



CITY PLANNING COMMISSION

August 11, 2008/Calendar No. 21

C 060333 ZSM

IN THE MATTER OF an application submitted by Hospital for Special Surgery pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-682 of the Zoning Resolution to allow the development of a 12-story hospital building in demapped air space above the portion of the Franklin D. Roosevelt Drive located between East 71st Street and a line midway between East 71st Street and East 72nd Street and to permit the modification of the loading berth requirements of Section 25-70 (Off-Street Loading Regulations, General Purposes), for a zoning lot generally bounded by the U.S. Pierhead and Bulkhead Line of the East River, the center line of East 71st Street, East 71st Street, a line 373 feet east of York Avenue, East 72nd Street, a line 498 feet east of York Avenue and a line midway between East 71st Street and East 72nd Street (Block 1482, p/o Lot 9020 and Block 1483, Lots 23 and 33), within an R9 District, Community District 8, Borough of Manhattan.

This application for a special permit was filed by the Hospital for Special Surgery (“HSS” or “Hospital”) on February 14, 2006, to facilitate the construction of a new 12-story hospital facility (the “River Building”) to be located on a platform in air space above the Franklin D. Roosevelt Drive (“FDR Drive”) between East 71st Street and the midblock line between East 71st and East 72nd streets in Manhattan Community District 8.

RELATED ACTIONS

In addition to the application for a special permit which is the subject of this report (C 060333 ZSM), implementation of the proposed development also requires action by the City Planning Commission on the following applications which are considered concurrently with this application:

C 070171 ZSM: A special permit pursuant to Section 74-682 (Development over streets) for the enlargement of HSS’s existing East Wing Building.

C 060440 MMM: A city map amendment to eliminate, discontinue and close portions of the FDR Drive and related volumes (located on the East River Esplanade and southbound FDR Drive service road) for the construction of structural columns for the River Building.

N 070145 ZRM: A zoning text amendment to Section 74-682 to allow for the modification of off-street loading requirements.

The following actions represent required non-ULURP approvals for construction by HSS pursuant to the amended 1973 agreement between the City, HSS, New York Presbyterian Hospital, and Rockefeller University (the “Agreement”):

N 070146 CMM: A City Planning Commission certification pursuant to Article 15 of the 1973 Agreement for the enlargement of the East Wing Building, to be located in demapped air space over the FDR Drive.

N 070169 CMM: A City Planning Commission certification pursuant to articles 15 and 12A of the 1973 Agreement for the construction of the River Building and its structural support columns, to be located in demapped air space above the FDR Drive and East River Esplanade.

N 070168 CMM: A City Planning Director certification pursuant to Article 12B of the 1973 Agreement in order to demonstrate conformance to the standards and provisions of the Agreement with respect to the East Wing Building.

N 070170 CMM: A City Planning Director certification pursuant to Article 12B of the 1973 Agreement in order to demonstrate conformance to the standards and provisions of the Agreement with respect to the River Building.

BACKGROUND

HSS is primarily located at the eastern end of the blocks bounded by York Avenue and the FDR Drive between East 70th Street and East 72nd Street and is at the northern end of the larger medical and academic district which includes Rockefeller University, Memorial Sloan-Kettering, New York Presbyterian Hospital and Weill-Cornell Medical College.

HSS is consistently recognized as being one of the top orthopedic and rheumatology hospitals in the nation, and specializes in diagnosing, repairing, and rehabilitating bones, muscles, and joints.

HSS consists of four main buildings:

The West Wing Building (Block 1482; Lot 20)

The West Wing building is located at the eastern end of the block bounded by York Avenue, East 70th Street, East 71st Street, and the FDR Drive, and contains approximately 250,000 square feet of floor area. The West Wing Building functions as the main entrance for outpatient services, visitors, and admitted patients. The building houses a variety of hospital uses including medical offices, operating rooms, administration offices, a pharmacy, and laboratories. The West Wing Building is connected to New York Presbyterian Hospital by an enclosed pedestrian bridge over East 70th Street and to HSS's Caspary Research Building by an enclosed pedestrian bridge over East 71st Street. Additionally, the West Wing Building is physically connected to HSS's East Wing Building.

The East Wing Building (Block 1482; Lot 20)

The East Wing Building is located over the FDR Drive immediately to the east of the West Wing Building over the FDR Drive and was built in the mid-1990s pursuant to a City Planning Commission special permit (C 910485 ZSM). The building contains approximately 110,000 square feet of floor area distributed over eight floors and primarily contains operating rooms and inpatient beds.

The Belaire Building (Block 1483; Lot 33)

The Belaire building is located across East 71st Street to the north of the West Wing Building. The Belaire is a 43-story mixed use tower consisting of approximately 80,000 square feet of hospital-related facilities on floors 1-13, and residential condominiums on floors 14 - 43. In addition, the Belaire Building contains a privately owned public space, used by HSS staff and residents, which fronts on East 71st Street.

The Caspary Research Building (Block 1483; Lot 23)

The Caspary Research Building is located immediately to the east of the Belaire building, adjacent to the FDR Drive, and contains approximately 66,000 square feet of floor area primarily used for laboratory research.

