

SPECIAL PERMIT pursuant to Section 197-c of the New York City Charter and Sections 87-062 and 87-102 of the Zoning Resolution, involving modification of the requirements for lot coverage and height and setback, and a floor area bonus for a covered pedestrian space located within 50 feet of Fifth Avenue, for a proposed 58 story mixed building development on property located on the easterly side of Fifth Avenue between East 56th Street and East 57th Street, within the Special Fifth Avenue District, Borough of Manhattan, CB #5.

The application for the special permit was filed by Trump Enterprises Inc. in order to construct a 58 story mixed building containing residential, retail and office uses on the site of the Bonwit Teller department store within the Special Fifth Avenue District.

In addition to the special permit (C790143ZSM), implementation of the proposed development will require favorable action by the City Planning Commission and Board of Estimate on an amendment to the Zoning Resolution (N790400ZRM), which will modify the conditions for a covered pedestrian space located less than 50 feet from Fifth Avenue and to provide a floor area bonus for a public passageway.

The application (C790143ZSM) seeks a special permit pursuant to the following sections of the Zoning Resolution:

1. Section 87-062 enabling the Commission to authorize a covered pedestrian space located within 50 feet of Fifth Avenue provided it enhances retail activity and functions as part of a pedestrian network and a floor area bonus for a public passageway which complies with the dimensional requirements for a covered pedestrian space as defined in Section 12-10.

2. Section 87-102 to increase the permitted lot coverage and modification of height and setback regulations for any development which includes at least a floor area ratio equivalent to 3.00 or greater devoted to uses listed in Section 87-033 (Use Group F).

The application was certified as complete by the Commission on June 11, 1979 in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Board No. 5.

Community Board No. 5 held a public hearing on the application and voted to recommend approval of the application on July 12, 1979 in accordance with Article 4 of ULURP.

On August 8, 1979 (Cal. #6), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on September 5, 1979 (Cal. #33), in conjunction with the related hearing on the amendment of the Zoning Resolution (N790400ZPM), and continued to September 19, 1979 (Cal. #21). There was extensive testimony and the hearing was closed.

CONSIDERATION

The proposed development, located on the southeast corner of Fifth Avenue and East 56th Street, was certified by the City Planning Commission as a 58 story mixed use (retail, office and residential) building. The development site which includes the Tiffany Building on Fifth Avenue and is near the new IBM and AT&T towers on Madison Avenue, is one of the most important in the City located as it is on Fifth Avenue and 57th Street. It was formerly occupied by the Bonwit Teller department store, is currently vacant and scheduled for demolition.

The new structure will contain 5 levels of retail uses, 4 floors above grade and a cellar, for a total of 79,090 square feet of new retail space.

Included in the new retail space is the return of the Bonwit Teller department store into a refurbished 4 story and cellar building (Kandell building) located on the east side of Tiffany's facing East 57th Street with access from Fifth Avenue through the covered pedestrian space.

Above the retail area are 14 floors of commercial office space, with a total floor area of 157,732 square feet. The fourth through ninth floors are progressively set back from the corner of Fifth Avenue and East 56th Street to form the design pattern which characterizes the building.

The residential units will be placed in the tower portion of the building from the 20th to the 55th floor, for a total floor area of 399,651.8 square feet.

In order to achieve the total floor area the applicant required the following bonuses:

1. 93,800 square feet for a covered pedestrian space.
2. 11,636 square feet for a landscaped terrace.
3. 105,436.8 square feet for additional retail space above the minimum required in the Special Fifth Avenue District.

The covered pedestrian space will originate from a 30 foot opening on Fifth Avenue near the center of the block and run perpendicular to the Avenue for the length of the site, a total of 175 feet. (A text amendment to the Fifth Avenue Special District was required for this design. The related report dealing with this change, (N790400ZRM), was approved by the Commission on October 19, 1979 Cal. #1). The space will connect the IBM through block arcade and covered pedestrian space forming a complete network of pedestrian space between Fifth and Madison Avenues. All the retail stores at all levels facing the atrium, except the cellar level of the Kandell building, will have openings to the public space, with escalators and elevators from this space to the retail levels above and below.

— The highlight of this space will be a 4,316 square foot atrium at the cellar level and open through all the retail floors. It will terminate at the fifth floor at which point it will be capped in part by a skylight. The atrium will contain benches and eating areas with a waterfall on the west face, four stories high.

The bonused landscaped terrace will be at the fifth floor level, on the roof of the remaining Kandell building, and be accessible by escalator from the covered pedestrian space. This 4,950 square foot terrace will be heavily landscaped and contain tables and sitting areas. The design of this area, as all other bonused public space, will be subject to approval by the City Planning Commission, as conditions of the special permit.

An additional roof terrace, at the fourth floor level facing East 56th Street, may be related to a restaurant which may be built at this level. This terrace provides still another public amenity in this building.

In summary, the building as designed, will not only be of outstanding architectural quality, but will contain an extraordinary amount of public amenities as well as the desired high quality retail activity so important to the life of Fifth Avenue.

In order to construct the building the Commission must modify height and setback and building coverage regulations. To do this they must find that the height and setback modifications will enhance the relationship of the proposed building to the nearby buildings and that the building coverage modification will provide a satisfactory arrangement of open space and access to light and air within the development as well as in the general vicinity.

The architect has taken great pains in his design to achieve just those relationships. The Fifth Avenue street wall is maintained and related to the Tiffany building, while the major portion of the tower is set back dramatically from the corner of Fifth Avenue and East 56th Street minimizing its impact on Fifth Avenue. The height and setback waiver involves an area of 1,773 square feet per floor and fronts on East 56th Street. The additional tower coverage occurs only between the 6th and 13th floors and has virtually no affect on the surrounding area. The height of the building compares favorably with the IBM and AT&T buildings, its most conspicuous neighbors.

