



CITY PLANNING COMMISSION

June 29, 2009/Calendar No. 2

C 090263 (A) ZSM

IN THE MATTER OF an application submitted by the Port Authority of New York and New Jersey, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-62(b) of the Zoning Resolution:

1. to allow the construction of a railroad passenger station and ventilation facilities or other facilities or services used or required in connection with such railroad passenger station or in connection with an underground railroad right-of-way that provides access to such railroad passenger station; and
2. to modify the height and setback requirements of Section 43-43 for two proposed ventilation facilities on property located on Block 674, Lot 1 and Block 784, Lot 54, in M1-6 and M2-3 Districts;

in connection with a proposed railroad passenger station and ventilation facilities or other facilities or services used or required, within the area generally bounded by West 35th Street, Broadway, Avenue of the Americas, West 33rd Street and Ninth Avenue, West 34th Street, Ninth Avenue, West 33rd Street and Tenth Avenue, and West 29th Street, Eleventh Avenue, West 28th Street and Twelfth Avenue, in C5-2, C6-4, C64-5, C6-4M, C6-6, M1-6 and M2-3 Districts, partially within the Special Hudson Yards, Special Midtown and Special Garment Center Districts, Community Districts 4 & 5, Borough of Manhattan.

An application (C 090263 ZSM) was filed by the Port Authority of New York and New Jersey on January 9, 2009, for a special permit pursuant to Section 74-62(b), of the Zoning Resolution to allow the construction of a railroad passenger station (New York Pennsylvania Station Expansion) – to include two levels of track and a pedestrian mezzanine below West 34th Street, six station entrances, four fan plants, and related below-grade elements – in connection with a new railroad tunnel underneath the Hudson River. On April 17, 2009, pursuant to Section 2-06(c)(1) of the ULURP rules, the applicants filed a modified special permit application (C 090263 (A) ZSM) for public hearing and consideration by the City Planning Commission. This application was revised on June 25, 2009. On June 25, 2009, the applicants withdrew related application C 090263 ZSM. The subject of this report is application C 090263 (A) ZSM, as revised.

RELATED ACTION

In addition to the special permit which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

N 090262 ZRM Zoning Text Amendment to Section 74-62 (Railroad Passenger Stations).

BACKGROUND

The project is being proposed as part of the Access to the Region's Core project (ARC Project), which is jointly sponsored by the Port Authority of New York and New Jersey (Port Authority) and New Jersey Transit (NJ Transit), in order to increase capacity of NJ Transit's commuter rail services into Midtown Manhattan. In addition to the land use applications for the proposed railroad passenger station that are the subject of this report, the ARC Project involves the improvement and reconfiguration of several rail lines in New Jersey and the construction of a new railroad tunnel under the Hudson River.

The ARC Project evolved from a Major Investment Study (MIS) conducted in 2003 by the Federal Transit Administration (FTA), NJ Transit, the Metropolitan Transportation Authority (MTA), and the Port Authority to consider options for improving access to Manhattan for the growing population west of the Hudson River in both New Jersey and New York. NJ Transit currently provides access to Manhattan from these areas through Amtrak's two single-track Hudson River tunnels into New York's Pennsylvania Station, which it shares with the Long Island Rail Road and Amtrak. These facilities are currently either at or approaching capacity, with future demand for NJ Transit commuter access expected to double by 2025. The MIS

concluded that the best alternatives to meet this growing demand were those that utilized the existing New Jersey commuter rail network. The MIS findings led to the decision by NJ Transit, in partnership with the Port Authority, to focus on a commuter rail tunnel that would provide additional train capacity into Midtown Manhattan and also new passenger station capacity.

The new tunnel would enter Manhattan just south of West 28th Street, and would extend north to and along West 34th Street, at a depth of between approximately 90 and 180 feet below ground. Two levels of track and a third, pedestrian mezzanine level would be located at the terminus of the tunnel in the bed of West 34th Street, between 6th and 9th Avenues, at a depth of approximately 150 feet. The passenger station would also include six station entrances - including five entrances at street level with stairs and escalators, and one employee entrance. Three of these station entrances would also include elevators. Existing New York City Transit (NYCT) subway stairs would be relocated from the sidewalk into adjoining buildings as part of the project, and underground connections would be provided on below-grade entrance concourses to both to the subway system and to the existing Pennsylvania Station. Deep escalators would connect these concourses to the passenger station's pedestrian mezzanine level.

The passenger station would also include four ventilation facilities, or "fan plants," to provide ventilation for the project. The fan plants would operate only in the event of an emergency, such as a fire in the tunnel and for testing purposes, as well as possibly also during unusual extreme temperature conditions in the summer months when the tunnel temperatures exceed 115 degrees. The fan plant buildings would also house the plenum, ducts and mechanical equipment used in

connection with the operation of the fan plants. At ground level the fan plants would also contain loading areas, and three of the fan plants would also include small retail areas.

All property necessary for the passenger station that is not presently owned by the applicants would be acquired through negotiation or, if necessary, through condemnation. This includes City-owned property, primarily underground easements, which would be acquired only with the City's express consent pursuant to the Port Authority Act.

REQUESTED ACTIONS

ZONING TEXT AMENDMENT (N 090262 ZRM)

In order to facilitate the passenger station, the applicants have requested a zoning text amendment that would amend Section 74-62 as it affects railroad passenger stations and appurtenant facilities. Section 74-62 (Railroad Passenger Stations) was enacted in 1961 to allow, by special permit, the construction of railroad passenger stations. However, the special permit has never been used since most passenger stations in New York City are developed by the MTA, which is not subject to city zoning requirements. As such, the text still reflects the values and planning priorities of the 1960s, most clearly by emphasizing the parking needs of a railroad passenger station.

The text amendment, which is intended to facilitate the passenger station and would apply only in Manhattan Community Districts 4 and 5, would:

- Allow the Commission to permit ventilation facilities appurtenant to railroad passenger stations or approaches, and to permit the modification of certain bulk requirements for such facilities;
- Remove the requirement for accessory off-street parking for railroad passenger stations. The proposed text amendment would make text consistent with the requirements of Article I, Chapter 3, by deleting the accessory off-street parking requirements for stations in these areas;
- Add additional findings related to pedestrian circulation at above-grade station entrances and below-grade entrance concourses, to ensure that their design can accommodate expected pedestrian flows;
- Allow station entrances to be treated as permitted obstructions in certain publicly accessible open areas within the Penn Center Subdistrict of the Special Midtown District, provided the Commission finds the encroachment in the open area will facilitate improved pedestrian circulation to, from and within the passenger station;
- Require publicly accessible open areas in which station entrance areas facilities are located to be improved in accordance with a site plan approved by the Chairperson of the Commission; and
- Allow the Commission to prescribe appropriate conditions and safeguards in connection with such railroad passenger stations, including mitigation for pedestrian impacts, signage requirements, or screening or placement of the permitted facilities.

