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July 8, 2019, Calendar No. 3C 190273 ZSM  
CORRECTED

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**IN THE MATTER OF** IN THE MATTER OF an application submitted by One Penn Plaza, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 81-231(a) and 74-761 of the Zoning Resolution to allow the reduction in size of existing plazas and arcades for which a floor area bonus has been utilized on property located at 1 Penn Plaza (Block 783, Lots 1, 34 and 70), in C6-4 and C6-6 Districts, within the Special Midtown District, Borough of Manhattan, Community District 5.

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This application (C 190273 ZSM) for a zoning special permit was filed by One Penn Plaza LLC (the Applicant) on February 5, 2019 to allow for the reduction of bonused plaza and arcade areas for which a floor area bonus had been previously granted and utilized. The proposed action would facilitate the renovation and upgrade of multiple plaza areas on a single zoning lot located at 1 Penn Plaza (Block 783, Lots 1, 34 and 70) in the Midtown neighborhood of Manhattan Community District 5.

**RELATED ACTIONS**

In addition to the zoning special permit (C 190273 ZSM) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

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| <b>N 190274 ZAM</b> | Zoning authorization to permit the overnight closure of bonused plaza areas.            |
| <b>N 190275 ZCM</b> | Chairperson certification to permit two food and beverage kiosks within bonused plazas. |
| <b>N 190276 ZCM</b> | Chairperson certification to permit design changes to bonused plazas.                   |

## **BACKGROUND**

The Applicant, One Penn Plaza LLC, requests approval of a special permit to reduce bonused arcade and bonused plaza areas for which a floor area bonus has been used, and an authorization to permit the overnight closure of two public spaces within the zoning lot. The requested actions are part of a broader redesign of the public spaces on the zoning lot. These actions are sought in conjunction with CPC Chairperson certifications pursuant to 37-625 (Design changes; N 190276 ZCM) and 37-73(c) (Kiosks and Open Air Cafes; N 190275 ZCM), which, together with the requested actions, would facilitate the proposed suite of upgrades to the public spaces.

One Penn Plaza is a 57-story commercial building on a full-block zoning lot of approximately 156,023 square feet, comprised of Tax Lots 1, 34 and 70 on Block 783 (the “Project Area”). It was constructed as-of-right in 1972, and included approximately 50,095 square feet of public plaza areas and two arcades totaling 3,822 square feet of area. The public plaza and arcades generated a total of 312,039 square feet of bonus floor area, slightly less than the maximum 312,046 square feet (2.0 FAR) of bonus floor area allowed when the building was developed.

In the late 1990s, in conjunction with a prospective application for a nighttime closing of certain portions of the plazas, a prior owner developed plans to substantially upgrade the public plazas and arcades. Although an application for a nighttime closing was never advanced, certain of the plaza upgrades were undertaken in conjunction with the 2001 approval of two open air cafés (CPC No. N 000117 ZCM). In 2010, the CPC Chair approved design changes to a through-block plaza located on the western portion of the site (CPC No. N 100266 ZCM) in conjunction with approval of an open-air café and kiosks (CPC No. N 080337 ZCM) in that same plaza.

The western 35,352 square foot portion of the Project Area is subject to the January 23, 2017 Modified Supplement to the General Project Plan for the Moynihan Station Civic and Land Use Improvement Project (the “GPP”). The GPP provides for the construction of up to one million square feet of retail, residential, and hotel uses, along with a new entrance to Penn Station. The

GPP mandates certain design and other controls with respect to the development. No plans exist currently to realize this additional density in the Project Area.

### **Area Description**

The Project Area is located in Midtown, within Manhattan Community District 5. It occupies a full-block zoning lot bounded by Seventh Avenue, Eighth Avenue, West 33<sup>rd</sup> Street and West 34<sup>th</sup> Street. It is located immediately north of the Madison Square Garden and Penn Station complex, one avenue west of Herald Square, and south of the Garment Center. Hudson Yards is located to the west of the Project Area. Macy's flagship store and the Manhattan Mall, a large retail shopping complex, are both located to the east.

The surrounding area is primarily commercial office with ground floor retail. Two Penn Plaza, a 31-story, 1.6 million square foot office building, is located directly south of the Project Area, across West 33<sup>rd</sup> Street.. Two Penn Plaza fronts upon a large open space that serves as an entry for both the Two Penn office building, Madison Square Garden and Penn Station, all of which have entrances from Seventh Avenue and West 32nd Street. Between the Project Area and Two Penn Plaza sits Plaza33, a 17,000 square foot public space on the eastern half of West 33rd Street between Seventh Avenue and Eighth Avenue.

There are approximately 124,000 square feet of publicly accessible open area close to the Project Area, just under half of which are located on One Penn Plaza. The second largest open space in the study area consists of the two privately owned public plazas on Eighth Avenue adjacent to Madison Square Garden and the non-bonused open areas at Two Penn Plaza, both of which are on a single zoning lot immediately south of the project site.

### **Site Description**

The Project Area is located within the Special Midtown District and is split between two zoning districts: a C6-6 district starting at Seventh Avenue and extending westward 200 feet into the

block, and a C6-4 district covering the remainder of the block. The C6-4 (MiD) and C6-6 (MiD) zoning districts permit a commercial Floor Area Ratio (FAR) of 10.0 and 15.0, respectively. Both districts are high bulk districts that permit most commercial as well as residential uses. The Project Area is also adjacent to the Special Hudson Yards District and within proximity to the Special Garment Center District. The Surrounding Area also includes C6-2, C6-4.5, C6-4M and M1-6 zoning districts.