In total, HSS currently owns approximately 500,000 square feet of floor area within these four buildings, which are functionally connected by a system of interior corridors and exterior bridges that link each building's second floor. Additionally, HSS leases another 140,000 square feet of floor area in several buildings between East 72nd Street and East 73rd Street primarily for doctors' offices and hospital support functions.

Area Context

To the east of York Avenue between East 63rd and East 71st streets are the campuses of Rockefeller University and New York Presbyterian-Cornell Medical Center, which are designated large scale community facility developments, and the HSS buildings noted above. While Rockefeller University maintains a lower density character with open space and lower scale buildings, the New York Presbyterian-Cornell Medical Center is a dense complex of tightly packed buildings, with the tallest structure being approximately 400 feet high.

The block bounded by East 71st Street, East 72nd Street, York Avenue, and the FDR Drive contains a variety of uses including HSS's Caspary Research Building and the 43 story Belaire Building, the 20-story Edgewater Apartments residential condominium, and Sotheby's auction house, gallery, and office building. Much of the area further to the north, and to the west, has been developed with residential buildings consisting of lower rise five and six story multi-family apartment buildings and high-rise towers. A relatively small area between East 73rd Street and East 75th Street near the FDR Drive, contains large manufacturing uses, including a Department of Sanitation garage and a Consolidated Edison power plant.

The area above the FDR Drive to the south of the proposed HSS River Building has been decked over in several locations by the adjacent institutions – Rockefeller University, New York Presbyterian Hospital, and HSS – pursuant to a 1973 Agreement between the City and these institutions intended to help facilitate their future expansions and to improve the East River Esplanade, a narrow strip of open space between the FDR Drive and East River that runs continuously from East 63rd Street to 125th Street.

Vehicles can access the FDR southbound lanes via East 73rd Street, and vehicles exiting the FDR Drive can travel westbound on East 71st Street.

Existing Zoning

Existing zoning districts in the vicinity of HSS consist primarily of high density residential districts. HSS, and a large area between the East River and 100 feet east of York Avenue, from East 63rd Street to East 72nd Street, is zoned R9, which permits 7.52 FAR for residential uses and 10.0 FAR for community facility uses. York Avenue is zoned R10, which permits 10.0 FAR for residential and community facility uses. There is also a small, high density commercial district on the east side of York Avenue between East 71st and East 72nd streets, which was rezoned to C5-2 (10.0 FAR for commercial uses) as part of the Sotheby's 1998 rezoning application. To the north, two manufacturing districts, M1-4 and M3-2, are located between the midblock line between East 72nd and East 73rd streets and East 76th Street. Both M1-4 and M3-2 districts allow 2.0 FAR for manufacturing uses.

Legislative History

New York State legislation approved in 1971 authorized New York City to close and discontinue air space over the FDR Drive between East 62nd Street and the midblock line between East 71st and East 72nd streets, and air space over East 63rd Street, East 70th Street and East 71st Street between York Avenue and the western edge of the FDR Drive, in order to convey such air space to the abutting institutions: Rockefeller University, New York Presbyterian Hospital, and HSS.

To implement the New York State legislation, the City Planning Commission (the “CPC” or the “Commission”) and the Board of Estimate approved the demapping of the air-space and an agreement between the three institutions and New York City in 1973 (the “Agreement”). The Agreement outlined the conditions and procedures by which the institutions could develop the air space above the FDR Drive and over the streets. The Commission recognized the need for the institutions to expand and ultimately modernize their facilities and noted that expansion over the FDR Drive would help to minimize disruption within the neighboring residential communities located to the west of the hospital and academic campuses. As part of the agreement, Rockefeller University, New York Presbyterian Hospital and HSS were obligated to provide waterfront public improvements, including constructing what was proposed to be an elevated walkway along the FDR Drive, adjacent to the East River, and access ramps over the FDR Drive to such walkway. These improvements were to be completed concurrent with development by the institutions. The Agreement recognized that development of buildings over the FDR Drive would require the placement of structural support columns along the walkway and outlined an approval process, including demapping actions, for such work. The East River Esplanade is under the jurisdiction of the New York City Department of Transportation and is maintained by the New York City Department of Parks and Recreation.

In 1983 and 1993, the Agreement was amended to be consistent with new City waterfront goals, including changing the proposed elevated walkway to an at-grade walkway and changing the location of access ramps to the walkway. Through the development of buildings over the FDR Drive by Rockefeller University (approved by the CPC in 1983 and 1989), New York Presbyterian Hospital (approved by the CPC in 1992), and HSS (approved by the CPC in 1992), the waterfront improvements were completed and the walkway, now called the East River Esplanade, exists today for passive and active public recreation.

HSS Previous Actions

In 1992, HSS received several approvals pursuant to the amended 1973 Agreement and Section 74-682 of the Zoning Resolution (C 910485 ZSM) to construct the East Wing building over the FDR Drive and to make the required waterfront improvements contemplated in the original 1973 Agreement. The approvals resulted in the development of an eight-story structure (with seven occupiable floors) built on a platform above the FDR Drive that primarily consisted of operating rooms and patient beds. Like previous construction over the FDR Drive pursuant to the 1973 Agreement, support columns for the platform were located in the East River Esplanade and in the FDR Drive southbound service road sidewalk. As part of the approvals, HSS also built a handicap accessible ramp over the FDR Drive, connecting the northern sidewalk of East 71st Street to the East River Esplanade through a series of switchback ramps. This improvement constituted fulfillment of HSS obligations under the 1973 Agreement.