SPECIAL PERMIT (C 090263 (A) ZSM)

The applicants have also requested a special permit pursuant to Section 74-62(b), as proposed to be amended, in connection with the proposed passenger station. The special permit would encompass the following features, including: (i) the tracks, platforms, and passenger mezzanine level in the bed of West 34th Street, extending from approximately 30 feet to approximately 180 feet below street level between 6th and 9th avenues; (ii) the six above-grade station entrances and below-grade entrance concourses located at approximately 15 feet and 30 feet below street level, and connections between these concourses and the station's platforms, extending through neighboring properties; and (iii) the four fan plants, including the below-grade facilities on neighboring properties associated with each fan plant. The drawings filed as part of this application include plans for street level, and the -15 feet and -30 feet levels, in view of the fact that the findings for Section 74-62(b) which concern vehicular and pedestrian circulation at these levels.

For station entrances located along West 34th Street at 7th Avenue and 8th Avenue, the application includes alternative entrance designs. The Scheme A design was analyzed in the project's Final Environmental Impact Statement (FEIS), while the Scheme B design represented a subsequently developed alternative included in the application at the request of the Department of City Planning, in order to allow for consideration of its potential land use, urban design, and transportation benefits. The design was also the subject of discussions between the Port Authority, NJ Transit, and other stakeholders – including NYCT, LIRR, and property owners – about how best to integrate the station entrances with existing transit infrastructure and public space, as well as private development.

On April 17, 2009, the applicants filed a modified application for the special permit (C 090263 (A) ZSM). The modified application included a third version for the 7th Avenue station entrances, labeled Scheme C, that reflected further design advancement based on additional discussions with stakeholders. The various schemes are described in detail below.

The passenger station would have three levels below West 34th Street, including two track levels and a third pedestrian mezzanine level in a cavern located between approximately 90 feet and 180 feet below the surface of the street. Escalators extending from below-grade entrance concourses would lead to the pedestrian mezzanine level, from which passengers would be able to access platforms on either of the two track levels.

Station Entrances and Below-grade Entrance Concourses

The six station entrances would be located in the following locations:

Entrance 1: 460 8th Avenue (Block 783, Lots 1, 34, 48 and 70), between West 33rd and West 34th Streets.

This site would include a stair, escalator, and elevator entrance to the below-grade station concourse, and would be developed pursuant to one of two alternative design schemes, as further described below. The property is located on the eastern side of 8th Avenue and the western end of Block 783, on the same zoning lot as Entrance 2. The deep escalator bank beneath the block and the bed of West 34th Street would connect the below-grade entrance concourse to the pedestrian mezzanine level below the street. The zoning lot is located partially within a C6-4 and partially within a C6-6 zoning district, within the Special Midtown District. The Lot 1 portion of the zoning lot, on the western end of the block, has a lot area of 14,375 square feet, and is currently improved with a one-story retail building. The Lot 34 portion of the zoning lot, on the eastern end of the block, has a lot area of 11,619 square feet, and is currently improved with a one-story retail building. The Lot 48 portion of the zoning lot, which fronts on West 34th Street, has a lot area of 1,981 square feet, and currently contains an entrance to the LIRR. The Lot 70 portion of the zoning lot has a lot area of 127,966 square feet, and is improved with the 57-story 1 Penn Plaza building and a one-story retail building.

Scheme A would locate the primary escalators and stairway at street level along 8th Avenue, with a north-south orientation. Under Scheme B, the escalators and stairway for Entrance 1 would be located along West 34th Street in an east-west orientation. The Scheme A and Scheme B designs for Entrance 1 also differ in terms of their below-ground connections to the pedestrian

mezzanine level, NYCT subway elements and to Pennsylvania Station. Both schemes would require encroachment by the station entrance into portions of an existing publicly accessible open area on the western end of Block 783.

Entrance 2: 420 7th Avenue (Block 783, Lots 1, 34, 48 and 70), between West 33rd and West 34th streets.

This site would contain a stair, escalator, and elevator entrance to the below-grade entrance concourse, to be developed pursuant to one of three design schemes, as further described below. The property is located on the western side of 7th Avenue and the eastern end of Block 783, on the same zoning lot as Entrance 1. The zoning lot is located partially within a C6-4 and partially within a C6-6 zoning district, within the Special Midtown District. The current improvements on the zoning lot are described under “Entrance 1” above.

Scheme A would locate the station entrance along the 7th Avenue street frontage of the block, while Scheme B would involve placing the entrance in an existing publicly accessible open area, which is located approximately 100 feet west of 7th Avenue. The Scheme A and Scheme B designs for Entrance 2 also differ in terms of their below-ground connections to the pedestrian mezzanine level, NYCT subway elements and to Pennsylvania Station. In both Scheme A and B, the deep escalator bank located beneath the block and the bed of West 34th Street would connect the below-grade entrance concourse to the pedestrian mezzanine level below the street.

Scheme C would reorient the deep escalator bank that descends from the below-grade entrance concourse to the pedestrian mezzanine level station to the north on block 784 and the bed of West 34th Street. Similar to Scheme B, Scheme C would also locate the escalator and stairway in an existing publicly accessible open area located approximately 100 feet west of 7th Avenue, but would allow for a deferral of the construction of the entrance until such time as it is warranted by increased pedestrian demand or until a new building is constructed on the block. The below-grade pedestrian and mechanical areas under the block would be reconfigured.

Entrance 3: 442 7th Avenue / 201 West 34th Street (Block 784, Lots 39, 41 and 47), at the northwest corner of Seventh Avenue and West 34th Street.

This site would contain a stair and escalator entrance to the below-grade entrance concourse. Lot 39 is located in a C6-4 zoning district within the Special Midtown District. It has a total lot area of 2,401 square feet, and is currently improved with a four-story retail and office building. Entrance 3 will also incorporate below-grade circulation areas located on Lot 41, which is located partially in a C6-4 zoning district within the Special Midtown District, partially in an M1-6 zoning district and in the Special Garment Center District, and partially in a C6-4M zoning district. The total lot area of Lot 41 is approximately 15,000 square feet, although only a small portion adjacent to West 34th Street would contain below-grade pedestrian elements. Schemes A and B are the same for this entrance, while Scheme C would include a wider above-grade entrance on Lot 39 and reorient the deep escalator banks that descend from the below-grade entrance concourse to the pedestrian mezzanine level from Block 783 to Block 784 and the bed of West 34th Street. This reorientation would affect an additional property below-grade - Lot 47, which is located in a M1-6 district in the Special Garment Center District. It has a total lot area of 1,205 square feet, and is currently improved with a two-story retail and office building

Entrance 4: 1311 Broadway and 110 6th Avenue (Block 809, Lots 45 and 49), at the southwest corner of the intersection of 6th Avenue, Broadway, and West 34th Street.

