



IN THE MATTER OF an application submitted by 83 Spring Street Associates, LLC and 83 Spring Group LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the use regulations of Section 42-14(D)(2)(b) to allow Use Group 6 uses on the ground floor and cellar floor of an existing 5-story building, on property located at 83 Spring Street (Block 497, Lots 1001-1005), in an M1-5B District, within the SoHo-Cast Iron Historic District, Borough of Manhattan, Community District 2.

The application was filed by 83 Spring Street Associates, LLC and 83 Spring Group LLC on February 25, 2010, for a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the use regulations of Sections 42-14D(2)(b) of the Zoning Resolution to permit Use Group 6 uses below the floor level of the second story of a building located in an M1-5B zoning district in the SoHo area in Manhattan.

BACKGROUND

83 Spring Street is a five-story building located on the north side of Spring Street between Broadway and Crosby Street. The subject building occupies 2,817 square feet of lot area; 12,619 square feet of floor area; and a FAR (floor area ratio) of 4.29.

Pursuant to Section 42-14D(2), uses below the floor level of the second story in M1-5B Districts are restricted to Use Groups 7, 9, 11, 16, 17A, 17B, 17C, or 17E (including wholesale, warehouse and light manufacturing uses). Use groups other than those permitted may be allowed by special permit pursuant to Section 74-781 provided that the City Planning Commission finds that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a permitted use at fair market rentals. The good faith marketing of the space shall have been pursued for a minimum of six months for buildings occupying less than 3,600 square feet of lot area.

This application seeks to allow a total of approximately 4,151 square feet of retail area; 2,111 square feet of retail space (Use Group 6) on the ground floor; and 2,040 square feet on the cellar level of 83 Spring Street. The second and third floors of the building are vacant and the fourth and fifth floors are each occupied by one unit of Joint Live-Work Quarters for Artists.

The surrounding neighborhood is primarily a mix of five- to seven-story commercial buildings and loft structures with joint living-work quarters for artists on the upper floors and home furnishings and clothing stores, arts and design related studios, and galleries on the ground floor.

ENVIRONMENTAL REVIEW

This application (C 100249 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 lead agency is the City Planning Commission. This application was determined to be a Type II action which requires no further environmental review.

UNIFORM LAND USE REVIEW

This application (C 100249 ZSM) was certified as complete by the Department of City Planning on May 24, 2010, and was duly referred to Community Board 2 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 2 held a public hearing on this application on June 10, 2010, and on June 17, 2010, by a vote of 40 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 July 20, 2010, approving the application.

City Planning Commission Public Hearing

On July 28, 2010 (Calendar No. 5), the City Planning Commission scheduled August 11, 2010, for a public hearing on this application (C 100249 ZSM). The hearing was duly held on August 11, 2010 (Calendar No. 16). There was one speaker in favor of the application and none in opposition.

A representative of the Borough President reiterated the Borough President's recommendation of approval.

There were no other speakers and the hearing was closed.

CONSIDERATION

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

Approval of the special permit application (C 100249 ZSM) pursuant to Section 74-781 of the Zoning Resolution would modify the use regulations of Sections 42-14D(2)(b) and allow Use Group 6 (retail) uses on the ground floor and cellar level of the subject building.

The Commission believes that the applicant has made the necessary good faith marketing effort for a period of more than six months. Such efforts included signing an exclusive agency agreement with two real estate brokers in January 2008 familiar with marketing space in SoHo; and publishing weekly ads in the Village Voice and The New York Post beginning March 2008. Additional efforts included notifying local and citywide industry groups of the availability of the spaces, including the Industrial Space Bank at the New York City Economic Development Corporation. Such marketing efforts proved unsuccessful as they did not succeed in obtaining a conforming use.

The Commission believes that the applicant did make a good faith effort to lease the space to a conforming use. The Commission notes that the applicant adhered to the good faith marketing guidelines, as outlined in Section 74-781 of the Zoning Resolution, and was unable to secure a conforming tenant.

FINDINGS

The City Planning Commission hereby makes the following finding pursuant to Section 74-781 (Modifications by Special Permit of the City Planning Commission) of the Zoning Resolution:

that the owner of the space, or the predecessor in title, has made a good faith effort to rent such space to a mandated use at fair market rentals. Such efforts shall include but not be limited to: advertising in local and citywide press, listing the

space with brokers, notifying the New York City Office of Economic Development, and informing local and citywide industry groups. Such efforts shall have been actively pursued for a period of no less than six months for buildings under 3,600 square feet and one year for buildings over 3,600 square feet prior to the date of the application for a special permit.

