



CITY PLANNING COMMISSION

January 4, 2012/Calendar No. 6

C 080064 ZSM

IN THE MATTER OF an application submitted by 577 Associates LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution as follows:

1. to modify the bulk requirements of Section 43-17 to allow a building containing Joint Living-Work Quarters for Artist to be enlarged;
2. to modify the use requirements of Section 42-14D(1)(a) and 42-14D(1)(b) to allow Joint Living-Work Quarters for Artist use within the enlarged portions of the building; and
3. to modify the use requirements of Section 42-14D(2)(b) to allow Use Group 6 uses (retail uses) on portions of the basement, cellar and sub-cellar;

of an existing 5-story building on property located at 577 Broadway a.k.a. 148 Mercer Street (Block 512, Lot 22), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

The application for the special permit was filed by 577 Broadway Associates LLC on June 13, 2011, to allow, in an M1-5B District within the SoHo Cast-Iron Historic District, Use Group 6 use on the cellar and subcellar levels; the enlargement of the third and fourth floors for use as Joint Living Work Quarters for Artists (Use Group 17D); and the construction of two penthouses for use as Joint Living Work Quarters for Artists.

BACKGROUND

The building located at 577 Broadway (Block 512, Lot 22) is a five-story structure built for commercial use in 1860. It is located within an M1-5B District, situated on the west side of Broadway, and extends through the block to the east side of Mercer Street between West Houston and Prince streets within the SoHo Cast Iron Historic District.

The structure has a lot area of 4,898 square feet; 21,331 square feet of floor area; and a Floor Area Ratio (FAR) of 4.3. The M1-5B zoning allows a maximum FAR of 5.0.

The building has full lot coverage on the sub-cellar, cellar, first and second floors. A rear yard equivalent of 54'7" is located above the second floor, dividing the upper stories of the building into two portions; a three-story portion fronting on Broadway with a depth of approximately 90 feet ('the Broadway portion of the building'), and a two-story portion fronting on Mercer Street, with a depth of approximately 55 feet ('the Mercer Street portion of the building'). The existing 54'7" rear yard equivalent exceeds the 40-foot rear yard requirement.

The cellar level and a portion of the ground floor are vacant, while the remaining portion of the first floor is occupied by Use Group 6 (retail) use. The upper floors of the building are occupied by artists who reside in eight units of Joint Live Work Quarters for Artists (JLWQA), permitted pursuant to a CPC special permit (C820546 ZSM) granted in 1982.

The applicant is seeking to add a 1,107 square foot penthouse above the fourth floor of the Mercer Street portion of the building and a 1,726 square foot penthouse above the fifth floor of the Broadway portion of the building. The existing fourth floor JLWQA unit on the Mercer Street portion of the building is proposed to be combined with the proposed fifth floor penthouse rooftop enlargement to create a duplex unit. The two existing units of JLWQA located on the fourth floor of the Broadway portion of the building would be combined to form a single unit.

The proposal would also add 357 square feet of floor area to the inward facing portion of both the third and fourth floors of the Mercer Street portion of the building. The floor area would extend into the rear yard equivalent. The enlarged portions of the building would be used as JLWQAs. The addition of the two penthouses and the floor area added to the inward facing portions of the building total 3,547 square feet of floor area. The total number of units of JLWQAs would not increase following the proposed construction of the two penthouses and the extended third and fourth floors.

The applicant is also seeking to expand the first floor commercial/retail use (Use Group 6) into the cellar and subcellar levels, establishing 7,740 square feet of commercial space.

The use regulations of the M1-5B district include provisions limiting JLWQA to buildings erected prior to 1961, and, along Broadway, to buildings with lot coverage less than 3,600 sf. The use regulations also limit uses below the second story to wholesale, business service, warehouse and light industrial uses (Use Groups 7, 9, 11, 16, 17A, 17B, 17C and 17E). In addition, pursuant to the bulk regulations for an M1-5B district, buildings containing JLWQAs may not be enlarged. Section 74-711 of the Zoning Resolution allows the City Planning Commission, by special permit, to modify use and bulk regulations (except floor area) in order to further the preservation of designated landmark buildings or buildings located within historic districts.

The application seeks a modification of the above referenced M1-5B use and bulk regulations to allow the proposed enlargement of the building for occupancy as JLWQA. The application is also seeking a modification of the subject use provision to allow Use Group 6 uses on the ground floor and cellar levels of the building,

The floor area for the two penthouses and additions to the third and fourth floors would be achieved in part by removing a 1,524 sf segment of the first floor of the Mercer Street portion of the building, creating a double height space at that location and reallocating that floor area for the construction of the penthouses. The building would contain a total of 23,354 square feet of floor area and a Floor Area Ratio of 4.8 following the reallocation of floor area and the new construction.

