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May 29, 2014

Richard Barth, Director
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Mr. Barth:

At its Full Board meeting on May 22, 2014, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

C 140299 PPM, C 140300 ZSM, C 140301 ZSM, & C 140302 ZSM-19 East Houston Street on the south side between Broadway and Crosby Street. An application to the City Planning Commission regarding disposition of city land and for a special permits pursuant to ZR 74-712 (a) to allow retail use below the level of the second floor, ZR 74-712 (b) to modify height regulations, and 74-922 to allow a retail store greater than 10,000 square feet in a new 6-story building in an M1-5B district in the Soho Cast Iron Historic District.

A resolution recommending denial of the application unless various conditions are met

Whereas,

1. This proposal for a new six story building on city-owned land at 19 East Houston Street was presented to the CB#2, Man. Land Use Committee on April 19 and May 14. The proposal is for a six-story retail and office building. Approvals are required for disposition of city property, for special permits pursuant to the Zoning Resolution 74-712(a), 74-712(b), 74-922, and a waiver of the requirement for a loading berth under 44-50.
2. In recent years, Broadway in SoHo has been deluged by global brand retailers with huge multilevel flagship stores. The fine old buildings survive, but their appearance is more and more transformed by bright lights and advertising in the windows of multiple floors. Broadway is now inundated with pedestrian traffic and the trend is expanding into the narrow streets of the rest of SoHo. The residential character of the neighborhood is drowning, and historic character is at risk of becoming the mere quaint visual backdrop of an urban retail mall. Ironically, the Environmental Assessment for this project points to the flagship stores that have led the trend as the justification for using publicly-held land to expand and intensify it.

In other words, the project is justified because it supports one existing aspect of neighborhood character, no matter that it is an aspect that is destructive to the quality of the iconic mixed-use historic district of SoHo.

3. The EAS is defective because it skirts the full quantitative review required when sidewalk capacity is reduced, in this case by the addition of new subway ventilation grates. Moving the grates from the site to the sidewalk will reduce sidewalk capacity while the building will bring in thousands of new visitors. The applicant and EDC have sought to mitigate the impact of the new grates by persuading the Department of Transportation to allow the widening of the sidewalk. But while the grates will narrow the paved sidewalk by more than five feet, DOT proposes widening it by only two feet, and there is still no plan to do the quantitative analysis required when sidewalk capacity is reduced. The initial application created additional sidewalk obstruction because retail doors swung into the pedestrian flow, a condition that is improved in a new design that provides for recesses and hardware that reduce this obstruction to “a few inches”.
4. This is a small but high-impact site. Across Broadway, in 1973, installation of “The Wall” by Forrest Myers marked the intersection as the gateway to SoHo. Because Houston bends to the north here, the new façade will be highly visible for blocks from the west and north. According to the application, the building design that won approval from the Landmark Preservation Commission sought to “heal the scar” that was created when Houston Street was widened. But in marketing materials released after the LPC approval we see different images of the giant façade, now dominated by brightly lit commercial images from Crosby Street to Broadway on all floors. Ironically, – again! -- if the apparent commercial goals of the applicant are achieved, we will never know if the architect succeeded in his effort to use modern materials and gestures to create a contemporary building that contributes respectfully to the SoHo Cast Iron Historic District. While the uses of the façade suggested in the marketing materials may be illegal, LPC and DOB have failed to effectively enforce these regulations, and windows in landmark districts are increasingly dominated by advertising. It makes more sense to preclude this use in advance than to increase the burden on inadequate enforcement resources.
5. Without adequate explanation, EDC selected this project despite the applicant’s apparent disregard of guidance provided to bidders stating that MTA would not allow the grates to be moved because of impacts on the operation of the existing fan plant and because the cost of likely future upgrade to the plant would be increased. It is unclear whether other bidders or potential bidders were aware that following the guidance was optional. Further, no cost-benefit analysis has been done to weigh the financial benefits of this project to the MTA versus the potential long-term costs of moving the grates. The proposal is at odds with current MTA policy of keeping new ventilation facilities off of sidewalks.
6. The application includes a request for a special permit under ZR 74-712(a) to allow retail below the level of the second floor. This could be appropriate for the site were it not for the harmful impacts of the quantity and quality of the proposed retail on neighborhood character.
7. The applicant originally misinterpreted ZR 44-50 in a determination that a loading berth would not be required. Now recognizing the error, the applicant plans to seek a waiver under 44-55, but it unclear whether the building meets the specific requirement for the waiver which relates to the rule restricting berths within 50 feet of the intersection of street lines. In any case, no good alternative location for loading is offered, and the difficulty of meeting the zoning text requirement points to the over-burdening of a small site in a heavily congested area.

