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Gale A. Brewer, Borough President

December 22, 2020

**Recommendation on ULURP Application N 200169 ZSM
65 Spring St. by 65 Spring Realty, LLC**

PROPOSED ACTIONS

65 Spring Realty, LLC (the “Applicant”) is seeking a special permit pursuant to §74-781 of the New York City Zoning Resolution (“ZR”) to permit Use Group 6 commercial uses on the ground floor and cellar of 65 Spring Street, Block 496, Lot 35 (the “Site”). The Site is located within the M1-5B zoning district and is within the SoHo-Cast Iron Historic District Extension in Manhattan Community District 2 (“CD2”). This Applicant proposes to construct an extension to expand the ground floor by 344 square feet and the cellar space by 375 square feet and seeks a special permit to allow for Use Group 6 retail in the expanded ground floor and cellar space.

ZR §74-781 permits the City Planning Commission to modify the use group requirements of buildings in M1-5A and M1-5B Districts, provided that the Commission finds that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a mandated use at fair market rentals. 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.

BACKGROUND

Area Context

The Project Site is located in Manhattan Community District 2. It is in the SoHo-Cast Iron Historic District Extension and is located in a M1-5B zoning district. In 1973, the SoHo-Cast Iron Historic District was designated by the Landmark Preservation Commission (LPC) and the

Extension was approved in 2010. The area is bounded by West Houston Street, Crosby Street, Howard Street, Broadway, Canal Street and West Broadway. The neighborhood largely consists of 5 to 8-story buildings with residential, commercial and manufacturing uses. The immediate area surrounding the site largely consists of buildings around five to eight-stories in height, with retail on the ground floor and commercial uses on the upper floors.

The area is served by the N/R/W/6 subway trains. The Spring Street stop on the 6 subway line is on the same block as the Site and the Prince Street stop of the N/R/W lines are within two blocks from the Site. The Broadway-Lafayette stop of the B/D/F/M subway lines is within 0.19 miles from the Site. The Bowery Street stop of the J/Z trains is located 0.26 miles from the Project Site. The M1 bus has stops at Cleveland Place and Spring Street, and at Broadway and Spring Street, both approximately one block from the Site.

Site Description

The Project Site is located on the north side of Spring Street between Crosby Street and Lafayette Street within an M1-5B zoning district. The Site was constructed around 1920 and is a five-story, altered Italianate style tenement building with ground floor storefronts. There is no Certificate of Occupancy for the Site, but it is currently occupied by a 5-story mixed use, walk-up residential and commercial building that contains a cellar level and a rear yard 15 feet deep.

The lot is shallow with 25 feet of frontage on Spring Street and has an irregular lot depth of 76 feet and 6 inches on the east side of the Site and 77 feet and 10 inches on the west side. The lot area is 1,945 square feet. The current building is 7,751 square feet (3.98 FAR) containing 1,377 square feet of commercial space (0.8 FAR) and 6,200 square feet of residential space (3.188 FAR). The property has separate entrances for both retail tenants and residents. The additional entrance to the rear yard that is located on Lafayette Street has a prescriptive easement.

Project Description

The Applicant proposes to construct in the rear yard an extension of the cellar (375 square feet) and ground floor (344 square feet), including a stairway for egress from the cellar. To facilitate the extension, the Applicant is seeking a ZR §74-781 special permit to allow for the cellar and first floor to be occupied with retail space in a M1-5B district. The special permit provisions allow for a proposed change in use to Use Group 6 retail upon a showing by the Applicant that they made a good faith marketing effort to rent the space for conforming use at fair market rent, and that such efforts have been actively pursued for a period of no less than six months prior to the application for a special permit.

COMMUNITY BOARD RECOMMENDATION

On November 19, 2020 at the Full Board meeting, Community Board 2 (“CB2”) voted to recommend denial of this application unless the Applicant agreed to meet certain conditions. 46 Board members voted in favor of disapproval and no board members opposed. The conditions are as follows:

- That the Applicant exclude eating and drinking establishments in the use of the ground floor;
- That the Applicant keep the two retail storefronts separate;
- That the Applicant submit a Tenant Protection Plan to the Department of Buildings (“DOB”) that includes maintenance of residential emergency egress and trash;
- That the Applicant submit a plan the DOB for the safe excavation and the protection of the adjoining building;
- That the Applicant submit documentation showing that a legal easement is in place; and
- That the Applicant agree to put no mechanical equipment on the roof of the extension and move the venting of the extension as far away as possible from the main building so that it does not disturb the residential neighbors.

BOROUGH PRESIDENT’S COMMENTS

I have repeatedly raised concerns over the continued use of special permits to eliminate conforming uses in the SoHo and NoHo historic districts. However, each application is analyzed for its own merits and the project’s impact upon neighborhood character. While this special permit would facilitate a small extension of 344 square feet and 375 square feet in the ground floor and cellar, respectively, and that such an extension would not be of great impact to the neighborhood, I am concerned that the Applicant did not complete the good faith marketing effort to rent out the space as required by ZR §74-781.

The Applicant advertised the space at the rate of \$80 per square foot, which is not reflective of current market conditions. An example of advertised rates in other manufacturing districts include the Garment District which had suggested rents of \$35 per square foot. Furthermore, the Applicant pre-maturely advertised the space as a conforming use despite the fact that the space had not been built. In one advertisement listed on the Newmark website, the space was erroneously listed as “multi-family for lease.” The advertisements in the New York Times and the Villager were considered illegible by CB2, and the advertisements only yielded three inquiries: one for a non-confirming use and two that considered the space too small. All special

permit applications requesting a ZR §74-781 Use Group 6 retail change must go through a good faith marketing effort, and this application is no exception. It is clear that per square foot rate must be reassessed and that the marketed advertisements are re-evaluated.

Additionally, I am concerned about the existing tenants at the site and those living in the building next door at 63 Spring Street. There are open violations on the property that underscore issues with egress and the location of the neighboring building's rear A/C units that the Applicant is planning to relocate. A number of the building's current residents testified at CB2's public hearing on October 7, 2020 about unaddressed trash problems at the site, and brought up concerns about the building's construction and excavation impacts upon the structure next door. These open violations and residential concerns must be resolved before this application's approval.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval of ULURP Application No. N 200169 ZSM with the following conditions:

1. The Applicant completes the required good faith marketing effort and reassess the appropriate advertised dollar per square foot rate; and
2. The Applicant resolves all open violations and provides a plan for the safe excavation of the site and structural protections for the building and the building next door.



Gale A. Brewer
Manhattan Borough President