

FACT SHEET

309 Canal Street
City Planning Commission Application for a
Special Permit to Allow the
Conversion of Commercial Units to Residential Use
Pursuant to Section 74-711 of the Zoning Resolution

SUMMARY

- * 309 Canal, LLC, (the "Applicant") requests approval of an application to permit the conversion of 22,515 square feet of commercial floor area on the second through fourth floors and a portion of the fifth floor to 17 units to residential use within an existing building ("Site").
- * The Site occupies the western half of the block bounded by Mercer Street to the west, Broadway to the East, Canal Street to the south and Howard Street to the north, in the SoHo-Cast Iron Historic District.
- * Currently the building is vacant with the exception of one Interim Multiple Dwellings unit ("IMD") on the fifth floor.
- * The Applicant is applying for a special permit pursuant to ZR §74-711. This section of the Zoning Resolution permits the application for modification of use regulations on condition that the Applicant enters into 1) a Restrictive Declaration for continuing maintenance that will result in the preservation of the subject building and 2) the Applicant has received a Certificate of Appropriateness from the Landmarks Preservation Commission. The Applicant has complied with these two requirements.
- * Also, in order to grant the requested special permit, the City Planning Commission shall find that such modification of use requirements shall have minimal adverse effects on the conforming uses located within the building and in the surrounding area.
- * The use of the proposed project is consistent with the mixed-use character of the neighborhood which includes the southernmost portion of SoHo and the northernmost portion of TriBeCa.
- * The conforming uses include many of the Joint Living Work Quarters for Artists ("JLWQA"). Although technically considered a manufacturing use, JLWQA has a residential component and for all practical purposes are occupied and function in almost the exact same manner as a residential use.
- * Therefore, the addition of the proposed 17 residential units to a mixed-use neighborhood that already contains numerous JLWQA units will have a minimal adverse affect on the conforming uses in the surrounding area.
- * No displacement of businesses or residences will occur as a result of the proposed project.

RESULT

The beautification and rejuvenation of an outstanding landmark building, one of the oldest department stores in New York City (constructed in 1856), which has fallen into total disrepair.

(See attached for the concise history of the building)

CONCISE HISTORY OF 309 CANAL STREET

309 Canal Street was constructed in 1856 for the Arnold Constable & Company, importers of French, Indian and British dry goods. The company was originally founded in 1825 under the name Arnold and Company. In 1853 the name was changed to Arnold Constable & Company in honor of Mr. James M. Constable who had become a full partner and executive member of the firm.

With the construction of its new store, Arnold Constable & Company was following in the footsteps of the entrepreneur Alexander Turney (AT) Stewart who established the country's first department store on Broadway's east side between Chambers and Reade Streets. Stewart soon expanded his store, showcasing his merchandise through the building's oversized French plate glass windows. By 1850, Stewart's department store was the largest in the city and was well-known not only for its wares, but also its distinctive design. The building's unique marble-clad exterior earned it the nickname the "Marble Palace." It was the first commercial building to use Tuckahoe marble on its outer surface, an adopted Italian style of architecture that soon gained popularity among the commercial structures being built in the area including the new Arnold Constable and Company store.

Like many buildings at the time, the new Arnold Constable & Company store was constructed in the Beaux Arts style. The first floor storefront along Canal Street consisted of cast iron columns separating large glass pane windows that showcased the store's goods. The upper floors of the Canal Street façade were clad in Tuckahoe marble and topped with a decorative metal cornice. While the cast iron columns of the first floor wrapped around to the Mercer and Howard Street façades the bays were constructed of marble blocks with two over two double hung windows above. The upper floors of these elevations were faced in brick with Tuckahoe marble window details and quoins at each corner. Shipments were brought into the rear of the building through double-tall iron doors along Howard Street.

Although the architect for the building of 309 Canal Street is unknown, newspaper accounts of the period provide a description of the interior.

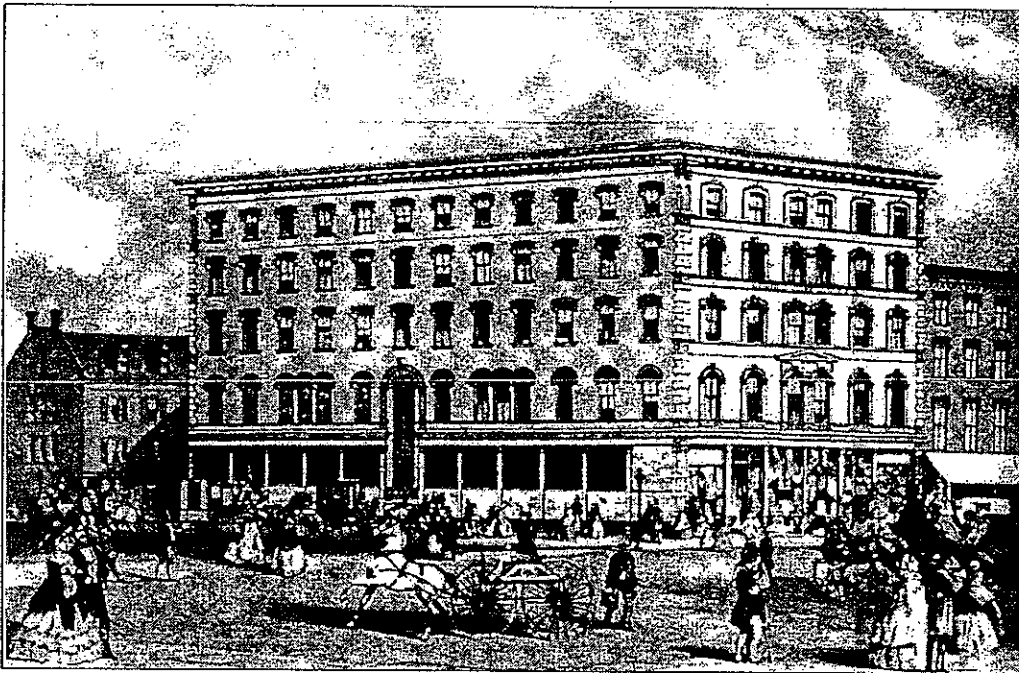
The first two floors were given over to retailing and the rest of the building was devoted to wholesale dealing. The store, known as "The Marble House" had all the refinements of the period. There were three sets of counters, two along the walls parallel to Mercer Street and one in the middle of the main floor, with wide aisles. Horsehair covered seats were provided at all the counters so that selections could be made in comfort. Porters in blue uniforms with red trim and brass buttons, opened the doors and held umbrellas over the ladies to protect them from sun or rain. It was a period of leisure and luxury when milady went shopping.

According to a pamphlet issued upon the 150th anniversary of the store "Arnold Constable Through the Years, 1825-1950," the announcement of the grand opening of the new store ran in the *New York Herald* on March 8, 1857.

"Arnold Constable and Co. will open the retail branch of their business in their new marble building, corner Canal Street and Mercer Street, on Monday, March 9th." Merchandise advertised included embroideries flounced silk robes, glenadine robes, lace goods, point de gaze, Brussels appliqué, Honiton sets, and bridal veils. No lady with pretensions to being fashionably dressed would have dreamed of wearing machine made lace, which was referred to as "imitation lace." Arnold Constable sold real lace for as much as \$1,000 a yard! Lace parasol covers (and no fashionable lady would think of appearing on the street without her parasol) were as high as \$500. Such a rarity as a camel's hair shawl could bring as much as \$1,500 and its wearer generated the spark of envy that follows the wearer of minks and sables of today.

The pamphlet stated that the opening of the new store firmly established Arnold Constable and Company as *the* store in New York with customers including the "leaders of society and taste."

In 1862 A.T. Stewart moved his department store to what would later become Ladies Mile along Broadway. Over the next several years this store was followed by many other high end department stores moving up town including Arnold Constable & Co. which moved to 19th Street and Broadway in 1868.



"An artist's proof of Endicott's lithograph of Charles Parson's drawing of Arnold Constable and Co.'s new store on the northeast corner of Canal and Mercer Streets, about 1850-1855."

CITY PLANNING COMMISSION

January 9, 2008/Calendar No.13

C 070055 ZSM

IN THE MATTER OF an application submitted by 309 Canal, 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 requirements of Section 42-10 to allow U.G. 2 uses (residential use) on the second through fourth floors and a portion of the fifth floor of an existing 5-story building on property located at 309 Canal Street (Block 231, Lot 5), in an M1-5B District, within the SoHo Cast Iron Historic District, Community District 2, Borough of Manhattan.

The application for a special permit was filed by 309 Canal, LLC on August 15, 2006, pursuant to Section 74-711 of the Zoning Resolution, to allow 17 dwelling units (Use Group 2) on the second through fourth and a portion of the fifth floors of the building located at 309 Canal Street.

BACKGROUND

309 Canal Street is an eight-story store building constructed 1856-1862. This property is located within an M1-5B District, and occupies the entire northern blockfront of Mercer Street, between Canal and Howard streets. The building is also within the SoHo-Cast Iron Historic District. The Landmarks Preservation Commission (LPC) has found that the building's "style, scale, materials and details are among those features that contribute to the special architectural and historic character of the SoHo-Cast Iron Historic District." The building has lot coverage of 5,983 square feet. The upper four floors of the building are vacant with the exception of one Interim Multiple Dwelling (IMD) unit on the fifth floor. The ground floor is occupied by a non-conforming (Use Group 6) use.

Residential use is not permitted in the M1-5B District. 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 modify the use regulations of the M1-5B District in order to allow 17 dwelling units (Use Group 2) on the second through fourth and a portion of the fifth floors of 309 Canal Street. The application includes a report from the Landmarks Preservation Commission stating that a continuing maintenance program has been established that will result in the preservation of 309 Canal Street, and that the proposed use modification contributes to a preservation purpose.

The surrounding SoHo neighborhood is generally developed with five- to six-story loft buildings along Broadway and nearby streets. The upper floors in many of these buildings have been converted to dwelling units, including joint living-work quarters for artists (JLWQAs) and IMD units. Ground floor uses in the vicinity primarily consist of a mix of restaurants, and home furnishing and clothing stores.

ENVIRONMENTAL REVIEW

This application (C 070055 ZSM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 07DCP045M. 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 September 17, 2007.

UNIFORM LAND USE REVIEW

The application was certified as complete by the Department of City Planning on September 17, 2007 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.

Community Board Public Hearing

Community Board 2 held a public hearing on October 11, 2007, and on October 20, 2007, by a vote of 42 to 2 with 0 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on November 13, 2007, recommending approval of the application.

City Planning Commission Public Hearing

On December 5, 2007 (Calendar No. 10), the City Planning Commission scheduled December 19, 2007 for a public hearing on this application (C 070055 ZSM). The hearing was duly held on December 19, 2007 (Calendar No. 32). 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 of 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 this special permit (C 070055 ZSM) is appropriate.

When the building was completed in 1862, and continuing throughout the better part of the last century, the area known as SoHo contained a mix of commercial, warehouse and industrial uses. However, over the last fifteen to twenty years many buildings in this area have been converted from manufacturing use, such that the surrounding area now contains a significant number of dwelling units. The Commission notes that the upper floor residential use proposed for the building is analogous to the uses occupying many of the surrounding buildings. Therefore, the Commission believes that Use Group 2 residential use on the upper floors of 309 Canal Street will be consistent with established land use trends in the greater SoHo neighborhood.

The proposed use modifications will facilitate the renovation and preservation of 309 Canal Street. The conversion and renovation of this building, to be accomplished as a result of this special permit, will enhance the architectural and historical built fabric of the SoHo Cast-Iron Historic District.

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) Not applicable
- (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 action 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 309 Canal, LLC for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of Section 42-10 to allow U.G. 2 uses (residential use) on the second through fourth floors and a portion of the fifth floor of an existing 5-story building on property located at 309 Canal Street (Block 231, Lot 5), in an M1-5B District, within the SoHo Cast Iron Historic District, Community District 2, Borough of Manhattan is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 070055 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 Pasanella + Klein Stolzman + Berg Architects, PC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
CP-2	Site Plan	07.20.07
CP-3	Zoning Analysis and Floor Area Calculations	01.15.07
CP-5	Ground and Mezzanine Plan	07.20.07

CP-6	Typical Plan	07.20.07
CP-7	Fifth Floor Plan	07.20.07

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. In the event 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 this resolution and 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 July 24, 2006 executed by 309 Canal 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.

