

IN THE MATTER OF an application submitted by 150 Wooster LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Section 74-712, concerning a special permit for developments in historic districts within M1-5A and M1-5B districts.

The application for a zoning text amendment, in conjunction with the related actions, was filed by 150 Wooster LLC on June 17, 2015. The requested zoning text amendment, in conjunction with the related actions, would facilitate the development of a new eight-story mixed residential and commercial building at 150 Wooster Street.

RELATED ACTIONS

In addition to the zoning text amendment (N 150416 ZRM) which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following which is being considered concurrently with this application:

- | | |
|---------------------|---|
| C 150417 ZSM | Special Permit pursuant to Section 74-712(a) to modify use regulations to allow Use Group 6 uses below the floor level of the second story and Use Group 2 uses within the development. |
| C 150418 ZSM | Special Permit pursuant to Section 74-712(b) to modify the height and setback requirements of Section 43-43 and the permitted obstructions requirements of Section 43-23. |

BACKGROUND

A full background discussion and description of this application appears in the related report for the special permit application (C 150417 ZSM).

ENVIRONMENTAL REVIEW

This application (N 150416 ZRM), in conjunction with the applications for the related actions

(C 150417 ZSM, C 150418 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 15DCP163M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on October 5, 2015.

PUBLIC REVIEW

On October 5, 2015, this application was referred to Manhattan Community Board 2 and the Borough President for information and review in accordance with the procedure for non-ULURP matters, along with the related special permit applications (C150417 ZSM and C150418 ZSM), which were certified as complete by the Department of City Planning on October 5, 2015 and were duly referred 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 on October 22, 2015, and on that date, by a vote of 36 in favor, 0 opposed and 0 abstaining, adopted a resolution recommending conditional approval of the application.

A summary of the recommendation of Community Board 2 appears in the related report for the special permit application (C 150417 ZSM).

Borough President Recommendation

This application (N 150416 ZRM), in conjunction with the applications for related actions, was considered by the President of the Borough of Manhattan, who issued a recommendation on November 24, 2015, for approval of the application.

City Planning Commission Public Hearing

On November 18, 2015 (Calendar No. 4), the City Planning Commission scheduled December 2, 2015, for a public hearing on this application (N 150416 ZRM) in conjunction with the applications for the related actions (C 150417 ZSM, C 150418 ZSM). The hearing was duly held on December 2, 2015 (Calendar No 12).

There were a number of appearances, as described in the related report for the special permit

application (C 150417 ZSM), and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed amendment to Section 74-712 to allow by special permit the modification of use and bulk regulations for vacant sites, land with minor improvements or sites where not more than forty percent of the site is occupied by an existing building, in M1-5A and M1-5B districts located within historic districts, in conjunction with the applications for related actions, is appropriate.

A full consideration and analysis of the issues and the reasons for approving this application, appear in the related report for the special permit application (C 150417 ZSM).

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 Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text remains in the Zoning Resolution

Article VII

Chapter 4

Special Permits by the City Planning Commission

* * *

74-712

Developments in Historic Districts

Within Historic Districts designated by the Landmarks Preservation Commission, the City Planning Commission may grant a special permit, in accordance with the following provisions:

- (a) In M1-5A and M1-5B Districts, on a #zoning lot# that, as of December 15, 2003, is vacant, is #land with minor improvements#, ~~has not more than 20 percent of the lot area occupied by existing #buildings#, or has #street# frontages on two or more #wide streets# and~~ or has not more than 40 percent of the #lot area# occupied by existing #buildings#, the Commission may modify #use# regulations to permit #residential development# and, below the floor level of the second #story# of any #development#, #uses# permitted under Section 32-15 (Use Group 6), provided:

* * *

- (b) In all districts, the Commission may modify #bulk# regulations, except #floor area ratio# regulations, for any #development# on a #zoning lot# that is vacant or is #land with minor improvements#, and in M1-5A and M1-5B Districts, the Commission may make such modifications for #zoning lots# where not more than ~~20~~ 40 percent of the #lot area# is occupied by existing #buildings# as of December 15, 2003, provided the Commission finds that such #bulk# modifications: ~~comply with the findings set forth below.~~

