IN THE MATTER OF an application submitted by Broome Street Owner LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(a) of the Zoning Resolution to modify the use regulations of Sections 42-00 and 42-14(D)(2)(b) to allow Use Group 2 uses on portions of the cellar, ground floor, and on the 2nd – 7th floors, and Use Group 6 uses (retail uses) below the floor level of the second story of a proposed 7-story mixed-use building on a zoning lot that, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings, located at 42 Crosby Street (Block 483, Lot 35), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

This application for a Special Permit was filed by Broome Street Owner LLC on December 11, 2013. The requested Special Permit, in conjunction with the related actions, would facilitate the development of a new six-story plus penthouse mixed residential and commercial building with a ten space accessory parking garage on the ground floor and cellar at 42 Crosby Street.

RELATED ACTIONS

In addition to the special permit (C 140204 ZSM), which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

C 140205 ZSM Special Permit pursuant to Section 74-712(b) to modify the setback and permitted obstructions requirements of Section 43-42(a).

C 140206 ZSM Special Permit pursuant to Section 13-45 and 13-451 to permit a ten space unattended accessory parking garage on the ground floor and cellar.

BACKGROUND

The applicant, Broome Street Owner LLC, seeks approval of a Special Permit pursuant to Section 74-712(a) of the Zoning Resolution, in conjunction with the grant of special permits pursuant to Sections 74-712(b), 13-45 and 13-451, to construct a new six-story plus penthouse mixed-use building at 42 Crosby Street (Block 483, Lot 35). The project site is located in the SoHo Cast-Iron Historic District, within Manhattan Community District 2.

The requested actions would enable the Commission to modify use, bulk and parking regulations. The modification of the use regulations within the underlying M1-5B District will allow the applicant to develop a mixed-use building with residential uses on portions of the ground floor and cellar, on the second through seventh floors, and to allow commercial retail uses on the remaining portions of the ground floor. Modification of the bulk regulations within the underlying M1-5B District will allow for a sun control device to be located within the required initial setback and extend beyond 50% of the building wall from which it projects. Modification of the parking regulations will permit an increase in the number of as-of-right parking spaces from two to ten. The Landmarks Preservation Commission voted to approve the proposed development at 42 Crosby Street on May 14, 2013, after a public hearing on December 11, 2012 and a public hearing on February 12, 2013. Certificate of Appropriateness #14-4031 was issued on June 27, 2013.

The 8,274 square-foot project site is located at 42 Crosby Street, at the northwest corner of the intersection of Crosby and Broome streets. The project site is located in SoHo, three blocks north of Canal Street and one block east of Broadway and is currently used as a parking lot with space for approximately 40 vehicles on the surface of the lot and on stacker units. The southwest corner of the project site also contains a currently vacant, 814 SF (approximately .1 FAR), one-story structure that was built in 1953 and was previously used in connection with a motor vehicle repair shop.

The surrounding area is predominately developed with three- to sixteen -story buildings, with buildings averaging between five to seven stories. The area contains a variety of building types,

from brick houses to office buildings and includes a mix of residences in the form of Use Group 17 Joint Living Work Quarters for Artists with ground floor commercial use. Virtually all of the manufacturing uses that formerly characterized the neighborhood since the end of the nineteenth century are gone.

The project site is located within an M1-5B zoning district, which allows light manufacturing and commercial uses up to 5.0 FAR, and certain community facility uses up to 6.5 FAR. Residential use is not permitted as-of-right and Use Group 6 uses, including retail, offices and art galleries are not permitted below the level of the second story. Use Group 17 Joint Living-Work Quarters for Artists are permitted as-of-right in conversions of buildings constructed prior to December 15, 1961, and that have a lot coverage that does not exceed 5,000 SF (except for buildings with frontage on Broadway, for which the lot coverage may not exceed 3,600 SF).

In M1-5B Districts, a setback is required below the lower of the sixth floor or 85 feet and the applicable sky exposure plane is 2.7 to 1 on narrow streets or 5.6 to 1 on wide streets. The setback required is 15 feet on wide streets and 20 feet on narrow streets. A rear yard of 20 feet is required for interior lots, but no rear yard is required for corner lots within 100 feet of a street line.

The proposed actions would facilitate the construction of a new 41,370 square-foot, 6-story apartment building with a penthouse. The building would be built to 5.0 FAR and would contain ten residential units above the ground floor; a maximum of 4,000 SF of commercial retail use on the ground floor; and ten below grade accessory parking spaces – one parking space for each dwelling unit.

