



CITY PLANNING COMMISSION

November 5, 2003/Calendar No. 18

C 030490 ZSM

IN THE MATTER of an application submitted by WXIV/Broadway Grand Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712 of the Zoning Resolution to modify the use regulations for a proposed development on a zoning lot where not more than twenty percent of the lot area is occupied by existing buildings to allow retail use (Use Group 6 uses) and/or residential use (Use Group 2 uses) on the ground floor and cellar and to allow residential use (Use Group 2 uses) on the 2nd through 14th floors of a proposed 14-story building on property located at 465 Broadway a.k.a. 106-112 Grand Street (Block 474, Lots 38, 49 and 1101-1102), in the SoHo-Cast Iron Historic District, within an M1-5B District, Community District 2, Borough of Manhattan.

The application for the special permit was filed by WXIV/Broadway Grand Realty, LLC on May 28, 2003, to allow the construction of a residential building with ground floor Use Group 6 use on a vacant site located on the north side of Grand Street, between Mercer Street and Broadway, within an M1-5B District in the SoHo-Cast Iron Historic District.

RELATED ACTION

In addition to the special permit, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

N 030489 ZRM **Zoning Text Amendment** to Section 74-712 to allow by special permit the modification of use regulations for vacant sites, land with minor improvements, or sites where not more than 20 percent of the site is occupied by an existing building, in M1-5A and M1-5B districts located within historic districts.

BACKGROUND

The applicant is seeking a zoning text amendment to Section 74-712 and a special permit pursuant to the amended section to facilitate the construction of a mixed-use building in an M1-5B zoning district in the SoHo-Cast Iron Historic District in Manhattan.

In 1971, the City Planning Commission adopted zoning amendments which created the M1-5A and M1-5B districts. By permitting the conversion of underutilized loft buildings to artists' living-work quarters, the M1-5A/5B districts were intended to balance the needs of the artists that were moving into the SoHo area with those of the area's remaining manufacturing and warehouse uses. In 1976 the M1-5B district was extended to include NoHo. The M1-5A/5B zoning designations are unique to SoHo and NoHo. Although these areas still play a vital role in the city's artistic life, over the past thirty years they have evolved into more mixed-use communities with residential and commercial uses predominating. In 1973 the Landmarks Preservation Commission (LPC) designated the SoHo-Cast Iron Historic District. The NoHo Historic District was designated by the LPC in 1999.

Development of vacant sites in the M1-5A/5B districts is significantly restricted by the districts' use regulations. Implicit in the Section 42-14D regulations governing the M1-5A/5B districts is the prohibition on new Use Group 2 residential uses and the restriction of as-of-right new construction to a specific set of conforming uses which include light industry, warehousing, wholesaling, parking facilities, and hotels. Joint Living-Work Quarters for Artists (JLWQAs) are the only form of dwelling units allowed in the M1-5A/5B districts and are allowed only by the

conversion of existing buildings. Floor area below the second story is limited to certain use groups which include wholesale, warehouse and light manufacturing uses. Use Group 6 (retail and services) use below the second floor is allowed in buildings with lot coverage of less than 3,600 square feet in the M1-5A District and is not allowed in buildings of any size in M1-5B Districts.

SoHo and NoHo are confronting increasing development pressures for new residential development, as evidenced by the granting of several Boards of Standards and Appeals variances for residential use over the past few years. Since zoning does not prescribe the bulk controls to be used in conjunction with a use variance, residential buildings proposed pursuant to a BSA variance routinely exceed the 5 FAR allowed in the M1-5A/5B districts.

Text Amendment (N 030489 ZRM)

Section 74-712 (Developments in Historic Districts) was adopted in 1997 to allow the modification of bulk regulations (except FAR) by special permit on vacant lots within historic districts. In its report (N 970654 ZRY), the Commission stated that it believed “this new tool may help promote development of buildings that are more contextual to historic districts than buildings that might be developed as-of-right pursuant to existing zoning.”

As proposed, the text amendment would amend Section 74-712 to allow for the modification of use regulations by special permit on vacant sites, land with minor improvements, or sites where not more than 20 percent of the site is occupied by an existing building. The modification of use

would be limited to sites located within M1-5A and M1-5B districts that are within historic districts.

