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COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

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Greenwich Village ✦ Little Italy ✦ SoHo ✦ NoHo ✦ Hudson Square ✦ Chinatown ✦ Gansevoort Market

June 22, 2018

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

Dear Ms. Lago:

At its Full Board meeting on June 21, 2018, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

***Hudson Square BID Proposed Expansion** - Hudson Square Connection will present the proposed expansion of the Business Improvement District (BID).

Whereas

1. The Hudson Square Business Improvement District and its District Plan were created in 2008 and the Plan was amended in 2013, following the establishment of the Special Hudson Square (Zoning) District to create a new assessment class (Class F) for residential properties developed under the special zoning district.
2. This expansion of the district is described in the Amended District Plan, created in 2018, modifies, amends and replaces the 2013 Amended District Plan in its entirety for the Hudson Square BID and its corresponding district management association, The Hudson Square Connection.
3. The current boundaries are properties bounded by Greenwich St on the west, West Houston St on the north, and generally Sixth Avenue on the east and Canal Street on the south.
4. This application is to expand the boundaries to more accurately reflect the physical and economic neighborhood known as Hudson Square; and
5. The proposed boundaries will extend to include properties north to Clarkston St. and west to West St.
6. The scope of services remains unchanged.

Therefore, CB2 Manhattan has no objection to this expansion.

Vote: Passed, with 35 Board members in favor, 4 opposed (G. Silvera Seamans, K. Bordonaro, S. Russo, R. Sanz), and 2 abstentions (A. Zeldin, D. Diether).

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. Jerrold Nadler, Congressman
Hon. Brad Hoylman, State Senator
Hon. Deborah Glick, Assembly Member
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey Johnson, City Council Speaker
Sylvia Li, Dept. of City Planning

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June 22, 2018

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

Dear Ms. Lago:

At its Full Board meeting on June 21, 2018, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

***M1 Hotel Text Amendment** (N 180349 ZRY) Department of City Planning (DCP) is proposing a citywide zoning text amendment to establish a new special permit for hotels in M1 districts under the jurisdiction of the City Planning Commission (CPC). These uses are currently as of right in M1 districts and, if passed, would require a special permit (except in MX and M1/R).

Whereas:

1. The NYC Department of City Planning proposes a zoning text amendment to require a City Planning Commission Special Permit for new hotels within all M1 districts. This proposal would limit the potential for conflicts between uses as well as achieve a balanced mix of uses and jobs in neighborhoods by ensuring that sufficient opportunities for industrial, commercial, and institutional growth remain.
2. Light Manufacturing zoning districts (M1 zones) have emerged as areas of opportunity, presenting some of the city's last reservoirs of buildable land, but rules regulating land use and development in these districts have changed little since the city was comprehensively rezoned in 1961.
3. Given the disparate characteristics of the city's M1 districts and M districts' position as potential areas to support economic opportunity and services for a growing residential population, the Department of City Planning needs to ensure that sufficient opportunities for industrial, commercial, and institutional growth remain, and believes it would be beneficial to revisit the zoning framework for M1 districts.
4. The New York City Department of City Planning (DCP) is proposing this zoning text amendment to establish a new Special Permit under the jurisdiction of the City Planning

Commission (CPC) for new hotels, motels, tourist cabins, and boatels in light manufacturing (M1) districts citywide.

