



CITY PLANNING COMMISSION

May 11, 2005/Calendar No. 8

C 040201 (A) ZSM

IN THE MATTER OF an application submitted by 96 Springs LLC pursuant to Sections 197-c and 201 of the New York City Charter and proposed for modification pursuant to Section 2-06(c)(1) of the Uniform Land Use Review procedure for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of:

1. Section 42-14(D)(1)(b) to allow joint living-work quarters for artists (Use Group 17) on the 2nd through 8th floors; and
2. Section 42-14(D)(2)(b) to allow retail uses (Use Group 6) on the ground floor and cellar;

in an existing 8-story building located at 96 Spring Street (Block 484, Lot 3), in an M1-5B District, within the SoHo-Cast Iron Historic District, Borough of Manhattan, Community District 2.

The certified application for a special permit was filed by 96 Springs LLC on December 2, 2003, pursuant to Section 74-711 of the Zoning Resolution, to allow fourteen residential units (Use Group 2) on the second through eighth floors and Use Group 6 (retail) on the ground floor of the building located at 96 Spring Street. This property is located within an M1-5B District, situated on the southeast corner of Spring and Mercer streets. The building is also within the SoHo-Cast Iron Historic District.

On March 14, 2005, pursuant to Section 2-06(c)(1) of the ULURP rules, the applicant filed a modification to the certified special permit application, to allow fourteen units of joint living-work quarters for artists in place of the previous request for fourteen units of Use Group 2 residential use. The certified application (C 040201 ZSM) was withdrawn by the applicant on May 5, 2005. The modified application, C 040201(A) ZSM, is the subject of this report.

BACKGROUND

96 Spring Street is an eight-story store-and-loft building designed by Clinton & Russell and constructed in 1900. According to materials filed with the application, the Landmarks Preservation Commission (LPC) has found that the building's "style, scale, materials and details are among the features that contribute to the special architectural and historic character of the historic district." The building has a lot coverage of 5,975 square feet. The floor area below the second floor is currently occupied by a non-conforming (Use Group 6) use. The second, third, sixth, seventh and eighth floors are occupied by a mix of commercial uses. The fourth and fifth floors are vacant.

According to the use regulations for an M1-5B district, buildings with lot coverages exceeding 5,000 square feet may be converted to joint living-work quarters for artists (JLWQAs) only by special permit of the City Planning Commission. Further, according to the use regulations for an M1-5B district, 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. 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.

The certified application (C 040201 ZSM) requested a special permit application to allow retail use on the ground floor and fourteen residential units on the upper floors of the building located at 96 Spring Street. The application has been modified to request a special permit for joint

living-work quarters for artists in place of the previous request for residential use. There has no change to the request for ground floor use.

This application requests a modification of the M1-5B use regulations to allow fourteen units of joint living-work quarters for artists (Use Group 17D) on the second through eighth floors and approximately 4,475 square feet of retail (Use Group 6) use on the ground floor and 6,305 square feet of retail (Use Group 6) use in the cellar level of 96 Spring Street. A total of 10,780 square feet of retail use is proposed. 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 96 Spring Street, and that the proposed use modification contributes 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

The certified application (C 040201 ZSM and 02DCP027M), for which a Negative Declaration was issued on December 20, 2004, was modified. A Technical Memorandum was prepared on April 4, 2005 in connection with the modified application (C 040201(A) ZSM) and 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. It was determined that the proposed action as modified will have no significant adverse effect on the quality of the environment and a Revised Negative Declaration was issued on April 11, 2005. The Revised Negative Declaration supercedes the Negative Declaration issued on December 20, 2004.

UNIFORM LAND USE REVIEW

The original application (C 040201 ZSM) was certified as complete by the Department of City Planning on December 20, 2004, 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. The modified application, (C 040201(A) ZSM) was referred to the community board on March 18, 2005 pursuant to Section 2-06(c)(1) of the ULURP rules.

Community Board Public Hearing

Community Board 2 held a public hearing on the original application (C 040201 ZSM) on February 10, 2005, and on February 17, 2005, by a vote of 36 to 0 with 0 abstentions, adopted a resolution recommending approval of the application. The community board's vote reflected their understanding that the applicant was going to modify the original application to request JLWQAs in place of Use Group 2 residential units.

Borough President Recommendation

The original application (C 040201 ZSM) was considered by the Borough President, who issued a recommendation on March 21, 2005 approving the application. The Borough President's recommendation reflected her understanding that the applicant was going to modify the original application to request joint living-work quarters for artists in place of Use Group 2 residential units.

City Planning Commission Public Hearing

On March 30, 2005 (Calendar Nos. 10 and 11), the City Planning Commission scheduled April 13, 2005 for a public hearing on the original (C 040201 ZSM) and modified application (C 040201 (A) ZSM). The hearing was duly held on April 13, 2005 (Calendar Nos. 30 and 31). There was one speaker in favor of the application.

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 the modified special permit (C 040201 (A) ZSM) is appropriate.

When the building was constructed in 1900, 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 and Use Group 6 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 uses, from retail businesses to those oriented towards the arts. Therefore, the Commission believes that joint living-work quarters for artists on the upper floors and Use Group 6 uses on the ground floor will be consistent with established land use trends in the greater SoHo neighborhood.

The Commission concludes that the proposed use modifications will facilitate the renovation and preservation of 96 Spring Street. The conversion and 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.

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, that based on the environmental determination, and the consideration and findings described in this report, the application of 96 Springs LLC for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of:

1. Section 42-14(D)(1)(b) to allow joint living-work quarters for artists (Use Group 17) on the 2nd through 8th floors; and
2. Section 42-14(d)(2)(b) to allow retail uses (Use Group 6) on the ground floor and cellar;

in an existing 8-story building located at 96 Spring Street (Block 484, Lot 3), in an M1-5B 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 040201 (A) 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

Berg and Forster Architects, PLLC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-1	Zoning Analysis	February 23, 2005
Z-2	Cellar Plan	February 23, 2005
Z-3	First Floor Plan	February 23, 2005
Z-4	Second Floor Plan	February 23, 2005
Z-5	Typical Floor Plan (Flrs. 3 Thru 8)	February 23, 2005

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 condominium units, a homeowners' association, or cooperative ownership, a copy of this 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 April 26, 2005 executed by 96 Springs LLC, 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 040201 (A) ZSM), duly adopted by the City Planning Commission on May 11, 2005 (Calendar No.8), 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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