CITY PLANNING COMMISSION

August 20, 2014/Calendar No. 6 C 140300 ZSM

IN THE MATTER OF an application submitted by MC 19 East Houston LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(a) of the Zoning Resolution to modify the use regulations of Section 42-14(D)(2)(b) to allow uses permitted under Section 32-15 (Use Group 6 uses) below the floor level of the second story of a proposed 6-story commercial building on a zoning lot which, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings, located at 19 East Houston Street (Block 511, Lot 19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

The application for a Special Permit, in conjunction with the related actions, was filed by MC 19 East Houston LLC, on March 12, 2014. The requested Special Permit, in conjunction with the related actions, would facilitate the development of a new six-story commercial building at 19 East Houston Street.

RELATED ACTIONS

In addition to the Special Permit, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

C 140299 PPM	Disposition of City-owned Property
C 140301 ZSM	Special Permit pursuant to Section 74-712(b) to modify the height and setback requirements of Section 43-43.
C 140302 ZSM	Special Permit pursuant to Section 74-922 to allow large retail establishments (Use Group 6 and/or Use Group 10A) with no limitation on floor area per establishment; as modified.

BACKGROUND

The applicants, MC 19 East Houston LLC and the Department of Citywide Administrative Services (DCAS), seek the grant of City Planning Commission special permits pursuant to Sections 74-712(a), 74-712(b) and 74-922 of the Zoning Resolution, and City-owned property

disposition approval to construct a new a new six-story commercial/retail building at 19 East Houston Street. 19 East Houston Street (Block 511, Lot 19), is located on the south side of East Houston Street between Broadway and Crosby Street in SoHo, Manhattan Community District 2. The approximately 6,174 square-foot triangular-shaped project site is currently paved and unimproved, and used as a parking lot by the MTA-NYC Transit for vehicle and equipment storage. The MTA will relocate its vehicles and equipment to a new storage lot located at 6 East 20th Street (Block 848, Lot 70). The project site includes subway stairs that serve the IND B, D, F and M lines that run under East and West Houston Street, and to the IRT No. 6 line which runs under Lafayette Street. Additional subway access is provided on the north side of East Houston Street opposite the proposed project site and at Lafayette Street, which is located one block to the east. The site also has a vendor fruit stand that is subject to a month-to-month City lease.

The proposed development site is located within an M1-5B zoning district and within the SoHo Cast-Iron Historic District. M1-5B zoning districts permit light industrial and commercial uses as-of-right, up to 5.0 FAR, and community facility uses up to 6.5 FAR. However, Use Group 6 uses, which including all local retail, office uses and art galleries are not permitted below the second floor of any building. Use Group 10A uses in excess of 10,000 square feet are also not permitted. Joint Living-Work Quarters for Artists ("JLWQA") units are permitted in existing buildings erected prior to 1961, provided that the lot coverage of such buildings does not exceed 5,000 square feet. Regarding building height, the street wall may rise to 85 feet or six stories, whichever is less, above which the street wall and building envelope are regulated by a sky exposure plane.

The requested actions would facilitate the development of a new commercial building having 30,821 square feet of floor area. The proposed building would rise six stories – or approximately 98 feet. The cellar, ground floor, second floor and third floor would contain retail space totaling approximately 17,284 square feet; the upper floors would have commercial office space totaling approximately 11,901 square feet. The building would be built to 4.99 FAR, which is below the maximum FAR allowed for commercial uses in M1-5B districts. On November l9, 2013, the project received design approval from the Landmarks Preservation Commission.

Given the unusual configuration of the site, the building would have unique design elements. Along East Houston Street, a portion of the building's street wall will cantilever over the subway entrance, thus creating a recess on the ground floor to accommodate pedestrian movement to/from and around the subway's entrance. The subway stairs would be widened from approximately 4 feet to 8 feet. Within the recess, which is not part of the building's interior, accessory digital signs would be mounted along its walls. Accessory signage would also be placed along the building's East Houston Street and Crosby Street facades. The building would also have an atrium-like feature, an approximately 73-foot high portion of the second floor located on the westerly side of the zoning lot.

Truck loading and unloading would take place on Crosby Street; a freight elevator would be accessed from the building's Crosby Street lobby. As per zoning, no loading dock is required for the proposed building.

Along East Houston Street, the sidewalk would be 12 feet wide; the pedestrian clear path would be 6.6 feet wide. Sidewalk grates would be placed in a four-foot wide portion of the sidewalk that runs parallel to the pedestrian clear path, to accommodate a subway fan plant to be placed below them. An existing bus stop would be relocated to another location on a neighboring block to better ensure pedestrian movement along the site's East Houston Street sidewalk.

The surrounding area is characterized by five- to twelve-story loft-style former industrial buildings that have been converted to a mix of uses. Most of the buildings in the area contain ground floor retail uses with residential, JLWQA, or office uses above.

Facing the project site is a gas station to be redeveloped into a new seven-story commercial building - 300 Lafayette Street (N 140092 ZRM, C 140093 ZSM, C 140095 ZSM and C 140096 ZSM), which was approved by the City Council on February 6, 2014. Similarly, this project required approval of City Planning Commission special permits pursuant to ZR 74-712(a), ZR 74-712(b) and ZR 74-922.

Along the north side of East Houston Street, east of Broadway, are mixed residential/ commercial buildings with ground floor commercial space. Crosby Street is developed with loft-

style buildings with ground floor retail space and JLWQA and residential units on the upper floors.

In order to achieve its overall development objective, the proposed project requires approval of three (3) City Planning Commission special permits pursuant to ZR 74-712(a), ZR 74-712(b) and ZR 74-922 (MC 19 East Houston LLC, applicant). The proposed build program will comply with the floor area regulations of the underlying M1-5B district (which allows commercial and light manufacturing uses up to 5.0 FAR). However, the proposed height of the street wall, Use Group 10A retail use (i.e., retail space in excess of 10,000 square feet) and Use Group 6 ground floor/cellar retail use are not permitted as-of-right. ZR 74-712(a) and ZR 74-712(b) permit the modification of the use and bulk regulations, respectively, of M1-5A and M1-5B districts for developments within Historic Districts, and on vacant zoning lots, lots that have minor improvements or lots, where not more than 20 percent of the lot area is occupied by existing buildings as of December 15, 2003. The requested action under ZR 74-922 enables the applicant to include Use Group 10A retail establishments greater than 10,000 square feet in the proposed building.

The project also requires City-owned property disposition approval (DCAS applicant) from DCAS to the New York City Land Development Corporation, for subsequent disposition and sale to the developer through EDC.

Section 74-712(a) Special Permit

The proposed project requires approval of a City Planning Commission special permit pursuant to Section 74-712(a) (Application No. 140300 ZSM). While the proposed build program, as stated previously, will comply with the floor area regulations of the M1-5B district (which allows commercial and light manufacturing uses up to 5.0 FAR), the proposed height of the street wall, and the proposed Use Group 6 ground floor and cellar use are not permitted as-of-right. Section 74-712(a) permits the modification of the use regulations of M1-5A and M1-5B districts to allow developments to have Use Group 6 retail uses below the second story of developments within Historic Districts, and on vacant lots, lots that have minor improvements or

lots, where not more than 20 percent of the lot area is occupied by existing buildings as of December 15, 2003.