7. 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.

8. 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 070055 ZSM), duly adopted by the City Planning Commission on January 9, 2008 (Calendar No.13), 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

IRWIN CANTOR, P.E., ANGELA R. CAVALUZZI, R.A., ALFRED C. CERULLO, III,
BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY, JOHN MEROLO,
KAREN A. PHILLIPS
Commissioners

SHIRLEY MCRAE, Commissioner, ABSTAINING



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

CITY PLANNING COM.
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OFFICE OF CITY PLANNING

SCOTT M. STRINGER
BOROUGH PRESIDENT

November 13, 2007

Recommendation on
ULURP Application No. C 070055 ZSM - 309 Canal Street
by 309 Canal, LLC

PROPOSED ACTION

309 Canal, LLC seeks a special permit pursuant to ZR §74-711 to modify the use regulations of ZR §42-10 to allow residential uses (Use Group 2) on the second through fourth floors and a portion of the fifth floor of an existing 5-story building (Block 231, Lot 5). The mid-19th century loft building is located in the SoHo Cast Iron Historic District, within an M1-5B zoning district. In order to grant the use modification, the City Planning Commission must find that such use modification shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.¹

PROJECT DESCRIPTION

309 Canal, LLC seeks a special permit for a waiver pursuant to ZR §74-711 to modify the use regulations of ZR §42-10 in order to convert vacant commercial space into residential units (Use Group 2). The mixed-use building will maintain ground-floor retail use and one Interim Multiple Dwelling ("IMD") unit on the fifth floor. The upper levels of the building, the focus of the proposed action, currently contain vacant commercial space. All floor area on the second through fourth floors and a portion of the fifth floor (the floor area excluding the existing IMD unit) would be converted into 17 residential units.

The existing building is a rectangular through-block building with frontage on Canal, Howard, and Mercer Streets. The M1-5B zoning district, in which the building is located, allows a mix of commercial and manufacturing uses as-of-right. However, residential uses are not allowed as-of-right in this zoning district.

¹ In order for a 74-711 special permit to be granted, the Landmarks Preservation Commission must also issue a certificate of appropriateness for the project, as well as report that the use modification will contribute to a continuing maintenance program that has been established to preserve the historic building. The LPC issued such report on January 12, 2007, and granted the certificate of appropriateness. The LPC's determination has not been re-examined in this recommendation.



In its report issued to the City Planning Commission, the LPC stated that the applicant's plans for the restorative façade work and storefront infill will bring the loft building "closer to its original appearance" and up to a "sound first class condition." The plans will also "reinforce the architectural and historic character" and "ensure the continued maintenance" of the building.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting on October 18, 2007, Manhattan Community Board 2 recommended approval of the application by a vote of 42 in favor and 2 opposed.

BOROUGH PRESIDENT'S COMMENTS

The special permit pursuant to ZR §74-711 is a powerful tool which can be used to modify many sections of the Zoning Resolution in order to make owning and maintaining historic structures less burdensome and more desirable. In return for waiver(s), applicants must ensure that the subject property is properly rehabilitated and maintained in perpetuity. In this case, the LPC has found that the proposed use change and the ensuing restoration of the building will contribute to a preservation purpose worthy of allowing the applicant to request this use waiver from the City Planning Commission.


The proposed use waiver will have only minimal, if any, adverse effects on conforming uses within the building and in the surrounding area. The residential use should be compatible with the existing IMD unit and the proposed ground-floor retail. The area surrounding the building is a mix of commercial and manufacturing uses, as well as upper-floor office space and numerous Joint Living-Working Quarters for Artists ("JLWQA"). JLWQAs, permitted uses in this manufacturing district, have a functional residential component that creates a more residential character in this area than in many manufacturing zones. Therefore, a proposed use waiver for 17 new non-JLWQA residential units (significantly less than the maximum number of dwelling units permitted under ZR §74-711(a)(3)) will have only minimal, if any, adverse effects on the conforming uses within the surrounding neighborhood.

Further, in applying for the special permit, the building's owner is undertaking extensive work to bring the historic building to a sound, first class condition, and is entering into a restrictive declaration ensuring continued maintenance to keep the building in this state in perpetuity.

BOROUGH PRESIDENT'S RECOMMENDATION

This application meets the applicable conditions and findings for a special permit regarding use waivers pursuant to ZR §74-711. The proposed use waiver will have only minimal, if any, adverse effect upon the neighborhood.

Therefore, the Manhattan Borough President recommends approval of ULURP
Application No. C 070055 ZSM.



Scott M. Stringer
Manhattan Borough President

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: C 070055 ZSM

Docket Description:

C 070055 ZSM - In the matter of an application submitted by 309 Canal, 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 requirements of Section 42-10 to allow U.G. 2 uses (residential use) on the second through fourth floors and a portion of the fifth floor of an existing 5-story building on property located at 309 Canal Street (Block 231, Lot 5) in an M1-5B District, within the SoHo Cast Iron District, Borough of Manhattan, Community District 2.

COMMUNITY BOARD NO: 2

BOROUGH: Manhattan

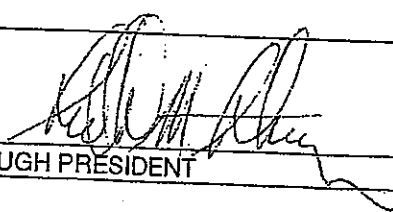
RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

CITY PLANNING COM
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CITY OF CITY PLANN

EXPLANATION OF RECOMMENDATION - MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See attached


BOROUGH PRESIDENT

11/13/07
DATE



**CITY OF NEW YORK
COMMUNITY BOARD NO. 2, MANHATTAN**

3 Washington Square Village New York, New York 10012-1899
PHONE: 212 979-2272 FAX: 212-254-5102 E-MAIL: cb2manhattan@nyc.rr.com
Greenwich Village * Little Italy * SoHo * NoHo * Hudson Square

Brad Hoylman
Chair

Jo Hamilton
1st Vice-Chair

Robert E. Riccobono
2nd Vice-Chair

Sheelah Feinberg
Treasurer

Susan Kent
Secretary

Elaine Young
Assistant Secretary

Bob Gormley
District Manager

October 22, 2007

Amanda Burden, Chair
City Planning Commission
22 Reade Street
New York, New York 10007

Dear Chair Burden:

At its Full Board meeting on October 18, 2007, Community Board #2, Manhattan (CB#2, Man.) adopted the following resolution:

309 Canal Street: C070055 ZSM Special permit application pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-14D(1)(b) to allow 17 residential dwelling units (Use Group 2) on the second through fourth and a portion of the fifth floors in a building located in an M1-5B zoning district

WHEREAS; The area was posted and there was no community opposition to this application, And

WHEREAS; Owner has stated the building will be strictly a rental property and there will not be any objectionable uses on the ground floor, And

WHEREAS; The residential entrance on Howard St. will help to improve conditions on that street, And .

WHEREAS; The project will also involve the restoration of a distinguished building, And

WHEREAS; CB#2, Man. would have preferred that the minimum size of the units would be 1,200 sq.ft., however, the 950 sq. ft. apartments are acceptable in this particular case and would only result in three additional apartments, And

WHEREAS; There will be no foundation work involved in this project,

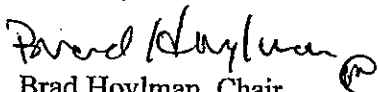
Amanda Burden, Chair
City Planning Commission
October 22, 2007
Page Two

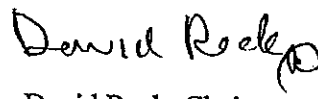
THEREFORE BE IT FURTHER RESOLVED, that CB#2, Man. supports this application for a Special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-14D(1)(b) to allow 17 residential dwelling units (Use Group 2) on the second through fourth and a portion of the fifth floors in a building located in an M1-5B zoning district.

Vote: Passed, with 42 Board members in favor, and 2 in opposition.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,


Brad Hoylman, Chair
Community Board #2, Manhattan


David Reck, Chair
Zoning and Housing Committee
Community Board #2, Manhattan

BH/fa

cc: Hon. Jerrold Nadler, Congressman – via fax
Hon. Thomas Duane, NY State Senator – via fax
Hon. Deborah Glick, Assembly Member– via fax
Hon. Scott Stringer, Man. Borough President-via fax
Hon. Alan Jay Gerson, Council Member– via fax
Hon. Margarita Lopez, Council Member
Hon. Christine Quinn, Speaker– via fax
Shaan Khan, Deputy Director of Community Affairs and Constituent Services
Man. Borough President-via fax
Hunter Johansson, Community Board Liaison, Man. Borough President-via fax
Nazli Parvizi, Commissioner, CAU– via fax
Lorna Edwards, Land Use Review Unit, Dept. of City Planning
Vivian Awner, Community Board Liaison, Dept. of City Planning
Jeff Mulligan, Executive Director, Board of Standards & Appeals
Applicant

ALAN JAY GERSON
COUNCIL MEMBER, 1ST DISTRICT
MANHATTAN

DISTRICT OFFICE
49-51 CHAMBERS STREET, SUITE 429
NEW YORK, NY 10007
(212) 788-7722
FAX (212) 788-7727

CITY HALL OFFICE
250 BROADWAY, ROOM 1845
NEW YORK, NY 10007
(212) 788-7259

gerson@council.nyc.ny.us



THE COUNCIL
OF
THE CITY OF NEW YORK

CHAIR
LOWER MANHATTAN RE-DEVELOPMENT

COMMITTEES

ECONOMIC DEVELOPMENT

FINANCE

FIRE & CRIMINAL JUSTICE SERVICES

PARKS & RECREATION

WATERFRONTS

YOUTH SERVICES

January 25, 2008

Mr. Frank Angelino, Esq.
DeCampo, Diamond & Ash
747 3rd Avenue, Suite 37C
New York, NY 10017

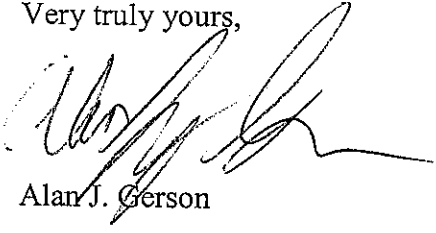
Dear Mr. Angelino:

I am writing this letter to confirm that you have gained my support for the Chocolate Factory Project at 325-329 West Broadway/23-25 Wooster Street. Your community outreach, the sensitivity of the design of the building on West Broadway and the complete historic renovation of the 2 historic brownstone facades on Wooster Street all contribute to making this project an asset to the neighborhood.

I now support the Community Board 2 resolution, as written, which articulates agreements you made with the community concerning the retail uses in the building, community input and meticulous construction practices regarding potential impacts on the surrounding buildings.

I therefore support your application for a Special Permit Pursuant to Section 74-711 to modify use regulations, height, setback and rear yard requirements of the Zoning Resolution in order to develop a mixed use building, primarily residential, with ground floor retail in M1-5A/M1-5B Districts providing that the ground floor use be restricted to Use Group 6 and that no eating and drinking establishment be allowed at this location.

Very truly yours,



Alan J. Gerson

Summary For City Council Zoning Committee:

**The Chocolate Factory, 325-329 West Broadway and 23-25 Wooster St.,
New York, NY**

Application for Special Permit Pursuant to Section 74-711 of the Zoning Resolution ("ZR") to Modify Use and Bulk Regulations in M1-5A/M1-5B Districts

ADG-SoHo LLC requests approval to modify the use regulations, height and setback and rear yard requirements of the ZR, pursuant to §74-711, in order to develop a mixed use development (primarily residential, with ground floor retail on W. Broadway). The development will consist of two buildings on a through lot, one new building fronting on W. Broadway of nine stories, and a second renovated and enlarged building of four stories fronting on Wooster St. The preservation purpose and the design of the building was approved by the Landmarks Preservation Commission ("LPC"), a pre-requisite for approval pursuant to §74-711 ZR.

The site of the development is a through lot located on the block bounded by W. Broadway, Grand St., Wooster St., and Canal St. and has a lot area of 11,195 square feet. Currently, there are four three-story connected vacant loft buildings that occupy the Site. The Site is located at the southern end of the SoHo neighborhood and in the southwest corner of the SoHo Cast Iron Historic District (in Community District #2).

