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**IN THE MATTER OF** an application submitted by Zhongyin Apparel 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 42-14(D)(2)(a) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 5-story building on property located at 85 Mercer Street (Block 485, Lot 25), in an M1-5A District, Borough of Manhattan, Community District 2.

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This application for a special permit pursuant to Section 74-781 of the Zoning Resolution (ZR) was filed on April 23, 2015. The applicant, Zhongyin Apparel LLC, requests modification of the use regulations of ZR Section 42-14(D)(2)(a) to permit Use Group 6 retail uses on portions of the ground floor and cellar of a five-story building located at 85 Mercer Street, Manhattan Community District 2.

**BACKGROUND**

This application for a special permit pursuant to ZR Section 74-781 (Modifications by special permit of the City Planning Commission of uses in M1-5A and M1-5B Districts) would facilitate the conversion of the rear portions of the cellar and the ground floor of an existing five-story building located at 85 Mercer Street (Block 485, Lot 25) to commercial retail uses (Use Group 6).

85 Mercer Street is located on the west side of Mercer Street, midblock between Broome and Spring Streets, within an M1-5A zoning district mapped within the SoHo Cast-Iron Historic District. The zoning lot measures approximately 5,000 square feet with about 50 feet of frontage on Mercer Street. The site is improved with a five-story loft building constructed in 1920. The upper floors of the building contain dwellings legalized under the Loft Law and are occupied as residential co-ops, while the ground floor contains two existing legal nonconforming retail spaces in the front and a vacant unit in the rear, which was previously occupied as Joint Living-Work Quarters for Artists (“JLWQA”, Use Group 17D). The applicant acquired the rear unit in 2013, when it was vacant.

The applicant intends to convert the 2,646-square-foot rear unit on the ground floor and the 2,308-square-foot cellar from Use Group 17D (JLWQA) to Use Group 6 (retail uses) and combine it with one of the existing legal nonconforming retail spaces in the front, creating a larger retail space that would total approximately 3,642 square feet.

Once characterized primarily by manufacturing uses, the surrounding SoHo neighborhood has evolved into vibrant mixed use districts. Buildings within the vicinity of the project site are typically mixed-use loft buildings ranging from five to eight stories in height, with a variety of uses, including ground floor retail establishments, commercial offices, JLWQA, lofts, or Use Group 2 residential units.

The project site is located in an M1-5A district, which allows a floor area ratio (FAR) of 5.0 for commercial and light manufacturing uses and 6.5 for community facility uses. In buildings with a footprint of more than 3,600 square feet, M1-5A districts limit uses in the space below the floor level of the second story to those listed in Use Groups 7, 9, 11, 16, 17A/B/C/F, which include uses such as repair shops, print stores, jewelry manufacturing, and other light manufacturing uses.

The proposed Use Group 6 ground floor and cellar retail uses are not permitted as-of-right. ZR Section 74-781 permits the modification of the use regulations of M1-5A districts to allow developments to include Use Group 6 uses below the second story. There would be no increase in building floor area, and the proposed retail space would adhere to all other zoning regulations.

ZR Section 74-781 requires the applicant to undertake and document a six-month or one-year marketing effort to rent the subject space to a conforming use at fair market rent prior to filing the land use application. Such efforts include, but are not limited to: advertising in local and citywide press; listing the space with brokers; and informing local and citywide industry groups. These efforts shall be 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 application for a special permit. The building at 85 Street occupies over 3,600 square feet of lot area and therefore was required to be marketed for one year.

Between March 2016 and March 2018, a period well beyond the required one year, the applicant advertised the availability of the cellar and ground floor of the building for industrial and service uses allowed by ZR Section 42-10 at \$70 per square foot. The applicant's marketing efforts included placing weekly advertisements in the New York Times and The Villager, among other publications; listing the space with brokers familiar with the local market and industrial properties; and mailing information to various industry groups. According to the applicant, despite these efforts, there had been no inquires, requests or demand for long-term use of the vacant space for as-of-right uses as of the date of the application's filing.