Including the subject site, there are a total of 16 vacant sites in the M1-5A and M1-5B districts that are located within the SoHo-Cast Iron and the NoHo Historic Districts. Fourteen of the sites are located in the SoHo-Cast Iron Historic District and two are located in the NoHo Historic District.

Under the text amendment, the City Planning Commission would be required to find that the proposed use modifications would have minimal adverse effects on the conforming uses in the surrounding area.

Special Permit (C 030490 ZSM)

The applicant requests a special permit pursuant to the proposed amended Section 74-712 to facilitate the construction of a 14-story, 5 FAR, mixed-use building on a 26,764 square feet zoning lot located on the north side of Grand Street, between Broadway and Mercer Street. The zoning lot is occupied by a 150-space public parking lot and two buildings which will remain following development of the site. The building would contain approximately 114,770 square feet of floor area, including 22,800 square feet of retail use on the ground floor and below grade levels. A total of 70 residential units are proposed.

In March 2002, the Commission approved a special permit (C 020189 ZSM) pursuant to Section 74-781 (Modification by special permit of the City Planning Commission of uses in M1-5A and M1-5B Districts) to allow Use Group 5 (hotels) and/or Use Group 6 uses below the floor level of the second story of a hotel development proposed for the subject site. The property owner believes that such a development is no longer financially feasible and is seeking to develop the site with the subject mixed-use building.

The surrounding portion of the SoHo neighborhood generally contains five- to twelve-story loft buildings along Broadway and five- and six-story lofts along nearby streets. Along Broadway, many of the upper floors contain offices, art galleries or other commercial uses, while other buildings have been converted to JLWQAs on the upper floors. Ground floor uses in the vicinity consist of a mix of home furnishings and clothing stores and restaurants. Remaining industrial uses are located mostly outside the perimeter of the SoHo-Cast Iron Historic District, primarily to the south, in the Chinatown neighborhood.

ENVIRONMENTAL REVIEW

This application (C 030490 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 613.00 *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 03DCP042M. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on June 2, 2003.

The modifications to the zoning text amendment, as discussed herein, would not alter the conclusions presented in the Environmental Assessment Statement dated May 30, 2003 and the Negative Declaration issued on June 2, 2003.

UNIFORM LAND USE REVIEW

This application (C 030490 ZSM) was certified as complete by the Department of City Planning on June 2, 2003 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, together with the non-ULURP application (N 030489 ZRM), which was referred for review and comment.

Community Board Public Hearing

Community Board 2 held a public hearing on the application on July 10, 2003, and on July 24, 2003, by a vote of 36 in favor, 1 opposed, and 1 abstention, adopted a resolution recommending approval of the application with the following conditions:

THEREFORE, BE IT RESOLVED that CB#2, Man. thanks the applicant for his willing participation in the community review process and for modifying this project in response to community concerns; and

BE IT FURTHER RESOLVED that CB#2, Man continues to support the design of this building as previously approved by CB#2, Man. and the Landmarks Commission; and

BE IT FURTHER RESOLVED that CB#2, Man requests that the applicant review the feasibility of incorporating parking in the design and, if it is found to be feasible, that parking spaces for a minimum of 20% of the units be provided; and

BE IT FURTHER RESOLVED that CB#2, Man supports this application for this specific building providing that the applicant complies with the following provisions:

- That the building will only have residential units with use group 6 retail on the ground floor
- The minimum size of all residential units will be 1,200 sq. ft.
- There will be no eating or drinking establishments of any kind and any use group in this building
- That the applicant will provide and maintain an art gallery that will feature local artists
- That the existing Floor Area Ratio of 5 be maintained.

Borough President Recommendation

This application was considered by the Manhattan Borough President, who issued a recommendation on September 3, 2003 disapproving the application unless the following conditions are addressed:

This office strongly supports the approval of the special permit for the construction of the new residential building. Community Board 2 recommends that the special permit be approved for the residential building. However, this special permit cannot be granted unless the text amendment is also approved. Although we would like to see the building be approved as soon as possible, there needs to be some reconciliation between how the text amendment is presently written and the concerns of the community regarding additional regulations to the text amendment.