This site would contain a stair, escalator, and elevator entrance to the below-grade entrance concourse, within the ground floor of an existing nine-story and 12-story office and retail building on two separate properties. Lots 45 and 49, which would contain the at-grade station entrance, are located in a C6-6 zoning district within the Special Midtown District, and together have a lot area of 28,399 square feet. The deep escalator bank connecting the below-grade entrance concourses to the pedestrian mezzanine level in the bed of West 34th Street would be located beneath neighboring properties on Block 809.

Entrance 5: 1313 Broadway (Block 810, Lot 40), at the northwest corner of the intersection of 6th Avenue, Broadway, and West 34th Street.

This site would contain a stair entrance to the below-grade entrance concourse. The property is located in a C5-2 zoning district. It has a lot area of 1,200 square feet, and is currently improved with a one-story retail building.

Entrance - ADA: 313 West 34th Street (Block 758, Lot 25), between 8th and 9th Avenues.

An ADA-compliant elevator and stair entrance for railroad station employees, opening onto West 34th Street, would be contained within the site. This property is located in a C6-4 zoning district within the Special Hudson Yards District. The property has a lot area of 20,638, and is currently improved with a five-story parking garage.

Given the complexity of the ARC project, the specific location, dimension and layout of elements within the station's entrances and below-grade entrance concourses will likely be modified in the final design. To ensure that key aspects of the railroad passenger station are maintained while allowing for flexibility, the applicants have included a series of Network Elements in the special permit drawings. These elements represent the key components and connections between the passenger station and surrounding transit and sidewalks. The Network Elements would be required to be maintained in the final design. If any of these elements are not included, the applicants would be required to seek a major modification to the approved special permit. The location, dimension and layout of pedestrian circulation elements shown in the special permit drawings would be allowed to change, provided a technical memorandum is submitted to the City Planning Commission demonstrating that the revised design would achieve an acceptable pedestrian Level of Service and not result in any new or significant environmental impacts.

Fan Plants

Fan plants are not specifically listed as a use in the Zoning Resolution, but can be considered as part of the term "railroad," listed in Use Group 17C, which includes "rights-of-way, freight terminals, yards or appurtenances or facilities or services used or required in railroad operations, but not including passenger stations." Two of the proposed fan plants would be located in commercial zoning districts and thus require a special permit to allow this use pursuant to the

proposed amended zoning text. The other two fan plants would be located in manufacturing zoning districts, where they are permitted as of right. These two fan plants also require a special permit for modification of certain bulk regulations pursuant to the proposed amended zoning text.

The fan plants and associated below-grade facilities would be located in the following locations:

Fan Plant 1: 600 West 29th Street (Block 674, Lot 1), between 12th Avenue, 11th Avenue, 28th and 29th Streets.

This property has a total lot area of approximately 147,789 square feet, and is located in an M2-3 zoning district. The proposed fan plant would occupy a small portion of this site, which currently contains a parking lot and open storage facility used by Con Edison. This fan plant requires modification of height and setback regulations pursuant. It would have a front wall of approximately 144 feet in height, exceeding the maximum front wall height of 60 feet or four stories, and also would not have the minimum required initial setback of 20 feet. The overall building height would be 150 feet.

Fan Plant 2: 431 West 33rd Street (Block 731, Lot 22), between 9th and 10th Avenues near Dyer Avenue.

This property has a total lot area of 7,406 square feet, and is located in a C6-4 zoning district within the Special Hudson Yards District. The site is currently vacant. Below-grade ducts and other equipment serving this fan plant would be located on neighboring properties on block 783, to allow for ventilation from the tunnel. This fan plant requires a special permit since it is not a permitted use in the C6-4 district.

Fan Plant 3: 218 West 35th Street (Block 784, Lot 54), between 7th and 8th Avenues.

Lot 54, where the above-grade fan plant will be located, has a total lot area of 7,500 square feet, and is located in an M1-6 zoning district within the Special Garment Center District. The property is currently improved with a two-story commercial building. Below-grade ducts and other equipment serving this fan plant will be located on neighboring properties within Block

784 to allow for ventilation from the Proposed Station, in the bed of West 34th Street. This fan plant requires modification of certain bulk regulations. It would have a front wall of approximately 120 feet in height, exceeding the maximum street wall height of 85 feet or six stories; after a 20-foot setback, the building would rise to an overall height of approximately 200 feet and would penetrate the sky exposure plane at a height of approximately 139 feet. A modification of the use regulations is also required for those below-grade elements that are not located in the M1-6 district.

Fan Plant 4: 137-139 West 33rd Street (Block 809, Lots 16 and 17), between 6th and 7th Avenues.

Lots 16 and 17, where the above-grade fan plant will be located, have a total area of 4,938 square feet, and are located in a C6-4.5 zoning district within the Special Midtown District. The properties each currently contain one-story retail buildings. Below-grade ducts and other equipment serving this fan plant will be located on neighboring properties within Block 809, to allow for ventilation of the passenger station. This fan plant requires a special permit as it is not a permitted use in the C6-4.5 district.

ENVIRONMENTAL REVIEW

The Federal Transit Authority and NJ Transit analyzed the project's potential for environmental impacts in accordance with the standards of the National Environmental Policy Act of 1969 (49 USC Section 501(e), 523(b), and 5324(b)), and prepared a Draft Environmental Impact Statement, published February 9, 2007, a Supplemental Draft Environmental Impact Statement, published March 14, 2008, and a Final Environmental Impact Statement (FEIS), published on November 7, 2008. The Federal Transit Authority issued a Record of Decision on January 14, 2009. The ARC FEIS forms the basis for the determinations of the Commission under the New York State Environmental Quality Review Act and New York City Environmental Quality Review. The SEQRA regulations provide that "when a draft and final EIS for an action has been duly prepared under the National Environmental Policy Act of 1969, an agency has no obligation to prepare an additional EIS..., provided that the federal EIS is sufficient to make [SEQRA] findings[.]" (6 NYCRR 617.15(a)) On January 20, 2009, the Commission accepted the FEIS as

sufficient to make the SEQRA findings. 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.

Subsequent to the publication of the FEIS, four technical memoranda (CEQR No. 09DCP45M) were prepared to analyze proposed changes in the project and potential changes to its background context, which are reflected in this application. A technical memorandum, dated January 15, 2009 (Technical Memorandum No. 1) accompanied ULURP application (C 090263 ZSM), and analyzed the potential for additional environmental impacts from the increase in the height of the fan plants and alternative Scheme B design for station entrances 1 and 2, located on Block 783. A second technical memorandum, dated June 4, 2009 (Technical Memorandum No. 2) accompanied ULURP application (C 090263 (A) ZSM), and analyzed the potential for additional environmental impacts from the alternative Scheme C design for station entrances 2 and 3. A third technical memorandum, dated June 2009 (Technical Memorandum No. 3) accompanied ULURP application (C 090263 (A) ZSM), and assessed potential mitigation measures for some of the significant pedestrian impacts identified in the project's FEIS. A fourth technical memorandum, dated June 2009 (Technical Memorandum No. 4) accompanied ULURP application C 090263 (A) ZSM) and assessed the potential for additional impacts at the project's 6th Avenue station entrance and below-grade entrance concourses due to additional possible future development in the surrounding area.

