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Gale A. Brewer, Borough President

November 24, 2015

**Recommendation on ULURP Application No. C 150358 ZSM - 323 Canal Street
By 323 Equities LLC**

323 Equities LLC¹ (“the applicant”) seeks a special permit pursuant to Section 74-711 of the Zoning Resolution (“ZR”) to modify use regulations of § 42-10 to allow Use Group 6 (commercial use) on the ground and cellar floors and Use Group 2 (residential use) on floors two through four of an existing four story building located at 323 Canal Street (Block 230, Lot 6) on the north side of Canal Street between Greene and Mercer streets. The site is located in an M1-5B district within the SoHo-Cast Iron Historic District of Manhattan Community District 2.

Pursuant to ZR § 74-711, applicants may request a special permit to modify the use regulations of zoning lots that contain landmarks or are within historic districts as designated by the Landmarks Preservation Commission (“LPC”).

In order for the City Planning Commission (“CPC”) to grant use modifications, the applicant must first meet the following conditions:

1. the LPC has issued a report stating that the applicant will establish a continuing maintenance program for the preservation of the subject building or buildings and that such use or bulk modifications, or restorative work required under this continuing maintenance program will contribute to a preservation purpose;²
2. the application shall include a Certificate of Appropriateness, other permit, or report from LPC stating that such bulk modifications relate harmoniously to the subject landmark building in the Historic District³; and
3. the maximum number of permitted dwelling units is as set forth in ZR § 15-111⁴.

Further, in order to grant a special permit, the CPC must find that:

1. the 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
2. such modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

¹ 323 Equities LLC is a domestic limited liability company represented by Albert Laboz of United American Land

² The LPC issued a report on September 30, 2014

³ The LPC issued a Certificate of Appropriateness on September 30, 2014

⁴ Pursuant to ZR § 15-111, up to 4 dwelling units would be permitted at this site. As proposed, this building will have three dwelling units.

PROJECT DESCRIPTION

The applicant seeks a special permit pursuant to ZR § 74-711 to permit Use Group 6 (office space) on the first and ground floors and Use Group 2 (residential) on floors two through four in an existing building. The project would allow the conversion of a currently vacant four-story building to commercial and residential use. The project will consist of one commercial space occupying the ground floor with storage in the cellar and three residential units on the upper floors: one 2-bedroom unit with a terrace on the second floor; one 2-bedroom unit on the third floor with a staircase that leads to a terrace on the rear of the first floor roof; and a one-bedroom unit on the fourth floor with a terrace. The residential area, including the ground floor lobby, will occupy 3,605.31 total square feet.

The project site is approximately 2,364.92 square feet with 18 feet of frontage on the northern side of Canal Street bounded by Mercer Street to the east and Greene Street to the west. The project site is located within an M1-5B zoning district which permits light manufacturing, commercial and community facility uses; joint-live working quarters are permitted as a light manufacturing use. The manufacturing and commercial maximum floor area ratio (FAR) is 5.0 and community facility FAR is 6.5. Buildings are allowed a front wall height of 85 feet or 6 stories, after which buildings must setback 20 feet on a wide street.

The subject building was designed by an unknown architect in the Federal style in 1821 as a dwelling. The building was altered in the middle of the 19th century to accommodate a commercial ground floor that extends to the rear lot line. Through at least the early 1900's, the ground floor was used for millinery, publishing and gentlemen's furnishings. The applicant purchased the building in 1988. The building does not have a Certificate of Occupancy.

Area Context

The project site is located in a M1-5B zoning district in the SoHo-Cast Iron Historic District in Community District 2, Manhattan. The SoHo-Cast Iron Historic District was designated by the Landmark's Preservation Commission in 1973 as an effort to preserve the city's cultural and historic heritage of the brick, stone, mixed iron and masonry commercial construction of the post-Civil War period⁵. The SoHo-Cast Iron Historic District consists of 26 blocks containing 500 buildings and is the largest concentration of full and partial cast-iron façades in the world. The district is bounded by West Houston Street, Crosby Street, Howard Street, Broadway, Canal Street and West Broadway. The project area is north of the Tribeca East Historic District, historically the commercial and industrial center of the city. Designated in 1992, the Tribeca East Historic District includes ornate store and loft buildings developed in the mid-19th to early 20th century. To the east of the site is the SoHo-Cast Iron Historic District Extension, designated in 2010, as an effort to preserve the continuity of the streetscape of cast iron architecture along Crosby and Howard Streets developed in the post-Civil War era.

⁵ SoHo-Cast Iron Historic District Designation Report, 1973.
http://www.nyc.gov/html/lpc/downloads/pdf/reports/SoHo_HD.pdf

The neighborhood generally consists of four to seven-story buildings that are either mixed commercial/residential uses or mixed commercial/office uses with ground floor retail. The dominant zoning district in the area is M1-5B north of Canal and C6-2A south of the site below Canal Street. While residential use is not permitted as-of-right, joint live/work quarters for artists (JLWQA) are a permitted conforming use within the greater NoHo and SoHo neighborhoods. In addition, ground floor retail is not allowed in the M1-5B and M1-5A districts below the level of the second story.

