



CITY PLANNING COMMISSION

April 5, 2006/Calendar No. 9

C 060202 ZSM

IN THE MATTER of an application submitted by United American Land, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-712(a) to modify use regulations to allow permitted retail uses (Use Group 6 uses) on the ground floor and cellar and to allow residential use (Use Group 2 uses) on the 2nd through 9th floors (West Broadway wing) and to allow residential use (Use Group 2 uses) on the 1st through 8th floors (Wooster Street wing); and
2. Section 74-712(b) to modify the requirements of Section 43-40 (Height and Setback Regulations), Section 23-47 (Minimum Required Rear Yards), Section 23-533 (Required rear yard equivalents), and Section 23-86 (Minimum Distance Between Legally Required Windows and Wall or Lot Lines)

to facilitate the development of a mixed use building with two wings on a zoning lot where not more than twenty percent of the lot area is occupied by existing buildings located at 311 West Broadway (Block 228, Lot 12), in the SoHo Cast Iron Historic District, within M1-5A and M1-5B Districts, Borough of Manhattan, Community District 2.

The application for the special permit was filed by United American Land, LLC on October 27, 2005, to allow Use Group 6 uses on the ground floor and residential use on the upper floors of a proposed building on the east side of West Broadway between Canal and Grand streets and extending through the block to the west side of Wooster Street.

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 on the following applications which are being considered concurrently with this application:

1. N 060201 ZRM Zoning Text Amendment to Section 74-712(b) to allow by special permit the modification of bulk regulations.

2. C 060203 ZSM Special Permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 150 spaces .

BACKGROUND

The site has a total lot area of 28,200 square feet and is located on the east side of West Broadway between Canal and Grand streets and extending through the block to the west side of Wooster Street. The subject lot is irregularly shaped, with 134 feet of frontage on West Broadway and 147 feet of frontage on Wooster Street, and is occupied by a 206-space public parking lot. An existing two-story building located on the northwest corner of the zoning lot would remain following development of the property.

The western portion of the site is located in an M1-5A District and the eastern portion is located in an M1-5B District. The entire property is located within the boundaries of the SoHo-Cast Iron Historic District.

The surrounding portion of the SoHo neighborhood generally contains four- to seven-story loft buildings along West Broadway, Canal and Wooster streets. The upper floors in many of these buildings have been converted to dwelling units, including joint living-work quarters for artists

(JLWQAs) and interim multiple dwellings. Ground floor uses in the vicinity primarily consist of a mix of restaurants, and home furnishing and clothing stores. The Canal Street corridor, running south of and inclusive of the subject block, serves as a regional discount electronics and discount shopping strip. On West Broadway, abutting the site to the south is 309 West Broadway, a seven-story building occupied as JLWQAs. A vacant three-story building abuts the site to the north. On Wooster Street, the site abuts a recently constructed seven-story residential building to the south and a vacant three-story building to the north. The ten-story 367-room SoHo Grand Hotel is located on West Broadway, directly opposite the site.

Proposed Project

The proposed development is comprised of a 5 FAR residential building with ground floor retail use. The proposed building would contain approximately 137,000 sf of floor area; including 132,629 sf of residential use and 4,434 sf of retail use. The proposed development would consist of a maximum of 85 units located in two wings, a nine-story wing fronting on West Broadway and an eight-story wing fronting on Wooster Street. The two wings would be separated by a landscaped interior courtyard. The West Broadway wing would contain ground floor retail use and the main entrance to the building. The Wooster Street wing would have individual entrances to maisonettes. The building would also contain a below-grade public parking garage for 150 cars that would be accessed from a ramp located on West Broadway.

REQUESTED ACTIONS

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

Special Permit to Modify Use Regulations (C 060202 ZSM)

Residential use is not permitted in the M1-5A/B zoning districts and new construction is restricted to a specific set of conforming uses which include light industry, warehousing, wholesaling, parking facilities, and hotels. In addition, according to the use regulations for an M1-5A district, uses below the second story are limited to wholesale, warehouse and light industrial uses in buildings with lot coverage greater than 3,600 square feet. In the M1-5B districts, ground floor retail use is not allowed in any buildings, irrespective of their lot coverage.

