



## CITY PLANNING COMMISSION

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October 1, 2007/Calendar No. 4

C 070414 ZSM

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IN THE MATTER OF an application submitted by West Street Development, LLC, pursuant to 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 91-35 of the Zoning Resolution to modify the setback requirements of Section 91-32 (Setback Regulations) in connection with the construction 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.

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The application for a special permit pursuant to Section 91-35 was filed by West Street Development, LLC on April 12, 2007 to modify setback regulations of the Special Lower Manhattan District to facilitate the development of a 63 story mixed-use commercial and residential building at 47-50 West Street in Community District 1, Borough of Manhattan.

### **RELATED ACTIONS**

In addition to the special permit pursuant to 91-35 to modify setback regulation, 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:

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|--------------|--|
| 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 070413 ZSM Special permit, pursuant to 91-73, to allow the unmapped air space above the Brooklyn Battery Tunnel Approaches, the unmapped air space above Joseph P. Ward Street and at-grade parcels bounding the northern street line of Joseph P. Ward Street to be considered a single zoning lot and to allow the use of unused floor area generated from the unmapped air space above the Brooklyn Battery Tunnel Approaches to be located on the at-grade portion of such zoning lot for use for residential floor area
- 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**

The requested actions would facilitate the development of a new 63 story mixed-use development with an Urban Plaza at 47-50 West Street in Community District 1, Borough of Manhattan

### **Project Site**

The Project Site is located on the southernmost portion of Block 17 bounded by West Street, Washington Street, and north of Joseph P. Ward Street. The lot area of 47-50 West Street is 17,966 square feet. The southern boundary of Block 17 is separated from the northern street line of Joseph P. Ward Street by a strip of land, eight inches in width, owned by the City of New York, which is currently mapped Brooklyn Battery Tunnel Approaches (“BBT”). The lot area of

the 8” strip is 121 square feet. The new development would be constructed within 47-50 West Street (Block 17, Lot 1001-1005). The 8-inch strip is proposed to be demapped pursuant to application C 070351 MMM and would form part of the zoning lot. Together, the Project Site, consisting of Block 17, Lot 1001-1005 and the 8” strip of Approach, would have a total lot area of 18,087 square feet.

The Project Site is currently occupied by three buildings: the twelve-story 47 -49 West Street; the eight-story 74-80 Washington Street; and the three-story 50 West Street. 47-49 West Street is partially occupied, and 74-80 Washington Street and 50 West Street are vacant. The 8” strip of Approach is improved with a wall that is approximately 5’ tall. The existing buildings would be demolished to allow for new development. It is located in the C6-9 of the Special Lower Manhattan District.

The Project Site is located directly north of the 7- story Battery Parking Garage and the entrance ramps to the BBT, which creates a unique site condition. The Battery Parking Garage is built over the roadways of the BBT and over Joseph P. Ward Street. Cars entering and exiting the BBT pass underneath the elevated platform of the garage. Columns located on the sidewalk north of Joseph P. Ward Street support this platform and create a condition where pedestrians do not use the sidewalk between Joseph P. Ward Street and the Project Site because of the narrowness of the sidewalk and because of the blank wall along the existing building’s southern wall. Pedestrians, instead, walk under the garage overhang in the street bed of Joseph P. Ward Street.

## **Zoning Lot**

West Street Development LLC and the Department of Citywide Administrative Services as co-applicant propose to demap (C 070351 MMM), above a lower limiting plane, portions of the BBT (Block 18, Lot 100) and Joseph P. Ward Street. The BBT lot (Block 18, Lot 100) is bounded by Joseph P. Ward Street, West Street, Morris Street, and Washington Street. (The portion of Lot 100 referred to herein is bounded on the east by what would be the extension of the westerly line of Washington Street between Joseph P. Ward Street and Morris Street.) Pursuant to the proposed related text amendment to Section 91-73 (N070412ZRM), only the portions of the unmapped air space above the BBT which are covered by a permanent platform (generally, the area above the Brooklyn Battery Garage) would generate floor area. The applicants also propose to demap the 8” strip of BBT, which is currently part of Block 18, Lot 100 from the center of the earth. Under Section 91-73 the demapped air space will generate 386,367 square feet of development rights.