RESOLUTION

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and finding described in this report, the application of 83 Spring Street Associates LLC and 83 Spring Group LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the use regulations of Section 42-14(D)(2)(b) to allow Use Group 6 uses (retail uses) on the ground floor and cellar floor of an existing five-story building on property located at 83 Spring Street (Block 497, Lots 1001-1005), in an M1-5B 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 100249 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Israel Peles Architects P.C. filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-001.00	Site Plan	2/4/10
A-002.00	Zoning & Floor Area Summary	2/4/10
A-004.00	Cellar and First Floor Plans	2/4/10
A-006.00	Building Section	2/4/10

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

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

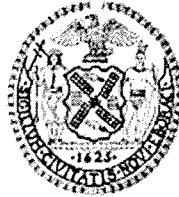
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 100249 ZSM), duly adopted by the City Planning Commission on September 15, 2010 (Calendar No. 7), 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, FAICP, Chair

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
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NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. MCRAE,
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COMMUNITY BOARD No. 2, MANHATTAN

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June 22, 2010

Amanda Burden, Chair
City Planning Commission
22 Reade Street
New York, New York 10007

Dear Chair Burden:

At its Full Board meeting on June 17, 2010, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

83 Spring Street (Block 497, Lots 1001-1005) City Planning special permit pursuant to Section 74-781 of the New York City Zoning Resolution for modification of Section 42-14D(2)(b) to allow for commercial use, Use Group 6, on the cellar and ground floors, of an existing five story building in an M1-5B district.

WHEREAS, the surrounding area was posted and there was no community opposition to this application, And

WHEREAS, There are mostly commercial uses in the surrounding buildings, And

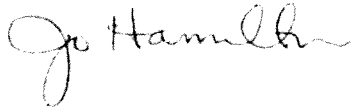
WHEREAS, The proposed usage is consistent and compatible with the other uses in this building and in the surrounding buildings and will have no adverse impacts on the neighborhood;

THEREFORE BE IT RESOLVED, that CB#2, Man. is satisfied that the applicant has met the requirements for this special permit, And

BE IT FURTHER RESOLVED, that CB#2, Man. supports this application for a City Planning special permit pursuant to Section 74-781 of the New York City Zoning Resolution for modification of Section 42-14D(2)(b) to allow for commercial use, Use Group 6, on the cellar and ground floors, of an existing five story building in an M1-5B district.

Vote: Unanimous, with 40 Board members in favor.

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



Jo Hamilton, Chair
Community Board #2, Manhattan



David Reck, Chair
Land Use and Business Development Committee
Community Board #2, Manhattan

JH/fa

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Thomas K. Duane, NY State Senator
Hon. Daniel L. Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Hon. Margaret Chin, Council Member
Hon. Rosie Mendez, Council Member
Sandy Myers, CB2 Liaison, Man. Borough President's office
Lolita Jackson, Manhattan Director, CAU
Vivian Awner, Community Board Liaison, Dept. of City Planning
Lorna Edwards, Land Use Review Unit, Dept. of City Planning
Jeff Mulligan, Executive Director, Board of Standards & Appeals
Magdi Mossad, P.E., Man. Borough Commissioner, NYC Department of Buildings
Applicant

Borough President Recommendation

SV/VA/SM/J
/A

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: C 100249 ZSM

Docket Description:

In the Matter of an application submitted by 83 Spring Street Associates, LLC and 83 Spring Group LLC pursuant to Section 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the use regulations of Section 42-14(D)(2)(b) to allow Use Group 6 uses on the ground floor and cellar of an existing 5-story building, on property located at 83 Spring Street (Block 497, Lots 1001-1005), in an M1-5B District, within the SoHo-Cast Iron Historic District, Borough of Manhattan, Community District 2.

CITY PLANNING COMMISSION
2010 JUL 20 PM 2:40
DEPT. OF CITY PLANNING

COMMUNITY BOARD NO: 2

BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached


BOROUGH PRESIDENT

7/20/10
DATE



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

SCOTT M. STRINGER
BOROUGH PRESIDENT

CITY PLANNING COMMISSION
2010 JUL 20 PM 2:47
DEPT OF CITY PLANNING

July 20, 2010

**Recommendation on
ULURP Application No. C 100249 ZSM – 83 Spring Street
by 83 Spring Street Associates, LLC and 83 Spring Group, LLC**

PROPOSED ACTION

83 Spring Street Associates, LLC and 83 Spring Group, LLC¹ (“applicant”) seek approval for a **special permit pursuant to Section 74-781** of the New York City Zoning Resolution (“ZR”) to modify the use regulations of ZR § 42-14(D)(2)(b) to allow Use Group 6 (retail and service uses) on the ground floor and cellar of an existing building in the SoHo-Cast Iron Historic District. The subject building is located at 83 Spring Street (Block 497, Lots 1001-1005) within an M1-5B zoning district in Community District 2.