Section 74-712(b) Special Permit

Additionally, the proposed building requires a bulk modification pursuant to Section 74-712(b), to permit the street wall to rise above the maximum allowable base height (Application No. 140301 ZSM). In M1-5B Districts, buildings may have a maximum street wall height of 85 feet or six stories, whichever is less/lower, above which it is required to set back from the street line. As proposed, the street wall would rise to six stories – approximately 98 feet. The requested bulk waiver, pursuant to Section 74-712(b) would allow portions of the street wall to rise above the maximum allowable base height and encroach within the required setback distance.

Section 74-922 Special Permit

Pursuant to Section 74-922, in M1 Districts, the Commission may allow by special permit, large retail establishments such as department stores, clothing stores and furniture stores, with no limitation on floor area per establishment. The proposed build program would have Use Group 6 and/or Use Group 10A uses on the ground floor, second floor, third floor and cellar totaling approximately 17,284 square feet. The requested action under ZR 74-922 (Application No. 140302 ZSM) enables the applicant to include Use Group 6 and/or Use Group 10A establishments, with no limitation on floor area per establishment within the proposed building.

The ZR 74-712(a) special permit requires that three findings be met related to the proposed use modifications and the ZR 74-712(b) special permit requires that two findings be met related to the proposed bulk modifications. The ZR 74-922 special permit require several findings be met related primarily to vehicle access, traffic movement and loading.

Disposition of City-owned Property

In addition to the grant of the above-referenced special permits, the proposed project requires City-owned property disposition approval through ULURP (Application No.140299 PPM). The project site, currently used by the MTA for vehicle parking and equipment storage, is City-

owned. Accordingly, the project site would be disposed by DCAS to the New York City Land Development Corporation, for subsequent disposition and sale to the developer through EDC.

ENVIRONMENTAL REVIEW

This application (C 140300 ZSM), in conjunction with the related applications (C 140299 PPM, C 140301 ZSM, C 140302 ZSM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR Number is 14DME001M. The lead is the Deputy Mayor for Economic Development.

After a study of the potential impacts of the proposed actions, a Negative Declaration was issued on March 10, 2014.

UNIFORM LAND USE REVIEW

On March 17, 2014, this application (C 140300 ZSM), in conjunction with the applications for the related actions (C 140299 PPM, C 140301 ZSM, C 140302 ZSM), was certified as complete by the Department of City Planning, and was duly referred to Manhattan Community Board 2 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 2 held a public hearing on this application (C 140300 ZSM), in conjunction with the related applications (C 140299 PPM, C 140301 ZSM, C 140302 ZSM), on May 22, 2014 and on that date, by a vote of 40 in favor, 0 opposed and 0 abstaining, adopted a resolution recommending disapproval of this application with the following comments:

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 the 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 the ventilation grates onto the Houston Street sidewalk *unless*
    a. The sidewalk is widened by an amount 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 the 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 ZR 74-922 to allow a retail store exceeding 10,000 square feet, but does not object to a multilevel retail and office project of 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 the 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.

Borough President Recommendation

This application, (C 140300 ZSM), in conjunction with the related applications (C 140299 PPM, C 140301 ZSM, C 140302 ZSM), was considered by the Borough President, who issued a recommendation disapproving the application on June 30, 2014 with the following comments:

> Therefore, the Manhattan Borough President recommends disapproval of ULURP Application Nos. C 140299 PPM, C 140300 ZSM and C 140301 ZSM, unless:
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> 1. The retail use consist of a minimum of two stores and be limited to the cellar and first two floors;
> 2. DOT, the MTA and the development team continue to work with CB2 and the Borough President's Office to significantly widen the sidewalk along East Houston Street;
> 3. The development team reach an agreement with CB 2 on reduced transparency of the windows above the ground floor and limitations on lighting and advertising that can be seen through the Houston Street glass façade;
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> The Manhattan Borough President further recommends disapproval of ULURP No. C 140302 ZSM on the grounds that such use will have adverse effects which interfere with the appropriate use of land in the district and will impair the essential character of the surrounding area.

City Planning Commission Public Hearing

On June 25, 2014 (Calendar No. 2), the City Planning Commission scheduled July 9, 2014 for a public hearing on this application (C 140300 ZSM), and the applications for the related actions (C 140299 PPM, C 140301 ZSM, C 140302 ZSM). The hearing was duly held on July 9, 2014 (Calendar No. 16), in conjunction with the public hearing on the applications for the related actions. There were seven speakers in favor of the application and ten in opposition.

Those speaking in favor included the developer, the project architect, the project's land use counsel, a representative from MTA Real Estate, the environmental consultant, a representative from EDC and a community resident.

The applicant's land use counsel described the requested actions, how it met the requisite findings and how the applicant intends to address concerns raised by the community board, the Borough President and community residents. The project architect described the proposed building and how the design of the building was intended to reflect the scale and context of the surrounding SoHo neighborhood. The developer gave an overview of the project site's history, and desired goals and objectives for the project. The MTA representative spoke about how the requested disposition action and subsequent sale of City-owned property would support MTA's Capital Program. The EDC representative also provided information on the RFP and overall development objectives for this project; the environmental consultant commented on the environmental analysis related to the anticipated pedestrian volume around the proposed project site and the impact of one large store, as compared to several smaller stores, which in aggregate are of the same size.

Those speaking in opposition included two representatives of Community Board 2, who reiterated the Board's opposition to the requested special permits. Six community residents raised individual concerns about the proposed project's overall development objectives; the introduction of additional retail use into SoHo; the capacity of the subway stairs and sidewalk to

handle the anticipated pedestrian volume and advertising signage. Additional concerns were raised about a lost opportunity to develop affordable housing on this site; the pre-ULURP RFP process and related City-owned property disposition application. A representative from the Borough President's Office and the State Assemblymember's Office stated their concerns and opposition for this project.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a Special Permit pursuant to Section 74-712(a) of the Zoning Resolution, in conjunction with the applications for related actions, is appropriate.

The requested actions would facilitate the development of a new six-story commercial building at 19 East Houston Street, which is located on the south side of East Houston Street between Crosby Street and Broadway. The proposed development site is located within an M1-5B zoning district and within the SoHo Cast-Iron Historic District.

In addition to this special permit, the applicant seeks the grant of a special permit pursuant to Section 74-712(b) to modify bulk regulations of the underlying M1-5B zoning district; a special permit pursuant to Section 74-922 to allow large retail establishments (Use Group 6 and/or Use Group 10A uses) with no limitation on floor area, and the disposition of City-owned property.

Section 74-712(a) Special Permit - C 140300 ZSM

The Commission believes that the grant of a special permit to modify use regulations of Section 74-712(a) to build the proposed commercial building is appropriate. The requested modification of the use regulations of Section 74-712(a) would allow the cellar and ground floor to be used for local retail use (Use Group 6). Under current regulations, in M1-5B Districts, Use Group 6 uses are not allowed below the second level in any building.

The surrounding area is characterized by five- to twelve-story loft-style industrial buildings that have been converted to a mix of uses. Most of the buildings in the area contain ground floor retail uses with residential, Joint Living Work Quarters for Artists (JLWQA) space, or office uses above. The Commission believes that the proposed local retail and commercial use is consistent with the prevailing land use pattern found on neighboring blocks.