8. The applicant has also applied for a special permit under ZR 74-922 to allow a single retail store exceeding 10,000 square feet in this M1-5 district. But the requirement for the special permit is that there be no loading from a narrow street and the application fails to provide a means of protecting Crosby Street from this use. When the need for loading from Broadway was taken into consideration, DOT reduced the sidewalk widening it would allow from three feet to two feet, reducing the needed relief to pedestrian overcrowding. This put the special permit requirement in conflict with proposed mitigation of the impact of the ventilation grates. Once again, the difficulties point to the problems caused by the intensity of use proposed for this small site in a congested mixed-use area.
9. The goal of this project is to contribute to the City's \$250 million commitment to the MTA's capital improvement program. This is obviously worthy and appropriate and of importance to the whole City, but the character of SoHo cannot and need not be sacrificed. A better process would have established a role for CB#2, Man. during the early stages of the project when the Request for Proposals was written. Still, this is an extraordinary site and its high value can be achieved without creating a glowing commercial beacon at the gateway to SoHo and without inconveniencing and endangering pedestrians.

"The Wall" was threatened because the building owner wanted to use the side of the building for a billboard. When an agreement was reached to preserve it, artist Forrest Myers said: "This is the rare example of a wall that brings people together instead of dividing them." In that spirit,

CB#2, Man. therefore resolves:

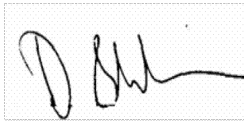
1. CB#2, Man. recognizes the importance of obtaining funding for essential citywide MTA capital improvement and supports the disposition of this site in connection with that commitment in the context of development that is positive for the district.
2. CB#2, Man. recommends denial of a special permit pursuant to ZR 74-712(a) to allow retail use of the first and cellar floors *unless*
 - a. There will be no freight entrance on Crosby Street
 - b. The applicant agrees to (i) reduction of the transparency of the glass on all floors except the ground floor and (ii) filing a declaration restricting the use of the building windows for advertising and branding by means of displayed objects, images, and signs inside the building, and also limiting the light levels emanating from the building at night;
3. CB#2, Man. recommends rejection of the proposal to move ventilation grates onto the Houston Street sidewalk *unless*
 - a. The sidewalk is widened by an amount such that the width of the concrete portion of the sidewalk at its narrowest point is at least equal to the width of the current sidewalk, and the work is done at the applicant's expense so that the financial value of this project to the City is not reduced;
 - b. The project includes upgrading the existing fan plant to meet current standards AND the applicant provides, prior to City Planning review, a full cost benefit analysis to assess any and all future MTA costs related to moving the ventilation grates including (i) maintenance, repair, and liability related to the new gratings or adjacent sidewalk; (ii) fan plant maintenance and operations; and (iii) fan plant upgrades.
4. CB#2, Man. supports moving the bus stop to a new nearby location if necessary to allow the sidewalk widening;

5. CB#2, Man. does not object to issuance of a special permit pursuant to ZR 74-712(b) to modify applicable height regulations;
6. CB#2, Man. recommends denial of a special permit under 74-922 to allow a retail store exceeding 10,000 square feet, but does not object to a multilevel retail and office project if two or more smaller stores are included.
7. CB#2, Man. recommends denial of the application pursuant to 44-582 for a waiver of the requirement for a loading berth and recommends instead reduction of the project size such that no loading berth is required.
8. CB#2, Man, expresses disappointment that CB#2, Man. was not consulted during the formulation of the objectives for the disposition of city-owned land within the district, and that community needs such as public open space and affordable housing were not included as objectives in addition to funding of MTA capital projects.
9. CB#2, Man. expresses concern regarding the late change to requirements of the RFP allowing the relocation of the ventilation grates and also regarding the lack of opportunity for public review of the location of the replacement site for the MTA facility on East 20th Street.

Vote: Unanimous, with 40 Board members in favor.

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

Sincerely,



David Gruber, Chair
Community Board #2, Manhattan



Tobi Bergman, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

DG/fa

c: Hon. Jerrold L. Nadler, Congressman
 Hon. Sheldon Silver, Assembly Speaker
 Hon. Deborah Glick, Assembly Member
 Hon. Daniel Squadron, NY State Senator
 Hon. Brad Hoylman, NY State Senator
 Hon. Gale A. Brewer, Manhattan Borough President
 Hon. Margaret Chin, Council Member
 Hon. Rosie Mendez, Council Member
 Hon. Corey Johnson, Council Member
 Edwin Marshall, Dept. of City Planning