### **ENVIRONMENTAL REVIEW**

This application (C 150348 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 Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission. This application was determined to be a Type II action, which requires no further environmental review.

### **UNIFORM LAND USE REVIEW**

This application (C 150348 ZSM) was certified as complete by the Department of City Planning on January 29, 2018 and was duly referred to Manhattan Community Board 2 and Manhattan Borough President, 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 February 14, 2018, and on February 22, 2018, by a vote of 35 in favor, none opposed, and with no abstentions adopted a resolution recommending approval of the application with the following conditions:

- “1. CB2 continues to feel that the structure and content of the good faith marketing effort needs to be updated to take advantage of the advertising opportunities of the 21<sup>st</sup> century.
2. CB2 recommends that the applicant make a good faith effort to find an arts- or artisan-based retail tenant.

3. CB2 recommends that the retail space be made ADA-accessible.”

### **Borough President Recommendation**

The application was considered by the Borough President, who issued a recommendation for approval of the application on March 28, 2018.

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

On March 28, 2018 (Calendar No. 4), the City Planning Commission scheduled April 11, 2018, for a public hearing on this application (C 150348 ZSM). The hearing was duly held on April 11, 2018 (Calendar No. 10). Two speakers testified in favor of the application.

The applicant’s land use counsel described the proposed project and stated that, in his opinion, the application met the special permit finding. He also stated that an active marketing effort was made beyond the one-year required timeframe. Advertisements started at \$150 per square foot from June 2013 to November 2015, which was lowered to \$80 per square foot from December 2015 to March 2016, and \$70 per square foot starting March 2016, per guidance from the Department of City Planning. The applicant’s broker provided additional details of the marketing efforts and confirmed that the space was also listed online, as properties are typically marketed today. He also noted that the applicant has agreed to make efforts to locate cultural and creative uses, and that the space might be used for hosting arts and cultural events or other temporary uses a few times a year. There were no other speakers and the hearing was closed.

### **CONSIDERATION**

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

The applicant seeks the grant of a special permit pursuant to ZR Section 74-781 to modify the use regulations of Section 42-14D (2)(a) to allow Use Group 6 retail uses in the rear portions of the ground floor and the cellar in an existing building at 85 Mercer Street. The space subject to the special permit has been vacant since 2013.

The Commission believes that the applicant has made the necessary good faith marketing effort beyond the required one year. The Commission notes that the applicant placed weekly advertisements in eight local and citywide newspapers, listed the space with five brokerage firms, and informed 14 local and citywide industry groups and relevant city agencies, including NYC Economic Development Corporation, SoHo Broadway Initiative, NoHo Business Improvement District, Chinatown District Management Association, Hudson Square Business Improvement District, Lower Manhattan Development Corporation, Pratt Center for Community Development, Evergreen Local Development Corporation, among others, by mail and by phone. Beyond requirements of the zoning and consistent with the Community Board's request that marketing "take advantage of the advertising opportunities of the 21<sup>st</sup> century", the applicant also listed the space on five websites, including MLS, Loop Net and Costar. Such marketing efforts proved unsuccessful, as the applicant did not succeed in securing a conforming tenant.

The Commission notes that applicant set the rent rate based on conversations with brokers familiar with the neighborhood and industrial properties, and was receptive to recommendations from the Department of City Planning and the Borough President's Office. The Commission also notes that based on such input, the applicant lowered the rate from the initial \$150 per square foot to \$70 per square foot, at which rate the space was marketed for over a year between March 2016 and March 2018.

The Commission observes that the subject space is located in the rear of the building, which makes providing access for manufacturing loading challenging.

The Commission also notes that the applicant has made a written commitment to the Manhattan Borough President's Office to work with the Department of Cultural Affairs and Made In NY to seek opportunities to support arts, cultural, and artisanal uses.

The Commission believes that the applicant made a good faith effort to lease the space to a conforming use. The Commission notes that the applicant adhered to the good faith marketing guidelines outlined in ZR Section 74-781 and was unable to secure a conforming tenant. The Commission, therefore, believes that the grant of the requested special permit is appropriate.

