



CITY PLANNING COMMISSION

January 26, 2011 / Calendar No. 12

N 110128 BDM

IN THE MATTER of an application submitted by the Department of Small Business Services on behalf of the SoHo Business Improvement District pursuant to Section 25-405 of the Administrative Code of the City of New York, as amended, concerning the formation of the SoHo Business Improvement District, Borough of Manhattan, Community District 2.

On October 12, 2010, the Mayor authorized the preparation of a district plan for the SoHo Business Improvement District (BID). On October 26, 2010, on behalf of the SoHo District Management Association (DMA), the Department of Small Business Services (DSBS) submitted the district plan for the BID, located in Community District 2 in the Borough of Manhattan.

BACKGROUND

The proposed SoHo BID is located in the Borough of Manhattan. The BID boundaries extend along Broadway, from Canal Street to East Houston. The proposed district is within Community District 2. The proposed Chinatown BID is on the southern border of the proposed BID.

The BID includes 12 blocks, 280 tax lots and 129 retail businesses. There are over 800 commercial businesses in the BID and approximately 433 residential units. The area consists of a diverse mix of retail, art galleries and neighborhood services. Buildings within the BID area are typically five to twelve story loft buildings with commercial uses on the ground floor and Joint-Live-Work-Quarters-for-Artists (JLWQAs) on the upper floors.

The BID Plan includes funding to primarily address sanitation, public safety and visitor services. The first year budget for the BID is projected to be \$700,000. As originally filed, the budget will allocate \$160,000 to sanitation; \$110,000 to public safety and visitor services; \$50,000 to marketing, promotion and advertising; \$35,000 to holiday lighting; \$10,000 to social services;

\$40,000 to other programs and services; \$45,000 to physical streetscape and storefront improvements and \$250,000 to administrative expenses.

As originally proposed, the BID assessment method is based upon a combination of a flat fee, linear front footage and assessed value. Wholly commercial properties shall be assessed a base fee of \$250 plus the front footage rate plus the assessed value rate. Commercial condos with an upper floor or below grade unit shall be assessed the base fee plus the assessed value rate. All wholly residential properties will be assessed at one dollar annually. Government and not-for-profit owned property devoted in whole to public or not-for-profit use shall be exempt from assessment. Privately held vacant lots shall be the same rate as commercial properties.

Outreach to property owners, merchants and residents was done by the SoHo Steering Committee. The BID has obtained support from 55 percent assessed value property owners.

ENVIRONMENTAL REVIEW

The district plan 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 State 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 11SBS003M. The lead agency is the Department of Small Business Services.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on November 3, 2010.

LAND USE REVIEW

On October 26, 2010 the Department of Small Business Services submitted the district plan for the SoHo Business Improvement District (BID) to the Department of City Planning. The plan was then transmitted for review to the Office of the Mayor, Office of the Brooklyn Borough President, City Council Speaker, City Council Member of Council District 1 and Manhattan Community Board 2.

Community Board Public Hearing

On November 18, 2010, Community Board 2 adopted a resolution recommending disapproval of this application (N 110128 BDM), by a vote of 47 in favor, with 0 opposed and 1 abstention. Community Board Two urged the BID applicants to withdraw their application from Small Business Services and if the BID chose not to withdraw the application, the Board would oppose the BID for the following reasons:

1. "There was overwhelming public opposition to the BID from local residents who live within the proposed BID boundaries as demonstrated at the community board's full meeting of November 18, 2010 because they did not believe the BID would benefit them;
2. There is no mechanism in place that will ensure that residential owners not be responsible for any more than a nominal assessment of \$1, and that condo owners would be treated equally;
3. The BID applicants have failed to convince the public of the necessity of a new business improvement district for SoHo, which is a flashpoint for traffic and pedestrian congestion, and there is concern that a BID would only aggravate this situation;
4. The stated mission of the BID to increase local tourism would have a negative impact the quality of life of local residents of SoHo;
5. Residents believe that there are viable alternatives other than assessing property owners and creating a BID, such as participating in A.C.E. (SoHo Partnership) or increasing

efforts to encourage local retailers to voluntarily clean their adjacent sidewalks, which is the hallmark of a good neighbor policy and a common practice elsewhere in Manhattan.”

City Planning Commission Public Hearing

On December 15, 2010 (Calendar No. 3), the Commission scheduled January 5, 2011 for a public hearing on the district plan. On January 5, 2011 (Calendar No. 32), the hearing was duly held. There were 12 speakers in favor of the proposal and five speakers in opposition.