In order to grant the Special Permit, the City Planning Commission ("CPC") must find that the use modification shall have minimal adverse effects on the conforming uses in the surrounding area and that the bulk modifications will have minimal adverse effects on structures or open space in the vicinity in terms of scale, location and access to light and air.

The proposed development would have 30 residential units with an average size of approximately 1,600 square feet per unit. The total floor area for the proposed building will be 55,977 square feet including 3,878 square feet of commercial retail space. The building requires the proposed special permit to allow both residential uses and commercial uses on the ground floor, which are not allowed in the M1-5B or M1-5A zoning districts. The proposed building will also require bulk waivers. These modifications are proposed to create a building that is more appropriate with the SoHo Cast Iron Historic District than would otherwise be permitted in an as-of-right development. The LPC stated that the applicant's plans for the use changes and bulk waivers would be appropriate to the building and the historic district.

The LPC found that the proposed use changes, bulk changes and the ensuing repairs to the two buildings at 23 and 25 Wooster Street will contribute to a

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preservation purpose which meets the requirements of 74-711 ZR and merits allowing the applicant to request the use and bulk waivers from the CPC.

The proposed use waiver will have no adverse effect on the neighborhood. The retail space and residential uses are consistent with the surrounding community. Furthermore, given the small size of the proposed development (30 units and 3,000 square feet of retail), it will be unlikely to have any significant effect on the surrounding neighborhood.

The requested bulk waivers are minimal and will assist in creating a more contextual development than would otherwise occur in an as-of-right building.

As indicated in the approvals of the Community Board, the Manhattan Borough President, the LPC and the CPC, the building's owner, ADG-SoHo LLC, is meeting the requirements of the Special Permit by undertaking extensive work to bring the historic building to a sound, first class condition, and is entering into a restrictive declaration ensuring continued maintenance to keep the building in this state in perpetuity.

2-05-08



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

October 22, 2007

Recommendation on
ULURP Application No. C 070247 ZSM – Chocolate Factory
by ADG-SoHo LLC

PROPOSED ACTION

ADG- SoHo LLC seeks a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of ZR §42-10 and §42-14(D)(2)(b), the height and setback regulations of ZR §43-43, and the rear yard regulations of ZR §43-313, to facilitate the conversion from manufacturing to residential of two existing 4-story buildings at 23-25 Wooster Street and to construct a new 9 story mixed use building at 325-239 West Broadway. The building is located in the SoHo Cast Iron Historic District, within M1-5A and M1-5B zoning districts. In order to grant the special permit, the City Planning Commission must find that the use modification shall have minimal adverse effects on the conforming uses in the surrounding area and that the bulk modifications will have minimal adverse effects on structures or open space in the vicinity in terms of scale, location and access to light and air.¹

PROJECT DESCRIPTION

The proposed changes will facilitate a new through-lot mixed use building. The preserved portion of the new structure will be a 4 story residential structure that will combine two buildings facing Wooster Street. On the other side of the through lot, a new 9 story residential structure with ground floor retail facing West Broadway will be constructed.

The site is currently occupied by 3 buildings: two federalist buildings on Wooster Street and a former chocolate factory building on West Broadway. The buildings on Wooster Street will be restored while the factory building on West Broadway will be demolished. The proposed development would combine the two buildings on Wooster Street into one building and demolish the Chocolate factory, which has been determined to be a non-contributing building to the Historic District.

¹ In order for a 74-711 special permit to be granted, the Landmarks Preservation Commission must also issue a certificate of appropriateness for the project, as well as report that the use modification will contribute to a continuing maintenance program that has been established to preserve the retained historic building. LPC must also issue a certificate of appropriateness or otherwise find that the modification will relate harmoniously to the surrounding community. The LPC issued such report and granted the certificate of appropriateness on January 3, 2007. The LPC's determination has not been re-examined in this recommendation.

MUNICIPAL BUILDING ♦ 1 CENTRE STREET ♦ NEW YORK, NY 10007

PHONE (212) 669-8300 FAX (212) 669-4305

www.mbpo.org bp@manhattanbp.org

The proposed development would have 30 residential units at roughly 1,690 square feet per unit. The total floor area for the proposed building will be 55,977 square feet including 3,878 square feet of commercial retail space. The building requires the proposed special permit to allow both residential uses and commercial uses on the ground floor, which are not allowed in the M1-5B or M1-5A zoning districts.

The proposed building will also require bulk waivers. The new 9 story building on West Broadway will rise 85 feet with a 10 foot setback before reaching its full height of 115 feet. The proposed building will have an extra 12-foot story above the maximum stories permitted before the setback. The depth of the setback is also 5 feet shorter than would normally be required. Further, a small portion of the building also penetrates the sky exposure plane. Finally, the rear yard provided is approximately 2 feet shorter than would normally be required. These modifications are proposed to create a building that is more appropriate with the SoHo Cast Iron Historic District than would otherwise be permitted in an as-of-right development.

In its report issued to the City Planning Commission, the LPC stated that the applicant's plans for the use changes and bulk waivers would be appropriate to the building and the historic district. It will also return the building on Wooster Street closer to its original historic appearances and ensure ongoing maintenance of the preserved structures.

COMMUNITY BOARD'S RECOMMENDATION

At a regularly scheduled committee meeting on September 29, 2007, Manhattan Community Board No. 2's voted unanimously with 45 in favor, 0 opposed, 0 abstained and 0 recused, to recommend approval of the application.

BOROUGH PRESIDENT'S COMMENTS

The special permit pursuant to ZR §74-711 is a powerful tool which can be used to modify many sections of the Zoning Resolution in order to make owning and maintaining historic structures less burdensome and more desirable. In return for waiver(s), applicants must ensure that the subject property is properly rehabilitated and maintained in perpetuity. Applicants also must ensure that the modifications will not adversely effect the neighborhood.

The LPC has found that the proposed use changes, bulk changes and the ensuing repairs to the building will contribute to a preservation purpose worthy of allowing the applicant to request the use and bulk waivers from the City Planning Commission.

The proposed use waiver will have no adverse effect on the neighborhood. The retail space and residential uses are consistent with the surrounding community. Furthermore, given the small size of the proposed development (30 units and 3,000 square feet of retail), it will be unlikely to have any significant effect on the surrounding neighborhood.

Moreover, the bulk waivers will be unlikely to have an impact on any structure or open space in the nearby vicinity. The requested waivers are minimal and will assist in creating a more contextual development than would otherwise occur in an as-of-right building.

The building's owners have also agreed to adhere to the construction requirements in a historic district, including creating a construction protection plan pursuant to TPPN 10 of 88 from the Department of Buildings. The structure will also have minimal cellar space, which should negate the need for site-wide dewatering, and the site's entrances comply with the requirements of the

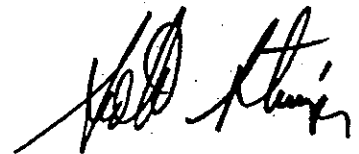
flood plane.

Finally, in applying for the special permit, the building's owner is undertaking extensive work to bring the historic building to a sound, first class condition, and is entering into a restrictive declaration ensuring continued maintenance to keep the building in this state in perpetuity.

BOROUGH PRESIDENT'S RECOMMENDATION:

This application for a special permit meets the required applicable conditions and findings for a special permit pursuant to ZR §74-711 regarding use and bulk waivers.

Therefore, the Manhattan Borough President recommends approval of ULURP Application No. C 070247 ZSM.



Scott M. Stringer
Manhattan Borough President

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
 22 Reade Street, New York, NY 10007
 FAX # (212) 720-3356

Application # **C 070247 ZSM**
 CEQR # **07DCP027M**
 Community District No. 02 Borough: **Manhattan**
 Community District No. ___ Borough: ___
 Project Name: **Chocolate Factory**

INSTRUCTIONS:
 1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 212E, at the above address.
 2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President and one copy to the Borough Board, when applicable.

Docket Description:

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 Sections 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.

<p>Applicant(s): ADG-SoHo LLC 53 East 75th Street New York, NY 10021</p>	<p>Applicant's Representative: Francis R. Angelino, Esq. Decampo Diamond & Ash 747 Third Avenue New York, NY 10017</p>
---	---

<p>Community Board No. 2 Borough: Manhattan</p> <p>Date of public hearing: <u>9/6/07</u></p> <p>Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> <p>Vote adopting recommendation taken: <u>9/20/07</u></p>	<p>Borough Board</p> <p>Location: <u>St. Anthony of Padua Church 154 Sullivan Street</u></p> <p><small>A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small></p> <p>Location: <u>St. Vincent's Hospital 170 W. 125th Street</u></p>
--	---

RECOMMENDATION

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> Approve | <input checked="" type="checkbox"/> Approve With Modifications/Conditions |
| <input type="checkbox"/> Disapprove | <input type="checkbox"/> Disapprove With Modifications/Conditions |

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

See attached resolutions.

Voting			
In Favor:	Against:	Abstaining:	Total members appointed to the board:
45	0	0	50
<p style="font-size: 1.2em; font-family: cursive;">Robert Gornley</p> <p>Community/Borough Board Officer</p>		<p style="font-size: 1.2em; font-family: cursive;">District Manager</p> <p>Title</p>	

10/1/07
 Date

v.012006w

* Indicates application was certified by the CPC pursuant to Section 197-C(c) of the City Charter.



CITY OF NEW YORK
COMMUNITY BOARD NO. 2. MANHATTAN

3 Washington Square Village New York, New York 10012-1899
PHONE: 212 979-2272 FAX: 212-254-5102 E-MAIL: cb2manhattan@nyc.ny.gov
Greenwich Village * Little Italy * SoHo * NoHo * Hudson Square

Brad Hoylman
Chair

October 1, 2007

Jo Hamilton
1st Vice-Chair

Robert E. Riccobono
2nd Vice-Chair

Amanda Burden, Chair
City Planning Commission
22 Reade Street
New York, New York 10007

Sheelah Feinberg
Treasurer

Susan Kent
Secretary

Dear Chair Burden:

Elaine Young
Assistant Secretary

At its Full Board meeting on September 20, 2007, Community Board #2, Manhattan (CB#2, Man.) adopted the following resolution:

Bob Gormley
District Manager

325-329 West Broadway / 23-25 Wooster St., Chocolate Factory, (Block 228, Lot 20) Application for a Special Permit Pursuant to Section 74-711 to modify use regulations (§§42-10 & 42-14D.(2)), height and setback (§43-43) and rear yard (§43-313) requirements of the Zoning Resolution in order to develop a mixed use building, primarily residential, with ground floor retail, in M1-5A/M1-5B Districts.

WHEREAS; The applicant met with the community before the Public Hearing, And

WHEREAS; community members expressed support for this application, And

WHEREAS; The restored townhouses on Wooster St. will be a welcome addition to the neighborhood, And

WHEREAS; The applicant has stated that there will be no eating and drinking establishment in the retail space at this location, And

WHEREAS; The applicant has been advised that compliance with The NYC Department of Buildings Technical Policy and Procedure Notice #10/88 *Procedures for the avoidance of damage to historic structures resulting from adjacent construction* is required for this project.

THEREFORE BE IT RESOLVED, That CB#2, Man. thanks the applicant for having reached out to the community and responding to their concerns, And,

Amanda Burden, Chair
City Planning Commission
October 1, 2007
Page Two

THEREFORE BE IT FURTHER RESOLVED, that CB#2, Man. supports this application for a Special Permit Pursuant to Section 74-711 to modify use regulations (§§42-10 & 42-14D.(2)), height and setback (§43-43) and rear yard (§43-313) requirements of the Zoning Resolution in order to develop a mixed use building, primarily residential, with ground floor retail in M1-5A/M1-5B Districts providing that the ground floor use be restricted to Use Group 6 and that no eating and drinking establishment be allowed at this location, And

THEREFORE BE IT FURTHER RESOLVED, That CB#2, Man. requests regular construction coordination meetings with the community as this project progresses, And,

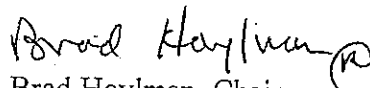
THEREFORE BE IT FURTHER RESOLVED, That CB#2, Man. requests that that every effort be made to minimize the impacts of construction and that the contractor must carefully inspect the subsurface excavation and use seismic monitors to protect the surrounding buildings.

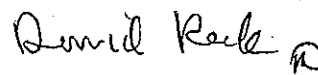
THEREFORE BE IT FURTHER RESOLVED, That CB#2, Man. requests that all pile foundations be drilled not hammered and that any underpinning of the surrounding buildings be carefully monitored.

