



**CITY PLANNING COMMISSION**

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January 6, 2016/Calendar No. 8

C 150417 ZSM

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**IN THE MATTER OF** an application submitted by 150 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 74-712(a) of the Zoning Resolution to modify the use regulations of Sections 42-00 and 42-12(D)(2)(a) to allow Use Group 2 uses on portions of the cellar, ground floor, and the 2<sup>nd</sup> – 8<sup>th</sup> floors and penthouse, and Use Group 6 uses (retail uses) on portions of the cellar and ground floor of a proposed 8-story and penthouse mixed-use building on a zoning lot that, as of December 15, 2003, has not more than 40% of its lot area occupied by existing buildings, located at 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

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The application for a Special Permit was filed by 150 Wooster LLC on June 17, 2015 to allow retail use (Use Group 6) on the ground floor and in the cellar, and residential use (Use Group 2) on the upper floor of the building at 150 Wooster Street (Block 514, Lots 7 and 9), within an M1-5A District within the SoHo Cast-Iron Historic District.

**RELATED ACTIONS**

In addition to the special permit, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

- N 150416 ZRM**      Zoning Text Amendment to modify lot coverage requirements in Section 74-712 for developments in M1-5A and M1-5B districts within historic districts.
- C 150418 ZSM**      Special Permit pursuant to Section 74-712(b) to modify the height and setback requirements of Section 43-43 and the permitted obstructions requirements of Section 43-23.

## **BACKGROUND**

The applicant seeks the grant of two special permits pursuant to Sections 74-712(a) and 74-712(b) of the Zoning Resolution, as well as an amendment to Section 74-712 of the Zoning Resolution.

The proposed modification to Section 74-712 of the Zoning Resolution, which governs development in Historic Districts designated by the Landmarks Preservation Commission (LPC), will modify the eligibility requirements regarding lot coverage for sites located in M1-5A and M1-5B Districts, and facilitate the two special permits pursuant to the amended Section 74-712. The proposed zoning text change, in conjunction with the special permits, would permit the development of an eight-story mixed-use building at 150 Wooster Street (Block 514, Lots 7 and 9). The project site is located in the SoHo Cast- Iron Historic District within Manhattan Community District 2.

The area's built character is defined by cast-iron store-and-loft buildings, many of which were constructed between 1840 and 1880. These characteristic buildings were typically developed with high lot coverage and built to their full height at the street line along narrow streets such as Wooster, Greene, Crosby and Mercer streets. Most of the area bounded by West Broadway and Houston, Crosby and Canal streets is located within the SoHo Cast-Iron Historic District, including the subject block. In recent years, the immediate area has seen the development of a number of residential buildings, including 137 Wooster Street, 27 Wooster Street, 52-54 Wooster Street and 311 West Broadway.

Today, the surrounding SoHo neighborhood is characterized by a mix of residential and commercial uses, with active ground-floor retail. The area also has Joint Living-Work Quarters for Artists (JLWQA) and Use Group 2 residential units that are either pre-existing non-conforming uses or approved by City Planning Commission (CPC) special permit or Board of Standards and Appeals variance. Ground-floor retail uses are prevalent in the surrounding blocks and exist on either an as-of-right basis based on the building's footprint size; as pre-existing non-conforming uses; or by CPC special permit.

The proposed development site is located on the east side of Wooster Street between Houston and

Prince Streets. It comprises two lots that measure approximately 71' wide by 100' deep, with a total lot area of 7,171 square feet. The site is developed with a one-story building and a surface parking lot. The one-story building is described by the Landmarks Preservation Commission as a former garage structure altered from an earlier building from the early 20<sup>th</sup> Century and is not a contributing building to the SoHo Cast-Iron Historic District.

The site is located in an M1-5A District, which allows light manufacturing and commercial uses including warehousing, parking facilities and hotels. Residential development is not permitted as-of-right. Additionally, in buildings occupying more than 3,600 square feet of lot area, uses below the second story are limited to wholesale, business service, warehouse and light industrial uses. For this site, local retail uses (i.e., Use Group 6) are not permitted as-of-right.

