



CITY PLANNING COMMISSION

March 20, 2013/Calendar No. 6

C 120201 ZSM

IN THE MATTER OF an application submitted by MTM Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-712(a) - to modify the use regulations of Section 42-00 (GENERAL PROVISIONS) and Section 42-14(D)(2)(a) to allow Use Group 2 uses (residential use); and
2. Section 74-712(b) - to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks);

to facilitate the development of an 8-story mixed use building, on property located 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

The application for a special permit was filed by MTM Associates, LLC on March 1, 2012, to allow retail use (Use Group 6) on the ground floor and in the cellar, and residential use (Use Group 2) throughout the building at 150 Wooster Street, within an M1-5A District within the SoHo Cast-Iron Historic District.

RELATED ACTION

In addition to the special permit, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

N 120200 ZRM: Zoning Text Amendment to modify Section 74-712 of the Zoning Resolution regarding lot coverage requirements for developments in M1-5A and M1-5B districts.

BACKGROUND

The applicant, MTM Associates LLC seeks to develop an eight-story mixed-use building at 150 Wooster Street (Block 514, Lots 7, 9), which is located within the Soho Cast-Iron Historic District. In order to achieve the overall development objective for this property, the applicant

requests approval of a proposed zoning text amendment to Section 74-712 of the Zoning Resolution which governs development in Historic Districts designated by the Landmarks Preservation Commission (LPC), that will modify the lot coverage requirement for sites located in M1-5A and M1-5B Districts, and the grant of a special permit pursuant to the amended Section 74-712.

The proposed development site is located on the east side of Wooster Street between Houston and Prince streets and is comprised of two lots that measure approximately 71' wide by 100' deep, with a total lot area of 7,171 square feet. The properties, located within the SoHo Cast-Iron Historic District, are partially occupied by a one-story building and a surface parking lot. The one-story building is described by the Landmarks Preservation Commission as a former garage structure altered from an earlier building from the early 20th century and is not a contributing building to the SoHo Cast-Iron Historic District.

The site is located in an M1-5A District, which allows light manufacturing and commercial uses including warehousing, parking facilities, and hotels. Residential development is not permitted as-of-right. Additionally, in buildings occupying more than 3,600 square feet of lot area, uses below the second story are limited to wholesale, business service, warehouse and light industrial uses. Local retail uses (i.e., Use Group 6) are not permitted as-of-right.

The surrounding SoHo neighborhood is characterized by a mix of residential and commercial uses, with active ground-floor retail. The area also has Joint Living-Work Quarters for Artists (JLWQA) and Use Group 2 residential units that are either pre-existing non-conforming uses or approved by City Planning Commission (CPC) special permit or Board of Standards and Appeals variance. Ground-floor retail uses are prevalent in the surrounding blocks and exist on either an as-of-right basis based on the building's footprint size; as pre-existing non-conforming uses; or by CPC special permit (pursuant to Sections 74-711, 74-712 or 74-781 of the Zoning Resolution).

The area's built character is defined by cast-iron store-and-loft buildings, many of which were constructed between 1840 and 1880. These characteristic buildings were typically developed with high lot coverage and built to their full height at the street line along narrow streets such as Wooster, Greene, Crosby and Mercer streets. Most of the area bounded by West Broadway and Houston, Crosby and Canal streets is located within the SoHo Cast-Iron Historic District, including the subject block. More recently, the immediate area has seen the development of a number of residential buildings, including 137 Wooster Street, 27 Wooster Street, 52-54 Wooster Street and 311 West Broadway.

The application, as filed, would facilitate the construction of a new, eight-story building, which would rise at the street wall to a height of six stories (77 ft.), set back 2'-4", and rise again to the top of the seventh story (89 ft.), and set back 20 feet to the eighth floor penthouse. The building is proposed to have Use Group 2 residences in the upper floors, with accessory residential use at the ground (i.e., residential lobby) and cellar levels, and Use Group 6 retail use (approximately 4,120 square feet of floor area) at the ground and cellar levels. The design of the proposed new building has been approved by the Landmarks Preservation Commission and a Certificate of Appropriateness was issued October 16, 2012

Zoning Text Amendment – N 120200 ZRM

Section 74-712 of the Zoning Resolution allows the City Planning Commission to grant special permits to allow use or bulk waivers for sites located in M1-5A and M1-5B Districts that are:

(1) in a designated historic district and (2) as of December 15, 2003, are vacant, land with minor improvements or developed with buildings with lot coverage of less than 20 percent. Because the proposed development site has a building with an existing lot coverage of 35 percent, it is ineligible for the existing 74-712 special permit. Accordingly, the applicant requests a zoning text amendment to Section 74-712, to increase the percentage of existing lot coverage allowable on a site, from 20 percent to 40 percent, thus expanding the eligibility of the special permit to the subject property.

