



## **CITY PLANNING COMMISSION**

July 28, 2004/Calendar No. 42

C 040257 (A)ZSM

**IN THE MATTER OF** an application submitted by the Economic Development Corporation and West-Chambers Street Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter and proposed for modification pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure for the grant of a special permit pursuant to Section 74-721(a) of the Zoning Resolution to modify the height and setback regulations of Sections 23-60, 33-40 and 35-23 of the Zoning Resolution to facilitate the development of a 35-story mixed use building on a zoning lot located at 200 Chambers Street (Block 142, Lot 9 and part of Lot 1) in a C6-4 District, Community District 1, Borough of Manhattan.

An application for the special permit (C 040257 ZSM) was filed by the New York City Economic Development Corporation (EDC) and West-Chambers Street Associates, LLC, on January 28, 2004, pursuant to Section 74-721(a) of the Zoning Resolution to modify the height and setback regulations of Sections 23-60, 33-40, and 35-23 of the Zoning Resolution to facilitate the development of a 35-story, mixed use building. A modified application for the special permit (C 040257 (A) ZSM) was filed by the applicants on May 18, 2004, pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure. A revision to this modified application for the special permit (C 040257 (A) ZSM) was submitted on July 7, 2004.

### **RELATED ACTIONS**

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 (CPC) on the following application which is being considered concurrently with this application:

1. C 040255 HAM: UDAAP designation, project approval, and disposition.
2. N 920048 MEM: An amendment to the City Map involving the extinguishment of pedestrian easements.

## **BACKGROUND**

### **Site Description**

The project site is located in Lower Manhattan in an area that serves as a transition zone between the Financial District to the south, the residential neighborhood of TriBeCa to the east and north, and the residential portion of Battery Park City to the west. The portion of the Financial District nearest to the site consists of large office buildings of up to 30 stories or 460 feet in height. The northern neighborhood of Battery Park City currently contains six residential towers, the tallest being 43 stories or 400 feet. The nearby portions of TriBeCa are largely comprised of low-scale residential loft buildings that have been converted to residential use, typically ranging from 5 to 10 stories with streetwall heights of 65 feet to 125 feet.

The project site sits on the western half of a block (Block 142) bounded by West Street, Chambers Street, Greenwich Street, and Warren Street. Immediately adjacent to the site, lying to the west, is a six lane, divided highway known as Route 9A or West Street. A middle school, P.S. 89, and ballfields are located on the opposite side of West Street from the site. The Borough of Manhattan Community College and Washington Market Park lie across Chambers Street to the north of the site. An elementary school, P.S. 234, shares the eastern half of the block where the site is located. Directly to the south, across Warren Street, is a vacant urban renewal site currently occupied by a surface parking lot.

At present, the subject site is occupied primarily by surface parking lot. The subject site is a zoning lot within the former Washington Street Urban Renewal Area (WSURA) that expired in January of 2002. The site consists of the entirety of the former Site 5C of the WSURA and a

portion of an adjacent school yard for P.S. 234. The school yard portion of the zoning lot is needed so that the zoning lot has the minimum lot area for the special permit available under Section 74-721(a) Zoning Resolution to be applicable. The zoning lot has an area of 40,200 square feet and includes the 34,257 square foot development site and a 4,121 square foot dog run (these two sites constitute the former Site 5C), and a 1,822 square foot portion of P.S. 234's school yard. The proposed building would incorporate the floor area generated by the development site and the dog run, but not by that of the school yard. Development would only occur on the “development site” and the dog run and the school yard would continue to function as they presently do.

The subject site is located in a C6-4 zoning district that allows commercial and residential uses up to an FAR of 10. For developments that are more than 50% residential, a maximum FAR of 12 is achievable through the provision of a residential plaza or inclusionary housing.

### **Project Description**

As certified, the proposed development by West-Chambers Street Associates, LLC, is for a mixed-use building of 402,883 square feet or an FAR of 10.48 as calculated by the development site and dog run portions of the zoning lot. The majority of the building, 387,163 square feet, will be occupied by residential uses comprising 456 rental apartments. 10,141 square feet will be dedicated to ground floor retail use and 18,023 gross square feet will be dedicated to community facility use, a portion of this space will be below-grade. The development will also include a 95 space accessory parking garage located in the sub-cellar and accessed via a ramp entered from Warren Street.

The proposed building will be massed as two components, a tower and a low-rise wing. A 35 story tower will rise along West Street to a height of 360 feet without setback. This tower will have floor plates of approximately 10,900 square feet and will be bisected along a north-south axis with the two halves of the tower offset towards the opposite street lines of Chambers and Warren Street. The Chambers Street wing will contain seven stories and rise to a height of 87 feet without setback. This wing shall be primarily residential with some ground floor retail.

## **REQUESTED ACTIONS**

### **Special Permit - C 040257 (A) ZCM**

The EDC and West-Chmabers Street Associates, LLC, requests a special permit pursuant to Section 74-721(a) of the Zoning Resolution allowing the modification of height and setback regulations in Sections 23-632, 33-40, and 35-23. Section 74-721(a) allows the modification of height and setback regulations in C6-4 districts for developments on zoning lots of 40,000 square feet or larger. Sections 23-60 and 35-23 specify that on wide streets the front wall of a building may have a maximum height of 85 feet, above which a set back of 15 feet must be provided and above which the building shall not penetrate a sky exposure plane rising at a ratio of 5.6 to 1. On narrow streets, a building may rise to a height of 85 feet before setting back 20 feet and rising at a sky exposure plane of 2.7 to 1. Section 35-23 provides that in C6-4 districts, the R10 bulk regulations are applicable to the residential portion of mixed buildings.