This office in recognition of the concerns regarding the proposed text change amendment supports the community and Community Board 2 and therefore, disapproves the text amendment unless the Department of City Planning study these text changes further with special consideration given to: the appropriate size of residential units, Floor Area Ratio, size of retail space and no entertainment facilities.

City Planning Commission Public Hearing

On August 27, 2003 (Calendar No.5), the City Planning Commission scheduled September 10, 2003 for a public hearing on this application (C 030490 ZSM). On September 10, 2003 (Calendar No. 13), the hearing was continued. The continued hearing was duly held on September 24, 2003 (Calendar No. 14).

There were 54 speakers who signed up to testify. There were two speakers in favor of the applications and 52 in opposition.

Those speaking in favor of the applications included the attorney for the project and a member of the project's development team. The speakers described the background and rationale for the text amendment. The speakers also discussed the building and described how the architect had interpreted SoHo's architecture and scale in the design of the building. The speakers stated that the development team was amenable to most of the recommendations contained in the Community Board's resolution. In addition, the Real Estate Board of New York submitted written testimony in favor of the text amendment.

Speakers testifying in opposition of the proposed application included representatives of civic and community organizations such as Community Board 2, the NOHO NY BID, the Friends of NoHo Architecture, the NoHo Neighborhood Association, the SoHo Alliance, the Municipal Art Society, and the Society for the Architecture of the City. The Councilmember from the 1st

District and representatives of elected officials including the State Assemblymember of the 66th District and the State Senator from the 25th District, also spoke in opposition.

Speakers in opposition stated that the character of SoHo and NoHo would change as special permits are approved under the text amendment over time, and that this change would occur in the absence of a comprehensive analysis and plan for these areas. Several speakers, representing neighborhood organizations, referenced planning studies undertaken on their behalf. Many speakers expressed concern that the special permits under the text amendment would bring inappropriate development, such as multi-screen movie theatres, to their communities. Speakers reiterated the recommendations restricting bulk and use that were included in the Community Board's resolution.

Speakers noted that currently there is an insufficient number of off-street parking facilities in SoHo and NoHo to accommodate the areas' merchants, residents and visitors. Speakers commented that the shortfall would increase as the 16 development sites, close to all of which currently operate as parking lots, are built upon. They added that this shortfall would be compounded by the demand for off-street parking generated by residents of the new developments.

A number of speakers testified that the residential development that would be generated as a result of the text amendment would threaten the artistic character of SoHo and NoHo. Several speakers also testified that the availability of the special permit would encourage the demolition

of non-contributing buildings in the historic district and increase the number of sites where the special permit would be applicable.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit and approval of the zoning text amendment as modified herein, are appropriate.

Text Amendment (N 030489 ZRM)

The Commission believes that allowing for the modification by special permit of the use regulations which govern development of vacant sites in the M1-5A and M1-5B districts that are located within the SoHo-Cast Iron Historic District and the NoHo Historic District is appropriate.

The Commission recognizes that the M1-5A/5B use regulations may be modified for existing buildings located within the SoHo-Cast Iron and NoHo Historic Districts by special permit pursuant to Section 74-711 (Landmark Preservation in All Districts), including allowing for residential use. The Zoning Resolution does not offer a comparable special permit to allow the modification of use for new buildings in these historic districts. The Commission further notes that the use provisions of the M1-5A/B districts were established to regulate the conversion of existing buildings in SoHo and NoHo and were not intended to guide development of vacant lots.

The Commission believes that these use provisions have served as a deterrent to new construction in these areas.

The Commission notes that the industrial character of SoHo and NoHo has changed over the approximately thirty years since the establishment of the M1-5A and M1-5B districts. These areas have become vibrant mixed use neighborhoods, with increasing numbers of residents and ground floor commercial uses. The Commission believes that the vacant lots in these areas detract from the fabric of the SoHo-Cast Iron and NoHo Historic Districts, and that allowing modification of the use regulations by special permit would facilitate development of the vacant lots and help strengthen the historic districts' built character.