During the public review of this application, Community Board 2 and the Borough President raised concerns regarding the proposed build program and building design; special permit to allow large retail use (i.e., ZR 74-922); pedestrian traffic around the proposed project site; subway ventilation and sidewalk gratings; subway stairway widening; truck loading and unloading; building fenestration transparency along its East Houston Street façade and advertising signage to be placed in the building's atrium, as shown in previous pre-ULURP marketing materials for this site.

In response, the applicant sent a letter to the Commission, dated July 17, 2014, that memorializes the applicant's commitments in response to Community Board and Borough President concerns and codifies DOT commitments (letter dated July 15, 2014) for Crosby Street and East Houston Street. The applicant also presented a revised ground floor plan at the July 9, 2014 public hearing.

The revised ground floor plan shows internal revisions that were discussed during the public hearing. As certified, truck loading and unloading would take place on Crosby Street; a freight elevator would be accessed from the building's Crosby Street lobby. As per zoning, no loading dock is required for the proposed building. The revised plan relocates the freight elevator from the building's Crosby Street lobby to a location within the ground floor retail footprint. The revised ground floor plan also has a loading zone, to be placed along Crosby Street; the loading zone will comprise the project site's entire Crosby Street frontage – 63.7 feet. DOT has agreed, as indicated in their July 15, 2014 letter, to place signage allowing loading to take place 7:00 am – 6:00 pm, Monday – Friday; parking would be allowed all other times. DOT has also agreed to relocate the bus stop along East Houston Street to another location on a nearby block.

Regarding East Houston Street, the sidewalk will be widened from approximately 12 feet to 15 feet; the pedestrian clear path will be widened from 6.6 feet to 9.7 feet. The subway stairs will be widened from approximately 4 feet to 8 feet. Further, DOT has agreed to open the traffic median, located on East Houston Street at Crosby Street, to allow northbound Crosby Street traffic to proceed across East Houston Street and continue northward travel, or turn left and head west along East Houston Street, which is not possible now. If that is not possible, at a minimum, DOT will provide a crosswalk with pedestrian signals at the northwest and southwest corners of East Houston Street and Crosby Street, to allow pedestrians to cross East Houston Street from the proposed project site. Additionally, a 7-foot wide layover lane would be provided along East Houston Street to allow passenger drop-offs and pick-ups. The Commission notes that the proposed 3-foot sidewalk widening and 7-foot layover lane will improve pedestrian movement around the project site, while not negatively affecting traffic movement on East Houston Street.

Regarding building fenestration and transparency along its East Houston Street façade, the applicant stated in their July 17, 2014 letter that "As detailed, the multiple elements of the façade are algorithmic by design and create various obstructions skewing the visibility into the building." With respect to advertising signage, the applicant, in a letter dated July 31, 2014, stated that there will be no advertising signage in the building's atrium, an approximately 73-foot high portion of the second floor located on the westerly side of the zoning lot. The letter states that "previous marketing materials alluding to advertising signage in the atrium that came to the attention of the Commission were inaccurate and were the result of excessive artistic license." The letter further states that "All signage at the proposed development will comply with the applicable Zoning Resolution provisions." Further discussion regarding advertising signage is provided below (Section 74-922 Special Permit - C 140302 ZSM).

Section 74-712(b) Special Permit – C 140301 ZSM

The building would require a bulk modification, pursuant to Section 74-712(b), to permit the street wall to rise above the maximum allowable base height. In M1-5B Districts, buildings may have a maximum street wall height of 85 feet or six stories, whichever is less/lower, above which it is required to set back from the street line. As proposed, the street wall would rise to six stories – 98 feet. The requested bulk waiver, pursuant to ZR 74-712(b) would allow portions of the

street wall to rise above the maximum allowable base height and encroach within the required setback distance.

The Commission believes that the proposed building design, in terms of its scale, street wall design and overall height, is consistent with the existing built character of the area and would be of similar height to many buildings in the area. Given its location on two wide streets – East Houston Street and Broadway, the Commission believes that the proposed building design would not adversely affect structures or open space in the vicinity in terms of light and air.

The Commission notes that the proposed building design received a Certificate of Appropriateness (CofA) from the Landmarks Preservation Commission on November l9, 2013. The CofA states, among other things, that "the construction of a new building on this lot, which was shaped by historic changes to the street grid over time, will restore the continuity of the street walls and anchor the end of the block fronting three streets, thereby strengthening the streetscape around this prominent site."

Section 74-922 Special Permit - C 140302 ZSM

The Commission believes that the special permit, pursuant to Section 74-922 to allow Use Group 6 and Use Group 10A establishments with no limitation on floor area per establishment, as modified, is appropriate.

Pursuant to Section 74-922, in M1 Districts, the Commission may allow by special permit, large retail establishments such as department stores, clothing stores and furniture stores, with no limitation on floor area per establishment. The ZR 74-922 special permit requires that several findings be met related primarily to vehicle access, traffic movement and loading.

The proposed build program would have Use Group 6 and/or Use Group 10A uses in the cellar, ground floor, second floor and third floor totaling 17,284 square feet. The requested action under ZR 74-922 enables the applicant to include Use Group 6 and/or Use Group 10A establishments, with no limitation on floor area per establishment in the proposed building.

The Commission notes that the proposed project site is within a highly visible, easily accessible area which already features a wide range of retail and commercial uses. The wide, high-volume streets (i.e., East Houston Street, Lafayette Street and Broadway) and excellent mass transit access that serve the site further support the project's proposed build program. Accordingly, the Commission believes that extending the allowance of Use Group 6 and/or Use Group 10A establishments, without limitations on floor area per establishment, provides a legitimate degree of flexibility to develop the site for retail use. The Commission notes that Broadway has several stores in excess of 10,000 square feet and the areas surrounding the proposed project site has examples of such uses that would be permitted by the subject approval, including Use Group 6 and Use Group 10A retail uses along East Houston Street, Lafayette Street and Broadway. In addition to 300 Lafayette Street (approximately 57,975 square feet), such uses include the REI store located one block east of the project site on Lafayette Street (approximately 39,000 square feet); the Adidas Store, located on East Houston Street opposite the proposed project site (approximately 36,350 square feet); Crate and Barrel (approximately 40,000 square feet); and a Hollister store, which is located on the same block as the proposed project site (approximately 40,000 square feet).

At the public hearing, concerns were raised about pedestrian traffic impacts of one large retail store, as opposed to several smaller stores, which in aggregate are the same size. At the hearing, the environmental consultant stated that one large retail store does not generate any more pedestrian traffic than two stores, which in aggregate are of the same size. The Negative Declaration (14DME001M), dated March 10, 2014, states "The proposed project would not result in any significant adverse impacts on land use, zoning and public policy, socioeconomic conditions, open space, historic and cultural resources, urban design and visual resources, transportation, or noise and would not result in a combination of moderate effects to several elements that may cumulatively affect neighborhood character. Therefore, the proposed project would not result in any significant adverse impacts to neighborhood character." Accordingly, the Commission believes that the proposed Use Group 6 and Use Group 10A uses would not impair the character or future development in the surrounding area.

Regarding truck loading and unloading, as discussed above, the revised ground floor plan has a loading zone, to be placed along Crosby Street; the loading zone will comprise the project site's entire Crosby Street frontage – 63.7 feet. DOT has agreed to place signage to allow loading to take place Monday-Friday, 7:00 am – 6:00 pm, with parking allowed all other times. The Commission believes that the loading zone, in conjunction with the new parking/loading signage regulations would serve the applicant's truck loading/unloading needs, while allowing area residents to park within the loading zone during weekday non-business hours and throughout the weekend.