The original, certified application for a special permit (C 040257 ZSM) requested a development that would rise without setback to a height of 360 feet for the full length of the building frontage, approximately 155 feet, along West Street. Along Warren and Chambers streets, narrow streets,

the tower portion of the proposed building would set back from the property line 3 feet and 6 feet respectively. After these setbacks, the tower would rise to its full height of 360 feet for approximately the first 75 feet of both Chambers and Warren Street. The development would also contain a low-rise wing along Chambers Street that would set back six feet from the street line before rising to a height of 97 feet without setback. Finally, the certified application also included a proposal a residential plaza that generated an FAR bonus of 0.48.

Pursuant to Section 2-06(c)(1) of the ULURP rules and subsequent to the certification of the original application, a modified application (C 040257 (A) ZSM) was submitted on May 18, 2004 for a building that had a slightly modified floor plate configuration of the tower portion of the development to allow for the better layout of corner apartments. The modified application differed from the originally certified application by extending a portion of the tower floor plates 2 feet to the north and to the south and by eliminating a floor from the low-rise wing along Chambers Street. This modification increased the size of the tower floor plates by 180 square feet and increased the building frontage along West Street by two feet to a total length of 157 feet. The modified application also reduced the height of the Chambers Street wing from 97 feet to 87 feet. Under this modified application, the tower portion of the development remained at a height of 360 feet. At that time, there was no change in the overall density of the project which remained at 402,883 zoning square feet or an FAR of 10.48 nor was there a change in the distribution of uses throughout the development.

The applicants are requesting approval of this special permit to provide for a superior urban design which would allow the bulk of the development to pulled towards the western portion of

the site and away from Washington Market Park, P.S. 234, and the neighboring, relatively low-rise portions of TriBeCa.

### **Designation of Urban Development Action Area and Approval of an Urban Development Action Area Project - C 040255 HAM**

The Department of Housing Preservation and Development (HPD) is seeking the designation of an Urban Development Action Area, the approval of a Urban Development Action Area Project (UDAAP) located at the subject site, and disposition to the EDC of (a) the fee interest in the development site and (b) the floor area development rights attributable to, and a light and air easement over, the dog run portion of the subject site. While having disposed of the development rights for the dog run, the city will retain ownership of the dog run. The development rights and ownership of the school yard shall remain unchanged and within City possession.

### **Amendment to City Map - N 920048 MEM**

In 1982, the City Map was amended (C 820079 MMM) to delineate north-south pedestrian easements across tax block 142 that were approximately parallel to the former Washington Street. The intent of the easements was to reflect a proposed grade-separated pedestrian walkway system that would have extended from the north end of the WSURA southward to the then elevated plaza of the World Trade Center. This walkway system was never shown on the City Map north of Chambers Street or south of Murray Street, but was reflected on former Sites 5C and 5B of the WSURA. A 1989 study conducted by the EDC determined that the north-south pedestrian flow was insufficient to warrant the development of a grade-separated, pedestrian

walkway. To facilitate proposed development on these sites, an amendment to the City Map to eliminate the easements across these sites is now proposed.

## **ENVIRONMENTAL REVIEW**

The certified application (C 040257 ZSM) and the modified application (C 040257 (A) ZSM), in conjunction with the application for the related action (C 040255 HAM), 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 02DME003M. The lead agency is the Office of the Deputy Mayor for Economic Development and Rebuilding (ODMEDR).

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued on May 23, 2003, and distributed, published, and filed. Along with its issuance of a Positive Declaration, ODMEDR issued a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) on May 23, 2003. A public scoping meeting was held on the DEIS on June 26, 2003. A Final Scope of Work, reflecting the comments made during scoping, was issued on August 20, 2003.

The applicant prepared a DEIS and issued a Notice of Completion on February 20, 2004. On June 9, 2004, a public hearing was held on the DEIS pursuant to SEQRA and other relevant statutes. The Final Environmental Impact Statement (FEIS) was completed, and a Notice of

Completion for the FEIS was issued on July 16, 2004. The Notice of Completion of the FEIS identified the following significant impacts and proposed the following mitigation measures:

## **PROBABLE IMPACTS OF THE PROJECT**

### **PUBLIC SCHOOLS SERVING THE PROJECT AREA**

The proposed project would result in the construction of a primarily residential building with 434 dwelling units. Based on the methodology presented in the CEQR Technical Manual, the proposed project would generate approximately 52 school age children, of whom 43 would be elementary school students and 9 would be middle school students.

The project site is located within the New York City Department of Education(s Planning Region 2, which is located in Community School District (CSD) 2. The additional 43 elementary school children would bring the total number of elementary school students within Planning Region 2 to 2,782. This is beyond the region(s capacity of 2,473 students, and it would bring the region to a 112-percent utilization rate. Although this increase in students would put a large burden on the public schools within Planning Region 2, the proposed project would introduce only a small percentage of the total number of new students anticipated to be introduced by the build year of 2006 as a result of all residential development in Lower Manhattan. In addition, it would result in a 1-percent increase in the planning region(s utilization rate; however, it is anticipated that the proposed project would allocate approximately 10,000 square feet of the on-site community facility space for classroom and/or accessory space for the adjacent P.S. 234. In CSD 2 as a whole, the utilization rate would be 100 percent, which is the same as the utilization rate in the future without the proposed actions.

