



CITY PLANNING COMMISSION

December 19, 2007/Calendar No. 15

C 070247 ZSM

IN THE MATTER of an application submitted by ADG-SoHo LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify:

1. the use regulations of:
 - a. Section 42-10 to allow residential use (U.G. 2 uses); and
 - b. Section 42-14D(2) to allow retail use (U.G.6 uses) on portions of the ground floor and cellar of the proposed 9-story building at 325-329 West Broadway where the lot coverage is greater than 3,600 square feet, and
2. the height and setback regulations of Section 43-43 (Minimum Height of Front Wall and required Front Setbacks) and the rear yard regulations of Section 43-313 (For portions of through lots);

to facilitate the conversion to residential use of two existing 4-story buildings at 23-25 Wooster Street and the development of a 9-story mixed use building at 325-329 West Broadway (Block 228, Lot 20), in M1-5A and M1-5B Districts, within the SoHo Cast Iron Historic District, Borough of Manhattan, Community District 2.

The application for the special permit was filed by ADG-SoHo LLC on December 18, 2006, 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 and the restoration and conversion to residential use of two existing buildings on the west side of Wooster Street between Canal and Grand streets.

BACKGROUND

The site has a total lot area of 11,195 square feet square feet and is located on the east side of West Broadway between Canal and Grand streets and extends through the block to the west side of Wooster Street. The subject lot is irregularly shaped, with 66 feet of frontage on West Broadway and 47 feet 7 inches of frontage on Wooster Street.

The western portion of the site, located on West Broadway is within an M1-5A district and the eastern portion, located on Wooster Street, is within an M1-5B district. Both districts have a FAR of 5.0. The entire property is located within the boundaries of the SoHo-Cast Iron Historic District.

The property is currently developed with four three-story buildings; with two buildings located on each of the two streets. The buildings are currently vacant. The buildings on the Wooster Street side of the property (23-25 Wooster Street) would be restored as part of the subject development. The Landmarks Preservation Commission (LPC) found that the buildings on the West Broadway side of the property (325-329 West Broadway) did not contribute to the special historic and architectural character of the historic district and granted a Certificate of Appropriateness permitting their demolition.

The site is referred to as the Chocolate Factory since the previous use of the site was for the manufacture of candy. The company, Cella Confections Inc., which is owned by Tootsie Roll Industries, owned the building and ceased its operations here and moved out in March 2005.

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. The ten-story 367-room SoHo Grand Hotel is located on West Broadway, directly opposite the site.

On Wooster Street, abutting the site to the south, a residential building is completing construction on a through lot property pursuant to a special permit (C 060202 ZSM) approved by the City Planning Commission on April 5, 2006 and the City Council on May 10, 2006. That building will consist of an eight-story wing on Wooster Street and a nine-story wing on West Broadway. Abutting the site to the north is a public parking lot which occupies the remainder of the Wooster Street frontage of the block and extends an additional 114 feet along Grand Street. The parking lot was the subject of a special permit (C 060492 ZSM) approved by the City Planning Commission on March 14, 2007 to allow the construction of a residential building containing a two-story portion on Wooster Street and an eight-story portion at the intersection of Wooster and Grand Streets. The eight-story portion would extend along the full length of the Grand Street frontage of the site. The remainder of the Wooster Street frontage of the block is occupied by a newly constructed six-story residential building.

On West Broadway, the site abuts a two-story building occupied as bar/nightclub to the south and a five story residential building with a restaurant on the ground floor to the north.

Proposed Project

The project would consist of a four-story building on Wooster Street and a nine-story building on West Broadway separated by a 55 foot wide landscaped interior courtyard. The project would have a total of 55,977 square feet of floor area and a FAR of 5.00.

Wooster Street Building:

The two existing buildings on Wooster Street would be reconstructed as a single building. The front portion of the buildings would be preserved (to a depth of 63 feet 6 inches) while the rear portion of the buildings would be demolished to provide part of the aforementioned landscaped interior courtyard. The two buildings are currently three-stories in height. A fourth story which

would be setback from the streetwall would be constructed on the top of the reconstructed building. The building would have a height of 51 feet 8 inches at the top of the fourth story and a maximum height of 61 feet 2 inches to the top of the bulkhead. The building would contain 11,095 square feet of residential floor area.