The proposed building would have a street wall along both Crosby Street and Broome Street which would rise to a height of approximately 82 feet above curb level and would then set back 20 feet from both streets to the penthouse volume, which will rise 15 feet to a total height of approximately 97 feet above curb level. On the 7th floor penthouse level, which is the first floor above the setback, a sun control device would project a maximum of 4.5 feet into the required

initial 20-foot setback of the south and east walls for a width of 70 feet-11.25 inches along the east wall fronting on Crosby Street and for a width of 55 feet-5.5 inches along the south wall fronting on Broome Street. A 30-foot by 40-foot inner court, which would be a complying inner court in a residence district, would be provided above the first floor in the northwest corner of the project site.

The proposed ten space unattended accessory parking garage would be in portions of the ground floor (about 1,009 square feet) and cellar (about 3,915 square feet) of the proposed building. The garage would be accessed via a 12-foot wide curb cut on Crosby Street, to a vehicle elevator which would move cars into the cellar garage. Vehicles will be required to stop before a mechanically-operated barrier set back about 23 feet from the street line before they would be allowed to proceed to the elevator.

Section 74-712(a) Special Permit

In order to achieve its overall development, the proposed project requires approval of a City Planning Commission Special Permit pursuant to Section 74-712(a). While the proposed building program will comply with the floor area regulations of the M1-5B district (which allows commercial and light manufacturing uses up to 5.0 FAR), the proposed Use Group 2 residential use and Use Group 6 commercial use are not permitted as-of-right. Section 74-712(a) permits the modification of the use regulations of the M1-5A and M1-5B districts to allow developments to contain residential use and Use Group 6 commercial uses below the level of the second story within an Historic District, and on vacant lots that have minor improvements or lots where not more than 20 percent of the lot area is occupied by existing buildings as of December 15, 2003. The requested action would permit residential use on the upper stories of the building, residential lobby use on the ground floor, residential accessory use in the cellar and a maximum of 4,000 square feet of Use Group 6 commercial use on the ground floor.

Section 74-712(b) Special Permit (C 140205 ZSM)

The proposed project also requires approval of a City Planning Commission Special Permit pursuant to Section 74-712(b). In M1-5B Districts, permitted obstructions located within the

required initial setback are permitted to a maximum projection of 50% of the required initial setback and are permitted to extend a maximum of 50% of the building wall from which it projects. A sun control device is proposed to be located on the 7th story – the first story above the required initial setback – and it will have a maximum projection of 4.5 feet into the initial setback. The requested action will permit the sun control device to extend beyond 50% of the width of the walls from which it projects to 115% of the width of the east wall on Crosby Street and to 119.4% of the width of the south wall on Broome Street.

Section 13-45 and 13-451 Special Permit (C 140206 ZSM)

The proposed project also requires approval of a City Planning Commission Special Permit pursuant to Sections 13-45 and 13-451. Within Manhattan Community District 2, the number of parking spaces permitted as-of-right is 20% of the residential dwelling units. As the proposed project includes ten dwelling units, a parking garage with a maximum of two parking spaces is permitted as-of-right. The requested action will permit an unattended accessory parking garage on the cellar and ground floor of the project site with a total of ten spaces, one for each residential dwelling unit.

ENVIRONMENTAL REVIEW

This application (C 140204 ZSM), in conjunction with the applications for the related actions (C 140205 ZSM, C 140206 ZSM), 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 City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 14DCP086M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Revised Negative Declaration was issued on June 9, 2014, which supersedes the Negative Declaration issued on January 21, 2014. The Revised Negative Declaration included an (E) designation E-331 for hazardous materials and noise to avoid the potential for significant adverse impacts, as described below.

The (E) designation requirements related to hazardous materials and noise would apply to the following development site:

Manhattan Block 483, Lot 35

The text for the hazardous materials (E) designation is as follows:

Task 1: Sampling Protocol
Prior to construction, the Applicant submits to OER, for review and approval, a Phase II Investigation Protocol/Work Plan, including a description of methods and a site map with all sampling locations clearly and precisely represented.

No sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum-based contamination and non petroleum-based contamination), and the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2: Remediation Determination and Protocol
A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER. If remediation is indicated from the test results, a proposed remedial action plan must be submitted to OER for review and approval. The Applicant must complete such remediation as

determined necessary by OER. The Applicant should then provide proper documentation to OER that the work has been satisfactorily completed.

An OER-approved construction health and safety plan would be implemented during excavation and construction and activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

The text for the noise (E) designation is as follows:

In order to ensure an acceptable interior noise environment, future residential and commercial uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation in order to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, air conditioning.

Statement of No Significant Effect:

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Revised Environmental Assessment Statement, dated June 6, 2014 prepared in connection with the ULURP Application (Nos. C 140204ZSM, C 140205ZSM, C 140206ZSM). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

The above determination is based on an environmental assessment which finds that:

1. The (E) designation for hazardous materials and noise would ensure that the proposed actions would not result in significant adverse impacts.