Middle school enrollment would continue to be below the Planning Region 2 capacity of 3,264 students with a utilization rate of 72 percent. In CSD 2 as a whole, the utilization rate for middle schools would be 102 percent, which is the same as the utilization rate in the future without the proposed actions.

### **OPEN SPACE**

The proposed project would introduce approximately 885 new residents and 96 new workers to the project site. The open space ratios would decrease from the No Build condition due to the number of new residents and workers introduced by the proposed project. Although the open space ratios would decrease, no open space ratio would decrease more than 4 percent. (According to the CEQR Technical Manual, a 5-percent decrease in open space ratios is generally considered to be a substantial change that warrants further analysis.) Additionally, in the future with the proposed actions, most open space ratios would still be above DCP standards. As in the No Build condition, the ratio of active open space per 1,000 residents would remain below DCP standards. Therefore, the proposed project would not have a significant adverse impact on the adequacy of open space resources within the study area.



## SHADOWS

The site is near a wide variety of parks and open spaces located in Tribeca and Battery Park City North. A building of the proposed building(s) height (300 feet) at this location would cast shadows on a number of open spaces. The shadow coverage and duration would vary on each open space depending on season and location of the open space.

In the morning, the proposed building would cast shadows on public open spaces to the west, including the BPC North End Avenue Mall, the BPC ball fields, the P.S./I.S. 89 playground, the plaza adjacent to Stuyvesant High School, Hudson River Park, and the bikeway/walkway adjacent to West Street. From midday through evening, the proposed building would cast shadows on open spaces to the north (the tennis courts and basketball court of Washington Market Park, as well as the main portion of Washington Market Park). Open spaces to the east of the site (the Greening of Greenwich Street linear open space and the P.S. 234 playgrounds) would be in the building(s) shadow in the afternoon.

Shadow increments on the majority of public open spaces in the immediately surrounding area would not be considered adverse due to short duration, the fact that they would fall on an open space at only certain times of the year, or due to the time of day at which they fall on a resource. However, the proposed project would have significant adverse shadow impacts on Washington Market Park.

Overall, the tennis and basketball courts of Washington Market Park would be in shadow from the proposed building for about five hours, generally, during the middle of the day throughout most of the year. These paved facilities are for active recreation and, therefore, the impact is considered adverse but not significant on the March/September, May/August, and December analysis days. There would not be an adverse impact on the June analysis day, because the duration of the shadows would be less, and the incremental shadow would cover a smaller area of the courts than at other times of the year. On some analysis days, the shadow of the proposed project on the main lawn of Washington Market Park has greater duration and coverage than on others. There would be a significant adverse impact on the March/September and May/August analysis days, when the shadow would cover large portions of the park for much of the afternoon.

## NEIGHBORHOOD CHARACTER

The proposed project would not have cumulative adverse effects on the combined elements that contribute to the neighborhood character of the area surrounding the project site. It would not result in any significant adverse impacts to land use, open space, historic resources, urban design and visual resources, transit and pedestrians, or noise. Although there would be impacts to three intersections from project-generated traffic, these impacts can be mitigated through traffic management measures. The proposed project would have adverse shadow impacts on the Washington Market Park tennis and basketball courts and significant adverse shadow impacts on the Washington Market Park lawn, but these impacts would not significantly alter the overall character of the neighborhood.

## HAZARDOUS MATERIALS

Preventative measures would be undertaken to protect the safety of the public, community residents, and construction workers, as well as the larger environment for areas where

redevelopment has the potential to encounter areas of contamination. These measures would include a Phase II subsurface investigation to determine the nature and extent of contamination and prescribed construction measures to manage contaminated materials prior to and/or during construction. The Phase II subsurface investigation would be performed in accordance with a New York City Department of Environmental Protection (DEP)-approved Phase II Site Investigation Work Plan (Phase II Work Plan) and Health and Safety Plan (HASP).

The DEP-approved Phase II Work Plan and HASP includes the collection of both soil and groundwater samples and sample analysis for VOCs, SVOCs, PCBs/pesticides, and TAL metals. The investigation also includes an electromagnetic (EM) survey in the vicinity of the fill cap in the southwestern portion of the project site to attempt to locate an underground petroleum storage tank.

A Site Investigation Report would be prepared following the completion of the sampling program. The report would document field activities, present field and laboratory data, and discuss conclusions and recommendations drawn from the results of the investigation. The report would compare the analytical results to appropriate City, state, and federal standards and guidelines. The report would be submitted to DEP for review and approval, and following the receipt of the results of the site investigation, the need for tank removal, special handling of soil and any special health and safety requirements during construction would be determined. Based on the recommendations provided by DEP, remediation would occur on the project site prior to and/or during construction. The protocol for remediation would be presented in a site-specific Remedial Work Plan, as necessary, which would include a Health and Safety Plan.

Prior to site development, a site-specific Construction Health and Safety Plan (CHASP) would be prepared. The CHASP would include health and safety procedures to minimize exposure to workers and the public, including dust monitoring (and, if applicable, VOC monitoring). The CHASP would include provisions for the identification and management of known and/or unexpected buried tanks or contaminated materials that might be encountered during the soil disturbance activities associated with construction.

To ensure that further investigative and/or remedial measures, as well as health and safety measures, occur prior to and/or during construction, a Memorandum of Understanding between EDC and DEP is currently being prepared. WCSA will be required to comply with the stipulations of the MOU.

#### **TRAFFIC AND PARKING**

The proposed project would result in adverse impacts to a number of intersections in the study area. However, all impacts would be mitigated, as discussed below under (Mitigation.) (No impacts to parking would occur as a result of the proposed project.