The Technical Memoranda assessed whether the proposed changes in the project and potential changes to its background context would have the potential to cause any significant adverse environmental impacts not previously identified in the FEIS. The Technical Memoranda are hereby accepted by the Commission pursuant to 6 NYCRR 617.15(a) for purposes of making SEQRA findings in conjunction with the project's FEIS. The Technical Memoranda conclude that the proposed changes in the project and potential changes to its background context would not result in any new significant adverse impacts not identified in the FEIS.

UNIFORM LAND USE REVIEW

The original application (C 090263 ZSM) was certified as complete by the Department of City Planning on January 20, 2009, and was duly referred to Manhattan Community Boards 4, 5, the Manhattan Borough President and the Manhattan Borough Board, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the application for the related text amendment (N 090262 ZRM) which was referred for information and review in accordance with the procedures for non-ULURP matters.

On May 4, 2009, the modified application (C 090263 (A) ZSM) was duly referred to Community Boards 4, 5 and the Borough President and the Borough Board, pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure. On June 25, 2009, the original application (C 090263 ZSM) was withdrawn by the applicants.

Community Board Review

Community Board 4 held a public hearing on the original application on March 4, 2009, and on that date, by a vote of 34 to 4 with 0 abstentions, adopted a resolution recommending approval of the application subject to the following conditions:

- 1) The design of Fan Plant 1 is further developed in consultation with the community board to be architecturally compatible with its surroundings and create an active appearance at street level, including sidewalk lighting and street trees;
- 2) The design of Fan Plant 2 is modified as much as possible to reduce its impacts on the surrounding residential buildings, and includes sidewalk lighting and street trees;
- 3) A process is established to design and develop the open space adjacent to Fan Plant 2 in consultation with the community board.
- 4) The applicants agree to establish a construction coordination task force to plan for and advise the community of construction activities at the Fan Plant 2 site as they progress; and
- 5) The mitigation measures identified in the FEIS are in place to protect the St. Michael's School building and the adjacent apartment buildings and their occupants during the construction at the Fan Plant 2 site.

In addition, Community Board 4 recommended that Section 74-62(a) be modified to make clear that it does not apply in CDs 4 or 5 in Manhattan.

Community Board 5 held a public hearing on the original application on March 12, 2009, and on that date, by a vote of 31 to 0 with 2 abstentions, adopted a resolution recommending denial of the application subject to the following conditions:

- 1) Enlarge the entrance on the northwest corner of Broadway and 34th Street and chamfers (round off) the acute angle building corner so as to improve pedestrian circulation; and
- 2) Include new entrances to the station on the north and west sides of 8th Avenue and 34th Street; and
- 3) Agree to submit any proposals for the use of public spaces for new entrances to a consultation process; and
- 4) Include plans for fan plants and station entry portals which enhance the cityscape in their surrounding areas with aesthetically pleasing or artistically challenging enhancements to the area; and
- 5) Renew efforts to study alternative locations for the fan plant on 33rd Street and agrees to provide adequate compensation to all current leaseholders on property to be taken for fan plants and station entry portals, including the costs of relocation and the loss in value of the goodwill of those businesses.

Borough President Recommendation

The original application was considered by the Borough President, who issued a recommendation of conditional approval of the application N 090262 ZRM on April 24, 2009 subject to the condition “that the Commission be required to hold a public hearing for modifications to site plans for public open areas as in the proposal.” The Borough President also recommended conditional approval of the application C 090263 ZSM on April 24, 2009 “on the condition that the applicants follow through on the commitments made in the Port Authority’s letter to the Borough President” dated April, 15, 2009. The letter was attached to the Borough President’s recommendation and is attached to this report.

Borough Board Recommendation

The original application was considered by the Manhattan Borough Board, which, at its meeting on April 16, 2009, the Borough Board voted 9 in favor, 0 opposed, 1 in abstention, and 2 not present, to recommend conditional approval of the application, conditional upon adherence to the set of commitments made to the Borough President described above.

City Planning Commission Public Hearing

On May 6, 2009 (Calendar 2 and 3), the City Planning Commission scheduled May 20, 2009 for a public hearing on the original application (C 090263 ZSM) and the modified application (C 090263 (A) ZSM). The hearing was duly held on May 20, 20089 (Calendar No. 21 and 22), in conjunction with the public hearing on the application for the related action (N 090262 ZRM).

There were 8 speakers in favor of the application and 1 speaker in opposition.

The Executive Director of the Port Authority gave an overview of the project, describing it as a key economic development project for the region that would provide the first additional train capacity into Manhattan in over 100 years. He also described the applicants' commitments to working with the various local agencies and community boards, including a construction management task force that will be set up as the project moves forward.

The applicants' land use attorney described the proposed text change, the amended application and the project's environmental review. She also described the series of commitments made by the applicants to the Borough President and the property acquisition process the applicants will undertake including, whenever possible, negotiations with property owners and affected businesses.

The Port Authority's director for the project described its various elements, including the station entrances and fan plants. He also noted that construction was proposed to begin in 2009, with service starting in 2017 and that the project was being designed to accommodate the future development of the Moynihan Station area.

The Director of Land Use for the Manhattan Borough President's office spoke in support of the project, and reiterated the Borough President's recommendation.

A representative from the 34th Street Business Improvement District spoke in support of the project, saying the improvements to the area's pedestrian realm proposed as part of the project would make the area as lively as possible for residents and businesses.

A representative from the Regional Plan Association described the project as one of "national significance" that would improve connections to Midtown, produce economic growth and create jobs. He noted further that the project was designed to fit in well with its surrounding area, including the surrounding transit facilities.

A representative from Community Board 4 spoke in favor of the project, while also noting the community board's concerns about the project, including construction impacts and the design of the fan plant structures.

A representative from the Tri-State Transportation Committee spoke in favor of the project saying the current design effectively deals with the currently inadequate pedestrian conditions around the site. He also spoke in support of the text amendment saying it appropriately removes parking requirements for stations in the high-density commercial area.

A representative for a residential building located at 440 West 34th Street and adjoining the proposed site for Fan Plant 2 spoke in opposition to the project. The representative said the applicants should explore alternative locations for the fan plant or alternative designs which would have less impact on surrounding properties. She also testified that the construction and operation of the fan plant would inhibit the building from leasing its property and maintaining an acceptable quality of life for its tenants.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application 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 the New York State Department of State on May 22, 2002, pursuant to the New York State Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.) The designated WRP number is 08-031. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the grant of a special permit (C 090263 (A) ZSM), as modified herein, in conjunction with the related application for a zoning text amendment (N 090262 ZRM), as modified herein, is appropriate.

