



## CITY PLANNING COMMISSION

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March 14, 2012 / Calendar No. 8

C 120062 ZSM

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**IN THE MATTER OF** an application submitted by 64-68 Wooster LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the use regulations of Section 42-14D(2)(a) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 8-story building, on property located at 64-68 Wooster Street (Block 486, Lot 2), in an M1-5A District, Borough of Manhattan, Community District 2.

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The application for the special permit was filed by 64-68 Wooster LLC on September 8, 2011, to allow modification of the use regulations, to permit a Use Group 6 commercial use on the ground floor and cellar levels of an existing building. The subject building is located at 64-68 Wooster Street (Block 486, Lot 2), within an M1-5A zoning district in the SoHo—Cast Iron Historic District in Community District 2, Manhattan.

### **BACKGROUND**

The subject building at 64-68 Wooster Street is an eight-story mixed-use building located on the east side of Wooster Street (Block 486, Lot 2) between Broome Street and Spring Street. The building occupies 6,520 square feet of lot area; has 48,588 square feet of floor area; and a built FAR (floor area ratio) of 7.45.

Pursuant to Section 42-14D(2)(a), uses below the floor level of the second story in M1-5A Districts are restricted to Use Groups 7, 9, 11, 16, 17A, 17B, 17C, or 17E (including wholesale, warehouse and light manufacturing uses). Use groups other than those permitted may be allowed by special permit pursuant to Section 74-781, provided that the City Planning Commission finds that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a permitted use at fair market rentals. The good faith marketing of the space shall have been pursued for a minimum of 12 months for buildings occupying more than 3,600 s.f. of lot area.

This application seeks to allow a total of approximately 13,040 square feet of Use Group 6 use on the ground floor and cellar levels (6,520 s.f. per level) of 64-68 Wooster Street. The ground floor is currently vacant. The upper floors contain a mix of Joint-Living-Work Quarters for Artists and commercial loft space.

Surrounding portions of the SoHo neighborhood, in the vicinity of the project site, are generally developed with five- to six-story loft buildings containing JLWQA and office on the upper floors, with retail or gallery uses on the ground floors.

### **ENVIRONMENTAL REVIEW**

This application (C 120062 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 lead agency is the City Planning Commission. The designated CEQR number is 12DCP038M.

This application was determined to be a Type II action which requires no further environmental review.

### **UNIFORM LAND USE REVIEW**

This application (C 120062 ZSM) was certified as complete by the Department of City Planning on October 17, 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 December 8, 2011, and on December 15, 2011, by a vote of 35 to zero with no abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application on January 17, 2012.

### **City Planning Commission Public Hearing**

On January 25, 2012 (Calendar No. 1), the City Planning Commission scheduled February 8, 2012, for a public hearing on this application (C 120062 ZSM). The hearing was duly held on February 8, 2012 (Calendar No. 17). There were three speakers in favor of the application and no speakers in opposition.

The applicant's attorney and a representative from the Borough President's office spoke in favor of the application. The attorney for the project summarized the proposed project, noting that the

building's owner, in response to community concerns, would not consider an eating/drinking establishment for the ground-floor retail space. A representative of the Manhattan Borough President reiterated the Borough President's approval of the application. The project architect also appeared, in favor of the application.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the grant of this special permit (C 120062 ZSM), is appropriate.

Approval of the special permit application (C 120062 ZSM) pursuant to Section 74-781 of the Zoning Resolution would modify the use regulations of Section 42-14D(2)(a) and allow Use Group 6 uses on the ground floor and cellar level of the subject building.

The Commission believes the applicant has made the necessary good faith marketing effort to lease the space to a conforming use, for a marketing period of more than 12 months. Such efforts included engaging two real estate brokers familiar with marketing space in SoHo; and publishing weekly advertisements in the Village Voice and the Villager since December of 2009. Additional efforts included notifying local and citywide industry groups of the availability of the spaces, as well as the New York City Economic Development Corporation. The Commission notes that the applicant adhered to the good faith marketing guidelines, as outlined in Section 74-781 of the Zoning Resolution, and was unable to secure a conforming tenant.

## **FINDINGS**

The City Planning Commission hereby makes the following finding pursuant to Section 74-781 (Modifications by Special Permit of the City Planning Commission) of the Zoning Resolution:

that the owner of the space, or the predecessor in title, has made a good faith effort to rent such space to a mandated use at fair market rentals. Such efforts shall include but not be limited to: advertising in local and citywide press, listing the space with brokers, notifying the New York City Office of Economic Development, and informing local and citywide industry groups. Such efforts shall have been actively pursued for a period of no less than six months for buildings under 3,600 square feet and one year for buildings over 3,600 square feet prior to the date of the application for a special permit.

