



## **CITY PLANNING COMMISSION**

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February 13, 2008/Calendar No. 22

C 070161 ZSM

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IN THE MATTER of an application submitted by Judo Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant 74-712 of the Zoning Resolution to modify:

1. the use regulations of:
  - a. Section 42-10 to allow U.G. 2 uses (residential use) on the 2<sup>nd</sup> thru 6<sup>th</sup> floor and penthouse; and
  - b. Section 42-14D(2) to allow U.G. 6 uses (retail use) on portions of the ground floor and cellar; and
2. the height and setback regulations of Section 43-43 (Minimum Height of Front Wall and Required Front Setbacks);

to facilitate the development of a mixed use building on a zoning lot where not more than twenty percent of the lot area is occupied by an existing building on property located development on property located at 341 Canal Street (Block 229, Lot 1), in an M1-5B District, within the SoHo Cast Iron Historic District, Borough of Manhattan, Community District 2.

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The application for the special permit was filed by Judo Associates, LLC on October 17, 2006, to allow Use Group 6 uses on the ground floor and residential use on the upper floors of a proposed building at the northwest corner of the intersection of Canal and Greene streets, within an M1-5B District in the SoHo-Cast Iron Historic District.

### **BACKGROUND**

The applicant is seeking a special permit pursuant to Section 74-712 (Developments in Historic Districts) to facilitate the construction of a mixed-use building in an M1-5B zoning district in the SoHo-Cast Iron Historic District in Manhattan.

The surrounding portion of the SoHo neighborhood generally contains five- to seven-story buildings along Wooster, Greene, and Mercer streets and four- to five-story buildings along

Canal Street. While the upper floors in many of these buildings have been converted to dwelling units, including joint living-work quarters for artists and interim multiple dwellings, the upper floors in other buildings contain offices, art galleries or other commercial uses. A greater number of buildings along Canal Street continue to have commercial uses on their upper floors than Wooster, Greene, and Mercer streets. Ground floor uses in the vicinity primarily consist of a mix of restaurants, and home furnishing and clothing stores. The Canal Street corridor, running south of and inclusive of the subject block, serves as a regional discount electronics and discount shopping strip. A 225-space public parking garage is located on Wooster Street and abuts the rear of the subject site. Two parking lots on Wooster Street between Canal and Grand streets have been granted special permits in 2006 and 2007 pursuant to Section 74-712 to allow residential use and ground floor commercial use (C 060202 ZSM and C 070247 ZSM)

### **Proposed Project**

The proposed development is comprised of a seven-story 5 FAR residential building with retail use on the ground floor and cellar levels to be constructed on a 13,234 square foot zoning lot located at the northwest corner of Canal and Greene streets that is currently occupied by a 54-space public parking lot. . The irregularly-shaped lot has approximately 173 feet of frontage on Greene Street and 65 feet of frontage on Canal Street.

.The proposed building would contain 65,996 square feet of floor area; including approximately 54,000 sf of residential use and approximately 12,000 sf of retail use. The proposed development would consist of a maximum of 34 units. Ground floor retail space would be located on both Canal and Greene streets and the residential entrance would be located on Greene Street.

## **REQUESTED ACTIONS**

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

### **Special Permit to Modify Use and Bulk Regulations**

Residential use is not permitted in M1-5A/B zoning districts and new construction is restricted to a specific set of conforming uses which include light industry, warehousing, wholesaling, parking facilities, and hotels. In addition, according to the use regulations for an M1-5B district, uses below the second story are limited to wholesale, business service, warehouse and light industrial uses (Use Groups 7, 9, 11, 16, 17A, 17B, 17C and 17E).

Section 74-712(a) allows, in M1-5A and M1-5B districts, in historic districts, 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. In order to grant the special permit, the City Planning Commission is required to find that the proposed use modifications would have minimal adverse effects on the conforming uses in the surrounding area.

The applicant is seeking a special permit pursuant to Section 74-712(a) to allow the modification of the use regulations of the M1-5B district in order to allow retail use on the ground and cellar floors and residential uses in the proposed building. The use modification requires a finding that the proposed use modifications would have minimal adverse effects on the conforming uses in the surrounding area.

A building in a M1-5B district may rise to six stories or 85', whichever is less, and is then required to setback 15 feet on a wide street, such as Canal Street, or 20 feet on a narrow street,

such a Greene Street. Above the setback the building could continue to rise within a sky exposure plane of 5.6:1 on a wide street, and 2.7:1 on a narrow street..

The proposed building would rise six stories to a height of 93 feet. At this height the street wall would setback 20 feet at both Canal and Greene Streets to form a slope to the roof of the seventh floor at a height of 102 feet. The area within the slope would contain one penthouse unit. The building would penetrate the sky exposure plane on Greene Street by nine feet. The building would have a total height of 110 feet to the top of the bulkhead. The design of the building is reflective of requests by the Landmarks Preservation Commission (LPC) that it meet the building height, window lines and the style of the façade of the neighboring buildings.

The applicant is seeking a special permit pursuant to Section 74-712(b) to allow street walls higher than those allowed and to allow setbacks narrower than those allowed. The proposed bulk modifications requires a finding that the modifications would have minimal adverse effects on structures or open space in the vicinity in terms of scale, location and access to light and air and also that the proposed bulk modifications would relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness from the LPC which was issued on March 23, 2007.

