



## CITY PLANNING COMMISSION

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March 30, 2015/Calendar No. 6

C 150130(A) ZSM

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**IN THE MATTER OF** an application submitted by Green 317 Madison LLC and Green 110 East 42<sup>nd</sup> 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 Procedures for the grant of a special permit pursuant to Section 81-642 of the Zoning Resolution to modify, in conjunction with the special permit pursuant to Section 81-641 (Additional floor area for the provisional of public realm improvements):

1. the street wall requirements of Sections 81-43 (Street Wall Continuity along Designated Streets) and 81-621 (Special street wall requirements);
2. the height and setback requirements of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), 81-27 (Alternative Height and Setback Regulations – Daylight Evaluation), and 81-622 (Special height and setback requirements); and
3. the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-45 (Pedestrian Circulation Space) and the requirements of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), 81-47 (Major Building Entrances), 81-623 (Building lobby entrance requirements), and 81-624 (Curb cut restrictions and loading requirements);

to facilitate the development of a commercial building on property bounded by 42<sup>nd</sup> Street, Madison Avenue, 43<sup>rd</sup> Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict), Borough of Manhattan, Community Districts 5 and 6.

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This application (C 150130(A) ZSM) for a special permit pursuant to Sections 81-642 of the Zoning Resolution, as proposed, of the Zoning Resolution to modify the above specified bulk regulations of Article III, Chapter 7 and Article VIII, Chapter 1 was filed by Green 317 Madison LLC and Green 110 East 42<sup>nd</sup> LLC (collectively, the “Applicant”) on October 14, 2014. The special permit, along with the related actions, would facilitate the development of a commercial building on property bounded by East 42<sup>nd</sup> Street, Madison Avenue, East 43<sup>rd</sup> Street, and Vanderbilt Avenue in Manhattan Community District 5. On January 23, 2015, pursuant to Section 2-06(c)(1) of the ULURP rules, the Applicant filed an application (C 150130(A) ZRM) to modify the proposed special permit in response to recommendations heard during the public

review regarding adjustments to the retail continuity requirements of Section 81-42. This modified application (C 150130(A) ZRM) is the subject of this report.

## **RELATED ACTIONS**

In addition to the special permit which is the subject of this report (C 150130(A) ZSM), the following applications are being considered concurrently with this application:

- C 140440 MMM      An amendment to the City Map, by the Department of City Planning, involving the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street; the establishment of Public Place above a lower limiting plane; and the adjustment of grades necessitated thereby.
- N 150127 ZRM      Zoning Text Amendment, by the Department of City Planning to the Special Midtown District to establish the Vanderbilt Corridor.
- C 150128 ZSM      Zoning Special Permit pursuant to Section 81-635, as modified, to transfer development rights from the New York City Landmark Bowery Savings Bank building
- C 150129 ZSM      Zoning Special Permit pursuant to proposed Section 81-641 granting additional floor area for the provision of public realm improvements

## **BACKGROUND**

A full background discussion and project description appears in the report on the related zoning special permit application (C 150129 ZSM).

## **ENVIRONMENTAL REVIEW**

The application (C 150130(A) ZSM), in conjunction with the related actions (C 140440 MMM, N 150127 ZRM, C 150128 ZSM, C 150129 ZSM and C 150130 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 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 14DCP188M. The lead is the City Planning Commission.

A summary of the environmental review appears in the report on the related application for a zoning special permit (C 150129 ZSM).

### **UNIFORM LAND USE REVIEW**

The original application (C 150130 ZSM), in conjunction with the applications for the related actions (C 140440 MMM, N 150127 ZRM, C 150128 ZSM and C 150129 ZSM), was certified as complete by the Department of City Planning on October 20, 2014, and was duly referred to Community Boards 5 and 6 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) in accordance with the procedures for ULURP matters.

On January 26, 2015, the modified application (C 150130(A) ZSM) was duly referred to Manhattan Community Boards 5 and 6 pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure.