West Broadway Building:

A nine-story building would be constructed on the site of the buildings currently on West Broadway which would be demolished. The building would have a height of 106 feet 4 inches to the top of the ninth story, and a maximum height of 115 feet to the top of the bulkhead. The building would contain 44,882 square feet of floor area; with 3,878 square feet of commercial floor area, 39,831 square feet of residential floor area, and 1,173 square feet of common space. In addition, the West Broadway building would contain 1,493 square feet of retail use on the cellar level. The building would contain a total of 5,371 square feet of retail use.

As presently designed, the project would contain 30 residential units, with seven units in the Wooster Street building and 23 units in the West Broadway building.

REQUESTED ACTIONS

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

(1) Modification of Use:

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 74-711 of the Zoning Resolution allows the City Planning Commission, by special permit, to modify use and bulk regulations (except floor area) in order to further the preservation of designated landmark buildings or buildings located within historic districts. The applicant is seeking a special permit pursuant to Section 74-711 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.

(2) Modification of Bulk:

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 seven stories to a height of 85 feet without setback. It would then set back ten feet before rising an additional two stories. The West Broadway wing would contain a total of nine stories. The Wooster Street building would comply with the M1-5B height and setback provisions. The fourth story, which would be constructed on the top of the reconstructed building, would be setback 15 feet from the streetwall at a height of 40 feet, 5 inches.

The initial designs presented by the applicant to the LPC maximized the site's full 5.0 FAR, included multiple setbacks, and complied with the height and setback provisions of the M1-5A/5B districts. In the course of its review of the neighboring building at 311 West Broadway, LPC had asked the developer of the building to minimize the building's 'wedding cake-like' design and LPC subsequently requested the same of the developer of the subject building.

In response to LPC's concerns and to retain the desired 5.0 FAR, a portion of the bulk from the removed setback floors was added on to the top of the streetwall on West Broadway encroaching on the initial setback distance. The height of the streetwall increased from six stories and 73 feet to seven stories and 85 feet. LPC had also requested that the West Broadway frontage of the building relate to the 311 West Broadway building. The latter building has a streetwall of 97 feet six inches with two stories above the sixth floor limit. A continuous canopy was added to the top of the seventh story of the subject building to create the illusion that the subject building meets the height of the 311 West Broadway building. The height to the top of the canopy is 96 feet nine inches. The canopy and its supporting structure encroach on the initial setback distance and the canopy penetrates the sky exposure plane.

The applicant is requesting a modification of the height and setback requirements to allow a streetwall on West Broadway higher than that allowed and to allow a setback narrower than that allowed.

2. Modification of Yard Requirements:

The zoning lot is irregularly shaped, with the Wooster Street frontage being slightly narrower than the West Broadway frontage. Existing buildings are located on either side of the Wooster Street 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

West Broadway frontage which are wider than the Wooster Street frontage are considered to be interior lots. A through lot requires a rear yard equivalent and an interior lot requires a rear yard.

While a manufacturing district requires a 20 foot rear yard, the proposed rear yard would measure 18 feet 3 inches at the south side of the through lot and the applicant is therefore requesting a modification of the rear yard provisions. The building was extended one foot nine inches into the rear yard in order to utilize the available floor area which could not be added to the building otherwise, due to the request by LPC to limit the height on West Broadway.

The special permit requires that two findings be met related to the proposed use modifications having a minimal adverse effect on conforming uses within the building and in the surrounding area and the proposed bulk modification having a minimal adverse effect on structures or open space in the vicinity in terms of scale, location and access to light and air.

ENVIRONMENTAL REVIEW

This application (C 070247 ZSM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 613.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 07DCP027M. 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 August 20, 2007.

