



CITY PLANNING COMMISSION

August 13, 2003/Calendar No. 27

C 030394 ZSM

IN THE MATTER OF an application submitted by the Police Department pursuant to Sections 197-c and 201 of the New York City Charter **for the grant of a special permit pursuant to Section 74-67 of the Zoning Resolution to allow a police station to be located at 321 East 5th Street** (Block 447, Lot 47), in an R7-2 District, Borough of Manhattan, Community District 3.

The application was filed by the New York City Police Department on March 19, 2003, for a special permit pursuant to Sections 74-67 of the Zoning Resolution to allow a police station to be located at 321 East 5th Street. The property is located within an R7-2 zoning district. Approval of the special permit would facilitate the construction of a 33, 245 square foot building.

BACKGROUND

The project site is located on the north side of East Fifth Street between Second and First avenues. The property is located within an R7-2 zoning district. The lot area of the site is approximately 4,850 square feet. There is an existing 6-story building located on the site that is currently the 9th Police Precinct Station. The site is flanked by two 6-story residential buildings. A city-owned parcel directly across the street from the precinct serves as a parking lot for police vehicles.

The site is zoned R7-2, which does not permit the use as-of-right. Therefore, the applicant is concurrently seeking a special permit pursuant to Section 74-67 of the New York City Zoning Resolution, (C 030394ZSM), to allow the construction of a police precinct in a residential district. Additionally, the proposed facility would not comply with the following regulations:

Required accessory off-street parking spaces pursuant to Section 25-31; minimum required front yard, pursuant to Section 23-45 a); floor area pursuant to Section 23-141(b); and front wall height pursuant to Sections 23-631 and 74-01. In this instance, the City is exercising its power not to be subject to its zoning requirements when performing a government function.

The existing 90-year old building is currently one of the oldest in NYPD's inventory. The building is operational 24 hours each day and does not meet the NYPD's current operational program for this use. Since May 2002, the 9th Precinct has been operating out of a temporary facility at 130 Avenue C. Replacement of the existing facility will allow for adequate facilities such as administrative spaces, locker rooms, lavatories, dormitories, the interrogation room, prison detention and a muster room. Overcrowding is affecting police activities such as prison detention and detective functions. New structural, mechanical, electrical and safety systems will also be installed to modernize the facility. The NYPD anticipates that construction will be completed in mid-2005. The existing building will be demolished. The façade will be retained and the new building with the old façade will be constructed.

The block and surrounding area are predominantly residential in character, with nearby blocks having a mix of residential buildings and low-rise commercial buildings and community facilities. The neighborhood is typified by five- or six-story, brick buildings. Commercial and retail uses are available on First and Second avenues. The nearest subway station is located at Astor Place/ 8th Street (the Lexington Avenue line) and several bus lines service the area on nearby avenues.

ENVIRONMENTAL REVIEW

This application (C 030394 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 02NYPD001M. The lead agency is the New York City Police Department.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on November 1, 2002.

UNIFORM LAND USE REVIEW

This application (C 030394ZSM) was certified as complete by the Department of City Planning on March 31, 2003 and was duly referred to Manhattan Community Board 3 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 3 held a public hearing on this application on May 12, 2003 and on May 27, 2003 by a vote of 36 in favor, 0 opposed, and 0 abstaining adopted a resolution recommending approval of the application, subject to the following conditions:

- 1) That the reconstructed building at 321 East 5th Street be occupied only by the Ninth Precinct.

- 2) That the parking lot adjacent to 33 East 5th Street designated for police parking until the recent closure of the precinct for renovation, continue use solely as a lot for Ninth Precinct parking upon completion of construction and that no construction be done on the lot.

Borough President Recommendation

This application was considered by the Borough President, who issued recommendation on June 3, 2003 approving the application, subject to the following conditions:

- 1) That the reconstructed building at 321 East 5th Street be only occupied by the Ninth Precinct.
- 2) That the police parking lot across the street be for police parking only upon completion of construction of the new building and that no construction be done on the parking lot.

City Planning Commission Public Hearing

On June 18(Calendar No. 2), the City Planning Commission scheduled July 2, 2003 for a public hearing on this application. The hearing was duly held on July 2, 2003 (Calendar No. 7). There was one person present to speak in favor of the application and none in opposition.