~~In addition, in M1-5A and M1-5B Districts, the Commission may also modify #bulk# regulations, except #floor area ratio regulations#, for development on a #zoning lot# that has street frontages on two or more #wide streets# and that, as of December 15, 2003, has more than 20 percent but not more than 40 percent of the #lot area# occupied by existing #buildings#, provided the #development# contains no #residences# and the Commission finds that such #bulk# modifications:~~

* * *

The above resolution (N 150416 ZRM), duly adopted by the City Planning Commission on January 6, 2016 (Calendar No. 7), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the

requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, Esq., Vice Chairman
RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, MICHELLE R. DE LA UZ,
JOSEPH DOUEK, RICHARD W. EADDY,
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Tobi Bergman, *Chair*
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Antony Wong, *Treasurer*
Keen Berger, *Secretary*
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October 26, 2015

Carl Weisbrod, Director
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Mr. Weisbrod:

At its Full Board meeting on October 22, 2015, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

144-150 Wooster Street (east side, between Houston and Prince) in an M1-5A zone in the SoHo Cast Iron Historic District. Applications to the City Planning Commission: **N150416 ZRM** for a Zoning Text Amendment to ZR 74-712 to increase the allowable lot coverage for existing buildings from 20% to 40%, and applications **150417 ZSM; and 150418 ZSM** for a special permit pursuant to ZR 74-712 for modifications of use and bulk regulations to enable the development of an 8-story mixed use building with ground floor retail and six apartments on floors 2-8.

Whereas:

1. On February 19, 2015, the full board of CB2, Man. commended the efforts of 150 Wooster LLC and adjacent residents to resolve issues relating to this project;
2. The project was approved unanimously at that time;
3. The project was re-presented to CB2 Manhattan's Land Use unchanged on October 14, 2015.

Therefore, be it resolved that CB2, Man. approves this application but asks that the developer remove the balconies on the rear of the building due to concerns about the potential for noise and unsightly storage, and the fact that the balconies protrude 7' into the 30' back yard.

Vote: Unanimous, with 36 Board members in favor.

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

Sincerely,

A handwritten signature in dark ink, appearing to be 'Tobi Bergman', with a stylized, cursive script.

Tobi Bergman, Chair
Community Board #2, Manhattan

A handwritten signature in dark ink, appearing to be 'Anita Brandt', with a stylized, cursive script.

Anita Brandt, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

TB/fa

c: Hon. Jerrold Nadler , Congressman
Hon. Daniel Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Gale A. Brewer, Man. Borough President
Hon. Margaret Chin, Council Member
Sylvia Li, Department of City Planning
Calendar Officer, Department of City Planning



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Gale A. Brewer, Borough President

November 24, 2015

**Recommendation on
ULURP Application Nos. N 150416 ZRM, C 150417 ZSM, and C 150418 ZSM – 150
Wooster Street
by 150 Wooster LLC**

PROPOSED ACTION

150 Wooster LLC (the “applicant”) seeks approval of two **special permits** pursuant to Sections 74-712(a) and 74-712(b) of the New York City Zoning Resolution (“ZR”) to modify use and bulk requirements to facilitate the construction of an eight story mixed-use development at 150 Wooster Street (Block 514, Lots 7 and 9) between Prince Street and Houston Street. The site is located within an M1-5A district within the SoHo-Cast Iron Historic District in Manhattan Community District 2. The applicant also seeks a related **text amendment** to the ZR modifying the conditions of the special permit pursuant to Section 74-712.

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.

In evaluating the proposed text amendment to ZR 74-712, this office must consider whether the proposed language meets the underlying premise of the Zoning Resolution of promoting the

general health, safety and welfare of the city and whether the proposals it will facilitate will be appropriate to the neighborhood.

PROJECT DESCRIPTION

The applicant seeks a text amendment to ZR § 74-712 and two special permits pursuant to the amended text in order to construct an eight story building with residential and retail uses in an M1-5A zoning district. The project site is comprised of Tax Lots 7 and 9 on Block 514 and is located on the east side of Wooster Street between Prince and Houston streets. Lot 9 is occupied by a one-story building that is being used as a retail showroom, and Lot 7 is a vacant lot that is being used as a 15-space public parking lot. The current lot coverage of the project site is 35 percent.

