



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

February 26, 2014

**Recommendation on
ULURP Application No. 140167 ZSM – 59-61 Thompson Street
By Kissling Realty Advisors, LLC**

PROPOSED ACTION

Kissling Realty Advisors, LLC¹ (“the applicant”) seeks approval for a **special permit pursuant to Section 74-781** of the New York City Zoning Resolution (“ZR”) to modify the use regulations of ZR § 42-14(D)(2)(b) to allow Use Group 6 (retail and service uses) on the ground floor and cellar of an existing building located at 59-61 Thompson Street, Block 489, Lot 36, within an M1-5B zoning district in the SoHo neighborhood of Manhattan Community District 2.

In order to grant the special permit, the City Planning Commission (“CPC”) must find that the owner of the space, or a predecessor in title, has made a good faith effort to rent the space to a permitted use at a fair market rate. Such efforts shall include, but not be limited to, advertising in local and citywide press, listing the space with brokers, notifying the New York City Office of Economic Development, and informing local and citywide industry groups. These efforts must have been actively pursued for a period of no less than six months for buildings under 3,600 square feet (sf) in lot area, and for one year for buildings over 3,600 sf in lot area, prior to the date of the application for a special permit.

PROJECT SITE AND SURROUNDING CONDITIONS

The applicant seeks approval to allow Use Group 6 on the ground floor and cellar of an existing 6-story mixed-use building at 59-61 Thompson Street. The building’s footprint is 2,641 sf. The building was constructed in the late 19th century and occupies a 4,000 sf zoning lot.

The building predates 1961, which grandfathers both the residential and commercial space as legal nonconforming uses. Currently, the building has 30 residential units between the 2nd and 6th floor. On the ground floor there are four existing residential units in the rear of the building that have been vacant since 2008 and two retail spaces at the front of the building. The southeast ground floor retail space is currently leased to a clothing store. The northeast ground floor space has been vacant since 2008 and has reverted to the current zoning requirements of M1-5B, which does not permit commercial uses as-of-right on this level. 247 sf of the cellar is used as storage for the existing clothing store and of the remaining 1624 sf, a portion is currently vacant and a portion is used for general storage and mechanical.

¹ Kissling Realty Advisors, LLC is currently owned and managed by Tony Kissling

Surrounding Uses and Zoning

The site is located on the west side of Thompson Street, between Spring and Broome Streets, one block west of the SoHo-Cast Iron Historic District Extension boundary. The SoHo-Cast Iron Historic District was designated in 1973 to protect buildings in a wide range of architectural styles that were built in the post-Civil War era as store and loft buildings for the wholesale dry goods merchants and manufacturing businesses. The historic district was expanded to the west and east in 2010.

The immediate neighborhood includes residential, commercial, and limited industrial/manufacturing uses, such as Metropolitan Lumber at 175 Spring Street. Buildings in the area commonly consist of residential or commercial/office space on the upper floors and a mix of retail, service and eating and drinking establishments on the ground floor. This block of Thompson Street contains clothing and jewelry stores, drying cleaning, nail salons, and four eating and drinking establishments.

The building is located in an M1-5B zoning district, which allows for buildings to have a mix of manufacturing and residential space. M1-5B districts do not have height limits but are confined to a Floor Area Ratio “FAR” of 5.0 and can not penetrate the sky exposure plane starting at 85 feet. M1-5B does not allow Use Group 6 below the second story of any building as of right.²

Proposed Project

The applicant is seeking a special permit to convert and combine the 350 sf vacant ground floor space located in the northeast corner of the building and 1,624 sf of the cellar into one contiguous Use Group 6 space. The applicant proposes to build a staircase and elevator to connect the ground floor to the cellar. The already existing residential entrance and the second retail space to the south of the proposed space will not be altered.