## **ENVIRONMENTAL REVIEW**

This application (C 070161 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 07DCP038M . 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 October 29, 2007.

### **UNIFORM LAND USE REVIEW**

This application (C 070161 ZSM) was certified as complete by the Department of City Planning on October 29, 2007 and was duly referred to Community Board 2 and the 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 2 held a public hearing on the application on November 8, 2007, and on November 15, 2007, by a vote of 41 in favor, 0 opposed, and 0 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application was considered by the Manhattan Borough President, who issued a recommendation on December 19, 2007 approving the application.

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

On December 19, 2007 (Calendar No. 4), the City Planning Commission scheduled January 9, 2008 (Calendar No. 21) for a public hearing on this application (C 070161 ZSM). The hearing was duly held on January 9, 2008 (Calendar No. 21). There were five speakers in favor of the application and none in opposition.

The applicant's attorney described the subject proposal and stated that it met the requisite findings. The speaker noted that the developer is in dialogue with the adjoining building in order to resolve any outstanding issues, as requested by the Community Board at its public hearing.. The project architect described the proposed building and how the design of the building was

intended to reflect the scale and context of the surrounding SoHo neighborhood. The construction manager for the project reviewed a number of the precautions that will be taken to comply with the Technical Policy and Procedure Notice, including committing to no underpinning of neighboring buildings and raising the level of the foundation in order to avoid any issues stemming from dewatering. A representative of the property owner also appeared in favor.

A representative of the Borough President reiterated the Borough President's support for the application and noted that the developer has agreed to comply with the Department of Building's Technical Policy and Procedure Notice #1088 (Procedures for the Avoidance of Damage to Historic Structures Resulting from Adjacent Construction) as requested by both the Community Board and the Borough President.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the grant of this special permit pursuant to Sections 74-712(a), and 74-712(b) is appropriate.

The Commission believes that the modification of use regulations to allow residential and Use Group 6 uses at 341 Canal Street will have minimal adverse effects on the conforming uses in the surrounding area and would not affect neighborhood character. The predominant conforming uses in the surrounding area include a mix of JLWQAs and commercial uses on the upper floors and retail uses on the ground floors of buildings. 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 Canal and Greene streets.

The Commission notes that the ground floor Use Group 6 use and the upper floor residential use proposed for the building are analogous to the uses occupying most of the surrounding buildings. The Commission believes that the proposed building would be compatible with the scale of the surrounding area. The Commission notes that according to the Certificate of Appropriateness, the LPC found that the 102 foot height of the proposed building would relate well to the other buildings on Canal and Greene streets, which typically range in height from 82 feet to 115 feet.

The Commission notes that the high street wall and minimal setback of the proposed building is consistent with the built framework of the surrounding high street wall buildings. Further, the Commission notes that the surrounding buildings similarly do not setback before reaching their total height. The Commission believes that the requested increase in the height of the street wall on Canal and Greene streets, and the setback waivers requested for these same locations, are minimal and would not adversely affect structures or open space in the vicinity in terms of access to light and air. The Commission notes that the setback waiver is necessitated so that the building above the parapet would be minimally visible from the street as requested by the LPC. The minimal visibility of the area to be constructed within the sky exposure plane would result in minimal shadows or related adverse effects on structures or open space in the vicinity. The Commission further notes that the EAS completed for the project found that shadows cast by the proposed building would not be significantly different than the ones cast by existing buildings in the area.

The Commission believes that the proposed mixed-use building will fill a gap in the historic Canal and Greene Street corridors and will be consistent with and supportive of the character of the surrounding mixed-use area.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-712

(a) and (b) (Developments in Historic Districts) of the Zoning Resolution:

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 area; and
- (iii) for modifications that permit residential use, result in a development that is compatible with the scale of the surrounding area.

Such bulk modifications:

- (1) shall not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and
- (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the actions 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 Judo Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant 74-712 of the Zoning Resolution to modify:



1. the use regulations of:
  - a. Section 42-10 to allow U.G. 2 uses (residential use) ) on the 2<sup>nd</sup> thru 6<sup>th</sup> floor and penthouse; and
  - b. Section 42-14D(2) to allow U.G. 6 uses (retail use) on portions of the ground floor and cellar; and
2. the height and setback regulations of Section 43-43 (Minimum Height of Front Wall and Required Front Setbacks);

to facilitate the development of a mixed use building on a zoning lot where not more than twenty percent of the lot area is occupied by an existing building on property located development on property located at 341 Canal Street (Block 229, Lot 1), in an M1-5B District, within the SoHo Cast Iron Historic District, Borough of Manhattan, Community District 2 is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 070161 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 Gene Kaufman Architect PC and filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-101	Zoning Calculation Zoning Analysis	07-18-2007
A-200	Site Plan	07-18-2007
A-301	Longitudinal Section	07-18-2007
A-302	Cross Section	07-18-2007
A-303	Cross Section	07-18-2007

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. 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 070161 ZSM), duly adopted by the City Planning Commission on February 13, 2008 (Calendar No. 22), 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.,  
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JOHN MEROLO, KAREN A. PHILLIPS, Commissioners**