The area is well served by mass transit with the N/Q train entrance one block east at Canal Street and Broadway, the A/C/E trains three blocks southwest at Canal Street and West Broadway and additional trains farther east of the site at the intersection of Canal, Broadway and Lafayette. The M5 bus runs south on Broadway and there are multiple Citibike bicycle stations north and south of the site.

Proposed Actions

The applicant seeks a special permit pursuant to ZR §74-711 to modify the use regulations of §42-14(D)(2)(b) to allow retail uses (Use Group 6) on portions of the ground floor and cellar and §42-10 to allow residential uses (Use Group 2) on portions of the ground floor and the second through fourth floors of an existing 4-story building. The building will also be enlarged as-of-right per zoning with a rear extension on floors two and three for handicapped accessibility.

As described in the application materials and Certificate of Appropriateness, the proposed scope of work is for alterations to the rear facade, including construction of a two-story rear yard addition, exterior stair leading from the third floor to a deck on the existing first floor rear extension, construction of a dormer at the rear slope of the roof, casement windows and a door to a deck on the roof of the proposed addition. The applicant has agreed to restore the building's historically significant features by reconstructing the Canal Street façade, preserving the character defining pitched roof with brick cladding, aligning a new rear dormer with the rear historic façade including clapboards on the sides, multi-light double-hung windows on the second and third floors, and casement windows on the fourth floor. The applicant has committed to maintain the building in a first class condition.

The Building will conform to all other applicable height, setback and floor area regulations.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on October 22, 2015 Manhattan Community Board 2 ("CB2") recommended approval of this application under the condition that the applicant does not combine 321 and 323 and that the cellar of the building be used for accessory use only. CB2 wrote that the building is in need of rehabilitation and restoration and the proposed change of use is consistent with the existing uses on Canal Street and the neighborhood.

BOROUGH PRESIDENT'S COMMENTS

The special permit pursuant to ZR § 74-711 is a tool to modify use or bulk restrictions set in the Zoning Resolution in order to make the ownership and preservation of historic buildings less financially burdensome. In order to grant these waivers associated with this special permit, the applicant must ensure the property will be properly rehabilitated and maintained in perpetuity. The applicant has undertaken significant restoration of the building based on recommendations from the LPC.

The applicant for 323 Canal Street is seeking a special permit pursuant to ZR § 74-711 to modify use regulations to allow for residential and commercial occupancy of a currently vacant 4-story building in the SoHo-Cast Iron Historic District. The LPC has found the applicant's proposed restoration and maintenance plan will contribute to a preservation purpose.

The applicant states they have owned the subject building since the late 1980s and it has been vacant for at least 20 years. However, the LPC report states the property was issued warning letters for the "removal of ground floor storefront without permits," in 1994, "installation of a flagpole and stretch banner," "signage covering 2nd floor windows without permits" in 2002, and "installation of signage at the western-most ground floor entrance without permits" in 2002. The nature of the violations implies that at minimum, the ground floor was occupied by a retail tenant for some portion of the current ownership tenure. It is disappointing that the application materials and communication by the applicant does not reflect this reality.

The Community Board raised concerns about the potential opportunity to combine the proposed commercial space of the subject building with the adjacent property, 321 Canal Street, which is currently under the same ownership as the subject property, 323 Canal Street, and is also seeking a special permit (C 150384 ZSM) pursuant to ZR § 74-711. The applicant has provided a letter dated November 17, 2015 to our office stating they have no intention on merging the buildings and are seeking the permitting of two separate commercial spaces through ULURP.

Recommendations from this office over the last year have repeatedly raised concerns over the continued use of special permits to eliminate conforming uses in favor of residential use in the SoHo and NoHo historic districts. In light of these concerns, such nascent efforts are underway to begin the work of understanding the true zoning and land use landscape of these neighborhoods and the aggregate impact of the overwhelming number of use change applications that have been approved. We have repeatedly voiced concerns over the troubling possibility that any recommendations from any study would come too late to stop a *de facto* rezoning by special permit. However, in this particular case, the SoHo-Cast Iron Historic District designation report states the subject building was constructed as a dwelling in 1821 and the ground floor was altered in the 19th century to accommodate a commercial space. The history of violations also indicates, if not a continuous retail presence, an often present one, so there is no true loss in manufacturing space that has often been a concern in other similar applications. Therefore, there would be no significant adverse zoning impacts in the Historic District from the approval of this special permit.

The building's occupancy and use history indicates that it does not raise the concerns to which this office has become so sensitive in cases of special permits to allow for residential use in SoHo and NoHo. Because of its size and history this special permit does not involve the loss of Joint Live Work Quarters for Artists (JLWQA) or other types of protected units. In addition, although the Borough President would like to see all residential development contribute to affordable housing, given the current thresholds outlined in the Mandatory Inclusionary Housing program design under public review at this time, (N 160051 ZRY) this building would fall well below the criteria for consideration.

The applicant meets the conditions and findings for a special permit for a use modification pursuant to ZR § 74-711. Under CEQR, the proposed actions were determined to not have an adverse impact on the environment and surrounding uses and issued a Negative Declaration. In addition, the restoration of the building's significant features, such as the Canal Street historical façade will ensure that another piece of the historic district is maintained in perpetuity.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval of ULURP application No. C 150358 ZSM.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer
Manhattan Borough President