The proposed actions would facilitate construction of an eight-story building, approximately 98 feet, 10 inches in height, and containing 35,920 square feet of total floor area; 29,739 square feet of residential floor area and 6,181 square feet of ground floor commercial floor area. The first seven stories would rise from the street line to a height of 87 feet 4 inches. At that height, a 15-foot setback would be provided for the eighth story, which would rise to a height of 98 feet 10 inches. On the ground floor, a 756 square foot residential lobby would be located in the center of the building with a 3,067 square foot retail store on one side and a 3,114 square foot retail store on the other side. The cellar would contain a bike room, superintendent's office, storage and mechanical equipment for the residential apartments, and storage, restrooms and non-floor area retail floor space for the ground floor retail stores. The upper stories (floors 2 through 8) would have a total of six residential apartments occupying 28,983 square feet of floor area. The proposed building would have balconies in the rear at the 4th, 5th and 6th floors. Each balcony would extend over the required rear yard for a depth of seven feet and a length of 25 feet 10 inches. The design of the proposed new building required the grant of a Certificate of Appropriateness from the Landmarks Preservation Commission (LPC), which was issued on April 28, 2015.

On March 20, 2013, the CPC approved an identical application (ULURP No. C120200 ZRM) to amend ZR 74-712 to allow the special permits associated with that section to apply to zoning lots

with existing buildings having a 40 percent coverage, instead of 20 percent. The proposed amendment would have affected the subject site, and two other zoning lots in the Historic District – 300 Lafayette Street (a/k/a 137 Crosby Street) and 254 Lafayette Street. A special permit (C120201 ZSM) pursuant to ZR Section 74-712 as amended, was also approved by the City Planning Commission at that time, which would have allowed the construction of a residential building at 150 Wooster Street. However, both applications were withdrawn by the applicant during the City Council’s 50-day review period.

Subsequently, on December 18, 2013, the CPC approved an application (C140092 ZRM) to amend the text of ZR 74-712, to increase the allowable lot coverage for zoning lots containing existing buildings from 20 percent to 40 percent but only for zoning lots having frontage on two or more wide streets and limiting bulk modifications on such zoning lots to non-residential developments only. The text amendment was proposed by the 300 Lafayette Street owner, and affected only that property since it was the only applicable property with frontage on two wide streets. In conjunction with the text amendment application, the owner also submitted – and the CPC approved – an application for a special permit (C140093 ZSM) pursuant to ZR 74-712 as amended. Both applications were approved by the City Council on February 6, 2014. The applications would facilitate the construction of a seven-story commercial office building with ground floor retail space.

***Zoning Text Amendment – ZR 74-712***

The applicant is now seeking to further amend the text of ZR 74-712 so that, within Historic Districts designated by the Landmarks Preservation Commission, the City Planning Commission may grant a special permit in M1-5A and M1-5B Districts, on a zoning lot that, as of December 15, 2003, is vacant, is land with minor improvements, has not more than 20 percent of the lot area occupied by an existing building, or has street frontages on two or more wide streets and not more than 40 percent of the lot area occupied by existing buildings.

The existing text permits the City Planning Commission to modify the bulk regulations in M1-5A and M1-5B Districts, except floor area ratio regulations, for development on a zoning lot that has street frontages on two or more wide streets and that, as of December 15, 2003, has more than 20 percent

but not more than 40 percent of the lot area occupied by existing buildings, provided the development contains no residences, subject to certain conditions.

Because the proposed development site has a building with lot coverage of 35 percent and is not located on at least two wide streets, it is ineligible for the existing 74-712 special permit.

Therefore, the applicant requests a zoning text amendment to Section 74-712, to increase the percentage of existing lot coverage allowable on a site, from 20 percent to 40 percent, and to remove the requirement that the development site have street frontages on two or more wide streets, thus expanding the eligibility of the special permit to the subject property.

***ZR 74-712(a) Special Permit***

The applicant also seeks the grant of a special permit pursuant to Section 74-712(a) to modify the use regulations of Section 42-00 (GENERAL PROVISIONS) and Section 42-14(D)(2)(a) to allow Use Group 2 (residential) and Use Group 6 (retail) use; and pursuant to Section 74-712(b), to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks).

M1-5A Districts do not allow residential uses as-of-right. Moreover, for buildings that occupy lots comprising more than 3,600 square feet of lot area, retail use is not permitted below the second level. The requested use modification would permit Use Group 2 residential use throughout the building and Use Group 6 retail use at the ground and cellar levels.

The special permits require that three findings be met related to the proposed use modifications. The applicant must show that the use modifications will have minimal adverse effects on the conforming uses in the surrounding area; are compatible with the character of the surrounding area; and for modifications that permit residential use, result in a development that is compatible with the scale of the surrounding area.