Project Description

River Building

HSS is proposing to construct a new 86,869 square foot, 12-story building on a new platform approximately 21 feet over the FDR Drive between East 71st Street and the midblock line between East 71st and East 72nd streets. As required by the 1973 agreement, the building would be set back 25 feet from the East River bulkhead, but the support columns for the platform and the structural bracing would extend to the East River Esplanade, where four V-shaped columns would be threaded in between two portions of the East 71st Street pedestrian overpass, which descends, via a switchback, to the East River Esplanade.

The River Building would primarily be used for HSS's diagnostic imaging, sports medicine and rehabilitation, and physician offices. The second through fifth floors would be utilized primarily for physicians' offices and examination rooms for the Sports Medicine Institute. The sixth floor would contain the Performance Training Institute, the seventh floor would be utilized by the Rehabilitation Medicine Therapy Department, and

the eighth floor would house the Diagnostic Radiology Center for Arthroplasty Institute. Floors nine through 12 would be doctors' offices for the Arthroplasty Institute.

The River Building would rise to a total height of approximately 190 feet (including mechanical space) without setbacks, except on its north side, where a voluntary setback of approximately 20 feet would be provided above the fourth floor at a height of approximately 75 feet above the FDR Drive. This setback has been proposed in order to provide some relief to the Edgewater apartment building, a 20-story structure with east facing windows, which would abut the proposed River Building at its northwest corner.

During construction of the deck and support columns, a portion of the East River Esplanade would be required to be closed for approximately four to six months. A temporary pedestrian ramp would be built so that pedestrians could detour over the FDR Drive, via the East 71st Street pedestrian overpass, during the period of East River Esplanade closure. As a result, a pedestrian wishing to travel north on the East River Esplanade during this time would exit the esplanade at East 71st Street, proceed north on York Avenue, and reconnect to the esplanade at East 81st Street. Pedestrians traveling south would follow the same route in reverse. Support columns for the western side of the deck would be installed in the sidewalk of the FDR Drive southbound service road, also requiring temporary closure of this area as well.

HSS is also proposing to construct a new enclosed pedestrian bridge over East 71st Street, which would connect the third floors of the proposed River Building and the East Wing Building. This bridge would be primarily used by doctors and patients, who require access between the imaging equipment and inpatient beds located in the East Wing Building, and the doctor offices, examination rooms, and rehabilitation clinics proposed for the River Building. Additionally, the proposed pedestrian bridge would also facilitate the movement of equipment and supplies between the two buildings.

East Wing Building enlargement

HSS is proposing to add three floors (approximately 51,000 square feet of floor area) to the existing eight-story East Wing Building. The expansion will allow HSS to add 26 beds to the existing certified capacity of 160 beds for inpatient care, and allow for the reorganization of existing facilities located in the West Wing Building and other portions of the East Wing Building, thereby freeing up critical space for new inpatient and ambulatory operating rooms.

The proposed ninth floor will allow for an expanded and centralized home for HSS's Physical Therapy Department and the pharmacy, which will be relocated from the second and fifth floors of the West Wing Building. The 10th floor will have 38 inpatient beds with six private rooms and 16 rooms designed to accommodate two patients. The 11th floor will have 30 inpatient beds, replacing those located on the fifth floor of the East Wing Building, which in turn will become the new pediatric center.

With the proposed expansion, the East Wing will contain approximately 166,000 square feet of floor area and rise to a height of approximately 180 feet above the FDR Drive, including the mechanical penthouse.

Together with the proposed East Wing Building enlargement, approximately 138,000 square feet of floor area would be added to the HSS campus, essentially exhausting the remaining floor area on HSS-owned property.

REQUESTED ACTIONS

To facilitate the proposed project, the following actions are required:

Special Permit (C 060333 ZSM)

The applicant is requesting a special permit pursuant to Section 74-682 of the Zoning Resolution (Development over streets) in order to develop the River Building over the FDR Drive and to modify off-street loading requirements. As noted above, the River Building would consist of approximately 86,869 square feet of floor area and would rise

to a total height of approximately 180 feet, including the mechanical penthouse. Additionally, the applicant is proposing to construct a connecting bridge over East 71st Street, between the third floor of the East Wing Building and the River Building.

Pursuant to the proposed zoning text amendment (N 070145 ZRM), the applicant proposes to modify the off-street loading requirements for hospital facilities. The proposed River Building would result in the addition of approximately 86,869 square feet of floor area which would require one additional off-street loading berth pursuant to Section 25-72 of the Zoning Resolution. The applicant proposes to modify the requirement for one loading berth and to, instead, utilize the two existing loading berths located within the West Wing Building on the south side of East 71st Street. Movement of materials between the River Building and the existing loading berths would take place within off-street circulation paths, including the existing and proposed covered pedestrian bridges across East 71st Street.