While the Commission believes that allowing the use regulations to be modified is appropriate, it also believes that certain modifications to the text amendment should be made. As proposed, the text amendment could allow for the introduction of uses that would be incompatible with the residential and commercial character of these areas. The Commission believes that a number of modifications to the proposed text would ensure that uses developed pursuant to the text amendment would be appropriate for the SoHo and NoHo communities. The Commission notes that several of these modifications reflect the recommendations made by Community Board 2 and the Manhattan Borough President's office. Following careful consideration, the Commission is modifying the proposed text as described herein.

First, the Commission believes that the applicability of the special permit should be limited to residential and Use Group (UG) 6 uses. The Commission recognizes that residential and ground floor commercial use is increasingly the predominant land use in SoHo and NoHo. The Commission notes that limiting the special permit to residential and UG6 uses would help ensure predictability. The special permit could be used to modify the use regulations to allow development of a residential building, a residential building with UG6 uses on the ground floor and below, or to allow UG6 uses on the ground floor and below of a building with as-of-right upper floor uses. The Commission also notes that limiting the special permit to these uses would prevent use of the special permit to introduce large retail and community facility uses to these areas. Currently, these uses are allowed by special permit only in M1-5 districts under Zoning Resolution Section 74-921, and the Commission believes that the existing process should be maintained.

Second, the Commission notes the recommendation of the Community Board and Borough President that new development should be limited to 5.0 FAR. Within the M1-5A/B districts, all uses are limited to 5.0 FAR, with the exception of community facility uses, which are permitted by special permit and are allowed a 6.5 FAR. By restricting the use to residential and UG6 uses, all development pursuant to the proposed text amendment would effectively be limited to 5 FAR. The Commission notes that the bulk modifications permitted pursuant to Section 74-712 do not allow the modification of the underlying FAR.

Third, the Commission believes the text should require a minimum residential unit size of 1,200 sf. The Commission believes that flexible live-work arrangements allowed by larger unit sizes is an important characteristic of the SoHo and NoHo neighborhoods. The Zoning Resolution currently imposes a minimum unit size of 1,200 sf on JLWQAs in the M1-5A and M1-5B districts. The Commission believes it is appropriate to extend this minimum unit size to the text amendment.

Fourth, the Commission believes that new residential development built pursuant to the zoning text amendment should be required to comply with the standard 30-foot residential yard regulations. Currently, a 20-foot rear yard is required for new development in the M1-5A/B districts. The Commission believes that new buildings to be constructed for residential use should be required to comply with the rear yard and window- to lot-line requirements of an R8 district. The Commission notes that R8 districts allow development of a comparable density to that allowed in M1-5A/B districts and also, that R8 districts are widely mapped throughout Manhattan. The Commission particularly recognizes the need for a 30-foot rear yard to provide adequate light and air for new residential construction in the context of SoHo and NoHo's full lot-coverage buildings.

Fifth, the Commission believes that the regulations governing signage in M1-5A/5B districts would allow signage inappropriate for the mixed-use buildings that could be developed pursuant to the special permit. The M1-5A/5B regulations allow large accessory and advertising signs, as well as illuminated or flashing signs. Signs are allowed a maximum surface area of up to six

times the frontage of the zoning lot, with a maximum size per sign of 1,200 sf and no limit on the number of signs allowed. Illuminated or flashing signs are allowed a surface area equal to five times the frontage of the zoning lot, with a maximum size per sign of 500 sf.

The Commission believes that the signage regulations of a C2 district, characterized as local retail streets in residential areas, would be appropriate for mixed-use buildings authorized under the new special permit. The C2 districts are limited to accessory signage with a surface area of three times the street frontage, with a maximum of 150 square feet for all signs on the zoning lot. Illuminated signs are limited to three times the street frontage, with a total maximum of 50 square feet for all illuminated signs on the zoning lot.

