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Gale A. Brewer, Borough President

February 27, 2020

**Recommendation on ULURP Application C 200077 ZSM – 3 St. Marks Place
By REEC St. Marks LP**

PROPOSED ACTION

REEC St Marks LP (the "Applicant") seeks a special permit from the City Planning Commission ("CPC") pursuant to Section 74-79 of the New York City Zoning Resolution (the "ZR") to facilitate the construction of a ten-story building (the "Proposed Development") located at 3 St. Mark's Place in Manhattan (Block 464, Lots 1, 3, and 59). The special permit would:

1. Allow a transfer of 8,386 square feet of development rights from the zoning lot located at 4 St. Mark's Place (Block 463, Lot 11) (the "Landmark Site" and, together with the Proposed Development, the "Project Area"), which is occupied by the Hamilton-Holly House (the "Landmark Building"), an individual landmark, and;
2. Modify the provisions of ZR §33-432 to allow the Proposed Development to penetrate the maximum front wall height and sky exposure plane within the 20-foot initial setback distance on St. Mark's Place.

According to ZR §74-792, as a condition of permitting such transfers of development rights, the Commission shall make the following findings:

1. That the permitted transfer of floor area or variations in the front height and setback regulations will not unduly increase the bulk of any development or enlargement, density of population or intensity of use in any block to the detriment of the occupants of buildings on the block or nearby blocks, and that any disadvantages to the surrounding area caused by reduced access of light and air will be more than offset by the advantages of the landmark's preservation to the local community and the City as a whole;
2. That the program for continuing maintenance will result in the preservation of the landmark; and
3. That in the case of landmark sites owned by the City, State or Federal Government, transfer of development rights shall be contingent upon provision by the Applicant of a major improvement of the public pedestrian circulation or transportation system in the area.

BACKGROUND

Project Area

According to the Applicant, the Proposed Development consists of three tax lots located at the northeast corner of St. Mark's Place and Third Avenue, with frontages of 98 feet on St. Mark's Place (a narrow street) and 70 feet on Third Avenue (a wide street) and a total lot area of 6,988 square feet. The Proposed Development was previously occupied by three low-rise mixed-use buildings ranging in height from one- to four-stories that were vacated and demolished in 2019. The Proposed Development is located across St. Mark's Place and opposite from the Landmark Site, making it an "adjacent lot," as defined in ZR §74-79.

The Landmark Site is an interior lot located on the south side of St. Mark's Place, with a street frontage of 26 feet and a total lot area of 3,120 square feet (3.22 FAR). The Landmark Site is occupied by the Landmark Building, a three-and-one-half-story Federal-style townhouse containing 10,074 square feet of floor area. The Landmark Building is currently undergoing restoration but once completed will have retail/commercial use on the ground floor with residential units on the upper floors.

Both the Proposed Development and the Landmark Site are located in a C6-1 zoning district, which allows a basic maximum FAR of 6.0 for commercial uses, 6.5 for community facility uses, and 3.44 for residential uses. The standard height and setback regulations of the C6-1 zoning district allow the front wall of a building to be built to a height of up to 85 feet or 6 stories, whichever is less, before providing a required initial setback of 20 feet from a narrow street or 15 feet from a wide street. Pursuant to ZR § 33-432, above such height and beyond such initial setback distance, a building may not penetrate a sky exposure plane that begins at a height of 85 feet above the street line and extends over the zoning lot with a slope of 2.7 feet (vertical) to 1 foot (horizontal), along a narrow street, or 5.6 feet (vertical) to 1 foot (horizontal), along a wide street.

According to the Applicant, the basic maximum floor area for a commercial building for the Proposed Development, given a lot area of 6,988 square feet, is 41,928 square feet. The basic maximum floor area for non-community facility uses on the Landmark Site, given a lot area of 3,120 square feet, is 18,720 square feet. The Landmark Site therefore has 8,646 square feet of unused floor area (18,720 square feet - 10,074 square feet = 8,646 square feet). The Applicant plans to transfer 8,386 square feet of this unused floor area to the Proposed Development.

As a condition of the proposed special permit, the exterior of the Landmark Building would be restored to a sound, first-class condition to match its historic, late-19th century appearance. The front façade would be restored. The entrance door would be replaced with a new paneled wooden door with sidelights designed to match historic conditions. The existing masonry stoop would be repaired and restored to match the historic appearance.

The front façade windows would be replaced with period-appropriate windows. In addition, the existing asphalt shingle roofing on the Landmark Building would be removed and replaced with a new slate tile roof, the front and rear dormers would be restored, and the wooden roof cornices would be reconstructed, all to match historic conditions. The owner of the Landmark Site would implement a cyclical maintenance plan to ensure the continued maintenance of the Landmark Building. They would enter into a restrictive declaration to bind themselves and all heirs, successors, and assigns to this maintenance plan.

The Landmarks Preservation Commission (“LPC”) issued a Certificate of Appropriateness (LPC 19-6677) on March 2, 2017 for restorative work and a rear yard addition to the Landmark Building. On June 18, 2019, PC voted to approve a request to issue a favorable report to CPC pursuant to ZR § 74-79.

Proposed Development

The Applicant proposes to redevelop the Proposed Development site with a ten-story commercial building with cellar and sub-cellar, containing a Use Group 6 retail use on the ground floor, Use Group 6 offices on the ground floor and above, and accessory uses in the cellar and sub-cellar. The proposed retail and office uses are permitted on an as-of-right basis in the C6-1 zoning district.