Special Permit (C 070171 ZSM)

The applicant is requesting a special permit, pursuant to Section 74-682, to allow construction of a three-story addition to the East Wing Building, located in demapped air space above the Franklin D. Roosevelt Drive. As noted above, the enlargement of the East Wing Building would consist of an additional three floors (approximately 51,000 square feet of floor area) which would increase the height of the building from approximately 115 feet to 175 feet, including the mechanical penthouse.

Additionally, the applicant is requesting to modify the lot coverage requirements of Section 24-11 of the Zoning Resolution by adding approximately 517 square feet of lot coverage to the East Wing/West Wing zoning lot. This proposed modification would increase the total allowable lot coverage from 55,303 square feet (pursuant to C 910485 ZSM) to 55,820 square feet and would account for a portion of the proposed pedestrian bridge linking the East Wing Building to the proposed River Building.

City Map Amendment (C 060440 MMM)

The applicant is proposing to amend the city map in order to eliminate, discontinue and close portions of the FDR Drive and related volumes (located on the East River Esplanade and southbound service road) for the placement of structural columns for the River Building. Specifically, the city map amendment would demap a portion of the FDR Drive, located on the East River Esplanade, where the four, V-shaped structural columns would penetrate the ground. Additionally, five areas of the FDR Drive southbound service road would similarly be demapped for the placement of straight columns. For both areas, a subsurface area would need to be demapped for the construction of a grade beam which would act as the foundation for the columns, and volumes above the surface of the FDR Drive would be demapped for the columns themselves.

Zoning Text Amendment (N 070145 ZRM)

The applicant is requesting to amend Section 74-682 of the Zoning Resolution in order to allow for the modification of applicable off-street loading requirements. Section 74-682 of the Zoning Resolution (Development over streets) applies only to Rockefeller University, New York Presbyterian Hospital, and HSS, and it supplements and facilitates the 1973 Agreement between these institutions and the City. Currently, Section 74-682 allows the City Planning Commission to modify all bulk regulations, except floor area ratio regulations, but requires that all off-street loading regulations be complied with. The proposed amendment would allow the Commission to modify the off-street loading requirements of the proposed River Building, provided that certain findings are met.

Findings would relate to the adequacy of loading facilities to serve loading needs; the off-street accessibility of loading berths to the proposed building; and the impact of loading berths on the movement of pedestrians and vehicles.

City Planning Commission Certification (N 070146 CMM)

For the proposed enlargement to the East Wing Building, the applicant is requesting a City Planning Commission certification pursuant to Article 15 of the 1973 Agreement, to

allow construction of over the FDR Drive in compliance with the requirements of Exhibit H, Paragraph e of the Agreement. This paragraph requires that the Commission find that such construction shall not substantially interfere with the vehicular and pedestrian use of the FDR Drive; that all requirements imposed by federal and state law be complied with regarding the FDR Drive; and that construction is in accordance with the provisions of the Agreement.

City Planning Commission Certification (N 070149 CMM)

For the River Building, the applicant requests the same City Planning Commission certification under Article 15 as above. In addition, however, this action would allow the demapping of air space over and within the East River Esplanade for the purposes of placing structural support columns and connecting girders, requiring Commission approval under Article 12A of the 1973 Agreement, as amended by paragraph 13 of the third amendment (1993) to the 1973 Agreement. Article 12A, as amended, requires that such columns and girders do not substantially interfere with pedestrian use and enjoyment of the East River Esplanade, restrict light and air to the Esplanade, detract from the visual quality of the waterfront area, and impede vehicular use of the FDR Drive.

City Planning Director Certification (N 070168 CMM)

For the proposed enlargement to the East Wing Building, the applicant requests a City Planning Director certification pursuant to Article 12B of the 1973 Agreement, which require the applicant to provide plans that demonstrate conformance with the provisions of the 1973 Agreement, as amended. Required plans include those for the East River Esplanade and pedestrian access ramp; an environmental impact plan, ventilation plan, and noise quality plan; and a plan for closing portions of the East River Esplanade, the FDR Drive, and the ramps during construction.

City Planning Director Certification (N 070170 CMM)

For the proposed River Building, the applicant requests the same City Planning Director certification as above under Article 12B.

ENVIRONMENTAL REVIEW

This application (C 060333 ZSM), in conjunction with the application for the related actions (C 070171 ZSM, C 060440 MMM, N 070145 ZRM, N 070146 CMM, N 070168 CMM, N 070169 CMM, and N 070170 CMM) 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 City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 05DCP061M. The lead agency is the City Planning Commission.

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration and a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) were issued on December 27, 2006, and distributed, published and filed. A public scoping meeting was held on the Draft Scope of Work on January 30, 2007, and Final Scope of Work was issued on April 3, 2008.

The applicant prepared a DEIS and a Notice of Completion for the DEIS was issued on April 4, 2008. Pursuant to SEQRA regulations and CEQR procedures, a public hearing was held on the DEIS on July 2, 2008, in conjunction with the Uniform Land Use Review Procedure (ULURP) applications (C 060333 ZSM, C 070171 ZSM, C 060440 MMM, and N 070145 ZRM). A Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion for the FEIS was issued on August 1, 2008. The FEIS identified significant adverse impacts and proposed mitigation measures that are summarized in the Executive Summary of the FEIS attached as Exhibit A hereto.