The application includes a report from the Landmarks Preservation Commission stating that a continuing maintenance program has been established that will result in the preservation of the building, and that the proposed use and bulk modifications contribute to a preservation purpose.

The surrounding portion of the SoHo neighborhood is generally developed with five- to six-story loft buildings. While the upper floors in many of these buildings have been converted to dwelling units, including JLWQAs and interim multiple dwellings, the upper floors in other

buildings contain offices, art galleries or other commercial uses. Ground floor uses in the vicinity primarily consist of a mix of home furnishing stores, clothing stores and restaurants.

ENVIRONMENTAL REVIEW

This application (C 080064 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 11DCP018M. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on September 14, 2011.

UNIFORM LAND USE REVIEW

This application (C 080064 ZSM) was certified as complete by the Department of City Planning on September 19, 2011, and was duly referred to Community Board 2 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 2 held a public hearing on this application on October 13, 2011, and on October 20, 2011, by a vote of 41 to 0, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on November 22, 2011, approving the application.

City Planning Commission Public Hearing

On November 16, 2011, (Cal. No. 3), the Commission scheduled November 30, 2011, for a public hearing on this application (C 080064 ZSM). The hearing was duly held on November 30, 2011(Cal. No. 7). There were two speakers in favor of the application and none in opposition.

The attorney for the project described the subject proposal and stated his belief that it met the requisite findings. A representative of the Borough President reiterated the Borough President's support for the application.

There were no other speakers and the hearing was closed

CONSIDERATION

The Commission believes that the grant of this special permit is appropriate.

Throughout the better part of the last century, the area known as SoHo contained five-story buildings containing a mix of commercial, warehouse and industrial uses. However, over the last thirty years many buildings in this area have been converted from manufacturing uses to JLWQAs (Use Group 17D) and Use Group 6 uses, which occupy much of the ground floor frontages. Use Group 6 uses are also located below grade; in the cellar and sub-cellar levels in many buildings. The Commission recognizes that, as a mixed-use neighborhood, SoHo supports a broad range of Use Group 6 uses, including retail businesses, service establishments and offices. The Commission therefore believes that the proposed Use Group 6 uses on the cellar and subcellar levels of the subject building will be consistent with established land use trends in the SoHo neighborhood.

Further, the Commission notes that the proposed enlargement is limited to the configuration of the existing units within the building and does not entail an increase in the total number of units of JLWQAs. The Commission notes that the enlargements would only in part be achieved

through the addition of new floor area. The balance of the floor area for the enlargements would be accomplished by the reallocation to the roof of a portion of the floor area that currently exists on the first floor. The Commission therefore believes that the enlargement would have minimal, if any, adverse effects on the conforming uses in the building and in the surrounding area.

The Commission acknowledges that the proposed enlargement would block three lot line windows of the building to the north which contains JLWQA (Block 512, Lot 20) and one window of the commercial building to the south (Block 512, Lot 23). The Commission notes that each of the two buildings have additional windows which either front on Mercer Street or open on to the interior rear yard of 577 Broadway, which provide light and air to the buildings.

Further, the Commission notes it is in receipt of a report from the Landmarks Preservation Commission stating that it has reviewed the proposal and that the proposed bulk modifications relate harmoniously to the subject building. The Commission's report noted that the proposed penthouses would not be visible at street level. The City Planning Commission believes that the modification of bulk would have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location

The Commission believes that the application will facilitate the renovation and preservation of 577 Broadway and that the renovation, enlargement and conversion of the building, to be accomplished as a result of this special permit, will enhance the architectural and historical built fabric of the SoHo Cast-Iron Historic District.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-711 (Landmark preservation in all districts) of the Zoning Resolution:

- (1) such bulk modifications shall have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air.

(2) such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the actions 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 and findings described in this report, the application submitted by 577 Associates LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution as follows:

1. to modify the bulk requirements of Section 43-17 to allow a building containing Joint Living-Work Quarters for Artist to be enlarged;
2. to modify the use requirements of Section 42-14D(1)(a) and 42-14D(1)(b) to allow Joint Living-Work Quarters for Artist use within the enlarged portions of the building; and
3. to modify the use requirements of Section 42-14D(2)(b) to allow Use Group 6 uses (retail uses) on portions of the basement, cellar and sub-cellar;

of an existing 5-story building on property located at 577 Broadway a.k.a. 148 Mercer Street (Block 512, Lot 22), 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 080064 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 BAI Group Inc., filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-1	Site Plan	6/3/2011
A-2	Floor Area Calculations& Zoning Analysis	6/30/2011
P-1	Sub-cellar & Cellar Floor Plans Proposed Conditions	6/30/2011
P-3	3 rd & 4 th Floor Plans Proposed Conditions	6/30/2011
P-4	5 th & 6 th Floor Plans Proposed Conditions	6/30/2011
P-6	Proposed Building Section	6/30/2011
P-7	Proposed Building Section	6/30/2011

