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September 1, 2015

Hon. Carl Weisbrod
Director
Department of City Planning
22 Reade Street, 2nd Floor
New York, NY 10007

Dear Director Weisbrod:

We write this letter to highlight a number of concerns we have that have been reinforced by Manhattan Community Board 2 and affected constituents on the existing zoning framework created in 1971 in the SoHo and NoHo neighborhoods. A continuing flood of special permits and variances being processed by the Department of City Planning (DCP) and the Board of Standards and Appeals (BSA), respectively, have raised serious questions about our planning strategy for this neighborhood.

These actions add-up to a de facto rezoning but with little planning coherence and limited public benefit. We believe it is time to revisit the zoning to create a framework which works for the present and looks forward. This framework, among other goals, should strengthen the varied, small-scale retail character, promote a diversity of uses and a diverse employment base, and encourage the development and preservation of affordable housing.

As you know, the current M1-5A/M1-5B framework embodied in the New York City Zoning Resolution Section 42-14, inclusive, was created in 1971 in order to protect the manufacturing and industrial sector. In 1982, the New York City Loft Board was established to provide a legal framework for artists to legally reside in these buildings as live-work spaces. In order to qualify for the "Joint Living-Work Quarters for Artists" (JLWQA) residential use, tenants must be certified as an artist by the Department of Cultural Affairs (DCLA). In an M1-5A and M1-5B district, Use Groups 7, 9, 11, 16, 17A, 17B, 17C, and 17D are permitted below the second story as-of-right. Non-conforming uses below the second story of the building require special permits from the City Planning Commission (CPC) or a variance from the Boards and Standards and Appeals (BSA) and approval from City Council on many properties.

In the decades since the M1-5A/M1-5B framework was created, enforcement has ebbed and flowed and the real estate market has transformed this neighborhood into one of the most desirable in New York City, creating a sizable population of non-artists within SoHo and NoHo.

Some of those tenants live in units that are former Interim Multiple Dwelling Units (IMD) and are supposed to be rent-regulated subject to enforcement by the Department of Housing and Community Renewal (DHCR). Because of the dearth of enforcement and transparency, many tenants in both JLWQA and IMD units may not even be aware of the status of the units they live in. Similarly, the restrictions against ground-floor retail space have also been enforced with varying levels of vigor over the years. An additional layer of complexity is added by the special permit regulations attached to Landmarks and Historic Districts (ZR Sections §74-711 and 74-712).

Despite the fluctuations in enforcement, many property owners in SoHo and NoHo have attempted to follow the law and obtain special permits and variances to allow commercial, and, increasingly, unrestricted residential use. In the past twenty years, 113 special permit applications under Sections 42-141, 42-142, 74-711, 74-712, 74-781, 74-782, or 74-922 have been filed, covering 96 properties within the M1-5A and M1-5B zoning districts.¹ Nearly 90% of these applications were approved by the City Planning Commission. Altogether, these properties represent roughly 11% of lots within these zoning districts and 17% of lot area not inclusive of the BSA permits which only increase this number.² In recent years, the number of special permit applications has markedly accelerated. In just the past five years, 34 such applications have been filed, including eight so far in 2015 alone.

Almost 45 years later, the intricate system of special permits created in 1971 no longer serves the neighborhood. In 2004, land use in the SoHo and NoHo M districts was still highly diverse with nearly 20% of lot area registered as industrial/manufacturing, along with 35% residential or mixed residential-commercial, and 35% commercial. Ten years later in 2014, the City's PLUTO data registers only 8% of lot area as industrial/manufacturing, with residential or mixed residential-commercial now accounting for 49%, and commercial at 37%.

We need to revisit the zoning to examine a number of issues more carefully, including

- 1) **Joint Live Work Quarters for Artists.** The utility and functionality of the JLWQA requirement needs to be examined for today's creative sector.
- 2) **Restrictions on the size of retail.** We strongly believe that we need to do whatever we can to protect small scale retail because it is this diversity of companies and businesses that have helped make SoHo and NoHo so successful. We also need to create common-sense definitions for different retail types so that expectations are clear to building owners, commercial leaseholders, and DOB plan examiners and enforcement agents.
- 3) **Affordable housing.** The recent surge in special permit applications to allow residential use has made clear the strong demand for residential space in Noho and

¹ Applications compiled from searching Census Tract geographies on DCP's LUCATS database (Manhattan Census Tracts 45, 47, 49, 55.02, and 57).

