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Gale A. Brewer, Borough President

June 1, 2016

**Recommendation on
ULURP Application No. C 160137 ZMM – East Houston Street Rezoning
by SMBRO Rivington, LLC**

PROPOSED ACTION

SMBRO Rivington, LLC¹ (“the applicant”) seek an amendment to the Zoning Map, Section No. 12c to map a C2-5 commercial overlay to a depth of 100 feet along two and a half blocks on the south side of East Houston Street between the east side of Norfolk Street and the centerline of the block between Clinton Street and Attorney Street to facilitate the construction of a 13-story mixed use building at 255 Houston Street (Block 355, Lot 54), within an existing R8A (IHDA) and R8A/C1-5 (IHDA) zoning district in the Lower East Side neighborhood of Manhattan Community District 3.

PROJECT DESCRIPTION

The applicant seeks a zoning map amendment to map a C2-5 commercial overlay to a depth of 100 feet along two and a half blocks on the south side of East Houston Street between the east side of Norfolk Street and the centerline of the block between Clinton Street and Suffolk Street to facilitate the construction of a new 13-story mixed-use building with Use Group 6 (retail or eating and drinking establishment) on the ground floor at 255 East Houston Street. The portion of the rezoning area between Norfolk Street and the centerline of the block between Clinton Street and Suffolk Street is zoned R8A while the remainder of the rezoning area is R8A with a C1-5 district.

The building at 255 East Houston Street will consist of 7,240 square feet of retail use on the ground floor, and 62,500 square feet for 63 residential units, twenty percent of which will be affordable. The building’s proposed total floor area is 69,740 square feet.

Background

In 2008, the City Council adopted the East Village / Lower East Side Rezoning which encompasses a 111-block area generally bounded by East 13th Street, Avenue D, Delancey Street and Third Avenue. The rezoning addressed the need for contextual districts to maintain the low and mid-rise scale of the neighborhood, reinforce mix retail and residential along the avenues, and concentrate new residential development along wide streets with incentives to create and preserve affordable housing. Under this rezoning, R7-2 and C6-1 districts were

¹SMBRO Rivington, LLC is a Limited Liability Company and represented by Samy Mahfar.

rezoned to R7A, R7B, R8A, R8B, C4-4A and C6-2A. The R7-2 district was rezoned to R8A along East Houston and Delancey Street and subject to the Inclusionary Housing Program. R8B districts were introduced along the avenues to protect existing non-conforming uses. Commercial overlay districts remained and portions of 2nd Avenue between East 3rd Street and East 7th Street were remapped from C6-1 to R7-A district with C2-5 commercial overlay to be consistent with the existing commercial overlay further north along 2nd Avenue.

Area Context

The rezoning area is in the Lower East Side neighborhood bounded by the East River to the east and south, Bowery and Forsyth Streets to the west and East Houston to the north. The area contains many 19th and early 20th century tenement style buildings and row houses and has historically been known as an immigrant neighborhood and at one time, one of the most densely populated in the world. The blocks south of the rezoning area contain a mix of multifamily residences and ground floor commercial uses.

The area is served by the J/M/Z and F trains three blocks south at Essex Street and Delancey Street and the F train east of the site at Second Avenue and East Houston Street. The M9 and M12 buses run east and west along East Houston Street and there are Citibike bicycle stations north and south of the site.

Area Zoning

The proposed rezoning area and the north side of East Houston Street, is mapped R8A. The R8A district permits a maximum floor area ratio (“FAR”) of 7.2 for residential use if affordable housing is provided; if affordable housing is not provided, the allowable FAR is 5.4. The community facility maximum allowable FAR is 6.5. The district has a building height limit of 60 to 85 feet and a maximum overall height of 120 feet. A portion of the rezoning area, not including the development site, is zoned R8-A with a C1-5 overlay which has a maximum permitted commercial FAR of 2.0.

Existing Conditions in the Rezoning Area

The rezoning area is occupied by 16 properties fronting East Houston Street. Seven of these properties are within the existing C1-5 commercial overlay. At the southeast corner of East Houston at Norfolk, is Remedy Diner which has frontage on both streets. To the east of the diner is a building that is undergoing electrical work and being advertised as a retail space but recently pulled permits for a doctor’s office on the first floor and a store in the cellar. The next building was previously a synagogue with apartments above but now uses the first floor as an art gallery and the basement as an Italian café. The building directly west of the building has no signage indicating a ground floor use but is mapped as manufacturing. To the east of the site is 265 East Houston Street, a 10-story multifamily residential building with a ground floor community facility space currently near completion.