The Project Area contains 156,023 square feet of lot area. The zoning lot is currently improved with two one-story retail buildings on Seventh and Eighth Avenues, and a large 57-story commercial tower building, One Penn Plaza (Tax Lot 70), which together contain approximately 1.8 million zoning square feet (2.45 million gross). In addition to these three buildings, the Project Area contains a series of as-of-right bonused plazas that total approximately 50,095 square feet. The separate sections of the public plaza areas have been grouped into the following seven areas (the “Plaza Areas”):

- North Plaza and Northern Arcade: The North Plaza is a raised plaza that fronts upon West 34th Street and contains 8,880 square feet of area. The plaza is 240 feet wide, with a depth that ranges from 47 feet at its western edge to 27 feet at its eastern edge. It is bounded to the north by the West 34th Street sidewalk, a ramp to a subterranean parking lot to the west, building retail space to the east, and on the south by both the One Penn Plaza office building facade and a 1,911 square foot bonused arcade (the “Northern Arcade”), which leads to the main office building lobby. The arcade measures approximately 90 feet wide and 20 feet deep, and is single-height.

The North Plaza is raised approximately one foot two inches above the sidewalk level at its eastern edge and approximately two feet six inches above sidewalk level at its western edge. The plaza is accessed from the public right of way by two sets of stairs (seven feet, four inches wide and 24 feet, nine inches wide), as well as an ADA-accessible ramp

(approximately five feet, three inches wide) that serves both the plaza and adjacent eastern retail space.

The North Plaza is primarily hardscape with concrete and stone paving. The plaza includes raised, tiered planters along the sidewalk frontage, with the upper tier raised approximately 16 to 18 inches above plaza level. The total planting and planter area represents approximately 53 percent of the plaza square footage, creating a significant visual and physical barrier between the plaza and sidewalk. The existing plaza does not include any seating, trees, drinking fountains, or litter receptacles, and does not provide access to Penn Station.

- West Plaza: The West Plaza is a large, irregularly shaped through-lot open space located between the western edge of the One Penn Plaza office tower and the one-story retail building at Eighth Avenue. It is comprised of (1) a raised, rectangular, through-lot major portion that connects West 34<sup>th</sup> Street and West 33<sup>rd</sup> Street, (2) a vest-pocket minor portion to the west of the major portion, which is raised three feet above its plaza level, and (3) two irregularly shaped circulation plazas at the Project Area's northwest and southwest Eighth Avenue corners. In total, the West Plaza contains 24,109 square feet of area, and was upgraded in 2010 under a CPC Chairperson Certification.

The West Plaza has 179 feet three inches of frontage along both West 34th Street and West 33rd streets, with a total plaza depth of 197 feet six inches along the through-lot portion. The smaller corner circulation plaza areas along Eighth Avenue have depths of 33 feet nine inches each, measured perpendicular to West 34<sup>th</sup> and West 33<sup>rd</sup> streets. Each contains a single circular raised planter with one tree, and is located at curb level.

Along most of the West 34th Street edge, the plaza is raised approximately three feet

above the sidewalk level for the entire width. Along most of the West 33rd Street edge, the plaza is raised above the sidewalk level approximately four feet, nine inches at the eastern edge and approximately five feet at the western edge.

Comprised primarily of hardscape, the plaza paving finishes include concrete unit pavers, cobblestones, concrete, and stone paving. It features raised, tiered planters its street frontage, with the upper tier raised approximately 16 to 18 inches above the major portion's plaza level. The West Plaza includes 2,677 square feet of planting area, with 28 trees. Twelve of these trees are planted flush to grade in a raised minor portion. In total, it contains 685 linear feet of seating. Of this total, 251 linear feet are backed benches, 74 linear feet are benches without backs, 168 linear feet are seating walls, and 192 linear feet are movable seating. Twenty-five moveable tables are also included. The West Plaza includes 13 litter receptacles, a water bottle filler, and sculptural artwork as an additional amenity. The West Plaza contains an entry to the One Penn Plaza office tower along the eastern edge of the plaza, which also provides access into Penn Station, though there is no signage to indicate this entry.

- East Plaza: The East Plaza is a linear through-block plaza connecting West 33rd Street to West 34<sup>th</sup> Street, with 7,900 square feet in area. It is located between the one-story Seventh Avenue retail building and the eastern edge of the One Penn Plaza office tower. The plaza is 40 feet wide and 197 feet, six inches deep, at sidewalk level at both street frontages, and is lined with a variety of retail and food service establishments. The East Plaza is comprised primarily of hardscape, with concrete unit pavers and a cobble stone border. The plaza contains two circular, raised planters at the northern and southern ends. The planters are stainless steel-faced, raised 30 inches above plaza level, and include a small tree in each, for a total of 100 square feet of planting and two trees. The plaza includes 128 linear feet of movable seating, some of which is located on top of shallow raised wooden platforms. It also includes a total of 16 movable tables and three litter

receptacles.

- South Plaza and Southern Arcade: The South Plaza is a raised plaza with frontage on West 33<sup>rd</sup> Street, and provides southerly access to the lobby of the One Penn Plaza office building. The plaza is 178 feet, three inches wide and ranges in depth from 47 feet at its western edge to 27 feet at its eastern edge, and contains approximately 5,977 square feet in area. The One Penn building and a second 1,911 square foot, single-height arcade (the “Southern Arcade”), which leads to the building lobby, abuts the plaza. The South Plaza is bounded to the west by a driveway to a subterranean loading dock. The plaza is raised between two feet, six inches and three feet, nine inches above the sidewalk level of West 33<sup>rd</sup> Street. The plaza is accessed from the public right of way by two sets of stairs (seven feet, six inches wide and 25 feet wide), and does not include an ADA accessible path of travel from the sidewalk.