² PLUTO 2014 V2.

Soho. If the City Planning Commission is going to allow for the conversion of buildings to residential as we have been for the last several years, we need to create an incentive zoning structure which requires an affordable housing contribution to create or preserve affordable housing in the immediate neighborhood.

A new zoning approach which focuses on a clear set of rules rather than ad-hoc site by site approach is needed for the SoHo and NoHo neighborhoods. This approach must include a robust public neighborhood process that involves all relevant stakeholders and pushes for creative solutions. Our offices are eager to work with the Department, Community Board 2, and other key stakeholders to help move this discussion forward. To this end, we would like to request a meeting with your office to discuss this matter.

Sincerely,



Margaret S. Chin
Council Member, District 1
New York City Council



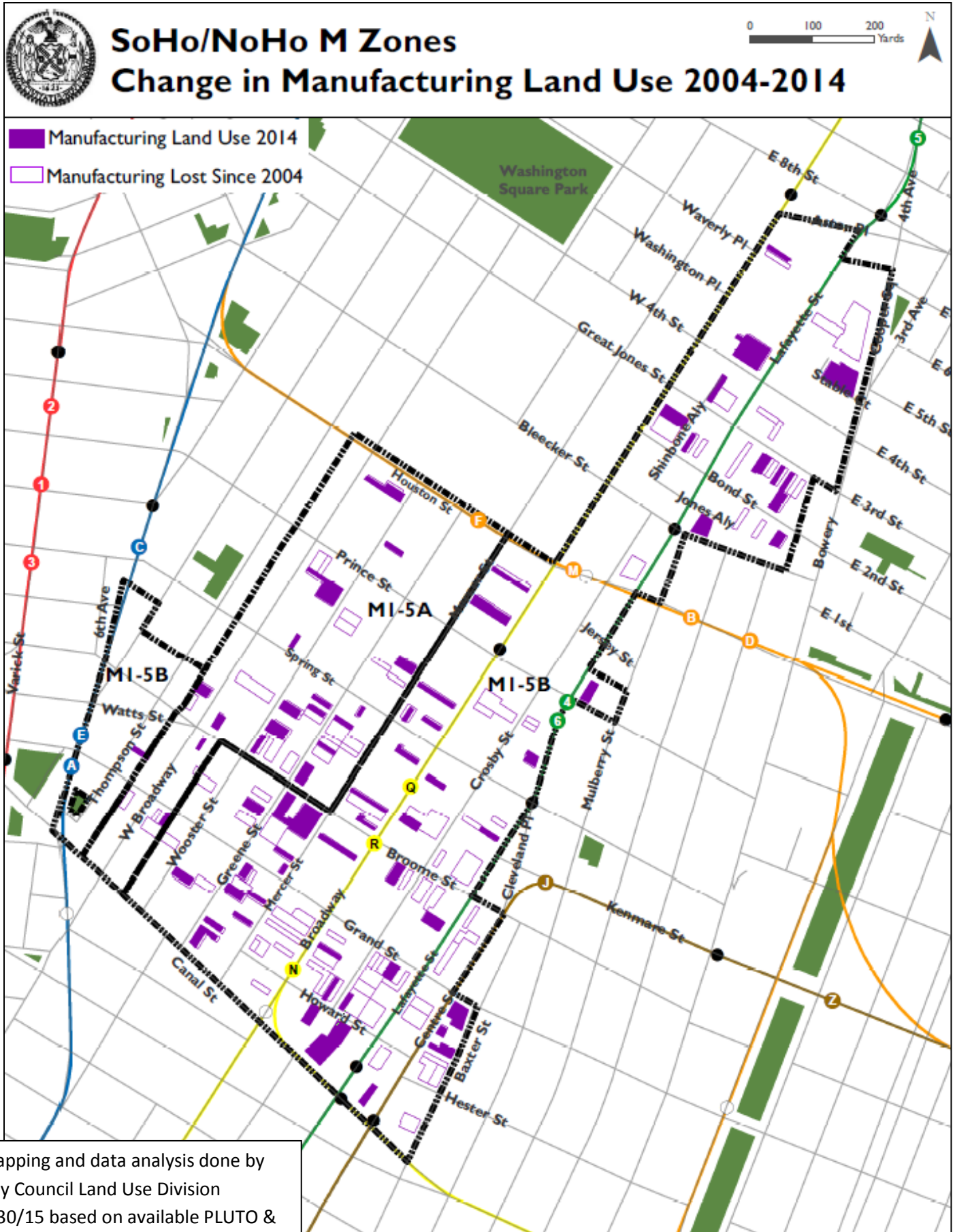
Gale A. Brewer
Manhattan Borough President

Encl.