***ZR 74-712(b) Special Permit***

The building would also require a bulk modification to permit a portion of the seventh and eighth floors to encroach within the initial setback distance at the front of the building. According to the underlying height and setback regulations (Section 43-43), buildings are required to set back from a narrow street line by a minimum 20 feet, at a height of 85 feet or six stories, whichever is less/lower. Buildings must also comply with a sky exposure plane starting at 85 feet above curb level and rising at a slope of 2.7:1 (vertical to horizontal). As proposed, the subject building would rise to a height of seven stories/87 feet 4 inches without setback, set back 15 feet and rise to eight stories (98 feet 10 inches). The requested bulk waiver would allow a portion of the seventh and eighth floors to be placed within the required 20-foot setback distance.

A portion of the cornice at the top of the street wall would penetrate the sky exposure plane by 2 feet 4 inches. Therefore, the requested bulk waiver would also the uppermost 2 feet 4 inches of the street wall to penetrate the sky exposure plane.

Although balconies are permitted obstructions in required yards in residential zoning districts pursuant to ZR Section 23-44 and in required rear yards in commercial districts pursuant to ZR Section 33-23, they are not included in ZR Section 42-23 as a permitted rear yard obstruction in manufacturing districts. The building would have rear balconies on the 4th, 5th and 6th floors. Each balcony would extend over the required rear yard for a depth of seven feet and a length of 25 feet 10 inches. Therefore, a modification of ZR Section 42-23 is required to allow the balconies as permitted obstructions in the required rear yard.

For the proposed bulk modifications, the applicant must meet two findings that show the bulk modifications shall not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and that the proposed bulk modifications relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

## **ENVIRONMENTAL REVIEW**

This application (C 150417 ZSM), in conjunction with the applications for the related actions (N 150416 ZRM, C 150418 ZSM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 15DCP163M. The lead agency is the City Planning Commission.

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

## **UNIFORM LAND USE REVIEW**

On October 5, 2015, this application (C 150417 ZSM), in conjunction with the application for the related action (C 150418 ZSM), was certified as complete by the Department of City Planning, and was duly referred to Manhattan Community Board 2 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment, (N 150416 ZRM) which was referred for information and review in accordance with the procedures for non- ULURP matters.

## **Community Board Public Hearing**

Community Board 2 held a public hearing on this application (C 150417 ZSM) on October 22, 2015 and on that date, by a vote of 36 in favor, 0 opposed and 0 abstaining, adopted a resolution recommending conditional approval of the application with following comments:

**Therefore, be it resolved** that CB 2, Man. approves this application but asks that the developer remove the balconies on the rear of the building due to the concerns about the

potential for noise and unsightly storage, and the fact that the balconies protrude 7' into the 30' back yard.

### **Borough President Recommendation**

This application, (C 150417 ZSM) was considered by the President of the Borough of Manhattan, who issued a recommendation on November 24, 2015, for approval of the application.

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

On November 18, 2015 (Calendar No. 5), the City Planning Commission scheduled December 2, 2015 for a public hearing on this application (C 150417 ZSM), in conjunction with the related applications (N 150416 ZRM, C 150418 ZSM). The hearing was duly held on December 2, 2015 (Calendar No. 13). There were seven speakers in favor of the application and no speakers in opposition.

The applicant's land use counsel described the proposed project, the requested actions before the Commission and how it met the requisite findings. The project's developer described the proposed building and how the design of the building was intended to reflect the scale and context of the surrounding SoHo neighborhood. He also described his ten-month, pre-ULURP effort to meet with Community Board 2, area residents and residents who reside in the adjacent buildings to garner support and to resolve issues relating to this project before the start of the formal public review process.

Other speakers in favor included four residents living in neighboring buildings at 135 and 137 Greene Street and 152 Wooster Street, who commended the developer for his extensive outreach to residents living in buildings that adjoin the proposed project site and for working collaboratively with them to finalize a build program that they could support. Moreover, one resident living in at 137 Greene Street, which abuts the proposed project site, stated that the proposed rear yard balconies would not raise any issues for him or his neighbors.

One speaker, representing the Manhattan Borough President Office, reiterated the Borough President's approval for the application, as well as her concern over the use of zoning special permits by private applicants to advance projects in SoHo and NoHo; the Community Board not using their full 60-day review timeframe for this project and the non-inclusion of an affordable housing component, as proposed under the Mandatory Inclusionary Housing proposal, which is undergoing a separate public review.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the grant of the special permit, in conjunction with the related applications, is appropriate.