Pursuant to the proposed Section 91-73, the unmapped air space above the BBT, the unmapped air space above Joseph P. Ward Street, and the at-grade parcels bounding the northern street line of Joseph P. Ward Street (the Project Site) shall be deemed a single zoning lot. The Project Site, Block 17, Lot 1001-1005, and the 8” strip of demapped BBT Approach, are defined under Section 91-73 as the “at-grade” parcels bounding the northern street line of Joseph P. Ward Street. Section 91-73 requires that the floor area generated from the unmapped air space be used only on the at-grade parcels and only for residential purposes. West Street Development, LLC will purchase from the City between 179,998 square feet to 189,525 square feet of development

rights generated from the portion of the zoning lot which consists of the demapped volume above the BBT.

### **Area Description**

The surrounding neighborhood includes a mix of commercial and residential uses and a mix of building types. Six to ten story buildings predominate along Washington Street north of the project site. Washington Street is a narrow street with ground floor retail in most of the buildings.

### **Proposed Development**

The Project Site has a lot area of 18,087 square feet (including the 8” strip of the BBT Approach). In a C6-9 District, the basic maximum FAR is 15.0 with an additional 3.0 FAR for as-of-right bonuses. The proposed development includes a 6,821 square foot urban plaza of which 5,426 square feet is utilized for an additional 3.0 FAR bonus of 54,261 square feet. The proposed development’s maximum floor area is 325,566 square feet. The proposed total residential floor area maximum is 406,549 square feet, and the total commercial floor area maximum is 108,522 square feet. The building cannot exceed the maximum permitted floor area of 505,564 square feet which is achieved through the purchase of development rights. The specific square footage allocations will be determined when a developer is selected.

The proposed building would be 725 feet tall and would consist of a hotel with between 140 and 180 rooms on floors two through thirteen or fourteen and approximately 300 residential

condominiums rising to the 62<sup>nd</sup> floor. The 63<sup>rd</sup> floor will be used as recreation space for residents. The cellar may be used for storage. A variety of ground floor retail uses including a café or restaurant would front the proposed urban plaza.

Because of the unique site condition of the Garage platform fronting the property's southern boundary line, a plaza in this area of the site would act as an alternative passageway for pedestrians. Rather than crossing from West Street to Washington Street in the road bed of Joseph P. Ward Street, pedestrians could traverse and utilize the plaza as the connection. The plaza is intended to provide relief for pedestrians as they travel along West Street and before they reach the BBT. Since the garage platform and its columns function and read as a blank wall, the 6,821 square foot plaza, pursuant to the proposed Section 91-73, shall be considered a through lot for zoning compliance. The urban plaza will provide 214 linear feet of seating, 11 new trees, and plantings. A variety of seating will be provided including planter walls, moveable tables and chairs for the café, and benches. A clear circulation path would direct pedestrians from West Street to Washington Street and vice versa. Entrances to the hotel and condominiums would be set apart from the plaza to maximize circulation and use of the plaza for the public. The loading dock on Washington Street would be screened with plantings such as an ivy wall. The plaza would be open 24 hours a day, 365 days a year.

The proposed building would rise straight up along West Street to a height of approximately 150 feet, set back 18 feet and then rise without setback to a height of 725 feet. Along Washington Street, the street wall would rise to a height of 66 feet before setting back for 15 ½ feet and then rising to 725 feet. The applicant seeks a special permit, pursuant to Section 91-35, to modify

setback requirements pursuant to Section 91-32. Along the southern façade, the building curves gently outward as it rises from the plaza. At approximately the 10<sup>th</sup> floor, the building's cantilever is about 7.5' over the plaza.