UNIFORM LAND USE REVIEW

This application (C 060333 ZSM), in conjunction with the application for related actions (C 070171 ZSM and C 060440 MMM) was certified as complete by the Department of City Planning on April 4, 2008, and was duly referred to Manhattan Community Board 8 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b). The application for the related non-ULURP actions

(N 070145 ZRM, N 070146 CMM, N 070168 CMM, N 070169 CMM, and N 070170 CMM), was also referred to Manhattan Community Board 8 and the Manhattan Borough President for information and comment.

Community Board Public Hearing

Community Board 8 held a public hearing on this and the related applications (C 070171 ZSM, C 060440 MMM, N 070145 ZRM, N 070146 CMM, N 070168 CMM, N 070169 CMM, and N 070170 CMM) on May 14, 2008, and on that date, by a vote of 31 in favor, 3 opposed, and 2 abstained, adopted a resolution recommending approval of the applications.

Borough President Recommendation

This application (C 060333 ZSM) and the related applications (C 070171 ZSM, C 060440 MMM, N 070145 ZRM, N 070146 CMM, N 070168 CMM, N 070169 CMM, and N 070170 CMM) were considered by the Borough President, who issued a recommendation approving the applications on June 19, 2008, subject to the following condition:

“...That the applicant work with affected neighbors, community stakeholders, and Community Board 8: to consider design and programmatic changes that minimize project impacts; to develop a construction mitigation plan that plans construction and street closings in as expeditious a way as possible and provides adequate notice to neighboring residents; to address any negative construction-related impacts, and work with DEP on a ventilation plan that addresses the potential adverse impact from carbon emissions.”

City Planning Commission Public Hearing

On June 18, 2008 (Calendar No. 1), the City Planning Commission scheduled July 2, 2008, for a public hearing on this application (C 060333 ZSM). The hearing was duly held on July 2, 2008 (Calendar No. 33), in conjunction with the hearing on the related applications (C 070171 ZSM, C 060440 MMM, N 070145 ZRM). There were six speakers in favor of the applications and nineteen speakers in opposition.

Those speaking in favor of the applications included the applicant's attorneys, HSS's Executive Vice President for External Affairs, the project architect, facilities development manager, and the Director of Land Use for the Manhattan Borough President.

One of the applicant's attorneys described the proposed project, requested actions, and legislative history associated with HSS property. Additionally, he noted the location of the existing loading berths within the hospital campus. The Hospital's Executive Vice President for External Affairs discussed the need for the proposed project and the noted the increased demand for its services. The project architect described the architectural concept of the proposed project, and the Hospital's facilities development manager discussed the Hospital's off street loading operations and the construction-related impacts associated with developing a building over the FDR Drive and adjacent to the East River Esplanade. The Director of Land Use for the Manhattan Borough President reiterated the Borough President's recommendation.

Those in opposition included residents and representatives from 530 East 72nd Street (the "Edgewater Condominium"), including attorneys and planning and traffic consultants. Additional speakers in opposition resided on East 72nd Street.

The representatives of the Edgewater Condominium discussed the impact the proposed River Building would have on the Edgewater Condominium and stated that design alternatives should be considered that would produce a better site plan than the one proposed by the Hospital. Additionally, it was stated that the proposed River Building would negatively affect the East River Esplanade, light and air to surrounding buildings, views from the East 72nd Street overlook park, and traffic on the FDR Drive and East 71st Street. The Commission heard testimony that the placement of support columns within the Esplanade would constitute park alienation. Residents of the Edgewater Condominium and others on East 72nd Street discussed the impact the proposed enlargement of the East Wing Building and River Building would have on views from East 72nd Street and traffic in their neighborhood.

Several speakers also indicated that trucks using the hospital's existing loading facilities block East 71st Street and contribute to traffic congestion. In addition to these traffic concerns, the Commission heard testimony that the new deck over the FDR would create a condition of driving from darkness into light that would be hazardous to drivers exiting the FDR Drive. It was also suggested that that the Commission consider the potential for a congestion pricing plan to be adopted and affect traffic on East 71st Street.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

The application (C 070171 ZSM) in conjunction with the related applications (C 060333 ZSM, C 060440 MMM, N 070145 ZRM, N 070146 CMM, N 070168 CMM, N 070169 CMM, and N 070170 CMM), was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 06-029.

The action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the special permit (C 060333 ZSM), in conjunction with the related applications (C 070171 ZSM, C 060440 MMM, N 070145 ZRM, N 070146 CMM, N 070168 CMM, N 070169 CMM, and N 070170 CMM), are appropriate.