2. To avoid inadvertent demolition and/or construction-related damage to historic resources, the applicant has stated they will prepare a Construction Protection Plan (CPP), which would be coordinated with LPC and implemented in consultation with a licensed professional engineer. This CPP would be prepared as set forth in Section 523 of the CEQR Technical Manual and in compliance with the procedures included in the DOB's TPPN #10/88 and LPC's Guidelines for Construction Adjacent to a Historic Landmark and Protection Programs for Landmark Buildings. The CPP would be prepared and implemented prior to demolition and construction activities on the project site and project-related demolition and construction activities would be monitored as specified in the CPP.

3. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

This Revised Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

UNIFORM LAND USE REVIEW

On January 21, 2014, this application (C 140204 ZSM), in conjunction with the applications for the related actions (C 140205 ZSM, C 140206 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).

Community Board Public Hearing

Community Board 2 held a public hearing on this application (140204 ZSM), on January 8, 2014, and on January 23, 2014, by a vote of 32 in favor, 4 opposed and 0 abstaining, adopted a resolution recommending approval of the application.

Borough President Recommendations

This application (C 140204 ZSM), in conjunction with the applications for related actions, was considered by the President of the Borough of Manhattan, who issued a recommendation on April 30, 2014, for approval of the application.

City Planning Commission Public Hearing

On April 23, 2014 (Calendar No. 6), the City Planning Commission scheduled May 7, 2014 for a public hearing on this application (C 140204 ZSM) and the applications for the related actions (C 140205 ZSM, C 140206 ZSM). The hearing was duly held on May 7, 2014 (Calendar No. 26), in conjunction with the public hearing on the applications for the related actions. There were two speakers in favor of the application and none in opposition.

Those speaking in favor included the project's land use counsel and an Urban Planner for the Manhattan Borough President.

The project's land use counsel gave an overview of the project site and described how the design of the building was intended to reflect the scale and context of the surrounding SoHo neighborhood. In addition, the project's land use counsel described the requested actions and how the proposed project meets the requisite findings.

The Urban Planner for the Manhattan Borough President reiterated the Borough President's support for the application, while also highlighting the Borough President's desire to work with the Department of City Planning to provide publicly available resources and tools to help applicants and local communities conduct the analysis required to meet the residential growth parking special permit findings.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for a Special Permit pursuant to Section 74-712(a) of the Zoning Resolution, in conjunction with the grant of the related special permits, is appropriate.

The requested actions would facilitate the development of a new, 41,370 square-feet, seven story mixed-use building with ground floor retail use and 10 residential units above, and an unattended accessory parking garage with ten below-grade parking spaces. The proposed development is located at 42 Crosby Street, within an M1-5B zoning district within the SoHo Cast-Iron Historic District.

In addition to the proposed special permit pursuant to Section 74-712(a) to modify the use regulations of the underlying M1-5B zoning district, the applicant seeks the grant of a special permit pursuant to Section 74-712(b) to modify the bulk regulations of the underlying M1-5B zoning district and a special permit pursuant to Sections 13-45 and 13-451 to allow for an unattended accessory parking garage on the ground floor and cellar, with ten below-grade parking spaces.

Section 74-712(a) Special Permit – C 140204 ZSM

The applicant seeks approval of a special permit pursuant to Section 74-712(a) to modify the use regulations of the M1-5B zoning district. The requested action would allow for Use Group 2 residential uses on the second through seventh floors and on portions of the ground floor and cellar, and a maximum of 4,000 square feet of commercial retail uses on portions of the ground floor. Under current regulations, in M1-5B districts, residential use is not permitted as-of-right and commercial retail uses (Use Group 6) are not permitted below the floor level of the second story.

The surrounding area is characterized by five- to seven-story loft style buildings that have been converted to a mix of uses. Most of the buildings in the area contain ground floor retail uses with

Use Group 17 Joint Living Work Quarters for Artists (JLWQA) space, or office uses above. Virtually all of the manufacturing uses that formerly characterized the neighborhood are gone. The Commission believes that the proposed residential use on the upper floors and portions of the ground floor and cellar, in addition to the commercial retail use on portions of the ground floor is compatible with the character of the surrounding area and is consistent with the prevailing land use pattern found on neighboring blocks. As a result, the requested modifications would have minimal adverse effects on the conforming uses in the surrounding area.

The Commission also believes that the proposed development is compatible with the scale of the surrounding area. In its Certificate of Appropriateness (#14-4031), the Landmarks Preservation Commission found that the height and massing of the building is consistent with the height and massing of historic buildings found in the surrounding historic district, that the design elements will harmonize with other buildings in the streetscape, that the plane of the street walls of the building will align with the street walls of the adjacent historic buildings and that the building will enhance the special architectural and historic character of the surrounding historic district.