The Commission notes that this site is well-served by mass transit. Direct subway access is provided at East Houston Street and Lafayette Street by the IND B, D, F and M lines and by the IRT No. 6 line (Bleecker Street). The site is also well-served by several bus lines that run along East Houston Street, Lafayette Street and Broadway.

Regarding pedestrian and vehicular traffic circulation, the Commission has considered the nature of the streets and public transit that would provide access to commercial uses at this location. The Commission notes that, as stated previously, the applicant proposes to widen the sidewalk along East Houston Street and to provide a 7-foot wide layover lane for passenger drop-offs and pick-ups. The subways stairs, over which the proposed building cantilevers, would be widened from approximately 4 feet to 8 feet. Accordingly, the Commission believes that the streets and mass transit providing access to commercial uses at this location will be adequate to handle the traffic and pedestrian volume to be generated.

Regarding advertising signage, as discussed above, the applicant, in a letter dated July 31, 2014, stated that there will be no advertising signage in the proposed building's atrium, an approximately 73-foot high portion of the second floor located on the westerly side of the zoning lot. Although noteworthy, the Commission had concerns about how to hold the applicant to their commitment to not place advertising signage within this space, a concern that was also expressed by the community board and Borough President. In response, the Commission believes that no advertising signage should be placed within this space. Accordingly, as a condition of this

special permit (C 140302 ZSM), no advertising signage shall be placed within the atrium space, as described above. The Commission believes that this condition would codify the applicant's commitment to not place advertising signage within the proposed building's atrium. The Commission also notes that any redesign of the proposed building to eliminate the atrium while including the proposed build program as described in this report, would need to undergo LPC review and public review through ULURP.

Disposition of City-owned Property – C 140299 PPM

The Commission believes that application for the disposition of City-owned property, in conjunction with the related special permit applications, is appropriate. The project site would be disposed by DCAS to the New York City Land Development Corporation, for subsequent disposition and sale to the developer through EDC. The subject property is currently used by the MTA for vehicle parking and equipment storage. The MTA will relocate its vehicles and equipment to a new storage lot located at 6 East 20th Street (Block 848, Lot 70). The Commission notes that the proposed disposition and sale of the subject property would generate much-needed funds that would support the MTA's Capital Program.

The Commission believes that the proposed building complements the area's existing built context and scale. Along East Houston Street, the proposed building design enhances the streetscape by connecting two prominent city street corners along East Houston Street, at Crosby Street and Broadway. Moreover, the proposed project further supports SoHo's role as a thriving mixed-use neighborhood, with retail use and commercial office use. The Commission, therefore, believes that this application for a special permit, in conjunction with the related actions, is appropriate.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-712 (a) (Developments in Historic Districts) of the Zoning Resolution, as amended in the report on the related text amendment (N 140092 ZRM):

Such use modifications

(i) have minimal adverse effects on the conforming uses in the surrounding area;

(ii) are compatible with the character of the surrounding area; and

(iii) for modifications that permit residential use, result in a development that is compatible with the scale of the surrounding area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration and findings described in this report, the application submitted by MC 19 East Houston LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(a) of the Zoning Resolution to modify the use regulations of Section 42-14(D)(2)(b) to allow uses permitted under Section 32-15 (Use Group 6 uses) below the floor level of the second story of a proposed 6-story commercial building on a zoning lot which, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings, located at 19 East Houston Street (Block 511, Lot 19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 140300 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by S9, an

affiliate of Perkins Eastman Architects, PC, filed with this application and incorporated in this resolution:

Dwg. No.	Title	Last Date Revised
Z-001.00	Zoning Analysis	August 4, 2014
Z-100.00	Site Plan	August 18, 2014
Z-101.00	Cellar Floor Plan	August 4, 2014
Z-102.00	Ground Floor Plan	August 4, 2014
Z-301.00	Building Sections	August 4, 2014
Z-302.00	Building Section	July 15, 2014
Z-303.00	Building Section	August 4, 2014
Z-303.10	Building Section	August 4, 2014

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operating and maintenance.

4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent

modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution the provisions of which shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure or breach of any of the conditions referred to above, may constitute grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's action or failure to act in accordance with the provisions of this special permit.

The above resolution (C 140300 ZSM), duly adopted by the City Planning Commission on August 20, 2014 (Calendar No. 6), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, **Chairman**
KENNETH J. KNUCKLES, ESQ., **Vice Chairman**
ANGELA M. BATTAGLIA, RAYANN BESSER,
IRWIN G. CANTOR, P.E.,ALFRED C. CERULLO, III,
MICHELLE R. DE LA UZ, JOSEPH I. DOUEK,
RICHARD W. EADDY, ANNA HAYES LEVIN, ORLANDO MARIN, **Commissioners**

CHERYL COHEN EFFRON, BOMEE JUNG, **Commissioners Abstaining**

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 140299 PPM**	Project Name: **19 East Houston Street**
CEQR Number: 14DME001M	Borough(s): Manhattan Community District Number(s): 02

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to **CalendarOffice@planning.nyc.gov** and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
   - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for the disposition of one city-owned property located at 19 East Houston Street (Block 511, Lot 19), pursuant to zoning.

Applicant(s):	Applicant's Representative:
Dept. of Citywide Administrative Service One Centre Street, 20th Floor North New York, NY 10007	Jesse Masyr, Esq., Fox Rothschild LLP 100 Park Avenue, 15th Floor, NY 10022 Hardy Adasko, NYC EDC 110 William Street, New York, NY 10038

Recommendation submitted by:
Manhattan Community Board 2

Date of public hearing: 5/14/14 Location: St. Anthony of Padua Church 151-155 Sullivan Street, NYC

Was a quorum present? YES [X] NO [ ] *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: 5/22/14 Location: Scholastic Bldg, 557 Broadway, Auditorium

RECOMMENDATION

[X] Approve
[ ] Approve With Modifications/Conditions
[ ] Disapprove
[ ] Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

# In Favor:	# Against:	# Abstaining:	Total members appointed to the board:
40	0	0	50

Name of CB/BB officer completing this form	Title	Date
ROBERT GORMLEY	DISTRICT MANAGER	5/28/14

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 140300 ZSM**	Project Name: **19 East Houston Street**
CEQR Number: 14DME001M	Borough(s): Manhattan Community District Number(s): 2

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to **CalendarOffice@planning.nyc.gov** and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
   - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by MC 19 East Houston, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(a) of the Zoning Resolution to modify the use regulations of Section 42-14(D)(2)(b) to allow Use Group 6 uses (retail and office uses) below the floor level of the second story of a proposed 6-story commercial building on a zoning lot with street frontages on one wide street and one narrow street and, as of December 15, 2003, has not more than 40% of its lot area occupied by existing buildings, located at 19 East Houston Street (Block 511, Lot 19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s):	Applicant's Representative:
MC 19 East Houston, LLC c/o Madison Capital 55 East 59th Street, 17th Fl. New York, NY 10022	Jesse Masyr, Esq. Fox Rothschild LLP 100 Park Avenue, 15th Floor New York, NY 10022

