



CITY PLANNING COMMISSION

May 11, 2005/Calendar No. 10

C 050252 ZSM

IN THE MATTER OF an application submitted by CDL (New York) LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-91 of the Zoning Resolution to modify the provisions of Section 37-04 (Requirements for Urban Plazas) to allow the enlargement and upgrading of a previously certified urban plaza, and to allow an open air café as a permitted obstruction within the urban plaza, on property located at 55 Church Street (Block 80, Lot 4), in a C5-5 District, within the Special Lower Manhattan District, Community District 1, Borough of Manhattan.

The application for the special permit was filed by CDL (New York) LLC on January 10, 2005 to allow for the modification of an existing urban plaza for which a floor area bonus has been granted at 55 Church Street. The modifications would include the enlargement and the improvement of the urban plaza and the introduction of an open air café.

BACKGROUND

The site is located on the east side of Church Street between Dey Street and Fulton Street in a C5-5 zoning district within the Special Lower Manhattan District. The District allows for commercial and residential uses as-of-right. Land uses in the vicinity of the site are predominately commercial and are characterized by large office towers and other commercial uses common to central business districts.

The site is an approximately 15,756 square foot zoning lot occupied by the 58-story Millennium Hilton Hotel containing approximately 323,176 square feet of floor area. The western portion of the zoning lot fronting on Church Street is occupied by a 3,674 square foot urban plaza and the

north and south sides of the building are flanked by two 10-foot wide sidewalk widenings measuring 1,018 and 495 square feet respectively. At the time of the building's construction in the late 1980's, a certification (N 891031 ZCM) was issued in connection with the urban plaza and the sidewalk widenings. These spaces collectively generate a floor area bonus of 51,870 square feet, of which 51,826 square feet has been utilized by the hotel.

The originally certified plaza occupied the majority of the zoning lot frontage on Church Street. The plaza contained four circular planters with seating near Fulton Street and two canopies which projected from two of the building's entrances. The southern portion of the plaza consisted of a simple concrete pad. These canopies and landscaping were substantially damaged on September 11, 2001 and have been subsequently restored.

The applicant proposes an improvement to the urban plaza through the introduction of an open-air café, additional public seating, and new landscaped planters. The café is to be situated in the currently bare portion of the plaza close to Dey Street. The additional public seating and landscaping will be located adjacent to this café and along the northern façade of the building facing Fulton Street. In order to accommodate the café and its consequent redesigned urban plaza, the applicant is seeking a special permit pursuant to Section 74-91 (Modification of Urban Plazas) to modify the provisions of Section 37-04 (Requirements for Urban Plazas) as well as approval of the redesigned urban plaza. Specifically, the applicant is seeking modification of the following portions of the urban plaza regulations:

§ Section 37-04(d) **B** To allow the major portion of the urban plaza to occupy 56% of the total plaza area rather than the required 70% and to allow a minimum dimension of less than 20 ft.

§ Section 37-04 (f) **B** To allow two walls adjacent the canopy sheltering the main entrance as a permitted obstruction.

§ Section 37-04 (g) **B** To allow, as a permitted obstruction, the open air café in the southern portion of the plaza during the summer months which would not be permitted absent a City Planning Commission approval.

§ Section 37-04 (j) **B** Subsurface conditions have prevented the planting of the required street trees. The seven trees not planted will be planted in another portion of Lower Manhattan.

§ The application also seeks to convert a portion of the original sidewalk widening along Fulton Street to the urban plaza area which will enable the introduction of seating and planting in this otherwise underutilized space.

ENVIRONMENTAL REVIEW

This application (C 050252 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 is the City Planning Commission.

This application was determined to be a Type II action which requires no further environmental review.

UNIFORM LAND USE REVIEW

This application (C 050252 ZSM) was certified as complete by the Department of City Planning on January 14, 2005, 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 January 18, 2005, and on that date, by a vote of 39 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 approving the application on April 19, 2005.

City Planning Commission Public Hearing

On April 13, 2005 (Calendar No. 6), the City Planning Commission scheduled April 27, 2005, for a public hearing on this application (C 050252 ZSM). The hearing was duly held on April 27, 2005 (Calendar No. 35). There were two speaker in favor of the application and none in opposition.

The first speaker was the applicant's representative who described the proposed project and requested action. The representative explained that the proposed café and plaza improvements would improve the existing conditions at the site. The representative further noted that the café would provide a valuable urban amenity in the Downtown area and immediately adjacent the World Trade Center site, both of which are undergoing extensive redevelopment.

The second speaker was a representative of the Alliance for Downtown New York, a business improvement district. The speaker spoke in support of the plan stating that the addition of a café and other proposed improvements would help to revitalize the surrounding area.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

The Commission notes that the proposed project's introduction of additional benches will expand the seating in the plaza from 122 linear feet to 224 linear feet. The Commission notes that the project's introduction of landscaped planters along the building's north facade which is currently barren. The Commission further notes that the proposed café will bring activity to the southern portion of the plaza which is currently devoid of amenities. Additional public space signs and lighting shall be added to the plaza to make the space more inviting and encourage greater use by

the general public.

FINDINGS

The City Planning Commission hereby finds pursuant to Section 74-91 that the usefulness and attractiveness of the urban plaza will be assured by the proposed layout and design and that the development as a whole will produce a good urban design relationship with surrounding buildings and open spaces.

RESOLUTION

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 submitted by CDL (New York) LLC for the grant of a special permit pursuant to Section 74-91 of the Zoning Resolution to modify the provisions of Section 37-04 (Requirements for Urban Plazas) to allow the enlargement and upgrading of a previously certified urban plaza, and to allow an open air café as a permitted obstruction within the urban plaza, on property located at 55 Church Street (Block 80, Lot 4), in a C5-5 District, within the Special Lower Manhattan District, 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 050252 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plan, prepared by Stonehill & Taylor

Architects and Planners, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z1.1	As Built Site Plan	February 9, 2005
Z2.0	As Built Zoning Calculations	February 9, 2005
Z2.1	Zoning Notes, Plot Plan	February 9, 2005
Z3.1	On-Season Plan	February 9, 2005
Z3.2	Off-Season Plan	February 9, 2005
Z4.1	Lighting Plan	February 9, 2005

2. The open air café approved as part of this special permit and shown on Drawing Z 3.1 listed in Condition 1 above is approved for a term of three years from the effective date of this special permit. Upon application submitted prior to the expiration of such term, the term of the open air café may be continued by the Chairperson of the City Planning Commission for a period as deemed appropriate.
3. 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.
4. Such development shall conform to all applicable laws and regulations relating to its

construction, operation and maintenance.

5. Development pursuant to this resolution shall be allowed only after the attached Notice of Restrictions dated April 28, 2005, executed by CDL (New York) LLC d/b/a Millenium Hilton, 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.
6. 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.
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 040538 ZSM), duly adopted by the City Planning Commission on May 11, 2005 (Calendar No. 10), 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, JANE D. GOL, LISA A. GOMEZ,
CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS Commissioners