Special Permit (C 120201 ZSM)

The applicant also seeks the grant of a special permit pursuant to Section 74-712(a) to modify the use regulations of Section 42-00 (GENERAL PROVISIONS) and Section 42-14(D)(2)(a) to allow Use Group 2 (residential) and Use Group 6 (retail) use; and pursuant to Section 74-712(b), to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks).

M1-5A Districts do not allow residential uses as-of-right. Moreover, for buildings that occupy lots comprising more than 3,600 square feet of lot area, retail use is not permitted below the second level. The requested use modification would permit Use Group 2 residential use throughout the building and Use Group 6 retail use at the ground and cellar levels.

The building would also require a bulk modification to permit a portion of the seventh floor to encroach into the initial setback distance at the front of the building. According to the underlying height and setback regulations (Section 43-43), buildings are required to set back from a narrow street line by a minimum 20 feet, at a height of 85 feet or six stories, whichever is less/lower. Buildings must also comply with a sky exposure plane starting at 85 feet above curb level and rising at a slope of 2.7:1 (vertical to horizontal). As proposed, the subject building would rise to a height of six stories/77 feet without a setback, set back at the seventh floor by 2'-4", then rise to a seventh-floor height of 89 feet. Above 89 feet, the building would set back 20 feet and rise to a height of eight stories/108 feet. A bulk waiver is therefore requested to permit the portion of the seventh floor that is within the required 20-foot setback distance.

ENVIRONMENTAL REVIEW

This application (C 120201 ZSM), in conjunction with the related application (N 120200 ZRM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR Number is 12DCP111M. The lead is the City Planning Commission (CPC).

After a study of the potential impacts of the proposed actions, a Negative Declaration was issued on November 13, 2012. On March 20, 2013, a Revised Negative Declaration was issued which reflects the revised application described below and adopted herein.

UNIFORM LAND USE REVIEW

On November 13, 2012, the application, C 120201 ZSM, was certified as complete by the Department of City Planning, and was duly referred to Manhattan Community Board 2 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related application for a zoning text amendment, (N 120200 ZRM) which was referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 2 held a public hearing on this application (C 120201 ZSM), in conjunction with the related application for the zoning text amendment (N 120200 ZRM), on December 21, 2012, and on that date, by a vote of 35 in favor, 0 opposed and 3 abstaining, adopted a resolution recommending disapproval of this application with following comments:

Therefore be it resolved that CB 2 Manhattan

On the request for a text amendment to modify 74-712: recommends denial.

And it is further resolved that, if the amendment is approved, CB 2

1. On the request for a modification to allow residential use; recommends approval if there is no use of the cellar for guest rooms or rooms used for sleeping.
2. On the request for use change to allow commercial use below the floor level of the second floor: recommends approval if the retail area of the largest store is 3600 square feet or less.
3. On the request for a modification of bulk regulations: recommends approval if the overall building height is reduced by 8 feet, the rear side wall extensions are removed, and the side walls extending above the penthouse are minimized.

4. Urges the CPC use provisions of 74-712 to protect neighboring buildings by prescribing elimination of the sub-cellar, the sunken garden, and portion of the cellar that extends into the rear yard.

Borough President Recommendation

This application, (C 120201 ZSM), in conjunction with the related application for the zoning text amendment (N 120200) ZRM), was considered by the Borough President, who issued a recommendation approving the application on January 24, 2013.

City Planning Commission Public Hearing

On February 6, 2013 (Calendar No. 2), the City Planning Commission scheduled February 20, 2013 for a public hearing on this application (C 120201 ZSM), in conjunction with the related application for the zoning text amendment (N 120200 ZRM). The hearing was duly held on February 20, 2013 (Calendar No. 11). There were three speakers in favor of the application and five speakers in opposition.

The applicant's zoning and planning consultant described the proposed project and stated that it met the requisite findings. The project architect described the proposed building and how the design of the building was intended to reflect the scale and context of the surrounding SoHo neighborhood. The Director of Land Use and Planning for the Manhattan Borough President reiterated the Borough President's support for the application.

Those speaking in opposition included three residents living in neighboring buildings at 135-137 Greene Street, 147 Wooster Street and 152 Wooster Street, who raised concerns about the proposed building's height, scale and impact on abutting properties. They also raised concerns that the one-story structure should not be demolished as proposed by the applicant.

Two attorneys also spoke in opposition. The first attorney, who represents individuals residing at 151 and 152 Wooster Street, spoke about the proposed project's potential construction impacts on properties that abut the proposed development site. He referenced the Department of Building's Technical Policy and Procedure Notice (Procedures for the Avoidance of Damage to Historic Structures Resulting from Adjacent Construction), which includes engineering procedures to protect the foundations of neighboring buildings. The second attorney, who resides at 152 Wooster Street, raised concerns about the proposed project's cellar and sub-cellar and related excavation impacts.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of the special permit, along with the related application for the proposed zoning text amendment, is appropriate.