Section 74-712(b) Special Permit – C 140205 ZSM

The proposed building also requires a bulk modification pursuant to Section 74-712(b), to allow a sun control device within the required initial setback to extend for the entire length of the building wall from which it projects. In M1-5B districts, when located on the first story above a setback, awnings and other sun control devices shall be limited to a projection of 50% of the depth of the required setback, and shall be limited, in total, to 50% of the width of the building wall from which they project. As proposed, the sun control device will project a maximum of 4.5 feet into the required setback, which is less than the maximum allowable projection of 10 feet (50% of the setback distance, which in this case is 20 feet). The sun control device would extend 115% of the width of the east wall and 119.4% of the width of the south wall. The requested bulk waiver would allow the sun control device to extend greater than 50% of the walls from which it projects.

The Commission believes that the proposed building design, in terms of its scale, street wall design and overall height, is consistent with the existing built character of the area. The Commission recognizes that the Landmarks Preservation Commission Certificate of Appropriateness (#14-4031) states that the minimal visibility of the 7th story penthouse, on which the sun control device will be located, will not detract from the streetscape. The Commission notes that because the projection of the sun control device into the required initial setback is only 4.5 feet, the increased width of the sun control device will not affect access to light or air for any other buildings or open space in its vicinity. Moreover, its utility as an energy efficiency device is demonstrative of recent trends in building design.

Section 13-45 and 13-451 Special Permit – C 140206 ZSM

The building also requires a parking special permit pursuant to Sections 13-45 and 13-451 to permit an unattended accessory parking garage on the cellar and ground floors with a total of ten spaces. Only two spaces are permitted as-of-right. The special permit is necessary to provide one space for each of the ten dwelling units in the building.

The Commission notes that the parking regulations applicable to the Manhattan Core were revised in a text amendment adopted May 8, 2013, and were the result of an extensive study by the Department's staff (N 130105 ZRM). In its report, the Commission concluded that the new special permits and findings set reasonable standards for determining the number of parking spaces, and account for changes both in the quantity of nearby development and the capacities of existing and new parking facilities. The applicant seeks a special permit pursuant to Sections 13-45 (Special Permits for Additional Parking Spaces) and 13-451 (Special Permits for Additional parking for residential growth) which applies to any parking facility that serves the parking needs of a predominantly residential development or enlargement.

The Commission believes that the proposed parking garage meets the findings of Section 13-45, which require that the location of the vehicle entrances and exits will not unduly interrupt the flow of pedestrian traffic, or interfere with the efficient functioning of streets including any lanes designated for specific types of users such as bicycles or buses. The parking facility will not

create or contribute to traffic congestion and is consistent with the streetscape of the neighborhood streetscape. The Commission notes that special permits for accessory off-street parking facilities that do not increase parking spaces by more than eighty-five spaces are not subject to review under the City Environmental Quality Review or the State Environmental Quality Review Act and have been determined not to have a significant adverse environmental impact. The Commission notes that the project site originally had an at grade parking garage with space for approximately forty public parking spaces and that the proposed garage is an accessory garage with only ten spaces. While there are fewer arrivals and departures in accessory parking facilities, especially one of this size, in the event that two vehicles are trying to enter or exit at the same time, the garage system will be designed so that only one vehicle will be in the driveway corridor at a time. This will be accomplished by red wait signals in the garage's cellar level parking area and at the entrance to the garage, which would be activated when a vehicle is entering or exiting the parking facility. Preference will be given to entering vehicles in order to reduce the likelihood of cars being required to wait on the street for exiting vehicles.

The Commission believes that the proposed parking garage meets the findings of Section 13-451 (Special Permit for Additional parking spaces for residential growth), through the parking study analysis provided by the applicant. The findings require that the increase in the number of off-street parking spaces in the building be reasonable and not excessive in relation to recent trends in proximity to the proposed facility with regard to the increase in the number of dwelling units and the number of off-street parking spaces. The applicant analyzed residential developments and current and future parking facilities in the one-third mile radius of the project area over a ten year period. This analysis requires the applicant to calculate a residential growth parking ratio with and without the proposed project. The residential growth parking ratio is the change in the number of parking spaces in the study area over a ten year period divided by the change in the number of residential units in the study area over a ten year period. The target ratio taking into account the proposed project is 20% which is the permitted number of parking spaces per dwelling units in Community District 2. For the proposed project, the residential growth parking ratio without the proposed parking spaces is negative114.6%. The residential growth parking

ratio for the same time period, accounting for the proposed parking spaces and residential units associated with the project is negative 111.4%.