Vote: Unanimous, with 45 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,


Brad Hoylman, Chair
Community Board #2, Manhattan


David Reck, Chair
Zoning and Housing Committee
Community Board #2, Manhattan

BH/fa

cc: Hon. Jerrold Nadler, Congressman - via fax
Hon. Thomas Duane, NY State Senator - via fax
Hon. Deborah Glick, Assembly Member- via fax
Hon. Scott Stringer, Man. Borough President- via fax
Hon. Alan Jay Gerson, Council Member- via fax
Hon. Margarita Lopez, Council Member
Hon. Christine Quinl, Speaker- via fax
Shaan Khan, Deputy Director of Community Affairs and Constituent Services
Man. Borough President- via fax
Hunter Johansson, Community Board Liaison, Man. Borough President- via fax
Nazli Parvizi, Commissioner, CAU- via fax
Lorna Edwards, Land Use Review Unit, Dept. of City Planning
Vivian Awner, Community Board Liaison, Dept. of City Planning
Jeff Mulligan, Executive Director, Board of Standards & Appeals
Applicant

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



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK, NY 10007
TEL: 212 669-7700 FAX: 212 669-7780



ROBERT B. TIERNEY
Chair

January 3, 2007

ISSUED TO:

Amanda Burden, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: LPC - 074329
MOU 07-4622
325-329 WEST BROADWAY
aka: 23-25 Wooster Street
SOHO-CAST IRON
Borough of Manhattan
Block/Lot: 228 / 20

At the Public Meeting of April 18, 2006, following the Public Meeting of March 14, 2006 and the Public Hearing of March 7, 2006, the Landmarks Preservation Commission ("LPC") voted to issue a report to the City Planning Commission ("CPC") in support of an application for the issuance of a Special Permit, pursuant to Section 74-711 of the Zoning Resolution to permit the Modification of Use and Bulk for the building to be constructed on the western side of block 228, lot 20, (325-329 West Broadway), as put forward in your application completed on February 9, 2006. 23-25 Wooster Street, the "Designated Buildings" located at the eastern side of block 228, lot 20, are an early 19th century building altered in 1894 and an early 19th century building built or altered circa 1920-1930; and the buildings' style, scale, and materials are among the features which contribute to the special architectural and historic character of the SoHo-Cast Iron Historic District.

In voting to issue the report, the LPC found that the applicant has agreed to undertake work to restore the Designated Buildings and adjoining sidewalks and bring them up to a sound, first class condition, including restorative work at the front and sidewall facades, the removal of rooftop bulkheads, and the replacement of sidewalk paving; that the applicant has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Buildings are maintained in a sound, first-class condition; and that a restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity.

Specifically, at the Public Meeting of March 14, 2006, following the Public Meeting of March 14, 2006 and the Public Hearing of March 7, 2006, the Commission approved a proposal for the demolition of two buildings at the western portion of the site (325-329 West Broadway) and the construction of a new seven-story building, with a two-story setback penthouse and rooftop bulkheads, featuring unpainted metal and glass street wall facade, with horizontal bands of perforated undulated metal; a concrete terrace covering at the roof; concrete clad sidewalls and pillars; and ground floor shopfronts, with butt-jointed glazing, etched glass transoms, light

fixtures, metal bracket signs, a concrete canopy and cast iron and glass paving panels. The work also included the creation of a rear yard, the installation of street trees, and alterations to the buildings at the eastern portion of the lot (23-25 Wooster Street), including installing steel fixed and casement windows throughout the front facade of 23 Wooster Street; installing wood doors and transom windows at the first floor of 23 Wooster Street; reconfiguring and enlarging a masonry opening at the first floor of 25 Wooster Street and installing one-over-one, double-hung, wood windows within the enlarged opening; creating a new masonry opening and installing a wood, four-over-four, double-hung, window within the new opening at the recessed entrance of 25 Wooster Street; replacing an existing door at the recessed entrance; and the construction of a rooftop additions and bulkheads. Subsequently, the proposal was modified to include a change in window material at 23 Wooster Street from steel to aluminum, the replacement of concrete infill at basement level masonry openings with multi-light, fixed wood windows at 25 Wooster Street, and replacement of concrete entrance steps with brownstone stucco steps at 25 Wooster Street.

The applicant also agreed to perform restorative work as described in Certificate of No Effect 07-4624 (LPC 07-2724), issued January 3, 2007, including exterior alterations throughout the front facades of 23 and 25 Wooster Street, including repointing throughout the facades; replacing damaged brickwork in-kind; cleaning and stripping paint, utilizing chemical cleansers and paint strippers and low pressure water rinses; repairing damaged bluestone lintels and sills; repairing and repainting steel lintels; removing embedded metal elements; reconstructing the front parapet of 23 Wooster Street with a new brickwork parapet, featuring recessed panels to match the historic design; repairing and replacing damaged granite at entrance steps and the building base of 23 Wooster Street, as necessary; reconstructing the parapet of 25 Wooster Street and installing a fiberglass cornice; replacing three existing brick lintels at the second floor of 25 Wooster Street with new bluestone lintels to match the existing historic third floor window lintels; replacing six two-over-two windows, one modified four-over-four window, and glass block infill at the second and third floor window openings of 25 Wooster Street with six four-over-four, double-hung wood windows; installing an entrance railing; removing existing non-historic elements at 25 Wooster Street, including an awning framing, an exhaust pipe, an applied wood beam below the first floor windows, a metal gate and a pipe rail. The work also includes interior alterations and exterior alterations at the roof; sidewall facades and a southern parapet, including removing rooftop bulkheads; replacing flat bitumen roofing in-kind; stripping paint, cleaning, and repainting the sidewall facades, utilizing chemical cleansers and paint strippers and low pressure water rinses; repointing; repairing brickwork; and reconstructing the southern sidewall parapet of 23 Wooster Street with a lowered parapet.

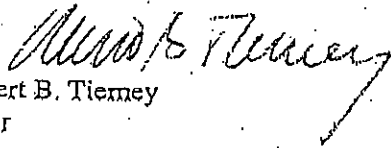
In reaching a decision to grant a Certificate of Appropriateness, the Commission reviewed the proposed work and found that the existing buildings at the West Broadway streetscape do not contribute to the historic district and their demolition will not detract from the special historic and architectural character of the historic district; that the plane of the proposed West Broadway facade will align with the facades of the adjacent properties, thereby reinforcing the street wall, a significant, consistent feature of the SoHo-Cast Iron Historic District; that the modular organization of the West Broadway facade, the predominant expression of structure and the palette of materials and finishes will recall and harmonize with the surrounding streetscapes and particularly the cast iron buildings, which dominate the historic district; that the dominant piers and recessed, vertical bays will help the proposed building to relate to other buildings in the historic district which feature strong cast iron and masonry frames; that the proportions and rhythm of the West Broadway facade will be in keeping with other asymmetrical buildings found throughout the district; that the undulating and perforated metal panels and linear metal framing and railings will recall, in a contemporary manner, the metal ornamentation and detailing of cast iron buildings throughout the district and the many fire escapes that are prominent features of the streetscapes; that the fenestration pattern and floor to ceiling heights will relate well to the neighboring properties, thereby supporting the cohesiveness of the streetscapes; that the signage and frosted glass will be well-scaled to the shopfronts and in keeping with the character of signage found throughout the district; that the presence of in-ground trees in these historic district which now features a mix of residential, store, loft and light manufacturing buildings, will not detract from the streetscape or historic district; that although not replicating the operation of the historic center pivot windows, the upper floor casement windows of 23 Wooster Street will match the materials, configurations and proportions of the historic windows and, in combination with the

surrounding fixed windows, will replicate the appearance of the historic fenestration pattern; that the entrance doors, side panel and transoms of 23 Wooster Street will be well-scaled to the building and closely recall the design and appearance of the entrances; that the windows at the center bay of 23 Wooster Street will harmonize with the proposed first floor infill and relate well to the upper floor windows, thereby helping to unify the facade; that although slightly larger than the historic masonry opening, the proposed triple window opening at 25 Wooster Street will be in keeping with the scale of the building and the historic hierarchy of masonry openings at this facade; that the window opening at the recessed entrance of 25 Wooster Street will match the proposed upper floor windows, be set back from the primary facade and be installed at plain brickwork, thereby remaining a harmonizing secondary feature and not damaging any significant fabric; and that the proposed door at 25 Wooster Street will be installed at an existing entrance and is in keeping with building's of this type, style and age. Based on these findings, the Commission determined the work to be appropriate to the building and the historic district and voted to approve the application with the stipulation that the rooftop additions at 23 and 25 Wooster Street be modified to make these installations minimally visible from public thoroughfares.

In reaching a decision to issue a favorable report to the CPC, the LPC found that the restorative work, approved pursuant to Certificate of No Effect 07-4624, will restore missing architectural details and return the Wooster Street buildings closer to their historic appearances; that the exterior facade work will reinforce the architectural and historic character of the buildings and the historic district; that the restorative work will bring the buildings up to sound first class condition and aid in their long term preservation; that the implementation of a cyclical maintenance plan will ensure the continued maintenance of the buildings, in a sound, first-class condition; and that the owners of the designated buildings, have committed themselves to establishing a cyclical maintenance plan that will be legally enforceable by the Landmarks Preservation Commission under the provisions of a Restrictive Declaration, which will bind all heirs, successors and assigns, and which will be recorded at the New York County Registrar's Office.

The Declaration requires the Declarant to hire a qualified preservation professional, whose credentials are to be approved by LPC, to undertake comprehensive inspections every five years of the Designated Building's exterior and such portions of the interior which, if not properly maintained, would cause the Designated Building to deteriorate. The Declarant is required to perform all work identified in the resulting professional reports as being necessary to maintain the Designated Building in sound, first-class condition within stated time periods.

The staff of the Commission is available to assist you with these matters. Please direct inquiries to Bernadette Artus


Robert B. Tierney
Chair

cc: Caroline Kane Levy, Deputy Director of Preservation/LPC; John Weiss, Deputy Counsel/LPC; Asli Cevikce, Beyhan Karahan & Associates; Ward Dennis, Higgins & Quasebarth

**Chocolate Factory
325-329 West Broadway and
23-25 Wooster St.
New York, New York
(Block 228, Lot 20)**

**Application for a Special Permit Pursuant to
Section 74-711 of the Zoning Resolution to
Modify Use and Bulk Regulations in
M1-5A/M1-5B Districts**

ADG –SoHo LLC (the “Applicant”) requests approval to modify the use regulations (§§42-10 & 42-14D.(2)), height and setback (§43-43) and rear yard (§43-313) requirements of the Zoning Resolution, pursuant to §74-711, in order to develop a mixed use development (primarily residential, with ground floor retail on W. Broadway). The development will consist of two buildings on a through lot, one building fronting on W. Broadway of nine stories, rising to a height at the roof of 110’ – 4” and a second building of four stories fronting on Wooster St., rising to 57’ – 6”. The design of the buildings was recently approved by the Landmarks Preservation Commission, a pre-requisite for approval pursuant to §74-711. The building proposed for West Broadway would be entirely new construction while the building proposed for Wooster Street would be comprised of part of an existing three-story building on the site that would be enlarged by the addition of one story.

This statement, written in support of the requested approvals, provides a description of the proposal, its context and the applicable zoning and a discussion of how the findings required to grant the special permit are met.