Sixth, the Commission notes the concerns of speakers at the public hearing who testified that the availability of the new special permit might encourage the demolition of non-contributing buildings. (The Commission notes that the LPC does not refer to buildings as ‘non-contributing.’ The Commission recognizes that speakers appeared to be referring to buildings which the LPC designation report for the SoHo Cast-Iron Historic District characterized as being of “little interest architecturally,” and with respect to the NoHo Historic District, buildings which the LPC designation report referred to as “no-style”). The Commission does not believe that the increased demolition of these buildings would occur to any significant extent, particularly given the likelihood that the LPC will only approve the demolition of a building of “little interest architecturally” or of “no style” concurrent with the approval of a new replacement structure. The Commission also does not believe that the replacement of any of these buildings with new

structures approved by the LPC would be adverse to the historic district and contrary to public policy; recent approvals of new structures in historic districts by the LPC demonstrate how these can be compatible with the historic character of a district. The Commission nevertheless notes that the environmental review conducted for the text amendment did not consider the potential for use of the special permit on sites made vacant through demolition of any of these buildings. Accordingly, the Commission believes that limiting the applicability of the special permit to sites which are vacant, contain minor improvements or where not more than 20 percent of the lot area is occupied by an existing building at the time of the adoption of the text, is appropriate.

Seventh, the Commission believes that findings relating to the impact of the proposed development on neighborhood character should be added to the text. The text amendment currently limits the Commission's findings to the impact of the proposed use change on the conforming uses in the surrounding area. The inclusion of findings addressing the compatibility of the proposed development with the character and scale of the surrounding neighborhood would help ensure that along with the use change, the resultant bulk and massing of any development requesting a special permit pursuant to the amended Section 74-712 text would be appropriate for the surrounding SoHo and NoHo neighborhoods.

The Commission recognizes the Community Board's request that the special permit allow JLWQAs. The Commission notes, however, that the Zoning Resolution restricts JLWQAs to non-residential buildings. The Commission further notes that the Zoning Resolution does not preclude a residential unit from containing artist studio space for the unit's occupants. In

addition, as stated above, the Commission is requiring a minimum unit size of 1,200 sf to provide the flexibility of use afforded the occupants of JLWQAs.

The Community Board included a number of recommendations to limit the size of retail spaces which the Commission do not believe are appropriate. The Commission notes that pursuant to the existing special permit procedure of Section 74-711, the ground floor and cellar level of buildings throughout SoHo and NoHo have been converted to UG6 use, without a limitation on size. Consistent with the existing special permit, the Commission does not believe there is a rationale for limiting UG6 use in the special permit. The Commission further notes that many retail establishments in SoHo exceed the limits recommended by the Community Board, and lastly, that the existing UG 6 regulations limit many retail uses to 10,000 sf.

The Commission believes that the recommendation of the Community Board, seeking the prohibition on the merging of retail spaces by breaking through to adjoining spaces, is inappropriate. The Commission notes that while the Zoning Resolution elsewhere contains similar prohibitions on the merging of retail spaces, these apply only to as-of-right conditions. Since each proposal requesting UG6 use pursuant to the text amendment would be subject to ULURP review, and would be required to meet the findings pertaining to not having an adverse impact on conforming uses in the area and compatibility with the character of the surrounding area, this issue can be considered in the course of public review, on a case by case basis.

The Community Board also included a recommendation seeking a prohibition on eating and drinking establishments. The Commission believes that these uses add to the vitality of the SoHo and NoHo neighborhoods and notes that it has not prohibited these uses in its review of applications which seek to allow ground floor UG 6 use in M1-5A/B districts pursuant to Section 74-711.

The Commission recognizes that nightclub use is a concern of the Community Board. The Commission notes that eating and drinking establishments which allow dancing, irrespective of the size of the establishment, are not included in the list of UG 6 uses and would therefore not be eligible to apply for the special permit. The Commission also notes the Community Board's recommendation seeking a prohibition on catering facilities of any kind. The Commission notes that catering facilities are listed in Use Groups 9 and 13 and therefore, would also not be eligible for the special permit.