Section 74-712(a) allows the modification of use regulations by special permit on vacant sites, land with minor improvements, or sites where not more than 20 percent of the site is occupied by an existing building. The special permit is limited to sites located within M1-5A and M1-5B districts that are within historic districts. In order to grant the special permit, the City Planning Commission is required to find that the proposed use modifications would have minimal adverse effects on the conforming uses in the surrounding area.

The applicant is seeking a special permit pursuant to Section 74-712(a) to allow the modification of the use regulations of the M1-5A and M1-5B Districts in order to allow retail uses on the ground and cellar floors and residential uses in the proposed building.

**Proposed Text Amendment (N 060201 ZRM) and Special Permit for Bulk Modifications
(C 060202 ZSM)**

The applicant is seeking an amendment to Section 74-712(b) (Developments in Historic Districts) which allows the modification of bulk regulations (except FAR) by special permit and is limited to zoning lots which are vacant or which contain a 'minor improvement' and are located within historic districts. Section 74-712(b) is not available to zoning lots occupied by an existing building.

In 2003 Section 74-712(a) was amended (N 030489 ZRY) to allow the modification of use on sites in historic districts which were either vacant or contained minor improvements.

Because the site is partially occupied by an existing building and the proposed development does not comply with the underlying bulk regulations the applicant is seeking a text change to Section 74-712(b) to allow the modification of bulk regulations to also be applicable for zoning lots in M1-5A and M1-5B districts that are within historic districts where not more than 20 percent of the lot area is occupied by an existing building. The remainder of Section 74-712(b) would remain unchanged. The proposed text change would only be applicable on three sites, including the applicant's site.

The project requires the following bulk modifications:

1. Height and Setback Modifications:

In M1-5A and M1-5B districts a building may rise to six stories or 85 feet, whichever is less and is then required to setback 15 feet on a wide street, such as West Broadway, or 20 feet on a narrow street, such as Wooster Street. Above the setback the building could continue to rise within a sky exposure plane of 5.6:1.

The West Broadway wing of the proposed building would rise eight stories to a height of 94 feet without setback. It would then setback ten feet on the West Broadway facade and 7 feet 6 inches in the rear, facing the inner courtyard. It would then rise an additional 11 feet. The West Broadway wing would contain a total of nine stories.

The Wooster Street wing would rise seven stories to a height of 70 feet without setback. It would then setback 15 feet on Wooster Street and 7 feet 6 inches in the rear, facing the inner courtyard. It would then rise an additional 11 feet. The Wooster Street wing would contain a total of eight stories.

The design which the applicant originally presented to the Landmarks Preservation Commission (LPC) included two penthouse floors, with each floor setting back further from the street, on both the West Broadway and Wooster Street wings, and complied with the height and setback provisions of the M1-5A/5B Districts. The LPC requested the removal of one of the penthouse floors to minimize the ‘wedding cake- like’ design of the building, and it also requested that the remaining penthouse floor be pushed further back from the street to minimize its visibility from the street. To retain the desired 5.0 FAR, a portion of the bulk from the removed penthouse floor

was added to the building in the form of an additional floor. This in turn increased the height of the streetwall from 85 feet to 94 feet. Further, the LPC had requested that the height of the streetwall on West Broadway be increased to differentiate the West Broadway wing from the Wooster Street wing and to reflect that the streetwall height and overall building height on West Broadway is higher than that on Wooster Street. The context on Wooster Street is smaller than that on West Broadway and the LPC wanted the two wings to express this difference in scale. To respond to LPC's comments, the streetwall on West Broadway was raised to 94 feet and the streetwall on Wooster Street was brought to 70 feet.

The applicant is requesting a modification of the height and setback requirements to allow streetwalls higher than those allowed and to allow setbacks narrower than those allowed.