#### ***TRAFFIC***

The residential, retail, and community facility components of the proposed project are expected to generate 51, 33, and 53 vehicle trips during the weekday AM, midday, and PM peak hours, respectively. For the most part, road capacities would be sufficient to accommodate the increases in traffic volumes from the addition of project-generated traffic throughout the study area.

However, the additional traffic would be expected to result in significant traffic impacts requiring mitigation at three intersections in the study area, as listed below:

#### AM Peak Period

The eastbound approach of Chambers Street at West Street, where delays would increase from 117.0 seconds per vehicle (spv) (LOS F) in the No Build condition to 121.1 spv (LOS F) in the Build condition; the westbound shared left-turn and through movement of Chambers Street at West Street, where delays would increase from 143.1 spv (LOS F) in the No Build condition to 147.0 spv (LOS F) in the Build condition; and

The eastbound approach of Chambers Street at West Broadway, where delays would increase from 85.5 spv (LOS F) in the No Build condition to 88.5 spv (LOS F) in the Build condition.

#### PM Peak Period

The eastbound approach of Chambers Street at West Street, where delays would increase from 231.8 spv (LOS F) in the No Build condition to 241.3 spv (LOS F) in the Build condition; the westbound shared left-turn and through movement of Chambers Street at West Street, where delays would increase from 175.0 spv (LOS F) in the No Build condition to 178.9 spv (LOS F) in the Build condition; and

The westbound left-turn movement of Chambers Street at Broadway, where delays would increase from 135.8 spv (LOS F) in the No Build condition to 141.4 spv (LOS F) in the Build condition.

#### *PARKING*

The proposed action would decrease the inventory of the off-street parking in the study area by displacing the existing public parking lot on the project site. With the proposed action, the resulting public off-street parking supply in the study area would decrease from 2,063 spaces under the No Build condition, to 1,863 spaces in the Build condition, during the weekday midday peak hour. During the weekday overnight hours, public off-street parking supply in the study area would decrease from 1,917 spaces under the No Build condition, to 1,717 spaces in the Build condition. The project is estimated to create a peak demand of up to 143 spaces, and the 95-space on-site parking garage is expected to accommodate most of the project-generated demand. While utilization in the area would be high, the proposed project would not significantly impact the supply of off-street parking.

#### PEDESTRIAN SAFETY

Four study area intersections are considered high pedestrian accident locations, as defined by the CEQR Technical Manual. With the proposed action in place, these intersections would experience minor increases in vehicular traffic. Those closer to the project site would also experience increases in pedestrian traffic.

Based on the analyses of the future pedestrian conditions and consideration of relative changes in pedestrian levels, it was concluded that project-generated trips would not adversely impact pedestrian safety in the study area.

## TRANSIT AND PEDESTRIANS

While the proposed project is estimated to generate more than 200 subway trips, these trips would be distributed to multiple access locations at three nearby subway stations, such that no one station would experience increases of more than 200 project-related trips. This level of subway trip generation is not expected to result in significant adverse impacts, according to the analysis threshold guidelines in the CEQR Technical Manual. The proposed project would result in an increase in pedestrian activities within the study area that includes the four intersections framing the project site. Overall, 734, 415 and 655 person trips would be generated during the AM, midday and PM peak hours, respectively. Quantified analyses were conducted at the Greenwich Street and Chambers Street intersection, and all pedestrian elements analyzed for that intersection would continue to operate at acceptable levels with the added demand projected for the Build condition.

## AIR QUALITY

Analysis of carbon monoxide (CO) concentrations associated with the proposed project indicates that there would be no violations of the CO standards or any significant impacts at the receptor locations. In addition, the exhaust from the proposed parking garage would not result in any violations of the CO standards or any adverse air quality impacts.

The primary stationary source of air pollutants associated with the project would be the emissions from the natural gas-fired HVAC systems. Based on the screening methodologies in the CEQR Technical Manual, burning natural gas would not result in any significant stationary source air quality impacts.

## NOISE

For the proposed project, the future noise level would consist of the combined effect of future traffic (both project- and non-project-generated) and ambient noise levels. Existing and No Build traffic volumes near the project area are relatively high, and in general, project-generated traffic volumes are relatively low. There are no locations where there would be the potential for significant increases in noise level due to the increases in project-generated traffic.

The proposed building would be designed to include well-sealed, double-glazed windows and central air conditioning (i.e., alternative ventilation). In addition, the building(s) mechanical equipment such as heating, ventilation, and air conditioning (HVAC) and elevator motors would utilize sufficient noise reduction devices to comply with applicable noise regulations and standards. Overall, the proposed project would not have any significant adverse noise impacts.

## CONSTRUCTION

### *LAND USE*

Construction of the project would cause some disruptions to activities in the surrounding area. However, these disruptions would be temporary in nature, with overall construction anticipated to last approximately 24 months. In general, construction would not alter surrounding land uses, although certain types of activities would be intrusive to adjacent residences and community facilities. Adjacent to the construction site is P.S. 234, a particularly sensitive land use that is discussed separately below.

While there may be some inconvenience associated with construction of the project and construction hours would coincide with the hours of operation of nearby schools, construction activities would be similar to construction at any other site in Manhattan, and the hours of construction would be regulated by the New York City Noise Code and the New York City Department of Buildings. Furthermore, WCSA would work with the nearby sensitive uses to minimize disruption of their activities, to the extent practicable. Other changes, such as the sidewalk closures, would also be apparent to people living and working in the surrounding area, but the implementation of a construction management plan would minimize the effects of these closures.