The requested actions would facilitate the development of an eight-story mixed-use building at 150 Wooster Street, which is located on the east side Wooster Street between West Houston and Prince streets. The property, which is located in the Soho Cast-Iron Historic District, has a one-story commercial structure and a surface parking lot that comprise approximately 7,170 square feet of lot area. The development site is located in an M1-5A District.

The proposed building would have 7-9 residential units with retail use on the ground and cellar floors. In order to achieve the overall development objective, the applicant requests approval of a zoning text amendment to modify the lot coverage requirements of Section 74-712 for sites located in M1-5A and M1-5B Districts within LPC-designated Historic Districts, and the grant of a 74-712 special permit pursuant to the amended text.

Zoning Text Amendment (N 120200 ZRM)

The Commission believes that the proposed zoning text amendment is appropriate. The proposed zoning text amendment would modify the lot coverage requirements for certain sites that are located in LPC-designated historic districts within M1-5A and M1-5B Districts. Specifically, Section 74-712 of the Zoning Resolution allows the City Planning Commission to grant special permits to allow use or bulk waivers for sites that are located in a designated historic district in either an M1-5A or M1-5B zoning district, which were, as of December 15, 2003, either vacant, or had land with minor improvements or were developed with buildings with lot coverage of less than 20 percent. The Commission notes that the proposed development site has existing lot coverage of 35 percent, and would be ineligible for a 74-712 special permit. The requested zoning text amendment to Section 74-712 would increase the percentage of lot coverage for existing buildings on a given site, from 20 percent to 40 percent, thus expanding the eligibility of the special permit to the subject property and enabling the applicant to develop their building, as proposed.

Section 74-712 (Developments in Historic Districts) was adopted in 1997 to allow the modification of bulk regulations (except FAR) by special permit on vacant lots within historic districts. In its report (N 970654 ZRY), the Commission stated that it believed “this new tool may help promote development of buildings that are more contextual to historic districts than buildings that might be developed as-of-right pursuant to existing zoning.” In 2003 and 2006 (N 030489 ZRY, N 060201 ZRY), the Commission approved zoning text amendments to Section 74-712 to allow for the modification of use and bulk regulations, respectively, by special permit on vacant sites, land with minor improvements, or sites where not more than 20 percent of the site is occupied by an existing building. The modification of use and bulk was limited to sites located within M1-5A and M1-5B Districts that are within historic districts. The Commission noted at the time that the industrial character of SoHo and NoHo had changed over the approximately thirty years since the establishment of the M1-5A and M1-5B Districts. These areas have become vibrant mixed-use neighborhoods, with increasing numbers of residential units and ground floor commercial uses. The Commission believed that the vacant lots and underdeveloped sites

in these areas detract from the fabric of the SoHo-Cast Iron and NoHo Historic Districts, and that allowing modification of the use and bulk regulations by special permit would facilitate development of the vacant, underdeveloped sites and help strengthen the historic districts' built character.

The proposed text amendment to Section 74-712(b) builds upon the previously approved zoning text amendments to Section 74-712 by expanding its applicability to vacant lots and underdeveloped sites within M1-5A and M1-5B Districts, in LPC-designated historic districts, with buildings that occupy less than 40 percent of the site. By increasing the lot coverage requirement from 20 percent to 40 percent, the proposed text amendment would have limited applicability to three sites, including the applicant's.

The other two sites are located at 137 Crosby Street and 254 Lafayette Street; both sites have structures that occupy less than 40 percent lot coverage. The proposed text amendment facilitates the development of the proposed mixed residential/commercial building at the subject location and enables the applicant to create a design more responsive to the context of the surrounding historic buildings. Additionally, the proposed text amendment could allow these two additional sites to be developed with buildings more in context with the underlying historic district. The expanded applicability of the zoning text to these sites would provide and enhance opportunities to fill in gaps along SoHo's mid-blocks and avenues to reinforce its scale, street wall continuity and predominant built-out character.

The Commission notes the concerns of speakers at the public hearing who testified against the proposed demolition of the one-story structure that occupies a portion of the proposed development site that the proposed text amendment might encourage the demolition of historic buildings in the historic district. The Commission does not believe that the demolition of such buildings would occur to any significant extent, particularly given that likelihood that the LPC will likely only approve the demolition of a building of "little

interest architecturally” or of “no style” concurrent with the approval of a new replacement structure. The Commission also does not believe that the replacement of any of these buildings with new structures approved by the LPC, such as that proposed by the applicant, would be adverse to the historic district and contrary to public policy; recent approvals of new structures in historic districts by the LPC demonstrate how these can be compatible with the historic character of a district. Accordingly, the Commission believes that limiting the applicability of the special permit to sites which are vacant, contain minor improvements or where not more than 40 percent of the lot area is occupied by an existing building at the time of the adoption of the text, is appropriate. For M1-5A and M1-5B Districts that are located within LPC-designated Historic Districts, the proposed text amendment would facilitate the redevelopment of underdeveloped infill sites, strengthening the area’s built character and street wall continuity.