5. By establishing a new CPC special permit, DCP proposes a case-by-case, site-specific review process to ensure that hotel development occurs only on appropriate sites, based on reasonable considerations regarding whether a hotel presents the potential for conflicts with the surrounding uses and how well a hotel reflects the general character of the surrounding area.
6. The proposed CPC Special Permit would apply to all M1 districts, excluding M1 districts with existing hotel Special Permit provisions, since appropriate controls for hotel development have already been implemented for these areas.
7. Any hotel existing within M1 districts on the date of adoption of the proposed zoning text amendment would be considered a conforming use, meaning that any enlargement or extension would be permitted so long as it does not exceed 20% of the existing floor area and the zoning lot is not enlarged. Any enlargement or extension that does exceed 20% would require the proposed Special Permit.
8. The requirement for a special permit for hotels in M1-5 districts in CB2 will help to assure that such development is not harmful to the mixed-use character of these areas.
9. The M1 districts in CB2 have been transitioning away from traditional manufacturing uses, so the goal in these areas should be to promote and protect a harmonious balance including residential and commercial uses. This requires considerations different from those in districts where traditional manufacturing still dominates.
10. The Hudson Square Special District was created to promote residential and commercial growth in an M16 district and therefore provides very suitable language for manufacturing districts where manufacturing is no longer the predominant use in requiring a finding that *“a harmonious mix of ‘residential’ and non-‘residential uses’ has been established in the surrounding area, and such ‘transient hotel’ resulting from a ‘development’ or ‘enlargement’ is consistent with the character of such surrounding area.”*
11. Including a similar finding in the proposed citywide zoning text amendment would help promote a vibrant mix of uses and provide consistency with existing special permit requirements.
12. In order to be able to protect nearby residences from hotel developments, the planning commission needs to be able to require enforceable conditions in the manner provided under ZR 74-21 Conditions and Safeguards.
13. M1-5A and M1-5B zones exist only in SoHo and NoHo. The proposed text change lacks clarity with regard to how the proposed hotel special permit will affect certain other zoning provisions in these zones.
14. While these areas will benefit from the proposed special permits, changes to the unusual and complex regulations in these areas should only be made after careful study of their impacts on the special character of these historic districts, with input from affected parties.
15. For example, the provisions of 74-711 that encourage landmark preservation should not be bypassed.
16. Currently, retail uses in M1-5A and M1-5B districts, including some hotel uses, are restricted below the level of the second floor, and special permits (74-711, 74-712 and 74-781) are currently available to hotel developers to modify these restrictions. Leaving these permit requirements in place will not be onerous to applicants because they will be able to apply simultaneously for existing permits under a single ULURP.

Therefore, Community Board 2 Manhattan supports a text amendment to require special permits for all hotel development in M1 areas within CB2, but only if:

1. An additional finding is added to protect and encourage a harmonious balance of uses consistent with the mixed-use character of CB2's M1-5 districts where non-manufacturing uses are prevalent.
2. The text change specifically allows the City Planning Commission to prescribe appropriate additional conditions, for example limitations on eating and drinking establishments, based on their impact on residential uses in the area, similar to the Conditions and Safeguards provision from ZR 74-21.
3. The existing restrictions on certain uses below the level of the second floor in M1-5A and M1-5B districts are retained and the text amendment requiring a hotel special permit will not supersede the requirement for any other special permit that may otherwise be applicable.

Vote: Passed, with 40 Board members in favor and 1 opposed (R. Sanz).

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

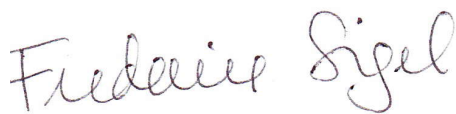
Sincerely,



Terri Cude, Chair
Community Board #2, Manhattan



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



Frederica Sigel, Co-Chair
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Community Board #2, Manhattan

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- c:
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 - Hon. Brad Hoylman, State Senator
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 - Hon. Deborah Glick, Assemblymember
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 - Hon. Gale A. Brewer, Manhattan Borough President
 - Hon. Corey Johnson, City Council Speaker

Hon. Margaret Chin, Councilmember
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Sylvia Li, Dept. of City Planning

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June 22, 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 June 21, 2018, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

***813 Broadway (Between east 11th and 12th Streets)** - BSA Cal No. 197-05-BZ is an application to amend previous approval and to extend construction time by two years. In 2008 BSA granted variance permitting an 11 story building with ground floor retail that exceed the permit FAR, OSR, height and setback dwelling unit count. A variance in 2010 permitted a second elevator and sub-cellar. This amendment is to propose new revised floor plans to accommodate new Codes and site conditions.