**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 a 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 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, and the consideration described in this report, the application (C 150348 ZSM) submitted by Zhongyin Apparel 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 42-14(D)(2)(a) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 5-story building, on property located at 85 Mercer Street (Block 485, Lot 25), in an M1-5A District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2, is approved subject to the following conditions:

- 1. The property that is the subject of this application (C 150348 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 ADG Architecture & Design P.C. filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
CPC-100.00	Site Plan	11/7/2017
CPC-101.00	Zoning Analysis	1/26/2018
CPC-102.00	Sections	1/26/2018

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.
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 150348 ZSM), duly adopted by the City Planning Commission on May 9, 2018 (Calendar No. 14), 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.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKLES, ESQ.**, *Vice Chairman*

**ALFRED C. CERULLO, III, MICHELLE DE LA UZ, JOSEPH DOUEK,  
CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,  
ORLANDO MARIN, LARISA ORTIZ**, *Commissioners*



Terri Cude, *Chair*  
Dan Miller, *First Vice Chair*  
Susan Kent, *Second Vice Chair*  
Bob Gormley, *District Manager*



Antony Wong, *Treasurer*  
Keen Berger, *Secretary*  
Erik Coler, *Assistant Secretary*

## COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE  
NEW YORK, NY 10012-1899

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P: 212-979-2272 F: 212-254-5102 E: [info@cb2manhattan.org](mailto:info@cb2manhattan.org)

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February 26, 2018

Marisa Lago, Chair  
City Planning Commission  
22 Reade Street  
New York, NY 10007

Dear Ms. Lago:

At its Full Board meeting on February 22, 2018, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

**\*85 Mercer Street** (between Spring and Broome Streets) ULURP No.150348ZSM is an application for a special permit to allow ground floor retail in Soho. The applicant seeks to convert a portion of the ground floor and cellar from JLWQA to 3,642 square feet of Use Group 6 retail.

### Whereas:

1. The application is for a special permit to convert a portion of the ground floor and cellar of the existing building from Joint Live-Work Quarters for Artists to 3642sf of Use Group 6 retail use pursuant to ZR74-781 and to facilitate the removal of the mezzanine level.
2. The premises, a five-story, loft-style building constructed in 1920, is wholly located in an M1-5A zoning district and wholly within the SoHo-Cast Iron Historic District. It has been a cooperative since 1984.
3. The ground floor of the building contains three uses: two Use Group 6 retail uses (Units 1N and 1S) and one JLWQA unit (1R) at the rear of the building, which occupies both the ground floor and 290sf of space on the mezzanine and has been vacant since 2013 when it owners sold the unit to the applicant.
4. The JLWQA units on the second through fifth floors are lawfully occupied as residential cooperative units, pursuant to a Loft Board Order dated July 15, 1970.
5. The front portion of the cellar is used by the residents on the upper floors; the storage space at the rear is used by the rear JLWQA unit and has no light or air.
6. It is proposed that the existing retail space at Unit 1N in the southeast corner of the site will be combined with the rear JLWQA space on the ground floor, creating a new retail space. There will be two new bathrooms within Unit 1N, and a new stairwell constructed within Unit 1N to access 2308sf of the rear portion of the cellar level for additional retail uses.
7. The existing retail space at Unit 1S located at the southwest corner of the site will not be affected by this application.

8. This special permit can only be approved where a good faith effort has been made to rent the space for a conforming (manufacturing) use without success. Applicant claims that after over three years of marketing efforts, they have been unable to find a conforming lessee for the portion of the building where a change of use is proposed.
9. In consultation with DCP and the Borough President's office, the applicant marketed the space between 2013 and 2017 at \$150, \$100, \$80 and \$70 per square foot.

**Therefore:**

1. CB2 continues to feel that the structure and content of the good faith marketing effort needs to be updated to take advantage of the advertising opportunities of the 21<sup>st</sup> century.
2. CB2 recommends that the applicant make a good faith effort to find an arts- or artisan-based retail tenant.
3. CB2 recommends that the retail space be made ADA-accessible and opposes retail in the cellar unless that, too, is ADA-accessible.

Vote: Unanimous, with 35 Board members in favor.

