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Susan Kent, *First Vice Chair*  
Valerie De La Rosa, *Second Vice Chair*  
Bob Gormley, *District Manager*



Antony Wong, *Treasurer*  
Eugene Yoo, *Secretary*  
Ritu Chattree, *Assistant Secretary*

## COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

[www.cb2manhattan.org](http://www.cb2manhattan.org)

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June 18, 2021

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

Dear Ms. Lago:

At its Full Board meeting on June 17, 2021, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

**Elevate Transit: Zoning for Accessibility (ZFA) Text Amendment:** This proposal would establish a systemwide framework for coordinating the siting and provision of transit station easements and improvements with new developments and enlargements that would allow the MTA to locate access to subway stations within private developments. Sponsored by DCP, Metropolitan Transportation Authority (MTA), City Council and the Mayor's Office for People with Disabilities (MOPD).

Whereas:

1. The MTA and DCP are proposing a citywide text amendment that would facilitate systemwide accessibility, with an emphasis on vertical access.
2. This action is subject to a public review process but not the ULURP process.
3. At present, only 28% of MTA transit stations are ADA accessible.
4. The proposal includes two features: a system-wide transit easement requirement and an expanded transit improvement bonus for high density areas.
5. CB2 supports increased transit accessibility if it is accomplished quickly and relates specifically to ADA accessibility.
6. Even though DCP does not expect the proposed action to induce development where it would not have naturally occurred, the cumulative effect around transit stations could be transformative.

7. The lack of elevators in a majority of subway stations disenfranchises a great many people who need to use public transit from being able to access it or who can only access it with great difficulty.
8. The urgent need to construct subway elevators to provide this requisite ADA access has existed for many years.
9. It is expected that elevator construction may take many years, because of MTA budget limitations. DCP has indicated that such construction is not in the MTA current 10-year capital plan and is not in the forefront of the next one.

The Systemwide **Transit Easement** Would Apply To All Stations in CB2

10. The present easement provision is a requirement for station-adjacent sites in very limited areas.
11. This text amendment would extend the easement requirement systemwide to almost every station in the city.
12. The proposed easement provision would require developments and enlargements on lots >5000sf within 50' of a mass transit station in most zoning districts to submit an application to the MTA and the CPC Chair requesting a determination as to whether or not a transit easement volume is required for future station access.
13. The proposed action would be offered as a new CPC Chair Certification (certified jointly by CPC and MTA), which would be awarded prior to receiving any building permit from DOB.
14. This is the only type of non-discretionary review proposed in ZFA; it will not be referred to community boards.
15. Where easements are provided, zoning modifications, such as a floor area exemption or a reduction in required parking spaces (not required in CB2), would apply.
16. Zoning lots within 50' of mass transit in the designated districts, but <5000sf, can apply for a voluntary provision of an easement volume in exchange for the same zoning relief as larger sites. Conversions would receive a targeted subset of zoning relief. Where clear paths are provided to address sidewalk conditions, street wall relief would apply.
17. In addition, an optional Chair Certification would be created to facilitate the voluntary provision of a transit easement on sites not subject to the requirement.
18. Applicable zoning districts include all manufacturing districts; residential districts at or above R5D (with or without commercial overlay); commercial districts with a residential equivalent at or above R5 districts; and C7 and C8 districts.
19. Easements can take up multiple floors (for underground, at-grade, and elevated stations) and could be used to accommodate station needs such as elevators, staircases, passageways or turnstiles.
20. Relief from easements can take the form of:
  - a. **Floor area and open space:** Excluding easement areas from zoning floor area; treating the easement as a permitted obstruction (in commercial and manufacturing districts, commercial uses on the second floor would be allowed to extend up to 30' in height within the rear yard). Increasing maximum lot coverage in R5, R6 and R7 districts is also an option.
  - b. **Height and setback:** Maximum permitted height increased by 10' for easements serving below-grade stations in R5 and R6 districts; by 20' for above-grade

easements in R7 and above. The portion of the street wall within 15' of an easement would be allowed to recess up to 15' from the street line.

