



## **CITY PLANNING COMMISSION**

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October 1, 2007/Calendar No. 2

N 070412 ZRM

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IN THE MATTER OF an application submitted by West Street Development, LLC, pursuant to Section 201 of the New York City Charter, concerning the Special Lower Manhattan District (Article IX, Chapter 1), relating to modifications of the applicability of urban plazas, height and setback regulations and a special permit for development over or adjacent to the approaches to the Brooklyn Battery Tunnel in Community District 1, Borough of Manhattan.

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The application for amendments of the Zoning Resolution was filed by West Street Development, LLC on April 12, 2007. The text amendments would amend Sections 91-231, 91-31, 91-73, and Appendix A, Map 2 (Special Lower Manhattan District provisions) of the Zoning Resolution to allow for development adjacent to the Brooklyn Battery Tunnel Approach, to create a Type 2B street type, and to allow for bonusable urban plazas along properties that front Type 2B street. The amendments would facilitate the development of 63 story mixed-use commercial and residential building at 47-50 West Street in Community District 1, Borough of Manhattan.

### **RELATED ACTIONS**

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

- C 070351 MMM Elimination, discontinuance and closing of volumes above the Brooklyn Battery Tunnel Approaches, an at-grade portion of the Brooklyn Battery Tunnel Approaches, and a volume above Joseph P. Ward Street
- C 070413 ZSM Special permit, pursuant to 91-73, to allow the unmapped air space above the Brooklyn Battery Tunnel Approaches, the unmapped air space above Joseph P. Ward Street and at-grade parcels bounding the northern street line of Joseph P. Ward Street to be considered a single zoning lot and to allow the use of unused floor area generated from the unmapped air space above the Brooklyn Battery Tunnel Approaches to be located on the at-grade portion of such zoning lot for use for residential floor area
- C 070414 ZSM Special permit, pursuant to Section 91-35, to modify height and setback regulations
- C 070415 ZSM Special permit, pursuant to Section 74-91, to modify the requirements of Section 37-04 relating to urban plazas
- N 070416 ZCM Chairperson Certification pursuant to Section 37-04 for a bonusable urban plaza

## **BACKGROUND**

A full background discussion and description of this application appears in the report on the related application for height and setback modifications (C 070414 ZSM).

## **ENVIRONMENTAL REVIEW**

This application (N 070412 ZRM), in conjunction with the application for the related actions

(C 070351 MMM, C 070413 ZSM, C 070414 ZSM, C 070415 ZSM, N 070416 ZCM), 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 07DME015M. The lead is The Office of the Deputy Mayor for Economic Development and Rebuilding.

A summary of the environmental review appears in the report on the related application for height and setback modifications (C 070414 ZSM).

## **PUBLIC REVIEW**

On April 23, 2007, this application (N 070412 ZRM) was referred to Community Board 1 and the Borough President in accordance with the procedure for referring non-ULURP matters.

The related actions (C 070351 MMM, C 070413 ZSM, C 070414 ZSM, C 070415 ZSM, N 070416 ZCM) was certified as complete by the Department of City Planning on April 23, 2007, and was duly referred to Community Board 1 and the Borough President in accordance with in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

## **Community Board Review**

A summary of the Community Board 1's recommendation appears in the report on the related application for height and setback modifications (C 070414 ZSM).

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation on August 1, 2007 approving ULURP Application numbers C 070414 ZSM, C 070415 ZSM and N 070416 ZCM. They disapproved with conditions ULURP application numbers: N 070413 ZSM, C 070412 ZRM, and C 070351 MMM.

A summary of Borough President's recommendation appears in the report on the related application for height and setback modifications (C 070414 ZSM).

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

On July 25, 2007 (Calendar No.5), the City Planning Commission scheduled August 8, 2007 for a public hearing on this application (N 070412 ZRM). The hearing was duly held on August 8, 2007 (Calendar No. 32) and was continued on August 22, 2007 (Calendar No. 12) in conjunction with the public hearing on the related actions (C 070351 MMM, C 070413 ZSM, C 070414 ZSM, C 070415 ZSM).

On August 8, 2007, there were six speakers in favor and two opposed. On August 22, there were no other speakers and the hearing was closed as described in the report on the related application for height and setback modifications (C 070414 ZSM).

