

**168-04-BZ**

**CEQR #04-BSA-174M**

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig LLP, for Greenwich Triangle 1, LLC, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §72-21 to permit the proposed construction of an eight story building, with residential use on its upper seven floors, in an M1-5 zoning district, within the Special Tribeca Mixed Use District, is contrary to Z.R. §111-02.

PREMISES AFFECTED - 500 Canal Street, (a/k/a 471 Greenwich Street), triangle bounded by Canal, Watts and Greenwich Streets, Block 594, Lots 1 and 3, Borough of Manhattan.

**COMMUNITY BOARD #1M**

**APPEARANCES -**

For Applicant: Meloney McMony.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated April 20, 2004, acting on Department of Buildings Application No. 103723320, reads, in pertinent part:

“Proposed residential use is not permitted in M1-5 (TMU, B2). It is contrary to Z.R. 111-02.”; and

WHEREAS, a public hearing was held on this application on October 26, 2004 after due notice by publication in the *City Record*; with continued hearings on December 14, 2004 and January 25, 2004, and then laid over for decision on March 1, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-5 zoning district within the Special Tribeca Mixed Use District, the proposed construction of a new seven-story building with retail use on the ground floor and residential use on the upper floors, contrary to Z.R. § 111-02; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, the original version of this application contemplated an eight-story, 98 ft. high (exclusive of mechanicals) building with an F.A.R. of 6.0, with six full stories of 6,800 sq. ft. and then two additional 4,130 sq. ft. partial stories, set back from the street; and

WHEREAS, the current version of this application contemplates a seven-story, 86 ft. 6 in. high (exclusive of mechanicals) building with an F.A.R. of 5.48, with six full stories of 6,630 sq. ft. and then one additional 4,027 sq. ft. story, set back

from the street; and

WHEREAS, the subject premises is an 8,000 sq. ft. triangular lot, with frontages of 107.5 feet on Greenwich Street, 148 feet on Watts Street and 183.5 feet on Canal Street, and is partially improved upon with abandoned one and three story buildings; and

WHEREAS, the portion of the premises fronting on Canal Street is directly adjacent to a tunnel approach to the Holland Tunnel; and

WHEREAS, the applicant proposes to demolish the abandoned buildings on the premises and construct the proposed building; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the lot is a uniquely triangular-shaped site; and (2) the lot is directly adjacent to a Holland Tunnel approach; and

WHEREAS, the applicant represents that the triangular shape of the lot leads to increased façade construction costs; and

WHEREAS, in support of this representation, the applicant has submitted a financial analysis that reflects increased development costs related to the construction of additional façade; and

WHEREAS, this analysis shows that the costs of developing the proposed building on the subject site are higher than the cost of a comparable building on a normally shaped lot, because of façade expenditures; and

WHEREAS, the Board also observes that the triangular shape of the site would negatively impact conforming development in that any building constructed on the site will have awkward floor plates that would not be marketable for conforming manufacturing or office uses; and

WHEREAS, the applicant represents that due to the proximity of the lot to the tunnel approach, Port Authority regulations applicable to foundation requirements preclude the drilling of “H” piles; and

WHEREAS, the applicant has submitted a section drawing showing the horizontal and vertical proximity of the property to the Holland Tunnel, as well as a memo from the Port Authority describing the Port Authority’s policy regarding the drilling of piles near approaches; and

WHEREAS, the applicant also represents that the foundation requirements and facade construction will lengthen the construction period, thereby further increasing overall development costs; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study purporting to show that a conforming office/retail development with an F.A.R.

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of 5.0 would not realize a reasonable return, but that the originally proposed 6.0 F.A.R. residential building would; and

WHEREAS, however, the Board found that the condominium sales comparables used in the feasibility study were out of date and too low, and asked the applicant to adjust them upwards; and

WHEREAS, the Board then asked the applicant to analyze the construction of a residential condominium with an F.A.R. of 5.0 using revised comparables; and

WHEREAS, the applicant subsequently submitted a feasibility study purporting to show that a residential proposal with an F.A.R. of 5.0 would not result in a reasonable return; this study reflected both revised comparables and a revised site valuation; and

WHEREAS, however, the Board was not convinced that an intermediate proposal, with an F.A.R. of between 5.0 and 6.0, was infeasible; and

WHEREAS, the applicant made adjustments, and subsequently, the proposal was modified and the F.A.R. of the proposed building was reduced to 5.48; and

WHEREAS, the Board notes in passing that the Special Tribeca Mixed Use District does not permit the construction of hotels, thus eliminating the necessity of a hotel feasibility analysis; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that there is a heavy concentration of residential use in the area surrounding the subject site, due to numerous conversions obtained pursuant to authorizations from the City Planning Commission; and

WHEREAS, the applicant represents that the bulk currently proposed for the building is consistent with the bulk of buildings in the neighborhood; and

WHEREAS, the applicant submitted a map of the surrounding neighborhood which illustrates the above representations; and

WHEREAS, specifically, this map shows that there is a 5.9 F.A.R. residential building directly across Watts Street at a height of 88 ft., a 5.8 F.A.R. residential building with a height of 94 ft. directly across Canal Street, and a 5.6 F.A.R. residential building with a height of 88 ft. directly across Greenwich Street; and

WHEREAS, the Board also observed residential uses near the subject site on its field visit; and

WHEREAS, the Board notes that the significant reduction in F.A.R. and height from the applicant's initial proposal to the applicant's current proposal is more compatible with the built conditions

surrounding the site; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after taking direction from the Board as to the proper amount of relief, the applicant modified the development proposal to the current version; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-174M dated March 24, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated March 24, 2004; (2) a Phase I Environmental Site Assessment Report, dated October 24, 2002; (3) a Response Memorandum from Wall & Associates, Inc. dated December 13, 2004; and (4) a Phase II Workplan and Health and Safety Plan, dated February 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed and recorded for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's

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agreement to the conditions noted below; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, in an M1-5 zoning district within the Special Tribeca Mixed Use District, the proposed construction of a new seven-story building with retail use on the ground floor and residential use on the upper floors, contrary to Z.R. § 111-02; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 24, 2005"—(8) sheets; and *on further condition*:

THAT there shall be no restaurant or bar located at the first floor of the proposed building;

THAT the above condition shall appear on the certificate of occupancy;

THAT the bulk parameters of the proposed building shall be as follows: an F.A.R of 5.48; a street wall height of 75 ft.; and a total height of 86 ft. 6 in. (exclusive of mechanicals);

THAT a window/wall attenuation of 40 dB(A) or greater on the Canal Street facade of the proposed building shall be provided, in order to achieve an acceptable interior noise level of 45 dB(A); an alternate means of ventilation shall also be provided in order to maintain a closed window condition; alternate means of ventilation shall include, but are not limited to, a provision for central air-conditioning or a provision for air conditioning sleeves for use by an air conditioner;

THAT the fresh air intakes shall not be placed on the Canal Street facade of the proposed building, in order to minimize any potential air quality effects or impacts from the high volumes of diesel trucks on Canal Street;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or

configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 1, 2005.