Special Permit (C 120201 ZSM)

The Commission also notes that the applicant seeks approval of a special permit that would modify use and bulk regulations of Sections 74-712(a) and 74-712(b), respectively, to build the proposed mixed-use building. The requested modification of the use regulations of Section 74-712(a) would allow the second through eighth floors to be used for residential use (Use Group 2), with a residential lobby on the ground floor. The building’s ground and cellar floors would be used for retail use (Use Group 6). Under current regulations, in M1-5A Districts, Use Group 2 residential uses are not permitted as-of-right and Use Group 6 retail uses are not allowed below the second level in buildings occupying lots having more than 3,600 square feet of lot area.

The Commission notes that the surrounding area is characterized by five- to twelve-story loft-style industrial buildings that have been converted to a mix of uses. Most of the buildings in the area contain ground floor retail uses with residential, Joint Living Quarters for Artists (JLWQA) space, or office uses above. The Commission believes that the proposed residential and retail use is consistent with the prevailing land use pattern found on neighboring blocks.

During the public review of this application, concerns were raised regarding the proposed street wall height (89 feet) and building height (108 feet) and its impact on neighboring properties. The Commission notes that the proposed development site is abutted by a six-story building that rises to 77 feet and a five-story building that rises to 65 feet. To the rear, the development site is abutted by three buildings; 131 Greene Street, a five-story residential building with a height of 74 feet, 135 Greene Street, a six-story residential building with a height of 92 feet and 137 Greene Street, a six-story residential building that also has a height of 92 feet. On the west side of Wooster Street, facing the development site are loft-style residential buildings that generally range from seven to eight stories, interspersed with a low-rise four-story and mid-rise six-story buildings.

In response to concerns raised, on March 13, 2013, the applicant filed a revised application, in which the proposed street wall height was reduced from 89 feet to 85 feet, which complies with the maximum allowable street wall height of 85 feet in M1-5A Districts. Additionally, the proposed building's floor-to-floor heights and eighth floor penthouse volume were reduced, thus lowering the overall building height from 108 feet (eight stories) to 102 feet (eight stories). The proposed street wall, although reduced, would have seven stories and the grant of a special permit, pursuant to Section 74-712(b), would still be required to permit seven stories in the proposed building's base. The Commission believes that the revised building design, which lowers the street wall and reduces the overall building height, is more consistent with the existing built character of the area and would be of similar height to many buildings in the area. Accordingly, the Commission believes that the revised building design would not adversely affect structures or open space in the vicinity in terms of light and air. The Commission notes that the application, as originally certified, received a Certificate of Appropriateness from the Landmarks Preservation Commission on October 16, 2012 and that the revised design was approved by LPC staff on March 15, 2013. The Commission believes that the revised building design addresses the street wall and building height concerns raised during the public review process, and would facilitate the redevelopment an underdeveloped site into an active use that is consistent with and supportive of the character and scale of the surrounding area.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-712 (a) and (b) (Developments in Historic Districts) of the Zoning Resolution, as amended in the report on the related text amendment (N 120200 ZRM):

Such use modifications

- (i) have minimal adverse effects on the conforming uses in the surrounding area;
- (ii) are compatible with the character of the surrounding area; and
- (iii) for modifications that permit residential use, result in a development that is compatible with the scale of the surrounding area.

Such bulk modifications:

- (1) shall not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and
- (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application submitted by MTM Associates LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to the following sections of the Zoning Resolution:

1. Section 74-712(a) - to modify the use regulations of Section 42-00 (GENERAL PROVISIONS) and Section 42-14(D)(2)(a) to allow Use Group 2 uses (residential use); and
2. Section 74-712(b) - to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks);

to facilitate the development of an 8-story mixed use building, on property located at 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 120201 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by BKSK Architects, LLP, filed with this application and incorporated in this resolution:

| <u>Dwg. No.</u> | <u>Title</u> | <u>Last Date Revised</u> |
|-----------------|--|--------------------------|
| Z-1 | Site Plan | March 13, 2013 |
| Z-2 | Zoning Analysis | March 13, 2013 |
| Z-3 | Building Section | March 19, 2013 |
| Z-4 | Sub-Cellar | January 4, 2012 |
| Z-5 | Cellar | January 4, 2012 |
| Z-6 | Ground Floor Plan | January 4, 2012 |
| Z-7 | Typical Floor Plan (2 nd -7 th) | January 4, 2012 |
| Z-8 | 8 th Floor | March 13, 2013 |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operating and maintenance.
4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements,

terms or conditions of this resolution the provisions of which shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure or breach of any of the conditions referred to above, may constitute grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's action or failure to act in accordance with the provisions of this special permit.