Comprised primarily of hardscape, the South Plaza features concrete unit pavers and stone paving, and includes raised planters along the sidewalk frontage. The planters are tiered, with the upper tier raised approximately 16 to 18 inches above plaza level, and between three feet, ten inches and five feet above curb level. The planters extend most of the East Plaza’s length, creating a significant visual and physical barrier between the plaza and sidewalk. The plaza currently does not include any seating or amenities.

- Southwest Plaza: The Southwest Plaza is an approximately 2,173square-foot raised plaza with frontage on West 33<sup>rd</sup> Street. The plaza’s street frontage is 46 feet, three inches wide, with a depth of 47 feet. It is bounded to the north by the One Penn Plaza office building’s retail space. West 33<sup>rd</sup> Street is to the south and a ramp to a subterranean parking lot to the west. It is isolated from the South Plaza by a ramp to the subterranean loading dock to the east. The plaza is raised between three feet, ten inches and four feet, two inches above sidewalk level. The plaza is accessed from the public right of way by a

set of stairs (seven feet, four inches wide), and does not include an ADA-accessible path of travel from the sidewalk.

Comprised primarily of hardscape, the plaza features concrete unit pavers and stone paving, and includes raised, two-tiered planters along the sidewalk frontage. The upper tier is raised approximately 16 to 18 inches above plaza level, and between five feet and five feet, eight inches above curb level. The planter leaves only seven feet, four inches of stair access, creating a significant visual and physical barrier between the plaza and the sidewalk. The plaza includes 96 linear feet of movable seating and 24 movable tables.

The southeast corner of the Southwest Plaza contains a 21 square-foot attendant booth for the One Penn building's accessory loading dock. The booth is located at grade and was constructed after the original building's development. The Applicant proposes to reduce the plaza area underneath this booth pursuant to the Section 74-761 Special Permit, which would allow the booth to remain in its current location without resulting in a non-compliance.

- **Seventh Avenue Circulation Plazas:** There are two identical notched circulation spaces at Seventh Avenue and the corners of West 33rd and 34th streets, each with approximately 527 square feet in area. Each plaza measures 28 feet, two inches along West 33rd and West 34th streets, and 18 feet, eight inches along Seventh Avenue. Comprised primarily of hardscape, these plazas are used as circulation space only, and do not include any planting, seating, litter receptacles, or drinking fountains. Both plazas are directly adjacent to sets of stairs leading to the 34th Street Penn Station subway station.



## **Description of the Proposed Development**

The Applicant proposes a series of improvements to the North Plaza, the West Plaza, the East Plaza, the South Plaza and the Southwest Plaza. The requested actions are sought to help facilitate these upgrades, and are part of an overall repositioning of the building. Generally, the plaza-related upgrades seek to:

- Improve the Plaza Areas' permeability, pedestrian circulation and visual transparency by removing obstructions at their street lines;
- Activate the spaces by providing a variety of new seating types and user amenities;
- Provide a new mass transit entrance to Penn Station;
- Improve the Plaza Areas' paving materials, color palette, lighting and signage to comply with the provisions of Section 37-70; and
- Introduce new food and beverage service in the form of two Kiosks in the West and East Plazas.

The Applicant requests the elimination of the Northern Arcade and partial reductions to the North Plaza, West Plaza, Southwest Plaza and Southern Arcade. This would also enable the proposed suite of design changes to the North Plaza, West Plaza and Southwest Plaza specifically, all of which are subject to the request for plaza area reductions. The proposed design changes to the East Plaza and South Plaza, however, are proposed via a CPC Chairperson certification. The proposed addition of two food-service kiosks—one in the West Plaza and one in the East Plaza—are proposed via a CPC Chairperson Certification.

The Applicant also requests a CPC Authorization pursuant to ZR 37-727, for the overnight closure of the West Plaza and the East Plaza due to security concerns. The below sub-sections describe and discuss the Proposed Development on a plaza-by-plaza basis:

#### North Plaza and Northern Arcade:

The Applicant's upgrades to the North Plaza are intended to improve its accessibility and visual connection to West 34<sup>th</sup> Street, and activate the plaza with new seating and amenities, as well as an expanded lobby. In addition, a new and highly visible entrance to Penn Station would be provided at the westerly edge of the North Plaza. In response to public comments, on June 19, 2019 the Applicant revised the proposal to add an ADA-accessible elevator to the new Penn Station entrance. The new entrance would also connect to the existing mass transit entrance on the West Plaza. The Applicant proposes to add new signage to the existing mass transit entrance on the West Plaza as well, where no signage exists today.

To facilitate enhanced visual porosity and physical access to the plaza, the large, two-tiered planters that occupy most of the North Plaza's West 34<sup>th</sup> Street frontage would be dramatically reduced in size, and a series of new, widened stairs would be installed. The percent of the street frontage that is unobstructed would increase from approximately 16 percent to 63 percent. A new ADA-accessible ramp would be installed on the North Plaza's westerly edge, adjacent to the proposed Penn Station entrance.

The Applicant proposes to eliminate the 1,911 square foot Northern Arcade and reduce the North Plaza's area by 3,240 square feet. This reduction would allow the Applicant to expand the building's lobby northward into the area currently occupied by the Northern Arcade, and construct an arcade-like portico that would extend to the street line, into the portion of the North Plaza that is being reduced. The reduction would not create a new non-compliance on the zoning lot, and would be offset by cumulative removal of 6,989 square feet of floor area from within the One Penn Plaza building.