A representative of the New York City Police Department was present to answer questions.

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 would facilitate the construction of a 33, 245 square foot building. The proposed project involves the demolition of the current police station, preserving the facade, and constructing a 7-story police station.

The Commission notes that the 9th Precinct building is currently one of the oldest in the NYPD's inventory. The Commission understands that the building needs to be operational 24 hours each day and the proposed facility meets NYPD's current operational program for this use.

The Commission notes that the new facility will provide adequate facilities such as administrative spaces, locker rooms, lavatories, dormitories, the interrogation room, prison detention and a muster room. The Commission also notes that new structural, mechanical, electrical and safety systems will also be installed to modernize the facility.

The Commission notes that the site is zoned R7-2, which does not permit the use as-of-right, and therefore, the applicant is seeking a special permit pursuant to Section 74-67 of the New York City Zoning Resolution, (C 030394ZSM), to allow the construction of a police precinct in a residential district. Additionally, the Commission notes the proposed facility would not comply with the following regulations: required accessory off-street parking spaces pursuant to Section 25-31; minimum required front yard, pursuant to Section 23-45 a); floor area pursuant to Section 23-141(b); and front wall height pursuant to Sections 23-631 and 74-01. In this instance, the City is exercising its power not to be subject to its zoning requirements when performing a government function.

The Commission notes that the project was included in the Citywide Statement of Needs for fiscal years 2003-2004. Since the police precinct is not permitted in a residential district, the applicant is also seeking a special permit (C 030394ZSM) pursuant to Section 74-76 to allow a police precinct in a residential district.

The Commission notes that the Borough President recommends approval of the application with the conditions that the reconstructed building at 321 East 5th Street only be occupied by the Ninth Precinct and that the police lot across the street be for police parking only upon completion of construction of the new building and that no construction be done on the parking lot. In conversation with Department staff members, the Police Department representatives indicated that significant effort and resources have been spent searching for another site to locate the 9th Precinct. The Police Department was unable to find a more appropriate site that fits meets the precinct's program needs. The Commission notes that the Police Department has no intention of re-locating from 321 East 5th Street or using the accessory parking lot for any other purpose.

The Commission believes that the project site is well suited to the needs of the Police Department. The Commission, therefore, believes that the proposed project is appropriate. The approval of the special permit would facilitate the construction of a modernized NYPD facility and contribute to the overall safety of this community.

The Commission notes that the NYPD searched for suitable alternative sites and did not identify any available privately- or City-owned locations that satisfied the NYPD's siting criteria. The

Commission also notes that the NYPD reviewed and determined that new construction of a precinct station building on an alternate site within the service area would be too costly.

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Section 74-67:

- a) that such use will serve the *residential* area within which it is provided to be located; that there are serious difficulties in locating it in a district wherein it is permitted as of right and from which it could serve the *residential* area, which make it necessary to locate use within a *Residence District*; and
- b) Not applicable

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 Section 197-c and 200 of the New York City Charter, that based on the environmental determination(s), and the consideration (and findings) described in this report, that the application (C 030394ZSM) for the grant of a special permit pursuant to Section 74-76 of the Zoning Resolution to allow a police station to be located at 321 East 5th Street (Block 447, Lot 47), Borough of Manhattan, Community District 3, is

APPROVED, subject to the following terms and conditions :

1. The property that is the subject of this application (C 030394 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated in the following plans, prepared by the Department of Design and Construction filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-2	Site Plan	March 18, 2003
A-2.1	Zoning Calculation and Proposed Building Profile	April 4, 2003

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 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. 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 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 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 all of said special permit. Such power of the 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 the 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 the special permit.

The above resolution (C 030394ZSM), duly adopted by the City Planning Commission on August 13, 2003 (Calendar No 27), 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
ANGELA M. BATTAGLIA, IRWIN G. CANTOR,

**ANGELA R. CAVALUZZI, R.A., RICHARD W. EADDY,
CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS,
JOSEPH B. ROSE, DOLLY WILLIAMS, Commissioners**