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, operation 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. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated December 22, 2011, 2011, executed by 577 Broadway Associates LLC, the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.
7. 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 and the attached restrictive declaration whose provisions 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 as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the attached restrictive declaration.
8. 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 failure to act in accordance with the provisions of this special permit.

The above resolution (C 080064 ZSM), duly adopted by the City Planning Commission on January 4, 2012 (Calendar No. 6), 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.

AMANDA M. BURDEN, FAICP, Chair
KENNETH J. KNUCKLES, ESQ., Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,
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Brad Hoylman, Chair
Bo Riccobono, First Vice Chair
Alison Greenberg, Second Vice Chair
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Antony Wong, Treasurer
Susan Kent, Secretary
Keen Berger, Assistant Secretary

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Greenwich Village ♦ Little Italy ♦ SoHo ♦ NoHo ♦ Hudson Square ♦ Chinatown ♦ Gansevoort Market

October 24, 2011

Amanda Burden, Chair
Department of City Planning
22 Reade Street
New York, New York 10007

Dear Chair Burden:

At its Full Board meeting on October 20, 2011, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

577 Broadway / 148 Mercer Street (Block: 512, Lot: 22) ULURP NO. 080064ZSM City Planning Commission Special Permit pursuant to Section 74-711 to allow the conversion of the cellar and subcellar levels of an existing building to Use Group 6 Retail and to allow the enlargement of a building containing Joint Living Quarters for Artists (JLWQA), fronting on Broadway, with greater than 3,600 square feet of lot coverage, and to allow JLWQA use in portions of the building not in existence prior to December 15, 1961, within an M1-5B Zoning District

WHEREAS, The area was posted and there was no opposition to this application, And,

WHEREAS, The Applicant has represented to the Board that all legal protections for the remaining rent stabilized tenant will be maintained, And,

WHEREAS, The Applicant has represented to the Board that there will be no Eating and Drinking establishments allowed in this build, And,

WHEREAS, The additions to this building will not exceed the base FAR of 5.0,

THEREFORE BE IT RESOLVED, that CB#2, Man. recommends approval of this City Planning Commission Special Permit pursuant to Section 74-711 to allow the conversion of the cellar and subcellar levels of an existing building to Use Group 6 Retail and to allow the enlargement of a building containing Joint Living Quarters for Artists (JLWQA), fronting on Broadway, with greater than 3,600 square feet of lot coverage, and to allow JLWQA use in portions of the building not in existence prior to December 15, 1961, within an M1-5B Zoning District.

Vote: Unanimous, with 41 Board members in favor.

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

Sincerely,



Brad Hoylman, Chair
Community Board #2, Manhattan



David Reck, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

BH/fa

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

**Borough President
Recommendation**

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

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.

2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: C 080064 ZSM

Docket Description:

C 080064 ZSM – IN THE MATTER OF an application submitted by 577 Associates LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution as follows:

1. to modify the bulk requirements of Section 43-17 to allow a building containing Joint Living-Work Quarters for Artists to be enlarged;
2. to modify the use requirements of Section 42-14D(1)(a) and 42-14D(1)(b) to allow Joint Living-work Quarters for Artists use within the enlarged portions of the building; and
3. to modify the use requirements of Section 42-14D(2)(b) to allow Use Group 6 uses (retail uses) on portions of the basement, cellar and sub-cellar;

of an existing 5-story building on property located at 577 Broadway a.k.a. 148 Mercer Street (Block 512, Lot 22), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

