

## **A resolution responding to a letter dated March 19, 2019, from local elected officials to Community Board 2.**

Whereas

1. Community Board 2 Manhattan received a letter dated March 19, 2019, from our local elected officials requesting clarification of our board's positions regarding possible changes to the Hudson River Park Act to allow development of currently prohibited commercial offices at Pier 40.
2. Community Board 2 has over twenty years of involvement with the park project and Pier 40, including resolutions in 1998 first opposing and then supporting the Act, lengthy participation in two failed RFP projects, leadership of a seven-month long public discussion in 2017, and most recently two public hearings regarding our response to the letter.
3. The Hudson River Park Act was crafted in the aftermath of the defeat of Westway as a compromise between those who advocated for a traditional public park with minimal allowances for water-related commercial access and those who saw more value in opening the waterfront to commercial and residential development opportunities. The Act would declare that park uses in the public interest and "encourage park uses and allow limited park/commercial uses" such that the costs of maintenance and operations of the park would "*to the extent practicable and consistent with the purposes of the park*" be paid by revenues generated within the park with all such revenues being used exclusively for that purpose and with the caveat that "additional funding by the state and the city may be allocated as necessary to meet those costs". "Park uses" would be public park uses; outdoor and indoor public recreation and entertainment; small scale boating for recreation and education; environmental education and research; historic and cultural preservation; wildlife and habitat protection; and facilities incidental to public access. "Park/commercial uses" would have to be compatible with park use and not among prohibited uses. Prohibited uses would be residential; commercial office and warehousing; hotel; incompatible governmental uses; casino and riverboat gambling; and airports.
4. Clearly, commercial office use is contrary not only to the words of the act; it is contrary to the spirit of the Act and upsets the balanced compromise that it was written to provide.
5. In April 1998, CB2 passed a resolution supporting adoption of the Hudson River Park Act. This CB2 resolution in support was essential at the time for adoption of the legislation which did not have the full support of our legislative delegation, and the resolution documents that our support would not have been forthcoming had the Act allowed for a commercial office building with a 90+ year lease at Pier 40. Nothing has changed over the past 20+ years to make a commercial office building more compatible with the park. It remains contrary to the legislated purposes of the creation of the park because those purposes have not changed. It will still cast a privatized aura over the park. A large private tenant will still powerfully seek to impose restrictions that support its needs. With the bike path more popular now than could have been imagined a generation ago, thousands of workers arriving and departing in high concentrations, including during

hours when the bike path is busiest, will more than ever disrupt the flow of park users and detriment their safety and their sense of ease essential to quiet, safe, and active enjoyment of a park.

6. The impact on adjacent communities of an office building at Pier 40 is now worse than it would have been when the Act was adopted. The balance of uses in the mixed adjacent mixed-use areas has shifted substantially in the past decade, including a growing residential community. Night life and retail have exploded in the Meatpacking District. In Hudson Square multiple new residential towers will open soon, more than 3 million square feet of offices are under construction, and more than 3 million more are in design, including almost one million right across the street at 550 Washington Street. Meanwhile, the promise of a more diverse residential community has fallen short with only a small percentage of anticipated affordable housing being built.
7. The only justification given for allowing commercial offices is to increase the funding that can be achieved for operating and maintaining the park. The Trust explains this need by stating that early projections for the costs of maintaining and operating the park did not consider the added cost of maintaining a waterfront park. Some of these costs are for “capital maintenance” of infrastructure such as the historic bulkhead that is essential for the habitation and commerce of the city that should not be the responsibility of the park, especially in an era of anticipated rising waters, and especially because they were turned over to the park in poor condition. But more pertinent to the question of amendment of the Act, the balance that was struck by the core language of the Act is contrary to allowance of incompatible uses solely because full funding of maintenance and operations is not “practicable”. Rather the Act anticipates a possible shortfall of revenue to cover maintenance and operations and specifically states in such case the City and State may provide additional funding.
8. Further, as the anticipated cost of operating the park has increased, many of the political and financial considerations that justified allowing even park/commercial uses in the park have changed. The creation of the park was the most significant contributing condition opening the west side of Manhattan to massive development, thereby providing substantial new vitality to a large area and billions of new income to the City and State. Building a park on the dilapidated old piers, once a vision of a few, is now realized extensively and intensively enjoyed public resource with universal support of public officials and populace. Where decay and dilapidation pervaded when the Act was passed, now a string of pearls along the waterfront connect adjacent neighborhoods (which nevertheless remain among the most park-starved in New York City).
9. Offices can be developed anywhere but when they are built on public land it’s potential public use is lost forever so it is short-sighted to permanently dispose of scarce opportunities for new open space while ongoing massive office and residential development on available private land continues to increase the need and demand for public open space. The Trust and its partners inside and outside government should no longer be reticent to fight to secure the public funding needed to assure the fullest achievement of the goals and opportunities of the park and should commit to protecting its irreplaceable resources from incompatible private development in keeping with the compromise hammered out when the Act was passed.