The Commission notes that the residential growth parking ratios for this project demonstrates that the change in the number of off-street parking spaces at the project site is reasonable and not excessive in relation to recent trends in proximity to the proposed facility with regard to the increase in the number of dwelling units and the number of off-street parking spaces.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-712(a) (Developments in Historic Districts) of the Zoning Resolution:

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.

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 findings described in this report, the application submitted by Broome Street Owner LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(a) to modify the use regulations of Sections 42-00 and 42-14(D)(2)(b) to allow Use Group 2 uses on portions of the cellar, ground floor, and on the 2nd – 7th floors, and Use Group 6 uses (retail uses) below the floor level of the second story of a proposed 7-story mixed-use building on a zoning lot that, as of December 15, 2003, has not more than 20% of its lot area

occupied by existing buildings, located at 42 Crosby Street (Block 483, Lot 35), in an M1-5B 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 140204 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 Selldorf Architects and Franke, Gottsegen, Cox Architects, filed with this application and incorporated in this resolution:

Dwg. No.	Title	Last Date Revised
02	Zoning Analysis	12/9/13
03	Site Plan	11/18/13
04	Cellar Plan	11/14/13
05	1st Floor Plan	11/18/13
06	2nd Floor Plan	11/18/13
07	3rd Floor Plan	11/18/13
08	4th Floor Plan	11/18/13
09	5th Floor Plan	11/18/13
10	6th Floor Plan	11/18/13
11	7th Floor Plan	11/18/13
13	North-South Building Section	12/9/13
14	East-West Building Section	12/9/13

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 140204 ZSM), duly adopted by the City Planning Commission on June 11, 2014 (Calendar No. 4), 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.

CARL WEISBROD, Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III, MICHELLE R. DE LA UZ, MARIA M. DEL TORO, JOSEPH I. DOUEK, RICHARD W. EADDY, ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 140204 ZSM**	Project Name: **42 Crosby Street**
CEQR Number: 14DCP086M	Borough(s): Manhattan Community District Number(s): 2

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
   - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by Broome Street Owner LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(a) of the Zoning Resolution to modify the use regulations of Sections 42-00 and 42-14(D)(2)(b) to allow Use Group 2 uses on portions of the cellar, ground floor, and on the 2nd - 7th floors, and Use Group 6 uses (retail uses) below the floor level of the second story of a proposed 7-story mixed-use building on a zoning lot that, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings, located at 42 Crosby Street (Block 483, Lot 35), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community 2.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s):	Applicant's Representative:
Broome Street Owner LLC 505 Fifth Avenue, 28th Floor New York, NY 10036	Jay A. Segal Greenberg Traurig, LLP 200 Park Avenue, 15th Floor New York, NY 10166

Recommendation submitted by:
Manhattan Community Board 2

Date of public hearing: 1/8/14 **Location:** NYU Silver Building, 32 Waverly Pl., Room 408

Was a quorum present? YES ☒ NO ☐ *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: 1/23/14 **Location:** Scholastic Building, 557 Broadway, Auditorium

RECOMMENDATION

☒ Approve ☐ Approve With Modifications/Conditions
☐ Disapprove ☐ Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

 # In Favor: 32 **# Against:** 4 **# Abstaining:** 0 **Total members appointed to the board:** 49

Name of CB/BB officer completing this form	*Title*	*Date*
Robert Gunnley	District Manager	3/31/14

David Gruber, *Chair*
Bo Riccobono, *First Vice Chair*
Jo Hamilton, *Second Vice Chair*
Bob Gormley, *District Manager*

Antony Wong, *Treasurer*
Susan Kent, *Secretary*
Keen Berger, *Assistant Secretary*

COMMUNITY BOARD NO. 2, MANHATTAN

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March 31, 2014

Richard Barth, Director
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Mr. Barth:

At its Full Board meeting on January 23, 2014, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

> **42 Crosby Street (northwest corner of Crosby and Broome Streets):** Application filed to the City Planning Commission for three special permits, pursuant to (1) Section 74-712(a) of the Zoning Resolution to allow retail use on the ground floor and residential use ton floors two through 7 of a seven- story building in an M1-5B zoning district; (2) Section 74-712(b) of the Zoning Resolution to allow an increase in the permitted width of a sun-control device, which is a permitted obstruction in the required setback area; and (3) Sections 13-45 and 13-451 of the Zoning Resolution to allow an accessory parking garage with 10 spaces (1 for each apartment planned for the building – only 2 spaces would be permitted as of right).
>
> **A resolution recommending approval of this application for three special permits to allow construction of a new building with residential and retail uses and 10 underground accessory parking spaces.**
>
> **Whereas:**
> 1. The application was presented by Deirdre Carson, standing in for Jay Segal for the applicant Broome Street Owner LLC;
> 2. The proposed building would be built on a site currently used as an open commercial parking lot;
> 3. The building would contain 10 residential units of floors and retail use on the ground floor;
> 4. The residential uses are allowed under the 74-712a special permit for which the proposed building qualifies based on the Certificate of Appropriateness issued by the Landmark Preservation Commission;

