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Gale A. Brewer, Borough President

December 22, 2016

Recommendation on ULURP Application No. 17102 ZSM – 34 Howard Street by 34 Howard, LLC

PROPOSED ACTION

34 Howard, LLC¹ (“the applicant”) seeks 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 uses) on the ground floor and cellar of an existing 5-story building located at 34 Howard Street, Block 282, Lot 6, within an M1-5B zoning district in the SoHo-Cast Iron Historic District 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 such 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 and informing local and citywide industry groups. Such efforts shall have been actively pursued for a period of no less than six months for buildings under 3,600 square feet and one year for buildings over 3,600 square feet, prior to the date of the application for a special permit.

PROJECT DESCRIPTION

The applicant seeks approval of the special permit pursuant to ZR § 74-781 in order to allow Use Group 6 (retail use) on the ground floor and cellar of a 5-story commercial building at 34 Howard Street. The project will consist of 2,160 square feet of retail use in the cellar; 2,455 square feet of retail use on the first floor, and proposes no change of use to the commercial use on the second floor and the three JLWQA units on floors 3 through 5.

The project site’s lot area is 3,010 square feet and is located at 34 Howard Street. The project site is within an M1-5B district which permits light manufacturing, commercial and community facility uses; joint-live working quarters are permitted as a light manufacturing use. Use Group 7, 9, 11, 16, 17A, 17B, 17C and 17D are permitted below the second story as-of-right. The manufacturing and commercial maximum floor area ratio (FAR) is 5.0 and the community facility FAR is 6.5. Retail use is not permitted as of right.

¹34 Howard, LLC is a Domestic Limited Liability Company registered on November 21, 2014 and represented by United American Land.

Background

The subject building was designed by architect James Renwick with his associate Joseph Sands in 1865. The neo-Grec style store and loft building is characterized in the SoHo-Cast Iron Historic District designation report as unique because of the unusual 2-story cast-iron storefront and marble façade on the upper floors.

The oldest Certificate of Occupancy (2003) on the Department of Buildings website lists Use Group 9 (showroom) for the first floor and joint-live/work quarters for artists for the third and fifth floors. In 2005, the Certificate of Occupancy (“CofO”) listed the second floor as Use Group 6 (beauty salon) which remains as the current use. The applicant acquired the building on March 31, 2015 and at the time, the ground floor was leased for “community center office and showroom,” use which is consistent with the 2005 CofO. The applicant packet states that on August 31, 2015, the ground floor tenant vacated the space after deciding not to renew their lease.

On August 11, 2015, the Landmarks Preservation Commission approved work to the ground floor and façade of the subject building. The approved work includes: the removal of masonry infill, doors and signage on the ground floor, removal of altered steps, installation of painted wood storefront infill, painted steel diamond plate cladding under new display windows, glass retail entry doors, painted wood transom windows, installation of fixed awnings and one sign consisting of individual metal letters on a metal rail.

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 period. 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. Designated in 1992, the district includes ornate store and loft buildings developed in the mid-19th to early 20th century. Immediately 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.

The neighborhood generally consists of three to six 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 southwest of the site below Canal Street. Beginning south of the site at Broadway and Canal Street is an M1-5 district that extends to the east. The area is served well by mass transit with the N/Q/R/W subway one block south at Canal Street and Broadway, and the No. 6 train and J/Z trains located at Canal Street and Lafayette Street. Citibike bicycle stations are also within close proximity of the site.

Proposed Actions

The applicant seeks a special permit pursuant to ZR § 74-781 for a use modification in an M1-5B zoning district to allow Use Group 6 on the ground floor and cellar of a 5-story mixed-use building. Such use change is only permitted after the CPC has found the applicant has made a good faith effort to rent the space as a conforming use at a fair market rate for six months. The applicant packet contained copies of advertisements placed in the *NY Post* October through December 2015 and March 2016; and, listings in *The Villager* from June, August and October 2015 and March through May of 2016 advertising the space at \$80 per square foot.²

The applicant hired two brokerage firms noted for being familiar with manufacturing and industrial leasing, CPEX Real Estate and Newark Grubb Knight Frank, to market the space for a conforming use. A letter from CPEX summarizing their marketing efforts was included in the application packet indicating marketing efforts on their website began November 9, 2015 and received minimal interest within four months of marketing. CPEX included a call log documenting three calls between February 10, 2016 and March 14, 2016. The applicant's representative confirmed Newark Grubb Knight Frank began marketing the space in October 2015 which is captured in a call log from November 11, 2015 through June 13, 2016.³ The application packet also includes a call log to the owner from local news sources and a courier service soliciting advertisements.