### **Waterfront Revitalization Program Consistency Review**

This application (N 070412 ZRM), in conjunction with the related actions (C 070351 MMM, C 070413 ZSM, C 070414 ZSM, C 070415 ZSM and N 070416 ZCM), was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront

Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 07-030.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

### **CONSIDERATION**

The Commission believes that this zoning text amendment (N 070412 ZRM) as modified, in conjunction with the related actions (C 070351 MMM, C 070413 ZSM, C 070414 ZSM, C 070415 ZSM), is appropriate.

A full consideration of the issues, and the reasons for approving this application, appear in the report on the related application for site selection (C 070414 ZSM).

### **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**, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

**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 Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

## **ARTICLE IX: SPECIAL PURPOSE DISTRICTS**

### **Chapter 1: Special Lower Manhattan District**

\* \* \*

#### **91-23**

##### **As-of-Right Bonuses for Increased Floor Area**

\* \* \*

#### **91-231**

##### **Floor area bonus for urban plazas**

The maximum permitted #floor area# on a #zoning lot# may be increased in accordance with the following regulations, provided that an #urban plaza#, which shall meet the requirements of Section 37-04 (Requirements for Urban Plazas), is included in the #development# or #enlargement#:

- (a) A #floor area# bonus for an #urban plaza# shall not be permitted for any #development# or #enlargement# located within:

\* \* \*

- (3) 50 feet of a #street line# of a designated #street# on which:
- (i) retail continuity is required pursuant to Section 91-41 (Regulations for Designated Retail Streets); or
  - (ii) #street wall# continuity is required pursuant to the regulations for Type 1 or Type 2A #street walls# pursuant to Section 91-31 (Street Wall Regulations).

\* \* \*

**91-30  
HEIGHT AND SETBACK AND LOT COVERAGE REGULATIONS**

\* \* \*

**91-31  
Street Wall Regulations**

Within the #Special Lower Manhattan District#, all portions of #buildings or other structures# located above the maximum base heights specified in paragraph (a) of this Section shall provide a setback in accordance with the regulations of Section 91-32 (Setback Regulations).

- (a) Within the Special District, the maximum base height shall be 85 feet or 1.5 times the width of the #street# upon which the #building# fronts, whichever is greater, except as provided for the following types of #street wall# regulations:

\* \* \*

- (2) #Street wall# regulations: Type 2A

For #developments# or #enlargements# that front upon a #street# indicated as "Type 2A" on Map 2 (Street Wall Continuity Types 1, 2A, 2B & 3) in Appendix A, #street walls# shall extend along ~~the~~ such entire #street# frontage of the #zoning lot# to a minimum base height of 85 feet or the height of the #building#, whichever is less. The maximum base height shall be 150 feet.

- (3) #Street wall# regulations: Type 2B

For #developments# or #enlargements# that front upon a #street# indicated as "Type 2B" on Map 2 (Street Wall Continuity Types 1, 2A, 2B & 3) in Appendix

A, #street walls# shall extend along at least 60 percent of such #street# frontage of the #zoning lot# to a minimum base height of 85 feet or the height of the #building#, whichever is less. The maximum base height shall be 150 feet.

~~(3)~~(4) #Street wall# regulations: Type 3

For #developments# or #enlargements# that front upon a #street# indicated as "Type 3" on Map 2 (~~Street Wall Continuity Types 1, 2A, 2B & 3~~) in Appendix A, #street walls# shall extend along the entire #street# frontage of the #zoning lot# to a minimum base height of 60 feet, five stories, or the height of the #building#, whichever is less. The maximum base height shall be 85 feet or 1.5 times the width of the #street# upon which the #building# fronts, whichever is greater.

~~(4)~~(5) #Street wall# regulations: Type 4

\* \* \*

~~(5)~~(6) #Street wall# regulations: Type 5

\* \* \*

(b) For #developments# or #enlargements# that front upon a #street# indicated as "Type 1" or "Type 2A," at least 70 percent of the #aggregate width of street walls# shall be located on such #street line#. For #developments# or #enlargements# that front upon a #street# indicated as "Type 2B," at least 60 percent of the #aggregate width of street walls# shall be located within 10 feet of such #street line#. For #developments# or #enlargements# that front upon a #street# indicated as "Type 3," at least 70 percent of the #aggregate width of street walls# shall be located within 10 feet of ~~the~~ such #street line#. The remaining 30 percent of the #aggregate width of street walls# may be located beyond such #street lines# in compliance with:

- (1) the #outer court# regulations of Article II, Chapter 3, for #residential# portions of #buildings#;
- (2) the #outer court# regulations of Article II, Chapter 4, for all other portions of #buildings#; or
- (3) the requirements of Section 37-07 (Requirements for pedestrian circulation space) where such areas are pedestrian circulation spaces.