The North Plaza's planter area is being reduced from 3,699 square feet to 1,171 square feet to improve pedestrian accessibility. Five trees are proposed where none currently exist. Currently the North Plaza has no seating. The Applicant proposes to provide 189 linear feet of new seating in the form of benches (both backed and non-backed) and moveable seating with ten tables. The

Applicant also proposes to add new artwork, four litter receptacles, improved lighting and new non-slip paving finishes. Signage shall also be upgraded to meet zoning requirements, with three entry plaques, one information sign (combined with an entry plaque) and one prohibition sign. Currently, the North Plaza includes no information plaques.

#### West Plaza:

The Applicant's proposed changes to the West Plaza are intended to improve the visual connection and circulation between West 34<sup>th</sup> and West 33<sup>rd</sup> streets, increase user safety, and provide a variety of new amenities to activate the space. In the current condition, there is a large raised area in the middle of the major portion, which acts as a landing for the change in plaza level between the major and minor portions. It includes stairs to the minor portion, and a large patio area with a variety of sculptural seating that, due to its elevation above the rest of the major portion, can obscure the space's through-lot visual continuity. In the proposed conditions, the Applicant would level out the major portion and provide new, widened stair access between the two portions. Leveling out the central part of the major portion would increase visibility into the West Plaza from West 33<sup>rd</sup> and West 34<sup>th</sup> streets, and across the space.

The West Plaza would be redesigned with a series of linearly distributed, L-shaped wood benches, interspersed with moveable tables and chairs. This would replace the two circular planters and backed benches that currently exist. Two new raised planter beds would be distributed in this seating area as well, located directly behind two of the new benches. This area would also feature a new sculptural lighting trellis that would run the length of the through-lot portion, weaving between the proposed benches and moveable seating. This feature is intended to improve lighting levels, perceived sense of safety and its visual connectivity between the two streets by creating and reinforcing the sense of a central, linear spine. The Applicant proposes a new food kiosk at the northern end of the through lot portion via a Chairperson certification to further activate the redesigned space. The Applicant proposes a 12-foot circulation path immediately to the west of the central spine, providing a clear connection between West 33<sup>rd</sup> and West 34<sup>th</sup> streets, and helping to blend the transition between the major and minor portion.

The redesign also includes new vine/green-wall screening along the western edge of the through-lot portion at its northern and southern ends, which would screen walls of the Eighth Avenue retail pavilion that front upon the major portion. This screening would be located directly behind two sets of existing bench seating, and is intended to make these seats more appealing for passive use. Seating would also be incorporated into the redesigned tree planters at the circulation plaza areas along Eighth Avenue. Overall, the West Plaza's amount of seating and planting would increase under the proposed conditions. The signage for the plaza's Privately Owned Public Spaces, which indicate the space's public accessibility and list its amenities, would also be improved and increased to comply with the standards outlined in the zoning regulations.

As part of the space's redesign, the Applicant is proposing to periodically hold public, non-ticketed events in the West Plaza. The Applicant is proposing that these events be permitted to locate anywhere within the West Plaza, provided they occupy no more than 50 percent of the plaza area and allow for sufficient circulation space connecting all streets and building entrances.

The Applicant is also proposing to reduce a total of 157 square feet of plaza area in the West Plaza pursuant the Section 74-761 special permit, to reflect conditions that were built out in the years following the original 1972 approval. The Applicant proposes to remove approximately 37square feet of plaza area located underneath two revolving doors that front upon the Eighth Avenue circulation areas. These doors were built out into approved plaza area, and constitute a non-complying condition. The Applicant is legalizing this condition by reducing the plaza area that they cover. The Applicant is also proposing to reduce the minor portion of the West Plaza by approximately 119 square feet to reflect a built condition on the retail pavilion façade. A 20-foot, nine inch by five foot, nine inch portion of the pavilion was originally constructed over a portion of the bonused plaza's approved area, creating a non-complying condition. The Applicant intends to remedy this condition by reducing the bonused plaza area located underneath this build-out.

As with the proposed reductions to the North Plaza, the Northern Arcade and the Southern Arcade, the Applicant notes that the reduction would not create a new non-compliance on the zoning lot, and would be offset by the cumulative removal of 6,989 square feet of floor area from within the One Penn building. The West Plaza's design upgrades would be effectuated by the special permit made pursuant to Section 74-761, under finding (b).

The Applicant also proposes a nighttime closure of the West Plaza. The Applicant proposes to close the plaza from 10:00 pm to 7:00 am from April 15 to October 31, and from 8:00 pm to 7:00 am from November 1 to April 14. However, the West Plaza would remain open to the public during the hours when the existing open-air café, located in the minor portion, is in operation. In response to concerns raised during the public review process the Applicant revised the application to limit the overnight closure authorization to a term of 20 years. The Applicant states that the closure is requested in order to ensure public safety within, and the proper maintenance of, the West Plaza, citing its elevation above West 33rd and West 34th streets, and that its western portion is concealed from much of the street by the one-story retail pavilion. Specifically, the Applicant notes that certain activities by a subset of plaza users pose significant maintenance and operational issues.

#### East Plaza:

The proposed changes to the East Plaza are aimed at activating the space and improving the visual connection and pedestrian circulation between West 34<sup>th</sup> and West 33<sup>rd</sup> streets. As a through lot connection directly adjacent to Penn Station, Plaza 33 and Madison Square Garden, the space currently serves as a major circulation artery for the surrounding area. The Applicant proposes several design changes that require a CPC Chairperson certification. The upgrades aim to significantly increase the number and variety of amenities within the space, while maintaining two 15-foot, four inch circulation paths at either edge of the space. This allows for the continued accommodation of rush hour traffic to flow through the plaza to and from the adjacent LIRR entrance along West 34<sup>th</sup> Street.

The Applicant proposes to increase the planter area from 100 square feet to approximately 442square feet (increasing the number of planters from two to four) and increase the number of trees from two to four, while relocating them to a more central location to improve visibility into and through the space.