Special Permit (C 090263 (A) ZSM)

The Commission recognizes the importance of the ARC project to the New York region in general and for the future economic development of the Midtown area, in particular. The major trans-Hudson crossings into Manhattan are either at or approaching capacity, jeopardizing the entire region's transportation system's reliability. The future needs of Midtown-bound commuters from west of the Hudson River – who are expected to double in number by 2030 - would strain even further the limited capacity of the existing trans-Hudson River roadway, bus, ferry, and commuter rail network. The project would improve access for the growing population west of the Hudson River in both New Jersey and New York and would complement similar investments in increased LIRR access across the East River to Grand Central Terminal. Together, these investments would strengthen the importance of the Midtown central business district, and decrease automobile vehicle miles traveled and greenhouse gas emissions.

The Commission believes the project will also help to relieve the severely overcrowded and inadequate conditions at New York's Pennsylvania Station. Three rail operators – NJ Transit, Long Island Rail Road, and Amtrak – share the existing 21-track facility, which accommodates over 1,000 trains each weekday. Service outages in the existing station significantly reduce overall transit system flexibility, reliability, and on-time performance. The future operation of additional trains would exert further pressure on the existing station. The proposed passenger

station, with its 6 new tracks, would help to alleviate this overcrowding. The project would also enable NJ Transit to provide additional one-seat ride service to Midtown Manhattan for more of its rail lines, further strengthening the Midtown district as the premier business destination of the region.

Station Entrances and Below-grade Entrance Concourses

The Commission believes the station's location under West 34th Street between 6th Avenue and 8th Avenue is appropriate. The location affords numerous options for convenient connectivity to other transit facilities, including existing Pennsylvania Station and four subway lines along West 34th Street that allow for access to large portion of Manhattan, the City and the region. The project would also include several improvements to pedestrian conditions both above and below grade along a heavily-trafficked pedestrian corridor in one of the city's major retail, hotel, office and entertainment districts.

The Commission believes that the various station entrances, discussed in greater detail below, are well located, with the six proposed entrances all located along West 34th Street, at or near intersections with 6th, 7th and 8th avenues, all of which are wide streets. The Commission notes that each of the five public station entrances would be located at a major intersection, and would be proximate to and integrated with existing transit entrances for NYCT and Pennsylvania Station. Existing NYCT subway stairways and elevators on adjacent sidewalks would be removed and relocated into the station entrances, providing additional pedestrian circulation space along the highly-trafficked sidewalks. Further, the provision of access to the 6th, 7th and 8th Avenue subway lines and the existing Pennsylvania Station at the below-grade entrance concourses would help to improve pedestrian access and circulation in this high-density commercial area, both above and below-grade.

The Commission recognizes the complexity of the project and appreciates the applicants' proposals for alternative station entrance designs at 7th and 8th Avenue (Entrances 1, 2 and 3). Having considered the alternative designs, the Commission believes that the Scheme C on 7th Avenue and the Scheme B on 8th Avenue are far superior and best integrate the proposed station

entrances and below-grade entrance concourses with existing transit infrastructure and public space, as well as private development, and best maintain an active streetscape at these important locations.

At 8th Avenue, Entrance 1 - Scheme B provides access to the passenger station along the wider 34th Street sidewalk, while maintaining the avenue frontage for retail uses or future redevelopment. Below-grade, the scheme provides smoother connections to the proposed passenger station, existing Pennsylvania Station and 8th Avenue subway infrastructure.

At 7th Avenue, the wider pedestrian access on the north side of West 34th Street provided in Entrances 2 and 3 - Scheme C offers superior access to both the proposed passenger station and existing Pennsylvania Station. The Commission believes that the north side entrance will become the most prominent access to Pennsylvania Station and the proposed passenger station, as it is closer to the destinations of most Midtown commuters than the current access on the south side of the street. The Scheme C also allows for retail use or future development along the avenue frontage on the south side of the West 34th Street by locating access in 1 Penn Plaza's existing publicly accessible open area. Further, the scheme defers construction of that entrance until such time as it is warranted by increased pedestrian demand or new construction on the site – therefore allowing continuing public enjoyment of the existing space until such time as warranted. Finally, by reconfiguring the below-grade entrance concourse and reorienting the high-rise escalator runs that descend from the concourse to the pedestrian mezzanine level below the street, Scheme C would provide for much-improved pedestrian flow between street level, the 7th Avenue subway, existing Pennsylvania Station and the proposed passenger station. Given these various benefits, the Commission modifies the application to only include Scheme B for Entrance 1 along 8th Avenue and Scheme C for Entrances 2 and 3 along 7th Avenue.

The Commission further believes the encroachment into the 1 Penn Plaza publicly-accessible open area by the station entrances along 7th and 8th Avenues is appropriate. The Commission notes at the outset that the Zoning Resolution considers subway stairs - a comparable form of

below-grade pedestrian access to the proposed station entrances – to be an allowable form of encroachment in publicly-accessible open areas.

For Entrance 1 along 8th Avenue, the facilities would encroach on portions of the open area located on the southeast corner of West 34th Street and 8th Avenue and areas located behind the existing retail building. This design facilitates the provision of adequate pedestrian circulation space at street level and provides the ability to accommodate all necessary entrance elements, including adequately sized escalators, stairs and elevators, as well as mechanical equipment for the entrance. The entrance would also allow more clear and direct connections between street level, the proposed passenger station and existing Pennsylvania Station.

For Entrance 2 along 7th Avenue, the station entrance would encroach in the area of the through-block plaza located approximately 100 feet west of 7th Avenue. The Scheme C design would defer the construction of the entrance until such time as necessitated by increased pedestrian flows in the surrounding area, both from the proposed passenger station and the existing Pennsylvania Station. If it is constructed, the entrance would provide for a larger amount of pedestrian queuing space at the top of the escalator, helping to alleviate congestion during peak travel times. In addition, pedestrian access would be directly in line with the concourse of existing Pennsylvania Station, allowing for improved access up to street level for users of the station.

The Commission also notes that both entrances would necessitate, as set forth in the related zoning text amendment (N 090262 ZRM), a rebuilding of the publicly-accessible open area, which would trigger further public review by the Community Board, City Council Member and Borough President, as well as approval by the Chairperson of the City Planning Commission.

The Commission believes that the balance of design prescription and flexibility set forth in the special permit drawings for the station entrances and below-grade entrance concourses is appropriate given the scale and complexity of the project. The process set forth in the special permit drawings allows the location, dimension and layout of certain elements to change, while

requiring the core above- and below-grade network elements to remain in the final design with a high level of pedestrian service.