5. The wider sun control device would have no apparent impact on anything affecting the public;
6. The building would include a garage in the cellar with ten accessory parking spaces, exceeding the allowed number of spaces which is two;
7. The parking entrance has been carefully designed for pedestrian safety and to reduce likelihood of congestion on the street caused by cars waiting to enter;
8. The curb cut will be only 12 feet wide, less than one car length;
9. There will be some benefit to the parking by reducing congestion caused by residents double parking to load vehicles;
10. A study of neighborhood parking was presented to demonstrate the required findings for the special permit were met;
11. In December, 2006, CB2 recommended approval of a similar application to increase the number of accessory parking spaces in connection with an application to allow a new building under 74-712
12. One neighbor spoke against allowing an increase in the number of parking spaces because of traffic conditions in the area, particularly on Broome Street which is very close to the garage entrance;

Therefore it is resolved that CB2 Manhattan

1. **Recommends approval of the special permit which will allow construction of a new mixed use building at 42 Crosby Street, a significant improvement over the current parking lot use;**
2. **Does not object to the special permits allowing for a wider sun control device and increase in the number of accessory parking spaces to ten.**

Vote: Passed, with 32 Board members in favor, and 4 in opposition (K. Berger, D. Diether, L. Rakoff, S. Secunda).

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. Daniel Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Gale Brewer, Man. Borough President
Hon. Margaret Chin, Council Member
Edwin Marshall, 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:

Docket Description:

C 140205 ZSM, **C 140206 ZSM**, and **C 140207 ZSM - IN THE MATTER OF** applications submitted by Broome Street Owner LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permits pursuant to:

C 140205 ZSM – Section 74-712(a) of the Zoning Resolution to modify the use regulations of Sections 42-00 and 42-14(D)(2)(b) to allow Use Group 2 uses on portions of the cellar, ground floor, and on the 2nd – 7th floors, and Use Group 6 uses (retail uses) below the floor level of the second story of a proposed 7-story mixed-use building on a zoning lot that, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings;

C 140206 ZSM – Section 74-712(b) of the Zoning Resolution to modify the permitted obstructions requirements of Section 43-42(a) to allow a sun control structure at the 7th story roof level; of a proposed 7- story mixed-use building on a zoning lot that, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings; and

C 140207 ZSM – Sections 13-45 and 13-451 of the Zoning Resolution to allow a self-parking accessory garage with a maximum capacity of 10 spaces on portions of the cellar and ground floor of a proposed 7-story mixed-use building;

located at 42 Crosby Street (Block 483, Lot 35), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

COMMUNITY BOARD NO: 2 BOROUGH: Manhattan

RECOMMENDATION

- [x] 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

Gale A Brewer

BOROUGH PRESIDENT

April 30, 2014

DATE

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

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Gale A. Brewer, Borough President

April 30, 2014

Recommendation on ULURP Application Nos. C 140204 ZSM, C 140205 ZSM, and C 140206 ZSM – 42 Crosby Street by Broome Street Owner LLC

PROPOSED ACTIONS

Broome Street Owner LLC[1] (the "applicant") seeks approval of three **special permits** pursuant to Sections 74-712(a), 74-712(b), and Sections 13-45 and 13-451 of the New York City Zoning Resolution ("ZR"), to modify the use requirements, to modify the setback and permitted obstructions requirements, and to permit a 10-space accessory parking garage to facilitate the construction of a seven-story mixed-use development at 42 Crosby Street (Block 483, Lot 35) at the northwest corner of the intersection of Crosby Street and Broome Street. The site is located in an M1-5B district in the SoHo-Cast Iron Historic District in Manhattan Community District 2.

In order to obtain a permit pursuant to ZR § 74-712(a), a development must have a maximum floor area ratio ("FAR") of 5.0 and must comply with residential yard and window requirements, minimum dwelling unit size, sign regulations, and cannot include an eating or drinking establishment of any size. In order to grant the use modifications, the permit requires that the City Planning Commission ("CPC") find that the development:

(1) has minimal adverse effects on conforming uses in the surrounding area;
(2) is compatible with the character of the surrounding area; and
(3) for modifications that permit residential use, results in a development that is compatible with the scale of the surrounding area.

The special permit pursuant to ZR § 74-712(b) allows bulk modifications provided that the development:

(1) 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.

