



## **CITY PLANNING COMMISSION**

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February 10, 2010/Calendar No. 4

C 090100 ZSM

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**IN THE MATTER OF** an application submitted by Greene Mercer Holdings, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-14D(1)(b) to allow Joint Living Work Quarters for Artists on portions of the second through sixth floors of an existing six-story building erected prior to December 15, 1961 and where the lot coverage is greater than 5,000 square feet and Section 42-14D(2)(a) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing six-story building occupying more than 3,600 square feet of lot area and the bulk regulations of Section 43-17 to allow the enlargement of a building containing Joint Living Work Quarters for Artists on property located at 57-63 Greene Street (Block 486, Lot 28), 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 the special permit was filed by the Greene Mercer Holdings, LLC on September 15, 2008, to allow thirteen units of joint living-work quarters for artists (JLWQAs) on portions of the second through fourth and the entirety of the fifth and sixth floors and Use Group 6 (retail) on the ground floor and the cellar; and to allow one of the thirteen extant units of JLWQAs in the building to contain less than 1,200 square feet of floor area.

### **BACKGROUND**

The building located at 57-63 Greene Street is a six-story structure completed in 1877 for use as showroom and selling space for the silk manufacturing industry and designed by Edward H. Kendall. It is located within an M1-5A District, situated on the west side of Greene Street between Broome and Spring streets. The building is also within the SoHo-Cast Iron Historic District. The structure has lot coverage of 9,600 square feet.

The floor area below the second floor, including the ground floor and cellar level, is currently

occupied by three conforming Use Group 17 uses, including warehouse and furniture distribution facilities.

According to the use regulations for a M1-5A district, buildings with lot coverage in excess of 5,000 square feet may be converted to joint living-work quarters for artists (JLWQAs) only by special permit of the City Planning Commission. Further, in an M1-5A district, in buildings with lot coverage in excess of 3,600 square feet, uses below the second story are limited to wholesale, business service, warehouse and light industrial uses (Use Groups 7, 9, 11, 16, 17A, 17B, 17C and 17E). Section 74-711 of the Zoning Resolution allows the City Planning Commission, by special permit, to modify use and bulk regulations (except floor area) in order to further the preservation of designated landmark buildings or buildings located within historic districts.

In 1987 the CPC approved a special permit pursuant to Section 42-14 (B) of the Zoning Resolution (C831956ZSM) to allow the conversion of portions of the second, third and fourth floors to thirteen units of JLWQA. Unit 4F, one of the thirteen units approved in 1987, was non-complying at the time of the previous approval as the unit measured less than the 1,200 square feet minimum unit size required pursuant to Section 43-17 of the Zoning Resolution. The unit was subsequently reduced to 950 square feet to accommodate the installation of a second means of egress as mandated by Building Code requirements.

This application requests a modification of the M1-5A use regulations to allow 16,696 square feet of UG6 use on the ground floor and cellar levels of the building. The application also seeks

the conversion of the remaining portions of the 2<sup>nd</sup> through 4<sup>th</sup> floors and the entirety of the 5<sup>th</sup> and 6<sup>th</sup> floors to an additional thirteen units of JLWQAs. These spaces had been occupied by office and commercial tenants with leases that either have expired or that will be expiring shortly. The spaces will be vacated as the tenants relocate. In addition, the application seeks a bulk modification to legalize the existing non-complying JLWQA unit.

The application includes a report from the Landmarks Preservation Commission stating that a continuing maintenance program has been established that will result in the preservation of 57-63 Greene Street, and that the proposed use modification contributes to a preservation purpose.

The surrounding portion of the SoHo neighborhood is generally developed with five- to six-story loft buildings. While the upper floors in many of these buildings have been converted to dwelling units, including JLWQAs and interim multiple dwellings, the upper floors in other buildings contain offices, art galleries or other commercial uses. Ground floor uses in the vicinity primarily consist of a mix of home furnishings and clothing stores and restaurants.

## **ENVIRONMENTAL REVIEW**

This application (C 090100 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 09DCP012M. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on September 21, 2009, which was subsequently revised to reflect new information concerning existing conditions on the project site. A Revised Negative Declaration was issued on February 8, 2010.

## **UNIFORM LAND USE REVIEW**

This application (C 090100 ZSM) was certified as complete by the Department of City Planning on September 21, 2009 and was duly referred to Community Board 2 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 2 held a public hearing on this application on November 12, 2009, and on November 19, 2009 by a vote of 36 to 0 with 0 abstentions, adopted a resolution recommending approval of the application with the following conditions:

BE IT FURTHER RESOLVED, that CB#2, Man. finds this application satisfies the findings in Section 74-711, but due to concerns of the rent stabilized tenants regarding impacts of the work on their rent levels and status, CB-2 conditions its support for this application on the commitment of the applicant to record an instrument against the property sufficient to permit the existing rent stabilized tenants to pursue their legal remedies under the law should they conclude that the applicant, its successors and assigns, has breached any of the commitments described in Attachment A to its letter

dated November 18, 2009, to 57-63 Greene Street Rent Stabilized Tenants, a copy of which is attached to this resolution; and

BE IT FURTHER RESOLVED, that CB#2, Man. support for this project is contingent upon good faith negotiations between the parties within 30 days to resolve outstanding issues and especially the need to provide compensation to tenants that will reasonably provide for their costs if they are forced to vacate as a result of construction associated with the project; and

BE IT FURTHER RESOLVED, that support is also contingent upon receipt by each tenant on an individually addressed letter promising adherence to the terms of the above referenced letter dated November 18<sup>th</sup>.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation on December 30, 2009, approving the application.