The Commission believes the architectural design of the station entrances presents a unique opportunity to create an iconic civic expression for the overall ARC project and to enhance the aesthetic character of the West 34th Street /Pennsylvania Station area. The Commission notes that the station entrances are currently at an early stage of design, but believes the final design should strive for design excellence. The original North River tunnels were built in conjunction with the historic Pennsylvania Station, one of the great examples of civic architecture in the country. The proposed passenger station, one of the largest infrastructure projects in the country today, should strive to emulate this relationship between transit improvement and civic architecture. In this regard, the Commission is pleased with the applicants' acceptance of a consultation process with the Department of City Planning to work cooperatively as the design process for the station entrances moves forward, as set forth in a Memorandum of Understanding between the Department of City Planning, The Port Authority and New Jersey Transit.

The Commission believes the measures identified in Technical Memorandum No. 3 to mitigate impacts disclosed in the FEIS at turnstiles and six subway stairs in the 6th Avenue / Herald Square subway station are appropriate. These measures include the addition of two additional subway stairs to the Broadway line subway platforms; the replacement of two existing 24-inch escalators in the station mezzanine serving the IND line with one 40-inch escalator and one 24-inch escalator to the uptown platform; and the repositioning of the subway turnstiles at the western entrance of the station at West 34th Street and the addition of three turnstiles. The Commission understands that the applicants are committed to implementing these measures, subject to the approval of NYCT.

The Commission also believes the measures identified in Technical Memorandum No. 3 to mitigate impacts disclosed in the FEIS at two sidewalks, four crosswalks and three subway stairs in the 8th Avenue subway station are appropriate. These measures include a below-grade pedestrian connection to allow the proposed passenger station's passengers access west across 8th

Avenue via existing NYCT subway stairs on the north and south sides of the West 34th Street; a below-grade pedestrian connection to allow the proposed passenger station's passengers access north to West 35th Street via existing NYCT subway stairs on the east and west sides of West 35th Street at 8th Avenue; and new NYCT subway stairs connecting the station mezzanine with the central express platform and the downtown local platform. The Commission understands that these measures at 8th Avenue involve reconfiguration and reconstruction of existing NYCT below-grade facilities and that to determine their feasibility the applicants must undertake a number of studies and investigations, including further cost analysis, and that the ability to implement these measures will also require the consent and cooperation of NYCT.

The applicants have agreed and the Commission is incorporating into its approval a commitment that the applicants will continue to work with NYCT in consultation with the Department of City Planning to analyze the 8th Avenue measures and has further committed that if these measures are determined to be impracticable, the applicants will investigate other available options for mitigation in consultation with NYCT and the Department and implement such measures if determined to be practicable.

Fan Plant 1

The Commission believes the bulk modifications of the applicable height and setback requirements requested for Fan Plant 1 are appropriate. The Commission notes that the architecture and physical configuration of this fan plant accommodates the spatial requirements of the electrical, mechanical, communication, plumbing, fire protection equipment, and ventilation equipment and plenums required to support the tunnel ventilation and facility operations. This fan plant also houses traction power electrical substation equipment that supports train operations, as well as specialized switch gear equipment. The Commission also notes that the majority of the fan plant would be located below grade, with the exception of the fan plant/head house functions. The design of the building, which has been developed in consultation with Con Edison to leave as much of the site as possible open for Con Edison's use, minimizes the above-grade building footprint while providing the necessary space for all fan plant operational equipment.

Further, the Commission notes that the fan plant's proposed 144 foot street wall is more consistent with the built context of the adjacent Central Stores complex of the New York Terminal Warehouse Company – which is distinguished by its full-block street wall of seven- and nine-story structures built to the street line without setback – than the maximum 60 feet street wall allowed under the current zoning.

Finally, the Commission notes the applicants' acceptance of a design consultation process with Community Board 4 before the design of the fan plant's facades is finalized, as set forth in the Port Authority's letter to the Borough President dated April 15, 2009. The Commission believes this process will allow for the consideration of anticipated development on the surrounding block and adjacent areas and other community concerns, before finalizing the structure's details, materials and colors.

Fan Plant 2

The Commission notes that no bulk modifications are requested for Fan Plant 2. Further, the Commission believes the design of the fan plant, which will include materials and colors that are architecturally compatible with the adjacent St. Michael's School building, is appropriate. In addition, the Commission notes that the retail uses provided on the ground floor will help activate the sidewalk adjacent to the building.

The Commission has considered testimony submitted by a representative of the owners of a multi-story apartment building located at 440 West 34th Street, located to the north of the proposed fan plant, as well as the June 12 and 15 letters from the representative of the applicants responding thereto. The 440 West 34th Street testimony raises a number of issues relating to the massing and orientation of the fan plant, and construction and operational period impacts and claims that the fan plant would result in a drastic diminution in the value of the property and the quality of life of its residents, and that alternative sites should be found for the fan plant.

The Commission notes that the fan plant provides the 20-foot rear yard required for commercial uses under the regulations of a C6-4 district within the Special Hudson Yards District, and that alternative massings of the building would result in a reorientation of the fans so that they would ventilate northward or westward, rather than southward toward 33rd Street, away from the residential building. The Commission notes further that the applicants have committed to consult with the Community Board, residents and neighbors, including 440 West 34th Street, regarding the selection of the building materials and architectural treatment for the north façade of the fan plant, as set forth in the Port Authority's letter to the Borough President dated April 15, 2009

With regard to the construction period, the Commission understands that the FEIS contains detailed measures to address air quality, noise and vibration, and that contaminated materials would be properly managed, isolated, or removed during construction in accordance with a construction environmental control plan. The applicants have committed to Community Board 4 and the Borough President to establish a construction task force that will meet monthly to discuss construction schedules and mitigations with representatives of the Community Boards, elected officials, local residents, property owners and businesses.

With regard to fan plant operation, the Commission understands that the fan plant would operate only during the fire emergency situations and possibly during the summer months when temperatures in the tunnels exceed 115 degrees in order to remove train-generated heat under unusual conditions. In addition, the fans would be operated approximately once a month for approximately 30 minutes, for routine maintenance and testing purposes. The Commission is pleased that the applicants have committed to schedule these test periods in consultation with the community. The expected exhaust from the fan plant was not found to result in any air quality impacts and silencers will be used to reduce fan noise to meet applicable noise limits.

The Commission recognizes that the location for this fan plant was selected because it is approximately equidistant between Fan Plants 1 and 3, sufficiently sized to accommodate the functional requirements and equipment of the structure, and situated over the proposed tunnels in a way that optimizes fan operations and minimizes duct runs. With the careful and consistent

implementation of the above-described protection and consultation measures, the Commission believes that the location of the fan plant is appropriate.

Fan Plant 3

The Commission believes the bulk modifications of the applicable height and setback requirements requested for Fan Plant 3 are appropriate. The Commission notes that the architecture and physical configuration of this fan plant accommodates the spatial requirements of the electrical, mechanical, communication, plumbing, fire protection equipment, and ventilation equipment and plenums required to support the tunnel ventilation and facility operations. This fan plant would also house emergency power generation equipment and other specialized equipment. In addition to the building's own HVAC equipment, the building would accommodate a chiller plant and cooling towers for the HVAC system of the proposed passenger station.

