



CITY PLANNING COMMISSION

June 29, 2009/Calendar No. 1

N 090262 ZRM

IN THE MATTER OF an application submitted by the Port Authority of New York and New Jersey, pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York relating to Section 74-62 (Railroad Passenger Stations) in Community Districts 4 and 5, Borough of Manhattan.

This application for an amendment to Section 74-62 of the Zoning Resolution was filed by the Port Authority of New York and New Jersey and New Jersey Transit on January 9, 2009 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.

RELATED ACTION

In addition to the application for amendments to the Zoning Resolution which is the subject of this report (N 090262 ZRM), 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:

C 090263 (A) ZSM Special Permit pursuant to Sections 74-62(b) of the Zoning Resolution to facilitate construction of a railroad passenger station and associated facilities.

BACKGROUND

A full background discussion and project description appears in the report on the related special permit application (C 090263 (A) ZSM).

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.

The subject text amendment facilitates the ARC project which is the subject of the FEIS and Technical Memoranda and no other potential uses of the text amendment have been identified. Accordingly, there are no potential environmental impacts in relation to the text amendment apart from those identified in the FEIS and Technical Memoranda.

PUBLIC REVIEW

This application (N 090262 ZRM) was referred to Manhattan Community Boards 4, 5, the Manhattan Borough President and the Manhattan Borough Board for information and review on January 20, 2009 along with the related action (C 090263 ZSM) which was certified as complete in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Review

Community Board 4 held a public hearing on this application on March 4, 2009, and on that date, by a vote of 34 to 4 with 0 abstentions, adopted a resolution recommending conditional approval of the application.

Community Board 5 held a public hearing on this application on March 12, 2009, and on that date, by a vote of 31 to 0 with 2 abstentions, adopted a resolution recommending conditional denial of the application.

A summary of the recommendations of each Community Board appears in the report on the related special permit application (C 090263 (A) ZSM).

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation of conditional approval of the application on April 24, 2009. A summary of the recommendations of the Borough President appears in the report on the related special permit application (C 090263 (A) ZSM).

Borough Board Recommendation

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. A summary of the recommendations of the Borough Board appears in the report on the related special permit application (C 090263 (A) ZSM).

City Planning Commission Public Hearing

On May 6, 2009 (Calendar No. 1), the City Planning Commission scheduled May 20, 2009 for a public hearing on this application (N 090262 ZRM). The hearing was duly held on May 20, 2009 (Calendar No. 20), in conjunction with the public hearing on the applications for the related action (C 090263 ZSM, C 090263 (A) ZSM). There were a number of speakers, as described in the report on the related special permit application (C 090263 (A) ZSM), 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 zoning text amendment (N 090262 ZRM), as modified herein, is appropriate. A full consideration and analysis of the issues, and reasons for approving this application with modifications, appears in the report on the related special permit application (C 090263 (A) ZSM)

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 (N 090262 ZRM), 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 Section 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective December 15, 1961, and as amended subsequently, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

Article VII

Chapter 4

Special Permits by the City Planning Commission

* * *

74-60

PUBLIC SERVICE OR TRANSPORTATION FACILITIES

* * *

74-62

Railroad Passenger Stations

(a) Except as provided in paragraph (b), the City Planning Commission may permit the construction of railroad passenger stations in all districts, provided that the following findings are made:

(a₁) that the principal access for such #use# is not located on a local #street#;

(b₂) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in #residential# areas; and

- (e3) that vehicular entrances and exits for such #use# are provided separately and are located not less than 50 feet apart.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for shielding of floodlights or surfacing of access roads or driveways.

In addition, the Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use#, and shall determine the required spaces in accordance with the purposes established in this Resolution with respect to other major traffic-generating facilities. The Commission shall require, in any event, not less than 20 spaces for the temporary parking of automobiles, and three spaces for buses.

(b) In Community Districts 4 and 5 in the Borough of Manhattan, the City Planning Commission may permit the construction of railroad passenger stations 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 may permit waivers of applicable #bulk# regulations, other than the #floor area ratio#, in connection with such ventilation facilities, or other facilities or services, provided that the following findings are made:

- (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.

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#, provided that 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.

The special permit shall provide that such #publicly accessible open area# shall be designed and improved in connection with the installation of entrances or railroad passenger station emergency access stairs pursuant to a site plan accepted by the Chairperson of the City Planning Commission. The proposed site plan shall be referred to the affected Community Board, City Council Member and Borough President. Included with the site plan shall be a report to the Chairperson demonstrating that any comments and recommendations of the affected Community Board, City Council Member and Borough President have been considered, as set forth in a written response to such comments or recommendations. Where design modifications have been made in response to such comments and recommendations, the report shall identify how the design has been modified. The Chairperson shall not accept such site plan prior to sixty days after such referral. A #publicly accessible open area# improved pursuant to an accepted site plan shall be deemed to be certified pursuant to Section 37-625 (Design changes) and the standards set forth therein. Subsequent modifications of the site plan for such #publicly accessible open area#, including modifications involving the co-location of transportation facility entrances, shall be subject to this paragraph. An application to modify the site plan to facilitate the co-location of railroad passenger station entrances may be filed by the transportation agency seeking to co-locate a transportation facility entrance in the #publicly accessible open area# or by the property owner. Such application shall include evidence of consultation with any transportation agency with existing or planned facilities located in the #publicly accessible open area#. The modified site plan shall also be referred to such transportation agency by the Chairperson for comment.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize pedestrian and vehicular congestion and to minimize adverse effects on the character of the surrounding area, including requirements for shielding of floodlights, surfacing of access roads or driveways, mitigation of pedestrian impacts, signage requirements, or screening or placement of the facilities or services permitted pursuant to paragraph (b) this Section.

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The above resolution (N 090262 ZRM), duly adopted by the City Planning Commission on June 29, 2009, (Calendar No. 1), 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