Background

ZR § 74-712 was adopted in 1997 to allow for bulk modifications by special permit on vacant lots within historic districts. In 2003, the CPC approved a text amendment to ZR § 74-712 to allow, within M1-5A and M1-5B districts located within historic districts, use modifications on land with minor improvements and sites where no more than 20 percent of the lot area was occupied by an existing building. This text amendment was to facilitate the construction of a residential building with ground floor commercial use at Broadway and Grand Street. Afterwards, seven other special permits under ZR § 74-712 were approved by CPC to facilitate new residential and mixed-use buildings in the area, including 137 Wooster Street across from the project site. In 2006, CPC again approved amendment to ZR § 74-712, this time to allow bulk modification for developments on lots containing existing buildings with no more than 20 percent lot coverage.

In 2013, the CPC approved ULURP application N 120200 ZRM, submitted by the prior owner of the Project Site, to further amend ZR § 74-712 to increase the allowable lot coverage for lots containing existing buildings from 20 percent to 40 percent. According to that application and as noted in the CPC report approving the text amendment, the proposed amendment would have affected only two other potential zoning lots in the Historic District at that time – 300 Lafayette Street and 254 Lafayette Street. In its report, the CPC concluded that the text amendment “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.” However, despite the CPC’s approval, the application was withdrawn prior to being considered by the City Council.

The current landmarks application, Application No. 16-5750, for 150 Wooster was approved by the Landmarks Preservation Commission (“LPC”) at a public hearing held on April 14, 2015. On April 28, 2015, the LPC issued Certificate of Appropriateness No. 17-0749, to allow demolition of the existing one-story building and construction on the project site. The LPC found that the existing building was not one of the buildings for which the district was designated, and therefore its demolition will not detract from the special historic and architectural character of

the historic district; and that the proposed building would reinforce the street wall and align with the existing scale of the neighboring properties in the Historic District.

Proposed Development

The proposed eight story building would be 98 feet and 10 inches in height, and contain 35,920 square feet of total floor area. 29,739 square feet would be residential floor area, and 6,181 square feet would be ground floor commercial floor area. The first seven stories would rise from the street line to a height of 87 feet 4 inches. At that height, a 15 foot setback would be provided for the eighth story, which would rise to a height of 98 feet 10 inches. On the ground floor, a 756 square foot residential lobby would be located in the center of the Building with a 3,067 square foot retail store on one side and a 3,114 square foot retail store on the other side. The cellar would contain a bike room, superintendent's office, storage and mechanical equipment for the residential apartments, and storage, restrooms, and non-floor area retail floor space for the ground floor retail stores. The upper stories would have six residential apartments ranging in size from 4,300 square feet to 6,800 square feet.

Area Context

The project site is located in a M1-5A zoning district in the SoHo-Cast Iron Historic District in Community District 2, Manhattan. Dwelling units are not permitted as-of-right for new construction, and the housing stock consists of Interim Multiple Dwellings, Joint Living-Work Quarters for Artists, as well as Use Group 2 residential apartments that are pre-existing non-conforming uses or were permitted by special permit granted by the CPC or by variance granted by the Board of Standards and Appeals. Ground floor Use Group 6 retail uses exist throughout the area and are permitted through several mechanisms. Some are located in buildings with small footprints (less than 3,600 square feet) and are permitted as-of-right. Others are pre-existing legally non-conforming uses, or permitted by CPC special permit pursuant to ZR Sections 74-711, 74-712, or 74-781.

The built environment of SoHo is primarily characterized by cast iron loft buildings with high lot coverage that rise to their full height at the street line. While most of the area buildings were developed between 1840 and 1880, a number of new residential buildings have been developed in recent years, including buildings at 137 Wooster Street, 27 Wooster Street, 52-54 Wooster Street, 311 West Broadway and 433 Broadway, with a number of others currently under construction or in development. The majority of the area bounded by West Broadway and Houston, Crosby and Canal streets is located within the SoHo-Cast Iron Historic District.