The applicant packets states the applicant also mailed marketing letters December 23, 2015 to the Pratt Center for Community Development and SoHo Broadway Initiative, and mailed advertisements and phoned industry groups between April 9, 2016 and April 19, 2016 to: The Manufacturers Association, Inside 3D Printing Conference and Expo, Lower Manhattan Development Corporation, New York City Economic Development Corporation, and Workers United. On June 15, 2016, the applicant called the Chinese American Planning Council and Printing Industries Alliance.⁴ The application packet did not include any copies of the industry letters but in a call with the applicant's representative, it was confirmed the representative's staff mailed uncertified, undated letters to industry groups on an unknown date. The applicant's representative stated the applicant received an interest from a potential short-term manufacturing tenant and another conforming user but neither interest was captured in a document to be shared.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on November 17, 2016, Manhattan Community Board 2 ("CB2") recommended approval of this application with the condition the future use of the property not be used for an eating and drinking establishment. The applicant, United American Land representative, Albert Laboz, submitted a letter to the CB2 Land Use Committee chair, Anita Brandt on November 9, 2016 committing to the condition.

² After contacting the applicant, we obtained weekly listings of advertisements in *The NY Post* from October 1, 2015 through March 30, 2016 and *The Villager* from June 18, 2015 through March 2016. *The Villager* website currently has listings through November 24, 2016.

³ This call log does not include a business logo or refer to either brokerage firm; it is assumed this call log is from Newark Grubb Knight Frank.

⁴ We obtained a copy of one letter sent to Workers United without a date.

BOROUGH PRESIDENT'S COMMENTS

Over the last two years, this office has raised numerous concerns over the impact of this special permit on the SoHo and NoHo manufacturing districts. We have raised significant, substantive concerns over a piecemeal elimination of the manufacturing zoning from these neighborhoods in favor of retail and have questioned the rent sought for manufacturing spaces – which, in each instance seems to be calculated on a percentage of what the applicant feels they are entitled to were they to rent the space for a retail use, rather than on a market price for manufacturing space. This concern is shared by Councilmember Margaret Chin, and a study was committed to by the Department of City Planning to evaluate this issue amongst others in these neighborhoods. In addition, this office has raised important process concerns when we have received applications that could hardly be considered an "effort" to rent the space for manufacturing purposes, let alone the "good faith effort" which is the sole finding that the special permit requires.

In this case, the substantive concerns over the change of use are not as great as in other cases we have seen. The building in which the space is located is a particular vernacular architecture type: store and loft. In the Landmarks Preservation Commission report designating SoHo as a historic district, 34 Howard Street is singled out for being “an unusually distinguished structure...” as evidenced by its detailing, use of marble on the upper floors and its “use of a two-story cast-iron storefront.” The physical structure was purpose built for retail use and both the designation report, certificates of occupancy, and history of the building conclude that retail use has been present for most of the building’s tenure. Yet, that use has not been continuous and retail is a non-conforming use under the zoning.

However, we have concerns about much of the material submitted by the applicant to demonstrate its "good faith effort" to rent the space for manufacturing use. First, the rent sought by the applicant was \$80 per square foot. While significantly lower than the rents we have seen in prior applications, thanks to the work DCP has done with our office, it is still at least twice as much as what we understand manufacturers would reasonably be expected to pay for manufacturing space in the city. More concerning, the letters sent to manufacturing-related organizations were not included in the application packet and there is no proof that they were actually sent or received. The advertisements run in the *The New York Post* and *The Villager*, that the applicants submitted as evidence of their outreach in the application packet indicated that their ads did not run every month. But when we inquired, we discovered that in fact they had just simply failed to submit proof that the ads had in fact run every month. The logs kept by the manufacturing brokers and owner contain inquiries unrelated to manufacturing uses and users; yet we were provided with no documentation on the two inquiries allegedly received by the owner for use of the space for manufacturing purposes.

While we appreciate the willingness of DCP to work with our office on improving the process for this special permit, we believe that in ensuring the completeness of the application for certification, the Department and the Commission should look at the materials and ensure that they are coming forward with a complete and verifiable application package. At best, this package appears sloppy.

These concerns were raised in writing to the applicant. The applicant did provide consecutive ad listings, a copy of a mailed letter sent to organizations but no reasonable explanation was provided to explain undated letters, proof of delivery, or the incomplete status of the logs. Process, especially when we are talking about eliminating a use that we care a lot about and has been such a part of SoHo's history, is too important to be ignored.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Borough President believes that the sole finding required for this special permit was not actually met and recommends disapproval of Application No. C 170102 ZSM at this time.

We would encourage the Commission to ensure that the materials are complete and accurate before making their own judgment in regard to the finding of this special permit.

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

Gale A. Brewer
Manhattan Borough President