

Applicant's Statement of Findings for Section 11-43

February 23, 2024

11-43

Renewal of Authorization or Special Permit

Any authorization or special permit granted by the City Planning Commission, except one granted with a ten year lapse period, that would automatically lapse as set forth in Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) may be renewed without public hearing, for two additional three-year terms, provided that the Commission finds that the facts upon which the authorization or special permit was granted have not substantially changed. However, all special permits or authorizations granted by the Commission shall lapse after a total of ten years from the date of their original granting if substantial construction has not taken place at such time. An application for a renewal of authorization or special permit shall be filed with the Commission before it lapses.

As noted in LR Item 3 (Project Description), the facts upon which the Special Permit was granted have not changed.¹ No modification from the original application is being requested. The findings required to be made by the Commission, pursuant to Section 74-922, were:

74-922

Certain large retail establishments

In M1 Districts, the City Planning Commission may permit department stores, carpet, rug, linoleum or other floor covering stores, clothing or clothing accessory stores, dry goods or fabric stores, food stores, furniture stores, television, radio, phonograph or household appliance stores, or variety stores, with no limitation on floor area per establishment.

In M1-5 or M1-6 Districts, the Commission may modify the applicable regulations governing height and setback or yards for a change of use, extension or minor enlargement involving a large retail establishment.

In M1-5M Districts, the Commission may also modify the applicable regulations governing loading berths so as to allow the location of such berths off-site in conjunction with a change of use, extension or enlargement of a large retail establishment with a floor area of at least 25,000 square feet within a building designed for residential use.

¹ After issuance of the Special Permit, the Site was rezoned to M1-5/R9X as part of the creation of the SoHo-NoHo Mixed Use District (SNX). Today, an application to permit a Use Group 10A clothing store larger than 25,000 sf would require the CPC to issue a special permit pursuant to ZR 143-31. However, as this is a renewal of a special permit issued pursuant to ZR 74-922, the specific findings of ZR 143-31 are not relevant. However, as explained in the Project Description, an analysis of loading and delivery procedures, similar to the analysis required as a finding under ZR 143-31, was undergone during the original application and adjustments to the Applicant's loading and delivery practices were implemented based on conditions imposed by the CPC and commitments made by the Applicant.

As a condition of granting a special permit for such large retail establishments, the Commission shall find:

(a) that the principal vehicular access for such use is not located on a local narrow street;

The Project Area’s main entrance fronts on Broadway, a wide street. This has not changed since the original application was approved.

The Development Site is located in the Manhattan Core, in a dense urban environment, rather than a shopping center. Therefore, dedicated vehicular access, such as a driveway or parking lot, is not provided. Anyone traveling to and from the Development Site in a private car would need to park on the street or in a public parking garage. The Development Site is within a quarter mile of three subway stations, with R, W, 6, B, D, F and M subway service, and the southbound M55 bus stops on the Development Site’s block on Broadway.

Because of the Development Site’s convenient location to public transit, it is expected that the vast majority of customers and employees will arrive at the Project Area on foot, or by bus or subway. All customers and most employees will enter the Project Area through one of its three doors on Broadway, a wide through street with sidewalks at least 17 feet wide. Modal splits for previously-approved projects in lower Manhattan (including 550 Washington Street, the Hudson Square rezoning and Seward Park) for a destination retail use such as that in the Project Area have been as follows:

Weekday AM and PM peak hours	<ul style="list-style-type: none"> ● 50.5% walk ● 28.5% subway ● 9% auto ● 8% bus ● 4% taxi
Weekday midday and Saturday midday/afternoon peak hours	<ul style="list-style-type: none"> ● 59% walk ● 20% subway ● 9% auto ● 8% bus ● 4% taxi

In total, during weekday AM and PM peak hours, weekday midday and Saturday midday and afternoon peak hours, 87% of people traveling to and from the Project Area will walk or take public transportation.

As detailed in the Environmental Assessment Statement accompanying the original application (the “EAS”), the Proposed Conversion is not expected to alter traffic volumes or conditions at or around the Development Site because there will not be any change to the general use or size of the Project Area or the Development Site. As the proposed use and access point to the use have not changed, the Commission’s conclusion regarding this finding should not change.

(b) that such use is so located to draw a minimum of vehicular traffic to and through local streets;

As described in (a), above, the Store can be accessed by foot or by nearby transportation by the vast majority of the Store's employees and customers. The Store's main entrances (and only customer entrances) are located on Broadway, a wide street with high pedestrian and vehicular traffic flow. The sidewalk outside the Store's Broadway frontage is at least 17 feet wide, and the portion of the sidewalk near the corner of Broadway and Spring Street has been extended to create additional space for pedestrians traveling in the area or waiting for the southbound M55 bus.