## **REQUESTED ACTIONS**

### Demapping of a volume above the Brooklyn Battery Tunnel Approaches, Joseph P. Ward Street, and an at-grade portion of the Approaches to the BBT (C 070351 MMM)

West Street Development, LLC with the Department of Citywide Administrative Services request the elimination, discontinuance and closing, above a lower limiting plane at about 37 feet,(just below the garage platform), of a volume of Joseph P. Ward Street and portions of the BBT as well as of an 8 inch wide, at grade portion of the BBT located between the southern boundary of the project site and the northerly line of Joseph P. Ward Street. This action would facilitate the creation of a zoning lot pursuant to Section 91-73 and the generation of development rights, a portion of which, West Street Development LLC will purchase and use on their Project Site.

### Zoning Text Amendment (N 070412 ZRM)

West Street Development, LLC proposes amending Sections 91-231, 91-31, 91-73, and Appendix A, Map 2 (Special Lower Manhattan District provisions) of the Zoning Resolution to allow development of the unused floor area generated above the unmapped portions of the BBT and to permit an urban plaza on the site.

The text amendments to Sections 91-231, 91-31 and Appendix A, Map 2 (Special Lower Manhattan District provisions) would facilitate a bonusable urban plaza at the project site. Currently, ZR 91-31 provides for street wall continuity in Lower Manhattan by designating streets either a Type 1, 2, 3, 4, and 5. The development site is currently designated as Type 2 site, which precludes urban plazas. The proposed text amendment creates a new Type 2A and Type 2B street wall designation. Type 2A retains the current Type 2 street requirements while the new Type 2B requires 60% street wall continuity on the project site's zoning lot and an 85 foot minimum and 180 foot maximum street wall height. The 60% street wall continuity requirement instead of the 100% street wall continuity requirement allows for urban plazas to front on this stretch of West Street. The new Type 2B street wall designation extends from 100' north of Joseph P. Ward Street to Morris Street. An amendment to Section 91-231 allows for urban plazas located on Type 2B streets to receive bonus floor area up to 3.0 FAR. Article IX, Chapter 1, Appendix A, Map 2 would be amended to reflect the new Type 2A and 2B street wall designations. The Project Site fronts on a Type 2B Street.

Section 91-73 currently allows for development in unmapped air space over the BBT, but not on adjacent lots. The amendment to Section 91-73 would allow unmapped air space above the BBT, unmapped air space above Joseph P. Ward Street, and the at-grade parcels bounding the northern street line of Joseph P. Ward (including the project site) to be deemed a single zoning lot, and would allow development on the Project Site with the use of floor area generated on this zoning lot, provided: (1) only the at-grade parcels and those portions of the unmapped air space above the BBT covered by a permanent platform or building may generate floor area; (2) no floor area shall be generated from the unmapped air space above Joseph P. Ward Street; and (3) floor area



generated from the unmapped air space may only be used on the at-grade parcels bounding the northern street line of Joseph P. Ward Street and only for residential floor area. The use of this floor area would not affect the use and occupancy of the unmapped air space and the 8 inch at-grade portion of the BBT by the New York State Triborough Bridge and Tunnel Authority, and such use would continue as authorized by resolutions of the former Board of Estimate and as otherwise permitted by law.

The proposed text amendment to Section 91-73 would also require that the at-grade portions of the zoning lot north of Joseph P. Ward Street (the Project Site) be considered a through lot bounded by Washington Street and West Street for determining compliance with plaza regulations. It would also require that only such at-grade parcels (north of Joseph P. Ward Street) be used to determine compliance with applicable bulk regulations other than floor area and lot area regulations. For the latter, the entire zoning lot would be used to determine compliance.

Special Permit for Development Over or Adjacent to the Approaches to the Brooklyn Battery Tunnel (C 070413 ZSM)

Pursuant to the proposed amended Section 91-73, the special permit allows for the project to be developed adjacent to the BBT on an at-grade site north of Joseph P. Ward Street provided that adequate access is provided and that the overall design improves pedestrian circulation in the area.