A property owner who is also a member of the BID Steering Committee spoke about the outreach to the property owners, merchants and residential tenants and the amount of support received. He also spoke about implementing a residential reimbursement plan to address the issue of some residential co-operative owners being assessed the commercial rate regardless of whether or not they control or receive rents from commercial co-operative units.

He expressed the importance of addressing and resolving the concerns of the Community Board and residential property owners and in response to the Community Board’s concerns he stated that the goals of the BID were: 1. Become an advocate for the Broadway SoHo property owners, 2. Clean the streets on Broadway, and 3. Address the traffic issues on Broadway.

A consultant to the BID responded to Community Board’s issues stated in the resolution letter and disapproval of the proposed BID. She spoke about how the BID followed the same method to establish the plan and assessment formula, not unlike other BIDs in the City. She also explained the BID’s assessment formula; its fairness to all property owners and the percentage of support from the property owners.

She clarified how the co-operative properties would be assessed based upon the structure of the

co-operative boards and whether the commercial units within the co-operative properties are under the control of the residential co-operative property owners. She further stated that the BID Steering Committee received confidential information from the co-operative boards about how the co-operative is structured, which aids the Steering Committee to be determine if the residential co-operative property owners are eligible for the reimbursement plan.

A resident and founder of a privately funded organization that provides social services spoke in support of the BID but stated that his organization could not to continue to provide adequate sanitation services without additional funding.

The remaining speakers in support of the BID were property owners and/or managing agents that spoke about the BID being able to address specific issues that include the tourist traffic and sanitation.

The five speakers in opposition included a representative of the Council Member of District One. He stated that although the Council Member supports BIDs in general, this particular BID could not be supported at this time, because of the lack of outreach and consensus from the co-operative property owners regarding the residential reimbursement program.

The Chair of the Community Board, spoke about the challenges that the board faced in deciding to disapprove the BID. The most challenging issue was the co-operative properties owners being assessed regardless of ownership or control of the retail units. The outreach efforts were also an issue for the board.

Two property owners, in opposition, spoke about the changes that have taken place in the neighborhood. They both stated that the proposed BID would attract big businesses that would

in turn, drive out small neighborhood businesses.

A community board member and director of a local community organization spoke about the increased tourism in the area and how the BID would further contribute to the problem by providing kiosks, signage and holiday lighting.

CONSIDERATION

The Commission believes that the proposal to establish the SoHo BID in Manhattan, as modified, is appropriate.

BIDs are designed to assist business in their service areas. The SoHo BID will serve as an advocate to address the coordination of services by city agencies, address street cleaning along Broadway, and improve pedestrian and street congestion created to a large extent by SoHo's success. The Commission believes that the proposed BID will address these concerns by facilitating the continued funding of a street cleaning program, study and improve street congestion which has been identified as a major concern of businesses and residents within the area, and serving as an advocate for all property owners with respect to the coordination of services with city agencies.

During the public review process, Community Board 2 and several residents testifying at the public hearing expressed concern regarding the BID's assessment to residential property owners. While the Commission believes that residents should participate in all aspects of a BIDs planning, development and implementation of services, the costs of the BID should principally be borne by the business property owners and their commercial tenants. The Commission is pleased that the BID, in letters dated January 17, 2011 and January 22, 2011, proposed to amend its budget to include funds to reimburse residents who could be required by their co-op to pay a

surcharge in order to fund the co-ops BID assessment. This would be accomplished through a Residential Reimbursement Plan. The Commission believes the proposed Plan should be modified to reflect the residential reimbursement plan as presented to the City Planning Commission.

The Commission further believes that the proposed BID should serve as an advocate for all Broadway SoHo property owners by addressing sidewalk and street congestion. While public relations for the neighborhood is also a component of the proposed amended first year budget, the Commission believes that staging large events such as street fairs, may exacerbate existing conditions. However, the Commission believes that using funds to create Way-Finders and businesses guides to make it easier for customers to navigate the neighborhood as well as for the preparation of instructional materials for property owners, has beneficial value to all property owners within the service area of the BID.

The Commission believes that the BID Steering Committee is committed to reaching out to all stakeholders to address the specific needs of existing businesses and the general community as well. Going forward, the Commission believes that the BID Steering Committee must continue to work with the residents within the BID's boundaries to address on-going concerns.