#### *P.S. 234 OPERATIONS*

The site is located immediately adjacent to P.S. 234, a pre-kindergarten through 6th grade elementary school. Because of its proximity, several steps would be undertaken to prevent and minimize potential impacts. The first step would be to enclose the construction so that dust and dirt would not blow onto the school property. A solid 8-foot high wall would be placed around the site, and access would be limited to workers and construction inspectors.

During the construction of the building, when materials could fall from above, horizontal netting would project from the sides of the building. This netting would prevent any debris from falling onto the properties below. Configuration of horizontal netting is governed by the Building Code of the City of New York. Over the sidewalks that abut the building, a shed would be built to protect pedestrians.

To further protect the school children, a 20-foot wide buffer structure would temporarily be built into the playground on the school(s) west side. This buffer would prevent any debris from falling onto the playground. The two wings of the proposed building adjacent to the playground would be 6 and 7 stories (between 85 and 97 feet tall), compared to the 29 story tower proposed for the western portion of the site, farthest away from P.S. 234. The buffer structure would consist of a concrete barrier, about 3 feet high, topped with an 8-foot high fence. A solid roof from the proposed building to the fence would complete the buffer structure. According to the current schedule, the buffer structure would be installed during the summer of 2005 and removed in the summer of 2006. The existing playground, one of two at P.S. 234, ranges from 30 to 45 feet wide. The buffer structure would, for about one year, reduce the amount of schoolyard space available at P.S. 234. This reduction in schoolyard space is considered to be a temporary adverse impact, necessary to ensure safety. A similar buffer structure would be provided in the dog run as a safety measure.

In order to ensure communications with P.S. 234, a construction liaison would be designated. This person would meet regularly with the administration of P.S. 234 to discuss upcoming school events and methods to minimize disruption. The liaison would have the authority to implement the agreements reached with the school administration.

#### *HISTORIC RESOURCES*

The project site would require excavation for the proposed building. Since the site may contain potentially significant archaeological resources, Stage 1B archaeological field testing would be undertaken in order to conclusively determine whether there are any resources present on the site

that could be disturbed by the proposed project. In the event resources are identified as present, mitigation will be developed in consultation with the New York City Landmarks Preservation Commission.

To avoid physical damage to the New York City Landmark bishop(s crook lamppost at the intersection of Warren Street and the former Washington Street, temporary construction fencing would be installed so that delivery trucks would be aware of its location and be able to avoid it.

### *HAZARDOUS MATERIALS*

The analysis of hazardous materials for this site concluded that there may be a potential for adverse hazardous materials impacts during construction activities resulting from the presence of fill from unknown sources and possible underground storage tanks. Prior to construction, a Phase II Environmental Site Assessment would be performed to test and identify any potential hazardous materials impacts. If such impacts are found, a Remedial Action Plan will be implemented. To ensure that these actions occur, a Memorandum of Understanding (MOU) between EDC and DEP will be executed prior to construction. WCSA will be required to comply with the MOU that will require that a DEP-approved Phase II Site Investigation Work Plan and Health and Safety Plan would be implemented prior to development, followed by a Remedial Action Plan, if necessary.

Prior to site development, a site-specific Construction Health and Safety Plan (CHASP) would be prepared. The CHASP would include health and safety procedures to minimize exposure to workers and the public, including dust monitoring (and, if applicable, VOC monitoring). The CHASP would include provisions for the identification and management of known and/or unexpected buried tanks or contaminated materials that might be encountered during the soil disturbance activities associated with construction.

## **MITIGATION**

### **SHADOWS**

The significant adverse impact identified for Washington Market Park could only be mitigated by reducing the height of the proposed building to below 250 feet. However, reducing the height to between 200 and 250 feet as proposed by two of the Community Board 1 alternatives (discussed below) would not eliminate the adverse shadow impacts on the Washington Market Park tennis and basketball courts. It is also expected that a building 200 to 250 feet tall would still have adverse impacts on Washington Market Park on the March/September analysis day. The adverse impacts on the park and the tennis and basketball courts could only be eliminated by substantially reducing the building height to below 200 feet. To compensate for the reduction in building height and the corresponding loss of residential floor area, the proposed building(s) footprint would have to be increased by filling the interior of the site or by raising the height of the wings on Chambers and Warren Streets. These design changes would place additional bulk adjacent to P.S. 234 and the Tribeca Dog Run. Because none of the alternatives analyzed would meet the purpose and need of the proposed action and because there are no reasonably practical mitigation measures that would eliminate the identified shadow impact on the park, the significant adverse impact attributable to the proposed project would be unmitigated.

## HISTORIC RESOURCES

Stage 1B archaeological field testing will be conducted on the project site prior to any construction activities to determine whether there are any archaeological resources present that could be adversely impacted by project construction. In the event resources are identified as present, mitigation will be developed and implemented in consultation with LPC. Mitigation may include Stage 2 subsurface investigations, as well as further research, to determine whether or not the resources identified are eligible for the State and National Registers. If resources were determined to meet National Register eligibility criteria, Stage 3 data recovery would be undertaken in the form of a full-scale excavation and documentation of archaeological resources or through avoidance of the resources.