10. Pier 40 is a completely unique extraordinary and irreplaceable public open space resource. It is time to celebrate the good fortune of the past failures to develop Pier 40. It is time to recognize that massive office development at Pier 40 is likely to become a cause of permanent shame and embarrassment equal to the demolition of Penn Station or comparable to what the construction of a highway through Washington Square and SoHo would have been.
11. To resolve the future of pier 40, park users and the community will need to be brought together. A radical change to the Act that will allow a corporate headquarters with more than 6000 workers on the pier is not the way to start.
12. Such development will have grave, unforeseen, and irreversible impacts on the pier and the park and does not present a viable compromise as would development of more sports, arts, and water related uses.
13. The Hudson River Park Act requires the Uniform Land Use Review Procedure for city-owned sites but unreasonably denies appropriate public oversight on State-owned properties such as Pier 40, leaving the details of any future subject to the vote of the Trust's board which includes no represents appointed by our council members.
14. Community Board 2 has long-standing opposition to private control of public open space.
15. Limiting zoning floor area will reduce the impact of any project and is the only way to support opportunities to redevelop the existing building, a possibility that otherwise has many benefits.
16. Exposure to high winds on the waterfront severely reduces the real availability of ball fields, especially for young children.
17. The importance of indoor space for sports, whether public or private, has been emphasized by CB2 over a period of many years without success, and in fact availability of indoor sports was greatly reduced with the loss to the park of Basketball City.
18. Car parking has provided substantial income to the Trust for over 20 years and serves a popular community use but changing patterns of car use may decrease demand (or at least in the short-term increase demand for example if Pier 40 is not inside the congestion pricing fee zone).
19. The "south cove" at Pier 40 provides a uniquely well-protected area suitable for launching human-powered small watercraft.
20. Prior RFPs for Pier 40 have failed largely because they were implemented without sufficient engagement of adjacent communities.
21. A replacement building would accommodate commercial uses on a smaller footprint and therefore provide more opportunity for at grade park uses and also open more views to the river,
22. Adaptive reuse of the existing building and/or minimizing building height increases has been favored by CB2 in past resolutions and adaptive reuse would be less disruptive of current uses, less wasteful, and would provide at least as much total opportunity for open space and indoor park uses while preserving the naturally wind protected courtyard fields.

23. It is difficult for Community Board 2 to recommend limitations for kinds of commercial uses in Hudson River Park that should not happen at all, but we are also cognizant of the importance of responding in a timely and direct way to the questions raised in the letter from our elected officials who must balance citywide and statewide considerations.