Recommendation submitted by:
Manhattan Community Board 2

Date of public hearing: 5/14/14 Location: ST. ANTHONY OF PADUA CHURCH 151-155 SULLIVAN STREET, NYC

Was a quorum present? YES [X] NO [ ]

A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Date of Vote: 5/22/14 Location: SCHOLASTIC BLDG., 557 BROADWAY, AUDITORIUM

RECOMMENDATION

- [ ] Approve
- [ ] Approve With Modifications/Conditions
- [ ] Disapprove
- [X] Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

# In Favor:	# Against:	# Abstaining:	Total members appointed to the board:
40	0	0	50

Name of CB/BB officer completing this form	Title	Date
ROBERT GORMLEY	DISTRICT MANAGER	5/28/14

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 140301 ZSM**	Project Name: **19 East Houston Street**
CEQR Number: 14DME001M	Borough(s): Manhattan Community District Number(s): 2

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to **CalendarOffice@planning.nyc.gov** and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
   - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by MC 19 East Houston, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(b) to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks) to facilitate the development of a 6-story commercial building on a zoning lot with street frontages on one wide street and one narrow street and, as of December 15, 2003, has not more than 40% of its lot area occupied by existing buildings, located at 19 East Houston Street (Block 511, Lot 19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s):	Applicant's Representative:
MC 19 East Houston, LLC c/o Madison Capital, 55 East 59th Street, 17th Floor New York, NY 10022	Jesse Masyr, Esq. Fox Rothschild LLP 100 Park Avenue, 15th Floor New York, NY 10022

Recommendation submitted by:
Manhattan Community Board 2

Date of public hearing: 5/14/14 Location: ST. ANTHONY OF PADUA CHURCH 151-155 SULLIVAN ST.

Was a quorum present? YES [X] NO [ ] *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: 5/22/14 Location: SCHOLASTIC BUILDING 557 BROADWAY, AUDITORIUM

RECOMMENDATION

[X] Approve
[ ] Approve With Modifications/Conditions
[ ] Disapprove
[ ] Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

# In Favor:	# Against:	# Abstaining:	Total members appointed to the board:
40	0	0	50

Name of CB/BB officer completing this form	Title	Date
ROBERT GORMLEY	DISTRICT MANAGER	5/28/14

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 140302 ZSM**	Project Name: **19 East Houston Street**
CEQR Number: 14DME001M	Borough(s): Manhattan Community District Number(s): 2

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to **CalendarOffice@planning.nyc.gov** and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
   - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by MC 19 East Houston, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-922 of the Zoning Resolution to allow large retail establishments (Use Group 6 and/or 10A uses) with no limitation on floor area per establishment on the cellar, ground floor, second floor and third floor of a proposed 6-story commercial development, on property located at 19 East Houston Street (Block 511, Lot 19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s):	Applicant's Representative:
MC 19 East Houston, LLC c/o Madison Capital, 55 East 59th Street, 17th floor New York, NY 10022	Jesse Masyr, Esq. Fox Rothschild LLP 100 Park Avenue, 15th Floor New York, NY 10022

Recommendation submitted by:
Manhattan Community Board 2

Date of public hearing: 5/14/14 Location: St. Anthony of Padua Church 151-155 Sullivan St., NYC

Was a quorum present? YES [X] NO [ ]

A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Date of Vote: 5/22/14 Location: Scholastic Building 557 Broadway, Auditorium

RECOMMENDATION

- [ ] Approve
- [ ] Approve With Modifications/Conditions
- [ ] Disapprove
- [X] Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

In Favor: 40 # Against: 0 # Abstaining: 0 Total members appointed to the board: 50

Name of CB/BB officer completing this form	Title	Date
ROBERT GORMEY	DISTRICT MANAGER	5/28/14

David Gruber, *Chair*
Bo Riccobono, *First Vice Chair*
Jo Hamilton, *Second Vice Chair*
Bob Gormley, *District Manager*

Antony Wong, *Treasurer*
Susan Kent, *Secretary*
Keen Berger, *Assistant Secretary*

COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE
NEW YORK, NY 10012-1899
www.cb2manhattan.org
P: 212-979-2272 F: 212-254-5102 E: info@cb2manhattan.org
Greenwich Village ❖ Little Italy ❖ SoHo ❖ NoHo ❖ Hudson Square ❖ Chinatown ❖ Gansevoort Market

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 <u>*unless*</u>
   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 <u>*unless*</u>
   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.

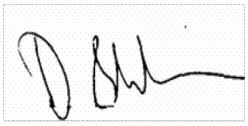
8. CB#2, Man, expresses disappointment that CB#2, Man. was not consulted during the formulation of the objectives for the disposition of city-owned land within the district, and that community needs such as public open space and affordable housing were not included as objectives in addition to funding 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

Borough President Recommendation

City Planning Commission

22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application: **C 140299 PPM, C 140300 ZSM, C140301 ZSM, and C 140302 ZSM**

Docket Description:

C 140299 PPM
IN THE MATTER OF an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, of the disposition of one city-owned property located at 19 East Houston Street (Block 511, Lot 19), pursuant to zoning.

C140300 ZSM
IN THE MATTER OF an application submitted MC 19 East Houston LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 740711(a) of the Zoning Resolution to modify the use regulations of Section 42-14(D)(2)(b) to allow uses permitted under Section 32-15 (Use Group 6 uses) below the floor level of the second story of a proposed 6-story commercial building on a zoning lot which, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings, located at 19 East Houston Street (Block 511, Lot 19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community Board 2.

(See Continued)

COMMUNITY BOARD NO: 2 BOROUGH: Manhattan

RECOMMENDATION

- [ ] APPROVE
- [ ] APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- [ ] DISAPPROVE
- [x] DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached

Gale A Brewer

BOROUGH PRESIDENT

June 30 2014

DATE

C 140301 ZSM
IN THE MATTER OF an application submitted by MC 19 East Houston, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(b) to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks) to facilitate the development of a 6-story commercial building on a zoning lot which, as of December 15, 2003, has not more than 20% of its lot area occupied by existing buildings, located at 19 East Houston Street (Block 511, Lot19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community District 2.

C 140302 ZSM
IN THE MATTER OF an application submitted by MC 19 East Houston LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-922 of the Zoning Resolution to allow large retail establishments (Use Group 6 and /or 10A uses) with no limitation on floor area per establishment on the cellar, ground floor, second floor and third floor of a proposed 6-story commercial development, on property located at 19 East Houston Street (Block 511, Lot 19), in an M1-5B District, within the SoHo Cast-Iron Historic District, Borough of Manhattan, Community Board 2

OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
163 West 125th Street, 5th floor, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

June 30, 2014

Recommendation on ULURP Application Nos. C 140299 PPM, C 140300 ZSM, C 140301 ZSM, and C 140302 ZSM – 19 East Houston Street by NYC Economic Development Corporation, Department of Citywide Administrative Services, and MC 19 East Houston LLC

PROPOSED ACTIONS

MC 19 East Houston LLC[1] (the "Applicant") seeks approval of three **special permits** pursuant to Sections 74-712(a), 74-712(b), and Section 74-922 of the New York City Zoning Resolution ("ZR"), to modify use requirements, to modify height and setback requirements, and to allow a large retail establishment with no limitation on floor area, respectively, to facilitate the construction of a six-story commercial development at 19 East Houston Street (Block 511, Lot 19) on the southern side of Houston Street between Crosby Street and Broadway. The site is located in an M1-5B district in the SoHo-Cast Iron Historic District in Manhattan Community District 2.

