



## **CITY PLANNING COMMISSION**

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July 23, 2008/Calendar No. 18

C 080313 ZSM

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**IN THE MATTER OF** an application submitted by 443 Greenwich 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:

1. the use regulations of Sections 42-10 and 111-102(b) to allow Use Group 2 uses (residential uses) and/or Use Group 5 uses (hotel uses) and to allow a Physical Culture and Health Establishment on portions of the ground floor and cellar level;
2. the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-43 (Minimum Height of Front Wall and Required Front Setbacks); and
3. the roof top recreational use requirements of Section 111-112 (Open Space Equivalent),

in connection with the conversion of an existing 7-story building and proposed penthouse on property located at 443 Greenwich Street (Block 222, Lot 1) in an M1-5 District, within the Special Tribeca Mixed Use District (Area B2), Community District 1, Borough of Manhattan

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The subject application was filed by 443 Greenwich, LLC on March 3, 2008 for a special permit pursuant to Section 74-711 of the Zoning Resolution to modify certain bulk regulations for the conversion of an existing building at 443 Greenwich Street (Block 222, Lot 1) within the Special Tribeca Mixed Use District and M1-5 District in Community District 1, Manhattan.

### **BACKGROUND**

The site, 443 Greenwich Street (Block 222, Lot 1), occupies the west side of Greenwich Street between Vestry and Desbrosses streets. It is located in the Special Tribeca Mixed Use District and in the Tribeca South Historic District in Community District 1. It is in a M1-5 zoning district which allows for 5.0 FAR for commercial and manufacturing uses. Residential uses are not permitted. The building currently has 12 commercial tenants all of whom are expected to vacate the premises by the time of construction. The existing building is over built with a 6.15 FAR and is approximately 87 feet tall.

The surrounding area is characterized by manufacturing buildings that have been converted to residential uses with ground floor retail and some office and garage uses in the immediate neighborhood. Greenwich Street is a one way southbound wide street.

The applicant proposes the conversion of the existing building to entirely residential or a combination of hotel and residential uses. Either option would include enlargement of the building with rooftop penthouses. The penthouses are being created through the reallocation of 9,525 square feet of mechanical space from within the building and the amount of floor area of the building will remain unchanged.. The development also includes the improvement of the interior courtyard through landscaping and the provision of amenities. Regardless if the building is converted entirely to residential or if it is converted to residential and hotel, there would be ground floor retail space and a health spa (physical culture or health establishment) on the ground floor and cellar. In total, the building would be approximately 107 feet tall.

### **PROPOSED SPECIAL PERMIT**

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 applicant is seeking a special permit pursuant to Section 74-711 to allow the modification of the use and bulk requirements.

To facilitate the proposed development, the following waivers are required:

(1) Use Regulations:

Section 42-10 and 111-102(b) limits the uses in the Special Tribeca Mixed Use District and the M1-5 district. Residential, hotel and physical culture or health establishments are not allowed as of right. A use waiver is being sought for these uses in the proposed conversion..

(2) Rear Yard Equivalent:

A rear yard equivalent of 40 feet is required by Section 43-28 for the portion of the building that is not within 100 feet of the corner. With the construction of the roof-top penthouses, the building would have a rear yard equivalent of approximately 32 feet.

(3) Setback requirements:

A setback of 20 feet is required above the level of the 6<sup>th</sup> floor pursuant to Section 43-43. The existing building reaches a height of 88.45 feet at the roof of the 8<sup>th</sup> floor. The existing roof, which is pitched, must be reconstructed as a flat roof to accommodate the penthouses. This will further encroach into the required setback by between six inches and two feet.

(3) Rooftop Recreation Space:

The Special District requires that 50% of the gross area of the roof of the building be open recreation space for the residents. The entirely residential conversion would require 8,332 square feet of rooftop recreation space for the residents. The applicant does not plan to provide any open space because of mechanical bulkheads, penthouses, and private elevator banks which do not service the rooftop. The proposal provides a 4,052 square foot landscaped interior courtyard which will be open and accessible to all residents of the building.

Section 74-711 also 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 or bulk modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose.

On July 30, 2007, the Landmarks Preservation Commission issued a report stating that a program for continuing maintenance has been established for 443 Greenwich Street (Block 222, Lot 1) and a restrictive declaration will be filed against the property.

As part of the continuing maintenance program, the project will include the restoration of the

Building's historic façade, which includes, among other work, significant repairs and cleaning of the Building's brick and bluestone façade, replacing all windows and doors on the ground floor of the street facades, replacing window sashes on the street elevations and east elevation with wood, double-hung windows, replacing the chain-link fence at the north and south entries with historic iron gates, and restoring the storefront, including replication of the cast-iron capitals missing from some of the storefront piers. On July 30, 2007, the Landmarks Preservation Commission issued a Certificate of Appropriateness.