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

On December 16, 2009 (Calendar No.2), the City Planning Commission scheduled January 6, 2010 for a public hearing on this application (C 090100 ZSM). The hearing was duly held on January 6, 2010 (Calendar No. 24). There were seven speakers in favor of the application and none in opposition.

A representative of the applicant reviewed the project and provided background on the earlier application which facilitated the conversion of the existing thirteen units of JLWQAs in the building. The representative stated that the property owner had entered into a restrictive declaration that will run with the property that states that the owner has agreed not to displace any of the rent-stabilized tenants or family members of the tenants' in residence at the building. In addition, the speaker noted that the owner had also agreed that he will not pass on to the tenants any of the costs related to the work required as part of the LPC Maintenance plan . Two additional representatives of the owner and the architect for the project stated that they were available to respond to questions from the Commission. A representative of the Borough President reiterated the Borough President's support for the application. A tenant of the building spoke as a representative of the building's tenants' group. The speaker stated that the group supported the application on condition that a list of items was attended to by the owner including instituting certain health and safety measures prior to the start of work required by the LPC. Two tenants of the building also appeared in support of the application.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

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

When the building was constructed in 1877 and continuing throughout the better part of the last century, the area known as SoHo contained a mix of commercial, warehouse and industrial uses.

However, over the last twenty to twenty five years many buildings in this area have been converted from manufacturing use to joint living-work quarters for artists (Use Group 17D), and Use Group 6 uses occupy much of the ground floor frontages. The Commission recognizes that, as a mixed-use neighborhood, SoHo supports a broad range of ground floor uses, from retail businesses to those oriented towards the arts. Therefore, the Commission believes that the additional 13 units of joint living-work quarters for artists on the second through fourth floors and Use Group 6 uses on the ground floor will be consistent with established land use trends in the greater SoHo neighborhood.

While the Commission acknowledges that the issues raised by Community Board 2 in its recommendation are outside of its purview, it notes that the applicant has sent each of the tenants in the building an individually addressed letter, as requested by the community board, responding to the key concerns listed in the community board's recommendation. The owner has agreed that "it will not displace any of the nine rent stabilized tenants or remaining family members as defined by and in accordance with the provisions of Sections 2520.6(o) and 2523.5(b) of Chapter VIII, Subchapter B, Subtitle B of NYCRR Title 9, or as may be defined or provided by a court of competent jurisdiction or the New York State Department of Housing and Community Renewal"; that "it will not pass on any of the costs of compliance with the required Landmarks Continuing Maintenance Plan to any of the rent stabilized tenants"; and all of the rights of the rent-stabilized tenants are guaranteed should they be required to leave the building in the event of an emergency or hazardous condition arising during construction, including the right to return to the unit that each tenant occupies as soon as such condition is remedied.

The proposed use modifications will facilitate the renovation and preservation of 57-63 Greene Street. The renovation of this building, to be accomplished as a result of this special permit, will enhance the architectural and historical built fabric of the SoHo Cast-Iron Historic District.

## **FINDINGS**

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

- (1) not applicable
- (2) such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the 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 and findings described in this report, the application of Greene Mercer Holdings, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-14D(1)(b) to allow Joint Living Work Quarters for Artists on portions of the second through



sixth floors of an existing six-story building erected prior to December 15, 1961 and where the lot coverage is greater than 5,000 square feet and Section 42-14D(2)(a) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing six-story building occupying more than 3,600 square feet of lot area and the bulk regulations of Section 43-17 to allow the enlargement of a building containing Joint Living Work Quarters for Artists on property located at 57-63 Greene Street (Block 486, Lot 28) 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 090100 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plan, prepared by WYS Design Partnership P.C. Architects Designers Planners, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-001	Site Plan and Location Plan	26 AUG 09
A-10	Cellar Floor Plan	22 JUL 09
A-20	Ground Floor Plan	22 JUL 09
A-30	2nd Floor Plan	22 JUL 09
A-40	3rd Floor Plan	22 JUL 09
A-50	4th Floor Plan	22 JUL 09
A-60	5th Floor Plan	22 JUL 09
A-70	6th Floor Plan	22 JUL 09
A-80	Roof Plan	22 JUL 09

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans

listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
6. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated February 10, 2010 , executed by Greene Mercer Holdings, LLC, the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

7. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the attached restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the attached restrictive declaration.
8. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 090100 ZSM), duly adopted by the City Planning Commission on February 10, 2010 (Calendar No. 4), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, AICP, Chair**  
**KENNETH J. KNUCKLES, ESQ., Vice Chairman**

**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**  
**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**  
**NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. MCRAE,**  
**KAREN A. PHILLIPS, Commissioners**