In order to facilitate this proposal, the Department of Citywide Administrative Services ("DCAS") is requesting a **disposition** of a City-owned property at the aforementioned location to the New York City Land Development Corporation. The NYC Land Development Corporation will in turn dispose of the property to the New York City Economic Development Corporation (EDC), who will then sell the property to MC 19 East Houston LLC, who was chosen via a Request for Proposal (RFP) by EDC and the New York City Metropolitan Transit Authority ("MTA"). The proposal will also require review by the Manhattan Borough Board and the Mayor pursuant to New York City Charter § 384(b)(4).

In order to obtain a permit pursuant to ZR § 74-712(a), a development must have a maximum floor area ratio ("FAR") of 5.0 and must comply with residential yard and window requirements, minimum dwelling unit size, sign regulations, and cannot include an eating or drinking establishment of any size. In order to grant the use modifications, the permit requires that the City Planning Commission ("CPC") find that the development:

(1) has minimal adverse effects on conforming uses in the surrounding area;
(2) is compatible with the character of the surrounding area; and
(3) for modifications that permit residential use, results in a development that is compatible with the scale of the surrounding area.

The special permit pursuant to ZR § 74-712(b) allows bulk modifications provided that the development:

[1] MC 19 East Houston, LLC is a subsidiary of Madison Capital under executive management by Richard Wagman and J. Joseph Jacobson

(1) not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and
(2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission ("LPC").

In addition, the applicant seeks a special permit pursuant to ZR § 74-922. The special permit allows for large retail establishments (Use Group 6 and/or 10A uses), such as department stores, clothing or clothing accessory stores, furniture stores, and household appliance stores, with no limitation on floor area per establishment above the 10,000 sf of floor area threshold set forth in the zoning as of right. The CPC must find:

(1) that the principal vehicular access for such use is not located on a local narrow street;
(2) that such use is so located to draw a minimum of vehicular traffic to and through local streets;
(3) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent congestion;
(4) that vehicular entrances and exits are provided for such uses and are located not less than 100 feet apart;
(5) that in selecting the site due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;
(6) that such use is so located as not to impair the essential character or the future use of or development of the surrounding area;
(7) 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; and
(8) that such bulk modifications will not unduly obstruct the access of light and air to surrounding streets and properties.

Lastly, Section 197-c of the New York City Charter mandates that the disposition of all City-owned real property (other than the lease of office space) be subject to the Uniform Land Use Review Procedure ("ULURP"). No specific findings must be met to make a property eligible for disposition under Section 197-c.

PROJECT DESCRIPTION

The applicant proposes construction of a six story commercial building with the cellar through third floors consisting of retail and the upper three floors of office space on a currently vacant site on the south side of East Houston Street between Broadway and Crosby Street. The irregular, triangular-shaped lot is currently owned by the City and is leased to the MTA which operates it as a parking facility for MTA vehicles. The disposition of the site by the City for development is for the purposes of contributing funds to MTA capital improvement programs.

Background

The project site lies within the SoHo-Cast Iron Historic District, named for its large concentration of buildings with cast-iron facades. Designated LPC on August 14, 1973, this area encompasses 26 blocks bounded by Canal Street to the south, West Houston Street to the north, Crosby Street to the east, and West Broadway to the west and includes approximately 500 buildings. Cast iron facades were considered a major engineering innovation at the time of their use due to their modular nature, ease in shipping, and customization available for an individual proprietor. The district represents one of the largest concentrations of cast iron buildings in the world.

The LPC voted to approve the applicant's request to construct the new building on November 19, 2013. LPC found that the proposed building design, which was ten feet higher than a previously considered design, would "restore the continuity of the street walls and anchor the end of the block…thereby strengthening the streetscape around this prominent site, that the height and overall volume of the building is consistent with that of historic buildings found in this historic district; that the plane of the Crosby Street façade will align with the facades of the adjacent properties." In addition, LPC found that "the large glass openings at the Houston Street elevation will transition from transparent at the ground floor to opaque at the sixth floor and will relate well to the solid-void ratio of the masonry buildings found on the adjacent side streets, and as well to the evolution of Houston Street… that the proposed signage at the first floors consisting of facade mounted brushed aluminum letters will be well scaled to the facades and will not overwhelm the storefronts or detract from the building." A Certificate of Appropriateness (LPC # 14-7337) was granted on November 20, 2013.

Project Site and Area Context

19 East Houston Street is located on Block 511, Lot 19, on the southern side of East Houston Street between Crosby Street and Broadway. The 6,174 sf lot is located in an M1-5B district. The triangular lot is currently owned by the City and subject to a master lease with the MTA which operates it as an at-grade parking facility for MTA vehicles.[2] In addition to MTA vehicles, the site contains a vent to the Broadway-Lafayette subway station below.

Land use in the northern portion of the SoHo-Cast Iron Historic District consists of predominantly artist lofts and commercial uses with buildings typically five to six stories on the side streets with an assortment of one-story buildings scattered throughout. This area also has a number of buildings ranging in height from 10 to 12 stories along the major thoroughfares of the district: Broadway, East Houston Street, and Prince Street. While uses range in the neighborhood from retail, museums, galleries, and restaurants, within the immediate vicinity of the site the predominant ground-floor use is retail, including destination or large-scale retail establishments. After enjoying status as part of the neighborhood's red light district, at the peak of cast-iron construction and development in SoHo, this northern area was predominantly developed for commercial and manufacturing uses. These uses are reflected in the building typology of the immediate vicinity. Today very little manufacturing is left and the area is predominated by mostly commercial uses.

The M1-5B district permits manufacturing and commercial uses as of right, as well as conversions to joint living-work quarters for artists under certain conditions. This zoning district does not permit retail use below the level of the second story nor does it permit residential use as of right. The predominant zoning districts surrounding the project site are M1-5B and M1-5A, which carry similar restrictions on residential and commercial use. In M1-5A districts, Group 6 uses are permitted as of right below the level of the second story only in buildings located on zoning lots occupying less than 3,600 sf of lot area. Both M1-5A and M1-5B districts have a maximum permitted commercial and manufacturing FAR of 5 and a maximum community facility FAR of 6.5. A setback is required above six stories or 85 feet, whichever is lower, after which buildings must set back according to a sky exposure plane. The setback required is 15 feet on wide streets and 20 feet on narrow streets. A rear yard of 20 feet is required for interior lots, but no rear yard is required for corner lots within 100 feet of a street line. Tower construction is also permitted in these districts. No parking is required for this district under Article I, Chapter 3 of the ZR.

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[2] There is currently also a fruit stand located on the project site. According to the MTA, the fruit vendor has already signed a vacate agreement and will be leaving in October.

Located nearby is the Special Little Italy District, which is comprised of C6-1, C6-2, and C6-2G districts, which place additional restrictions on height and use on new development.

There is an entrance to the Broadway-Lafayette subway station on the site which serves the B, D, F and M subway lines and has connections to the Bleeker Street 6 train station on Lafayette Street. There is another entrance to the same station directly across East Houston Street. In addition, the Prince Street subway station for the N and R trains is located on Broadway and Prince Streets. There is a bus stop for the M21 bus located on East Houston Street near Crosby Street on the sidewalk adjacent to the project site.

