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**Gale A. Brewer, 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.

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<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.