Special Permit for Modification of Street Wall, Setback, Lot Coverage and Maximum Horizontal Dimension Regulations (C 070414 ZSM)

West Street Development, LLC requests a special permit to waive the required setback of 20' from Washington and West Streets.

Special Permit for Modification of Urban Plaza Regulations (C 070415 ZSM)

West Street Development, LLC requests a special permit to modify the urban plaza regulations of Section 37-04. Pursuant to the proposed amended Section 91-73, because the site is constrained by the garage platform landing on the sidewalk on the south side of the at-grade portion of the lot. The application requests waivers from the requirements for urban plaza relating to: major portions of urban plazas; regulations for through block urban plazas; the dimension of the straight path through the plaza; the grade of the plaza; and access to the plaza from the street frontages.

Chairperson Certification for Urban Plaza (N 070416 ZCM)

A chairperson certification pursuant to Section 37-04 for the bonusable urban plaza.

**ENVIRONMENTAL REVIEW**

This application (C 070414 ZSM), in conjunction with the application for the related actions (C 070351 MMM, N 070413 ZRM,, 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.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on April 18, 2007.

### **UNIFORM LAND USE REVIEW**

This application (C 070414 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 Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related non-ULURP application (N 070413 ZRM, N 070416 ZCM) which was referred for information and review.

### **Community Board Review**

Community Board 1 held a public hearing on the application (C 070414 ZSM) on June 19, 2007, and on that day, by a vote of 35 in favor, 5 opposed, 3 abstained and 0 recusals, adopted a resolution recommending approval of the application subject to the following conditions:

- 100% of the proceeds from the sale of the development rights shall be used to benefit CB#1;
- Time Equities commits to design and construct a high quality pedestrian bridge connecting Battery Park City and Greenwich South into the design of this project;
- Time Equities commits to the renovation of the two small parks in the area;
- Time Equities provides a public art gallery space in the building and the plaza of not less than 5,000 square feet and makes the space open to the public;

- Time Equities provides the computers and associated equipment and services to PS/IS 89;
- Time Equities agrees to safely demolish existing structures on the development site and follow the Environmental Performance Commitments developed by the Lower Manhattan Construction Command Center;
- that the amount of development rights created by the space over the Battery Tunnel approach be limited to 183,000 square feet; Time Equities provides an urban plaza;
- Time Equities dedicates a portion of its future residential development in the CB#1 District to affordable housing; and Time Equities allows access by the public to the movie theater that will be located in the building it will construct.”

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation on August 1, 2007 approving applications C 070414 ZSM, C 070415 ZSM and N 070416 ZCM.

The Borough President disapproved applications: C 070413 ZSM, N 070412 ZRM, and C 070351 MMM subject to the following conditions:

- Approval for the proposed demapping should explicitly detail the existing physical and regulatory conditions that justify demapping in this particular case,
- The City should establish a policy for a community-based public benefit associated with the use of these City-owned development rights,
- There must be a solid, tangible land use benefit to the local community that furthers Citywide public policy goals,
- Approval should only be given if the zoning text is further amended to require an affordable housing commitment as part of the special permit process, or another mechanism is established to meet this goal, and then only if the applicant can demonstrate that it has met this requirement.

### **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 070414 ZSM). The hearing was duly held on August 8, 2007 (Calendar No. 32) in conjunction with the public hearings on the related actions (C 070351 MMM, N 070412 ZRM, C 070413 ZSM, C 070415 ZSM and was continued to August 22, 2007 (Calendar No. 12)

On August 8, 2007, there were six speakers in favor and two voiced concerns. A representative of Community Board 1 spoke. He reiterated the board's recommendations and stated that the provision of schools, parks, and recreation spaces is lagging behind growth in the area. He described how since 9/11 there has been a significant population growth requiring greater community and infrastructure need. For these reasons, Community Board 1 voted to conditionally approve the application.

A representative from the NYC Economic Development Corporation spoke in favor of the project. He cited the benefit of the plaza as a public amenity and that the developer worked to meet the needs of the community.