Finally, the applicant seeks a special permit pursuant to ZR § 13-45 and 13-451. The special permit requires that all of the applicable conditions of ZR § 13-20 (SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES) be met and that the findings of §13-45 and 13-451 have been met. These findings are as follows:

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[1] Broome Street Owner LLC is a subsidiary of Atlas Capital Group, owned by Jeffrey A. Goldberger and Andrew B. Cohen

(1) the location of the vehicular entrances and exits to such parking facility will not unduly interrupt the flow of pedestrian traffic associated with uses or public facilities, including access points to mass transit facilities in close proximity thereto, or result in any undue conflict between pedestrian and vehicular movements, due to the entering and leaving movement of vehicles;
(2) the location of the vehicular entrances and exits to such parking facility will not interfere with the efficient functioning of streets, including any lanes designated for specific types of users or vehicles, due to the entering and leaving movement of vehicles;
(3) such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
(4) for public parking garages, that where any floor space is exempted from the definition of floor area, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion;
(5) such parking facility will not be inconsistent with the character of the existing streetscape; and
(6) the number of off-street parking spaces in such proposed parking facility is reasonable and not excessive in relation to recent trends in close proximity to the proposed facility with regard to:
    (a) the increase in the number of dwelling units; and
    (b) the number of both public and accessory off-street parking spaces, taking into account both the construction, if any, of new off-street parking facilities and the reduction, if any, in the number of such spaces in existing parking facilities.

PROJECT DESCRIPTION

Background

The project site lies within the SoHo-Cast Iron Historic District, named for its large concentration of buildings with cast-iron facades. Designated by the Landmarks Preservation Commission ("LPC") on August 14, 1973, the area encompasses 26 blocks bounded by Canal Street to the south, West Houston Street to the north, Crosby Street to the east, and West Broadway to the west and includes approximately 500 buildings. Cast-iron facades were considered a major engineering innovation at the time due to their modular nature, ease in shipping, and customization available for an individual proprietor.

Although most of the surrounding buildings are of late nineteenth or early twentieth century style, when LPC voted to approve the applicant's request on May 14, 2013 it found that demolishing the existing structure on the project site would not detract from the character of the Historic District. A Certificate of Appropriateness (LPC # 14-4031) was granted on June 27, 2013.

Project Site and Area Context

42 Crosby Street is located at Lot 35 on Block 483 at the northwest corner of the intersection of Crosby Street and Broome Street. The zoning lot has a lot area of 8,274 sf and is located in an M1-5B district. The lot is currently used as a parking lot with space for approximately 40 vehicles. The southwest corner of the lot also contains a single-story, vacant structure. The building dates to 1953 and was previously used in connection with a motor vehicle repair shop.

Building use in the surrounding area consists of a mixture of residential and commercial uses with building structures varying from three-story townhouses to 16-story office buildings. The predominant building height for the historic district is five to seven story buildings. While a range of uses populate the neighborhood, the predominant trend is for ground-floor retail within the vicinity of the project site. Central SoHo was predominantly developed for commercial and manufacturing uses, as reflected in the building typology of the immediate vicinity; today very little manufacturing is left and the area is predominated by residential and commercial uses.

The M1-5B district permits manufacturing and commercial uses as of right, as well as conversions to joint living-work quarters for artists under certain conditions. This zoning district does not permit retail use below the level of the second story nor does it permit residential use as of right. The predominant zoning districts surrounding the project site are M1-5B and M1-5A districts, which carry similar restrictions to residential and commercial use. In M1-5A districts, Use Group 6 uses are permitted as of right below the level of the second story only in buildings located on zoning lots occupying less than 3,600 sf of lot area. Both M1-5A and M1-5B districts have a maximum permitted commercial and manufacturing FAR of 5 and a maximum community facility FAR of 6.5. A setback is required above six stories or 85 feet, whichever is lower, after which buildings must set back according to a sky exposure plane. The setback required is 15 feet on wide streets and 20 feet on narrow streets. A rear yard of 20 feet is required for interior lots, but no rear yard is required for corner lots within 100 feet of a street line. Tower construction is also permitted in these districts. No parking is required for this district under Article I, Chapter 3 of the ZR.

Located nearby is the Special Little Italy District, which is comprised of C6-1, C6-2, and C6-2G districts, which place additional restrictions on height and use on new development.

Proposed Project
The applicant proposes to construct an approximately 52,935 gross square feet, seven-story mixed-use building containing 10 residential units, approximately 3,757 gsf of retail space on the ground floor, and a below grade accessory parking garage with 10 spaces. The residential units will be located on floors two through seven. The garage entrance with car elevator and a residential lobby will both be located on the first floor adjacent to the retail space. The residential parking space use and accessory residential storage use are proposed to be located in the cellar.

The building would contain the maximum amount of zoning floor area, 41,370 sf, as permitted by zoning and rise to a total height of approximately 97 feet. The design of the building utilizes stainless steel, glass and aluminum building materials, sliding window system and exterior pull-down shades, a projecting sun control device, and a terrace on the sixth floor to increase the building's energy efficiency. All entrances to the building will be recessed from the sidewalk.