RESOLUTION

The Commission supports the proposed plan, as qualified, and has adopted the following resolution:

RESOLVED, that the City Planning Commission certifies its qualified approval with recommendations for modification of the District Plan for the SoHo Business Improvement

District.

The Commission recommends that the BID Plan be modified by the City Council to include a Residential Reimbursement Plan and revised first year budget as proposed by the BID sponsor (see attached).

The Commission further recommends that the proposed marketing, promotion and advertising services as reflected in the District Plan be modified to provide a clearer statement as to its intended use. Specifically, this Plan should expressly state that funds are included for providing signage and other way-finding tools for identifying the location of businesses such as a logo and map as well as providing information to the public about the unique historical character of the district. The marketing section of the Plan should also expressly permit the preparation of materials for property owners that help to provide information on the maintenance of historical property as well as instructions on how to obtain the appropriate City permits and instructions on compliance with City regulations. The Plan should also state that large public events that would tax City services and infrastructure by attracting crowds are not contemplated as a part of the Plan.

The above resolution duly adopted by the City Planning Commission on January 26, 2011 (Calendar No. 12) is filed with the City Council and the City Clerk pursuant to Section 25-405 of the Administrative Code of the City of New York.

AMANDA M. BURDEN, FAICP, Chair

RAYANN BESSER, ALFRED C. CERULLO, III,

BETTY CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,

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November 23, 2010

Robert W. Walsh, Commissioner
NYC Department of Small Business Services
110 William Street, 7th Floor
New York, NY 10038

Dear Commissioner Walsh:

At its Full Board meeting on November 18, 2010, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

Proposed SoHo Business Improvement District

Whereas, CB#2, Man. has been asked to review an application to the city for the formation of a SoHo Business Improvement District (BID); and

Whereas, the intent of the proposed BID is to provide services beyond sanitation, including measures to improve public safety, marketing and promotion, and capital improvements; and

Whereas, the intent of the BID is for property owners and commercial tenants and landlords to bear the cost of establishing and maintaining the BID; and

Whereas, the BID applicants have conducted a poor local public education campaign in clearly explaining the costs and benefits of the proposed BID leading to much confusion and contradictory assertions about the BID by a large number of the public and members of this community board.

Therefore Be It Resolved; that CB#2, Man. urges the BID applicants to withdraw their application from NYC Small Business Services and conduct outreach with members of the community in conjunction with a fuller explanation of the costs and benefits of the proposed BID, and only thereafter should they return to the community board with their application; and

Be it further resolved that should the BID applicant not withdraw its application from the BID review process, CB#2, Man. strongly opposes the BID for the following reasons:

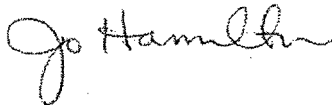
1) There was overwhelming public opposition to the BID from local residents who live within the proposed BID boundaries as demonstrated at the community board's full board meeting of November 18, 2010 because they did not believe the BID would benefit them;

- 2) There is no mechanism in place that will ensure that residential owners not be responsible for any more than a nominal assessment of \$1, and that condo and coop owners would be treated equally;
- 3) The BID applicants have failed to convince the public of the necessity of a new business improvement district for SoHo, which is a flashpoint for traffic and pedestrian congestion, and there is concern that a BID would only aggravate this situation;
- 4) The stated mission of the BID to increase local tourism would have a negative impact on the quality of life of local residents of SoHo;
- 5) Residents believe that there are viable alternatives other than assessing property owners and creating a BID, such as participating in A.C.E. (SoHo Partnership) or increasing efforts to encourage local retailers to voluntarily clean their adjacent sidewalks, which is the hallmark of a good neighbor policy and a common practice elsewhere in Manhattan.

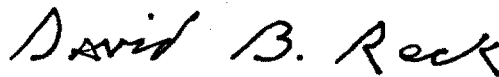
Vote: Unanimous, with 47 Board members in favor.