Further, the Commission notes that the Fan Plant's proposed 120 foot street wall is more in keeping with the built context of the surrounding Garment Center - which is distinguished by its uniform streetscape of commercial loft building with high street walls – than the maximum 85 foot street wall allowed under current zoning. In addition, the façade of the fan plant will include details, materials and colors that are architecturally compatible with the surrounding Garment Center buildings. Finally, the Commission notes that the retail uses provided on the ground floor will help to activate the sidewalk adjacent to the building.

Fan Plant 4

The Commission notes that no bulk modifications are requested for Fan Plant 4. The Commission also believes the design of the fan plant, which will include materials and colors that are architecturally compatible with the adjacent buildings, is appropriate.

Text Amendment (N 090262 ZRM)

The Commission believes that the applicants' proposal to limit the applicability of the amendment to Manhattan Community Districts 4 and 5, which make up a substantial portion of

the Midtown core, is appropriate. The Commission recognizes, in this regard, that the amendment is intended to facilitate the ARC project and that no other potential uses of the text amendment have been identified, given the limitations on the applicability of the Zoning Resolution to railroad passenger station operated by non-city governmental entities.

The Commission believes that the applicants' proposal to remove of parking requirements for railroad passenger stations located in Community Districts 4 and 5 is appropriate since it would bring the parking requirements for stations in this area into conformity with the requirements of Article I, Chapter 3 of the Zoning Resolution, which does not include any accessory off-street parking requirements in high-density areas that are well served by mass transit. The Commission notes that Community Districts 4 and 5 are served by a number of railroad, subway and bus services. Further, railroad passenger stations in this area would further reduce automobile trips rather than generate new ones, as it would allow for expansion of rail service into Manhattan.

The Commission believes that the applicants' proposal to expand the scope of the special permit to include the appurtenant facilities necessary to operate a railroad passenger station or an associated railroad right-of-way is appropriate given the complex inter-related needs of the subject railroad passenger station. Further, the Commission believes the ability to waive applicable bulk regulations, other than the floor area ratio, subject to findings is appropriate given the unique design requirements of the necessary mechanical equipment. The Commission, however, notes the concerns of Community Board 4 relating to the architectural compatibility of Fan Plant 1 with its surrounding area, and believes that the community consultation process accepted by the applicants, in the Port Authority's letter to the Borough President dated April 15, 2009, to develop the structure's final design provides an appropriate method for dealing with this issue. Consequently, the Commission has modified the proposed text to accommodate this consultation process.

The Commission believes the applicants' proposed additional findings pertinent to station entrances and pedestrian connections are appropriate given the high passenger volumes generated by the stations and the importance of linking these flows with the existing circulation

network. Further, the provision to allow station entrances as permitted obstructions in certain publicly accessible open areas, subject to the proposed findings, is appropriate. The Commission, however, believes the added requirement for a report detailing the comments of the affected Community Board, Council Member, and Borough President, and the applicants' response to such comments, will allow the Chairperson to understand the full range of community concerns when deciding whether to accept the updated site plan. Consequently, the Commission has modified the proposed text to require the applicants to provide a report.

Post-Review Process

The Commission understands that in order to effectuate the project, the applicants would, subject to and only with the City's express consent, acquire interests in City property for construction of the rail tunnel, station and connecting elements, pursuant to the Port Authority Act.

The Commission also understands that the applicants will attempt to acquire properties for fan plants, station entrances and connecting elements through negotiated transactions, subject to Federal Transit Administration approval and is also committed to providing reasonable assistance, financial and otherwise, consistent with Title 49, Part 25 of the Code of Federal Regulations, to all displaced leaseholders in relocating within the vicinity of their current place of business, with the understanding that any relocation compensation plan is subject to final approval by the FTA.

Finally, the Commission acknowledges the effort put forth by the applicants to hear and respond to community concerns during the review process. The Commission notes that the Port Authority's letter to the Borough President dated April 15, 2009 sets forth a number of community consultations on various aspects of the project, such as a task force to discuss construction-related concerns. Further, the applicants' special permit application and related text amendment set forth a number of future processes regarding the design of station entrances and surrounding areas. The Commission is aware of the applicants' view that they are not subject to the Uniform Land Use Review Process and other City approvals, and takes note of the unusual level of inter-governmental cooperation reflected in the applicants' commitment to build the

project in accordance with the special permit. The Commission is also pleased that public outreach will continue as the applicants work to finalize the project and begin the multi-year construction phase.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-62

(b) (Railroad Passenger Stations) of the Zoning Resolution:

- (1) that the principal access for such railroad passenger station is not located on a local #street#;
- (2) that such railroad passenger station is so located as to draw a minimum of vehicular traffic to and through local #streets# in #residential# areas;
- (3) that any vehicular entrances and exits for such railroad passenger station are provided separately and are located not less than 50 feet apart;
- (4) that the locations of at-grade entrances to such railroad passenger station are well situated in relation to existing at-grade pedestrian circulation patterns;
- (5) that any below-grade pedestrian circulation elements provided in connection with the railroad passenger station are well integrated with any existing or planned below-grade pedestrian circulation networks providing connections to and from other transportation facilities; and
- (6) for ventilation facilities or other facilities or services used or required in connection with a railroad passenger station or in connection with an underground railroad right-of-way that provides access to a railroad passenger station, that:

- (i) any #bulk# modifications are the minimum necessary for the proper operation of the facility; and
 - (ii) that the design of the facility will blend harmoniously with the surrounding area or that a process has been created with the purpose of ensuring that the future design of the facility takes into account existing conditions and anticipated development in the surrounding area.
- (7) the railroad passenger station entrances provided pursuant to paragraph (b)(4) of this Section and railroad passenger station emergency access stairs located within #publicly accessible open areas# of #zoning lots# subject to the provisions of Section 81-542 (Retention of floor area bonus for plazas or other public spaces) shall be permitted obstructions within such #publicly accessible open areas#, and the Commission finds that any encroachment within such #publicly accessible open areas# by such entrances or emergency access stairs will facilitate improved pedestrian circulation to, from and within the proposed railroad passenger station.

RESOLUTION

RESOLVED, that having determined, pursuant to 6 NYCRR 617.15 (a), that the Final Environmental Impact Statement and related Technical Memoranda, with respect to this application (C 090263 (A) ZSM), are sufficient for the purpose of making findings under the New York State Environmental Quality Review Act, the City Planning Commission finds that the requirements of Section 617, New York State Environmental Quality Review Act 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 with respect to the proposed passenger station and related facilities in New York City will be minimized or avoided to

the maximum extent practicable by incorporating as conditions to the approval those mitigation measures that were identified practicable.