Therefore, it is resolved that CB 2s opposes amendment to the Hudson River Park Act to allow a commercial office use or a lease exceeding 30 years and considers the following to be minimum mitigations needed to lessen the adverse impacts on the park and community of such amendment:

1. A New York City ULURP to be required for any project at Pier 40 that includes commercial offices and/or a lease exceeding 30 years.
2. The City and State to assume responsibility for maintenance and operations costs in Hudson River Park that were not anticipated when the Act was adopted and in particular assume full responsibility for costs of reconstruction, repair, and maintenance of the bulkhead and any other infrastructure in the park that serves other than just park related purposes.
3. All public open space on the pier to be designated for “park use” with assurance such space will not be privately controlled or operated.
4. Commercial offices not to be considered a compatible use or a park/commercial use and to the limited extent such use is allowed language to be such as “notwithstanding any other provision of this Act to the contrary commercial office use is allowed at Pier 40 but only to the extent found to be necessary to sustain maintenance and operations of the park as determined by the Trust and documented in a written report to the Trust board prior to its approval of any project including such use.”
5. The total zoning floor area of all buildings on the pier to be equal to no more than two times the footprint of the existing building for a total of 848,000 square feet to include a mix of commercial offices and park/commercial uses.
6. Allowed zoning floor area to be reduced to the extent to which such uses do not include at least 50,000 for Trust offices and at least 50,000 square feet for indoor sports (which may be park/commercial use with low fee time set aside for youth and school use).
7. The designed capacity of commercial offices to be no more than 3000 workers.
8. Any development that includes commercial office use to be an adaptive reuse and enlargement of the existing building with the highest point including bulkheads of any building not exceeding 88 feet.
9. The existing courtyard fields and surrounding loading dock to be retained with the fields raised above grade only as minimally required to protect them from rising water or as needed for structural support of the pier).
10. Sufficient rooftop areas to be dedicated to open space park use such that areas equivalent to 80% of the footprint will be dedicated to open space park use

requiring approximately 300,000 square feet of open space park which may be located on roofs at various levels.

11. A community boathouse to be provided at least as big as the current boathouse in approximately the same location adjacent to the south dock.
12. Either separately or in connection with the boathouse a public dock to be provided for human powered craft including boat storage availability at a low fee.
13. First story uses that do not count as zoning square feet to prioritize Trust operations, sports courts, support space for human powered boating, practice areas, lockers, an indoor skate park, and rehearsal space for performing arts.
14. Retail space and other park/commercial use to prioritize uses supporting park use, water-related use, and uses that support community needs such as space for sports and arts.
15. Prior to adoption an agreement is reached with the Trust to assure any RFP encourages high participation and proposals that are responsive to community needs and concerns, for example by
  - a. Committing to any of the above that cannot be incorporated into legislation.
  - b. Encouraging RFP respondents to include park/commercial uses that offer special benefits to the community such as additional indoor and outdoor sports or arts uses;
  - c. Encouraging RFP respondents who propose office use to provide an alternative proposal replacing some of the office use with park/commercial uses, especially uses that provide special benefits to the community.
  - d. Including RFP targets for Trust revenues but no lower limit;
  - e. Engaging CB2 and the community in the RFP process including review of the draft scope, the draft RFP, and project proposals;
  - f. Requiring RFP project review based on overall benefits to the park and community including avoiding disruption to current uses during construction;
  - g. Requiring respondents to minimize disruption to current uses and requiring respondents to fully describe such disruptions and impacts on the park as a whole in the project description materials and timeline and describe how disruptions will be minimized;
  - h. Encouraging respondents to submit alternative project details and construction methods that will reduce such disruptions;
  - i. Requiring any RFP to facilitate access by respondents to information regarding positions of the community boards and other stakeholder groups;
  - j. Allowing CB2 representatives to attend site visits and Q&A sessions for RFP applicants and to share with CB2 all written Q&A.
  - k. Encouraging RFP applicants to address questions to CB2 at a public meeting sponsored by CB2 and by means of the Q&A process;
  - l. Requiring a full EIS and engaging CB2 and the community in the EIS process including public review of the draft scope and draft EIS.