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


Sincerely,



Terri Cude, Chair  
Community Board #2, Manhattan



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



Frederica Sigel, Co-Chair  
Land Use & Business Development Committee  
Community Board #2, Manhattan

TC/jt

c: Hon. Jerrold L. Nadler, Congressman  
Hon. Brian Kavanagh, State Senator  
Hon. Deborah Glick, Assembly Member  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Margaret Chin, Council Member  
Sylvia Li, Dept. of City Planning

# Borough President Recommendation

City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
Fax # (212) 720-3488

## INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, 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 150348 ZSM

### Docket Description:

**IN THE MATTER OF** an application submitted by Zhongyin Apparel LLC pursuant to Sections 197-c and 201 of 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 42-14(D)(2)(a) to allow 85 Mercer 66 Allen Street (Block 485, Lot 25), 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)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS: See Attached

*Paul Brewer*

BOROUGH PRESIDENT

March 28, 2018

DATE

In distress  
That is a beautiful space -



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

1 Centre Street, 19th floor, New York, NY 10007  
(212) 669-8300 p (212) 669-4306 f  
431 West 125th Street, New York, NY 10027  
(212) 531-1609 p (212) 531-4615 f  
[www.manhattanbp.nyc.gov](http://www.manhattanbp.nyc.gov)

**Gale A. Brower, Borough President**

**March 28, 2018**

**Recommendation on ULURP Application C 150348 ZSM – 85 Mercer Street  
By Zhongyin Apparel LLC.**

**PROPOSED ACTION**

Zhongyin Apparel LLC<sup>1</sup> (“the applicant”) seeks a special permit pursuant to Section 74-781 of the Zoning Resolution (“ZR”) to permit Use Group 6 (retail use) on portions of the ground floor and cellar of an existing 5-story building with penthouse addition, located at 85 Mercer Street (Block 485, Lot 25) in an M1-5A district within the SoHo-Cast Iron Historic District, in Community Board 2, Manhattan.

In order to grant the special permit pursuant to § 74-781, the City Planning Commission (“CPC”) must find that the owner of the space has made a good faith effort to rent such space to a permitted use at a fair market rate. Such efforts shall include, but not be limited to, advertising in local and citywide press, listing the space with brokers and informing local and citywide industry groups. Such efforts shall have been actively pursued for a period of no less than one year<sup>2</sup>, prior to the date of the application for a special permit.

**BACKGROUND**

**History**

The SoHo-Cast Iron Historic District report states that the subject building was designed by Robert Mook in 1873 in “a free classical manner combining Italianate and neo-Grec elements” and functioned as a store. According to the applicant’s application materials, in 1975 the ground floor was used as an art gallery and the second through fifth floors were used as artist studios. In 1984, the tenants formed a co-op corporation and became owners. In 1985 the unit in the southwest corner of the ground floor was approved by DCP for Joint Living-Work Quarters for Artists (JLWQA) use; in 2000, DCP approved the change of that use to retail. Also in 1985 the unit in the southeast corner of the ground floor was approved by DCP for retail use. In 1988, DCP approved the legalization of nine units to JLWQA use<sup>3</sup>. Pursuant to Article 7C of the Multiple Dwelling Law, the JLWQA units were converted to residential co-op units.

<sup>1</sup> The building is owned by a domestic limited liability corporation.

<sup>2</sup> A period of no less than six months is required for buildings under 3,600 square feet and a period of no less than one year for buildings over 3,600 square feet; the subject building is approximately 23,245 zoning square feet.

<sup>3</sup> The nine units are 1R, 2F, 2R, 3F, 3R, 4R, 4F, 5F, and 5R.

### **Area Context**

The project site is located in an M1-5A zoning district in the SoHo-Cast Iron Historic District in Community District 2, Manhattan. 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 site is bounded by Spring Street, Mercer Street and Broome Street to the south. The block consists primarily of five- to six-story mixed residential and commercial buildings with ground floor retail. South of the site at Broome Street is an M1-5B zoning district which extends west, midblock of West Broadway and Wooster Street and immediately east of the site extending north along Mercer Street.

