 and 111-102(b)(1) to allow twelve loft dwellings on the 1<sup>st</sup> through 7th floors of an existing seven-story building that was designed for non-residential use, erected prior to December 15, 1961, and that have since been enlarged, on property located at 46-48 Lispenard Street (Block 194, Lot 26), 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 conditions:

- 1) The property that is the subject of this application (C 040455 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 Israel Peles Architects, filed with this application and incorporated in this resolution:

<b>Drawing No.</b>	<b>Title</b>	<b>Last Date Revised</b>
A-1	Plot Plan, Zoning Data	02-12-2009
A-2	Zoning Notes and Summary of Floor Areas	02-12-2009
A-4	First Floor Plan	02-12-2009
A-5	Second thru Fifth Floor Plan	02-12-2009
A-6	Sixth Floor Plan	02-12-2009
A-7	Seventh Floor Plan	02-12-2009
A-8	Front Elevation and Building Section	02-12-2009

- 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 that 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 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 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 attached restrictive declaration dated, September 10, 2009, executed by 46 Lispenard Street, LLC, the terms of which shall be deemed incorporated herein as a condition of this resolution, shall have been recorded and filed in the Office of the City 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 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 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 040455 ZSM), duly adopted by the City Planning Commission on

September 23, 2009 (Calendar No. 6), is filed with the Office of the Speaker, City Council, and the Borough President 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, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL,**  
**SHIRLEY A. McRAE, KAREN A. PHILLIPS, Commissioners**  
**ANNA HAYES LEVIN, Commissioner, ABSTAINING**