2. Modification of Yard Requirements:

The zoning lot is irregularly shaped, with the West Broadway frontage being slightly narrower than the Wooster Street frontage. Existing buildings are located on either side of the West Broadway segment of the zoning lot. The portion of the zoning lot which runs parallel between West Broadway and Wooster Street is considered to be a through lot, while the two portions of the Wooster Street frontage which are wider than the West Broadway frontage are considered to be interior lots.

Section 74-712(a) requires that the development comply with the rear yard provisions pertaining to an R8 district. While a 30 foot rear yard is required by the provisions of an R8 district, a 27

foot 6 inch rear yard would be provided. Further, while a 60 foot rear yard equivalent is required, a 55 foot rear yard equivalent would be provided.

The requested modification of the yard requirements and window to wall requirements also result from the changes requested by the LPC. The additional floor added to both wings of the building after the removal of the second penthouse still did not maximize the full 5.0 FAR. The depth of the inner courtyard was reduced by two and a half feet to allow the two wings to absorb the FAR that was not used by the additional floor.

3. Modification of Minimum Distance Between Buildings Requirement

As with the rear yard requirements, Section 74-712(a) provides that subject developments comply with the R8 provisions for the required minimum distance between legally required windows and walls or lot lines. While a minimum distance of 30 feet is required by the provisions of an R8 district, a distance of 27 feet 6 inches would be provided.

The requested modification of the window to wall requirements also result from the changes requested by the LPC. The reduction in the depth of the inner courtyard from 30 feet to 27 feet 6 inches resulted in similar reduction in the distance between legally required windows and walls or lot lines.

The proposed bulk modifications requires a finding that the modifications would have minimal adverse effects on structures or open space in the vicinity in terms of scale, location and access

to light and air and also that the proposed bulk modifications would relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness from the LPC.

Special Permit for a Public Parking Garage (C 060203 ZSM)

An attended 150-space public garage is proposed for the cellar level of the new building, which requires a special permit pursuant to Section 74-52. The application, as certified, had sixty cars parked on mechanical stackers.

The garage would total approximately 19,300 square feet. Access to and egress from the proposed garage would be via a 23-foot wide curb cut to be located on West Broadway, approximately 110 feet north of Canal street. The roadbed of West Broadway has a width of approximately 38-feet, with one-way northbound traffic. Audio and visual alarms alerting pedestrians to the presence of cars leaving the garage would be located at the curb cut. The facility would provide reservoir spaces in the requisite amount of twenty percent of the total number of spaces, for a total of ten spaces.

ENVIRONMENTAL REVIEW

This application (C 060202 ZSM), in conjunction with the applications for the related actions (N 060201 ZRM, and C 060203 ZSM), were reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 613.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91

of 1977. The designated CEQR number is 05DCP038M . The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on December 19, 2005.

UNIFORM LAND USE REVIEW

This application (C 060202 ZSM), in conjunction with the application for the related action (C 060203 ZSM), was certified as complete by the Department of City Planning on December 19, 2005 and was duly referred to Community Board 2 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules, along with the related non-ULURP application (N 060201 ZRM) which was referred for information and comment.

Community Board Public Hearing

Community Board 2 held a public hearing on the application on January 12, 2006, and on January 19, 2006, by a vote of 32 in favor, 0 opposed, and 0 abstentions, adopted a resolution recommending approval of the application with the following conditions:

That CB#2, Man strongly recommends that the applicant make every effort to help resolve the issues regarding the Lounge in the existing building, and

That CB#2, Man. strongly recommends that the applicant make available the structural drawings and work with the adjoining buildings to minimize the impacts of the construction of the foundations, and

That CB#2, Man. strongly recommends regular construction coordination meetings with the community as this project progresses, and

That CB#2, acknowledges the inclusion of a community arts space by the applicant, and views it as a template for future developments in the SoHo arts community; and

That CB#2, Man. strongly recommends that every effort be made to minimize the impacts of construction and that the contractor must carefully inspect the subsurface excavation and use seismic monitors to protect the surrounding buildings, And

That CB#2, Man. strongly recommends that all pile foundations be drilled not hammered and that the underpinning of the surrounding buildings be carefully monitored.