Because the Proposed Conversion is a legalization of the current use of the Second Floor,² granting the Special Permit will not cause an increase in traffic, including deliveries, to the Store. In fact, operation of the Store, including the Project Area, allows for organization of deliveries to the Building in an orderly fashion with minimal frequency. Were the Project Area operated as separate Use Group 6 retail establishments, which could be done as-of-right, each separate establishment would receive separate deliveries. This would likely mean multiple delivery vehicles would arrive at different times to service the same amount of retail space.

In accordance with the conditions of the Special Permit, deliveries have been limited to under 10 per week, during the overnight hours, accessed from Broadway.

As detailed in the EAS accompanying the original application, the Proposed Conversion is not expected to alter traffic volumes or conditions at or around the Project Area because there will not be any change to the general use or size of the Building. As the proposed use has not changed and deliveries on the Development Site have been consistent with the Special Permit's conditions, the Commission's conclusion regarding this finding should not change.

(c) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent congestion;

N/A, for the reasons stated in (a) above. No modification is proposed.

(d) that vehicular entrances and exits are provided for such uses and are located not less than 100 feet apart;

N/A, for the reasons stated in (a) above. No modification is proposed.

(e) that in selecting the site due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;

The Building continues to be easily accessible by public transportation. In fact, the portion of Broadway that runs through SoHo is as well or better served by public transit than some of the City's other shopping districts, such as the Upper East Side.

² The remainder of uses that exist in the Building are as-of-right.

The Prince Street subway station, with R and W train service, is located one and a half blocks north of the Zoning Lot at the intersection of Broadway and Prince Street. The Spring Street subway station, with 6 train service, is located two blocks east of the Zoning Lot at the intersection of Spring and Lafayette Streets. The Broadway-Lafayette subway station, with B, D, F, M and 6 train service, is approximately a quarter mile northeast of the Zoning Lot on East Houston Street. MTA bus stops are located along Broadway, providing southbound M1 and M55 bus service. At several locations along Broadway sidewalks have been widened to create extra space for pedestrians waiting for the buses. As access to public transportation has not changed, the Commission's conclusion regarding this finding should not change.

(f) that such use is so located as not to impair the essential character or the future use of or development of the surrounding area;

The Proposed Conversion is consistent with land uses in the Building's surrounding area. The stretch of Broadway that runs through SoHo – from Houston Street to Canal Street – is a major shopping hub. In the past 20 years, there has been an acceleration of retail development and conversion along this portion of Broadway, causing SoHo to be known more for its shopping opportunities than for the artist studios, galleries and small manufacturers that once dominated the area. Today, there are a number of large retailers along Broadway, including Target (600 Broadway), Banana Republic (552 Broadway), Uniqlo (546 Broadway), Nike (529 Broadway), Arizia (524 Broadway), Lululemon (520 Broadway), Bloomingdale's (502 Broadway), and T.J. Maxx (483 Broadway).

The Proposed Conversion would result in the conversion of the 14,005 sf Second Floor from Use Group 17 factory and sales room space to extend a Use Group 10A large retail establishment covering approximately 43,410 gross sf in the Building's cellar and first and second floors (27,635 zoning sf).

Without the Special Permit, the Second Floor could be used as one or more Use Group 6 retail establishments as of right. The selling space in the Building will generate the same amount of vehicular and pedestrian traffic whether used as a single establishment or divided into multiple establishments. Separate establishments may result in additional deliveries to the Building, because independent establishments would not share delivery vehicles or have a coordinated delivery schedule.

The Proposed Conversion represents an extension of the Building's existing Use Group 10 retail space that will attract tenants capable of competing on a stretch of Broadway that has become one of the City's main shopping destinations. As the Proposed Conversion has not changed, Commission's conclusion regarding this finding should not change.

(g) that such use will not produce any adverse effects which interfere with the appropriate use of land in the district or in any adjacent district;

The Proposed Conversion represents the legalization of the current use of the Second Floor as part of the large retail clothing establishment legally operating on the ground floor and cellar. The Proposed Conversion will not result in any alteration to the Building's bulk or exterior

features, or the addition of any partitions or retail fixtures. Granting of the Special Permit will not change any activity currently carried out in the Store, but rather will legalize a portion of the Store's existing activity.

As detailed in the EAS, the Proposed Conversion is consistent with land uses in the Building's surrounding area, will not introduce new shadows or lengthen shadows in the area and will not increase traffic in the area. The Proposed Conversion will not have any significant effect on air quality or noise in the Building's surrounding area. As the Proposed Conversion has not changed, the Commission's conclusion regarding this finding should not change.

(h) that such bulk modifications will not unduly obstruct the access of light and air to surrounding streets and properties; and

N/A. No proposed bulk modifications.

* * *

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.