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

Sincerely,



Jo Hamilton, Chair
Community Board #2, Manhattan



David Reck, Chair
Land Use and Business Development Committee
Community Board #2, Manhattan

JH/fa

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Thomas K. Duane, NY State Senator
Hon. Daniel L. Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Hon. Margaret Chin, Council Member
Hon. Rosie Mendez, Council Member
Sandy Myers, CB2 Liaison, Man. Borough President's office
Lolita Jackson, Manhattan Director, CAU
SoHo Business Improvement District

Jo Hamilton, *Chair*
Bo Riccobono, *First Vice Chair*
Sheelah Feinberg, *Second Vice Chair*
Bob Gormley, *District Manager*



Erin Roeder, *Treasurer*
Susan Kent, *Secretary*
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January 21, 2011

Amanda Burden, Commissioner
NYC Department of City Planning
22 Reade Street
New York, NY 10007

Dear Commissioner Burden:

At its Full Board meeting on January 20, 2011, Community Board 2 (Manhattan) adopted the following resolution:

Proposed SoHo Business Improvement District

Whereas, at its November 18, 2010 meeting, in the face of overwhelming public opposition, CB2, Manhattan, passed a unanimous resolution strongly opposing the formation of a SoHo Business Improvement District (BID); and

Whereas, CB2 found that the BID applicants had conducted a poor public outreach campaign, and had failed to clearly explain to, or convince, people who live in the area that there is a need for a BID, beyond providing sanitation services; and

Whereas, there are viable alternatives for sufficient sanitation services, such as fully supporting A.C.E. (SoHo Partnership) in their current street cleaning program; and

Whereas, CB2 listed a number of specific objections to the BID as proposed, including:

- There is no mechanism in place to ensure that all residential owners will not be assessed more than \$1 annually, as is the custom in all BIDs in New York City
- There is concern that the voting membership is unfairly weighted in favor of condo owners over co-op owners because votes are tallied by tax lot
- One of the stated missions of the BID is Marketing/Promotion/Advertising, with the goal of attracting businesses to the neighborhood, when the area is already burdened with traffic and pedestrian congestion

Whereas, the BID applicants have had two months to address our concerns, and to meet with residents in order to develop support; and

Whereas, CB2 has no evidence that this has happened; and

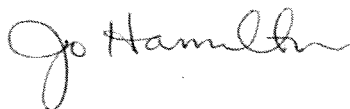
Whereas, the BID applicants have not resolved the inequitable assessment formula for all of the residential co-op buildings.

Therefore, be it resolved that CB 2 continues to oppose, unconditionally, the SoHo BID application and urges the Department of City Planning and our elected officials to reject it, as well.

Vote: Unanimous, with 38 Board members in favor.

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

Sincerely,



Jo Hamilton, Chair
Community Board #2, Manhattan

JH/bg

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Daniel L. Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Hon. Margaret Chin, Council Member
Robert W. Walsh, Commissioner, Dept. of Small Business Services
Lolita Jackson, Manhattan Director, CAU
Jessica Dewberry, Dept. of City Planning
Mary Balaban, A.C.E.

Proposed SoHo Business Improvement District

The following summarizes the “Residential Reimbursement Plan” that impacts the mixed-use cooperative properties within the proposed SoHo BID district

Profiles of Mixed –Use Co-operative Properties

At present, within the proposed SoHo BID District, there are 14, mixed-use cooperative properties.

Mixed-Use Cooperative properties can be categorized as follows:

1. Commercial Space(s) Owned and Controlled by the Cooperative Corporation;
2. Commercial Space(s) Owned by the Cooperative Corporation and Held by the Sponsor under a Long Term Agreement;
3. Commercial Space (s) Owned by a Shareholder of the Co-operative Corporation.

Mixed-Use Co-op – Residential Reimbursement Plan: Eligible Properties

The Residential Reimbursement Plan would only apply to mixed-use co-operative apartment buildings where the commercial space(s) is owned or controlled by an entity other than the co-operative corporation (1 and 2 above).

Based on the internal structure of the co-operative corporation, the proportion of the annual BID charge for the entire property (i.e. taxlot) assigned to the commercial space and to the residential portion will be disclosed by the co-operative corporation in an application.

The application will include a financial statement, or by-laws, co-op plan, or other supporting materials that clearly show how the BID assessment has been apportioned within the co-operative property

Full reimbursement for the residential portion will be provided to the cooperative corporation by the BID.

The annual budget as described in the District Plan has been revised accordingly.

Annual Budget

1. First Year Budget – It is anticipated that the budget of proposed expenditures to be made during the first Contract year is as follows:

a. **Services**

Sanitation and Snow Removal	\$ 160,000
Public Safety and Visitor Services	\$ 160,000
Public Relations for the Neighborhood	\$ 50,000
Mixed-Use Co-op Properties-Residential Reimbursement	\$ 35,000
General and Administrative	\$ 250,000

b. **Improvements**

Physical Streetscape & Storefront Improvements	\$ 45,000
TOTAL FIRST CONTRACT YEAR BUDGET	\$ 700,000