Borough President Recommendation

This application was considered by the Manhattan Borough President, who issued a recommendation on March 3, 2006 approving the application with the following conditions:

- the access ramp to the garage is raised ten feet above sea level as required by the Building Code,
- electronic stackers are removed from the project, and
- the developer commit to the aforementioned process for community consultation with regard to the geotechnical analysis and the Construction Protection Plan.

City Planning Commission Public Hearing

On February 22, 2006 (Calendar No. 4), the City Planning Commission scheduled March 8, 2006 for a public hearing on this application (C 060202 ZSM). The hearing was duly held on March 8, 2006 (Calendar No.19), in conjunction with the applications for the related actions (N 060201 ZRM and C 060203 ZSM). There were nine speakers in favor of the application and five in opposition.

The Director of Land Use for the Borough President reiterated the Borough President's support for the applications and explained the reasons for his conditions. He noted that the site is located within a Federal Flood zone and that the entrance to the garage is too low and does not meet the required minimum elevation above the flood level. He further noted that elimination of the garage's stackers would reduce the amount of needed excavation and thereby minimize construction impacts on the adjacent building at 309 West Broadway.

The applicant and five representatives of the applicant appeared in favor, including the applicant's land use consultant, architect, attorney, engineer, and spokesperson. The project architect described the proposed building and how the design of the two wings of the building was intended to reflect the scale and context of the surrounding SoHo neighborhood. The speaker noted the changes to the design of the building were made in response to the LPC. The speaker further noted that the project team had been in consultation with the community for quite some time. The applicant's attorney noted that there is an ongoing dialogue with the offices of the Borough President and the local Council Member and that the development team will continue to work with the community to meet all their concerns. The applicant's engineer discussed construction issues and noted that they identified a number of significant issues that are also important to the neighboring building, including the subsurface conditions and the need to monitor the water table, and acknowledged the issues and concerns raised by the Borough President. The speaker further noted that the development team had decided not to excavate a ramp for the proposed garage.

A resident of a building across Wooster Street from the site expressed his support for the project and noted that the applicant had been very responsive to the issues raised by the community at a series of community meetings, including the loss of parking and the blockage of lot line windows on adjacent buildings. The Chair of the Community Board 2 Zoning and Housing Committee noted the extensive outreach undertaken by the applicant in the course of their development of the project concept and reiterated the Community Board's support of the project.

Speaking in opposition were two attorneys representing the 309 West Broadway building, an engineer retained by the residents of 309 West Broadway, and two of the building's residents. The speakers expressed concern about the effect of the construction of the 311 West Broadway on 309 West Broadway. The attorneys expressed support for the proposed change to the plan for the building including the elimination of the ramp to the garage. They also discussed the building's need for the eight and a half foot wide light and air easement that the applicant had provided along the development's southern wall, and the additional need to provide 309 West Broadway a secondary means of emergency egress across the applicant's property. The engineer commented that their concerns regarding the deep excavation had been addressed. The two residents noted that they are not opposed to the project; instead, their concerns are with the possible effects of the excavation and construction. One of the speakers noted that she hoped that the dialogue would continue and that the easements that were discussed would be memorialized in the plans to be acted upon by the City Planning Commission.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the applications for the special permits pursuant to Sections 74-712(a) and 74-712(b), Section 74-52; and the text amendment to 74-712(a), are appropriate.

Special Permit to Modify Use Regulations (C 060202 ZSM)

The Commission believes that the modification of use regulations to allow residential and Use Group 6 uses at 311 West Broadway will have minimal adverse effects on the conforming uses in the surrounding area. In addition to the SoHo Grand Hotel across from the site, the other predominant conforming uses in the surrounding area include a mix of JLWQAs and commercial uses on the upper floors and retail uses on the ground floors of buildings. The Commission recognizes that the surrounding area contains a significant number of dwelling units and that both conforming and non-conforming commercial uses line the ground-level frontages along West Broadway and Wooster street. The Commission notes that the ground floor Use Group 6 use and the upper floor residential use proposed for the building are analogous to the uses occupying most of the surrounding buildings.