The SoHo-Cast Iron Historic District was designated by the Landmark's Preservation Commission in 1973 as an effort to preserve the city's cultural and historic heritage of the brick, stone, mixed iron and masonry commercial construction of the post-Civil War period. The SoHo-Cast Iron Historic District consists of 26 blocks containing 500 buildings and is the largest concentration of full and partial cast-iron façades in the world. The district is bounded by West Houston Street, Crosby Street, Howard Street, Broadway, Canal Street and West Broadway. The project area is north of the Tribeca East Historic District, historically the commercial and

industrial center of the city. Designated in 1992, the district includes ornate store and loft buildings developed in the mid-19th to early 20th century.

The area is well served by mass transit with multiple subway lines nearby, including N/R three blocks away at Prince Street and the B/D/F/M four blocks away at Broadway-Lafayette Street.

Proposed Actions

The applicant proposes a **text amendment** to Section 74-712 of the New York City Zoning Resolution (“ZR”) to expand the maximum allowable percentage of lot coverage by existing buildings from 20 to 40 percent. This will allow the applicant’s zoning lot, comprised of two adjacent tax lots, one of which is partially occupied, to qualify for the amended special permits pursuant to ZR § 74-712 for use and bulk changes.

The applicant, pursuant to the modified text, proposes two special permits to facilitate the mixed-use development at 150 Wooster:

1. A **special permit** (C 150417 ZSM) pursuant to ZR § 74-712(a) to modify the use requirements of § 42-00, which does not permit residential use, and § 42-14(D)(2)(a), which does not permit commercial or residential uses below the second floor. The granting of this special permit would allow residential use on floors 2-8 and penthouse level 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 cellar and ground floor.
2. A **special permit** (C 150418 ZSM) pursuant to ZR § 74-712(b) to modify:
 - a. The height and setback regulations of ZR § 43-43 to allow the 7th floor to exceed the maximum street wall height of six stories or 85 feet by one story and 2 feet 4 inches; to reduce the initial setback distance above the street wall for the 8th floor from 20 to 15 feet; and to allow the cornice at the top of the street wall to penetrate the sky exposure plane by 2 feet 4 inches; and
 - b. The permitted obstruction requirements of ZR § 43-23 to allow balconies on the rear wall of the building at the fourth, fifth, and sixth floors as rear yard obstructions.

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

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on October 22, 2015, Manhattan Community Board 2 (“CB2”) unanimously approved a resolution recommending **approval**, with 36 Board Members voting in favor. The full board of CB2 commended the efforts of 150 Wooster LLC and adjacent residents to resolve issues relating to this project. However, they asked that the developer remove the balconies on the rear of the building due to concerns about the potential for noise and unsightly storage, and the fact that the balconies protrude 7’ into the 30’ back yard.

BOROUGH PRESIDENT'S COMMENTS

The applicant proposes a handsome new building on what are now a parking lot and a one-story retail showroom. The building is well-designed, fills a gap in the street wall along Wooster Street, and fits well with the style and scale of neighboring buildings in the Historic District. Furthermore, the applicant has done an admirable job responding to the concerns of the community about the project. Through a year-long public engagement process, the applicant worked closely with its direct neighbors, Community Board 2, and other local stakeholders. This is in stark contrast to the previous owner of the site, who applied for the same text amendment and special permits but withdrew their application after facing strong opposition from the community. However, the Borough President strongly laments the timing of this application to convert one of the last underdeveloped lots in SoHo into huge luxury condominiums at a time when a study is being undertaken on possible options for rezoning SoHo and NoHo and a mandatory inclusionary housing policy is being considered that, if enacted, would be applicable to exactly this type of special permit.

In evaluating the text amendment which enables this proposal to proceed under the special permits, this office must consider whether the modifications and special permits are appropriate at the project site and help promote the general welfare of the community. The text amendment would affect one other potential zoning lot in the Historic District – 254 Lafayette Street. (300 Lafayette Street has since been developed following a separate text amendment and special permit application.) The proposed development would also extend the street wall along Wooster Street and reinforce the existing physical character of the area.

In regards to the proposed use change to commercial retail, while ground floor Use Group 6 retail use is not permitted as of right in the M1-5A district, retail commercial uses are common throughout SoHo. According to the applicant's discussion of findings, all seven of the other lots on the project site's side of Wooster Street between Prince and Houston streets, and seven of the eight lots on the block front across Wooster Street from the project site contain retail commercial uses. Likewise, Use Group 2 residential use is not permitted as of right in the M1-5A district but is common throughout the area. On the Project Site's side of Wooster Street, four of the other seven lots have residential use, and across Wooster Street, seven of eight lots have residential use. SoHo also contains existing residential units that pre-date the current zoning's prohibition on residential use, as well as several newer residential buildings permitted either by BSA variance or CPC special permit. Ground floor retail commercial use can also be found in the majority of buildings in SoHo.