**RESOLUTION**

**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, consideration and finding described in this report, the application of 64-68 Wooster LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the use regulation of Section 42-14D(2)(a) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing eight-story building on property located at 64-68 Wooster Street (Block 486, Lot 2), in an M1-5A 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 120062 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Meltzer/Costa/Paknia Architects & Engineers, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-100	Plot Plan, Zoning Information	7/13/11
A-101	Zoning Information	7/20/11
A-103	Cellar Floor Plan	7/13/11
A-104	First Floor & Partial Lobby Plan	7/13/11
A-105	Building Section	7/13/11

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. 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, sublessee or occupant.

5. 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 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.
6. 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 120062 ZSM), duly adopted by the City Planning Commission on March 14, 2012 (Calendar No. 8), 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,**  
**RICHARD W. EADDY, ANNA HAYES LEVIN, ORLANDO MARIN,**  
**SHIRLEY A. MCRAE, Commissioners**

Brad Hoylman, *Chair*  
Bo Riccobono, *First Vice Chair*  
Alison Greenberg, *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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Greenwich Village ♦ Little Italy ♦ SoHo ♦ NoHo ♦ Hudson Square ♦ Chinatown ♦ Gansevoort Market

December 16, 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 December 15, 2011, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

**64-68 Wooster Street (Block 486, Lot 2) City Planning Commission Special Permit Application Pursuant to ZR §74-781 to allow modification of the permitted use provisions in ZR § 42-14 D to permit a Use Group 6 commercial use on the ground floor and cellar in an existing eight-story building in an M1-5A District**

**WHEREAS**, The area was posted and there was no opposition to this application, 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 Community Board is satisfied that the Applicant has complied with the requirements of section 74-781 by advertising and marketing the Space in good faith for an as-of-right tenant for more than one year and has not received any offers.

**THEREFORE BE IT RESOLVED**, that Community Board #2 recommends approval of this City Planning Application Pursuant to ZR §74-781 to allow modification of the permitted use provisions in ZR § 42-14 D to permit a Use Group 6 commercial use on the ground floor and cellar in an existing eight-story building in an M1-5A District.

Vote: Unanimous, with 35 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 120062 ZSM

### Docket Description:

**C 120062 ZSM – IN THE MATTER OF** an application submitted by 64-68 Wooster LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the use regulations of Section 42-14D(2)(a) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 8-story building, on property located at 64-68 Wooster Street (Block 486, Lot 2), in an M1-5A District, Borough of Manhattan, Community District 2.

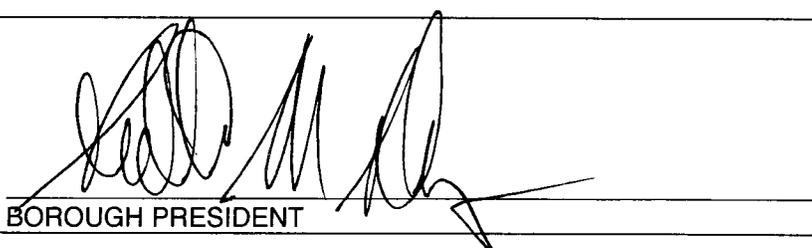
COMMUNITY BOARD NO: 2

BOROUGH: Manhattan

## RECOMMENDATION

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

See Attached

  
BOROUGH PRESIDENT

1/17/12  
DATE



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

SCOTT STRINGER  
BOROUGH PRESIDENT

January 17, 2012

**Recommendation on**  
**ULURP Application No. C 1200624 ZSM – 64-68 Wooster Street**  
**by 64-68 Wooster LLC**

**PROPOSED ACTION**

64-68 Wooster LLC<sup>1</sup> (“the applicant”) seeks approval of a **special permit pursuant to Section 74-781** of the Zoning Resolution to modify the use regulations of ZR § 42-14D(2)(a) to allow Use Group 6 commercial uses on the ground floor and cellar level of an existing eight-story building at 64-68 Wooster Street (Block 486, Lot 2) located within Manhattan Community District 2. The subject building is located within the Soho-Cast Iron Historic District and an M1-5A zoning district.

In order to grant the special permit, the City Planning Commission (“the Commission”) must find that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a permitted use at fair market rate. Such efforts shall have been actively pursued for a period of no less than twelve months for buildings over 3,600 square feet, prior to the date of the application for a special permit.

**PROJECT DESCRIPTION**

The applicant seeks approval to permit Use Group 6 uses on the ground floor and cellar levels of an existing eight-story building at 64-68 Wooster Street. The building contains approximately 48,588 GSF, and is sited on a 6,520 SF lot located on the east side of Wooster Street, bounded by Spring Street to the North, Broome Street to the South, and Greene Street to the East.