The Commission believes that the recommendation of the Community Board to maintain existing streetwall requirements is inappropriate and conflicts with the intent of the existing text of Section 74-712. The existing text allows for the modification of bulk regulations, except FAR, specifically in order to allow for buildings to be constructed within the built context of the historic districts. Requiring buildings built pursuant to the proposed text to comply with the underlying M1-5 height and setback requirements would conflict with the original intent of this Section. The Commission believes that the additional findings related to neighborhood character and scale address the community's concerns with regard to the appropriate bulk and massing of

future developments. Further, the Commission notes that buildings proposed pursuant to the amended text must complete LPC's review process.

The Commission notes the recommendation of the Community Board requesting the incorporation of an arts-related project in each development built pursuant to the subject text.

The Commission recognizes the extent to which the advancement and promotion of the arts in SoHo and NoHo are goals of the community and local elected officials and it notes the significant testimony at the public hearing on this topic. While the Commission encourages the inclusion of arts-related projects in subsequent developments, the Commission notes that what would constitute an 'arts-related project' has yet to be sufficiently defined. Until such time as the definition of an 'arts-related project' is clarified, the Commission believes that it is inappropriate to consider inclusion of such a requirement in the text.

The Commission has considered the recommendation of the Community Board that applicants review the feasibility of incorporating parking in their design and, if parking is found to be feasible, that parking spaces for a minimum of 20 percent of the units should be provided. The Commission also notes the number of speakers at the public hearing who testified about the need for parking facilities in the area. The Commission notes that the EAS completed for the project states that development pursuant to special permits granted under the text amendment could result in the loss of up to 780 parking spaces over the 16 projected sites. Based on the parking spaces which would remain following development of the 16 sites, and the current and projected utilization rates, the EAS projects that the loss of the 780 spaces would not result in a significant

impact. The Commission notes that the EAS found that there are currently a total of 6,715 spaces in public parking facilities within a quarter-mile radius of the M1-5A/5B districts, which experience a 60-75 percent daytime utilization rate and a 50 percent nighttime utilization rate. Assuming the future development of all 16 sites, the EAS found that a total of 5,935 spaces would remain. These facilities would operate at a 78-92 percent daytime utilization rate and a 62 percent nighttime utilization rate. (The May 30, 2003 EAS states that a total of 676 parking spaces would be displaced by the development of the 16 sites; however, this number has been revised pursuant to a Technical Memorandum dated October 31, 2003, and kept on file at the Department of City Planning's Environmental Assessment and Review Division, which was prepared in order to address changes to the proposed project since the certification of the May 30, 2003 EAS. The conclusion of the EAS technical parking analysis remains unaffected by this recalculation).

The Commission also notes that the Zoning Resolution does not require accessory parking for residential developments south of 96th Street, although each development may provide an amount equal to a maximum of 20 percent of the units. While new developments in Manhattan generally provide the maximum accessory parking permitted, the Commission believes that requiring parking in SoHo and NoHo would represent a significant change in policy. It further believes that it is inappropriate to revise the parking regulations governing these areas absent a comprehensive study of all parking in Manhattan below 96th Street. The Commission notes that the provision of accessory parking could be considered in the context of individual special permit applications filed pursuant to the text amendment.

The Commission also notes that a number of the speakers at the public hearing called for a comprehensive rezoning of SoHo and NoHo. The Commission notes in this regard that civic organizations, including the Friends for NoHo Architecture, the NoHo Neighborhood Association, and the NoHo BID, have individually developed rezoning recommendations. The Commission has strongly encouraged these groups to work jointly with Community Board 2 to study land use and zoning issues in the area, and to come to a consensus in developing recommendations to present to the Department of City Planning. However, while the Commission recognizes the importance of planning for future changes to growth and development throughout these areas, it does not believe that a comprehensive plan is a necessary prerequisite to adoption of the text amendment, which is limited in its applicability.

Special Permit (C 030490 ZSM)

The Commission believes that the modification of use regulations to allow residential and Use Group 6 uses at 465 Broadway will have minimal adverse effects on the conforming uses in the surrounding area. The predominant conforming uses in the surrounding area include JLWQAs and commercial uses on the upper floors and, in the neighboring M1-5A district, retail uses on the ground floors of buildings with lot coverage less than 3,600 sf. The Commission recognizes that the surrounding area contains a significant number of dwelling units and that both conforming and non-conforming commercial uses line the ground-level frontages along Broadway and Grand streets.