Map 1. SoHo/NoHo M Zones Change in Manufacturing Land Use 2004-2014
Charts 1-2 Land Use by Lot Square Footage
Map 2. Properties with Special Permits
Table 1. NoHo BSA Permits
Table 2. SoHo BSA Permits

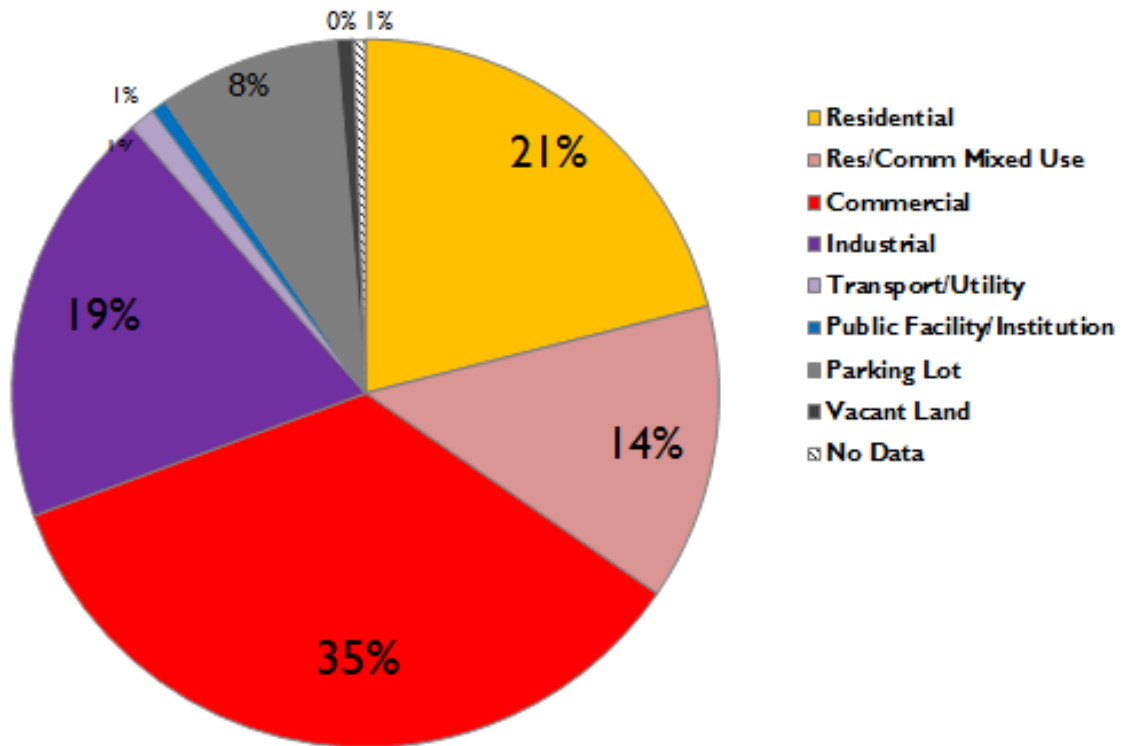
cc: Tobi Bergman, Chair, Manhattan Community Board 2
State Senator Daniel Squadron
State Assembly Member Deborah Glick
State Assembly Member Sheldon Silver

Map 1.