Whereas

1. This application is for (1) an amendment to the previously-approved plans under the BSA's resolution dated July 1, 2008, which granted a variance to permit an 11-story residential building with ground floor retail in the C6-1 district and (2) an extension of two years to complete construction at the site.
2. An amendment to the variance was granted on January 12, 2010 that allowed a second elevator and a sub-cellar. An extension of time to complete construction was also granted on August 29, 2014, stating that construction should be completed by April 29, 2018.
3. Since the prior extension was granted, the site's architect has determined that the construction of the new building should be performed in accordance with the 2014 Building Code, which has resulted in loss of floor area and has created non-compliances with the BSA-approved plans. Specifically, the layout of the residential floors 2-11 require significant modification (enlargement of bathrooms, wider entrance foyers and corridors and wider living rooms and bedrooms). Including an increase in stair width and enlarged elevators. The first commercial floor will also require modification as well to account for floor area losses.

4. The new proposed plans also reflect the consequences of an accident at the adjacent property at 809 Broadway that damaged the southern wall of the applicant's property, which required rebuilding, structural repairs and extensive modifications.
5. In order to accommodate the 2014 code changes, the consequences of the wall collapse and the need to relocate the core of the building, the applicant proposes to create a 2'-1" x 28'-0" bump-out at the rear of the building with no increase in FAR. The rear yard will still comply.
6. Due to these changes the applicant requests an extension to the construction time by two years.

Therefore be it resolved that CB2 Manhattan has no objection to this application.

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. Liz Krueger, State Senator
Hon. Deborah Glick, Assembly Member
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Carlina Rivera Councilmember

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June 22, 2018

Richard D. Chandler, P.E.
Commissioner
NYC Department of Buildings
280 Broadway
New York, NY 10007

Hon. Bill de Blasio
Mayor
City Hall
New York, NY 10007

Hon. Corey Johnson
Speaker, NYC Council
City Hall
New York, NY 10007

RE: Retail in SoHo and NoHo M1-5B zoning districts, existing and emerging, operating in excess of the allowed size without the required special permit.

Dear Commissioner Chandler, Mayor de Blasio and Speaker Johnson:

Community Board 2 Manhattan (CB2) strongly supports retailers and especially small businesses in our service area. Non-conforming oversized retail operations, however, often bring numerous harms to our mixed-use neighborhoods and undermine the small and local-serving retailers that employ many and serve as the backbone of a thriving economy. Balance is needed here, along with solid and consistent enforcement of local zoning.

Non-permitted oversized retail – which has been allowed to operate in violation of public policy – has become the rule rather than the exception within CB2’s M1-5B zoning districts.

Continuing conflicts caused by these big retail operations raise concerns among our elected officials and the residents and small business operators of CB2. These issues were raised in a February 2015 letter to the Department of Buildings (DOB) from Manhattan Borough President Gale Brewer, Councilmember Margaret Chin and CB2. CM Chin further highlighted the issue of insufficient zoning enforcement in November 2016, pointing to “broken policies” of DOB; in July 2017 she urged the City to “enforce the law and rein in big-box retail in this historic district.” The issue was raised most recently in a May 18, 2018 letter to DOB from NYS Assemblymember Deborah Glick.

We believe that these oversized non-permitted operations are also a concern for the Department of Buildings, which in the spring of 2017 issued six ECB violations for illegal retail operations along the M1-5B Broadway corridor.

However, during the adjudication of those ECB violations at the Office of Administrative Trials and Hearings (OATH), numerous deficiencies were observed, in regard to both zoning inspections and zoning enforcement. Our goal is to find meaningful paths for correction of these unsatisfactory conditions, so that our local laws are upheld and the quality of life for our community is not unnecessarily diminished. Proposals towards that end are included later in this letter.

All six of those violations were incorrectly written, stating “Illegal use in a commercial district,” rather than correctly citing their locations within a manufacturing district. Further, each violation was written with the incorrect section of law, citing ZR §32-00 rather than ZR §42-00. These errors, submitted by DOB inspectors, led to confusion during the adjudication process. The same mistake resulted in the outright dismissal of one violation, with the OATH hearing officer concluding: “I find that the summons be dismissed as it is defective as the place of occurrence is not in a commercial district. Accordingly, this violation is dismissed.”