Proposed Actions

The applicant seeks a special permit pursuant to ZR § 74-781 to allow Use Group 6 on the floors below the second level in an M1-5B district, which is permitted only after the CPC has found that a good-faith effort was made for a six month period to rent the space to a conforming use at a fair market rate. In June of 2012, the applicant hired the real estate broker Sinvin Real Estate in an effort to lease the proposed space to a conforming use. The applicant has provided a letter from Sinvin Real Estate listing the details of their advertising campaign and call log of all inquires they received. The campaign included dated documentation of advertisements in *The New York Post*, and Manhattan-based papers *Our Town*, *Our Town Downtown*, and *The West Side Spirit* spanning over a period of seven months from June 2012 to December 2012. In addition, on July 10 2012 letters were sent to industry groups such as the New York City Office of Economic Development, the Garment Industry Development Corporation, the New York Industrial Retention Network, the Apparel Manufacturers Association, and the Chinese American Planning Council. In addition, letters were sent to national industry groups located outside of New York State. According to the applicant, 12 inquiries were received, all seeking to lease the space for a non-conforming use. Despite these efforts, the applicant was unable to rent the space to a conforming use.

² In M1-5B zoning districts, only Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E (generally wholesale, warehousing, and light industrial uses) are permitted as of right below the second story of a building.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on January 23, 2014 Manhattan Community Board 2 (“CB2”) recommended conditional disapproval of this application by a vote of 36 in favor and none opposed. CB2 was not convinced of the applicant’s effort to find a conforming use because the applicant focused a significant amount of the advertising campaign on out of state and national organizations and did not include popular local papers such as *The Villager*. CB2 determined that the addition of a staircase and elevator would significantly minimize the ground floor retail space and questioned the applicant’s ability to find a non-eating and drinking establishment tenant. CB2 reported that the applicant did send a letter to the Board stating that the space will not be leased to an eating and drinking establishment but the applicant did not make any changes to the plans. CB2 recommended a denial of the application unless the prohibition of eating and drinking use is included in the special permit or within a restrictive declaration approved by CPC.

BOROUGH PRESIDENT’S COMMENTS

The manufacturing areas within Manhattan’s SoHo neighborhood are undergoing, and to a large extent have already undergone, a transition to a mixed-use environment. CB2, while generally agreeable to this modification, believes that there is an over-saturation of eating and drink establishments in the district and requested the applicant agree to a permanent ban on eating and drinking uses in this space. Eating and drinking establishments can contribute to the socioeconomic vitality of a district but do have unique quality of life impacts on the character of the neighborhood. Eating and drinking establishments can command high rents and can out-compete other, more neighborhood-oriented uses. For these reasons they are not allowed as of right in M1-5B districts so as to encourage appropriate manufacturing uses. Though this special permit will allow uses other than manufacturing, it is important to consider the effect that a particular type of use in this space could have on surrounding uses. The over-saturation of eating and drinking establishments can create a set of negative impacts, such as noise and sanitation issues, on the surrounding residents’ quality of life. The addition of the staircase and elevator utilize a significant portion of the ground floor space, however the combined floor plate would be appropriate for many types of small retail. In addition, the applicant listed “No Food Retail” in their advertising campaign and sent a letter to CB2 agreeing to find an alternative use other than a eating and drinking establishment, and has confirmed that agreement to the Borough President’s office.

Under the current zoning text of ZR § 74-781, the applicant has fulfilled the requirements of making a good faith effort to rent the space to a conforming use. These standards, however, do not account for contemporary trends in local manufacturing or technology. In the last decade New York City has become a significant economic center in regard to the technology and digital economy. These industries’ businesses are often small start-ups that could find small manufacturing spaces such as the space at 59-61 Thompson Street appropriate. It is important that the CPC review ZR § 74-781 to ensure that the requirements encourage applicants to target local modern manufacturing trends and utilize advances in communication technology. The Chair of CPC should direct the Department of City Planning to expand the standards of ZR § 74-781 to foster applicants to more proactively coordinate with city agencies such as the Economic Development Corporation and Small Business Services whose priority it is to foster new trends within the tech-manufacturing industry.

BOROUGH PRESIDENT’S RECOMMENDATION

The application for a use modification to allow Use Group 6 on the ground floor and cellar of an existing 6 story building at 59-61 Thompson Street meets the required finding for the requested special permit, namely that the owner of the space has made a good faith effort as currently defined and practiced to rent such space to a conforming use at fair market rate.

Therefore, the Manhattan Borough President recommends approval with conditions of ULURP Application C 140167 ZSM, to grant a special permit pursuant to ZR § 74-781, contingent on the applicant following through on its stated commitment not to lease the space to a eating and drinking establishment.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive style with a large, looping initial "G".

Gale A. Brewer
Manhattan Borough President