The Proposed Development would have lot coverage of approximately 100 percent and total floor area of 50,314 square feet, consisting of 45,363 square feet of floor area in Use Group 6 office use and 4,951 square feet of floor area in Use Group 6 retail use. Pursuant to ZR § 74-792(b)(4), increases in floor area resulting from the transfer of development rights from a landmark to an adjacent zoning lot shall not exceed more than 20 percent of the maximum base floor area allowed on the zoning lot. The proposed 50,314 square feet of floor area is 20 percent more than the basic maximum floor area for a commercial building on the Proposed Development.

According to the Applicant, the base height of the Proposed Development would be approximately 62.91 feet, with three setbacks above the fourth floor (approximately 62.91 feet), seventh floor (approximately 108.17 feet), and ninth floor (approximately 138.66 feet), respectively. These setbacks would be designed as passive recreation space, providing a valuable amenity for the office tenants in the building. The building's first setback, which is more than 20 feet below the maximum front wall height of 85 feet, would be similar to the height of the Landmark Building and of the neighboring row houses and tenement buildings to the east on St. Mark's Place. The setback would also closely align with the base height of the Cooper Union dormitory building on Third Avenue, which abuts the Proposed Development to the immediate north.

Area Context

The Project Area is in the Borough of Manhattan, on the north and south sides of St. Mark's Place (East 8th Street), between Third Avenue and Second Avenue in Community District 3. It is located entirely within a C6-1 zoning district in the East Village neighborhood. The surrounding area is a medium- to high-density neighborhood containing a mix of residential, commercial, and institutional land uses. Existing buildings in the surrounding area vary greatly in height, bulk, and style. To the east of Third Avenue, along the area's east-west side streets, are numerous tenement style row houses containing residential and mixed uses. Along and to the west of Third Avenue are taller buildings with larger footprints, containing commercial, institutional, and residential uses.

The surrounding area also contains several historic districts. The southern and eastern portions of the block that contains the Landmark Building fall within the East Village/Lower East Side Historic District, which extends along Second Avenue to East 2nd Street and includes some midblock areas between Avenue A and Cooper Square, which are lined with examples of three- to five-story Greek Revival-style row houses constructed in the early 19th century. To the north of the Project Area, between Stuyvesant Place and East 11th Street, is the St. Mark's Historic District, which includes the St. Mark's-in-the-Bowery Church and Stuyvesant-Fish House along with several intact rows of elegant residences dating from the turn of the 19th century. Finally, to the east of the Project Area is the NoHo Historic District, which is bounded generally by East 9th Street, Broadway, Houston Street and Bowery.

The area is well served by transit, with the 6 train line at Astor Place approximately 500 feet away from the Proposed Development. The N/R/Q/W Train line at 8th street is 0.2 miles away. The M103 bus runs along 3rd Avenue and stops approximately 0.1 miles from the Proposed Development.

COMMUNITY BOARD RECOMMENDATION

On December 19, 2019, at its monthly meeting, Community Board 3 passed a resolution to disapprove this application with 33 members in favor, 0 against, and 0 abstaining.

BOROUGH PRESIDENT'S COMMENTS

While this office is a strong supporter of landmark preservation in New York City and applaud partnerships which allow for the maintenance of individual landmarks, we believe this should be done to maximize public benefit and not just enrich private developers. In June 2019, at the LPC hearing for the Applicant's request for approval for the transfer of development rights, this office submitted a letter in opposition. In the opposition letter, we requested the developer to revisit their design and work towards an as-of-right project that is more consistent architecturally and culturally with the character of the area. While they did work with one preservation group to improve the façade and are proposing a base height that is more contextual with the surrounding buildings, they did not consult with the Community Board or other preservation groups in the area, nor did they

work out an as-of-right solution that is more contextual to the surrounding area, particularly the buildings along St. Mark's Place.

One of the findings that must be met to obtain this special permit includes:

That the permitted transfer of floor area or variations in the front height and setback regulations will not unduly increase the bulk of any development or enlargement, density of population or intensity of use in any block to the detriment of the occupants of buildings on the block or nearby blocks, and that any disadvantages to the surrounding area caused by reduced access of light and air will be more than offset by the advantages of the landmark's preservation to the local community and the City as a whole;

We do not think the Proposed Development meets this finding due to its increase in bulk. In comparison to prior uses on the site, the intensity of use will increase significantly, particularly during peak hours of the day due to its planned office use. There have been long-standing community concerns around development pressures resulting in taller, bulkier buildings in this area and this project is yet another example. St. Mark's Place largely consists of 4 and 5 story buildings and has tremendous cultural significance to the area that is being lost due to development and changes of use.

Hamilton-Holly House, while it would be restored to its original historic appearance, is privately owned and is not accessible to the public. The Applicant is developing a very large commercial development on a corner that is considered a gateway to an area known for its rich cultural history in art and music. The building's intended use and design is devoid of any acknowledgement of this fact.

There is an opportunity to provide a greater community benefit given the history of the area. The Applicant, when we met with them in February 2020, made no indication that they had plans to attract local businesses to their retail space or commercial spaces on the upper floors. When we met with the Applicant in 2018, we advised that they consider attracting local businesses or providing some space within their building for community use and they have not made any effort to incorporate this into their Proposed Development. They have not presented a local hiring plan or taken any widespread initiative to work with local stakeholders to think of ways to better incorporate the Proposed Development into the fabric of the community. While they may not be required to make this effort, as an organization presumably making a long-term investment in a neighborhood, it would be of benefit to them and the community at large to develop a project that is contextual and incorporates the community's culture and history both outside the building and within its walls.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends disapproval of ULURP Application Nos. C 180290 ZSM with the following conditions:

The Applicant must work with the Community Board as well as other local groups to integrate uses within the Proposed Development that will benefit the community at large.

The Applicant must work with the Community Board as well as other local groups to gain consensus on a building design that is more contextual to the surrounding area.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive style with a large, looping initial "G".

Gale A. Brewer
Manhattan Borough President