The Commission believes that the introduction to the neighborhood of 85 residential would not impact neighborhood character.

The Commission believes that the proposed building would be compatible with the scale of the surrounding area. The Commission notes that the remainder of the subject block is developed with buildings ranging in height from two- to seven-stories, and that the proposed building is

across West Broadway from the ten-story SoHo Grand Hotel. The Commission believes that both the West Broadway and Wooster Street wings correspond to the built context of these two thoroughfares. The Commission notes that the design of the building, as approved by the LPC, better reflects the existing context and reduces the visibility of the penthouse levels from the street.

Zoning Text Amendment (N 060201 ZRY) and Special Permit to Modify Bulk Regulations (C060202 ZSM)

The Commission believes that the text amendment is appropriate. A special permit pursuant to Section 74-712(a) to allow the modification of use regulations is available for lots within M1-5A and M1-5B districts with buildings that occupy less than 20% of the site. The proposed text amendment to Section 74-712(b) would expand the availability of the modification of the bulk regulations to lots within M1-5A and M1-5B districts with buildings that occupy less than 20% of the site. The text amendment would have the effect of making consistent the eligibility of lots within M1-5A and M1-5B districts with buildings that occupy less than 20% of the site to apply for both use and bulk modifications.

The Commission notes that the proposed text amendment would only be applicable to three sites, including the applicant's site. Further, the text would allow greater design flexibility for these sites than if future buildings proposed for these sites had to comply with the bulk regulations of the M1-5A and M1-5B districts. As the bulk regulations were modified for the building proposed for 311 West Broadway in order to create a design more responsive to the context of

the surrounding historic buildings, the proposed text could allow these additional two sites to be developed with buildings more in context with the underlying historic district.

The Commission believes that the modification of bulk would be compatible with the scale and character of the surrounding SoHo neighborhood. The Commission notes that the design of the proposed building results from changes which were made at the request of the LPC, and which led to the subject request for the bulk modifications, and respond to the scale and context of the surrounding area. On West Broadway, the building's high streetwall of 94 feet, and overall height of nine stories or 105 feet, and on Wooster Street the building's high streetwall of 70 feet, and overall height of eight stories or 81 feet, are more reflective of the context of the surrounding area than had the design of the building complied with the six stories or 85 foot streetwall and 5.6:1 sky exposure plane of the M1-5B zoning. Unlike the more central portion of SoHo which is characterized by blockfronts comprised of buildings of relatively uniform height, the context of the southwestern portion of SoHo, including West Broadway, is of blockfronts comprised of buildings of varying heights. On West Broadway, 309 West Broadway, which is the neighboring building to the south, has a streetwall height and overall building height of 86 feet, and the neighboring building to the north has a height of 42 feet. On Wooster Street, the neighboring building to the south has a streetwall height and overall building height of 83 feet, and the neighboring building to the north has a streetwall height and overall building height of 41 feet. The Commission believes that the massing of the proposed building relates to the context of the neighboring historic buildings. The Commission believes that the high streetwall and single setback of the proposed building is appropriate within the built framework of the surrounding

high streetwall buildings. In addition, the Commission notes that by not having a height consistent with that of its neighbors, the proposed building continues the existing pattern in the southwestern portion of SoHo of blockfronts comprised of buildings of varying heights. Furthermore, the Commission notes that the design for the building has received a Certificate of Appropriateness from the LPC.

The Commission notes that requested modification of the yard requirements and window to wall requirements also result from the changes requested by the LPC. The Commission believes that the requested modifications of bulk would have a minimal effect on the structures in the vicinity of the site in terms of scale, location and access to light and air. The Commission notes that the requested modifications of the yard requirements and window to wall depth of two feet six inches for the interior lot portions of the site and five feet for the through lot portion are minimal and would only affect the 311 West Broadway building itself. Further, the Commission believes that the landscaped interior courtyard planned for the interior of the block will provide a visual amenity to residents of the block with inward facing windows in addition to providing light and air. Furthermore, the Commission notes that Section 74-712(a) requires a residential rear yard or required equivalents and window to wall requirements. The Commission notes while the 27 foot, 6 inch and fifty-five foot rear yards proposed for the interior and through lot portions of the site are minimally shallower than what is required by Section 74-712(a), the yards and window to wall depth of the proposed project are more generous than the twenty feet that would be provided in the event that the site would have been developed with a conforming manufacturing use.

