



CITY PLANNING COMMISSION

March 16, 2005/Calendar No. 31

C 040163 ZSM

IN THE MATTER OF an application submitted by Lispenard Studios Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 111-50 of the Zoning Resolution to modify the use regulations of Section 111-101 and Section 111-102 (b) to allow two loft dwellings on the first floor and mezzanine and accessory uses in the cellar floor of an existing 9-story building located at 45 Lispenard Street (Block 210, Lot 26), in an M1-5 District, within the Special TriBeCa Mixed Use District (Area B1), Community District 1, Borough of Manhattan.

The application for a special permit pursuant to Section 111-50 of the Zoning Resolution was filed by Lispenard Studios Corporation on October 10, 2003 and revised on September 27, 2004. The Special Permit seeks to allow two loft dwellings on the first floor and mezzanine level and accessory uses in the cellar floor of an existing 9-story building located in an M1-5 zoning district at 45 Lispenard Street in Lower Manhattan.

BACKGROUND

The applicant requests a special permit to allow for residential uses on first floor and mezzanine level of an existing building at 45 Lispenard Street. The site is in an M1-5 district where residential uses on the ground floor are prohibited as-of-right. The special permit would allow two loft dwellings at the site to legally occupy space within the building.

45 Lispenard Street is located between Broadway and Church Street in Lower Manhattan. The property is part of the TriBeCa East Historic District. The surrounding neighborhood is characterized by a wide range of uses that include light manufacturing as well as residential and commercial uses. The block on which 45 Lispenard Street is located is predominately commercial in

character with many buildings acting as the back of retail establishments that front on Canal Street. This site falls within the Special TriBeCa Mixed Use District (TMU) that allows for the conversion of existing loft buildings to residential uses on an as-of-right basis and through City Planning Commission authorizations and special permits depending on the size and location of the conversion.

In 1976, floors two through nine were converted to sixteen loft dwellings for artists in residents. The application seeks to permit the location and legalization of two loft dwelling units on the first floor and mezzanine level and accessory uses in the cellar floor.

ENVIRONMENTAL REVIEW

This application (C 040163 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 03DCP059M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on November 1, 2004.

UNIFORM LAND USE REVIEW

This application (C 040163 ZSM) was certified as complete by the Department of City Planning on

November 1, 2004, and was duly referred to Community Board 1 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 1 held a public hearing on this application on November 16, 2004, and on that date, by a vote of 38 to 0, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on December 21, 2004 approving the application.

City Planning Commission Public Hearing

On February 2, 2005 (Calendar No. 3), the City Planning Commission scheduled February 16, 2005, for a public hearing on this application (C 040163 ZSM). The hearing was duly held on February 16, 2004 (Calendar No. 12). There was one speaker in favor of the application and none in opposition.

The applicant's representative spoke in favor of the application. He provided an overview of the application, the neighborhood, and the building. He noted that the majority of the building had converted to loft dwellings in 1976. The speaker explained that the proposed loft dwellings would not have a detrimental impact on conforming manufacturing uses in the area given the lack of abutting manufacturing uses and the practical limitations for viable retail uses on Lispenard Street

which serves as a backdoor to the retail uses fronting on Canal Street. Finally, he noted that the resolution to approve the subject application was passed unanimously by the Community Board.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

The Commission believes that the two loft dwellings at 45 Lispenard Street will not adversely affect conforming uses within the building and in the surrounding area. The Commission notes the mixed use character of the surrounding neighborhood as well as the absence of immediately adjacent manufacturing or active retail uses. The Commission also notes prior conversion of the upper floors of this building to residential use in 1976. While the Commission believes that limits on residential uses in this portion of the City serve to protect manufacturing uses and ground floor commercial uses, the Commission is aware of the limitations upon viable ground floor commercial activity for this portion of Lispenard Street and within this building specifically.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 111-50 (Special permit for conversion to loft dwellings or joint living-work quarters for artists) of the Zoning Resolution that:

- (a) the conversion will not harm the commercial and manufacturing sectors of the City's economy;

- (b) the conversion will not harm the commercial and manufacturing character of the surrounding area;
- (c) the process of conversion will not unduly burden commercial and manufacturing uses in the building; and
- (d) the neighborhood in which the conversion is taking place will not be excessively burdened by increased residential activity.

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 Lispenard Studio Corporation for the grant of a special permit pursuant to Section 111-50 of the Zoning Resolution to modify the use regulations of Section 111-101 and Section 111-102 (b) to allow two loft dwellings on the first floor and mezzanine and accessory uses in the cellar floor of an existing 9-story building located at 45 Lispenard Street (Block 210, Lot 26), in an M1-5 District, within the Special TriBeCa Mixed Use District (Area B1), Community District 1, Borough of Manhattan, is approved subject to the following terms and conditions:

1. The property that is the subject of this application (C 040163 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 BSKS, Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
P-1	Cover Sheet/Site Plan	August 30, 2004
P-2	Cellar Plan Proposed Condition	August 30, 2004
P-3	First Floor Plan Proposed Condition	April 14, 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 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 report and resolution and any subsequent modifications 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. 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 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.
7. 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, duly adopted by the City Planning Commission on March 16, 2005 (Calendar

No. 31), 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, P.E., Angela R. Cavaluzzi, R.A., Alfred C. Cerullo, III,

Richard W. Eaddy, Lisa A. Gomez, Christopher Kui, John Merolo, Karen A. Phillips,

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