

300-13-A

APPLICANT – Goldman Harris LLC, for LSG Fulton Street LLC, owner.

SUBJECT – Application November 7, 2013 – Proposed construction of a mixed-use development to be located partially within the bed of a mapped but unbuilt portion of Fulton Street, contrary to General City law Section 35 and the bulk regulations pursuant to §72-01-(g). C5-5/C6-4 zoning district.

PREMISES AFFECTED – 112,114 &120 Fulton Street, Three tax lots fronting on Fulton Street between Nassau and Dutch Streets in lower Manhattan. Block 78, Lot(s) 49, 7501 & 45. Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated November 12, 2013, acting on Department of Buildings Application No. 121333440, reads in pertinent part:

1. Proposed new building does not comply with bulk regulations resulting from the location of the street as per ZR 91-32 Setback regulations for Special Lower Manhattan District; for “Type 3” as defined on Map 2n Appendix A #street walls #, the required setbacks shall be measured from a line drawn at or parallel to the #street line# so that at least 70 percent of the aggregate width of street walls# of the building at the minimum base height are within such line and the #street line# (street widening line);
2. Proposed development which rests partially within the bed of the mapped street is contrary to GCL 35; and

WHEREAS, a public hearing was held on this application on January 28, 2014 after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, this is an application to allow the construction of 62-story mixed residential and commercial building, which will be partially located within the widening area for Fulton Street; and

WHEREAS, the subject site is located on the south side of Fulton Street between Nassau Street and Dutch Street, partially within a C5-5 zoning district and partially within a C6-4 zoning district, within the Special Lower

Manhattan District; and

WHEREAS, the site comprises three tax lots (Tentative Lots 45, 49, and 7501) with a combined frontage of approximately 125 feet along Fulton Street; and

WHEREAS, the site has 10,378 sq. ft. of lot area, with about 45 percent of the lot area (4,625 sq. ft.) located within the widening area of Fulton Street; and

WHEREAS, the applicant states that, in connection with the proposed development, the site has been declared a single zoning lot with the following parcels: 122 Fulton Street; 80, 86 and 88 Nassau Street; 41-43 John Street; and 15 Dutch Street (Block 78, Lots 44, 7503, 40, 42, 7502, and 7504); and

WHEREAS, by letter dated December 23, 2013, the Fire Department states that it has reviewed the proposal and does not have any objections; and

WHEREAS, by letter dated November 25, 2013, the Department of Environmental Protection (“DEP”) states that: (1) there is an existing 20-inch diameter and a 24-inch diameter City water main in the bed of Fulton Street; (2) there is an existing 18-inch diameter and 14-inch diameter combined sewers in the bed of Fulton Street between Nassau Street and Dutch Street; (3) Modified City Drainage Plan for Sewage District No. 22CL, dated May 3, 1928, calls for a future four-ft. combined sewer to be installed in Fulton Street between Nassau Street and Dutch Street; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan showing: (1) the width of mapped Fulton Street and the width of the widening portions of the street; (2) the distance between the 18-inch diameter and 14-inch diameter combined sewers in the bed of Fulton Street between Nassau Street and Dutch Street; and (3) the location and the distance from the lot line to the existing fire hydrant; and

WHEREAS, in response to DEP’s request, the applicant submitted a revised survey, dated December 9, 2013; the revised survey shows the 90 feet of the total width of the mapped portion of Fulton Street between Nassau Street and Dutch Street, as well as the 55-ft.r of the width of the traveled portion of Fulton Street, which will be available for the maintenance and/or reconstruction of the existing sewers, water mains, and the installation of any future sewers; and

WHEREAS, by letter dated January 10, 2014, DEP states that, based on its review of the applicant’s response, it has no objections to the proposal; and

WHEREAS, by correspondence dated January 8, 2014, the Department of Transportation (“DOT”) states that: (1) according to the Manhattan Borough President’s Topographical Bureau, Fulton Street from Dutch Street to Nassau Street is mapped at a 90-ft. width on the Final City Map; (2) the City does not have title to the southerly portion within Block 78; and (3) construction within the

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bed of Fulton Street is not presently included in DOT's Capital Improvement Program; and

WHEREAS, in addition, DOT recommends that the proposed building's footprint be set back from the existing building line to allow for a widened sidewalk to reduce pedestrian congestion; and

WHEREAS, by letter dated January 14, 2014, the applicant responds that Fulton Street is classified as a Type 3 street for the purposes of applying the Special Lower Manhattan District street wall regulations, and that, per ZR § 91-31(b), at least 70 percent of the aggregate width of street walls on Type 3 streets must be located within ten feet of the street line; accordingly, a setback cannot be provided as requested by DOT without the creation of a zoning non-compliance; and

WHEREAS, therefore, the applicant states that the footprint of the building will not be altered in accordance with DOT's request, because doing so would require a variance; further, the applicant states that the proposed streetwall maintains the existing, historic character of the streetscape; and

WHEREAS, in addition, in accordance with the Special Lower Manhattan District requirements (ZR § 91-42), the proposal must provide pedestrian circulation space, which, in effect, will further the same goal—reduced pedestrian congestion—as the setback streetwall and widened sidewalk recommended by DOT; and

WHEREAS, the Board notes that pursuant to GCL Section 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non-compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, in particular, the Board notes that, if the built width of Fulton Street (rather than its wider, mapped width) were used to measure the setbacks required under ZR § 91-32, such setbacks would comply; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside

the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions

Therefore it is Resolved, that the Board modifies the decision of the Manhattan Borough Commissioner, dated November 12, 2013, acting on Department of Buildings Application No. 121333440, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received February 3, 2014 (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT DOB will not issue a Certificate of Occupancy until DEP has signed off on the amended drainage plan;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on February 25, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, February 25, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

