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COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

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May 25, 2018

Marisa Lago, *Chair*
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Ms. Lago:

At its Full Board meeting on May 24, 2018, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

***27 East 4th Street** (between Lafayette Street and the Bowery) CPC has three ULURP #'s for proposed text amendment (N 170115 ZRM) and (170116 ZSM and 170117 ZSM) for two special permits to allow modifications of use and bulk to facilitate the development of an eight-story commercial building located within an M1-5B zoning district, in the NoHo Historic District Extension.

Whereas:

1. This is an application for one text amendment and two special permits under Section 74-712: one for height and setback modifications, the other to permit Use Group 5 (transient hotel and accessory uses) below the second story.
2. Approval will facilitate the construction of 28-room hotel with a 200-seat restaurant (Use Group 6C, not 6A or 12A) and lobby on the ground floor in an eight-story building, located in the NoHo Historic District Extension (M1-5B) that will rise without setback to a height of 90'-10". Request for no setback is one of the special permits sought.
3. As-of-right construction is restricted to a specific set of conforming uses that includes hotels and offices. As-of-right, the applicant could build a six-story hotel with the hotel lobby on the second floor.
4. On April 8, 2014, the LPC voted to approve the demolition of the existing one-story building located at 27 E Fourth St. and the design of the proposed building.
5. The Merchant's House Museum (1832), a New York City, New York State and National Landmark with a rubble foundation, is next door at 29 E Fourth St. It is an entirely unique, enormously treasured, and fragile and irreplaceable landmark and museum.

6. At the April 11 meeting of the CB2 Land Use committee, eight speakers and approximately 200 individuals opposed the application because of the possibility of massive and irreparable harm to the foundation, underpinning, and original plaster on the interior, as a result of the proposed demolition and construction.
7. John Krawchuk, executive director of the Historic House Trust, in his testimony, pointed out the following deficiencies and inaccuracies in the project EAS, which need to be investigated and, if true, rectified:
 - a. Page 6: The EAS application indicates there is no effect on a public resource, but the Merchant's House is, in fact, publicly-owned land under the jurisdiction of NYC Parks. Construction next door will likely require the house to close for an extended period of time and for the collections to be moved out of the house, preventing it from serving its mission as a public museum.
 - b. Page 7: Under Item 5 Shadows, the applicants answered "no" to Question b: Would the proposed project result in any increase in the structure height and be located adjacent or across the street from a sunlight-sensitive resource? In fact, there is a proposed increase in the height of the building to create a "street wall" and a public garden that relies on sunlight is located in the rear yard of the house. A full shadow study should be conducted.
 - c. Page 7: Under Item 6 Historic and Cultural Resources, the impact of construction and in-ground disturbance on the project site is of high concern for CB2. The design details and construction means and methods for the project site should be fully disclosed at this stage to determine the potential impacts to the house. Even significant monitoring, shoring and remedial stabilization work cannot really ensure the protection of the fragile structure and interiors next door.
 - d. Page C-1: Under Attachment C: Shadows, Definition and Methodology, the legend and map for the Shadows section describes the rear yard of the Merchant's House as a vacant lot. It is in fact a public garden on NYC Parks Dept. land. This section must include more details of the Merchant's House so that impacts are understood.
 - e. Attachment D: Under Historic and Cultural Resources, this section completely omits any reference to the landmark Merchant's House as an individual NYC Landmark and Interior Landmark listed on the National Register of Historic Places. This section should be revised and proper analysis conducted for significant and non-significant impacts of the proposed project on the Merchant's House.
8. These deficiencies and inaccuracies adversely affect the credibility of the applicant's other assertions and need to be investigated and rectified before any modifications of use and/or bulk are considered.
9. Credible testimony indicates that the proposed project will adversely affect structures and open space in the vicinity in terms of location and access to light and air, namely the Merchant's House Museum and its garden.
10. The bulk and use modifications are requested under ZR 74-712, but a text amendment would be required because the current text does not apply when existing lot coverage exceeds 40%.
11. The application for a text change does not provide credible land use considerations to explain why the 40% requirement should be changed for this single site. For example, no case is made that the property cannot be well-used as currently developed as a one-story building with full lot coverage, perhaps in conjunction with an adjacent property on Lafayette Street owned by the same party.