The above resolution (C 120201 ZSM), duly adopted by the City Planning Commission on March 20, 2013 (Calendar No. 6), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
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December 26, 2012

Amanda Burden, FAICP
Chair, City Planning Commission
22 Reade Street
New York, NY 10007

Dear Chair Burden,

At its Full Board meeting on December 21, 2012, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

Application to City Planning Commission C 120201 ZSM pertaining to 150 Wooster Street, on the east side of Wooster between Prince and West Houston

Whereas

1. (Regarding application information.)

- a. The application was presented to the committee by Jerry Spano for MTM Associates LLC, with George Schieferdecker of BKSK Architects, Peter Liebowitz of AKRF, Inc., and Ivan Schonfeld of Brian Cove.
- b. The application seeks to facilitate the construction of an 8-story, 35,853 square foot, residential building with retail on the ground and cellar levels in an M1-5A zone within the Soho Cast Iron Historic District.
- c. 150 Wooster Street is a property consisting of two lots including a single story garage building currently in use for retail that would be demolished and a vacant lot currently used for parking.
- d. The design for the new building façade was approved in May, 2012, by the CB2 Landmarks Committee and a Certificate of Appropriateness was issued by the Landmarks Commission in October, 2012.
- e. The requested actions are (1) a text to amend Section 74-712 of the Zoning Resolution and (2) a special permit under 74-712 to permit residential use through the building and ground floor and cellar retail use, and to allow a waiver of height and setback regulations.
- f. Section 74-712, allowing special permits for modification of use and bulk regulations on vacant sites and sites on which no more than 20 percent of the lot area is covered in M1-5a and M1-5b zones was added to the Zoning Resolution in 1997 and amended in 2003,

with participation and support of the Soho community, “to facilitate development of vacant lots and help strengthen the historic districts’ built character.”

2. (Regarding the request to amend 74-712.)

- a. The proposed text amendment would allow special permits on sites on which lot coverage is 40 percent or less
- b. The application states that a study was performed to show that there are two other similar sites that would be affected by this change, allowing demolition of garage buildings to facilitate construction of larger infill buildings.
- c. 74-712 provisions were well-considered during public and agency reviews with specific goals relating to improvement of the landmark district.
- d. The intent of 74-711 was never to facilitate the demolition of garage buildings and this is not a goal the community board has ever supported.
- e. The application does not discuss any benefits of the change relating to the purposes of Section 74-712 or benefits to the landmark district.
- f. The application states that the garage building is not a contributing building to the historic district, and on 10/12/12 LPC issued a COA wherein, in reference to the garage, it is stated that “the existing building does not contribute to the historic district and its demolition will not detract from the special historic and architectural character of the historic district.”
- g. But confidence that this COA is based reasonable and consistent policy is impossible because a earlier contradictory COA issued by LPC to the same applicant on 2/22/2008 states “the Commission noted that 150 Wooster Street is a one-story garage building; and that the building’s style, scale, materials, and details contribute to the special architectural and historic character of the Soho-Cast Iron Historic District.”
- h. The garage building is a handsome early 20th Century structure with a recently restored historically consistent and elegant facade, one of three similar buildings on the block, and a common building type in Soho creating variety and interesting views, with many also serving as needed light and air resources for nearby buildings in densely built areas.
- i. The purposes of 74-712 will be well served with the development of a smaller in-fill structure built on the parking lot alone, leaving the garage in place.
- j. While the applicant stated that the allowed FAR would then result in a much taller building, such a tower would not be approved in the historic district.

3. (Regarding the request per 74-712 to allow residential use on all floors.)

- a. The requested use modification would allow residential use on all floors including guest bedrooms in the cellar for rental to building residents, an unusual feature that requires a deeply excavated sunken garden.

4. (Regarding the request per 74-712 to allow retail use below the level of the second floor.)

- a. The use modification would allow retail below the level of the second floor including up to 6000 square feet of retail on the ground level and up to 3000 square feet in the cellar.
- b. If available for a single store, this large size is likely to attract out of character retail more typical of the M1-5b zone along Broadway.
- c. The desirability of restricting retail stores in the M1-5a zone to 3600 square feet is recognized in 42-14(D)(2)(a).
- d. The developer stated at the hearing that the intent was to divide the space, but no commitment was made.

5. (Regarding the request per 74-712 to modify height and setback regulations.)

- a. The requested waiver would allow the building to rise to 89 feet before a full setback, 4 feet more than allowed on a narrow street.
- b. The waiver is not significant for the building because the retail and residential ceiling heights are ample and can easily accommodate the small reduction, but it increases the overall height of the building and worsens adverse impacts of the development.