In order to grant the special permit, the City Planning Commission (“Commission”) must find that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a permitted use at fair market rate. Such efforts shall include, but not be limited to, advertising in local and citywide press, listing the space with brokers, notifying the New York City Office of Economic Development, and informing local and citywide industry groups. Such efforts must have been actively pursued for a period of no less than six months for buildings under 3,600 square feet, and for one year for buildings over 3,600 square feet, prior to the date of the application for a special permit.

PROJECT DESCRIPTION

The applicant seeks approval to allow Use Group 6 uses on the ground floor and cellar of an existing five-story mixed-use building at 83 Spring Street. The applicant controls and is in ownership of the cellar through third floor; the other floors are under separate ownership. Previously the New York Open Center (the “Center”), a not-for-profit holistic adult education center, occupied the cellar through the third floor. The Center chose to relocate in 2007, and the space has remained vacant since January of 2008.

¹ The LLCs’ primary owner-representative is Erez Itzhaki of Itzhaki Properties.

The project site is located in the SoHo-Cast Iron Historic District on Spring Street between Broadway and Lafayette Street. The current land uses in the immediate neighborhood include residential, commercial, and a few light industrial uses. All buildings, except 12, in a 400-foot radius have Use Group 6 ground-floor retail.

The building is located in an M1-5B zoning district, which does not allow Use Group 6 below the second story of any building as-of-right.² Use Group 6 allows retail and service establishments that serve local shopping needs. The building has a total of 12,619 SF, of which approximately 5,634 SF located on the cellar level and ground floor is proposed to be used for retail. The second and third floors, which are not subject to this application, are anticipated to be used for an as-of-right use, such as loft dwellings or commercial space. The fourth and fifth floors, also not subject to this application, would remain as loft dwellings.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on June 17, 2010, Manhattan Community Board 2 recommended approval of this application by a unanimous vote of 40 in favor.

BOROUGH PRESIDENT'S COMMENTS

Manufacturing areas within Manhattan's SoHo neighborhood have undergone significant transition. As uses in the neighborhood continue to reflect a greater mixed-use character, it is important that the Commission monitors these changes and their effects carefully to ensure that as-of-right uses be given priority in order to maintain the integrity of the neighborhood's zoning.

The special permit pursuant to ZR § 74-781 allows certain use modifications in buildings in M1-5A and M1-5B districts, which are mapped in SoHo and NoHo. The special permit process allows a use modification only when the Commission has declared that the application meets certain findings. Generally, as long as all requisite findings are met, it is sound public policy to allow ground-floor uses that would enliven the streetscape or provide for the neighborhood's local needs.

A use modification in an M1-5B zoning district to allow Use Group 6 on the floors below the second level is permitted only after the Commission has found that a good faith effort was made to rent such space to a mandated use at a fair market rate. The applicant marketed the subject space for one and one-half years. The site was listed with two brokers familiar with the SoHo neighborhood and marketed for conforming uses within an M1-5B zoning district.

Advertisements for the space were placed in *The New York Post* and *The Village Voice*. Furthermore, the applicant notified the Economic Development Corporation, The Association of Graphic Communications, The Chambers/Canal Civic Association, The Association of Commercial Property Owners, The Garment Industry Development Corporation, The Federation of Apparel Manufactories, UNITE, and The Chinese American Planning Council, Inc. These efforts were conducted well over the 12-month period of marketing required by the special

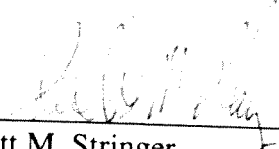
² In M1-5B zoning districts, only Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E (generally wholesale, warehousing, and light industrial uses) are permitted as-of-right below the second story of a building.

permit. Even with these efforts, the applicant was unable to rent the space for a mandated use at fair market rate.

BOROUGH PRESIDENT'S RECOMMENDATION

The application for a use modification to allow Use Group 6 on the ground floor and cellar of an existing five-story building at 83 Spring Street meets the required finding for the requested special permit, namely that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a mandated use at fair market rate.

Therefore, the Manhattan Borough President recommends approval of ULURP Application No. C 100249 ZSM, to grant a Special Permit pursuant to ZR § 74-781.



Scott M. Stringer
Manhattan Borough President