On the southeast corner of the next block at 271 East Houston Street is a residential building with Suffolk Arms, a bar occupying the ground floor. 279 East Houston Street is occupied by an architecture office and a cigar smoke shop next door. The first space in the existing commercial overlay is Heaven’s Hot Bagel at 283 E. Houston. Immediately adjacent to the bagel shop is a recently demolished lot that will be an 11-story condominium building. At the corner is Ariel’s

Latin Bistro which has frontage on East Houston and Clinton Street. On the east side of Clinton Street at East Houston Street is Clinton Street Baking Company followed by a nail salon, a Pay-O-Matic store, and an income tax store.

Proposed Actions

The applicant is proposing a zoning map amendment to establish a C2-5 district within an existing R8A district on two and a half blocks on the south side of East Houston Street to a depth of 100 feet between Norfolk Street and midway between Clinton Avenue and Attorney Street. The amendment to the Zoning Map will eliminate a C1-5 district from an existing R8A District bounded by East Houston Street, a line midway between Clinton Avenue and Attorney Street, a line 100 feet southerly of East Houston Street, and a line midway between Suffolk Street and Clinton Street. This proposal will facilitate the construction of a 13-story mixed use building at 255 East Houston Street.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on March 22, 2016 Manhattan Community Board 3 (“CB3”) recommended disapproval of this application. CB3 wrote that the development site at 255 East Houston Street was intended to remain as a commercial facility under the 2008 East Village / Lower East Side rezoning and that any ground floor use should comply with the existing zoning framework. CB3 stated the proposed zoning map amendment is an effort to reduce the appearance of a spot zoning by an applicant known for illegal construction and construction harassment in residential buildings in the area. The Board also stated that there are commercial overlays in the area that degrade the quality of life of residents and increasing such a use, would be contrary to the needs of the community.

BOROUGH PRESIDENT’S COMMENTS

The applicant is proposing a zoning map amendment to establish a C2-5 district within an existing R8A district on two and a half blocks on the south side of East Houston Street to a depth of 100 feet between Norfolk Street and midway between Clinton Avenue and Attorney Street.

The Lower East Side neighborhood is somewhat of an eclectic neighborhood. There are a number of economically diverse commercial corridors including the former Bargain District with an abundance of upscale restaurants, boutiques, specialty shops, and lounges and the Delancey Street commercial corridor with discounted shops. There is an increase in residential development throughout the neighborhood, including within the proposed rezoning area, and a wealth of nightlife destinations.

In 2010, demolition and construction work at 265 East Houston Street destabilized the building at 255 East Houston Street and resulted in a vacate order of the property that was used by Action for Progress day care center for approximately forty years. The applicant informed our office that the day care center decided to move to a smaller space on Suffolk Street to better suit their needs. The applicant also informed our office that the space was advertised for community facility use for several years and had two leases fall through: Blue Man Group and the Cooke Center School.

In December 2011, the applicant proposed a similar project proposal for a smaller commercial overlay but with medical office use on the ground floor and affordable housing offsite. The

applicant stated CB3 supported but wanted the affordable units on site and reports in local papers² state the community wanted input from neighbors about the proposed overlay. The applicant argues that a community facility space is no longer a viable option on this block but such use existed for decades and even the nearly completed neighboring building will have a community facility use on the ground floor. Since the day care center vacated the premises, 255 East Houston has remained blighted, covered in graffiti and scaffolding with open violations from the Department of Buildings.

Technically, a commercial overlay is appropriate on a wide street but we have to think of the neighborhood context and these 2 ½ blocks are a gateway to a more residential neighborhood. Although there are many existing non-conforming commercial uses along East Houston Street, these blocks were specifically designated for contextual residential use under the 2008 East Village / Lower East Side Rezoning. The 2008 rezoning reinforced the use of the avenues for mix retail and residential by extending the C2-5 commercial overlay over four blocks along 2nd Avenue and concentrating new residential development with an incentive for affordable housing on wider streets. Applying the proposed C2-5 commercial overlay, to facilitate the construction of a 13-story mixed income residential building, would go against what the community envisioned for their neighborhood, what the community still supports and what the city supported. With the recent loss of Rivington House, it is important to preserve as much designated community facility uses in the neighborhood particularly when there is already a proliferation of commercial uses throughout the district.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends disapproval of ULURP application No. C 160317 ZMM.



Gale A. Brewer
Manhattan Borough President

² Elie. "Rezoning Sought for East Houston Parcel; New Development Proposed" *Bowery Boogie*. 6 December 2011. Web. May 2016.