The report of the City Planning Commission, together with the FEIS and related Technical Memoranda, 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 submitted by the Port Authority of New York and New Jersey and New Jersey Transit for the grant of a special permit pursuant to Section 74-62(b), of the Zoning Resolution to allow:

1. to allow the construction of a railroad passenger station and ventilation facilities or other facilities or services used or required in connection with such railroad passenger station or in connection with an underground railroad right-of-way that provides access to such railroad passenger station; and
2. to modify the height and setback requirements of Section 43-43 for two proposed ventilation facilities on property located on Block 674, Lot 1 and Block 784, Lot 54, in M1-6 and M2-3 Districts;

in connection with a proposed railroad passenger station and ventilation facilities or other facilities or services used or required, within the area generally bounded by West 35th Street, Broadway, Avenue of the Americas, West 33rd Street and Ninth Avenue, West 34th Street, Ninth Avenue, West 33rd Street and Tenth Avenue, and West 29th Street, Eleventh Avenue, West 28th Street and Twelfth Avenue, in C5-2, C6-4, C64-5, C6-4M, C6-6, M1-6 and M2-3 Districts, partially within the Special Hudson Yards, Special Midtown and Special Garment Center

Districts is approved subject to the following terms and conditions:

- 1) The property that is the subject of this application (C 090263 (A) ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, subject to the procedures for modification of location, layout and dimensions set forth therein, prepared by THE Partnership, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-01	ULURP Surface Properties	April 15, 2009
Z-02	Network Element Diagram – Required Elements	April 15, 2009
Z-03	Network Element Diagram – Street Level EL 0’ (“A” Scheme)	April 15, 2009
Z-04	Network Element Diagram – NYCT Level EL -15’ (“A” Scheme)	April 15, 2009
Z-05	Network Element Diagram – Concourse Level -30’ (“A” Scheme)	April 15, 2009
Z-06	Network Element Diagram – Street Level EL 0’ (“B” Scheme)	April 15, 2009
Z-07	Network Element Diagram – NYCT Level EL -15’ (“B” Scheme)	April 15, 2009
Z-08	Network Element Diagram – Concourse Level -30’ (“B” Scheme)	April 15, 2009
Z-09	Network Element Diagram – Street Level EL 0’ (“C” Scheme)	April 15, 2009
Z-10	Network Element Diagram – NYCT Level EL -15’ (“C” Scheme)	April 15, 2009
Z-11	Network Element Diagram –	April 15, 2009

	Concourse Level -30' ("C" Scheme)	
Z-12	FP-1: 12 th Ave.– Site Plan	April 15, 2009
Z-13	FP-1: 12 th Ave.– Zoning Analysis	April 15, 2009
Z-15	FP-1: 12 th Ave.– Elevation	June 23, 2009
Z-16	FP-2: Dyer Ave.– Site Plan	April 15, 2009
Z-17	FP-2: Dyer Ave.– Zoning Analysis	April 15, 2009
Z-19	FP-2: Dyer Ave.– Elevation	April 15, 2009
Z-20	FP-3: 35 th Street – Site Plan	April 15, 2009
Z-21	FP-3: 35 th Street – Zoning Analysis	April 15, 2009
Z-23	FP-3: 35 th Street – Elevation	April 15, 2009
Z-24	FP-4: 33 rd Street – Site Plan	April 15, 2009
Z-25	FP-4: 33 rd Street – Zoning Analysis	April 15, 2009
Z-27	FP-4: 33 rd Street – Elevation	April 15, 2009
Z-35	ENT – 1B: 8 th Avenue – Ground Floor Plan (El 0')	June 23, 2009
Z-36	ENT – 1B: 8 th Avenue – NYCT Level (El -15')	June 23, 2009
Z-37	ENT – 1B: 8 th Avenue – Concourse Level (El -30')	June 23, 2009
Z-49	ENT – 2C Plaza Entrance Alternative and 3B Seventh Avenue – Ground Floor Plan (El 0')	June 23, 2009
Z-50	ENT – 2C Interim and 3B Seventh Avenue: – NYCT and LIRR Levels (El -15' & -30')	June 23, 2009
Z-51	ENT – 2C Plaza Entrance Alternative and 3B Seventh Avenue: – NYCT and LIRR Levels (El -15' & -30')	June 23, 2009
Z-55	ENT – 4&5: 6 th Avenue – Ground	June 23, 2009

	Floor Plan (El 0')	
Z-56	ENT – 4&5: 6 th Avenue – NYCT	June 23, 2009
	Level (El -15')	
Z-59	ENT – ADA Access: Ground Floor	April 15, 2009
	Plan	

- 2) Such development shall be developed in a manner that, under the New York City Zoning Resolution, does not require any additional waivers of applicable use or bulk provisions, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application.
- 3) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
- 4) The applicants shall incorporate into the development the additional mitigation measures identified in Technical Memorandum No. 3, as follows:
 - a. 6th Avenue: Subject to the approval of the New York City Transit Authority (NYCT), (i) the addition of two additional stairs to the NQRW subway platforms and the replacement of two existing 24-inch escalators in the NYCT Mezzanine serving the 6th Avenue Line with one 40-inch escalator to the Uptown BDFV platform; and (ii) repositioning of the subway turnstiles at the western entrance of the Herald Square Subway station at West 34th Street and the addition of three turnstiles, each as illustrated in Exhibit A to Technical Memorandum No. 3; and
 - b. 8th Avenue: Subject to the approval of the New York City Transit Authority and to determinations with regard to constructability, practicability, impacts on schedule and cost-effectiveness, made in consultation with the Department of City Planning, (i) a 'Cross-Eight-Avenue Connection' providing access across 8th Avenue to the west by opening up a below-grade pedestrian mezzanine to allow passengers access

to the 8th Avenue proposed station entrance via existing NYCT subway entrance stairs on the north and south side of West 34th Street at 8th Avenue; (ii) a ‘West 35th Street Connection’ providing access northward to West 35th Street through a below-grade pedestrian mezzanine beneath 8th Avenue, to allow passengers access to the 8th Avenue proposed station entrance via existing NYCT subway entrance stairs on the east and west side of West 35th Street at 8th Avenue; and (iii) two ‘Additional Subway Stairs’, as follows: (aa) one additional stair connecting the NYCT mezzanine to the center uptown and downtown express (A train) platform; and (bb) one additional stair connecting the NYCT mezzanine to the downtown local (C, E trains) platform, each as illustrated in Exhibits B and C to Technical Memorandum No. 3. In the event the measures described in this paragraph (b) are determined to be impracticable, Applicants shall investigate other available options for mitigation, in consultation with NYCT and DCP, and shall implement such other mitigations as are determined to be practicable.

- 5) 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 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.

- 6) 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.

* * *

The above resolution (C 090263 (A) ZSM), duly adopted by the City Planning Commission on June 29, 2009 (Calendar No. 2), 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 J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,

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

LEVENTHAL, SHIRLEY A. MCRAE, Commissioners

RAYANN BESSER, Commissioner, ABSTAINING

Exhibit A
Access to the Region's Core

Final Environmental Impact Statement (FEIS)
Executive Summary