The requested actions would facilitate the development of an eight-story mixed-use building at 150 Wooster Street, which is located on the east side Wooster Street between West Houston and Prince Streets. The property, which is located in the Soho Cast-Iron Historic District, is currently developed with a one-story commercial structure and a surface parking lot.

The proposed building would have six residential units with retail use on the ground and cellar floors. In order to achieve the overall development objective, the applicant requests approval of a zoning text amendment to modify the lot coverage requirements of Section 74-712 for sites located in M1-5A and M1-5B Districts within LPC-designated Historic Districts, and the grant of 74-712 special permits pursuant to the amended text.

### **Zoning Text Amendment (N 150416 ZRM)**

The Commission believes that the proposed zoning text amendment, along with the related special permits, is appropriate. The proposed zoning text amendment would modify the lot coverage

requirements for certain sites that are located in LPC-designated historic districts within M1-5A and M1-5B Districts. Specifically, Section 74-712 of the Zoning Resolution allows the City Planning Commission to grant special permits to allow use or bulk waivers for sites that are located in a designated historic district in either an M1-5A or M1-5B zoning district, which were, as of December 15, 2003, either vacant, or had land with minor improvements or were developed with buildings with lot coverage of less than 20 percent. For sites with frontages on at least two wide streets, up to 40 percent lot coverage is allowed. The Commission notes that the proposed development site has existing lot coverage of 35 percent and is not located on two wide streets; accordingly, it would be ineligible for a 74-712 special permit. The requested zoning text amendment to Section 74-712 would increase the percentage of lot coverage for existing buildings on a given site, from 20 percent to 40 percent, thus expanding the eligibility of the special permit to the subject property and enabling the applicant to develop their building, as proposed.

By increasing the lot coverage requirement from 20 percent to 40 percent, the proposed text amendment would have limited applicability to three sites, including the applicant's. The other two sites are located at 137 Crosby Street and 254 Lafayette Street; both sites have structures that occupy less than 40 percent lot coverage.

The proposed text amendment facilitates the development of the proposed mixed residential/commercial building at the subject location and enables the applicant to create a design more responsive to the context of the surrounding historic buildings. The expanded applicability of the zoning text to these sites would provide and enhance opportunities to fill in gaps along SoHo's mid-blocks and avenues to reinforce its scale, street wall continuity and predominant built-out character.

### **Special Permit (C 150417 ZSM)**

The Commission also notes that the applicant seeks approval of a special permit that would modify use regulations of Section 74- 712(a) to develop the proposed eight-story mixed-use building. The requested special permit would allow the second through eighth floors to be used

for residential use (Use Group 2), with a residential lobby on the ground floor. The building's ground and cellar floors would be used for retail use (Use Group 6). Under current regulations, in M1-5A Districts, Use Group 2 residential uses are not permitted as-of-right and Use Group 6 retail uses are not allowed below the second level in buildings occupying lots having more than 3,600 square feet of lot area.

The Commission notes that the surrounding area is characterized by five- to twelve-story loft-style industrial buildings that have been converted to a mix of uses. Most of the buildings in the area contain ground floor retail uses with residential, Joint Living Quarters for Artists (JLWQA) space, or office uses above. The Commission believes that the proposed residential and retail use is consistent with the prevailing land use pattern found on neighboring blocks.

The Commission notes that the application received a Certificate of Appropriateness from the Landmarks Preservation Commission on April 18, 2015. With regard to this proposal, the Landmarks Preservation Commission found that “ the plane of the proposed front façade will align with the facades of the adjacent properties, thereby reinforcing the street wall, a significant, consistent feature of the SoHo Cast Iron Historic District; that the height of the street wall is consistent with the street wall of other buildings on the block, which has a variety of heights; that the floor to ceiling heights will approximate the scale of neighboring properties, helping to maintain a harmonious relationship with neighboring buildings.”

Therefore, the Commission believes that the requested special permit, in conjunction with the related actions, would facilitate the redevelopment an underdeveloped site into an active use that is consistent with and supportive of the character and scale of the surrounding area.