\* \* \*

(d) Arcades and sidewalk widenings shall be permitted along any #street# indicated as "Type 1," "Type 2A" or "Type 3," pursuant to paragraphs (a), (b) or (c) of this Section, provided such arcade or sidewalk widening extends along the entire #block# frontage or abuts



another arcade, existing on August 27, 1998, of equal width and height or another sidewalk widening of equal width. In such case, the #street wall# requirements for paragraph (b) of this Section shall be measured from the permitted arcade or sidewalk widening.

\* \* \*

**91-70  
SPECIAL REGULATIONS FOR CERTAIN AREAS**

\* \* \*

**91-73  
Special Permit for Development Over or Adjacent to the Approaches to the Brooklyn Battery Tunnel**

The City Planning Commission, by special permit, may allow:

- (a) the unmapped air space above the approaches to the Brooklyn Battery Tunnel to be considered a single #zoning lot# and may allow the #development# or #enlargement# of a #building# on such unmapped air space, where the #zoning lot# for such #development# or #enlargement# shall include only that portion of the area above the approaches to the Brooklyn Battery Tunnel and contiguous areas of land or property that are covered by a permanent platform and not designated as approaches to the Brooklyn Battery Tunnel.
  
- (b) the unmapped air space above the approaches to the Brooklyn Battery Tunnel, the unmapped air space above Joseph P. Ward Street and the at-grade parcels bounding the northern #street line# of Joseph P. Ward Street to be deemed a single #zoning lot#, and in connection therewith:
  - (1) such #zoning lot# shall generate #floor area# only from such at-grade parcels and only those portions of the unmapped air space above the approaches to the Brooklyn Battery Tunnel covered by a permanent platform or #building# existing on (effective date of amendment);
  - (2) no #floor area# shall be generated from the unmapped air space above Joseph P. Ward Street; and
  - (3) unused #floor area# generated from those portions of the unmapped air space above the approaches to the Brooklyn Battery Tunnel covered by a permanent platform or #building# existing on (effective date of amendment) shall only be located on the at-grade parcels bounding the northern #street line# of Joseph P. Ward Street and shall only be used for #residential floor area#.

Notwithstanding any of the foregoing, the use and occupancy of the unmapped air space above the approaches to the Brooklyn Battery Tunnel and of the at-grade parcel bounding the northern #street line# of Joseph P. Ward Street and shown on the City Map as amended October 3, 1946, as an approach to the Brooklyn Battery Tunnel by the New York State Triborough Bridge and Tunnel Authority may be continued and in effect as set forth in Resolutions of the former New York City Board of Estimate and as otherwise permitted by law.

The at-grade parcels of the #zoning lot# bounding the northern #street line# of Joseph P. Ward Street shall be considered a #through lot# bounded by Washington Street and West Street from its lowest level to the sky, and only such at-grade parcels shall be used to determine compliance with applicable #bulk# regulations other than #floor area# and #lot area# regulations.

For purposes of this paragraph, (b), the at-grade parcels bounding the northern #street line# of Joseph P. Ward Street shall mean :

the at-grade parcel bounding the northern #street line# of Joseph P. Ward Street and shown on the City Map as amended October 3, 1946, as an approach to the Brooklyn Battery Tunnel; and

the at-grade parcel bounding the northern line of said parcel.