The proposed project is located within an existing legal loft building that consists of a mix of four office units on the third, fourth and sixth floors, and six Joint Living Work Quarters (“JLWQA”) units on the second, fifth, seventh and eighth floors.<sup>2</sup> The building’s ground floor and cellar levels are subject to this special permit application, and contain approximately 9,300

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<sup>1</sup> Dario Zar is the Managing Member for *64 - 68 Wooster LLC*.

<sup>2</sup> Section 42-14D(1)(b) of the Zoning Resolution requires buildings with JLWQA units with a lot coverage less than 5,000 SF. Multiple Dwelling Law § 281.4 qualifies the building at 64 – 68 Wooster Street as a legal loft containing JLWQA.

SF, and have been vacant since August 2010. If the permit is approved, the applicant intends to occupy the space with retail use, most likely a high-end furniture or an apparel store.

The project site is located within an M1-5A zoning district, which does not allow Use Group 6 uses below the second floor of any building as of right.<sup>3</sup> Use Group 6 includes uses such as retail and service establishments that serve local shopping needs as well as commercial offices.

The buildings near the project site are loft styled with cast-iron features that are typical in this historic district, and are generally between four to seven stories high. Land uses in the surrounding area are predominantly mixed use with commercial and retail on the ground floors and residential or office uses on the upper floors. Some commercial uses include eating establishments, home décor, apparel and accessories stores. Additionally, a few art galleries occupy the ground floors of the buildings in the area.

### **COMMUNITY BOARD RECOMMENDATION**

At its Full Board meeting on December 15, 2011, Manhattan Community Board 2 recommended approval of this application by a unanimous vote of 35 in favor.

### **BOROUGH PRESIDENT'S COMMENTS**

Light manufacturing districts within Manhattan's SoHo neighborhood have become mostly mixed-use. A common building composition in the neighborhood today consists of office and residential uses on the upper floors with retail establishments on the ground floors. As the neighborhood continues to shift away from manufacturing uses, it is important that the Commission monitors and considers these changes as to not negatively impact protection of certain uses that are intended through the zoning resolution.

Special permits pursuant to ZR § 74-781 allow certain use modifications on levels below the second story of buildings located within M1-5A and M1-5B zoning districts. The modification is permitted only after the Commission has found a good-faith marketing effort was made to rent such space for a mandated use at a fair market rate. Since the proposed project is within a building over 3,600 SF, the applicant was required to market the space for a minimum of one year.

The applicant began a marketing effort to rent the subject space for a conforming use since December of 2009 that is still ongoing today. During this time, the applicant placed advertisements in *The Village Voice* and in a local publication, *The Villager*. The applicant also reached out to local and citywide industry groups that included the Association of Graphic Communications, the Chambers/Canal Civic Association, the Association of Commercial Property Owners, the Garment Industry Development Corporation, the Federation of Apparel Manufacturers, Local 23-25/UNITE, and the Chinese-American Planning Council. Additionally, the applicant notified the New York City Economic Development Corporation about the available space. Lastly, the applicant listed the space with two local brokers that specialize in

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<sup>3</sup> In M1-5A zoning districts, only Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E (generally wholesale, warehouse and light manufacturing uses) are permitted as-of-right below the second story of a building.

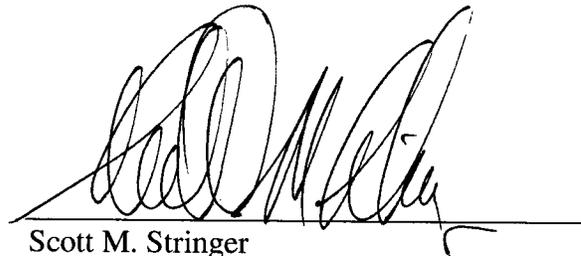
industrial real estate properties in the area. Even with these efforts, the applicant was unable to rent the space for as-of-right uses at a fair market rate.

Additionally, the owner should be commended for his ongoing attempt to find a conforming use for the subject space well beyond the special permit's required one-year period. The applicant will continue to advertise the space until the special permit is granted. Although unrelated to the special permit finding, the applicant has issued a letter to the Community Board stating that the proposed retail space on the ground floor will be restricted any eating and drinking establishment to help maintain neighborhood character. Further, the applicant has also made extensive investments in the upgrade and preservation of the building's architectural features that add to the quality of the existing historic district.

### **BOROUGH PRESIDENT'S RECOMMENDATION**

The application for a use modification to allow Use Group 6 on the cellar and ground floor has community support and meets the required finding for the requested permit, namely that the owner of the space has made a good faith effort to rent such space to a conforming use at fair market rate.

**Therefore, the Manhattan Borough President recommends approval of ULURP application No. C 120062 ZSM to grant special permit pursuant to ZR § 74-781.**

A handwritten signature in black ink, appearing to read "Scott M. Stringer", is written over a horizontal line.

Scott M. Stringer  
Manhattan Borough President