



## **CITY PLANNING COMMISSION**

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December 20, 2006/Calendar No. 13

C 060102 ZSM

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**IN THE MATTER OF** an application submitted by First Wooster LLC, pursuant to Sections 197-c and 201 of the New York City Charter for a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-14(D)(1)(b) to allow Joint Living Work Quarters for Artists on the 3<sup>rd</sup> through 8<sup>th</sup> Floors and penthouse, and Section 42-14D(2)(a) to allow a retail use (Use Group 6 uses) on the ground floor and cellar of an existing 8-story building and proposed penthouse with a lot coverage greater than 5,000 square feet and a lot area greater than 3,600 square feet, on property located at 149 Wooster Street (Block 515, Lot 27) 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 First Wooster LLC on August 25, 2005, to modify the use regulations of Section 42-14(D)(1)(b) to allow the conversion of the 3<sup>rd</sup> through 8<sup>th</sup> Floors to Joint Living Work Quarters for Artists (“JLWQA”) and the addition of a one-story penthouse for use as JLWQA in a building with lot coverage greater than 5,000 s.f.; and to modify the use regulations of Section 42-14D(2)(a) to allow a Use Group 6 (retail) on the ground floor and in a portion of the cellar of an existing eight-story building at 149 Wooster Street.

### **BACKGROUND**

149 Wooster Street is an eight-story structure completed in 1897 and designed by Neville and Bagge as a manufacturing building. It is located within an M1-5A District, situated on the west side of Wooster Street between Prince and Houston streets. The building is also within the SoHo-Cast Iron Historic District. The structure has a lot coverage of approximately 6,800 square feet. The floor area below the second floor is occupied by a Use Group 6 retail use, the second floor is occupied by an as-of-right Use Group 6 office use, and the third through eighth floors are vacant.

According to the use regulations of Section 42-14(D)(1)(b) for an M1-5A district, buildings with lot coverage in excess of 5,000 square feet may not be converted to joint living-work quarters for artists (JLWQAs). Further, pursuant to Section 42-14D(2)(a), in M1-5A district 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 regulations in order to further the preservation of designated landmark buildings or buildings located within historic districts.

This application requests a modification of the M1-5A use regulations to allow twelve JLWQA (Use Group 17D) units on the third through eighth floors and in a proposed penthouse. The penthouse would comprise the upper level of the two units proposed for the eighth floor of the building. The application also requests a modification of the M1-5A use regulations to allow approximately 6,620 square feet of retail (Use Group 6) use on the ground floor, and 6,104 square feet of retail (Use Group 6) use in the cellar level of 149 Wooster Street. 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 149 Wooster 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 eight-story loft buildings. While the upper floors in many of these buildings have been converted to dwelling units, including joint living-work quarters for artists 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 060102 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 06DCP017M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration signed on August 16, 2006 by the applicant was issued on November 13, 2006, stating the following:

The applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol, and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan. The applicant further agrees, via a restrictive declaration, to collect adequate floor samples from specified areas within the building for heavy metals testing; to conduct a

thorough ACM and lead-based paint survey (prior to any demolition or renovation work), the results of which are to be incorporated into an O&M or abatement plan implemented in accordance with all applicable government regulations; and to remove/close the 5,000-gallon fuel oil AST system pursuant to all applicable government regulations.

The applicant signed the Conditional Negative Declaration on August 16, 2006. The Conditional Negative Declaration was published in the City Record on August 30, 2006, and in the New York State Environmental Notice Bulletin on August 30, 2006. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received and the Conditional Negative Declaration was issued on November 13, 2006.

#### **UNIFORM LAND USE REVIEW**

This application (C 060102 ZSM) was certified as complete by the Department of City Planning on August 21, 2006 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 September 14, 2006 and on September 21, 2006 by a vote of 35 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation on November 2, 2006, approving the application.

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

On October 25, 2006 (Calendar No. 2), the City Planning Commission scheduled November 15, 2006 for a public hearing on this application (C 060102 ZSM). The hearing was duly held on November 15, 2006 (Calendar No. 15). There were three speakers in favor of the application and none in opposition.