This development also appears to be compatible with the scale of the surrounding area and would not adversely affect the surrounding structures. The heights of the buildings on the block vary to create a diverse skyline. According to the applicant's discussion of findings, the heights of the buildings across Wooster Street from the project site are generally between 80 feet and 103 feet with one building of 28 feet and another of 56 feet. On the project site's side of Wooster Street, building heights generally range from between 60 feet and 80 feet, with two buildings of 16 and 18 feet. The proposed building, with its 87 feet 4 inch street wall and 98 feet 10 inch building height is within the range of heights of the neighboring buildings. The massing is also

consistent with that of other buildings in the vicinity. Additionally, the building's street wall height would be within the range of the area's varied heights and its location at the street line would be similar to that of virtually every other building in the area.

The proposed development therefore meets the findings for CPC approval. It is unlikely to have adverse effects on the surrounding area, and the bulk and uses of the building are all consistent with those of neighboring buildings. The review of the Environmental Assessment Statement also resulted in a Negative Declaration. The existing one-story building is not a contributing building and its demolition will not detract from the special character of the Historic District. This office has no issues with the building design or with the thorough public engagement process undertaken by the applicant.

Nevertheless, this office very strongly opposes this project in principle.

Recommendations from this office over the last year have repeatedly raised concerns over the continued use of special permits to circumvent the current zoning of the SoHo and NoHo historic districts. The applicant notes the transformation of the neighborhood from light industrial and manufacturing to retail and residential, and uses the granting of prior special permits and variances as means to justify additional waivers. It is true that the proposed development is consistent with other buildings in the surrounding area. However, the aggregate nonconformity of a neighborhood should not be justification for additional nonconformity without comprehensive study.

This office has long called for such a study, and has already undertaken efforts along these lines. But given the overwhelming number of approvals of use change applications, there is the troubling possibility that any recommendations from any study would come too late to stop a *de facto* rezoning by special permit.

The need for foresight and coherent planning is further compounded by the Mandatory Inclusionary Housing (MIH) text amendment currently under review, which has the potential to drastically reshape affordable housing construction in New York. While there are many issues with MIH as it stands now, the mandate to create affordable housing is a definitive step forward in addressing the housing crisis of the city. There is no doubt that 150 Wooster Street should have been considered within this broader context. It is this very type of special permit that showcased why the city absolutely should require a mechanism for affordable housing from actions triggering increased or new residential density. This is a concern and action item this office has repeatedly called for in prior recommendations.

SoHo has long been defined by its unique neighborhood character. It has also experienced real loss of its light industry and affordable Joint Living-Work Quarters for Artists over the past years as luxury residential and upscale retail developments have proliferated. This project would have been the perfect opportunity to pause and reflect on the transformative changes in the neighborhood enabled by special permits, especially in relation to the sweeping citywide efforts to address housing affordability. Instead, this project was rushed along ahead of schedule by Community Board 2, and far in advance of debate on potential applications of Mandatory

Inclusionary Housing. The project site, one of the last developable sites left in SoHo, is now slated for luxury residences ranging upwards of 6,000 square feet per unit.

This application meets all the required findings of the CPC, and this office has no choice but to recommend approval. However, the project also typifies the shortsighted, piecemeal transformation of SoHo and once again underscores the pressing need for a comprehensive neighborhood study. While we understand the Community Board's desire to work with an applicant which, in contrast to its predecessor has been so cooperative, it is also unfortunate that the Community Board ceded the opportunity to have a robust discussion on the issue of mandatory inclusionary housing at this site by not utilizing their full community board review timeframe, especially considering their prior recommendations regarding affordable housing.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval of ULURP Application Nos. N 150416 ZRM, C 150417 ZSM, and C 150418 ZSM.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is fluid and cursive, with the first name "Gale" written in a more stylized, connected manner to the middle initial "A." and the last name "Brewer".

Gale A. Brewer
Manhattan Borough President