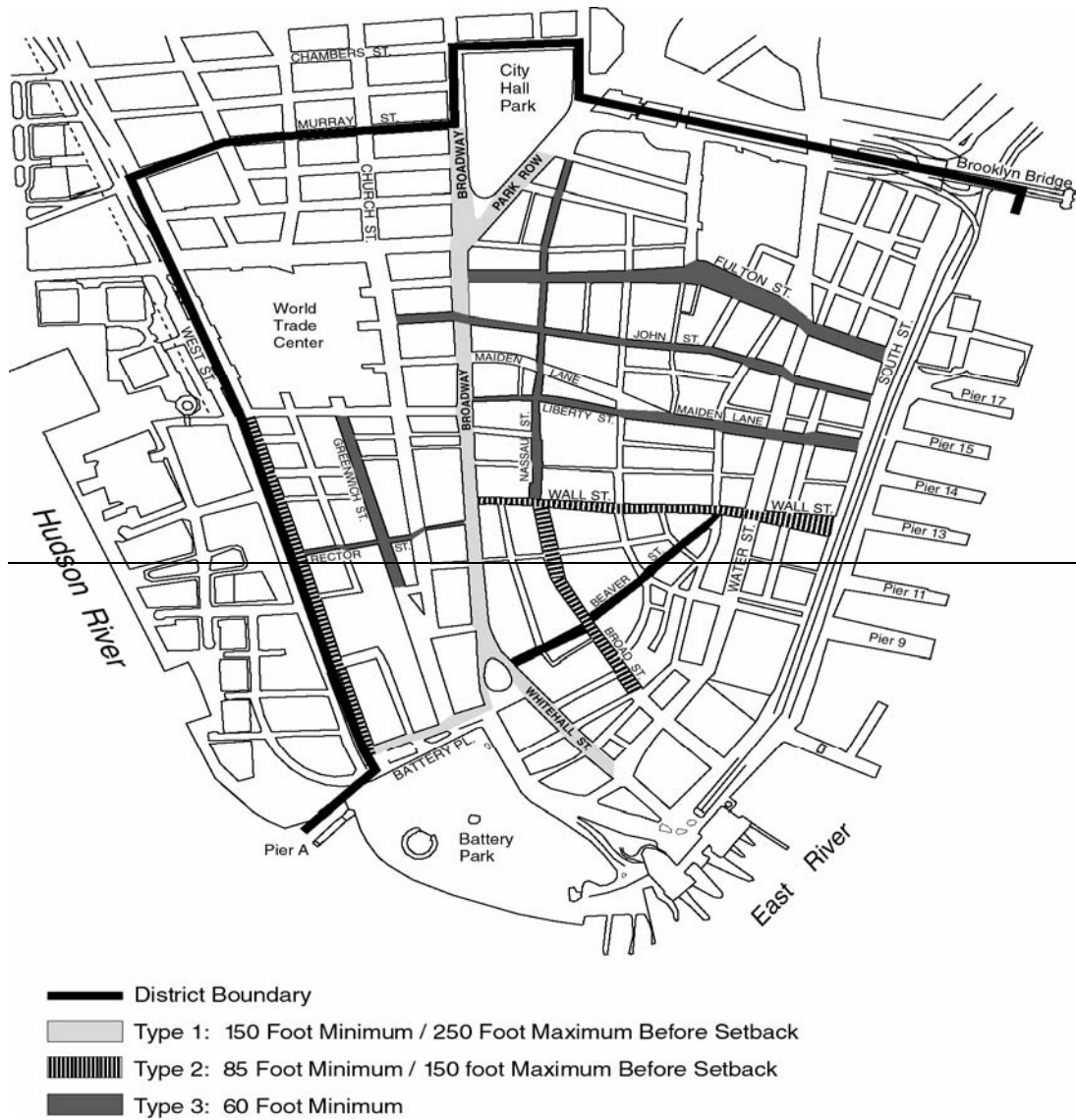
In order to grant such special permit, the Commission shall find that ~~(a)~~ adequate access and #street# frontage to one or more #streets# is provided; and ~~(b)~~ the streetscape, site design and the location of building entrances of the proposed #development# or #enlargement# will contribute to the overall improvement of pedestrian circulation within the surrounding area.

The Commission may prescribe appropriate conditions and safeguards to protect and minimize any adverse effects on the character of the surrounding area.