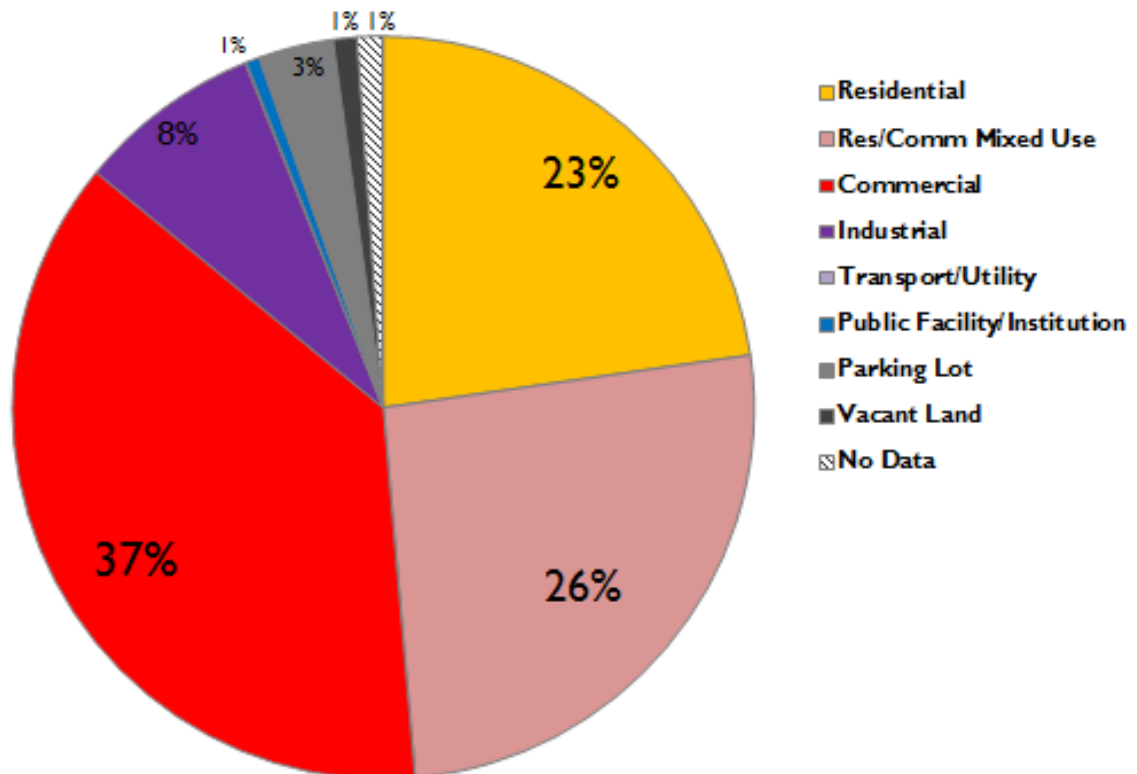


Charts 1 – 2.

Land Use by Lot Square Footage - 2004
(2004 PLUTO)



Land Use by Lot Square Footage - 2014
(2014 V2 PLUTO)



Map 2.