### **ENVIRONMENTAL REVIEW**

This application (C 080313 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 08DCP040M.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on April 7, 2008.

### **UNIFORM LAND USE REVIEW**

This application (C 080313 ZSM) was certified as complete by the Department of City Planning on April 7, 2008, 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 April 22, 2008, 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 June 6, 2008, approving the application.

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

On June 4, 2008 (Calendar No. 1), the City Planning Commission scheduled June 18, 2008 for a public hearing on this application (C 080313 ZSM). The hearing was duly held on June 18, 2008 (Calendar No. 16).

There were three speakers in favor and none opposed.

The Director of Planning for the Borough President reiterated the borough president's recommendation. The project architect, and the attorney representing the applicant also appeared in favor.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The City Planning Commission believes the grant of this special permit (C 080313 ZSM) is appropriate.

The Commission believes that the proposed conversion to residential or hotel use with a health club in the cellar would be consistent with the land use trend in Tribeca and similar uses in the neighborhood. The Commission notes that Tribeca is increasingly a residential neighborhood with light manufacturing uses. The Commission also notes that other ground floor retail uses exist currently on neighboring streets.

The Commission believes that the bulk modifications will have minimal impacts on the existing scale, and the units will have sufficient access to light and air.

The Commission believes that the proposed waiver of 43-28 (Required Rear Yard Equivalent) for an encroachment of six to seven feet is appropriate for the proposed building and notes that it will

only apply to the eastern penthouse portion of the building. The Commission notes that LPC noted the appropriateness of the penthouse structures in their report and their setbacks from the cornice line. The Commission notes that the encroachment into the rear yard equivalent is minimal and that the provision of the interior courtyard will provide sufficient light and air to the units.

The Commission believes that the proposed waiver of 43-43- (Setback requirements) is appropriate. The Commission notes that the reconstruction of the roof increases the setback encroachment by six inches to two feet and that this is in scale with the other large warehouse and former factory buildings on the east side of Greenwich Street. The small encroachment would also not affect access to light and air for surrounding buildings

The Commission believes that the proposed waiver of 111-112 (Rooftop Recreation Space) is appropriate. The Commission notes that public access to the rooftops cannot be provided because of limited access to elevators, penthouse design, and the mechanical bulkheads. The Commission notes that an interior, landscaped courtyard is being provided.

The Commission also notes that the Landmarks Preservation Commission considered the scale of the proposed building when issuing the Certificate of Appropriateness.

## **FINDINGS**

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

- 1) That the bulk modifications shall have minimal impacts on area structures and open space in the vicinity in terms of scale, location and access to light and air;
- 2) The use modifications must have minimal impacts on uses within the building and 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 443 Greenwich, 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 42-10 and 111-102(b) to allow Use Group 2 uses (residential uses) and/or Use Group 5 uses (hotel uses), to allow a Physical Culture and Health Establishment on portions of the ground floor and cellar level, and to allow ground floor retail on Vestry and Desbrosses Streets; the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-43 (Minimum Height of Front Wall and Required Front Setbacks); and the roof top recreational use requirements of Section 111-112 (Open Space Equivalent), in connection with the conversion of an existing 7-story building and proposed penthouses on property located at 443 Greenwich Street (Block 222, Lot 1) in an M1-5 District, within the Special Tribeca Mixed Use District (Area B2), Borough of Manhattan, Community District 1 is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 080313 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 Costas Kondylis and Partners, LLP, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z-1	Calculations	2/27/2008
Z-1 Alt.	Calculations	2/27/2008
PR-1	Site/Roof Plan	3/18/2008
PR-2	Cellar Plan	11/6/2007
PR-3	Ground Floor Plan	2/14/2008
PR-4	Typical Floor Plan	7/25/2007
PR-5	8 <sup>th</sup> Floor Plan	2/27/2008

PR-9	Proposed E-W Section	2/28/2008
PR-10	Proposed N-S Section	2/28/2008
PR-11	Proposed N-S Section 2	2/28/2008
PR-12	Open Space	2/27/2008
PR-13	Proposed N-S Section 3	2/28/2008
PR-14	Proposed N-S Section 4	2/28/2008

- 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 July 2, 2008, executed by 443 Greenwich, 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 080313 ZSM), duly adopted by the City Planning Commission on July 23, 2008 (Calendar No. 18), 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, ANGELA R. CAVALUZZI, AIA., ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY, NATHAN LEVENTHAL, JOHN MEROLO, KAREN A. PHILLIPS, Commissioners**