Three types of seating are proposed for the East Plaza, whereas today only movable chairs are provided. The overall linear footage of seating is being nearly doubled, from 128 to 264. Under the proposed conditions, 22 tables would be provided whereas 16 exist today. Six litter receptacles are proposed, an increase from three receptacles, and the paving finishes would be upgraded to all non-slip stone paving from the existing concrete unit paver and cobble-stone paving. The lighting would be upgraded to be fully compliant with the foot-candle requirements of the plaza regulations. There are currently no POPS signs. The Applicant proposes to install two POPS signs, bringing the plaza into compliance with current regulation. Proposed retail types fronting on the plaza would remain the same. One food and beverage kiosk is proposed to be located at the center of the plaza, pursuant to a CPC Chairperson certification. This kiosk shall be 100 square feet in area, and shall meet the allowable uses per zoning text.

The Applicant is also proposing to hold public, non-ticketed events in the East Plaza as part of the space's redesign. The Applicant is proposing that these events be permitted to locate anywhere within the East Plaza, and they would occupy no more than 50 percent of the plaza's area and allow for sufficient circulation space connecting all streets and building entrances.

The Applicant is requesting a CPC authorization for the overnight closure of the East Plaza from 12:00 am [or "midnight"] to 5:00 am. In response to concerns raised during the public review process the Applicant revised the application to limit the overnight closure authorization to a term of 20 years. The Applicant asserts that the East Plaza's through-block nature presents security issues due to its long and narrow configuration, especially at night when the small shops fronting on the space are closed. They note that although the proposed seating and landscaping

improvements would enhance the attractiveness of this space to the public during the daytime hours, the space would still essentially function as a circulation path during the nighttime hours. Due to its circulation function, the Application requests that the East Plaza be closed only between midnight and 5:00 am. As outlined in the previous subsection, the Applicant's rationale for requesting closure of the East Plaza is that certain activities by a subset of plaza users pose significant maintenance and operational issues.

#### South Plaza and Southern Arcade:

The proposed changes to the South Plaza are aimed at activating the space, providing new amenities and improving the accessibility and visual connection between West 33<sup>rd</sup> Street and Plaza33.

The percent of the South Plaza's sidewalk frontage that is unobstructed would be increased from approximately 18 percent to 53 percent, by reducing the width of planter areas, redistributing them across the plaza area, and installing new, widened sets of the stairs connecting the sidewalk to the plaza. Currently, one 25-foot-wide stair and one seven-foot, six-inch-wide stair provide access to the South Plaza. In the proposed condition, two 27-foot, one-inch stairs and two 17-foot, ten-inch stairs would provide access, and one five foot wide ADA-accessible ramp would be installed, whereas none exists today.

The overall planter area would be reduced from 2,519 square feet to 1,229 square feet. The location of the planters would be re-arranged as well, with a new L-shaped planter in the western edge of the plaza, which would help screen an existing loading bay ramp, and articulate the northwest corner of the space. A planting screen of vertical vines is proposed along an opaque portion of the building's façade along the northern edge of the plaza. A total of four new trees would be added whereas none exist today.

Approximately 203 linear feet of seating would be provided where none exists today. Seating would be provided in the form of wooden backed and backless benches as well as moveable

chairs with 17 tables. Four new litter receptacles would be provided. The plaza's finishes would be upgraded to non-slip stone paving, and all lighting would be brought into compliance with the required foot-candle standards. No POPS signs exist today, whereas four signs would be provided in the proposed condition.

A CPC Chairperson certification is required to implement the changes proposed. The Applicant proposes to reduce the Southern Arcade by 91 square feet pursuant to the Special Permit. The reduction is intended to reflect and correct a non-compliant built condition. The Southern Arcade would also have its height increased from single to double-height, which would improve visibility into the One Penn Plaza office lobby and enliven the South Plaza.

#### Southwest Plaza:

As with the South Plaza, the Applicant proposes changes to the Southwest Plaza to activate the space and improve its connectivity with West 33<sup>rd</sup> Street. The Applicant proposes to open the plaza's sidewalk frontage by widening its stairs from seven feet, four inches to 22 feet, six inches, and by re-arranging its planter areas. Currently only 16 percent of the Southwest Plaza's frontage is unobstructed, and this is largely due to the presence of two wide planters, which create a barrier along the majority of the plaza's West 33<sup>rd</sup> Street frontage. Under the proposed conditions this figure would increase to approximately 47 percent unobstructed—the Applicant proposes to reconfigure and elongate the planters, so that their profile is narrower at 33<sup>rd</sup> Street, and instead extend the full depth of the plaza, which also would help improve visibility into the space. The Southwest Plaza's total planter area would increase from 533 square feet to 601 square feet. One tree would be provided, whereas none exist today. Three types of seating would be provided totaling approximately 101 linear feet in the form of wooden backed and backless benches as well as moveable chairs with four tables. A total of two new litter receptacles would be provided. The plaza's finishes would be upgraded to non-slip stone paving, and all lighting would be brought into compliance with the foot-candle standards. No POPS signs exist today and one sign would be provided in the proposed condition. In addition, an existing non-compliant exhaust vent would be removed.



The Applicant proposes to reduce 21 square feet of the Southwest Plaza area currently occupied by the loading dock attendant booth, pursuant to Section 74-761. This action would bring the plaza into compliance with Section 37-70, as an attendant booth is not a permitted obstruction. Section 74-761 requires that all publicly accessible open space to remain be brought into compliance with Section 37-70 to the maximum extent feasible. Because the Applicant proposes to reduce the Southwest Plaza pursuant to Section 74-761, the special permit effectuates and governs the proposed design changes.

#### Seventh Avenue Circulation Plazas:

No changes are proposed to the Seventh Avenue Circulation Plazas.