A representative of the private applicant spoke in favor of the project. He discussed the unique land use and site conditions and the relationship between the site and the existing Brooklyn Battery Tunnel Garage. He described how the developer has worked with the Community Board and Councilmember to provide laptop computers to the local schools to help relieve classroom overcrowding. He described his goals of bringing a landmark quality design to the skyline, how

the building would strive to reach a LEED Gold building standard, and how the ground floor retail will energize the sites south of the World Trade Center.

The applicant's architect spoke in favor of the project noting that he was selected through a design competition. He emphasized that the building will have an expressive parapet which could be utilized as a roof garden and observatory by the residents. It served a greater purpose than being only decorative. He said that he worked to create a positive relationship with neighboring buildings by considering scale, density, and the pedestrian's perspective and utilization of the plaza.

The applicant's attorney spoke in favor and described the various actions and that the top of the building will be illuminated. She also stated that seismic studies have been conducted.

The Director of Land Use Planning from the Manhattan Borough President voiced concerns and stated the Borough President's condition that an affordable housing component be provided as part of the project. He described that given the utilization of city assets including the demapping and the use of the air rights, the development did not provide enough of a public benefit. He stated that affordable housing should be included in the project. He spoke positively about the LEED Gold standing and the plaza in this neighborhood.

The applicant's Director of Sustainability spoke in favor of the project citing the numerous environmental and clean energy standards used in the project.

On August 22, 2007, a representative from the Alliance for Downtown of New York spoke in favor of the project.

There were no other speakers and the hearing was closed.

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

This application (N 070412 ZRM), 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 the grant of this special permit in conjunction with the related applications, is appropriate.

The Commission notes that the Project Site directly north of Joseph P. Ward Street is constrained by unique site conditions: the site is constrained by being directly north of the Brooklyn Battery Tunnel Garage where the garage platform structure extends over Joseph P. Ward Street, by the

site having limited clearance between the garage platform's supporting columns and the existing building wall creating a narrow alleyway, and by being north of the entrance and exit to the Battery Tunnel Approaches.

The Commission recognizes that the special permit for modification to setback regulations pursuant to Section 91-35 (C 070414 ZSM) will enhance pedestrian circulation. The Commission notes that such modifications will result in a site plan consistent with existing scale and streetscape patterns. The Commission notes that these setbacks maintain a harmonious relationship between the development and the surrounding area and that the setbacks will provide greater light to West and Washington Streets, and corresponds with the setbacks of neighboring buildings.

The Commission believes that the proposed amendment to Section 91-73 (N 070412 ZRM) to allow development adjacent to the Brooklyn Battery Tunnel Approaches, is appropriate.

Section 91-73 of the Zoning Resolution currently allows for development over unmapped air space within the BBT. The proposed text amendment would allow unmapped air space covered by a permanent platform or building (i.e, the Battery Tunnel Garage), which cannot be readily used for on-site development within the BBT Approach itself, to be used at an adjacent location.. The proposed text amendment includes several conditions for the use of floor area generated by the unmapped air space within the zoning lot: (1) that the zoning lot may generate floor area only from the at-grade parcels and from the portions of unmapped air space above the BBT covered by a permanent platform or building existing on the effective date: (2) that no floor area may be generated from the unmapped air space above Joseph P. Ward Street; and (3) that the unused



floor area generated from the unmapped air space above the BBT covered by a permanent platform or building may only be located on the at-grade parcels bounding the northern street line of Joseph P. Ward Street and may only be used for residential floor area purposes. These conditions ensure that the use of floor area generated from unmapped air space in the BBT on adjacent property is limited to situations where opportunities for its use within the BBT itself are limited, and recognize that while the unique condition of Joseph P. Ward Street makes inclusion of unmapped air space above this street within a zoning lot appropriate, the street should not itself generate floor area.