UNIFORM LAND USE REVIEW

This application (C 070247 ZSM) was certified as complete by the Department of City Planning on August 20, 2007 and was duly referred to Community Board 2 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 2 held a public hearing on the application on September 6, 2007, and on September 20, 2007, by a vote of 45 in favor, 0 opposed, and 0 abstentions, adopted a resolution recommending approval of the application with the following condition:

That the ground floor use be restricted to Use Group 6 and that no eating or drinking establishment be allowed in this location. And
Therefore be it further resolved, That CB#2, Man. strongly recommends regular construction coordination meetings with the community as this project progresses, And

Therefore be it further resolved, That CB#2, Man. requests 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

Therefore be it further resolved, That CB#2, Man. requests that all pile foundations be drilled not hammered and that any 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 October 30, 2007, recommending approval of the application.

City Planning Commission Public Hearing

On October 31, 2007 (Calendar No. 6), the City Planning Commission scheduled November 14, 2007 for a public hearing on this application (C 070247 ZSM). The hearing was duly held on

November 14, 2007 (Calendar No.25). There were two speakers in favor of the application and none in opposition.

A representative of the Borough President reiterated the Borough President's support for the application. The applicant's attorney also appeared in favor.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

The Commission notes that the area surrounding the site contains a mix of commercial and residential uses. The SoHo Grand Hotel is located across from the site, and other 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 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 proposed uses are similarly analogous to the ground floor Use Group 6 use and the upper floor residential use proposed for the aforementioned neighboring sites that were granted special permits (C 060202 ZSM and C 060492 ZSM).

The Commission believes that the modification of bulk regulations to allow an increase in height of twelve feet in the initial setback distance on West Broadway 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 nine 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. On West Broadway, the building's seven-story, 85-foot tall streetwall, and overall height of 106 feet 4 inches to the top of the ninth story, are more reflective of the context of the surrounding area than had the design of the building complied with the required streetwall height of six stories or 85 feet, whichever is less, and the 5.6:1 sky exposure plane of the M1-5B zoning. The Commission notes that the design, as approved by the LPC, better reflects the existing context and reduces the visibility of the two upper levels from the street.

The Commission notes that a complying design which would have utilized the site's full 5.0 FAR would have resulted in multiple setbacks which is not reflective of the built character of SoHo. The Commission further notes that the LPC requests the original design of the building be changed to reflect the existing character of the historic district. The Commission believes that the massing of the proposed building relates to the context of the neighboring historic buildings. Furthermore, the Commission notes that the design for the building has received a Certificate of Appropriateness from the LPC.

The Commission notes that the requested yard modification of one foot nine inches is minimal and would only affect the 325-329 West Broadway building. 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.

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 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.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-711 (Landmark preservation in all districts) of the Zoning Resolution:

- (1) such bulk modifications shall have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air.
- (2) such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

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 ADG-SoHo LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-10 to allow residential use (U.G. 2 uses); and Section 42-14D(2) to allow retail use (U.G.6 uses) on portions of the ground floor and cellar of the proposed 9-story building at 325-329 West Broadway where the lot coverage is greater than 3,600 square feet, and to modify the height and setback regulations of Section 43-43 (Minimum Height of Front Wall and required Front Setbacks) and the rear yard regulations of Section 43-313 (For portions of through lots);

to facilitate the conversion to residential use of two existing 4-story buildings at 23-25 Wooster Street and the development of a 9-story mixed use building at 325-329 West Broadway (Block 228, Lot 20), in M1-5A and M1-5B Districts, within the SoHo Cast Iron Historic District, Borough of Manhattan, Community District 2, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 070247 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 Beyhan Karahan & 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.001	Zoning Calculations	July 19, 2007
Z.101	Cellar & First Floor Plans	July 16, 2007
Z.002	Building Sections with Heights & Setbacks	August 7, 2007
Z.003	Height & Setback Section at Interior Lot	August 7, 2007

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. In the event that the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative

ownership, a copy of the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

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, sublessee or occupant.

6. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated December 14, 2007, executed by Jonathan Stern on behalf of Declarant ADG-Soho LLC, the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

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 070247 ZSM), duly adopted by the City Planning Commission on December 19, 2007 (Calendar No. 15), 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, ANGELA R. CAVALUZZI, R.A.,
ALFRED C. CERULLO, III, RICHARD W. EADDY, NATHAN LEVENTHAL,
JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners

MARIA DEL TORO, Commissioner, ABSTAINING