### **ENVIRONMENTAL REVIEW**

This application (N 190273 ZSM) 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 19DCP021M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on March 8, 2019.

### **UNIFORM LAND USE REVIEW**

This application (C 190273 ZSM) was certified as complete by the Department of City Planning on March 11, 2019, was duly referred to Manhattan Community Board 5 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application (N 190274 ZAM), which was also referred to the

Council Member for District 3 for information and review in accordance with the procedures for non-ULURP matters and the requirements of ZR 37-727.

### **Community Board Review**

Manhattan Community Board 5 held a public hearing on this application (C 190223 ZSM) on April 12, 2019, and on that date, by a vote of 26 in favor, 0 opposed and 1 abstention, adopted a resolution recommending disapproval of the application with conditions that the Applicant plan and construct at least one ADA accessible elevator from the One Penn Plaza lobby to the concourse of Penn Station, that they construct a public restroom within the plaza complex, adjust the hours of operation of the West Plaza to 5:00 a.m. to 10:00 p.m. year round, and adjust hours of operation of the refurbished Penn Station entrance to match those of the West Plaza.

### **Borough President Review**

This application (C 190273 ZSM, N 190274 ZAM) was considered by the Manhattan Borough President, who issued a letter dated May 15, 2019, recommending approval of the application with conditions that the Applicant:

- Provide a new elevator to access Penn Station from the northwestern portion of One Penn Plaza
- Provide adequate signage for the new access to Penn Station and agree to keep that access and train entrance open during the same hours that the West Plaza will be open;
- Incorporate affordable spaces for performance artists into its building; and
- Provide a new public restroom within the Long Island Rail Road concourse.

### **City Planning Commission Public Hearing**

On May 8, 2019 (Calendar No. 2), the City Planning Commission scheduled May 22, 2019 for a public hearing on the application (C 190273 ZSM). The hearing was duly held on May 22, 2019 (Calendar No. 7).

An Applicant team and an additional 12 people spoke in favor of the application.

The Applicant team, composed of four speakers, provided a summary of the proposed development, described the repositioning of the 1 Penn Plaza Office Tower and discussed the design rationale behind their requested actions. They noted the site constraints and how the proposed redesign would activate the plazas and provide a significant improvement over the current conditions. The Applicant team noted the Applicant's extensive holdings and investments in the surrounding area, and highlighted that their improvements to the public spaces would cost a total of \$25 million.

A representative from the local Business Improvement District (BID) spoke in support of the application, noting some of the difficulties with crime, drug use and maintenance both at 1 Penn Plaza and in the surrounding area in general. He was skeptical that the safety and crime issues would improve in the foreseeable future, even in light of the significant investments currently being made in Hudson Yards and the wider area. Regarding the East Plaza, he advocated for less bench seating and more moveable tables and chairs. He cited that bench seating encourages sleeping and prohibited types of overnight use, and exacerbates some of the activates that the closure is seeking to address. He highlighted that a high ratio of moveable seating was key to the successful revitalization of Bryant Park, which was a previous project of his. He also voiced a strong opinion against the provision of public restrooms in the plaza, citing that, given the on-the-ground realities of the surrounding area, it would not be an appropriate use.

Members of the Applicant's security and property management team testified to the operational difficulties of keeping the plaza areas safe and well maintained for tenants and users. The Director of Operations for the Applicant's security team noted that his staff members witness, and are forced to contend with, drug deals, assaults, intoxicated and emotionally disturbed persons, and are routinely threatened by these individuals. He also stated that he routinely fields complaints of building tenants about these issues.

The Vice President of the Applicant's security team spoke to the Applicant's collaboration with local homeless outreach organizations and its approach to improving safety in the surrounding area. He noted that troubled individuals are often resistant to help from these organizations, and that his team's interactions with this population often turns confrontational. He noted that the nearby methadone clinic and needle exchange programs contribute to intravenous drug use in the plazas. Moreover, he noted that Penn Station and Port Authority serve as major hubs for drug trafficking, which make 1 Penn Plaza a particularly attractive location for the selling and using of illegal drugs. He noted that the portions of the plaza areas that are obscured from view attract illicit activities, and that, even if the closure results in these populations and activities shifting elsewhere, unsafe or illegal behavior will be easier to mitigate when it is in more open public view.

The head of property management for the Applicant described some of the difficulties faced by maintenance and landscaping staff, who typically arrive between 4:30 and 5:00 am, and frequently find drug paraphernalia, human waste, used condoms, and other biohazardous materials in the planters. She further noted that these types of materials are not encountered during the daytime hours, and that the greatest hazards to her staff occur at night. In her experience, increasing the number of staff allocated to these issues seems to have a limited impact, noting that during the overnight hours light fixtures have been ripped out of the planter faces, creating a need to order an extra 120 fixtures to account for this damage. She further discussed the Applicant's collaboration with homeless service and outreach organizations, noting that the organizations do early morning walks with Applicant staff to help provide the plaza users with assistance. She corroborated that people who spend the night in the plaza are often resistant to this assistance. She concluded by noting that the closure will establish clear boundaries to the space and allow the Applicant's security staff to remove people once they cross the chain-link nighttime barriers, thereby creating a more effective enforcement system, rather than having to wait to engage persons once they overtly engage in unsafe or problematic behavior.

A member of the Applicant's maintenance staff testified both as a staff member and on behalf of 32BJ SEIU, the property services worker's union. She echoed the Applicant's commitment to its staff's safety, and further highlighted some of the challenges in maintaining the property. She noted that the proposal will help ensure that building staff can do their job safely and effectively.

A representative from the Manhattan Borough President's office testified in favor of the application, and reiterated the conditions in her recommendation.