The project site is served by the Spring Street No. 6 subway line located at Broome Street and Lafayette Street just four blocks east and the N/Q/R Prince Street subway stop is located one block north at Prince Street and Broadway. Citibike bicycle stations are also located one block north at Mercer Street and Spring Street and one block southwest of the site at Grand Street and Greene Street.

### **Site Description**

The project site contains a total lot area of 5,017 square feet with approximately 50 feet of street frontage along Mercer Street. The existing 5-story building has approximately 23,245 square feet of zoning floor area, 21,538 zoning square feet of JLWQA (Use Group 17D) and 1,707 zoning square feet for two existing ground floor commercial uses. The ground floor contains a vacant JLWQA unit, Unit 1R, located in the rear of the building and two vacant commercial spaces located in the front of the building, Units 1N and 1S. The building has a floor area ratio (FAR) of 4.63.

## **PROJECT DESCRIPTION**

The applicant proposes to convert the 2,646 square foot JLWQA unit located in the rear of the ground floor to retail use (Use Group 6) and combine it with the permitted retail space of Unit 1N. Additionally, the cellar storage space of the JLWQA unit, which contains 2,308 square feet, would also be converted to retail space and be accessible by a newly constructed stairwell. As proposed, the new retail space would total 3,642 zoning square feet.

The applicant seeks a special permit pursuant to ZR § 74-781 for a use modification in an M1-5A zoning district to allow Use Group 6 on the ground floor and rear cellar of a 5-story building. Such use change is only permitted after the CPC has found the applicant has made a good faith effort to rent the space as a conforming use at a fair market rate for a year. The applicant marketed the space for varying rents between 2013 and 2017.

The applicant provided a call log of inquiries from January 2013 to January 2014 and copies of the certification of publication for weekly advertisements with the New York Times between June 2013 and July 2014 all of which advertised the space for \$150/psf. Until November 2015, the applicant advertised the space for \$150/psf until DCP requested a more robust marketing effort to include advertisements in local publications and outreach to citywide organizations. The applicant reduced the listing price to \$80/psf in December 2015 and further to \$70/psf in June 2016. The application packet includes monthly copies of ads posted in the *New York Times*, *The Villager*, *Downtown Express*, *Gay City News*, *Manhattan Express*, *Chelsea Now* between November 2015 and March 2017. The application packet also contains copies of letters mailed by Kalmon Dolgin Affiliates, Inc. (“KDA”) to citywide, neighborhood and business organizations: New York City EDC, SoHo Broadway Initiative, NoHo Business Improvement District, Chinatown BID, Hudson Square BID, Lower Manhattan Development Corporation, Pratt Center for Community Development, The Association of Neighborhood Housing Developers, The New York City Environmental Justice Alliance, Evergreen Local Development Corporation, Workers United, Unite Here, Garment Center BID, and Downtown Alliance on January 13, 2016 advertising the space for \$150/psf, on February 15, 2016 at \$80/psf, and October 15, 2016 advertising the space for \$70/psf. The applicant provided copies of KDA’s advertisements on the KDA website, Circular, CoStar, LoopNet, Property Shark, and New York State MLS. As reported by the applicant, despite these efforts, the applicant was unable to rent the space to a conforming use.

## **ENVIRONMENTAL IMPACTS**

This application was reviewed pursuant to CEQR and received a Negative Declaration. The application was certified as complete on January 29, 2018.

## **COMMUNITY BOARD RECOMMENDATION**

On February 22, 2018 Manhattan Community Board 2 (“CB2”) voted unanimously to approve the application under two conditions: 1) if the applicant chooses to use the cellar for retail space, it is made ADA-accessible; and, 2) the applicant makes a good-faith effort to find an arts or artisan-based retail tenant. CB2 also stated they want applicants of 74-781 special permits to use 21<sup>st</sup> century methods to market the space.

## **BOROUGH PRESIDENT’S COMMENTS**

In 2013, the applicant purchased the JLWQA space with the intention of converting the space to retail space given the overwhelming number of use change applications that have been approved for not only this building but throughout the SoHo and NoHo neighborhoods since the early 2000s. The building contains eight legal residential co-ops, which used to be occupied by artists. One artist remains.