The Commission believes that the modification of use would be compatible with the scale and character of the surrounding SoHo neighborhood. The Commission recognizes the challenge of introducing a new building into a built context predominated by full-lot coverage buildings, some well over a century old. The Commission notes that the subject residential building must comply with zoning requirements which affect the envelope of the building and which did not exist when the area's manufacturing buildings were built. The Commission notes that the massing of the building complies with the provisions of the underlying M1-5B district which requires that buildings maintaining the streetwall set back 20 feet on a narrow street and 15 feet on a wide street at a height of six-stories or 85 feet. The Commission notes that the building envelope for 465 Broadway provides the required setbacks and would allow a maximum streetwall height of 85 feet and maximum total height of 175 feet.

The Commission believes that the plan for the building's proposed massing relates to the built context of the surrounding historic buildings. Buildings in the immediate vicinity of the proposed building range from 14- to 123-feet in height, with the greatest number of buildings having a height between 70 and 90 feet. In addition, the Commission notes that Broadway, between Howard and Broome streets, contains seven buildings in excess of 100 feet in height, including the 12-story, 166 foot tall building at the northern end of the subject block, at the southwest corner of Broadway and Broome Street. The Commission believes that the envelope of the building reflects the lower streetwall buildings and taller loft buildings that characterize SoHo's Broadway corridor. Furthermore, the Commission notes that the design for the building will require LPC approval.

The Commission notes that the ground floor UG6 and upper floor residential use proposed for the building conforms with the use restrictions of the proposed text amendment, and is analogous to the uses occupying most of the surrounding buildings. Furthermore, the Commission notes that the development proposes an average unit size of 1,800 sf, exceeding the 1,200 square foot minimum unit size required by the text amendment, as modified. The Commission believes that the introduction to the neighborhood of 70 residential units, at a minimum unit size of 1,200 square feet, would not impact neighborhood character. The Commission notes that the low unit-density proposed for the 26,764 square foot zoning lot is comparable to that of other existing buildings in the immediate vicinity. For example, each of the two matching eight-story buildings at 473 and 475 Broadway are on zoning lots of approximately 5,000 sf, and contain ground floor UG6 uses and 14 units. The Commission believes that the proposed mixed-use building will fill a gap in the historic Broadway corridor and will be consistent with and supportive of the essential character of the surrounding mixed-use area.

The Commission also notes that the applicant is exploring providing and maintaining an art exhibition space that will feature local artists as recommended by the Community Board and the Borough President.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-712 (Developments in Historic Districts) of the Zoning Resolution:

- (2) the Commission finds that such use modifications:

- (i) have minimal adverse effects on the conforming uses in the surrounding area;
- (ii) are compatible with the character of the surrounding neighborhood; and
- (iii) for modifications that permit residential use, result in a development that is compatible with the scale of the surrounding area.

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 of the WXIV/Broadway Grand Realty, LLC for the grant of a special permit pursuant to Section 74-712 of the Zoning Resolution to modify the use regulations for a proposed development on a zoning lot where not more than twenty percent of the lot area is occupied by existing buildings to allow retail use (Use Group 6 uses) and/or residential use (Use Group 2 uses) on the ground floor and cellar and to allow residential use (Use Group 2 uses) on the 2nd through 14th floors of a proposed 14-story building on property located at 465 Broadway a.k.a. 106-112 Grand Street (Block 474, Lots 38, 49 and 1101-1102), in the SoHo Cast Iron Historic District, within an M1-5B District, Community District 2, Borough of Manhattan, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 030490 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 Perkins Eastman Architects PC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
CP-3	Roof Plan	November 5, 2003
CP-4	Maximum Envelope	November 5, 2003

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. 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 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.

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 this special permit.

The above resolution (C 030490 ZSM), duly adopted by the City Planning Commission on November 5, 2003 (Calendar No. 18), 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., RICHARD W. EADDY,
ALEXANDER GARVIN, JOHN MEROLO, DOLLY WILLIAMS, Commissioners

ANGELA R. CAVALUZZI, R.A., Commissioner, Abstained
JANE D. GOL, Commissioner, Recused