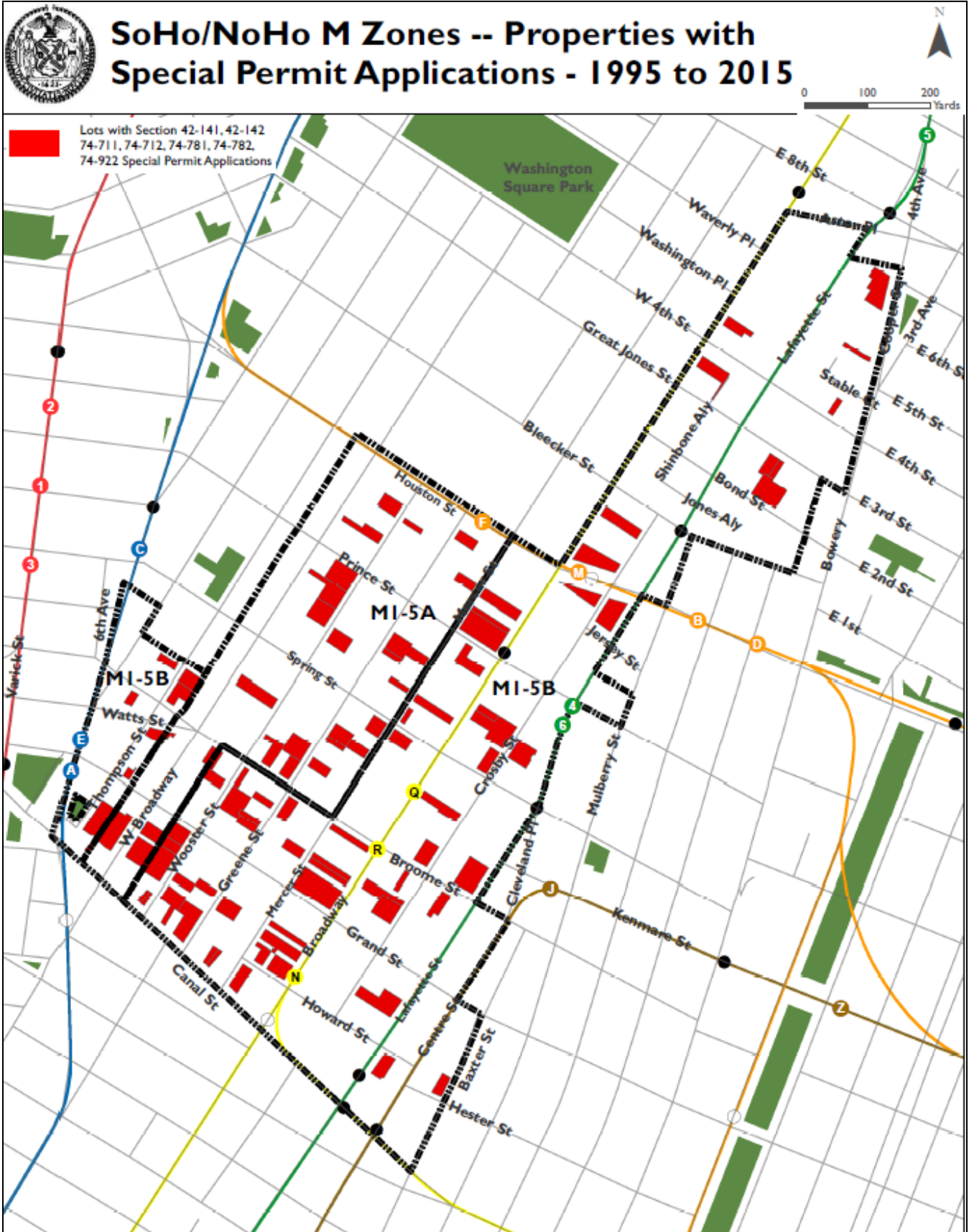


Table 1. NoHo BSA permits

Address	ZR §	BSA No.	Original Use	Application for	Decision Date	Status	Link to Decision
25 Great Jones Street	72-21	377-03-BZ	Offices	11-story mixed residential/commercial	2/11/2014	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/13-12-BZ.pdf
45 Great Jones Street	72-21	77-13-BZ	No CoFo	8-story mixed residential/commercial	10/29/2013	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/77-13-BZ.pdf
8-12 Bond Street	72-21	241-12-BZ	Printing and developing	permit the construction of a new residential building with residential and retail use below the level of the second story	3/5/2012	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/241-12-BZ.pdf
31 Bond Street	72-21	176-13-BZ	JLWQA	allow hotel and retail uses below the floor level of the second story	2/9/2010	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/195-07-BZ.pdf
41-43 Bond Street	72-21	190-08-BZ	JLWQA	Use Group 2 residential in an existing 6-story building with a new penthouse addition	4/14/2015	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/176-13-BZ.pdf
46-48 Bond Street	72-21	98-05-BZ	JLWQA	8-story and penthouse residential building with eight dwelling units	1/13/2009	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/190-08-BZ.pdf
32-40 Bond Street	72-21	69-03-BZII	Parking Lot	Reopen and amend a previously approved zoning variance which allowed a residential multiple dwelling (UG 2) with ground floor retail use (UG 6).	3/20/2007	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/98-05-BZ.pdf
372 Lafayette Street	72-21	290-06-BZIII	Comm office	Construct a 12-story residential building with ground floor retail use building. Use Groups 2 and 6, consisting of residential apartments and local retail usage.	11/15/2005	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/69-03-BZII.pdf
220 Lafayette Street	72-21	294-13-BZ		Variance to permit the proposed erection of a 120' high, 10 story mixed use building. Use Groups 2 and 6, consisting of residential apartments and local retail usage.	4/27/2004	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/290-06-BZIII.pdf
726-730 Broadway	72-21	298-12-BZ		Amendment of an approved variance for a new residential building with ground floor commercial, contrary to use regulations. The amendment requests an increase in commercial floor area and a decrease in the residential floor area.	6/19/2012	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/294-13-BZ.pdf
363-371 Lafayette Street	72-21	64-06-BZ	Office	enlargement and conversion of a commercial building for residential use (UG 2) with ground floor commercial UG6	9/16/2014	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/298-12-BZ.pdf
				permit the conversion of nine floors of an existing ten-story building to Use Group 3 college or university use (New York University)	5/7/2013	Granted	http://www.nyc.gov/html/bsa/downloads/pdf/decisions/64-06-BZ.pdf
				7-story multi-family residential building with ground floor retail containing fourteen (14) dwelling units	3/13/2007	Granted	