On November 18, 2015, the applicant's representatives met with my office to discuss their 74-781 special permit application and good faith marketing efforts to convert the rear unit on the first floor and accessory cellar space to commercial use. At our meeting and in follow-up conversations, we discussed our concerns with the \$150/psf listing price and communicated that the marketing efforts were insufficient and asked for a more robust outreach process beyond DCP's list to target the new light industrial uses in the food, technology and design sectors. Between October 2015 and April 2016, the applicant provided updates on their marketing efforts, and even sent our office copies of certified receipts for letters sent to local organizations<sup>4</sup> and ads in local papers administered by Kalmon Dolgin Affiliates, Inc. In April 2016, we asked the applicant to consider reducing the asking rent of \$80/psf.

At the time of my last recommendation on a "good faith marketing" special permit in the SoHo/NoHo neighborhood (449 Broadway - C 170464 ZSM), I requested that DCP set an appropriate manufacturing price per square foot or provide applicants with an appropriate range and to provide my office with a written explanation of the analysis for determining such a price. On September 29, 2017 DCP provided us with an explanation that it believes \$80 per square foot was reasonable for ground floor spaces. We are reaching out to DCP to discuss this recommendation which still appears high. However, at the time we received DCP's response, the current applicant's good faith marketing period had ended.

The applicant responded to some of the concerns raised in my previous 74-781 recommendations about marketing efforts undertaken and was receptive to my concerns with this particular application. The applicant discussed their efforts with our office and reduced the price prior to the second good faith marketing period, and because of the location of this space in the building, I believe in this instance that the conditions for this special permit have been met. Because of the loss of a JLWQA unit, and as an acknowledgement of the character that made SoHo what it is and which is still reflected in the zoning for the neighborhood, the applicant has agreed to reach out to the Department of Cultural Affairs and NYC EDC's Made in NY program to locate cultural and creative organizations and/or businesses that might be appropriate for the ground floor and cellar space (see attached letter).

## **BOROUGH PRESIDENT'S RECOMMENDATION**

**Therefore, the Manhattan Borough President recommends approval of ULURP Application No. C 150348 ZSM.**



Gale A. Brewer  
Manhattan Borough President

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<sup>4</sup> These organizations include: Seeds of Peace, City Meals on Wheels, New York Chinese Community Centre, Chinese Merchants Association, National Organization of Italian Americans, Hoy Sun Ning Young Association, Association of Korean American, Association of Independent Com, Americans for Peace Now, Inc., Human Services Management Institute, Chinese Sportswear Worker Social, Chinese American Planning Council, Metropolitan Area Apparel Association, 521 Broome Street Association, and Garment Industry Development Corp. in addition to those included in the application.

**ZHONGYIN APPAREL LLC**  
85 MERCER STREET  
NEW YORK, NY 10012  
212-920-5083

March 27, 2018

Manhattan Borough President Gale A. Brewer  
1 Centre Street, 19th Floor  
New York, NY 10007

*Re: Proposed Special Permit to Permit Ground Floor Retail in Soho  
ULURP No. 150348 ZSM  
85 Mercer Street  
Block 485, Lot 25  
New York, New York (the "Premises")*

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Dear Borough President Brewer:


We are the proprietary lessee of the above-referenced Premises. We have filed a special permit application pursuant to ZR §74-781 at the Department of City Planning ("DCP") to allow a change of use at the rear portions of the ground floor and cellar of the subject building, from JLWQA to Use Group 6 retail use. Under ZR §42-14D(2)(a) such use is not permitted by right in the subject M1-5A district.

If approved, the existing retail space at Unit 1N located at southeast corner of the Site would be combined with the rear JLWQA space on the ground floor and cellar level, allowing for a newly created retail space.

In the event our application is approved, we would commit to working with the Department of Cultural Affairs and Made In NY to secure a tenant for the new retail space.

We thank you for your review of this matter.

Sincerely,

  
Eddie Chau  
Managing Director