6. **(Regarding protection of adjacent landmark buildings.)**
 - a. The building design requires excavations exceeding 22 feet for a cellar, sub-cellar, and a sunken garden that extend to the rear lot line.
 - b. These deep excavations will require difficult underpinnings and unavoidable risks to adjacent landmark buildings, including a particularly fragile 1850's Greek Revival building directly behind the proposed building.
 - c. Department of Buildings technical bulletin TPPN 10/88 governing construction adjacent to landmark buildings has failed to provide sufficient protection resulting in many losses.
 - d. These risks in this case can be greatly reduced without major project impact if there is no sub-cellar and the cellar does not extend into the rear yard.
7. **(Regarding other adverse impacts on scale, light and air, and neighborhood character.)**
 - a. Five residents of neighboring buildings spoke against the project at the public hearing.
 - b. The 8th floor penthouse rises up to 17 feet above the 89 foot street wall, and will the elevator bulkhead and mechanical equipment forms a single massive rooftop block, which, contrary to statements in the application, is not in character with varied forms typical of rooftop additions in the area.
 - c. Side walls enclosing the penthouse and bulkheads rise 108 feet in total with a significant impact on visible sky from buildings to the rear, and neighborhood views from all directions.
 - d. The proposed building would be the tallest and widest on the street, 80 percent taller than its neighbor to the south and 35 percent taller than its neighbor to the north.
 - e. This massiveness is only partially visible from the street but has adverse impacts on scale, light and air, neighborhood character.
 - f. A study by Columbia Graduate School of Architecture and City Planning found that the median width of buildings in the Soho historic district is 35 feet, so at 71 feet, this merged lot will be out of scale in width as well.
 - g. The property line windows of the building to the north that will be blocked are not essential for light and air requirements of these dwellings, but it should not be considered irrelevant that this significant adverse impact on residents would be very unlikely without the combination of amendment to the zoning text and a subsequent special permit.
 - h. The finding for a special permit for a 74-712 use modification that the development is compatible with the scale of the surrounding area is not met.
 - i. The finding for a special permit for 74-712 bulk modifications that the development will not adversely affect structures or open space in terms of scale, location, and access to light and air is not met.
 - j. In addition, CPC action on a 74-712 application may prescribe appropriate additional conditions and safeguards in order to enhance the character of the development and to minimize adverse effects on the character of the surrounding area.

Therefore it is resolved that CB2 Manhattan

On the request for a text amendment to modify 74-712: *recommends denial.*

And it is further resolved that, if the amendment is approved, CB2 Manhattan

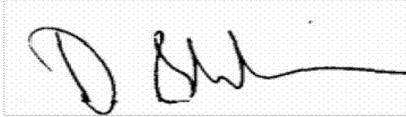
1. On the request for a modification to allow residential use: *recommends approval if there is no use of the cellar for guest rooms or rooms used for sleeping.*
2. On the request for use change to allow commercial use below the floor level of the second floor: *recommends approval if the retail area of the largest store is 3600 square feet or less.*
3. On the request for a modification of bulk regulations: *recommends approval if the overall building height is reduced by 8 feet, the rear side wall extensions are removed, and the side walls extending above the penthouse are minimized.*

4. *Urges CPC use provisions of 74-712 to protect neighboring buildings by prescribing elimination of the sub-cellar, the sunken garden, and the portion of the cellar that extends into the rear yard.*

Vote: Unanimous, with 35 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



David Gruber, Chair
Community Board #2, Manhattan



Tobi Bergman, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

DG/fa

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Thomas K. Duane, NY State Senator
Hon. Daniel Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Calvin Brown, Dept. of City Planning
Land Use Review Unit, Dept. of City Planning
Jeff Mulligan, Executive Director, Board of Standards & Appeals
Derek Lee, Man. Borough Commissioner, NYC Department of Buildings
Thomas C. Wargo, Director, Zoning Division, Dept. of City Planning

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application: C 120201 ZSM

Docket Description:

C 120201 ZSM - IN THE MATTER OF an application submitted by MTM Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-712(a)* - to modify the use regulations of Section 42-00 (General Provisions) and Section 42-14(D)(2)(a) to allow Use Group 2 uses (residential use); and
2. Section 74-712(b)* - to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks);

to facilitate the development of an 8-story mixed-use building, on property located at 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

*A zoning text amendment is proposed to modify Section 74-712 of the Zoning Resolution under a concurrent related application C 120200 ZRM.

COMMUNITY BOARD NO:

2

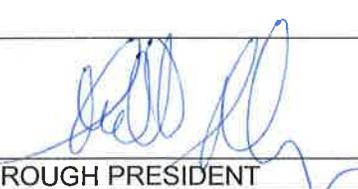
BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached


BOROUGH PRESIDENT

1/24/13
DATE



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

SCOTT M. STRINGER
BOROUGH PRESIDENT

January 24, 2013

Recommendation on
ULURP Application Nos. C 120201 ZSM and N 120200 ZRM – 150 Wooster Street
by MTM Associates, LLC

PROPOSED ACTION

MTM Associates, LLC¹ (“the applicant”) seeks a **zoning text amendment to Section 74-712** of the Zoning Resolution (“ZR”), and a **special permit** pursuant to the amended text to modify use and bulk regulations of §§ 42-00 (General Provisions), 42-14(D)(2)(a) and 43-43 (Maximum height of front wall and required front setbacks) to allow for the construction of an 8-story building with retail on the ground floor and cellar, and residential units on the second through eighth floors. The new mixed-use building would be located on two adjacent tax lots at 150 Wooster Street (Block 514, Lots 7 and 9). Approval of the amended zoning text would permit the replacement of an existing structure on Lot 9. The project site is located within the SoHo-Cast Iron Historic District (“Historic District”) and an M1-5A zoning district in Manhattan’s Community District 2.