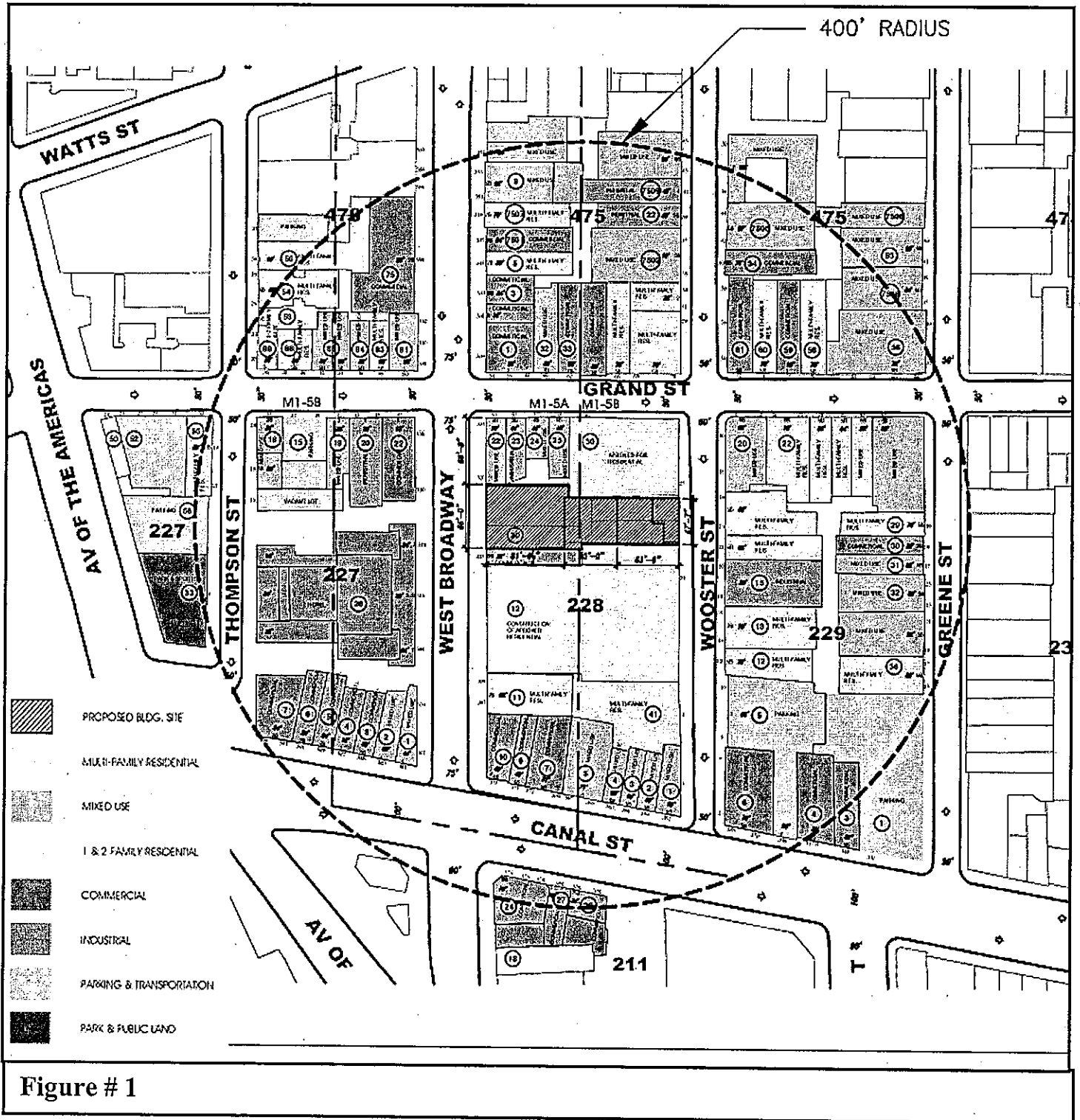
Description of the Proposal

The Site and Its Context

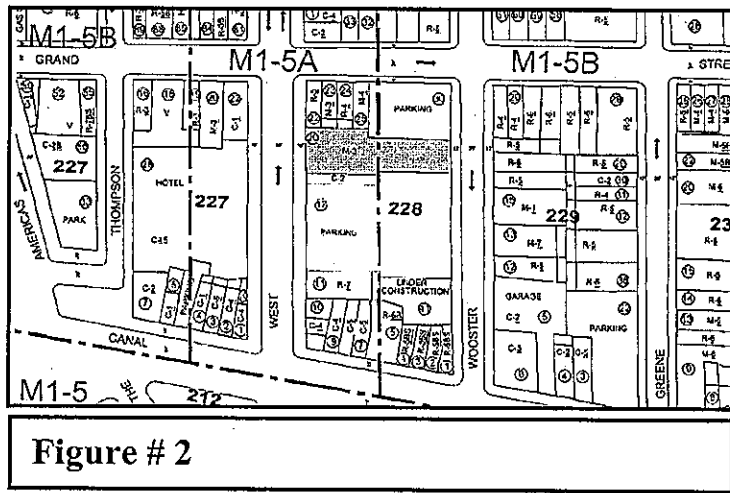
The site of the development (the “Site”) is a through lot located on the block bounded by W. Broadway, Grand St., Wooster St. and Canal St. (the “Block”). As noted above, the Site fronts on both W. Broadway and Wooster St. The Site is irregular in shape, having a frontage of approximately 66’ on W. Broadway and 47’ – 7” on Wooster St. The Site’s shape and its surroundings are shown in Figure # 1. The Site has a lot area of 11,195 SF. Currently four three – story loft buildings occupy the Site.

The Site is located at the southern end of the SoHo neighborhood and in the southwest corner of the SoHo - Cast Iron Historic District (in Community District # 2). The area, once a major loft manufacturing district has changed over the last 35 years into one of the City’s premier mixed use districts, with thriving retail activity and

living/work space for artists – Joint Living Work Quarters for Artists (JLWQA) – and residential use along with some remaining manufacturing/commercial uses.



The Block has a variety of uses. To the north of the Site, on the W. Broadway side are four buildings. Lot 22 (53 Grand St.), at the intersection of W. Broadway and Grand St. is a five story building in which the upper floors are used for JLWQA and the ground floor is restaurant/bar use. Next to it, along Grand St., Lot 23 (55 Grand St.) is three stories and has JLWQA on the upper floors and has a restaurant/bar on the ground floor. Lot 24 (57 Grand St.) on Grand St. has also been converted to JLWQA, also with ground floor restaurant/bar use. Lot 25 (59 Grand St.) has four stories and has ground floor commercial use (restaurant/bar and commercial above). The last lot on this Grand St. frontage, at the intersection of Grand St. and Wooster St., is Lot 30 (69 Grand St.), which is currently used as a parking lot. A land use application (C 060492 ZSM) was approved by the City Planning Commission on 3/14/07 in order to permit development of the site with a residential building. To the south of the Site, on W. Broadway, is a small two story building used as a bar/restaurant. This building is part of much larger zoning lot, Lot 12 (311 West Broadway), which was previously used as a public parking lot. This property, which is a through lot, is in construction, having received approval from the City Planning Commission (C 060201 ZRM, C 060202 ZSM and C060203 ZSM) for a text change and special permits pursuant to §74-712 and §74-52 to permit the construction of a largely residential building with two wings, a public parking garage and ground floor retail on W. Broadway. The approved plan includes an eight-story wing on Wooster Street and a nine-story wing



on West Broadway. South of Lot 12 on the W. Broadway block front is Lot 11 (307 West Broadway), a seven story loft building converted to JLWQA use. At the corner of W. Broadway and Canal St is located Lot 10 (375 Canal St.), which has ground floor commercial uses and upper floor residential use. Lot 9 (373 Canal St.), just east of it is a four-story building with ground floor commercial use and JLWQA on the upper floors. Continuing eastward, Lot 7 (369 Canal St.) is five stories and is used commercially. Lot 5 (365 Canal St.) is 5-story building with a mix of residential

and commercial uses with commercial use on the ground floor. Lot 4 (363 Canal St.) is a six-story building with commercial use on the ground floor and

JLWQA on the floors above. The three remaining lots on the block front, Lots 1 (357 Canal St.), 2 (359 Canal St.), & 3 (361 Canal St.) are all five stories and have commercial ground floors and residential use above. Just north of lots 1, 2, 3 and 4 is Lot 41 (3 Wooster St.) on the Wooster St. frontage, upon which a new 7 – story residential building was recently constructed.

To the west of the Block, across West Broadway, there is a mix of commercial uses, the most prominent, encompassing the majority of the block, is the SoHo Grand Hotel, a 15 story building. North of the Block, across Grand St. there is a mixture of buildings with commercial uses and those with JLWQA, with an occasional building with manufacturing/commercial uses remaining. Finally, to the east of the Block, across Wooster St. there is a once again a mix of uses, with some buildings devoted to JLWQA with ground floor retail uses or manufacturing/commercial uses and some property containing parking garages or open parking.

Zoning and the Site

The western half of the Site is zoned M1-5A, while the eastern half is in a M1-5B zoning district. Both of these districts are manufacturing districts, allowing many uses typically allowed in light manufacturing zones, which means most light manufacturing uses and many commercial uses are permitted. The maximum allowable F.A.R. in both districts is 5. Both M1-5A and M1-5B districts allow a unique mix of manufacturing and living/work spaces called Joint Living Work Quarters for Artists (JLWQA), which permits artists to live where they work, in combined residential and studio facilities converted from previously used manufacturing and commercial space.

In terms of JLWQA, such conversions have been permitted in buildings built before September 15, 1961 through a "grandfathering" process in certain cases, while others have been allowed either through special permits or authorizations. Such uses are also as-of-right in smaller buildings built before the above date. In order to leave what was thought to be the most valuable manufacturing space available for such uses, the regulations addressing the ground floor uses in both districts prohibited JLWQA in buildings occupying lot area greater than 3,600 SF. and in M1-5B districts, also prohibited ground floor JLWQA in buildings with footprints of 3,600 SF. or less. In addition to permitting JLWQA, these districts have also been altered to restrict certain uses that were considered incompatible with JLWQA and to restrict certain uses on the ground floor. 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 unless modified by special permit. In the M1-5B districts, ground floor retail use is not allowed in any buildings, irrespective of their lot coverage, unless modified by special permit.

As noted above, in addition to allowing JLWQA in M1-5A districts and M1-5B districts through grandfathering or as-of-right for smaller buildings, the Zoning Resolution also permits JLWQA and residential uses to be established through the grant of special permits, pursuant to §74-711. This provision allows modification of the use and bulk regulations, except floor area regulations, in all districts for zoning lots containing a landmark designated by the Landmarks Preservation Commission or for zoning lots with existing buildings in Historic Districts designated by the Landmarks Preservation Commission.

In recent years the City Planning Commission addressed the issue of vacant lots in the SoHo area. Recognizing that under the above described zoning regulations that vacant lots could only be developed with manufacturing and or commercial uses as-of-right and that such development was unlikely, the Planning Commission made further changes to this area's zoning. In 2003 as a result of land use patterns in the area, a zoning amendment was approved to permit the modification of use by special permit (§74-712) to allow new residential development on sites located in historic districts in M1-5A and/or M1-5B zoning districts, that were vacant or were land with minor improvements or with buildings occupying less than 20% of the lot area as of December 2003. The special permit also allows the modification of the bulk regulations. Certain findings have to be met, primarily relating to neighborhood character. Thus the Planning Commission recognized, that with the changes the area had undergone in the previous 35 years, that in specific instances new residential development could be considered appropriate for the SoHo area.

The Site, as noted previously, is located within the SoHo-Cast Iron Historic District. Since the Site does not qualify for use of the aforementioned text amendment passed in 2003 (§74-712) since the existing buildings on the site occupy more than 20% of the site's lot area, the Applicant therefore proposes to use §74-711 of the Zoning Resolution to modify certain sections of the Zoning Resolution governing the M1-5A and M1-5B districts in order to permit the proposed residential building. As described in detail in the next section, the Applicant intends to maintain parts of the historic buildings on Wooster St. while demolishing the buildings fronting on W. Broadway (please see Figures # 3 and # 4).