- c. **Use:** Allowing temporary, permitted non-residential uses as well as local retail uses (UG 6) in residential districts while waiting; allowing local retail uses within 30' of easement areas in residential districts; allowing greater flexibility to locate commercial uses on the second floor and allowing second-floor commercial uses to extend into the rear yard at above-grade stations.
  - d. **Parking:** Not applicable in CB2
  - e. **Streetscape provisions:** Excluding easement areas from ground floor use regulations and planting requirements to facilitate station entrance design; curb cuts prohibited within 30' of an easement to ensure safety).
21. There is no increase in FAR with the transit easement, although an increase in height is allowed.

### The Expanded **Transit Improvement Bonus** In High-Density Areas (R9, R10) Would Apply To All But Two Stations In CB2

- 22. The current Transit Improvement Bonus applies to the densest commercial districts (R9 and above) in or near central business districts and offers a floor area bonus for station-adjacent development sites that construct “major” on- or offsite station improvements. It is also currently available in certain Special Purpose Districts. In CB2, those include the Union Square District and the NYU 8<sup>th</sup> St. station (not the Special Hudson Square district or the Special Little Italy District). CB2 has no central business districts.
- 23. This text amendment would extend the Transit Improvement Bonus to lots that are both in R9 and R10 zones and within 500' of a station. Both conditions must be met.
- 24. Through a new CPC Authorization (no longer a Special Permit), the proposed text amendment would grant a floor area bonus of up to 20% of the maximum floor area ratio permitted in the underlying zoning and expand the improvement bonus to commercial districts of 10 FAR and above in Manhattan (R9 and R10 districts plus their commercial equivalents, MX district equivalents, and M1-6 districts).
- 25. CPC Authorizations would be referred out to community boards, but ULURP would not be required except with additional zoning modifications.
- 26. The amount of floor area bonus will be “commensurate with the degree to which such improvements enhance customer access and station environment.”
- 27. This would apply to any development/enlargement projects with zoning lots that are directly adjacent to stations as well as to any zoning lots within 500' of a station (or 1500' of a station in a central business district) and provide a “significant” station improvement. “Significant” improvements include elements like elevators, additional station entrances, mezzanine expansions and platform upgrades.
- 28. A total of 121 stations in Manhattan are located within the designated distances of eligible sites.
- 29. Sites within 500' of a station are also eligible to provide off-site improvements.
- 30. Every project to apply for the expanded transit improvement bonus would be subject to a discretionary review process, with final approval resting with City Planning.
- 31. There are a few exceptions where the transit improvement bonus can be used on top of other citywide floor area bonuses. Voluntary Inclusionary Housing projects can use the transit and affordable housing bonuses singly or in combination. Sites that receive the

transit bonus may be granted additional FAR on top of the maximum FAR permitted through the Mandatory Inclusionary Housing program. For both MIH and VIH, this additional FAR is exempt from the affordable housing requirements.

32. Maintenance of the station improvement by the developer also qualifies for a floor area bonus.
33. A developer would not be allowed to occupy and use the bonus floor area until the MTA determines that the subway improvement is usable by the public.

#### Pertaining To Both The Easement And The Transit Improvement Bonus

34. Where a site providing an easement needs additional zoning modifications beyond what is offered via Certification, additional discretionary actions in the form of an Authorization (including, for unique circumstances, up to an additional 25% in height) or Special Permit (for “very unique” circumstances that require >25% height increase) would be required. Other use, bulk, parking, streetscape, and loading relief measures can be granted. Special Permits require a full ULURP.
35. This text amendment will also create a Special Permit to address instances where a height increase must extend beyond the 25% increase allotted in the above Authorization with the same permitted modifications as above.
36. Both the easement and the improvement bonus are applicable in historic districts. Any construction would be subject to LPC review and approval.
37. “Unique sites” could be provided additional relief, for example to create a transit plaza or provide extra circulation space around a station entrance.
38. If a station is already ADA accessible, improvements can include station access and circulation improvements such as a new entrance, escalators, more elevators, and stairs. The MTA will determine which improvements are appropriate.