The applicant's attorney described the proposal and stated that it met the requisite findings. The attorney stated that the applicant agreed to the condition of the Community Board which calls for the applicant not to lease the ground floor space of the subject building to a restaurant or a bar. The Chair of Community Board 2's Land Use Committee read the board's recommendation. The Director of Land Use for the Borough President reiterated the Borough President's support for 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 1897, 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 fifteen to twenty 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 introduction of Use Group 6 uses on the ground floor will be consistent with established land use trends in the greater SoHo neighborhood.

The proposed use modifications will facilitate the renovation and preservation of 149 Wooster Street. The conversion and 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 subject to the following conditions:

For the property located at 149 Wooster Street (Block 515, Lot 27), the applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan. The applicant further agrees, via a restrictive declaration, to collect adequate floor samples from specified areas within the building for heavy metals testing; to conduct a thorough ACM and lead-based paint survey (prior to any demolition or renovation work), the results of which are to be incorporated into an O&M or abatement plan implemented in accordance with all applicable government regulations; and to remove/close the 5,000-gallon fuel oil AST system pursuant to all applicable government regulations.

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 First Wooster LLC, for a special permit

pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-14(D)(1)(b) to allow Joint Living Work Quarters for Artists on the 3<sup>rd</sup> through 8<sup>th</sup> Floors and penthouse, and Section 42-14D(2)(a) to allow a retail use (Use Group 6 uses) on the ground floor and cellar of an existing 8-story building and proposed penthouse with a lot coverage greater than 5,000 square feet and a lot area greater than 3,600 square feet, on property located at 149 Wooster Street (Block 515, Lot 27) 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 060102 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 Lee H. Skolnick Architecture + Design Partnership, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A1.00	Zoning Computations	July 31, 2006
A1.01	Proposed Cellar Use	July 31, 2006
A1.02	Proposed 1 <sup>st</sup> Floor Use	July 31, 2006
A1.04	Proposed 3 <sup>rd</sup> Floor Use	July 31, 2006
A1.05	Proposed 4 <sup>th</sup> Floor Use	July 31, 2006
A1.06	Proposed 5 <sup>th</sup> Floor Use	July 31, 2006
A1.07	Proposed 6 <sup>th</sup> Floor Use	July 31, 2006
A1.08	Proposed 7 <sup>th</sup> Floor Use	July 31, 2006
A1.09	Proposed 8 <sup>th</sup> Floor Use	July 31, 2006
A1.10	Proposed Roof Use	July 31, 2006
A2.03	Building Section and Sky Exposure Plane	July 31, 2006

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. The development shall conform to all conditions, modifications and alterations set forth in the conditional negative declaration (CEQR No. 06DCP017M) dated August 16, 2006, issued pursuant to the New York State and New York City Environmental Quality Review. These conditions, modifications and alterations are as follows:

1. The applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

2. The applicant agrees via a restrictive declaration to collect and test for heavy metals adequate floor samples from the basement, where a waste storage drum is located and the 5<sup>th</sup> and 6<sup>th</sup> floor levels, where the Allied Brass Company exists.

3. The applicant agrees via a restrictive declaration to conduct an ACM and lead-based paint survey prior to any demolition and renovation work, and to incorporate the survey results into an adequate O&M or abatement plan, for implementation in accordance with all applicable federal, state and local regulations.

4. The applicant agrees via a restrictive declaration to remove/close the 5,000-gallon fuel oil AST system pursuant to all applicable federal, state and local regulations.

5. 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.
6. 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.
7. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated December 8, 2006, executed by First Wooster 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.
8. 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.

9. 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 060102 ZSM), duly adopted by the City Planning Commission on December 20, 2006 (Calendar No.13), 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**

**ANGELA M. BATTAGLIA, ANGELA R. CAVALUZZI, R.A.,**

**ALFRED C. CERULLO, III, RICHARD W. EADDY, JANE D. GOL, LISA A. GOMEZ,**

**CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS,**  
Commissioners