



CITY PLANNING COMMISSION

October 1, 2007/Calendar No. 3

C 070413 ZSM

IN THE MATTER OF an application submitted by West Street Development, LLC, pursuant to Section 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 91-73 of the Zoning Resolution to allow the unmapped air space above the approaches to the Brooklyn Battery Tunnel to be considered a single zoning lot and to allow such zoning lot to include contiguous area of land to facilitate the development of a mixed use development on property located at 50 West Street (Block 17, Lots 1001-1005 and Block 18, p/o Lot 100), in a C6-9 District, within the Special Lower Manhattan District, Borough of Manhattan, Community District 1.

The application for a special permit pursuant to Section 91-73 was filed by West Street Development, LLC on April 12, 2007 to allow the unmapped air space above the approaches to the Brooklyn Battery Tunnel to be considered a single zoning lot and to allow such zoning lot to include contiguous area of land to facilitate the development of a mixed use development on property located at 47-50 West Street in Community District 1, Borough of Manhattan.

RELATED ACTIONS

In addition to the special permit pursuant to 91-73, 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

- N 070412 ZRM Amendment to Zoning Resolution Sections 91-231, 91-31, 91-73, and Appendix A, Map 2 (Special Lower Manhattan District provisions)
- C 070414 ZSM Special permit, pursuant to 91-35, to modify the setback requirements of Section 91-32
- 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 (C 070413 ZSM), in conjunction with the application for the related actions (C 070351 MMM, N 070412 ZRM, 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).

UNIFORM LAND USE REVIEW

This application (C 070413 ZSM) in conjunction with applications for related actions (C 070351 MMM, C 070414 ZSM, C 070415 ZSM), 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), along with related non-ULURP action (N 070412 ZRM, N 070416 ZCM) which was referred for information and review.

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: C 070413 ZSM, N 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 (C 070413 ZSM). 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, N 070412 ZRM, 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 (C 070413 ZSM), in conjunction with the related actions (N 070412 ZRM, 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 special permit (C 070413 ZSM) as modified herein, in conjunction with the related actions (C 070351 MMM, N 070412 ZRM, 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).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 91-73:

- (1) adequate access and street frontage to one or more streets is provided;
- (2) 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.

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, by the City Planning Commission, pursuant to Sections 197-c and 201 of the New York Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by West Street Development LLC pursuant to Sections 197-c and 200 of the New York City Charter for the grant of a special permit pursuant to Section 91-73 of the Zoning Resolution to allow the unmapped air space above the approaches to the Brooklyn Battery Tunnel to be considered a single zoning lot and to allow such zoning lot to include contiguous area of land to facilitate the development of a mixed use development on property located at 50 West Street (Block 17, Lots 1001-1005 and Block 18, p/o Lot 100), in a C6-9 District, within the Special Lower Manhattan District, Borough of Manhattan, Community District 1 is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 070414 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 Gruzen Samton, LLP, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-01	Attachment 2.0 Site Plan	
	Attachment 4.0 Zoning Analysis	8/15/07
Z-02	Attachment 2.0 Site Plan	
	Attachment 4.1 Zoning Analysis	4/10/07
Z-03	Attachment 4.2 Zoning Analysis	4/10/07
Z-04	Attachment 4.3 Context Elevations	4/17/07
Z-05	Attachment 9.0 Area Map	4/10/07

And prepared by Archipelago, filed with this application and incorporated in this resolution:

L-000	Site and Zoning Lot	8/23/07
ZL-01	Open Space and Zoning Plan	8/23/07
ZL-02	Permitted Obstructions Plan	8/23/07
L-100	Layout Plan	8/23/07

L-101	Grading Plan	8/23/07
L-102	Material and Site Furnishings Plan	8/23/07
L-103	Bench Plan	8/23/07
L-104	Planting Plan	8/23/07
L-200	Lighting Plan	8/23/07
L-300	Attachment 3.06 Plaza Section-Elevation	8/23/07
L-301	Attachment 3.07 Plaza Section-Elevation	8/23/07
L-400	Seating Area A	8/23/07
L-401	Seating Area B	8/23/07
L-402	Seating Area C	8/23/07
L-403	Seating Area D	8/23/07
L-500	Site Details	8/23/07
L-501	Signage Details	8/23/07

- 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 and the attached restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not

limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the attached restrictive declaration.

- 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 070413 ZSM), duly adopted by the City Planning Commission on October 1, 2007 (Calendar No. 3), 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**