The majority of the approximately ten space parking garage would be located in the cellar, with an entrance, exit and vehicle elevator on the ground floor. The garage would be accessed via a 12-foot curb cut on Crosby Street, located approximately 100 feet from the intersection with Broome Street. Vehicles would be required to stop at a recessed barrier arm system located within the building footprint before entering the entrance lane. The garage will incorporate red "wait" signals to ensure vehicular safety and the elevator will respond to arriving vehicles before departing ones to limit any back-up to the street.

Proposed Actions
The applicant proposes three special permits to facilitate the mixed-use development at 42 Crosby Street:

1) A special permit (C 140204 ZSM) pursuant to ZR § 74-712(a) (the "Historic District Use Permit") to modify the use requirements of § 42-00, which does not permit residential use, and § 42-14(D)(2)(b), which does not permit commercial uses below the second floor. The granting of this special permit would allow residential use on the upper stories of the proposed building, residential lobby use on the ground floor and residential accessory uses in the cellar. The permit will also allow for Use Group 6 retail uses on the ground floor.

2) A special permit (C 140205 ZSM) pursuant to ZR § 74-712(b) (the "Historic District Bulk Permit") to allow an increase in the width of the obstruction permitted in the required initial setback for a sun control device in the penthouse to provide building shade and conserve energy.

The current regulations allow for a permitted obstruction of 50% of the width of the walls from which it projects but the applicant seeks to increase that width to 115% of the width of the east wall and to 119.4% of the width of the south wall.

3) A special permit (C 140206 ZSM) pursuant to Sections 13-45 and 13-451 (the "Garage Permit") to permit an unattended accessory parking garage on the cellar and ground floors with a total of ten spaces; one for each proposed dwelling unit. Only two spaces would be permitted as-of-right by the Zoning Resolution.

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

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on January 16, 2014, Manhattan Community Board 2 voted to recommend the approval of the application by a vote of 32 in favor and 4 opposed. The community board was supportive of the proposed use as an improvement over the open parking lot use and currently vacant building on the lot and determined that no conditions were necessary as part of the approval.

BOROUGH PRESIDENT'S COMMENTS

The conditions and findings have been met for all three requested special permits. The proposed residential and residential accessory uses and ground floor retail space are entirely compatible with the development trends of the SoHo neighborhood. The proposed design is sympathetic to the distinguishing elements of the SoHo-Cast Iron Historic District and utilizes materials and architectural elements such as an established cornice, show windows, and lintels to relate to adjacent buildings' height and rhythm. The building will also re-establish the street wall and provide an active street frontage at a critical entry point to the historic district. The proposed sun control device, while exceeding the permitted obstruction requirement, is minimally invasive and barely visible from the street. Its utility as an energy efficiency device and its innovative use also speaks to the history of building material innovation in the historic district. Its appropriateness is also demonstrated by the grant by the LPC of the Certificate of Appropriateness on June 27, 2013.

The applicant has also met all of the applicable conditions and findings for the Garage Permit. The parking plans show a garage that is contextually designed to the neighborhood with a recessed entry and the use of safety signals to prevent vehicular and pedestrian conflicts at street level. The parking study that accompanied the application adequately demonstrates the residential growth need for these spaces according to the methodology defined by the Department of City Planning. Lastly, the Environmental Assessment Statement determined that no significant effects on the quality of the environment would be triggered by the addition of 10 parking spaces.

The Borough President does have a number of concerns, however, regarding the long-term, cumulative impact of these parking garage special permits and the methodology through which the allocation of spaces is determined. At this time, there is no publicly available database showing the allocation of parking spaces. Similarly , there is no framework for consideration of overlapping study areas. In addition, while this site may not be appropriate for a car share program, further study should be done to establish requirements that would trigger such programs. It is apparent that the Community Board, Borough President's Office, and CPC will continue to receive these special permit applications in the future. Given the development trends of Manhattan's neighborhoods, study areas as currently defined will overlap in the future. The framework for the study area should be expanded to be more flexible and allow for changing development trends. The cumulative impact of these permits must also be tracked and considered.

The applicant met the conditions and findings for the three special permits requested pursuant to ZR §§ 74-712(a), 74-712(b), 13-45 and 13-451. This development is consistent with existing and projected land uses in the area given the mixed-use nature of SoHo. The design of the building is also sensitive to the character of the historic district, and the increase in parking spaces was found to have no environmental impact.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval of ULURP Application Nos. C 140204 ZSM, C 140205 ZSM, and C 140206 ZSM.

Gale A. Brewer
Manhattan Borough President