### **Special Permit (C 150418 ZSM)**

The building would also require a bulk modification, pursuant to Section 74-712(b) to permit a portion of the seventh and eighth floors to encroach within the initial setback distance at the front of the building. According to the underlying height and setback regulations (Section 43-43), buildings are required to set back from a narrow street line by a minimum 20 feet, at a

height of 85 feet or six stories, whichever is less/lower. Buildings must also comply with a sky exposure plane starting at 85 feet above curb level and rising at a slope of 2.7:1 (vertical to horizontal). As proposed, the subject building would rise to a height of seven stories/87 feet 4 inches without setback, set back 15 feet and rise to eight stories (98 feet 10 inches). The requested bulk waiver would allow a portion of the seventh and eighth floors to be placed within the required 20-foot setback distance. A portion of the cornice at the top of the street wall would penetrate the sky exposure plane by 2 feet 4 inches. Therefore, the requested bulk waiver would also the uppermost 2 feet 4 inches of the street wall to penetrate the sky exposure plane.

Although balconies are permitted obstructions in required yards in residential zoning districts pursuant to ZR Section 23-44 and in required rear yards in commercial districts pursuant to ZR Section 33-23, they are not included in ZR Section 42-23 as a permitted rear yard obstruction in manufacturing districts. The building would have rear balconies on the 4th, 5th and 6th floors. Each balcony would extend over the required rear yard for a depth of seven feet and a length of 25 feet 10 inches. Therefore, a modification of ZR Section 42-23 is required to allow the balconies as permitted obstructions in the required rear yard.

The Commission notes that the proposed development site is abutted by a six-story building that rises to 77 feet and a five-story building that rises to 65 feet. To the rear, the development site is abutted by three buildings; 131 Greene Street, a five-story residential building with a height of 74 feet, 135 Greene Street, a six-story residential building with a height of 92 feet and 137 Greene Street, a six-story residential building that also has a height of 92 feet. On the west side of Wooster Street, facing the development site are loft-style residential buildings that generally range from seven to eight stories, interspersed with a low-rise four-story and mid-rise six-story buildings. Therefore, the Commission believes that the proposed building would not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air.

In response to concerns raised with the previous approved application for this site (C 120201 ZSM), the Commission notes that the applicant met extensively with Community Board 2 and

area residents to address their concerns and issues about the proposed build program. The applicant increased the proposed street wall height from 85 feet to 87 feet; however, the overall building height was reduced from 102 feet to 98 feet 10 inches. The proposed building footprint also includes a light well, which provides light and air to residents living at 152 Wooster Street, which abuts the proposed project site. The Commission commends the applicant in meeting with and addressing area resident issues and concerns before commencement of the formal public review process for this application.

In response to concerns raised by the Borough President, the Commission believes that the zoning in the M1-5A and M1-B districts of Soho and Noho merits additional attention. The points raised by the Borough President in her resolution for this application, as well as for similar applications reviewed by the Commission, speak to the complexity of issues in Soho, including those of affordability, the evolving nature of the community, and the importance in recognizing the historic conditions that have resulted in today's vibrant, mixed-use neighborhood. Further, the Commission recognizes that the analysis required to shed light on the many questions raised is formidable and complex. The Commission supports ongoing staff efforts to study these issues in concert with partner agencies, elected officials and the local community, as it examines proposed future development.

The Commission notes that the application received a Certificate of Appropriateness from the Landmarks Preservation Commission on April 18, 2015, and therefore believes that the proposed building relates harmoniously to other buildings in the Historic District. Therefore, the Commission believes that the requested special permit, in conjunction with the related actions, is appropriate.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-712 (a) and (b) (Developments in Historic Districts) of the Zoning Resolution, as amended in the report on the related text amendment (N 120200 ZRM):

Such use modifications

- (i) have minimal adverse effects on the conforming uses in the surrounding area;
- (ii) are compatible with the character of the surrounding area; and
- (iii) for modifications that permit residential use, result in a development that is compatible with the scale of the surrounding area.