## HAZARDOUS MATERIALS

A Memorandum of Understanding between EDC and DEP will be executed prior to construction to ensure that the proper remedial and/or safety measures are employed during redevelopment of the project site. WCSA will be required to comply with the stipulations of the MOU. As required by the Memorandum of Understanding, construction activities for the proposed project would be conducted under a site-specific Construction Health and Safety Plan with contingencies for the identification and management of known and/or unexpected underground storage tanks, drums, and contaminated soil. The protocol for remediation would be presented in a site-specific Remedial Work Plan, as necessary, which would include a Health and Safety Plan. During redevelopment, the historic fill on the project site would be disposed of in accordance with all applicable Federal, State, and local regulations. If underground storage tanks are identified during an electromagnetic survey, conducted as part of the Phase II subsurface investigation that is required by the MOU, or during excavation activities, they would be properly closed and removed, along with associated piping, and/or contaminated soil in accordance with all applicable Federal, State, and local regulations. Any suspected asbestos-containing materials or lead-based paint in the on-site parking lot structures and trailers would be properly removed and disposed of in accordance with all applicable Federal, State, and local regulations. Finally, any stored chemicals would be removed from the project site in accordance with all applicable Federal, State, and local regulations. Therefore, the proposed project would not be expected to have significant adverse impacts related to hazardous materials with the implementation of these measures.

## TRAFFIC

Three study area intersections would experience adverse traffic impacts as a result of vehicular traffic generated by the proposed project. However, all traffic impacts could be mitigated, as described below.

### *West Street and Chambers Street*

The impacts at the eastbound approach and at the westbound shared left-turn and through movement during both the AM and PM peak hours could be mitigated by prohibiting standing/parking along the south curbside of the eastbound Chambers Street approach for approximately 100 feet in combination with restriping the first 100 feet of the Chambers Street westbound approach to allow for a wider left-through shared lane. This proposed mitigation would result in a loss of up to five on-street parking spaces on the eastbound approach of Chambers Street during the AM and PM peak hours. The proposed change in parking regulations

on eastbound Chambers Street would be subject to review by the Battery Park City Authority.

These measures would mitigate impacts so that service conditions would be the same as or better than the No Build condition during both the AM and PM peak hours.

*West Broadway and Chambers Street*

The impact at the eastbound approach during the AM peak hour could be mitigated by shifting one second of green time from the southbound phase to the eastbound/westbound phase. This measure would mitigate impacts so that service conditions would be the same as or better than the No Build condition during the AM peak hour.

*Broadway and Chambers Street*

The impact at the westbound left-turn movement during the PM peak hour could be mitigated by shifting one second of green time from the southbound phase to the eastbound/westbound phase. This measure would mitigate impacts so that service conditions would be the same as or better than the No Build condition during the PM peak hour.

**AIR QUALITY**

The proposed traffic mitigation measures would not result in any violations of the CO standard or any significant impacts at the receptor locations.

**UNIFORM LAND USE REVIEW**

The original application (C 040257 ZSM), in conjunction with the application for the related action, (C 040255 HAM), was certified as complete by the Department of City Planning on February 23, 2004, and was duly referred to Community Board 1 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules. On May 25, 2004, the modified application (C 040257 (A) ZSM) was referred pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure to Community Board 1 and the Borough President.

**Community Board Public Hearing**

Community Board 1 held a public hearing on this application on March 30, 2004, and on that date, by a vote of 37 to 0 with 3 abstentions, adopted a resolution recommending disapproval of



the application. The Community Board cited the following reasons for its disapproval:

- “...the size of any community and recreation center proposed for Site 5C [should] be at least 40,000 square feet in size”
- “the ‘urban’ plaza [should] be eliminated from the proposed design and that the size and bulk of this project be reduced...”
- “Community Board #1 supports reasonable development on Site 5C but strongly believes that any such development should be subject to appropriate restrictions to ensure that the height of any proposed structure is limited to prevent shadows on Washington Market Park and that any proposed development provide a real public use fulfilling the needs of residents of the neighborhood, including the children who attend adjacent local schools and depend on nearby parks, and the local business community...”

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application on May 17, 2004 subject to the following conditions:

- The building tower height is lowered to 300 feet.
- There is 28,000 square feet designated for a community center and an additional 10,000 square feet designated for the use of the Department of Education.”

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

On May 26, 2004 (Calendar No. 3, and Supplemental Calendar No. 1), the City Planning Commission scheduled June 9, 2004, for a public hearing on the original application (C 040257 ZSM) and the modified application (C 040257 (A) ZSM). The hearing was duly held on June 9, 2004 (Calendar No. 7 and 8), in conjunction with the public hearing on the application for the

related action (C 040255 HAM). There were three speakers in favor of the application and seven speakers in opposition.

The speakers in favor of the project included representatives of the applicants and the project's architect. The representatives of the applicants and the project's architects presented the proposed building and its programming. These speakers highlighted the rationale for the proposed massing which was to shift the bulk of the proposed development away from the nearby school and park. The project's architect noted that the building serves as a transition from the high rise financial district and Battery Park City to the low rise character of TriBeCa. The project's architect also noted that the tower would sit on West Street, a wide street, which could accommodate more bulk given the roadway's substantial width.

The speakers in opposition of the project included the City Council Member for District 1, a representative of the State Assembly Member for District 66, a representative of the State Senator for the 25<sup>th</sup> District, the District Manager of Community Board 1, two members of Community Board 1, and a representative of the Parent-Teacher Association (PTA) of P.S. 234.

The City Council Member requested that the application be withdrawn or disapproved because the proposed building height of 360 feet was greater than what the local community had advocated. The Council Member expressed concern that the building would cast shadows on the adjacent park and school and stated that a tower height of no greater than 300 feet was appropriate. He further testified that the community facility space should be expanded to 40,000 square feet and raised concerns that there was not adequate space in local schools to

accommodate the increased population of school children that the development would generate. Finally, he expressed his belief that any actions on the subject site be done concurrently with those for former Site 5B of the WSURA.