The Landmarks Preservation Commission has determined that portions of the buildings facing Wooster St. have contributed to the historic nature of the area and deserve preservation. At the same time, they examined the two buildings fronting on W. Broadway and determined that such

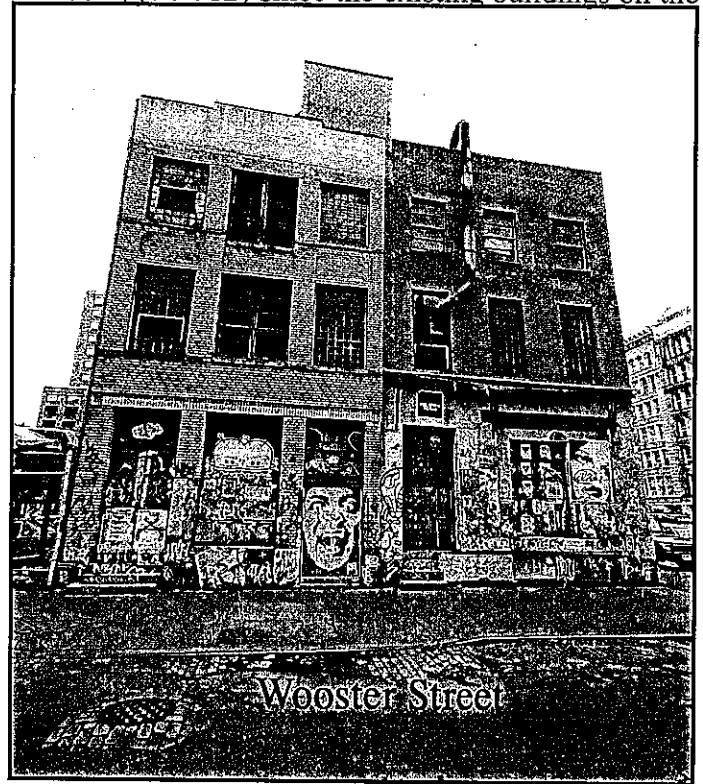


Figure # 3

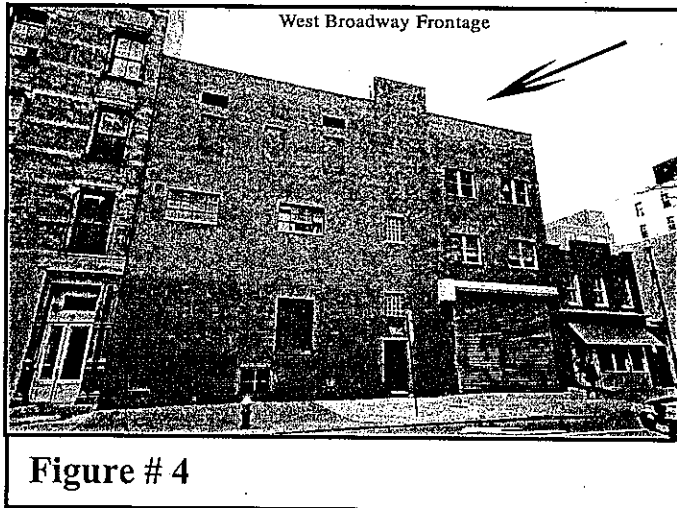


Figure # 4

substantial changes had been made to these buildings in the past that they no longer contributed to the character of the historic district and that their demolition would be permissible. This is demonstrated by the LPC approving the design of the proposed development and their issuance of a Certificate of Appropriateness and report. As can be

seen in the photos, the buildings on West Broadway have been substantially modified over the years, while the ones on Wooster St., though covered in graffiti, do not resemble their original construction from the Federal period in which they were built, but represent their condition from the circa 1940's. This is evident in the requirement of the LPC that these portions of the building must be maintained.

The Proposal

The Development is proposed to consist of two buildings separated by a common courtyard. As currently designed the development will have 30 dwelling units, with seven in the Wooster St. building and 23 in the West Broadway building. This number may change as the design and marketing are finalized but in no case will the building have more than 50 units. With 30 units the average floor area per unit will be over 1,590 SF. per unit. The unit size will range from 1,070 SF. to 1,771 SF. in the Wooster St. building. For W. Broadway the range is 1,006 SF. to 3,486 SF. The total square footage of the development is 55,977 SF. Of this amount 11,095 SF. will be in the Wooster St. building and 44,882 SF. in the West Broadway building. All of the floor area in the Wooster St. building is residential floor area (11,095 SF.) while in the West Broadway Building 39,831

SF. is residential and 3,878 SF. is commercial. In addition to the ground floor retail of 3,878 SF., there is also 1,493 SF. of retail space in the cellar of this building, which does not count as floor area.

The M1-5A and M1-5B districts allow a FAR of 5.0. The site currently has a built FAR of 3. Following the development of the site with the addition of the new building on West Broadway and the enlargement of the buildings on Wooster Street, the site will have a FAR of 4.88. Since the buildings will occupy a single zoning lot they do not have individual FAR's.

The West Broadway Building

The West Broadway Building is to be constructed on the site of the currently existing buildings to be demolished and is to be nine stories with a height above curb level at the roof level of 106'- 4" (elevation 110'- 2", Manhattan Datum). The highest point of the building, the top of the stair bulkhead, is proposed to be 115' above curb level. The building is to be built at the streetline, rise seven stories to a height of 85' and then setback 10'.

After the setback the building then rises two stories further to its full height.

The building is proposed to have ground floor commercial uses (retail), while the eight floors above are residential space. The cellar of the West Broadway building will have storage space for the commercial uses on the first floor and building service space (compactor, etc.). Below the multi-level courtyard to the rear of the building that separates the West Broadway building from the Wooster St. building there will be a tenant recreational facility as well as a fountain and small garden that will be open to the sky.

The 55 foot deep courtyard between the two buildings has three different levels. The lowest part is a fountain, approximately 11' below the curb level. The middle part is a garden that is at the same level of the existing Cellar Level of the Wooster Street buildings, approximately 8' below the curb level. This level will be landscaped with a tree and grassy areas. The upper level of the courtyard is at the same level of the First Floor of the existing buildings, approximately 3' above the curb level. This area is also expected to be landscaped with hedges and paving.

Figure # 5 (next page) shows the two buildings and their relationship to each other, their heights, the courtyard and the location and degree of waivers requested.

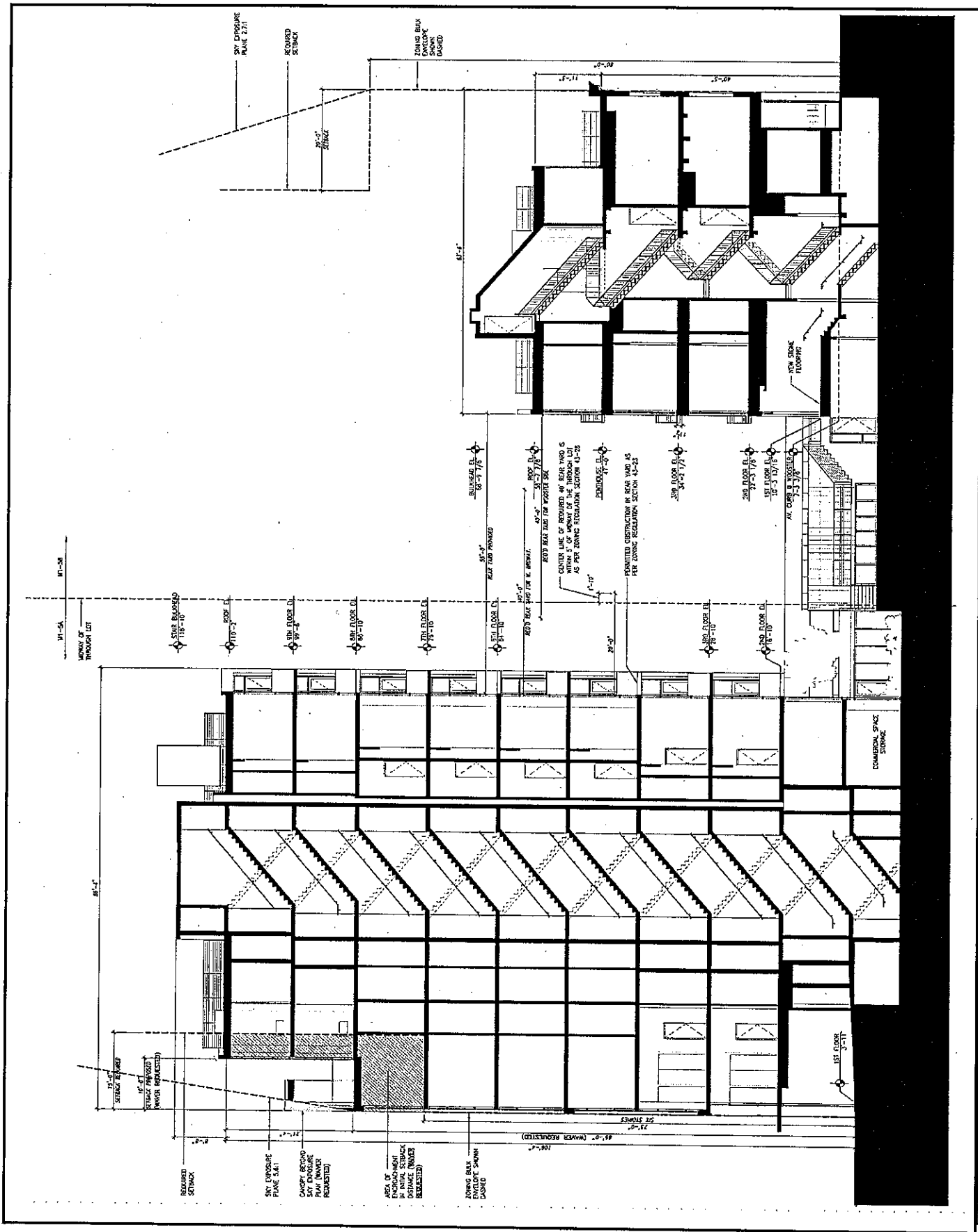


Figure # 5

The Wooster Street Building

The Wooster St. building will preserve the front portions of the buildings (to a depth of 63' – 6") that have been determined by the Landmarks Preservation Commission to be of historic value. The Rear portions of these buildings will be demolished to provide part of the courtyard and the necessary light and air for the dwelling units. Additionally, a fourth level will be constructed on top of the buildings, setback 15' – 0" from the streetline.

This building will attain a maximum height at the bulkhead of 61' – 2" (Elevation 68' – 9 7/8', Manhattan Datum). At the top of the roof of the penthouse the height above curb level will be 51' – 8" or elevation 58' – 7 7/8". This building will be entirely residential in use, accommodating seven dwelling units.

The cellar of the Wooster building which will be accessible to both buildings, will have storage space for some of the residents of both buildings, building service space (electrical, boiler, etc.), and a common area for residents, potentially used as a screening room.

Requested Actions

The Applicant is requesting, pursuant to §74-711, to modify the use and bulk regulations of the Zoning Resolution. Specifically modification is requested of the following Zoning Resolution sections:

- §42-10 Uses Permitted As-of-Right
- §42-14D.(2) Special Uses in M1-5A and M1-5B Districts
- §43-43 Minimum Height of Front Wall and Required Front Setbacks
- §43-313 (Rear Yards) For Portions of Through Lots

Use

As previously described the Applicant proposes to develop the buildings with residential use. Section 42-10 describes what uses are permitted as-of-right in M1 districts. Residential uses are not permitted uses in the M1-5A and M1-5B districts and thus modification is being requested to allow such use. Further, the Applicant proposes to use the ground floor of the W. Broadway building for commercial (retail) use. Section 42-14D.(2) prohibits the location of retail uses in Use Group 6 below the floor level of the second story of a building in M1-5A with lot coverage greater than 3,600 SF. and in any buildings of any size in M1-5B districts. As the lot coverage of the W. Broadway building exceeds the lot coverage permitting as-of-right retail use in the M1-5A district, modification of this section is required to permit the retail use proposed for the ground floor of the W. Broadway building.

Bulk

Height and Setback

There are three aspects to the height and setback waivers requested. The height and setback regulations pertaining to the M1-5 district permit the front wall of a building, within the initial setback distance to rise to height of 85' or six stories, whichever is less. Above 85' a sky exposure plane of 5.6:1 is imposed. As previously explained, the proposed W. Broadway building rises to a height of 85' and seven stories before setting back. It therefore exceeds the required setback height of six stories. At the top of the sixth story its height above curb level is 73', at which point it should have setback. Thus the front wall height waiver being requested is for this 12' difference between

the required setback at 73' and the proposed setback at 85'. Additionally, as shown in Figure # 5 a small part of the building on W. Broadway also penetrates the sky exposure plane. This part of the building (which does not count as floor area) is an architectural feature – referred to as a trellis – that was added to the building so that the top of the streetwall what height would relate to the building at 311 W. Broadway. Having a building with a similar scale and streetwall as 311 W. Broadway was desired by the Landmark Preservation Commission. Finally, the depth of the initial setback on a wide street is required to be 15' – 10' is proposed (a wide street is defined, in general, as a street that is 75' or greater in width – a narrow street is one that is less than 75' in width). The location and extent of the modifications needed is shown in Figure # 5. In this case the initial setback is proposed to be 10', thus requiring waiver of 5' in depth and 12' in height. The Wooster Street building is complying with regard to height and setback.