### **Community Board Public Hearing**

Community Board 5 and 6 held a joint public hearing on the original application and the related action on November 17, 2014. On December 11, 2014, Community Board 5 passed a resolution with 33 in favor, 0 opposed, 1 abstaining recommending denial of the application. On December 10, 2014, Community Board 6 passed a resolution with 39 in favor, 0 opposed, 1 abstaining recommending denial of the application, with conditions.

A summary of the recommendations of Community Board 5 and 6 appears in the report on the related zoning special permit application (C 150129 ZSM).

### **Borough President Recommendation**

This application, in conjunction with the related actions, was considered by the Borough President, who issued a recommendation approving the application, with conditions, on January 28, 2015.

A summary of the recommendations of the Borough President appears in the report on the related special permit application (C 150129 ZSM).

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

On January 21, 2015 (Calendar No. 11), the City Planning Commission scheduled February 4, 2015 for a public hearing on this application (C 150130(A) ZSM). The hearing was duly held on February 4, 2015 (Calendar No. 27), in conjunction with the public hearing on the applications for the related actions.

There were a number of speakers, as described in the report on the related special permit application (C 150129 ZSM), and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the grant of this special permit (C 150130(A) ZSM), as modified, is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appear in the report on the related special permit application (C 150129 ZSM).

### **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 81-642 of the Zoning Resolution:

- (1) that such proposed modifications to the mandatory district plan elements will result in a better site plan for the proposed development or enlargement that is harmonious with the mandatory district plan element strategy of the Special Midtown District, as set forth in Section 81-41 (General Provisions); and
- (2) that such proposed modifications to the street wall or height and setback regulations will result in an improved distribution of bulk on the zoning lot that is harmonious with the height and setback goals of the Special Midtown District set forth in Section 81-251 (Purpose of height and setback regulations).

## **RESOLUTION**

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on March 20, 2015, with respect to this application (CEQR No. 14DCP188M), and the Technical Memorandum, dated March 27, 2015, (the “Technical Memorandum”), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Modified Ground Floor Alternative, as modified with the modifications adopted herein and as analyzed in Chapter 17, “Alternatives to the Proposed Actions,” of the FEIS and in the Technical Memorandum (the “Modified Proposed Action”) is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts identified in the Modified Proposed Action will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval pursuant to the Restrictive Declaration, all as acceptable to Counsel to the Department, is executed by Green 317 Madison LLC and Green 110 East 42nd LLC or

its successors, and such Restrictive Declaration shall have been recorded and filed in the Office of the Register of the City of New York, County of New York , those mitigation measures that were identified as practicable and the placement of (E) designations for Hazardous Materials, Air Quality, and Noise, which form part of the action.

The report of the City Planning Commission, together with the FEIS and the Technical Memorandum, 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**, 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 submitted by Green 317 Madison LLC and Green 110 East 42<sup>nd</sup> 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 Procedures for the grant of a special permit pursuant to Section 81-642 of the Zoning Resolution to modify, in conjunction with the special permit pursuant to Section 81-641 (Additional floor area for the provisional of public realm improvements) the street wall requirements of Sections 81-43 (Street Wall Continuity along Designated Streets) and 81-621 (Special street wall requirements); the height and setback requirements of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), 81-27 (Alternative Height and Setback Regulations – Daylight Evaluation), and 81-622 (Special height and setback requirements); and the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-45 (Pedestrian Circulation Space) and the requirements of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), 81-47 (Major Building Entrances), 81-623 (Building lobby entrance requirements), and 81-624 (Curb cut restrictions and loading requirements); to facilitate the development of a commercial building on property bounded by 42<sup>nd</sup> Street, Madison Avenue, 43<sup>rd</sup> Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a

C5-3 District, within the Special Midtown District (Grand Central Subdistrict), Borough of Manhattan, Community Districts 5 and 6, is approved, as modified by the City Planning Commission, subject to the following terms and conditions:

1. The property that is the subject of this application (C 150130(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 Kohn Pedersen Fox Associates, P.C. and Stantec Consulting Ltd., filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Received Date</u>
Z-102	Zoning Calculations	January 23, 2015
Z-103	Zoning Calculations	January 16, 2015
Z-104	Zoning Lot Site Plan	March 25, 2015
Z-105	Ground Floor Plan	March 25, 2015
Z-200	Retail Continuity – South/East 42 <sup>nd</sup> Street	March 25, 2015
Z-201	Retail Continuity – West/Madison Avenue	January 16, 2015
Z-202	Street Wall and Waivers – Sections	October 20, 2014
Z-203	Street Wall and Waivers – Section	October 20, 2014
Z-204	Street Wall and Waivers – Section	October 20, 2014
Z-205	Street Wall and Waivers – Axons	October 20, 2014
Z-206	Pedestrian Circulation and Waivers	March 25, 2015
Z-207	Building Entrance Recess and Retail Continuity Waivers	March 25, 2015
Z-300	Daylight Compensation Analyses	October 20, 2014
Z-301	Daylight Compensation Analyses	October 20, 2014
Z-302	Daylight Compensation Analysis	October 20, 2014
Z-303	Daylight Compensation Analyses	October 20, 2014
Z-304	Daylight Compensation Analyses	October 20, 2014
Z-305	Daylight Evaluation Analyses	October 20, 2014

Z-306	Daylight Evaluation Analyses – VP1	October 20, 2014
Z-307	Daylight Evaluation Analyses – VP2	October 20, 2014
Z-308	Daylight Evaluation Analyses – VP3	October 20, 2014
Z-309	Daylight Evaluation Analyses – VP4	October 20, 2014
Z-310	Daylight Evaluation Analyses – VP5	October 20, 2014
Z-311	Daylight Evaluation Analyses – VP6	October 20, 2014
Z-312	Daylight Evaluation Analyses – VP7	October 20, 2014
Z-313	Daylight Evaluation Analyses – VP8	October 20, 2014
Z-400	Transit Hall – Plan	March 25, 2015
Z-401	Transit Hall – Sections	March 25, 2015
Z-402	Transit Hall – Details	March 25, 2015
Z-503	Zoning Envelope – Building Elevations and Sections	March 25, 2015
KP-1	On-site/Key Plan/Ground Level	March 25, 2015
KP-2	On-site/Key Plan/B1 Level	January 16, 2015
KP-3	On-site/Key Plan/B2 Level	October 15, 2014
KP-4	On-site/Key Plan/ESA Level	October 15, 2014
PV-1	On-site/Ground Level	March 25, 2015
PV-2	On-site/B1 Level	January 16, 2015
PV-3	On-site/B2 Level	October 15, 2014
PV-4	On-site/ESA Level	October 15, 2014
PV-5	On-site/Longitudinal Section 1	October 15, 2014
PV-6	On-site/Longitudinal Section 2	January 16, 2015
PV-7	On-site /Transverse Section 3	January 16, 2015
KP-1	Off-site/Key Plan/Ground Level	October 15, 2014
KP-2	Off-site/Key Plan/Mezzanine Level	October 15, 2014
KP-3	Off-site/Key Plan/Platform Level	October 15, 2014
PN-1	Off-site/North End/Ground Level	October 15, 2014
PN-2	Off-site/North End/Mezzanine Level	October 15, 2014
PN-3	Off-site/North End/Platform Level	October 15, 2014



PS-1	Off-site/South End/Mezzanine Level	October 15, 2014
PS-2	Off-site/South End/Platform Level	October 15, 2014
PM-1	Off-site/Mobile Passageway/Ground Level	October 15, 2014
PM-2	Off-site/Mobile Passageway/Mezzanine Level	October 15, 2014

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. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, shall have been recorded in the Office of the Register of the City of New York, County of New York. Such Restrictive Declaration shall be deemed incorporated herein as a condition of this resolution.
  
5. 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, sub-lessee or occupant.
  
6. 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.

7. 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 150130(A) ZSM), duly adopted by the City Planning Commission on March 30, 2015 (Calendar No. 6), 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.

**CARL WEISBROD**, Chairman

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

**RAYANN BESSER, IRWIN G. CANTOR, P.E., MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON, BOMEJ JUNG, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ**, Commissioners

**ALFRED C. CERULLO, III**, Commissioner, Recused