The building facade will be made of glass and the City Planning Commission will recommend that a light colored glass more compatible with the predominant masonry facade of Fifth Avenue be used in order to integrate the building with the streetscape and the skyline and create the illusion of a smaller volume. The facade treatment will be subject to an approval by the City Planning Commission as one of the conditions to the special permit.

A special authorization was also required to qualify the covered pedestrian space for floor area bonus. This space, as previously described, is of an exemplary nature and qualified in all respects.

While the Commission was not troubled by the special permit modifications as such, it was concerned with their relationship to the questions currently being studied in the midtown zoning review. The midtown review reflects concern among other things with overconcentration of development and excessive building bulk in parts of midtown which are permitted and perhaps even encouraged by present zoning ground rules. It is intensively examining those ground rules with the expressed goal of proposing and initiating desirable changes.

The Trump proposal for development of the Bonwit Teller site was well advanced prior to initiation of the midtown review project. The architect worked closely, over a long period of time, with the Department's design staff to best satisfy the objective of the existing zoning. The building is generally considered to be of superior architectural design. It provides public amenities whose benefits interrelate those being provided in other nearby new buildings. It was carefully considered and approved by Community Board No. 5 and The Fifth Avenue Association.

As submitted, the structure was designed to the maximum floor area allowed in the district, an FAR equal to 21.6. The Commission felt this was excessive. The developer agreed to reduce the FAR to 21.0 resulting in the lowering of the building from 58 to 56 stories.

It would be a mistake, however, to consider the reduction in the size of the building as a reflection of the Commission's general concern with bulk and density. Each proposal coming to the Commission in the future will be scrutinized in the light of the review now under way.

The proposed development underwent a City Environmental Quality Review (CEQR) and received a negative declaration conditioned on compliance with the terms of the special permit. This decision was based on a Project Data Statement, including plans and supplementary information submitted by the applicant in compliance with the New York State Department of Environmental Conservation (DEC) regulations. The City Planning Commission accepted the determination that the proposed development would not have a significant effect on the environment by causing substantial changes to air, water, noise, solid waste, drainage, erosion or flooding; or by causing large quantities of vegetation or fauna to be removed or destroyed; or by encouraging or attracting a large number of people relative to the number of people who would come to such place absent such action; or by creating a material conflict with the community's existing plans as officially approved; or by involving a major change in the quantity or type of energy utilized.

The Commission hereby makes the following findings pursuant to Section 87-102 of the Zoning Resolution:

- (i) That the resulting site plan affords adequate placement of the building on a zoning lot with satisfactory arrangement of open space and access to light and air;
- (ii) That the modification of height and setback regulations enhance the relationship of the building to nearby buildings; and
- (iii) That the development satisfies the purpose of encouraging retail concentration within the Special District.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of Trump Enterprises, Inc. for the grant of special permit involving modification of the requirements for lot coverage and height and setback, and a floor area bonus for a covered pedestrian space located within 50 feet of Fifth Avenue, for a proposed 56 story mixed building development on property located on the easterly side of Fifth Avenue between East 56th Street and East 57th Street, within the Special Fifth Avenue District, Borough of Manhattan, be and hereby is approved pursuant to Sections 87-062 and 87-102 of the Zoning Resolution subject to the following conditions:

1. The premises shall be developed substantially in size and arrangement as proposed and as indicated on plans filed with the application;
2. The development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted as shown on the plans filed with the application. All zoning computations are subject to verification and approval by the Department of Buildings;
3. The development shall conform with all applicable laws and regulations relating to construction, operation and maintenance;
4. Prior to the issuance of a permanent Certificate of Occupancy for the development, 50 percent of the retail store space fronting on the covered pedestrian space shall be rented and occupied for business, as certified by the Director of the Department of City Planning to the Department of Buildings;
5. Prior to the issuance of a building permit, the Director of the Department of City Planning shall certify to the Department of Buildings, approval of the final plans for the exterior facade of the proposed development. Such approval shall be based on a sample of material submitted with the plans. The plans shall indicate the material and color of the proposed treatment of the new building and its relationship to adjoining development at an appropriate scale;
6. Prior to the issuance of a building permit, the owner shall submit lighting, signage and landscaping plans to the City Planning Commission for review and approval. These plans shall include the areas of the covered pedestrian space, its adjoining retail spaces, roof terraces, skylight, atrium and sidewalk, including design and materials;

7. Prior to the issuance of a building permit the owner shall submit detailed design plans of the passageway, including doors, between the Covered Pedestrian

Space and the IBM through block arcade for approval. The owner shall submit the necessary agreements delineating responsibility for the construction, operation and maintenance of this passageway;

8. The Covered Pedestrian Space shall be accessible and kept open to the public from 8:00 A.M. to 10:00 P.M. daily.

9. The connection between the Covered Pedestrian Space and the IBM through block arcade shall be open for the same periods of time as the adjoining retail store; and

10. In no event shall the total floor area ratio on the zoning lot exceed 21.0. No additional floor area may be transferred from this zoning lot to any other zoning lot.

Any alteration in the premises or in the manner of operation which departs from any of the hereinbefore specified conditions, unless authorized by the City Planning Commission shall cause an immediate termination of the special permit herein granted.

The above resolution duly adopted by the City Planning Commission on October 19, 1979 (Cal. # 2) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the development as modified, pursuant to Section 87-062 and Section 87-102 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

ROBERT F. WAGNER, Jr., Chairman;
MARTIN GALLENT, Vice-Chairman,
SYLVIA DEUTSCH, JOHN P. GULINO,
HOWARD B. HORNSTEIN, THEODORE E. TEAH, Commissioners.