In order to grant the use modifications pursuant to special permit pursuant to ZR § 74-712(a), the City Planning Commission (“CPC”) must find (i) that the residential development of the project complies with minimum rear yards (§ 23-47) and minimum distance between legally required windows and walls or lot lines (§ 23-86) requirements pertaining to R8 districts; (ii) that the total FAR be limited to 5.0; (iii) that the minimum floor area for each dwelling unit is 1,200 SF; (iv) that all signs conform to sign regulations (§ 32-60) pertaining to C2 zoning districts; and (v) that eating and drinking establishments (Use Groups 6A and 12A) of any size are not permitted. CPC shall further find that the proposed use modifications (i) have minimal adverse effects on conforming uses in the surrounding area; (ii) are compatible with the character of the surrounding area; and in the case of residential developments (iii) result in a development that is compatible with the scale of the surrounding area.

Further, in order to grant the bulk modifications to special permit § 74-712(b), CPC must find that the proposed development (1) shall not adversely affect surrounding structures or open space in terms of scale, location and access to light and air; and (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness from the Landmarks

¹ Farzad Rastegar is the Manager of MTM Associates, LLC.



Preservation Commission (“LPC”).²

PROJECT DESCRIPTION

The applicant seeks a zoning text amendment and related special permit for use and bulk waivers to facilitate the construction of a new mixed-use building. The proposed development would be an 8-story building that would reach a 5.0 FAR, with retail spaces (4,120 SF) and residential accessory uses (1,425 SF) on the first floor and cellar, and 7-9 residential units (31,733 SF) on the second through eighth floors. The proposed building would rise to 89 feet to the top of its seventh floor, and the eighth-story penthouse would be set back 20 feet from the zoning lot line and rise to 104 feet. Additionally, the building’s rear yard would also have a sunken garden feature at the cellar level.

The project site is located on the east side of Wooster Street between Houston Street to the north and Prince Street to the south, and has a zoning lot area of approximately 7,171 SF (71’ width by 100’ depth). The site includes a one-story building (2,500 SF) that covers approximately 35% of the lot area. A retail showroom for baby strollers currently occupies the existing building. The remainder of the site is a 15-space parking lot. The one-story building on the site would be demolished to facilitate the development of the proposed project.

The project site is located within an M1-5A zoning district. The zoning district has a maximum allowable 5.0 FAR, and a maximum streetwall height of 85 feet. Neither ground-floor retail nor residential units are permitted uses in an M1-5A zoning district. Generally only wholesale, warehousing and light industrial uses are allowed as of right.³ Overtime, the area has become more mixed-use, and nearby uses have become predominately commercial and residential. A common characteristic of buildings in the area consist of residential and Joint Living-Work Quarters for Artists (“JLWQA”) units on the upper floors and retail stores on the ground floor.

The proposed development is also located within the SoHo-Cast Iron Historic District, which was designated in 1973, and contains the world’s largest collection of buildings with cast-iron facades. The Historic District is characterized by buildings designed and constructed between the 19th and 20th centuries predominantly in the neo-Classical style. The area is largely defined by merchant-warehouse buildings that are built up to their lot lines that display classic Corinthian columns flanking large plate glass windows.

The applicant seeks a text amendment to modify the percent of lot area needed to be covered by the existing building, from 20 to 40 percent, to make the application eligible for the proposed special permit. The applicant seeks a use waiver to allow retail on the ground floor and residential units on the upper levels. In addition, the applicant seeks to waive approximately 20 by 12 feet of encroachment to allow the top of the seventh story reach the proposed 89 feet.

The approval of the text amendment could potentially impact two additional sites that are located within the SoHo Cast-Iron Historic District Extension, just east of the SoHo Cast-Iron Historic

² The LPC issued a Certificate of Appropriateness on October 12, 2012. LPC’s determinations will not be re-examined in this application.

³ Permitted Use Groups in M1-5A zoning district are: 7, 9, 11, 16, 17A, 17B, 17C, or 17E.

District. These sites include a gas station south of Houston Street between Crosby and Lafayette streets, and a parking lot west of Lafayette Street between Spring and Prince streets. Both sites adjoin one-story buildings that would increase the lot coverage over 20%, making them ineligible for the existing special permit under the current zoning text, but eligible under the modified text. Currently, both sites are eligible for the special permit to modify use and bulk, but would be unable to include the one-story buildings without the text change. While the amended text would allow the enlargement of these development sites, any new developments and demolition of existing buildings in historic districts would be reviewed by LPC.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting on December 20, 2012, Manhattan Community Board 2 (“CB2”) voted unanimously to disapprove the proposed text amendment, and to approve the special permit with conditions by a vote of 35 in favor and 0 opposed.