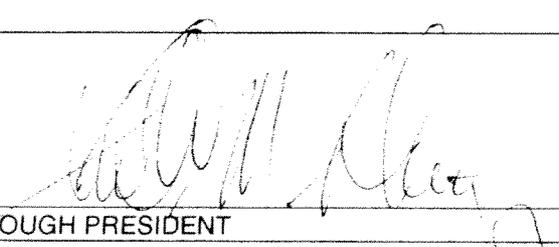
COMMUNITY BOARD NO: 2

BOROUGH: Manhattan

RECOMMENDATION

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

See Attached


BOROUGH PRESIDENT

11/22/11
DATE



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

SCOTT STRINGER
BOROUGH PRESIDENT

November 25, 2011

**Recommendation on
ULURP Application No. C 080064 ZSM – 577 Broadway
by 577 Associates LLC**

PROPOSED ACTION

577 Associates LLC¹ (“577 Associates”) seeks approval of a **special permit pursuant to Section 74-711** of the Zoning Resolution to modify the use regulations of ZR § 42-14D(2)(b) to allow Use Group 6 uses on the portions of the basement, cellar and sub-cellar of a building containing joint living-work quarters for artists (“JLWQA”) and the bulk regulations of ZR § 43-17 to permit the enlargement of a building containing JLWQA use with greater than 3,000 SF of lot coverage, and allow JLWQA use in portions of the building not in existence prior to 1961 within an M1-5B Zoning District.

Pursuant to ZR § 74-711, applicants may request special permits to modify bulk and use regulations of zoning lots that contain landmarks or are within Historic Districts as designated by the Landmarks Preservation Commission (“LPC”). In order for the City Planning Commission (“CPC”) to grant bulk and use modifications, an applicant must first meet the following conditions: 1) the LPC has issued a report that states that the applicant will establish a continuing maintenance program for the preservation of the building and that such modification or restorative work will contribute to a preservation purpose;² 2) the LPC has issued a Certificate of Appropriateness or other report that such bulk modifications relate harmoniously to the subject landmark building or buildings in the Historic District;³ and 3) the maximum number of permitted dwelling units is as set forth in ZR § 15-111⁴. Further, CPC must find that such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area and that the proposed bulk modifications shall have minimal adverse effects on structures or open space in the vicinity in terms of scale, location and access to light and air.

¹ 577 Associates LLC is a venture of Benjamin Partners and BAI Group Inc. whose principal partner is Michael Salzhauser.

² The LPC issued such a report on August 14, 2007, regarding the applicant’s request for a use and bulk modification. LPC’s determinations have not been reexamined in this recommendation.

³ The LPC issued a Certificate of Appropriateness on August 14, 2007.

⁴ Since the applicant does not propose dwelling units, this finding is not applicable.

PROJECT DESCRIPTION

The applicant seeks the proposed actions to allow retail uses (Use Group 6) on portions of the basement, cellar and sub-cellar of an existing building located on a through-lot at 577 Broadway and 148 Mercer Street (Block: 512, Lot: 22). The building has frontages on Mercer Street and Broadway between Prince and Houston streets within a M1-5B zoning district in the SoHo Cast Iron Historic District. Additionally, the applicant seeks to construct an additional floor on both the Mercer Street and Broadway sections of the building and to enlarge two JLWQA units on the third and fourth floors of the Mercer section. The building is located on a 4,908 SF lot, and has a total floor area of 21,331 SF (4.3 FAR). The proposed bulk modification would add 3,547 SF of floor area to the upper floors, and a remove 1,726 SF on the first floor. The resulting building will be 23,354 SF (4.8 FAR), which is less than the 24,540 SF (5.0 FAR) permitted on the site.

The project site is within a M1-5B zoning district, which allows light manufacturing and most commercial uses as-of-right. However, Use Group 6 use below the second story is not permitted.⁵ While residential uses are not generally allowed as-of-right, JLWQAs are permitted uses in buildings erected prior to December 15, 1961 where the building's lot coverage is less than 5,000 SF. The enlargement of buildings with M1-5B zoning districts that contain JLWQAs is not permitted.⁶ Therefore, in order to complete the proposed project the applicant seeks a special permit pursuant to ZR § 74-711.

The existing building is four stories on Mercer Street and five stories on Broadway. The building's open space ("rear yard") starts above the second floor. The proposed enlargement includes extending the third and fourth floors of the Mercer section of the building by 15 feet into the rear yard. The rear yard is 57 feet and exceeds the 40 foot rear yard requirement. The enlargement also includes increasing the height of both buildings by one floor, the fifth and sixth floors respectively. The penthouses will increase the height of both sections by 12 feet, resulting in a 68 foot tall section on Mercer Street and 83 foot tall building on Broadway. Both penthouses will be set back 27 feet from the street.

The Mercer Street first floor is proposed to be eliminated, creating a cellar and mezzanine with access Mercer Street. The sub-cellar and cellar were formerly occupied by a restaurant, but the space has now been vacant for nearly two years. The first floor contains a grandfathered retail unit (Use Group 6), which currently includes a shoe store. The upper floors are occupied by eight JLWQA units. The building has one unit per floor, except the fourth floor of the Broadway portion, which contains two units. The proposed Mercer Street penthouse will be combined into a duplex with the unit on the fourth floor and the Broadway penthouse will be a stand-alone unit. However, the applicant proposes to eliminate one unit from the fourth floor of the Broadway section. The additions, therefore, will not change the total number of units in either section.