Proposed Project

The applicant proposes to construct an approximately 30,821 square feet, six-story commercial building consisting of 17,284 gross square feet of retail uses, 11,901 gross square feet of commercial office uses, and 6,077 square feet of common and mechanical space on what is currently an MTA parking lot.[3] Retail use is proposed for the cellar, first, second, and third floors, while the office space is proposed for floors four through six. Portions of the cellar will be dedicated to mechanical and to an MTA easement, and a portion of the first floor will be dedicated to lobby space for the office uses on the upper floors. In addition, a second MTA easement will be provided for the entrance to the Broadway-Lafayette subway, currently located on the building site. The applicant has agreed to improve the subway entrance by widening it by a minimum of 2 feet. In meetings with Community Board 2 and the Borough President's office, the applicant has declared an interest in finding a single tenant to occupy both the three floors of retail and the office space above. This would make the building a potential site for a signature, flagship location for a large national retailer.

The design of the building utilizes a glass-clad façade on the East Houston Street side framed in brick masonry, and brick masonry on the Crosby Street side with punched window openings. The building will rise to a total height of approximately 98 feet. Potentially up to eight entrances are proposed on the ground floor to access the retail space, with one along Crosby Street and the remainder along Houston. A 171 sf office lobby would be accessed off of Crosby Street. The proposed project does not include a dedicated loading berth, and the applicant initially believed a waiver would be necessary. A further review of ZR § 13-33, however, indicated that a loading berth is not required for this project, and the applicant has stated they will seek a dedicated curbside loading space.

As mentioned above, the triangular site currently contains a subway vent. Through the proposed project, this vent would be moved onto the East Houston Street sidewalk, taking up four feet of what is now concrete sidewalk. The initial application for this project did not propose to widen the existing 10.5 foot sidewalk. In April 2014, Community Board 2 and the Borough President met with the applicant, the Department of Transportation ("DOT"), and the MTA to discuss the potential for widening the sidewalk in conjunction with the project. With the approval of the DOT and the MTA, and agreement to undertake a relocation of the M21 bus stop to a nearby location, on May 14, 2014 the developer proposed widening the sidewalk an additional two feet along East Houston Street. An initial expansion of three feet was proposed, but was reduced in order to allow a retail loading lane along East Houston Street. However, DOT, Community Board 2, the development team, and the Borough President's Office are continuing discussions on proposals to allow a three foot sidewalk expansion.

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[3] The MTA vehicles currently on the site will be relocated to 6 East 20th Street, to what is currently a privately-owned public parking lot

Proposed Actions

DCAS requests a disposition and the applicant proposes three special permits in order to facilitate the commercial development at 19 East Houston Street:

1) A disposition (C 140299 PPM) of the property pursuant to zoning, as modified by the special permits requested by the applicant. The MTA, which currently leases the property, will surrender the property to the city, placing the property in DCAS' jurisdiction. The approval of this disposition will allow for the subsequent transfer of the property to the New York City Land Development Corporation, which will in turn dispose of the property to EDC, which will sell the property to the applicant.

2) A special permit (C 140300 ZSM) pursuant to ZR § 74-712(a) to modify the use requirements of ZR § 42-14(D)(2)(b) which does not permit commercial uses below the second floor. The granting of this special permit would allow retail and retail accessory uses on the cellar and first floor.

3) A special permit (C 140301 ZSM) pursuant to ZR § 74-712(b) to modify the height and setback requirements of ZR § 43-43, which limits the maximum front wall height to 85 feet or 6 stories, whichever is less, and requires at that maximum front wall height a setback of 20 feet along a narrow street (Crosby Street) and 15 feet along a wide street (East Houston Street and Broadway) after which the height of the building is governed by the sky exposure plane. The granting of this special permit will allow the proposed building to rise to a height of approximately 98 feet without setbacks and exceed the limits of the sky exposure plane. The building height was proposed to be consistent with the heights of the adjacent, existing buildings on Crosby Street and Broadway.

4) A special permit (C 140302 ZSM) pursuant to ZR § 74-922 to allow large retail establishments in Use Group 6 and/or 10a with no limitation on floor area per establishment. The granting of this special permit would allow a singular retail establishment in excess of 10,000 sf of floor area to occupy portions of the cellar and the ground, second, and third floors of the proposed six-story commercial building.

The Building will conform to all other applicable regulations, including the signage regulations of ZR § 32-60, inclusive, as required as a condition of approval pursuant to ZR § 74-712(1)(iv).

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on May 22, 2014, Manhattan Community Board 2 ("CB2") voted on a resolution recommending disapproval with conditions of the application by a vote of 40 in favor and none opposed. CB2 resolved as follows:

1. To support the application for the disposition of the site, recognizing the importance of obtaining funding for MTA capital improvements, but "in the context of development that is positive for the district."

2. To deny the special permit pursuant to ZR § 74-712(a) for retail below the second floor unless (a) there would be no freight entrance on Crosby Street and (b) the applicant agrees to (i) a reduction of the transparency of the glass on all floors except the ground floor and (ii) a restrictive declaration on the use of building windows for advertising and branding by means of the display

of objects, images and signs inside the building, and also limiting the light levels emanating from the building at night;

3. To reject the proposal to move the subway ventilation grates onto the East Houston Street sidewalk unless (a) the applicant pays to widen the sidewalk such that the concrete portion of the sidewalk is not narrowed from the current width of the sidewalk; and (b) the project included upgrading the existing fan plant to meet current standards and the applicant provides a full cost benefit analysis to assess all future MTA costs related to moving the ventilation grates;

4. To support moving the bus stop to a location that is nearby if needed to allow the widening of the East Houston Street sidewalk;

5. To approve the special permit pursuant to ZR § 74-712(b) to modify applicable height regulations;

6. To deny the special permit under ZR § 74-922 to allow a retail store exceeding 10,000 square feet, but not object to a multi-level retail and office project with at least two smaller stores; and

7. To deny the application pursuant to ZR § 44-582 for a waiver of the requirement for a loading berth and recommending instead a reduction of the project size such that no loading berth is required;[4]

Finally, CB2's last objections concerned the RFP process conducted by EDC. CB2 objected to the fact that it was not consulted during the creation of the objectives for this disposition of City-owned land in its district so that community needs such as public open space and affordable housing could have been considered. In addition, CB2 stated its concerns that the requirements of the RFP were changed to allow relocation of the subway ventilation grates to the sidewalk and the lack of public input over the relocation of the MTA parking facility from the development site to East 20th Street.

BOROUGH PRESIDENT'S COMMENTS

The applicant proposes a handsome new building on what is now a vacant lot in an historic district. The building itself is well designed to fit in with the character of the surrounding neighborhood and is appropriate in size and scale. Furthermore, the proposed project will provide the MTA much-needed revenue from what is currently an underutilized site, a laudable effort from the under-funded agency. The proposed development site is small and oddly configured, however, and does not lend itself to the large amount of retail space proposed by the applicant. The process by which this development program was selected is additionally concerning as it failed to take into account community priorities for the area or the unique challenges of this particular site. Though the building itself is unobjectionable, the amount and configuration of retail and community concerns around lighting, signage, and sidewalk width must be addressed before this project moves forward.