The results of the six OATH hearings, after approximately one year of adjudication, are:

A. M1-5B locations where the summonses were Sustained, and the retail operation found to be In Violation:

- 1) ECB Violation # 35226370R (478 Broadway; VNO Broome Street LLC)
- 2) ECB Violation # 35226369J (599 Broadway; 599 Associates LLC)

B. M1-5B locations where the summonses were Dismissed:

- 3) ECB Violation # 35235468J (622 Broadway; Moklam Enterprise)
- 4) ECB Violation # 35235467H (600 Broadway; 600 Broadway Partners LLC)
- 5) ECB Violation # 35226371Z (503 Broadway; 507 Broadway LLC)
- 6) ECB Violation # 35235465Y (546 Broadway; Salva Delaware LLC)

As noted, two of the oversized retail operations are still in violation, with no cure having taken place. Neither of those retailers has downsized or ceased its operations, nor have they begun the process of obtaining the required special permits per ZR §74-922. To date, no serious penalties have been assessed; the two retailers still in violation have each paid the very minimal amount of \$800.

Further, some of the locations where the violations were dismissed due to other deficiencies found in the summons are still operating non-conforming retail in excess of 10,000 square feet. Yet DOB has taken no further enforcement action to bring those operations into compliance with the M1-5B zoning. Meanwhile, oversized retail continues unabated (one example: the Aritzia store at 524 Broadway recently constructed an expansion from less than 10,000 square feet to approximately 18,000 square feet without the oversized retail special permit). Existing and new

operators apparently view the absence of oversight or severe consequences as permission to follow the illegal path, creating additional non-conforming retail operating outside the law.

Why weren't these violating conditions caught by DOB during the work application process?

Indications are that the Department regularly provides approval to proceed even if applications are incomplete or include false statements. Self-certified filings for DOB job applications are not adequately reviewed. When non-conforming operations are noted by citizens providing complaints via 311, applicants – already in operation or with construction underway – point to DOB permit approvals as proof they need no further correction, despite being in violation of the zoning text.

The review and enforcement system is broken.

CB2 understands that resources for enforcement are limited and DOB personnel may not have the precise training to correctly evaluate each situation. Therefore, we suggest the following:

- **Significant and meaningful financial penalties for violations of zoning:**

Violations for operating out of compliance with proper zoning codes, including oversized retail without the proper special permit per ZR §74-922, should include significant fines, set at a level that creates a powerful incentive to conform with the law. These fines should be in the tens of thousands of dollars per violation, with repeated regular assessments of the fines, so that the penalties increase with the amount of time the violation continues to exist.

- **Significant and meaningful penalties for improper self-certifications:**

Any abuse of the privileges granted to licensed professionals in relation to self-certified filings must have serious consequences, such as meaningful financial penalties and the immediate withdrawal of self-certification privileges.

This will serve as powerful incentive to assure that applications are correctly and completely submitted. After the first of these meaningful actions are taken, the word will spread, likely leading to self-correction before self-certified filings are submitted.

- **Better training and management for DOB inspectors:**

When a government agency serves a summons, it is imperative that the information cited in the violation is correct. Citing a C district instead of an M district would not seem a major defect, but violations that have just that one letter wrong can cause dismissal of the violation.

DOB inspectors must write zoning violations correctly. To avoid errors, appropriate supervisory personnel should review applications for zoning violations and, if necessary, make corrections prior to entering the summons into the ECB violation process. This alone would save the City and its residents uncounted wasted money and hours, and result in more proper prevention, prosecution and enforcement of zoning violations.

- **Increased resources for DOB attorneys and OATH hearing officers:**

Hard-working DOB attorneys go from presenting cases for improper cash register operation to major zoning issues with barely a pause, resulting in complex zoning defects that are not properly prosecuted. Compounding this, the hearing officers at OATH have similar problems of being “jack of all trades” and do not always know the nuances of manufacturing district zoning. This results in improper and unsatisfactory adjudication. Both zoning education and case management need attention.

We hope you will consider our recommendations as soon as possible, and inform CB2 of actions we may take in support of having these proposed changes become a reality at the earliest possible time.

Sincerely,



Terri Cude
Chair, Community Board No. 2, Manhattan



Anita Brandt
Co-Chair, CB2 Land Use Committee



Frederica Sigel
Co-Chair, CB2 Land Use Committee

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Hon. Carlina Rivera, Councilmember
Manhattan Borough Commissioner Martin Rebolz, R.A.