Have architect describe the reasons why the building is designed the way it is and relationship to 311. what did LPC want and how did we respond. Use the colorful language Beyhan verbally used in the CPC meeting.

Rear Yard

A building in a manufacturing district is required to provide a 20-foot deep rear yard. When the subject zoning lot is a through lot, as is the general situation in this case, then a rear yard equivalent of 40 feet must be provided. Except in one location, this requirement is greatly exceeded – for the portion of the through lot where the two buildings are opposite each other the courtyard has a depth of 55', which exceeds the required depth by over 37%. However, in one location, at the south side of the lot in the midblock, where the through lot narrows down as it goes from W. Broadway to Wooster St. a portion of the zoning lot has a rear lot line that abuts the rear lot line of the adjoining zoning lot (making this portion of the Zoning Lot an interior lot). Section 43-313 requires in such a case that conforming (20') rear yards be provided at these locations. At the south side of the through lot, the rear yard provided is 18'-3". Thus a modification waiving 1'-9" of the rear yard is requested at this location. This location and the degree of waiver are shown in Figure # 6.

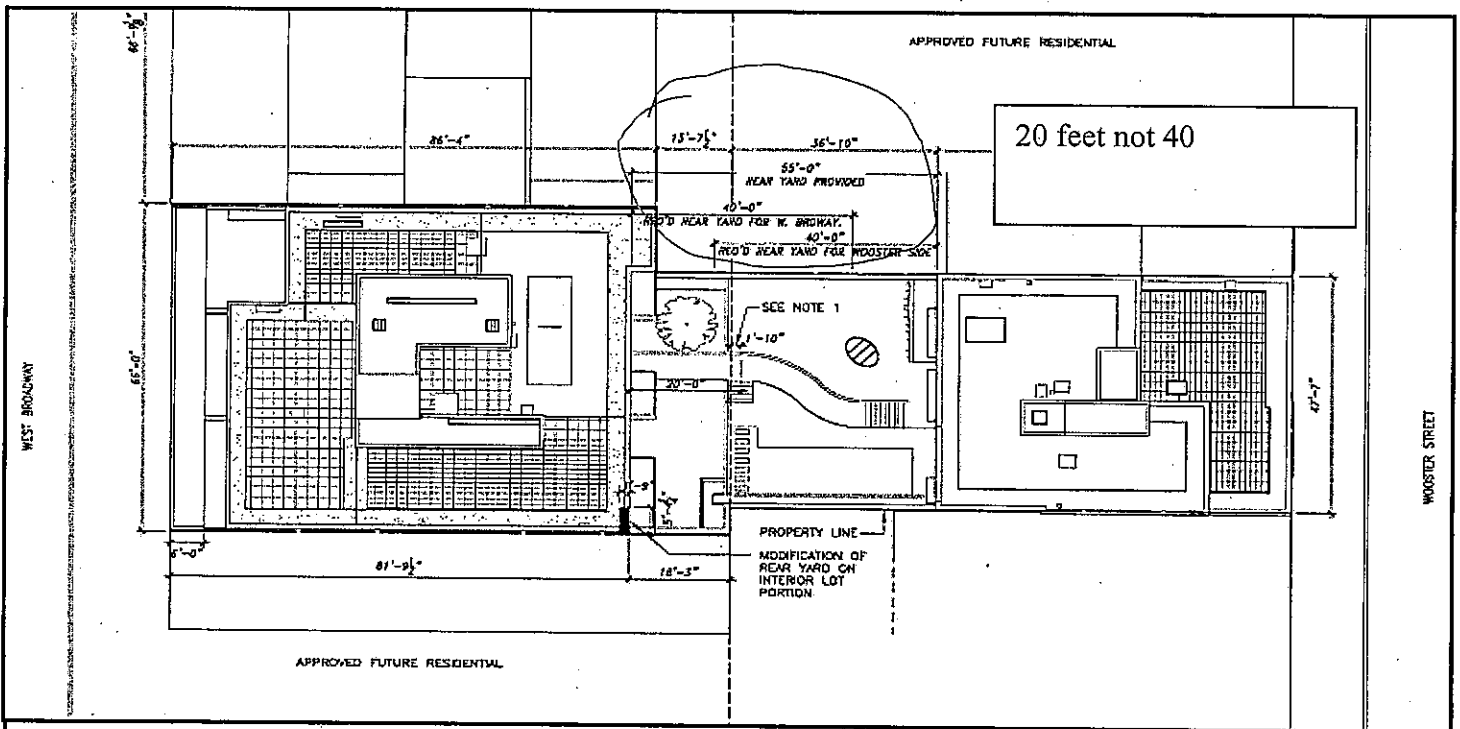


Figure # 6

DISCUSSION OF FINDINGS

In order to grant the requested approvals, the City Planning Commission must make specific findings. The condition that must exist in order to apply for the special permits and the specific findings that must be made are related below in *italic* font. A discussion of how each condition and finding is met follows each condition or finding in regular font.

Conditions

74-711

Landmark preservation in all districts

In all districts, for #zoning lots# containing a landmark designated by the Landmarks Preservation Commission, or for #zoning lots# with existing #buildings# located within Historic Districts designated by the Landmarks Preservation Commission, the City Planning Commission may permit modification of the #use# and #bulk# regulations, except #floor area ratio# regulations, provided that:

(a) The following conditions are met:

(1) any application pursuant to this Section shall include a report from the Landmarks Preservation Commission stating that a program has been established for continuing maintenance that will result in the preservation of the subject #building# or #buildings#, and that such #use# or #bulk# modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose;

The Zoning Lot is located in the SoHo -- Cast Iron Historic District and the Zoning Lot contains an existing building. The Landmarks Preservation Commission has approved a continuing maintenance program that will result in the preservation of the portions of the subject building that it has determined justify retention and that contribute to the nature of the historic district. Furthermore they have concluded that the use and bulk modifications will help to insure the long-term viability of the building and that the restorative work proposed contributes to a preservation purpose. Attached to this application and hereto made a part thereof is the report of Landmarks Preservation Commission dated January 3, 2007.

(2) any application pursuant to this Section shall include a Certificate of Appropriateness, other permit, or report from the Landmarks Preservation Commission stating that such #bulk# modifications relate harmoniously to the subject landmark #building# or #buildings# in the Historic District, as applicable; and

Attached to this application and made a part thereof is the Certificate of Appropriateness issued by the Landmarks Preservation Commission, dated January 3, 2007 that states the bulk modifications relate harmoniously to buildings in the Historic district.

(3) the maximum number of #dwelling units# shall be as set forth in Section 15- 111 (Number of permitted dwelling units).

Pursuant to §15-111 the density factor for an M1-5 district is 740. since the proposed development has a total floor area of 55,977 SF. then 75 dwelling units are permitted. It is currently proposed that the two buildings accommodate approximately 30 dwelling units, well within the limit prescribed by the Zoning Resolution.

Findings

(b) In order to grant a special permit, the City Planning Commission shall find that:

(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; and

The bulk modifications requested are for:

- An increase of 12' in the height in the initial setback area on W. Broadway;
- A penetration of the sky exposure plane on W. Broadway;
- A reduction of the required initial setback distance from 15' to 10'; and,
- A rear yard waiver for the interior lot portion of a through lot.

These waivers are modest in scope and degree and will have minimal effect on structures in the area or open space. The height and setback modification on W. Broadway consists of a 12' increase in the height of the building in the initial setback area. The height and setback regulations pertaining to the M1-5 district permit the front wall of a building, within the initial setback distance to rise to height of 85' or six stories, whichever is less. Additionally, a 10' setback is being proposed while a 15' deep initial setback is required on a wide street. This intrusion into the initial setback distance occurs on a wide commercial oriented street. Further, if the floor height of each floor in the building were greater, so that there were only six floors rather than seven before attaining a height of 85' then the streetwall could be 85' in height and no waiver would be required. Two other factors should be noted: first, across the street and slightly to the south is located the SoHo Grand Hotel, which rises to a height of approximately 179 feet and second, to the immediate south of the Site the City Planning Commission recently approved the aforementioned predominantly residential building, at 311 West Broadway (CPC #'s C 060203 ZSM, C 060202 ZSM & C 060201 ZRM, approved on 4/5/06), which is subject to the same underlying zoning requirements. The approved plans show a building with a height of 94' before setting back and two floors rather than one above the six story limit. Further, that building also sets back 10' rather than 15' in the initial setback area. Thus this building will be consistent in both scale and height with the recently approved building at 311 W. Broadway. This consistency is shown in Figure # 7. The building has been designed as shown with the guidance of the Landmark Preservation Commission, which viewed the design in terms of its overall height as being consistent with the essential scale of the surrounding area as well as consistent with the scale of the building they had previously approved at 311

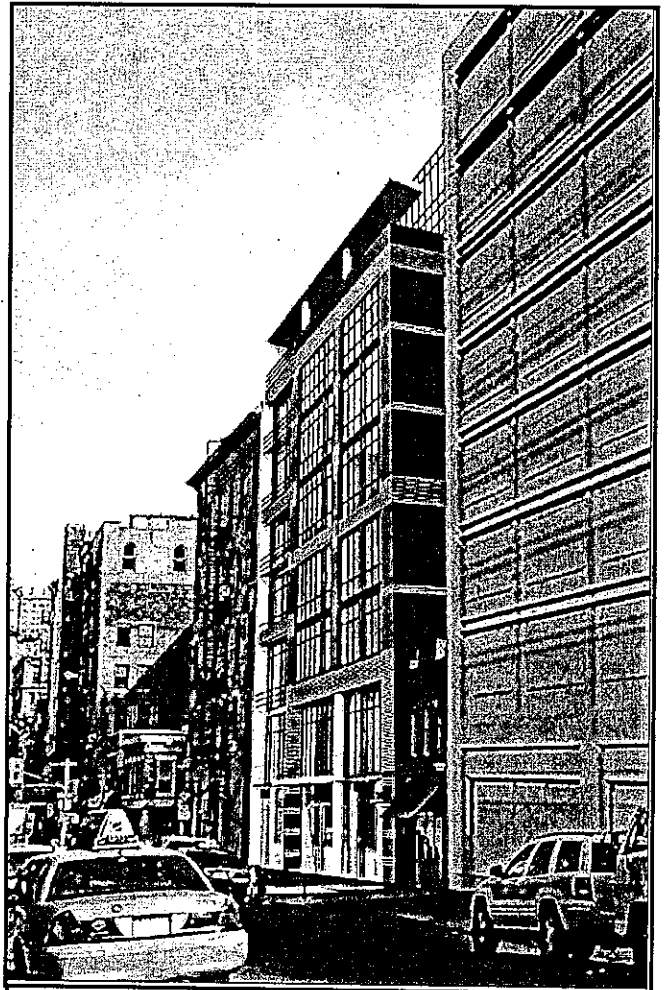


Figure # 7

West Broadway. The Zoning Resolution height requirement is that the building be either six stories or 85 feet, whichever is less. The requested bulk modification permits the proposed building to come closer to matching the height of

the approved building to the south. Further, the waiver permits the building to emulate other buildings in the area by avoiding a setback at 6 stories, which is not common on the block. The Landmark Preservation Commission did not want a series of setbacks on W. Broadway but rather a streetwall building in which any setbacks would be at a greater height and less apparent from the street. Further they wanted the streetwall to appear to line up with the top of the streetwall at 311 W. Broadway.

In terms of the rear yard waiver, this consists of a reduction in rear yard depth of 1' - 9". This waiver, as shown in Figure # 6, is located at the south lot line of the subject property, approximately at the middle of the lot. At this location the subject lot narrows, creating a condition in which a portion of the lot becomes an interior lot (e.g. the zoning lot abuts the rear lot line of an adjacent zoning lot). At this location the Zoning Resolution requires the provision of a conforming 20' deep rear yard on the Applicant's zoning lot, the Applicant proposes to provide only a 18' - 3" rear yard thus a waiver of 1' - 9" of the required rear yard is requested. At this location the abutting zoning lot (the aforementioned development at 311 W. Broadway granted a special permit on 4/5/06 by the City Planning Commission) provides a rear yard of 27' - 6". Between the two rear yards an open area of 45' - 9" is provided, exceeding the required 40' of combined rear yards by 5' - 9". This condition is shown on Figure # 8, the site plan for 311 W. Broadway.