#### **Therefore: CB2 recommends approval of the ZFA text amendments with the following conditions:**

1. Any increase in FAR, height and/or bulk must be for an improvement that specifically supports ADA accessibility.
2. No increases in height, bulk and/or FAR without a public process that includes referral to community boards.
3. All developments or enlargements that receive an increase in floor area, bulk, height, etc. as a result of this text amendment must be built to be 100% compliant with federal ADA standards.
4. No increases (FAR, bulk or height) should exceed 20% for any reason.
5. No combination of bonus programs (such as ZFA, VIH and MIH) should be permitted that yields more than a combined 20% increase in FAR, bulk or height.
6. “Major” or “significant” actions resulting from required easements or bonused developments that trigger height, bulk and/or FAR increases must be defined and quantified in the text before the amendment is adopted.
7. Institution of a mechanism that guarantees that developers do not receive bonus FAR and then deliver an unusable station improvement.
8. Priority should be given to swift construction of these improvements.
9. 500’ be reduced to 250’ to be eligible for the transit bonus and off-site improvements.

**Vote:** Passed unanimously with 44 Board members in favor.

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

Sincerely,



Jeannine Kiely, Chair  
Community Board #2, Manhattan



Frederica Sigel, Chair  
Community Board #2, Manhattan  
Land Use & Housing Committee

JK/jt

c: Hon. Jerrold Nadler, U.S. Representative  
Hon. Carolyn Maloney, U.S. Representative  
Hon. Nydia Velazquez U.S. Representative  
Hon. Brad Hoylman, NY State Senator  
Hon. Brian Kavanagh, NY State Senator  
Hon. Deborah Glick, Assembly Member  
Hon. Yuh-Line Niou, Assembly Member  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Corey Johnson, City Council Speaker  
Hon. Carlina Rivera, City Council Member  
Hon. Margaret Chin, City Council Member  
Sylvia Li, Department on City Planning  
Andy Cantu, Department of City Planning

**1. Andrew Cantu, Dept. of City Planning**

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June 18, 2021

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

Dear Ms. Lago:

At its Full Board meeting on June 17, 2021, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

**The Health and Fitness Text Amendment** will modify regulations relating to gyms, spas, licensed massage therapy, and other health and fitness facilities defined as Physical Culture or Health Establishments (PCEs). The proposed text amendment will remove the requirement for such facilities to receive a special permit by the Board of Standards and Appeals (BSA). The proposed citywide text amendment will impact all zoning districts in New York City except R1 and R2 district.

Whereas:

1. The Covid-19 pandemic has resulted in major disruptions to gyms and fitness facilities.
2. The BSA special permit process can take more than six months and costs businesses as much as \$50,000.
3. Removal of the PCE special permit is intended to help businesses in this sector recover and provide needed health-related amenities to communities across the city.
4. The proposed text amendment will remove the requirement for such facilities to receive a special permit by the BSA (ZR 73-36) and add uses currently subject to this special permit to Use Groups that are permitted in certain zoning districts.
5. It will impact every zoning district in the city except R1 and R2 districts.
6. The action will categorize all facilities dedicated to physical fitness and health occupying less than 10,000sf as Use Group 6.
7. Facilities in excess of 10,000sf will be categorized as UG 9.
8. The proposed action would distinguish between establishments containing higher-intensity uses (exercise machines, weights) that have a greater potential to generate noise vs. those with fewer objectionable effects (yoga studios, therapy).

9. Higher intensity uses would have to verify to the Dept of Buildings prior to issuance of a Certificate of Occupancy that the use is designed according to national standards for noise and vibration to meet the NYC Noise Code. These additional requirements would apply to mixed-use buildings in commercial and MX districts.
10. The only objections to PCEs that CB2 has heard in the last eight years are complaints about noise and vibration in mixed use buildings.

**Therefore, be it resolved that CB2 recommends approval of this text amendment with the following conditions:**

1. Verification to the DOB is via professional certification by acoustical engineer—not self-certification.
2. Given the potential for problems in buildings with residential units, all PCEs, regardless of level of intensity of uses, must go through the DOB process for assessing performance standards for noise, vibration, and other quality of life concerns.
3. Hours of PCEs in residential or mixed-use buildings must be reasonably limited.
4. DEP response and enforcement mechanism must be improved.

**Vote:** Passed unanimously with 44 Board members in favor.

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

Sincerely,



Jeannine Kiely, Chair  
Community Board #2, Manhattan



Frederica Sigel, Chair  
Community Board #2, Manhattan  
Land Use & Housing Committee

JK/jt

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