New York State legislation approved in 1971, authorized New York City to close and discontinue air space over the FDR Drive, from East 62nd Street to the midblock line between East 71st Street and East 72nd Street, in order to convey such air space to the abutting property owners, Rockefeller University, New York Presbyterian Hospital, and HSS. To implement the New York State legislation, the City Planning Commission and

the Board of Estimate approved the demapping of the air-space and an agreement between the three institutions and New York City in 1973 (the “Agreement”). The Agreement outlined the conditions and procedures by which the institutions could develop the air space above the FDR Drive and over the streets, as well as demap additional volumes for the placement of columns to support such development. The Commission recognized the need for the institutions to expand and ultimately modernize their facilities and noted that expansion over the FDR Drive would help to minimize disruption within the neighboring residential communities located to the west of the hospital and academic campuses. The Commission continues to acknowledge the appropriateness of such a policy and notes that HSS’s proposed enlargement of the East Wing Building and the construction of the River Building would be in accordance with the intent and specific requirements of the 1973 demapping action and Agreement, as amended. The Commission also notes that the proposed development represents the last opportunity for HSS to expand at this location since virtually all remaining allowable floor area on zoning lots not in demapped air space will be utilized in the enlargement of the East Wing Building and the construction of the River Building.

Zoning Text Amendment (N 070145 ZRM)

With regard to the proposed zoning text amendment, the Commission notes that Section 74-682 of the Zoning Resolution applies only to Rockefeller University, New York Presbyterian Hospital, and HSS, and that it supplements and facilitates the 1973 Agreement between these institutions and New York City. Currently, Section 74-682 allows the City Planning Commission to modify all bulk regulations, except floor area ratio regulations, but requires that all off-street loading regulations be complied with. The Commission notes that of the three institutions, only HSS does not qualify as a large scale community facility development, and that currently both Rockefeller University and New York Presbyterian Hospital would be allowed to modify off-street loading requirements pursuant to Section 79-32 of the Zoning Resolution. The Commission notes that the proposed findings associated with the proposed modification of off-street loading requirements would be similar to those required for large scale community facility developments. Considering that the HSS buildings on the north and south side of

East 71st Street are functionally and physically connected to each other, the Commission believes that a proposed text amendment, to allow HSS to seek to utilize existing loading berths within the HSS campus as part of its special permit application under Section 74-682, is appropriate.

Special Permits (C 070170 ZSM and C 060333 ZSM)

With respect to the East Wing Building, the Commission believes that the three story enlargement will result in an effective distribution of new bulk and a good site plan with respect to existing buildings on site and in the area. The enlargement will allow HSS to expand its capacity for inpatients and allow for the reallocation and reorganization of space within both the East and West Wing buildings. The Commission notes that the East Wing Building would rise to a height of approximately 174 feet above the FDR Drive, approximately 60 feet below the height of New York Presbyterian Hospital's Greenberg Pavilion, located over the FDR Drive, directly to the south. The Commission notes that the modification of lot coverage requirements would increase lot coverage on the zoning lot by less than 1% and would allow for the construction of a covered pedestrian bridge that would physically connect the third floor of the East Wing Building to the River Building, improving internal circulation within the hospital and allowing for the movement of employees, patients, and materials without having to cross East 71st Street, a busy street that provides egress from the FDR Drive.

With respect to the River Building, the Commission believes that in relation to the existing buildings on site and in the area, the location and distribution of new bulk result in a good site plan. The Commission recognizes that the demapped area over the FDR Drive which was conveyed to HSS pursuant to the 1973 Agreement, as amended, represents a uniquely constrained building site relative to other demapped areas over the FDR Drive to the south. The pedestrian overpass linking East 71st Street to the East River Esplanade and the presence of the east-west view corridor provided by East 71st Street itself create limitations on constructing the River Building further south than proposed. Additionally, consistent with other buildings constructed pursuant to the 1973 Agreement, the proposed River Building is required to be set back 25 feet from its eastern

zoning lot line. The Commission notes that as a result of these limitations, the largest achievable floor plates for the River Building are approximately 9,500 square feet, which is less than ideal for a new hospital facility. The Commission recognizes that the proposed River Building is critical for HSS in order to meet the existing and projected demand for its services.

The Commission recognizes that due to the particular constraints of the building site noted above, the River Building would abut residential balconies located at the southeast corner of the Edgewater Condominium, along its side lot line. The Commission notes, however, that above the fourth floor of the River Building (or approximately the fifth floor of the Edgewater Condominium), the River Building would set back approximately 20 feet from the Edgewater Condominium. The Commission further notes that the River Building would rise to a height of approximately 180 feet, lower than the height of surrounding residential buildings in the area, including the Edgewater Condominium.

Design changes that would result in a smaller floor plate than proposed on floors one through four of the River Building would inhibit operational efficiencies and the ability to achieve the required program. The Commission further believes that a modification to the River Building's design that would setback on the building's north face in the location of the residential balconies on floors one through five, would not improve views, and only nominally improve light and air to such apartments. At the same time, such a design change would further limit the hospital's programmatic flexibility on an already constrained site. The Commission believes, that as a whole, the proposed design of the River Building results in an appropriate balance between the needs of the hospital and the impact on adjacent property.

The Commission believes that the modification of off-street loading requirements for the River Building is appropriate. The Commission notes that HSS has two existing loading berths on the south side of East 71st Street, an adjacent storage area for waste on East 71st Street, and a loading area on the north side of East 70th Street which accesses the storage facilities of the East Wing Building. The Commission further notes that in a letter dated

July 17, 2008, and a letter dated August 8, 2008 indicating the same, HSS has agreed to relocate an emergency generator located adjacent to the East Wing Building storage facilities on the north side of East 70th Street, in order to allow for a dedicated loading area that can accommodate increased loading activity at that location. These loading facilities would be accessible to uses within the River Building through the existing and proposed covered pedestrian bridges over East 71st Street. Materials would therefore move between the River Building and the East Wing Building and West Wing Building without having to cross East 71st Street at grade.