All the units are on short-term leases, with the exception of one rent stabilized unit. The rent stabilized tenant is informed about the project. The applicant will follow all Department of

⁵ In M1-5B zoning districts, only Use Groups 7,9,11,16,17A,17B,17C, or 17E (generally wholesale, warehousing, and light industrial uses) are permitted as-of-right below the second story of a building.

⁶ Pursuant to ZR § 43-17.

Housing and Community Renewal's requirements – including temporarily relocating the tenant during the construction process if necessary for safety reasons.

The building was built in 1860 and has the style, scale, age and materials of the buildings that contribute to the special architectural and historic character of the Cast Iron Historic District which was designated in 1973. The area surrounding the project site primarily consists of loft buildings with ground-floor retail, restaurant or other commercial uses. The upper floors in the neighborhood contain a mix of commercial uses and JLWQAs on the upper floors.

As part of this special permit application pursuant to ZR § 74-711, the applicant proposes a restoration and maintenance program for the subject building. The restoration plan, which includes restorative work to the Tuckahoe marble façade, replicating and replacing stonework and metalwork, and replacement of windows, was found by LPC to bring the historic building to "sound first-class condition." Furthermore, a restrictive declaration will be filed against the property to ensure that the continuing maintenance program for the building will be maintained in perpetuity.

COMMUNITY BOARD RECOMMENDATION

At a Full Board meeting on October 20, 2011, Manhattan Community Board 2 recommended approval of the application by a unanimous vote of 41 in favor, based on the applicant's commitment to restrict eating and drinking establishments from the ground floor space.

BOROUGH PRESIDENT'S COMMENTS

The special permit pursuant to ZR § 74-711 is a powerful tool which can be utilized to modify sections of the Zoning Resolution to make owning and maintaining historic structures less burdensome and more desirable. In return for waivers, applicants must ensure that the subject property is appropriately rehabilitated and maintained in perpetuity. The LPC has found that the proposed use change and the building's restoration plan will contribute to a preservation purpose worthy of allowing the application to request these use and bulk waivers from the CPC.

Generally, the proposed bulk modifications would result in a building that is consistent in scale with adjacent buildings and buildings in the surrounding area. Further, the LPC found that the penthouses will not be visible from the street. However, the 15 foot extension of the Mercer section into the rear yard will block lot line windows and therefore warrants careful consideration. The building to the south is an office building and will have one of four lot line windows blocked at the 6th floor. A residential building to the north will have three of 9 lot line windows blocked, one on the third, fourth and fifth floors. The residential building will continue to have two unobstructed lot-line windows per floor. The lot line windows are not needed for legal light and air purposes and all the lot line windows to the north belong to two units with frontage on Mercer. As such, while floors from the adjacent buildings will lose one window, they will continue to maintain light and air both from the street frontage and from two lot line windows per floor facing the applicant's rear yard. Therefore, the obstruction of the lot line windows will not result in a significant impact and the proposed bulk modifications will not result in a significant impact on open space or surrounding structures.

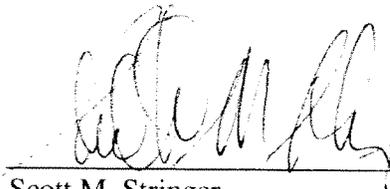
The proposed use waiver should only have minimal, if any, adverse effects on conforming uses within the building and in the surrounding area. The applicant proposes to create a legal Use Group Six (retail) unit facing Mercer Street, which was previously occupied by a Use Group 6 eating and drinking establishment. While the project site is located within a manufacturing district, the presence of several JLWQAs and loft dwellings has created a more mixed-use character in the area than in other manufacturing districts. Further, many of the surrounding blocks are defined by a strong retail presence. Additionally, the applicant has committed to not occupying the space with an eating or drinking establishment on the ground floor, which should minimize any potential conflicts.

In applying for the special permit, the applicant is undertaking extensive work to bring this historic building to a sound, first-class condition and is ensuring continued maintenance to keep the building in this state of perpetuity.

BOROUGH PRESIDENT’S RECOMMENDATION

This application meets the conditions and findings for a special permit regarding use and bulk modifications pursuant to ZR §74-711.

Therefore, the Manhattan Borough President recommends approval of ULURP application No. C 080064 ZSM.



Scott M. Stringer
Manhattan Borough President