12. CB2 Manhattan has recommended approval of 74-712 text amendments in the past when strong land use arguments were presented and applicants have sought and obtained support from the surrounding community and immediate neighbors.
13. The proposed text change would affect no other sites citywide, and thus represents an effort to alter the zoning resolution to serve the private interests of the applicant exclusively, with no public benefit and with substantial potential harm to the Merchant House, an important public resource.
14. Neighbors spoke against the hotel use, which would be facilitated by the proposed modifications.

Therefore, CB2 recommends denial of the application for a text change and two special permits to facilitate the application for bulk and use changes under 74-712 unless and until the proposed development is modified so as to avoid all harm to the Merchant's House Museum as evidenced by support of the Museum board and the New York City Parks Department.

Vote: Unanimous, with 41 Board members in favor.

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


Sincerely,



Terri Cude, Chair
Community Board #2, Manhattan



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



Frederica Sigel, Co-Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

TC/jt

c: Hon. Carolyn Maloney, Congresswoman
Hon. Brad Hoylman, State Senator
Hon. Deborah Glick, Assembly Member
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Carlina Rivera, Council Member
Sylvia Li, Dept. of City Planning

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May 25, 2018

Margery Perlmutter, Chair
NYC Board of Standards & Appeals
40 Rector Street, 9th Floor
New York, New York 10006-1705

Dear Chair Perlmutter:

At its Full Board meeting on May 24, 2018, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

***2-4 Spring Street** (south side between Bowery and Elizabeth Streets) BSA Cal No 2017-224-BZ is an application for a new special permit for a physical culture establishment for martial arts and exercise training called "Hit House" situated on the lower level floor, pursuant ZR 73-36.

Whereas:

1. This is an application for a new special permit for a physical culture establishment for martial arts and exercise training called "Hit House," situated in the cellar and on the first floor, pursuant ZR 73-36.
2. The premises is located in the Special Little Italy District, a C6-1 zoning district.
3. This use is located as to not impair the essential character or the future use of development of the surrounding area.
4. The PCE contains 3373sf of floor area dedicated to facilities for classes, instruction and programs for physical improvement and martial arts.
5. A term of 10 years is requested.
6. Because the facility is located entirely within the existing building, it will not interfere with any public improvement projects.
7. Hours of operation will be 7am to 7pm Monday through Friday and 10am to 3pm Saturday and Sunday. The proposed PCE is designed for class use only and each class will have a maximum capacity of 32 occupants.
8. The PCE is ADA-accessible.
9. No portion of the proposed PCE will be located on the rooftop of the subject building, it is appropriately located on an improved street, and the PCE has no potential hazards or disadvantages that will adversely impact the privacy, quiet, light and/or air within the neighborhood.
10. The two open DOB violations and two open ECB violations for the building have been cured.

11. There have been numerous complaints from multiple addresses about loud instructor voices, vibration, music and the sound of punching bags emanating from the studio and infiltrating the common rear yard. In response to complaints, some sound attenuation measures have been taken (subwoofers were removed from the walls and sound-proofing blankets were attached to the windows, but they have not yet solved the problem.
12. On May 4, the applicant reported that the landlord agreed to replace the four windows with new triple-glazed windows.

Therefore, CB2 Manhattan recommends denial of this application until the BSA is assured that a permanent, adequate and effective noise mitigation system has been installed.

Vote: Unanimous, with 41 Board members in favor.

