

MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

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May 13, 2016

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: Theatre Subdistrict Fund Text Amendment to change the contribution rate into the fund from the transfer of development rights from Broadway theatres to sites within the subdistrict.

Dear Chair Weisbrod:

At the regularly scheduled monthly Community Board Five meeting on Thursday, May 12, 2016, the following resolution passed with a vote of 43 in favor; 0 opposed; 1 abstaining:

WHEREAS, The Department of City Planning (DCP) has applied to amend the portion of the Zoning Resolution related to the Theater Subdistrict; and

WHEREAS, The original Special Theater District was created in 1967 as the first special district established pursuant to the New York City Zoning Resolution; and

WHEREAS, In 1998, a zoning text amendment (June 3, 1998; [N980271ZRM](#)) established a new mechanism for theaters listed in the Zoning Resolution to transfer their available development rights throughout the subdistrict in exchange for retaining, preserving and maintaining a legitimate theater use, and for a contribution to a newly created Theater Subdistrict Fund; and

WHEREAS, The “listed theaters” within the zoning resolution are not permitted to be demolished and include: 1. Ambassador 2. Barrymore 3. Belasco 4. Biltmore 5. Booth 6. Broadhurst 7. Broadway 8. Brooks Atkinson 9. City Center 10. Cort 11. Ed Sullivan 12. Empire 13. Eugene O’Neill 14. Forty-Sixth St. 15. Golden 16. Harris 17. Helen Hayes 18. Henry Miller 19. Hudson 20. Imperial 21. Liberty 22. Longacre 23. Lunt Fontaine 24. Lyceum 25. Lyric 26. Majestic 27. Mark Hellinger 28. Martin Beck 29. Music Box 30. Nederlander 31. Neil Simon 32. New Amsterdam 32a. New Amst. roof 33. New Apollo 34. Palace 35. Plymouth 36. Ritz 37. Royale 38. St. James 39. Selwyn 40. Shubert 41. Studio 54 42. Times Square 43. Victory 44. Virginia 45. Winter Garden; and

WHEREAS, The Theater Subdistrict Council (TSC) has engaged in four rounds of grant making, distributing \$5.7 million in 37 grants to 25 groups; and

WHEREAS, The TSC administers the Theater Subdistrict Fund and allocates grants with the goal of promoting the production of new theater work, developing new audiences, and showcasing Broadway’s singular role in the history of American theater; and

WHEREAS, The development rights transfer mechanism was created to preserve and protect the unique character of the area as a cultural, theatrical and entertainment mecca and to protect theaters from the westward expansion of Midtown office development; and

WHEREAS, While the contribution rate per square foot of zoning floor area transferred was set initially at \$10 per square foot and was increased by the City Planning Commission to \$14.91 in 2006 and \$17.60 in 2011; and

WHEREAS, The City Planning Commission is obligated to revisit and consider modifications to the price between every three and five years; and

WHEREAS, While the initial price was set at approximately 20 percent of the value of the development rights, the significant increase in demand for transferable development rights has resulted in a contribution rate that is far below the 20 percent; and

WHEREAS, Community Board Five has asked repeatedly for the contribution rate to be increased (and ideally pegged to a percent of the transfer value) to provide greater public benefit through higher contributions to the Theater Subdistrict Fund; and

WHEREAS, Community Board Five welcomes DCP's response to our suggestion and their proposal of a new mechanism of calculating the contribution rate as follows:

“Such contribution shall be equal to the greater of:

- i) Twenty percent of the sales price of the transferred #floor area#; or
- ii) An amount equal to 20 percent of the “floor price” multiplied by the amount of transferred #floor area#”; and

WHEREAS, While DCP has suggested that the ZR be modified to permit certification of the transfer of development rights by the Chair of the City Planning Commission as opposed to certification of the full City Planning Commission (which is currently the case), we believe the existing full-commission approval process should be maintained so as to ensure the continued level of transparency; and

WHEREAS, Community Board Five is concerned about the oversight and implementation of theater-related use provisions at the receiving sites of the subdistrict, and has asked DCP to investigate and improve procedures to ensure that developers have provided and maintained spaces as outlined in their respective Restrictive Declarations; and

WHEREAS, The TSC consists of the Mayor, the Speaker of City Council, the Manhattan Borough President, and the Director of the Department of City Planning, as well as four representatives appointed by the Mayor and the City Council Speaker from the performing arts, theatrical and related industries; and

WHEREAS, Community Board Five believed in 1998 and reaffirms its belief that the chair of Community Board Five should have a seat on the Theater Subdistrict Council given the unique perspective that the chair can offer; therefore be it

RESOLVED, Community Board Five **recommends approval** of the application by DCP for the Theater Subdistrict Fund Text Amendment **CONDITIONAL** upon the addition of the chair of Manhattan Community Board Five to the Theater Subdistrict Council.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Eric Stern
Chair, Land Use, Housing and Zoning Committee