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

Public Parking Garage (C 060203 ZSM)

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

The Commission believes that a 150-space parking garage will complement the existing and evolving character of SoHo. The Commission recognizes the potential that existing parking lots presently serving the SoHo residential and commercial community are likely to be redeveloped over time. The Commission believes that it would be beneficial to the area to provide a parking facility which would support the mixed residential and commercial activities in the surrounding SoHo neighborhood.

The Commission notes that the garage is expected to generate not more than 34 vehicular trips during the weekday morning peak hour (between 8 AM and 9 AM) and 43 vehicular trips during the weekday evening peak hour (between 5 PM and 6 PM). Vehicles entering or exiting the garage would use a single 23 foot wide curb cut that would be located on West Broadway. The Commission notes that the facility would provide ten reservoir spaces in the requisite amount of twenty percent of the total number of spaces, for a total of ten spaces. The garage will have warning devices alerting pedestrians and cars of exiting vehicles.

Vehicles seeking to access the garage would travel either east or west on Canal Street and turn northbound onto West Broadway and subsequently enter the garage. Neither Canal Street nor West Broadway are local streets. The Environmental Assessment Statement completed for the project did not identify any significant traffic impacts generated by the proposed garage.

The application, as certified, included electrical stackers. In response to concerns raised at the public hearing, a revised application was submitted on March 31, 2006 which reflected that the stackers were removed from the plans. All 150 cars will now be parked on the floor of the garage.

The Commission notes that the concerns expressed by the Community Board, Borough President and residents of 309 West Broadway relate to the possible construction impacts of the proposed building on 309 West Broadway and are not within the purview of the Commission's actions. The Commission further notes, however, the statements made by the applicant at the public hearing and in a letter dated March 28, 2006, which respond to those concerns.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-712(a) and (b)(Developments in Historic Districts) of the Zoning Resolution:

- (i) have minimal adverse effects on the conforming uses in the surrounding area;
- (ii) are compatible with the character of the surrounding area; and

- (iii) for modifications that permit residential use, result in a development that is compatible with the scale of the surrounding area.
- (1) shall not adversely affect structures or #open space# in the vicinity in terms of scale, location and access to light and air; and
- (2) relate harmoniously to #buildings# in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the actions described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application of United American Land, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-712(a) to modify use regulations to allow permitted retail uses (Use Group 6 uses) on the ground floor and cellar and to allow residential use (Use Group 2 uses) on

the 2nd through 9th floors (West Broadway wing) and to allow residential use (Use Group 2 uses) on the 1st through 8th floors (Wooster Street wing); and

2. Section 74-712(b) to modify the requirements of Section 43-40 (Height and Setback Regulations), Section 23-47 (Minimum Required Rear Yards), Section 23-533 (Required rear yard equivalents), and Section 23-86 (Minimum Distance Between Legally Required Windows and Wall or Lot Lines)

to facilitate the development of a mixed use building with two wings on a zoning lot where not more than twenty percent of the lot area is occupied by existing buildings located at 311 West Broadway (Block 228, Lot 12), in the SoHo Cast Iron Historic District, within M1-5A and M1-5B Districts, Borough of Manhattan, Community District 2, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 060202 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 Gwathmey Siegel & Associates Architects and filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-003	Site Plan	March 24, 2006
Z-005	Height & Setback Diagrams	March 24, 2006
Z-006	Parking Plan	March 24, 2006
Z-007	Ground Floor Plan	August 29, 2005

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any

application for modification, cancellation or amendment of the special permit hereby granted.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 060202 ZSM), duly adopted by the City Planning Commission on April 5, 2006 (Calendar No. 9), 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

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Commissioners