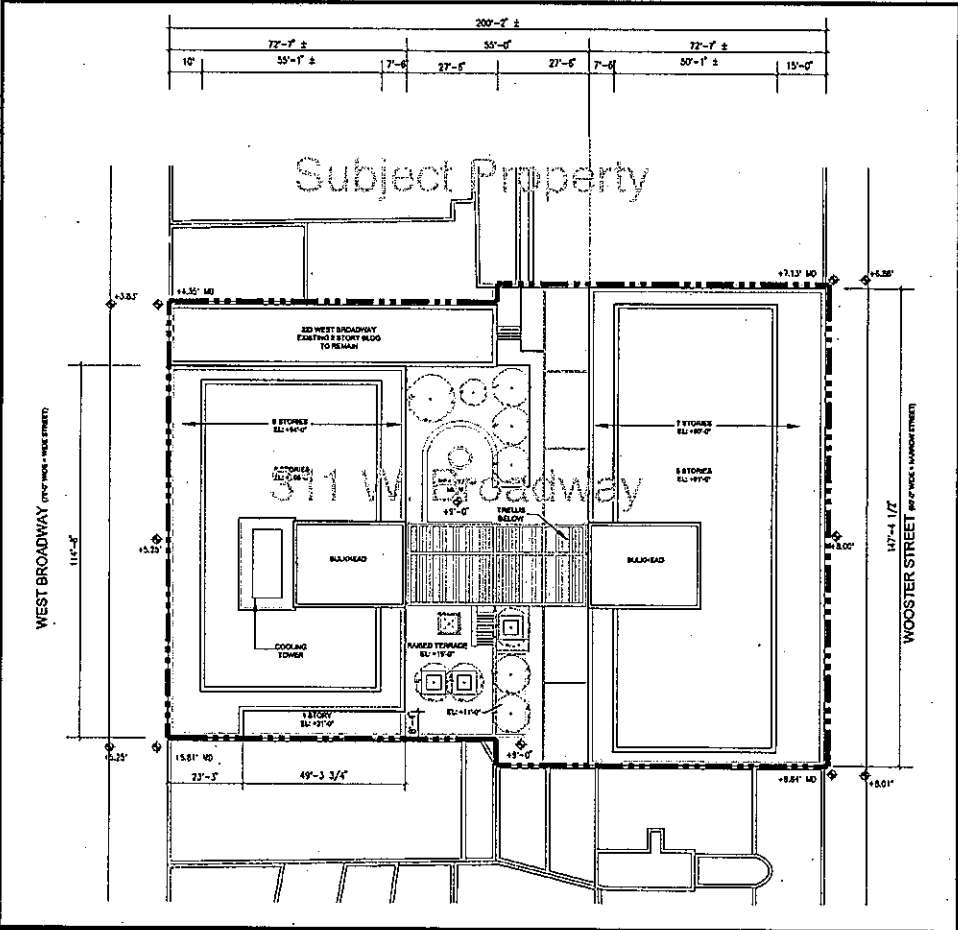
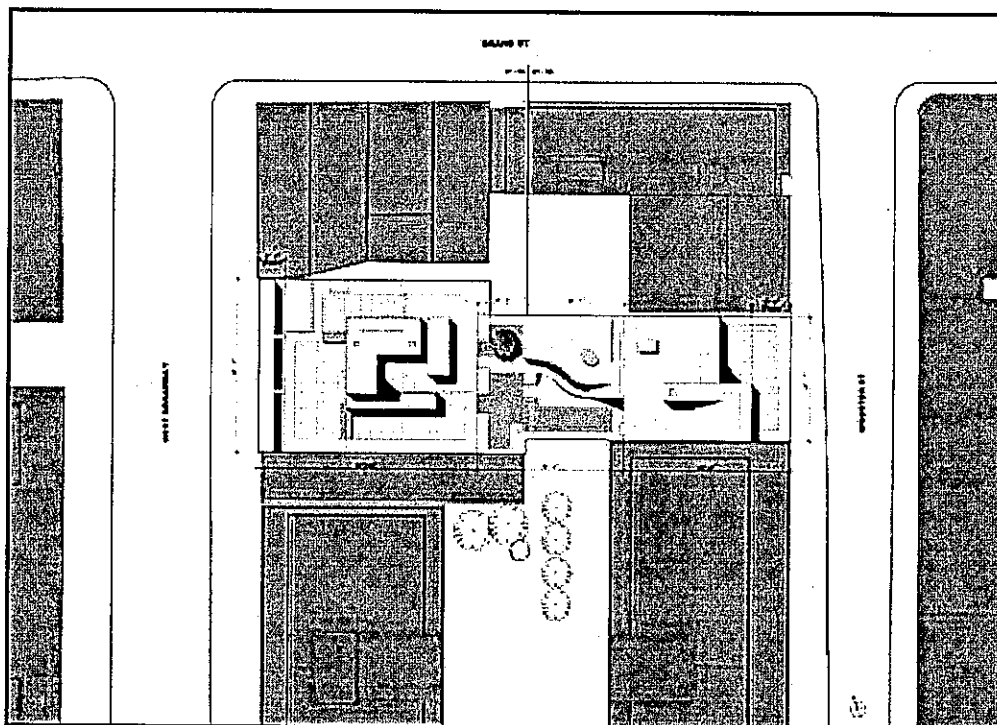


Figure # 8

In terms of open space, while there is no public open space in the area to be affected, the new development will substantially increase access to light and air and will substantially increase open space on the Block and be of great benefit to surrounding properties private open space to the north and south. Currently, the existing buildings on the Site have absolutely no rear yard or any open space. As previously noted, the proposal calls for the development of a 55 deep rear yard – a landscaped courtyard - between the two buildings. This courtyard extends almost the full width of the property and allows significant light and air into the midblock area. Not only does this benefit the new development, but also it also greatly benefits the new development to the south and the



development to the north (on Lot 30). The building to the south (311 W. Broadway) has a rear yard that is generally 55' wide. This will, in large part, line up with the 55' deep courtyard of the proposed development (the two rear yards are offset by about 8' – one yard is further east than the other). This leaves, above the second story level, a continuous yard of almost 50' in depth for a distance (along a north/south axis) of approximately 165'. The relationship of the to be created rear yards is shown in Figure # 9. The benefit to the potential building to the northeast, 27 Wooster St. (C 060492 ZSM 3/14/07), at the intersection of Grand St. and Wooster St., is also

Figure # 9

substantial. A portion of the rear of any building built on this site, in the mid-block between Wooster and W. Broadway would have light and air from an essentially 50' wide rear yard of 165' in length and face onto two extensively landscaped courtyards – the one proposed as part of the new development – and the one at 311 W. Broadway. Additionally, it should be noted that as the area was originally developed for manufacturing use, most buildings in the area occupy a very high percentage of their lots and thus have little open space, except as described above. The requested modification of height and setback is both minimal and because of its location (on W. Broadway) will have no effect on any rear yards. Further, a building developed as-of-right pursuant to the Zoning Resolution could be much higher than the proposed building, in which case shadows would be much longer.

The buildings located a the intersection of W. Broadway and Grand St. rear yards are not effected by the rear yard waiver since at that the location the proposed rear yard is complying.

(2) such #use# modifications shall have minimal adverse effects on the conforming #uses# within the #building# and in the surrounding area.

The use modifications will have no effect on uses in the building, since the building has been vacant since March 2005. The previous use was a candy manufacturing company. This company, Cella Confections Inc., which is owned by Tootsie Roll Industries, owned the building and ceased its operations and moved out in March 2005. Upon closing this location the company moved its operations to Wisconsin. It sold the building to the Applicant in

December 2005.

The proposed residential and commercial uses are consistent with the other uses in the area. Immediately to the south of the Site the Planning Commission recently approved a special permit pursuant to §74-712 to allow a new residential building on a through lot, as well as a residential building at 27 Wooster St. As previously described in the project description, there are also buildings on this block that have JLWQA or residential uses. As shown on the 400' radius map that is part of the application, in the wider area there are numerous buildings with JLWQA, technically a manufacturing use, but one that has many aspects of a residential use. SoHo has become famous for its mix of retail, commercial, residential and art uses. The Applicant believes that the proposed uses are consistent with the nature of the area and the most recent zoning amendment pertaining to the M1-5A and M1-5 B area that allowed residential use pursuant to the granting of a special permit, as opposed to JLWQA uses. The Applicant believes that the uses proposed will have positive effect on other uses in the area through its support of local retail use and through the restoration of historic buildings on Wooster St.

Consistent with the above conditions and the discussion of the findings the Applicant respectfully requests that the City Planning Commission make the required findings and issue the requested special permit.

5/29/07

**DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS TESTIMONY
BEFORE THE CITY COUNCIL COMMITTEE ON ZONING & FRANCHISES
HIGH CAPACITY TELECOMMUNICATIONS FRANCHISE AUTHORIZING RESOLUTION HEARING
WEDNESDAY, FEBRUARY 6, 2008**

Thank you and good morning Chairman Avella and members of the City Council Committee on Zoning and Franchises. My name is Mitchel Ahlbaum, and I am Deputy Commissioner for Franchise Administration and General Counsel of the City's Department of Information Technology and Telecommunications, or DoITT. I am here this morning with Bruce Regal, Senior Counsel with the New York City Law Department. Today I am testifying in support of renewal of a long-standing franchise authorizing resolution covering franchises for high-capacity telecommunications services. This would be the fourth enactment of this authorizing resolution, which was originally adopted by the Council in 1992, renewed in 1997, and renewed again in 2002.

Over the years, DoITT and its predecessor agencies have issued numerous franchises under this authorizing resolution. The City's telecommunications services franchisees range from both large communications companies such as AT&T, MCI and Qwest, to small, locally-based companies such as Lexent Metro and Optical Communications Group; from giant wholesale providers of communications services known as "carriers' carriers", such as Level 3 and XO Communications, to the commercial telecom services subsidiaries of companies more familiar from other businesses, such as Keyspan Communications and Cablevision Lightpath. Altogether, the City has 17 different franchises currently in effect that have been granted under one of the versions of this authorizing resolution, a strong indication of the robustly-competitive marketplace for commercial telecommunications services that New York City provides—and that the City has successfully encouraged. The City continues to receive interest in additional and renewal franchises to serve this thriving marketplace, and today DoITT asks the Council to renew its authorizing resolution allowing DoITT to continue this important work.

Since 1990 the New York City Council overall, and this subcommittee in particular, has approved authorizing resolutions for franchises of four different types administered by DoITT. These are for cable television franchises, mobile telecommunications services, public pay telephones on City sidewalks, and a catch-all category including communications services not covered by these other three categories, authorizing renewal of which is being considered by the Committee today. This catch-all category has gone by various names over the years: high-capacity telecommunications franchises, fiber optic franchises, and "landline" or "broadband" franchises. All of these terms reflect the reality that a wide variety of companies have built and continue to build in New York City new, higher-capacity telecommunications lines based on the transmission of light waves through glass fibers. This technology represents a substantial upgrade over the transmission of electrical signals along copper wire that was the primary infrastructure for telecommunications for a century.

Soon after the monopoly Bell System was broken up on New Year's Day, 1984, interest arose in building systems that would compete for commercial communications business with copper-based systems operated by the various companies that were the progeny of the old AT&T Bell System. New York City was among the places first in the country to authorize such new competition, with companies such as Teleport and MFS building new communications connections around the City. In the two decades since, high-capacity telecommunications services have become, and continue to be, a highly-competitive field in New York City, and DoITT urges the Committee to re-adopt this highly-successful authorizing resolution—which has helped create a powerful engine for economic growth and innovation in the City.

Just to reiterate, the areas within DoITT's bailiwick that this authorizing resolution does *not* cover, and which are covered under *separate* authorizing resolutions already in place, are cable television service, mobile telecommunications services, and sidewalk public pay telephone service. We diligently continue work to develop one or more new competitive cable television services franchises, and hope shortly to have one or more agreements in that area in accordance with the Council's cable television services franchises authorizing resolution adopted in September, 2006. These agreements will then be presented to the Franchise and Concession Review Committee.

That, however, is a separate project. For today, we are asking the Committee to move forward with a renewal of a long-standing authorizing resolution that has been the successful basis for the creation and maintenance of a vibrantly competitive, high-capacity telecommunications services industry in New York City.

This concludes my statement. We would now be happy to take your questions. Thank you.