Representatives of the Assembly Member and State Senator also opposed the proposed height of the development and the size of the proposed community facility space. The Assembly Member in particular was concerned about the impact of the shadows that would be cast by the development.

Two members of Community Board 1 testified that the height of the proposed development was too great, expressed concerns about shadow impacts on the adjacent park, and stressed the need for coordinated planning.

A representative of the PTA for P.S. 234 spoke in opposition to the project stating that there was insufficient space at local schools to handle any increases in the area's student population that would result from the project.

The district manager of Community Board 1 stated that the Community Board was opposed to the height of the project and advocated for a maximum height of 250 feet. He expressed concerns about the adequacy of school seats and that the proposed community facility space was inadequate.

There were no other speakers and the hearing was closed.

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

The application (C 040257 and C 040257 (A) ZSM), in conjunction with the application for the related action (C 040255 HAM), 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 04-069.

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

### **CONSIDERATION**

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

Following the public hearing, the modified application was revised by the applicants on July 7, 2004 in response to issues raised during the public review. This revised proposal has a tower along West Street, a wide street, that would rise from the street line to its full height of 300 feet. Along Warren and Chambers streets, narrow streets, the tower portion of the proposed building would set back from the property line three feet and six feet respectively. After this setback, the tower would rise to its full height of 300. On Chambers Street, beyond the tower portion of the development, a wing of the proposed development would set back from the street line six feet and then rise without setback to a height of 85.2 feet. Correspondingly, on Warren Street, a wing would be developed that sets back three feet from the street line and rises to a height of 85 feet where, after a 20 foot setback, a portion of the building would continue to a height of 97 feet.

This revised application reduces the floor area of the building to 384,080 square feet or an FAR of 10 and increases the community facility space to 41,175 gross square feet. With the addition of the Warren Street wing, the proposed residential plaza has been removed.

The Commission believes that the requested height and setback waivers produce an appropriate building form and facilitate the development of a site which shall be an important component of the redevelopment of Lower Manhattan.

The proposed building requires modification to the height and setback regulations (Sections 23-60, 33-40 and 35-23), pursuant to Section 74-721(a) of the Zoning Resolution. Section 74-721(a) allows the City Planning Commission to modify height and setback regulations on zoning lots with a minimum area of 40,000 square feet. The proposed project satisfies the requirement of Section 74-721(a) in that the development is to be located on a zoning lot having an area of 40,200 square feet.

The Commission believes that the revised proposal addresses the concerns raised during the public review. The Commission notes that the height of the proposed tower has been reduced from 360 feet to 300 feet. In addition, the street wall along Chambers Street has been reduced from 97 feet to 85.2 feet in height. This will reduce shadows upon the adjacent Washington Market Park. Furthermore, the Commission believes that the revised proposal minimizes the effect on the adjacent school and park by massing the majority of the project's bulk as far to the west and away from these uses. The Commission notes that the design of the tower, which is bisected along a north-south axis, has been developed in an effort to reduce the width of the

shadow projected from the tower as well as the apparent visual width of the tower. It is further noted that the proposed height of the tower along West Street would act as a transition between the high rise nature of the Financial District to the south and the low rise character of TriBeCa to the north.

The Commission notes the testimony given at public hearing and in Community Board 1's resolution calling for greater community facility space to be allocated within the project and thus for a greater public purpose to be served by development on this site. In response to these concerns, the applicants have approximately doubled the amount of community facility space to be located within the project. A portion of this community facility space, approximately 10,000 square feet, will be allotted for use by the Department of Education to serve the needs of area school children. The Commission believes that the proposed community facility space will provide a significant amenity for residents of the building and the neighborhood.

With regards to the request of the Community Board 1 through their resolution on this application that the proposed residential plaza be eliminated, the Commission notes that the applicant has revised the application and removed this part of the project proposal. The Commission believes that the low-rise wing, which now has replaced the plaza, will provide definition to Warren Street and activate the street through the uses proposed in this wing.

Given the unprecedented amount redevelopment activity occurring in the Downtown, the Commission encourages the developers to continue to work with Community Board 1 throughout

the planning and implementation of this project so as to minimize disruptions caused by the construction of this project.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on July 16, 2004, with respect to this application (CEQR No. 02DME003M), the City Planning Commission finds that the requirements of Part 617, State Environmental Quality Review, have been met and that, consistent with social, economic and other essential considerations:

1. From among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoid adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; 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**, 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 New York City Economic Development Corporation and West-Chambers Street Associates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-721(a) of the Zoning Resolution to permit the modification of the height and setback regulations of Sections 23-60, 33-40 and 35-23 of the Zoning Resolution to facilitate the development of a 29-story, mixed use building on a zoning lot located at 200 Chambers Street (Block 142, Lot 9 and part of Lot 1), in a C6-4 District, Community District 1, Borough of Manhattan, is approved subject to the following terms and conditions:

1. The granting of this special permit shall be contingent on the execution, filing, and recordation of a Zoning Lot Development Agreement between the applicants and the Department of Education wherein it is stipulated that development shall not occur on, nor shall development rights be utilized for the development of this project from, the School Yard Portion of the subject site.
  