In analyzing the adequacy of the existing loading facilities that are to serve the needs of the institution, the Commission notes that two off-street loading berths would be required for the amount of hospital-related floor area in the River Building, Caspary Research Building, Belaire Building, East Wing Building and West Wing Building combined. The Commission recognizes that HSS is thus requesting a modification of the off-street loading requirements because the HSS campus is located on two separate zoning lots rather than one. The Commission also understands that the expansion would result in a relatively small number of additional truck trips, particularly due to the fact that the type supplies needed are already being used by and delivered to the Hospital.

The Commission acknowledges the testimony regarding the location of the existing loading facilities. With regard to the movement of pedestrians on East 71st Street, the Commission notes that, as a practical matter, pedestrians do not utilize the southern sidewalk of East 71st Street in the location of HSS's existing loading facilities. With respect to the movement of vehicles, the Commission acknowledges the importance of reducing any potential conflicts between the Hospital's current loading activity and vehicles exiting the FDR Drive onto East 71st Street. The presence of a dedicated commercial loading zone measuring approximately 85 feet in length along the southern side of East 71st Street assists in reducing these conflicts. To augment the use of this zone, the applicant has committed, in a letter to the Commission dated August 8, 2008, to provide staff at East 71st Street to ensure that trucks do not stop on the north side of East 71st Street. The applicant also committed in the same letter to undertake measures to

improve loading operations at the Hospital, including scheduling deliveries to minimize conflicts, directing certain deliveries to East 70th Street, and continuing to work with the New York City Department of Transportation to develop additional measures. The Commission notes that the implementation of such commitments to improve loading operations will be ensured through the mapping agreement entered into in connection with the City Map amendment. The Commission believes that these commitments, together with the reduced reliance on the East 71st Street facilities that will result from the increased loading capacity proposed at HSS's East 70th Street loading area with the relocation of an emergency generator in that area, will reduce the potential for conflicts and functionally improve East 71st Street.

City Map Amendment (060440 MMM)

The Agreement authorizes additional demapping of air space to facilitate the placement of support columns in the Esplanade. In that regard, the Commission believes that the proposed design of the River Building's structural support columns and platform minimizes the building's impact on the East River Esplanade and pedestrian access ramp. Because the four V-shaped columns would be constructed within the existing space between the East 71st Street ramps, the existing clear width of the East River Esplanade would not be diminished by the construction of the columns. Preservation of the width of the clear path post-construction will also be ensured through the mapping agreement between the Hospital and the City in connection with the City Map amendment. The Commission recognizes that the City Map change would also facilitate five support columns in the sidewalk of the southbound service road of the FDR Drive, which is an area that, unlike the Esplanade, is not frequently used by pedestrians.

The Commission appreciates that the unique design of the open structural bracing that would connect the columns to the River Building platform would maximize the amount of light and air reaching the pedestrian access ramp, FDR Drive, and East River Esplanade. The Commission additionally notes that the applicant has stated it will provide a new water source for the landscaped areas on the East River Esplanade in order to enhance its appearance and maintain the health of plants and trees.

The Commission, therefore, believes that the proposed City Map amendment for the placement of support columns on both sides of the FDR Drive is appropriate.

Commission Certifications under the Agreement (N 070146 CMM, N 070149 CMM)

In considering the findings required pursuant to Article 15 of the 1973 Agreement, relating to the proposed construction over the FDR Drive, the Commission notes that the New York City Department of Transportation (“DOT”) has reviewed the proposed plans for the proposed River Building over the FDR Drive, including the placement of columns on either side of the FDR Drive and the need for temporary lane closures or diversions, and has determined that such temporary changes in traffic patterns would not substantially interfere with vehicular use of the FDR Drive. Such closures during construction would occur at times of reduced traffic as defined by DOT, and as directed by DOT in accordance with all applicable laws and regulations. In addition, the Commission notes that the mapping agreement, executed in connection with the City Map amendment, would require compliance with all DOT requirements regarding performance and maintenance of the River Building platform over the FDR Drive, similar to the prior agreement between the Hospital and the City in connection with the existing East Wing platform over the FDR Drive

The Commission believes that the proposed enlargement to the East Wing Building, which would not affect the building’s existing support columns, would not interfere with the FDR Drive. Further, the applicant has stated that construction would be staged from East 70th Street, which is not a through street and is a private street in this location. The Commission notes that the 1973 Agreement (Article 7F) specifically permits the closure of public ways for the purpose of construction, provided it complies with applicable laws. The Commission has determined that the proposed new construction over the FDR Drive is, in all other respects, in accordance with the provisions of the Agreement, as amended.