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

Sincerely,



Terri Cude, Chair
Community Board #2, Manhattan



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



Frederica Sigel, Co-Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

TC/jt

c: Hon. Nydia Velasquez, Congresswoman
Hon. Brian Kavanagh, State Senator
Hon. Yuh-Line Niou, Assembly Member
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Margaret Chin, Council Member

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May 25, 2018

Margery Perlmutter, Chair
NYC Board of Standards & Appeals
40 Rector Street, 9th Floor
New York, New York 10006-1705

Dear Chair Perlmutter:

At its Full Board meeting on May 24, 2018, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

***61-63 Crosby Street** (between Spring and Broome Streets) BSA Cal. #2017-246-BZ Application submitted for a variance to permit retail use on the ground floor, pursuant to section 72-21

Whereas:

1. This is a variance application to allow the ground floor of 61 Crosby to be used as Use Group 6 retail. The ground floor of 63 Crosby is already authorized for such use per its Certificate of Occupancy.
2. The proposed use is part of a larger commercial development of the site that will convert the entirety of the two buildings' ground floor into retail spaces and its upper floors into offices. Such uses are permitted as-of-right throughout the buildings, which are located in an M1-5B district and the SoHo-Cast Iron Historic District Extension, except for the retail use of the ground floor of 61 Crosby.
3. The variance sought only concerns the southerly portion of the ground floor of 61 Crosby, which as-of-right can only be used as a Joint Live-Work Quarter for Artists. The remaining floors contained JLWQA units, although the building is currently vacant.
4. The two buildings were originally recognized by the Department of Buildings under two separate Building Identification Numbers. However, a predecessor in title chose to merge the two lots and the current owner seeks to develop them in tandem. The only CO (from 1984) treats them as one building with the address 61-63 Crosby.
5. The property was acquired in February 2016. Based on a review of the CO, applicant asserts that the ground floor of 63 Crosby was used as an art gallery from December 27, 1984 until the end of 2012, at which point the space was used as a retail clothing store until February, 2016, the date by which most of the building became vacant. The CO's notation on the art gallery permits UG 6 and 17D, but does not indicate which address the art gallery occupies.

6. With respect to 61 Crosby, based on a review of the property's CO, applicant asserts that the ground floor was used as JLWQA from December 27, 1984 until most of the building became vacant in February, 2016. To applicant's knowledge, 61 Crosby has never been used as retail space.
7. With respect to the A Finding of unique physical conditions, the shape and size of this lot is ubiquitous throughout Manhattan. Moreover, the applicant is arguing simultaneously that the odd-shaped site is a hardship because the rear of 61 Crosby extends 15'-3" beyond the rear of 63 Crosby (true, but only if they are considered as a single lot) AND that the lots' narrowness is also a hardship (also true, but only if they are considered as two distinct lots). Which argument do they want to prove?
8. With respect to "uniqueness" (meaning "one-of-a-kind," "unlike anything else" and a word which long ago lost its original meaning in the variance process), the neighborhood is replete with ground floor retail stores but the applicant believes that its predicament is both rare and difficult because only 13 out of the 483 properties within 1000 ft. of the site are less than 3200sf, less than 30 ft. wide, and cannot put their ground floors to use as retail stores.
9. The application does not successfully make the argument for anything but a self-inflicted "hardship."
10. The Economic Analysis Report reflects numbers that, if actually accurate, would be unacceptable to most developers: as-of-right development costs of \$40.9 million vs. proposed renovation costs of \$41 million (only \$100,000 more than as-of-right?) plus a profit of only \$400,000 on proposed development costs of \$41 million. In addition, financial report analyzes one merged space and applicant stated at the meeting that it intends to keep the retail spaces separate.
11. At the meeting, the applicant agreed to keep the two addresses as separate retail spaces.
12. The applicant also agreed to no eating or drinking establishments.

Therefore, CB2 recommends denial of the application based on its failure to meet the required findings and its general contradictoriness. CB2 does not believe that the proposed use would adversely affect neighborhood character or nearby uses, if the following conditions were included in a revised application:

- 1. That no eating or drinking establishments on these premises.**
- 2. That 61 Crosby and 63 Crosby remain two separate retail spaces.**
- 3. That BSA enforce "uniqueness" as grounds for a variance.**

Vote: Unanimous, with 41 Board members in favor.

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

Sincerely,



Terri Cude, Chair
Community Board #2, Manhattan



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

Frederica Sigel

Frederica Sigel, Co-Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

TC/jt

c: Hon. Jerrold Nadler, Congressman
Hon. Brian Kavanagh, State Senator
Hon. Deborah Glick, Assembly Member
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Margaret Chin, Council Member