First, the conditions and findings have been met for the requested special permits pursuant to ZR §§ 74-712(a) and 74-712(b), respectively. The proposed commercial uses of office space and retail are compatible with the development trends of the SoHo neighborhood. The proposed design is sympathetic to the distinguishing elements of the SoHo-Cast Iron Historic District. Specifically, the LPC noted that

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[4] The applicant was initially unclear as to whether a loading berth was required on this site, and in discussions with the Community Board indicated that it would seek a waiver of loading berth requirements. After further research it was found that no loading berth is required by zoning for this development. .

the proposed plans utilize materials and architectural elements such as a brick-clad wall and punched window openings on the Crosby Street façade, which are consistent with other buildings on that streetscape. Along East Houston Street masonry will frame the large openings in the façade with alternating vertically divided areas of glazing which are suggestive of the facades of buildings on that street that were altered or partially demolished when Houston Street was widened. The building will also re-establish the street wall and provide an active street frontage at a critical entry point to the historic district.

Of concern is the request for a large retail establishment and the applicant's discussion of the findings for ZR § 74-922. Retail establishments over 10,000 square feet require a special permit because they take up large portions of building frontage, changing the character of neighborhoods, and because they have potentially unique impacts due to vehicular and pedestrian traffic and merchandise loading. The immediate vicinity of the project site already has a large number of destination retail offerings, which include flagship, large floor-plate retail establishments over 10,000 sf. In fact the developer points to the adjacent Hollister clothing store and the Adidas store across the street to support its proposal that this is an appropriate location for another such flagship store. The presence of similar stores in the vicinity, however, is not thorough enough justification for their appropriateness on this site which is small and oddly shaped, with a smaller sidewalk and the entrance to a busy transit facility. Additionally, a new large retail facility furthers a trend in the neighborhood towards every retail space containing a large-scale facility, against significant community opposition. In a recent recommendations in support of a special permit to allow retail on all floors of a building in the historic district at 155 Mercer Street (C 140263 ZSM), the Community Board and Borough President both argued that the transformation of the SoHo neighborhood into a large-scale flagship store district has the potential to have a cumulative negative impact on transportation, the character of the neighborhood, quality of life, and the vitality of retail diversity.

In addition, a flagship-like store in this location would impact traffic and pedestrian flow. While the applicant can meet the finding in regard to proximity to mass transit, it does not take into consideration that the site sits upon a principal entry and egress from this system and that the adjacent sidewalks are already narrower than the frontages of other flagship stores referenced in the applicant's discussion of the findings. Furthermore, none of the large retail stores referenced in the application have main entrances on East Houston Street. All of them, with the exception of REI, front on Broadway. Though the applicant, working with the MTA and DOT, has agreed to widen the sidewalk from its currently narrow 10.5 foot width, the addition of four foot vent grates will effectively negate any effect of this widening. Though the grates can be walked upon, significant numbers of New Yorkers avoid walking on subway grates, and their use is particularly avoided in inclement weather. The applicant is requesting a special permit for what could become a destination retail establishment on a site that is simply not configured to handle the pedestrian traffic that would come from such a store.

The applicant has repeatedly raised the challenging space configuration of the development site in support of its request for the large retail permit and has stated that the small floor plate of the building will limit the space and therefore the ability to attract large tenants. The applicant is attempting to distinguish its site from that of surrounding flagship stores to allay community concerns, while at the same time comparing it to those stores to justify the large retail special permit. In response to CB2's concerns about the large retail special permit the developer stated that "[t]here is a significant probability that the end retailer will not use the third floor space…" At the same time the Environmental Assessment Statement states that the "proposed retail uses would be compatible with existing nearby uses, such as large-format retail stores on Broadway (including Crate and Barrel, Hollister, and Adidas, as noted above) and REI in the Puck Building." It appears the best solution would be for the retail space at this challenging site to be limited to two floors of retail with two or more retail establishments. This would mitigate pedestrian flow, loading, and traffic concerns as well as some of the streetscape issues described below. It would additionally

encourage retail diversity and allow space for small businesses in what has become an international retail destination. Though generating revenue for the MTA is an important goal, and a flagship store may generate the most revenue, the disposition of public land should balance multiple public purposes.

The concerns raised by the application for the large retail special permit were intensified by at least one instance of marketing materials prepared for the developer portraying the proposed building in similar fashion to some of the much larger flagship stores in the area. The materials depicted a building in which the entire six floors of glass façade on the East Houston Street frontage were essentially a sign for a single retailer – in other words a flagship store with three floors of retail and three floors of related office space. The ULURP application and findings explicitly state that the signage requirements of commercial districts must apply to retail developments. These requirements include provisions on advertising, lighting, amount of signage, and transparency. Yet the marketing materials to which CB2 objected depict a building clearly in violation of these requirements. Even allowing that the marketing materials may not represent the intent of the developer with regard to the physical appearance of the façade, and acknowledging the developer's commitment to follow lighting and signage regulations, the possibility of a single, large retail store occupying three floors with an additional three floors of related office space with a glass façade at the entrance to the historic district raises concerns that lighting, advertising and signage could have adverse impacts on the surrounding area. CB2 has proposed a number of workable solutions to this problem, including adjusting the transparency of the glass above the first floor and committing to low levels of lighting. The applicant should agree to these requests in order to ensure a building that is truly in keeping with the historic district and that does not impair the essential character of the neighborhood.

In concept, the Borough President supports the disposition of this property with the proceeds used to support the MTA Capital Plan.[5] However, the Borough President echoes the concerns of CB2 and stresses the importance of community input and planning at an early stage. Especially here, in the case of a disposition of City-owned property to a developer selected by RFP, many of the community's concerns could have been addressed prior to the ULURP process with community input into the RFP and with the maintenance of open communication throughout the process. While the proposed building itself is not objectionable, its proposed use is not in keeping with the desires of the local community. A more transparent RFP process could have resulted in a proposal for a more appropriately sized retail facility, or even a proposal for publicly accessible open space at this already-crowded location. If this disposition of City-owned land is to move forward, the project must be altered to be more appropriate for this location.

BOROUGH PRESIDENT'S RECOMMENDATION

Though the proposed bulk modifications and retail use are appropriate for the neighborhood, these requested actions cannot be separated from the disposition, which proposed a use of City-owned land in a way that is not beneficial to the public. At this location, a retail establishment of the size proposed is inappropriate. The size of the retail facility should be reduced, and should include at least two stores to promote a vibrant retail mixture in the neighborhood and ameliorate the negative impacts on the area that would come from large scale retail.

Therefore, the Manhattan Borough President recommends disapproval of ULURP Application Nos. C 140299 PPM, C140300 ZSM and C 140301 ZSM, unless:

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[5] Pursuant to section 384(b)(4) of the New York City Charter, the terms of the disposition must also be approved by the Manhattan Borough Board.

1. **The retail use consist of a minimum of two stores and be limited to the cellar and first two floors;**
2. **DOT, the MTA, and the development team continue to work with CB2 and the Borough President's Office to significantly widen the sidewalk along East Houston Street;**
3. **The development team reach an agreement with CB2 on reduced transparency of the windows above the ground floor and limitations on lighting and advertising that can be seen through the Houston Street glass façade;**

The Manhattan Borough President further recommends disapproval of ULURP No. C 140302 ZSM on the grounds that such use will have adverse effects which interfere with the appropriate use of land in the district and will impair the essential character of the surrounding area.

Gale A. Brewer
Manhattan Borough President