Representatives from the Association for a Better New York (ABNY), the Real Estate Board of New York (REBNY), the Manhattan Chamber of Commerce and the New York Buildings Congress all testified in favor of the application. They highlighted the safety concerns and existing site constraints, and spoke to the benefits of the proposed design and how it would make the plazas safer for public enjoyment.

There were no other speakers, and the hearing was closed.

## **CONSIDERATION**

The City Planning Commission believes this application for a special permit (C 190273 ZSM) is appropriate.

The Commission believes that the proposed development will dramatically improve the safety, accessibility and user experience of the plaza areas on the site. The special permit would result in a cumulative 3,418 square foot reduction of bonused plaza area and 2,002 square foot reduction of bonused arcade area. In conjunction with this reduction in plaza area, the Applicant will provide a new, clearly advertised, ADA accessible entrance to Penn Station on 34<sup>th</sup> Street, representing a significant improvement over the existing condition, resulting in the availability of three ADA access points to Penn Station on the block, whereas two exist currently. In addition, the application will provide new signage for the existing Penn Station entrance located off the West Plaza, which currently has none and is underutilized as a result.

In addition, other changes to plaza areas on the zoning lot will improve the plaza areas' permeability, pedestrian circulation and visual transparency by removing obstructions at their street lines. In particular, access and visibility into the North Plaza, South Plaza and Southwest Plaza would be increased by reducing the size of the large planter walls that, in the current conditions, separate the elevated plazas portions from the street and obscure visibility into them. The proposed action will also help activate the plaza areas by providing a variety of new seating types and user amenities, including trees, improved planter areas, green walls, art and sculptural lighting, especially in the North and South Plazas which have no existing seating or amenities. Upgrades are also proposed to the plaza areas' paving materials, color palette, lighting and signage that will further enhance its attractiveness and usability for the public.

In granting the Special Permit, the Commission must also find that any plaza area for which a reduction or elimination is proposed, must have its remaining open area upgraded to comply with the provisions of Section 37-70 to the maximum extent feasible. The Commission finds that the three plazas for which a reduction is requested are being redesigned to comply with Section 37-70 to the maximum extent feasible, by significantly improving the number and quality of their seating, planting, amenities, signage, and lighting.

The West Plaza is elevated up to five feet above curb level and its site constraints and current layout obscures visibility into the space and can discourage users from entering and using it for through-block circulation. Also, obstructions create a number of areas that are hidden from view, which, according to the Applicant's incident reports and testimony, can promote certain illicit or unsafe behaviors. The Commission believes that the West Plaza can be substantially improved by leveling its elevated portions, and moving its seating, amenities and other obstructions to improve visibility across the space. In addition, a proposed sculptural lighting trellis will help improve lighting and safety for users, providing visual interest and a clearly defined circulation path. A new food and beverage kiosk, which will require a Chairperson Certification, will help activate the West Plaza, draw users into the space and further improve user safety by providing

additional personnel and user presence within the plaza. The provision of new varieties of bench seating, user amenities, greenery and the periodic holding of public, non-ticketed events will further activate the space and make it a more attractive and safe space for users.

The Commission believes that these improvements to the West Plaza, in conjunction with the suite of upgrades to the other plaza areas on the zoning lot, provide an equal or increased public benefit to compensate for the reduction of 157 square feet of plaza area within the West Plaza. The Commission also believes that providing improved or increased seating, planting, trees, amenities, materials, lighting and signage, the proposed upgrades to the West Plaza will bring the plaza area into compliance with the provisions of Section 37-70 to the maximum extent feasible. The Commission recognizes that the Applicant has demonstrated that an ADA ramp is infeasible on the south side of the West Plaza, but is pleased that the Applicant has agreed to provide wayfinding signage on the south side of the West Plaza that would direct users to the access ramp on its north side.

As further discussed below, the Commission also believes that the request for nighttime closure of the West Plaza is appropriate to address documented safety and maintenance issues.

The North Plaza will also be dramatically improved under the proposed action through the removal of large portions of the planter walls that will increase circulation, access and visibility into the plaza. The North Plaza currently has no trees, seating or amenities, and the proposed bench and the Commission believes that moveable seating, five new trees and rotating artwork will make the space more attractive and significantly enhance user experience.

The North Plaza will be reduced by 3,240 square feet, and all 1,911 square feet of the Northern Arcade will be eliminated. The Commission believes that these improvements, coupled with the provision of a new ADA-accessible entrance to Penn Station, and the additional upgrades to Plaza Areas on the zoning lot, compensate for the requested reduction in bonused plaza and arcade area and provide an equal or increased public benefit.

The Commission acknowledges the Applicant's thoughtful treatment of the lobby expansion, and careful consideration of the street wall condition by choosing light, transparent materials that serve to engage pedestrians and ensure ample visibility into the improved North Plaza area. The Commission also recognizes that the Northern Arcade is low-slung and uninviting in its current condition, and that the improvements to the lobby and street wall, as well as the upgrades to the adjacent North Plaza help to compensate for its elimination. In addition, providing improved and increased seating, planting, trees, amenities, materials, lighting and signage, the proposed upgrades to the North Plaza would bring the plaza area into compliance with the provisions of Section 37-70 to the maximum extent feasible.

The Southwest Plaza is being reduced by 21 square feet to reflect a non-complying built condition. Its connectivity with West 33<sup>rd</sup> Street is proposed to be increased, thereby helping to activate the plaza and improve its user experience. The Commission believes that these improvements to the Southwest Plaza adequately compensate for the slight reduction in its area, and that the provision of improved or increased seating, planting, trees, amenities, materials, lighting and signage bring the plaza area into compliance with the provisions of Section 37-70 to the maximum extent feasible.