The Commission recognizes that the modification to 91-73 pertains clarifies and defines the “at-grade” parcel. For the purposes of 91-73, there is only one at-grade parcel bounding the northerly line of Joseph P. Ward, not two. The “at-grade” parcel includes both the 8” strip and Block 17, Lot 1001-1005.

The Commission notes that the related special permit (C 070413 ZSM) to allow for development adjacent to the Brooklyn Battery Tunnel Approach meets the findings for adequate access with street frontages on both Washington and West Streets. The development provides a much needed through block pedestrian connection from West Street to the Financial District and transit connections. It facilitates pedestrian flow from Battery Park City to the Financial District. The Commission notes that the streetscape, site design, and the location of building entrances on West Street, Washington Street, and via the urban plaza provide a much greater improvement of pedestrian circulation in the area. The provision of an urban plaza with amenities and retail

frontages will enliven an area that is currently characterized by the Brooklyn Battery Garage and the Approaches.

The Commission also notes that given the unique site condition of a garage platform landing on the sidewalk adjacent to the at-grade portion of such lot that the provision of an urban plaza at this location is desirable and provides a better streetscape and pedestrian condition along West Street. The text amendments to Sections 91-231, 91-31, 91-73, and Appendix A, Map 2 (N 070412 ZRM) would allow for the provision of such bonusable urban plaza at this unique location.

The Commission believes that the site's unique conditions make it difficult to comply with the urban plaza regulations and that the special permit (C 070415 ZSM) application is necessary to waive these regulations. The proposed plaza will be useful and attractive and provide a good urban design relationship with surrounding buildings and open spaces. The plaza will encourage pedestrian flow from West Street to Washington Street with unique paving, seating, and planting amenities. The café and retail frontage will further enliven the plaza. The plaza design meets the finding that the usefulness and attractiveness of the urban plaza will be assured by the proposed layout and design and that the development as a whole will produce a good urban design relationship with surrounding buildings and open spaces. The urban plaza will provide 214 linear feet of seating, 11 new trees, and plantings. A variety of seating will be provided including planter walls, moveable tables and chairs for the café, and benches. Entrances to the hotel and condominiums would be set apart from the plaza to maximize circulation and use of the plaza for

the public. The loading dock on Washington Street would be screened with plantings such as an ivy wall. The plaza would be open 24 hours a day, 365 days a year.

The Community Board has requested that proceeds from the sale of development rights generated by the unmapped air space be used within the Community Board, while the Borough President has recommended that a portion of the floor area of the development should be devoted to affordable housing, or a contribution made to an off-site fund to create such housing elsewhere in Community Board 1. The Commission believes strongly in the importance of encouraging affordable housing, including in Lower Manhattan. However, it believes that the use of city revenues from the sale of the development rights is a matter better addressed by the administration and Council outside land use review. Requiring affordable units in the development as a consequence of the sale of development rights presents similar issues because it is effectively a suggestion that a portion of the value of the development rights sold by the City be used for affordable housing in Community Board 1.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 91-35:

- (1) such modifications will result in a site plan consistent with existing scale and streetscape patterns;
- (2) such modifications will ensure a harmonious relationship between the #development# and the surrounding area;
- (3) such #street wall# modifications will enhance pedestrian circulation by providing pedestrian amenities that relieve sidewalk congestion;

(4) such setback, lot coverage or horizontal dimension modifications will not unduly obstruct access to light and air to surrounding streets and properties; and

(5) such setback, lot coverage or horizontal dimension modifications will result in a built form that maintains an appropriate relationship between tower and base portions of the development.

## **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 200 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 91-35 of the Zoning Resolution to modify the setback requirements of Section 91-32 (Setback Regulations) in connection with the construction 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 070414 ZSM), duly adopted by the City Planning Commission on October 1, 2007 (Calendar No. 4), 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., ANGELA R. CAVALUZZI, R.A.,  
BETTY Y. CHEN, LISA A. GOMEZ, NATHAN LEVENTHAL, KAREN A. PHILLIPS,  
DOLLY WILLIAMS, Commissioners**