CB2’s conditions included prohibiting the use of the cellar for guest rooms and sleeping quarters, restricting the ground-floor retail space to 3,600 SF or less, reducing the building height by 8 feet to a total 81 feet, and eliminating the sub-cellar and sunken garden to protect neighboring historic buildings.

BOROUGH PRESIDENT'S COMMENTS

The special permit pursuant to ZR § 74-712 was created, in part, to develop the remaining vacant lots within historic districts. The special permit was then amended to include partially occupied lots in M1-5A and M1-5B zoning districts to further encourage thoughtful developments that better reflect the character of the SoHo and NoHo Historic Districts than their vacant alternatives. While the special permit’s intent is to promote the historic districts’ sense of place, the Commission should ensure careful consideration is given to potential construction impacts on sensitive historic resources, and that the proposed text amendment does not inadvertently destroy structures that are relevant to the preservation of conforming uses in the district.

The proposed text amendment allows the redevelopment of the site pursuant to the style and form approved by the LPC. Absent the text amendment, the special permit could not be utilized and the site would be redeveloped in as-of-right form and use. The text amendment would allow two additional sites to be eligible for the special permit, which will require approvals from LPC and through ULURP. Additionally, absent the special permit, development could occur on the sites using other special permits, variances or using an as-of-right form. Therefore, the impact of the proposed text amendment is minimal.

The proposed residential units are consistent with nearby uses, and will unlikely have adverse impacts on conforming commercial and JLWQA uses in the surrounding area. The proposed retail is compatible with the typical ground-floor usage prevalent in the neighborhood as reflected in the retail establishments readily found on the block where the project is located. Additionally, as a condition of the special permit, the ground floor retail will be unable to be occupied as an eating and drinking establishment.

While not part of the special permit finding, the potential size of the ground-floor retail could

reach up to, but not exceed 6,000 SF, which is also in line with the scale of retail in the area. Examples from Wooster Street include Poltrona Frau (141-145 Wooster Street), a furniture showroom located directly across from the project site, occupying 6,500 SF on the ground floor, and an additional 4,000 SF in the basement. Patagonia (101-103 Wooster Street), a sporting apparel store occupies 5,000 SF. Room and Board (105-113 Wooster Street), another furniture store consists of 10,000 SF on the ground floor and two stories above that contain an additional 20,000 SF. Therefore, the applicant's proposed 4,120 SF retail space on the ground floor is appropriate and falls within the range of store sizes found in the nearby area.

The proposed project design is appropriate in the Historic District. The building will be built up to its zoning lot line, and rise up to a proposed 89 feet without any setback. The proposed design will align the building's front façade with the facades of adjacent properties, which mirrors the architectural style and character of the Historic District. While the project requires a bulk waiver, the proposed height before setback is only 4 feet greater than the zoning district's maximum allowable height of 85 feet. The new building will block lot line windows of adjacent windows; however, those windows are not legally required for light and air. Additionally, the bulk waiver extends for a depth of only 20 feet and the volume of the non-compliant portion of the building will not block any lot line windows. Therefore, the proposed waiver will not produce additional impacts on neighboring buildings than an as-of-right development would at the site.

Further, the new building would not overwhelm nearby structures. Buildings located on the west side of Wooster Street, directly facing the project site are either at similar, or even at a slightly higher height than the proposed. The scale of the project, therefore, relates to the surrounding buildings, and will unlikely impose adverse impacts on nearby buildings in terms of scale, location and access to light and air.

While not part of this special permit finding or regulated by the zoning district, the proposed 71-foot building frontage was a concern raised by CB2. Within the Historic District, there are approximately 47 building frontages that are greater than the proposed 71 feet, ranging between 73 and 200 feet wide.⁴ Many of these buildings are located in and around the surrounding block. Therefore, the scale of the proposed frontage will not greatly detract from the physical character of the SoHo neighborhood.

Finally, LPC found the existing one-story building does not contribute to the historic district, and authorized its demolition prior to the certification of the special permit. LPC also determined the proposed architectural treatment of the new building to be appropriate in the Historic District. Lastly, the applicant is required to strictly adhere to the Department of Building's Technical Policy and Procedure Notice #10/88 (Procedures for the Avoidance of Damage to Historic Structures Resulting from Adjacent Construction) to ensure historic resources are monitored and protected during construction.

⁴ Building frontage data found in *NYC PLUTO*.

BOROUGH PRESIDENT’S RECOMMENDATION

The application meets the conditions and findings for a special permit regarding use and bulk modifications pursuant to ZR § 74-712.

Therefore, the Manhattan Borough President recommends approval of ULURP application No. 120201 ZSM.



Scott M. Stringer
Manhattan Borough President