With respect to the findings required pursuant to Article 12B of the 1973 Agreement (as amended by paragraph 13 of the 1993 amendment to the Agreement), relating to the

demapping of additional air space for the placement of support columns in the East River Esplanade, the Commission believes that, because the proposed columns would be located between two parts of the switchback of the East 71st Street pedestrian ramp, where there are already columns supporting the pedestrian bridge, they would not substantially interfere with pedestrian use and enjoyment of the East River Esplanade. The Commission also notes that the mapping agreement in connection with the City Map amendment would ensure that the width of the clear path, as it exists today, would be maintained after installation of the columns.

The Commission believes that construction of the proposed columns would not substantially restrict light and air to the Esplanade, because the Esplanade is already affected in this location by the existing East 71st Street pedestrian ramp. As noted above, the columns would not further encroach upon the existing clear path along the Esplanade. Moreover, the Commission believes that the proposed V-shaped columns are an attractive design and an enhancement of the appearance of the waterfront in this location and would not detract from the visual quality of the waterfront area. The open, structural bracing that would connect the V-shaped columns to the River Building would allow more light and air onto the Esplanade, the pedestrian ramp, and FDR Drive than would a solid structure. Finally, the Commission has determined that the proposed columns would not impede vehicular use of the FDR Drive, as they would be placed within the western portion of the Esplanade, away from the northbound traffic lane.

Based on the foregoing, the Commission has determined that the findings in Articles 15 and 12B, as amended, of the Agreement have been met with respect construction of the East Wing expansion and the new River Building over the FDR Drive, as well as placement of the support columns in the East River Esplanade for the River Building.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-682 (Development over streets) of the Zoning Resolution;

1. For developments or enlargements in such demapped air space and for modification of bulk regulations, that the location and distribution of new bulk shall result in a good site plan in relation to the existing buildings on site and in the area;
2. For modification of off-street loading requirements, when such non-profit institution includes more than one building on two or more zoning lots, the City Planning Commission may determine the required number of loading berths as if such non-profit institution were located on a single zoning lot, and may permit such loading berths to be located anywhere within such institution without regard for zoning lot lines, provided that such loading berths will be:
 - a. Adequate to serve the requirements of the institution
 - b. Accessible to all the uses in such institution without the need to cross any street at grade; and
 - c. Located so as to not adversely affect the movement of pedestrians or vehicles on the streets within or surrounding such institution.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on August 1, 2008, with respect to this application (C 060333 ZSM), the City Planning Commission finds that the requirements of Part 617, New York State Environmental Quality Review, have been met and that, consistent with social, economic, and other considerations:

1. From among the reasonable alternatives thereto, the action to be approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable;
2. The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigation measures that were identified as practicable.

The report of the City Planning Commission, together with this FEIS, constitute the written statement of facts, and of social, economic, and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and it be it further

RESOLVED, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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 of the Hospital for Special Surgery, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-682 of the Zoning Resolution to allow the development of a 12-story hospital building in demapped air space above the portion of the Franklin D. Roosevelt Drive located between East 71st Street and a line midway between East 71st Street and East 72nd Street and to permit the modification of the loading berth requirements of Section 25-70 (Off-Street Loading Regulations, General Purposes), for a zoning lot generally bounded by the U.S. Pierhead and Bulkhead Line of the East River, the center line of East 71st Street, East 71st Street, a line 373 feet east of York Avenue, East 72nd Street, a line 498 feet east of York Avenue and a line midway between East 71st Street and East 72nd Street (Block 1482, p/o Lot 9020 and Block 1483, Lots 23 and 33), within an R9 District, Community District 8, Borough of Manhattan, is approved subject to the following conditions:

1. The property that is the subject of this application (C 060333 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following

plans, prepared by Cannon Design filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z – 004	Zoning Site Plan	8/6/08
Z – 005	Zoning Analysis	8/6/08
Z – 014	Zoning Section Diagrams	3/14/08
Z – 026	Temporary Ramp and Relocated Highway Sign Plan	3/14/08
Z – 029	Partial Site Lighting Plan Sheet No. 1	3/14/08
Z – 030	Partial Site Lighting Plan Sheet No. 2 (For Temporary Ramp)	3/14/08
Z – 031	Interim Roadway Lighting and Details	3/14/08
Z – 032	Columns at Ground Level	3/14/08
Z – 033	Esplanade Site Plan	3/14/08

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, operation and maintenance.
4. The development shall include those mitigative measures listed in the Final Impact Statement (CEQR No. 05DCP061M) issued on August 1, 2008 (and identified as practicable).

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, sublessee 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 and the related restrictive declaration whose provisions 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 as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the related restrictive declaration.
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 failure to act in accordance with the provisions of this special permit.
8. 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 such documents 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.

The above resolution (C 060333 ZSM), duly adopted by the City Planning Commission on August 11, 2008 (Calendar No. 22), 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.

AMANDA M. BURDEN, FAICP, Chair
KENNETH KNUCKLES, Esq., Vice Chair
ANGELA M. BATTAGLIA, ANGELA R. CAVALUZZI, AIA,
ALFRED C. CERULLO, III, MARIA M. DEL TORO, RICHARD W. EADDY,
NATHAN LEVENTHAL, SHIRLEY A. MCRAE, Commissioners

IRWIN G. CANTOR, PE, KAREN A. PHILLIPS, Commissioners, Voting “No”