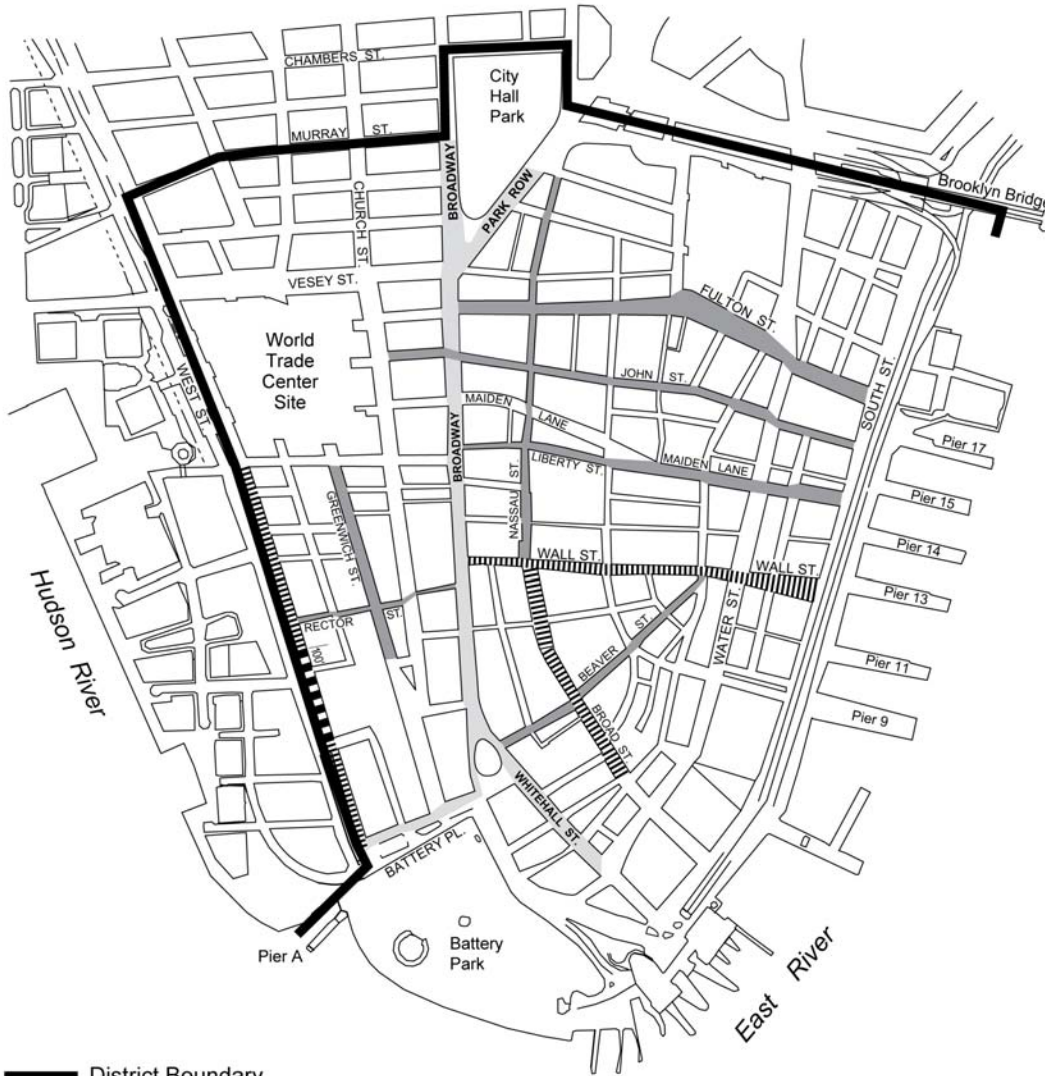
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Map 2

Street Wall Continuity Types 1, 2 & 3



**APPENDIX A**  
**Lower Manhattan District Plan Maps**  
 Map 2. Street Wall Continuity Types 1, 2A, 2B & 3



- District Boundary
- ▬** Type 1: 150 Foot Minimum / 250 Foot Maximum Before Setback
- ▨** Type 2A: 85 Foot Minimum / 150 foot Maximum Before Setback / 100% Street Wall Continuity Required
- ▣** Type 2B: 85 Foot Minimum / 150 foot Maximum Before Setback / At least 60% Street Wall Continuity Required
- ▧** Type 3: 60 Foot Minimum

\* \* \*

The above resolution (N 070412 ZRM), duly adopted by the City Planning Commission on October 1, 2007 (Calendar No. 2), 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, AICP, Chair**

**KENNETH J. KNUCKLES, Esq., Vice Chairman**

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., BETTY Y. CHEN, LISA A. GOMEZ, NATHAN LEVENTHAL, DOLLY WILLIAMS, Commissioners**

Commissioners, **ANGELA R. CAVALUZZI, R.A., KAREN A. PHILLIPS, Voting No**