Such bulk modifications:

- (1) shall not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and
- (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to 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 submitted by 150 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 74-712(a) of the Zoning Resolution to modify the use regulations of Sections 42-00 and 42-12(D)(2)(a) to allow Use Group 2 uses on portions of the cellar, ground floor, and the 2<sup>nd</sup> – 8<sup>th</sup> floors and penthouse, and Use Group 6 uses (retail uses) on portions of the cellar and ground floor of a proposed 8-story and penthouse mixed-use building on a zoning lot that, as of

December 15, 2003, has not more than 40% of its lot area occupied by existing buildings, located at 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A 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 150417 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 HTO Architect, PLLC, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-002.00	Zoning Analysis	09/09/15
Z-003.00	Zoning Lot Site Plan	09/09/15
Z-004.00	Cellar-Floor Plan	09/09/15
Z-005.00	Ground-Floor Plan	09/09/15
Z-006.00	Second-Floor Plan	09/09/15
Z-007.00	Third-Floor Plan	09/09/15
Z-008.00	4 <sup>th</sup> – 6 <sup>th</sup> Typical Floor Plan	09/09/15
Z-009.00	Seventh-Floor Plan	09/09/15
Z-010.00	Eighth-Floor Plan	09/09/15
Z-011.00	Roof-Floor Plan	09/09/15
Z-012.00	Site Plan–Waiver Diagram	09/09/15
Z-013.00	Waiver Diagrams	09/09/15
Z-014.00	Lightwell Sections	09/09/15

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, operating 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. 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, agreement terms or conditions of this resolution the provisions of which 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 or breach of any of the conditions referred to above, may constitute grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted.

7. 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 or agent's action or failure to act in accordance with the provisions of this special permit.

The above resolution (C 150417 ZSM), duly adopted by the City Planning Commission on January 6, 2016 (Calendar No. 8), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**CARL WEISBROD**, Chairman  
**KENNETH J. KNUCKLES, Esq.**, Vice Chairman  
**RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**ALFRED C. CERULLO, III, MICHELLE R. DE LA UZ,**  
**JOSEPH DOUEK, RICHARD W. EADDY,**  
**CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,**  
**ORLANDO MARIN, LARISA ORTIZ** , Commissioners

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Terri Cude, *First Vice Chair*  
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Bob Gormley, *District Manager*



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Susan Wittenberg, *Assistant Secretary*

## COMMUNITY BOARD NO. 2, MANHATTAN

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October 26, 2015

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

Dear Mr. Weisbrod:

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

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

### Whereas:

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

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

Vote: Unanimous, with 36 Board members in favor.

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

Sincerely,



Tobi Bergman, Chair  
Community Board #2, Manhattan



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

TB/fa

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



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**Gale A. Brewer, Borough President**

November 24, 2015

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

**PROPOSED ACTION**

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

In order to obtain a permit pursuant to ZR § 74-712(a), a development must have a maximum floor area ratio (“FAR”) of 5.0 and must comply with residential yard and window requirements, minimum dwelling unit size, sign regulations, and cannot include an eating or drinking establishment of any size. In order to grant the use modifications, the permit requires that the City Planning Commission (“CPC”) find that the development:

- (1) has minimal adverse effects on conforming uses in the surrounding area;
- (2) is compatible with the character of the surrounding area; and
- (3) for modifications that permit residential use, results in a development that is compatible with the scale of the surrounding area.

The special permit pursuant to ZR § 74-712(b) allows bulk modifications provided that the development:

- (1) not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and
- (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

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

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

## **PROJECT DESCRIPTION**

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

### **Background**

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

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

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

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

### **Proposed Development**

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

### **Area Context**

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

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

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

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

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

### **Proposed Actions**

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

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

1. A **special permit** (C 150417 ZSM) pursuant to ZR § 74-712(a) to modify the use requirements of § 42-00, which does not permit residential use, and § 42-14(D)(2)(a), which does not permit commercial or residential uses below the second floor. The granting of this special permit would allow residential use on floors 2-8 and penthouse level of the proposed building, residential lobby use on the ground floor and residential accessory uses in the cellar. The permit will also allow for Use Group 6 retail uses on the cellar and ground floor.
2. A **special permit** (C 150418 ZSM) pursuant to ZR § 74-712(b) to modify:
  - a. The height and setback regulations of ZR § 43-43 to allow the 7<sup>th</sup> floor to exceed the maximum street wall height of six stories or 85 feet by one story and 2 feet 4 inches; to reduce the initial setback distance above the street wall for the 8<sup>th</sup> floor from 20 to 15 feet; and to allow the cornice at the top of the street wall to penetrate the sky exposure plane by 2 feet 4 inches; and
  - b. The permitted obstruction requirements of ZR § 43-23 to allow balconies on the rear wall of the building at the fourth, fifth, and sixth floors as rear yard obstructions.

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

### **COMMUNITY BOARD RECOMMENDATION**

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

## **BOROUGH PRESIDENT'S COMMENTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A handwritten signature in black ink that reads "gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer  
Manhattan Borough President