2. The property that is the subject of this application (C 040257 (A) 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 & Partners, LLP, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-2	Site Plan, Schedules & Calculations	May 4, 2004
Z-3	Height & Setback	May 4, 2004



Z-4	Average Curb Level & Yard Diagrams	May 4, 2004
Z-5	Street Trees & Curb Cuts, Refuse Storage	May 4, 2004
Z-6	Street Wall & Signage	May 4, 2004
Z-7	1 <sup>st</sup> Floor Plan	May 4, 2004
Z-8	Cellar & Sub-Cellar Floor Plans	May 4, 2004
Z-9a	Floor Plans	May 4, 2004
Z-9b	Floor Plans	May 4, 2004
Z-10	Elevations	May 4, 2004
Z-11	Section	May 4, 2004
Z-12	Survey	May 26, 2004

3. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
  
4. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
  
5. The development shall include those mitigative measures listed in the Final Environmental Impact Statement (CEQR No. 02DME003M) issued on July 16, 2004:

## **MITIGATION SHADOWS**

The significant adverse impact identified for Washington Market Park could only be mitigated by reducing the height of the proposed building to below 250 feet. However, reducing the height to between 200 and 250 feet as proposed by two of the Community Board 1 alternatives (discussed below) would not eliminate the adverse shadow impacts on the Washington Market Park tennis and basketball courts. It is also expected that a building 200 to 250 feet tall would still have adverse impacts on Washington Market Park on the March/September analysis day. The adverse impacts on the park and the tennis and basketball courts could only be eliminated by substantially reducing the building height to below 200 feet. To compensate for the reduction in building height and the corresponding loss of residential floor area, the proposed building(s) footprint would have to be increased by filling the interior of the site or by raising the height of the wings on Chambers and Warren Streets. These design changes would place additional bulk adjacent to P.S. 234 and the Tribeca Dog Run. Because none of the alternatives analyzed would meet the purpose and need of the proposed action and because there are no reasonably practical mitigation measures that would eliminate the identified shadow impact on the park, the significant adverse impact attributable to the proposed project would be unmitigated.

## **HISTORIC RESOURCES**

Stage 1B archaeological field testing will be conducted on the project site prior to any construction activities to determine whether there are any archaeological resources present that could be adversely impacted by project construction. In the event resources are identified as present, mitigation will be developed and implemented in consultation with LPC. Mitigation may include Stage 2 subsurface investigations, as well as further research, to determine whether or not the resources identified are eligible for the State and National Registers. If resources were determined to meet National Register eligibility criteria, Stage 3 data recovery would be undertaken in the form of a full-scale excavation and documentation of archaeological resources or through avoidance of the resources.

## **HAZARDOUS MATERIALS**

A Memorandum of Understanding between EDC and DEP will be executed prior to construction to ensure that the proper remedial and/or safety measures are employed during redevelopment of the project site. WCSA will be required to comply with the stipulations of the MOU. As required by the Memorandum of Understanding, construction activities for the proposed project would be conducted under a site-specific Construction Health and Safety Plan with contingencies for the identification and management of known and/or unexpected underground storage tanks, drums, and contaminated soil. The protocol for remediation would be presented in a site-specific Remedial Work Plan, as necessary, which would include a Health and Safety Plan. During redevelopment, the historic fill on the project site would be disposed of in accordance with all applicable Federal, State, and local regulations. If underground storage tanks are identified during an electromagnetic survey, conducted as part of the Phase II subsurface investigation that is required by the MOU, or during excavation

activities, they would be properly closed and removed, along with associated piping, and/or contaminated soil in accordance with all applicable Federal, State, and local regulations. Any suspected asbestos-containing materials or lead-based paint in the on-site parking lot structures and trailers would be properly removed and disposed of in accordance with all applicable Federal, State, and local regulations. Finally, any stored chemicals would be removed from the project site in accordance with all applicable Federal, State, and local regulations. Therefore, the proposed project would not be expected to have significant adverse impacts related to hazardous materials with the implementation of these measures.

## TRAFFIC

Three study area intersections would experience adverse traffic impacts as a result of vehicular traffic generated by the proposed project. However, all traffic impacts could be mitigated, as described below.

### *West Street and Chambers Street*

The impacts at the eastbound approach and at the westbound shared left-turn and through movement during both the AM and PM peak hours could be mitigated by prohibiting standing/parking along the south curbside of the eastbound Chambers Street approach for approximately 100 feet in combination with restriping the first 100 feet of the Chambers Street westbound approach to allow for a wider left-through shared lane. This proposed mitigation would result in a loss of up to five on-street parking spaces on the eastbound approach of Chambers Street during the AM and PM peak hours. The proposed change in parking regulations on eastbound Chambers Street would be subject to review by the Battery Park City Authority.

These measures would mitigate impacts so that service conditions would be the same as or better than the No Build condition during both the AM and PM peak hours.

### *West Broadway and Chambers Street*

The impact at the eastbound approach during the AM peak hour could be mitigated by shifting one second of green time from the southbound phase to the eastbound/westbound phase. This measure would mitigate impacts so that service conditions would be the same as or better than the No Build condition during the AM peak hour.

### *Broadway and Chambers Street*

The impact at the westbound left-turn movement during the PM peak hour could be mitigated by shifting one second of green time from the southbound phase to the eastbound/westbound phase. This measure would mitigate impacts so that service conditions would be the same as or better than the No Build condition during the PM peak hour.

## AIR QUALITY

The proposed traffic mitigation measures would not result in any violations of the CO standard or any significant impacts at the receptor locations.

6. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
  
7. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution 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.
  
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 040257 (A) ZSM), duly adopted by the City Planning Commission on July 28, 2004 (Calendar No. 42), 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., RICHARD W. EADDY, JANE D. GOL,**  
**CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS,**  
**DOLLY WILLIAMS**, Commissioners