Upgrades to the South Plaza, which are proposed under a separate CPC Chairperson certification pursuant to Section 37-625, will significantly improve the space by making it more attractive to users and providing a variety of seating types and amenities where none exist today. The Commission believes that these design changes would contribute the satisfaction of finding 74-761(a) and that the reduction of bonused plaza area is being compensated by the overall improvement of public spaces on the Zoning Lot. The Commission further believes that the reduction of 91 square feet of the Southern Arcade to correct a non-complying built condition is appropriate. The proposed removal of floor area directly above the arcade will dramatically increase the height of the arcade, will improve visibility into the building from the South Plaza and West 33<sup>rd</sup> Street, and will serve to make the space more attractive and inviting for passersby.



The improvements to the East Plaza, which are proposed under the same CPC Chairperson certification pursuant to Section 37-625, will help activate the space by providing an expanded variety of seating, planting and user amenities that will contribute to the overall improvement of plaza areas on the zoning lot for the purposes of meeting finding 74-761(a). The Commission believes that the provision of a food and beverage kiosk will further activate the space, draw users and improve user safety and experience by providing additional personnel and activity within the plaza. The design as proposed provides a robust mix of seating options including backed and backless bench seating, as well as 22 movable tables and 66 moveable chairs. As further discussed below, the Commission also believes that the request for nighttime closure of the West Plaza is appropriate to address documented safety and maintenance issues.

The Commission recognizes that, in granting the requested reductions to bonused plaza and arcade area, the Applicant is eliminating 6,989 square feet of floor area within the existing building, to ensure that no floor area non-compliance is created or made greater by the requested actions.

The Commission believes that the request for a zoning authorization pursuant to Section 37-727 to allow nighttime closure of the East Plaza and the raised portion of the West Plaza is appropriate for a term of 20 years. The Commission recognizes that the plazas have been open to the public since their construction in 1972, thereby satisfying the authorization's requirement that the subject plaza must be open for a minimum of one year in order to be eligible for nighttime closure. The Commission believes that the plazas have experienced longstanding and significant safety and maintenance issues, which have been documented by the applicant, including drug use, littering, harassment, physical altercations and other illegal or antisocial behavior, and that the closure is appropriate for the preservation of public safety and continued maintenance of the spaces.

The Applicant proposes to close off the plazas overnight with a series of movable stanchions connected by a chain, which will be completely removed from the plaza area and stored within the building during the plaza's hours of public operations. The Commission finds that this closure mechanism is appropriate, does not impede circulation within the space during hours of public operation and complies with the design requirements of Section 37-727(e). The Commission also recognizes that a program for continuing maintenance of the publicly accessible open areas has been established in accordance with Section 37-77 of the Zoning Resolution.

The Applicant proposes, as part of the wider suite of actions, significant upgrades to the West and East Plaza. Regarding finding 37-727(c) and finding 37-727(g), the Commission finds that the spaces are being improved to the maximum extent feasible, and that the layout and design of these spaces will promote public use and free and easy pedestrian circulation. The Commission believes that the hours of closure, as proposed by the Applicant are appropriate for a term of 20 years. The Commission notes that the proposed hours of closure for the raised portion of the West Plaza are compliant with the provisions of the authorization. The Commission recognizes that the East Plaza provides important through-lot circulation for commuters to and from Penn Station, and that the shorter hours of closure, from 12:00 midnight to 5:00 a.m. year-round are appropriate so as to relieve congestion during peak and off-peak commuting hours.

Although the Commission recognizes that the plazas are currently experiencing significant safety and maintenance issues, it notes that considerable investments are being made in the surrounding area, including the opening of Hudson Yards and the applicant's own redevelopment of the Farley Post Office building. The Commission recognizes that the safety, security and maintenance issues documented by the Applicant warrant serious consideration, and that the safety threats posed to users and maintenance staff alike are significant, and merit the overnight closure of the spaces.

However, the Commission believes that the character of the neighborhood is likely to change in the future due to the investments currently being made. These future changes may diminish significantly or altogether eliminate the current safety conditions. Therefore, the Commission believes that a 20-year term limit is appropriate and will allow the Commission to re-consider the appropriateness of a future request for continued plaza closure at that time.

The Applicant has amended its application on June 19, 2019 to request the authorization for overnight closure for a term-limited period of 20 years, beginning from the date of approval of the Subject Application.

The Commission also recognizes that the Applicant has revised its application to address two concerns and conditions outlined in the Community Board and Manhattan Borough President's resolutions. As noted, the Applicant will be providing full ADA accessibility at its proposed Penn Station entrance, and MTA and LIRR will be providing refurbished restrooms within the renovated LIRR concourse, directly below the Project Area.<sup>1</sup>

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Sections 81-231(a) and 74-761 of the Zoning Resolution:

- (a) such elimination or reduction is adequately compensated by the substitution of another public amenity or improvement on the #zoning lot# that shall provide equal or increased public benefit; and

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<sup>1</sup> This correction is intended to clarify that MTA and LIRR intend to include renovated restrooms in their renovation of the LIRR concourse at Penn Station, and that MTA and LIRR are the responsible party for the implementation of the restrooms.

(b) for #publicly accessible open areas# any remaining bonused open area will comply to the maximum extent feasible with the standards of #public plazas# as set forth in Section 37-70.

The City Planning Commission hereby makes the following findings pursuant to Section 37-727 of the Zoning Resolution:

- (a) such existing #publicly accessible open area# has been open to the public a minimum of one year or there are significant operational or safety issues documented, or for new #public plazas# significant safety issues have been documented and provided as part of the application for authorization of nighttime closing;
- (b) such closing is necessary for public safety within the #publicly accessible open area# and maintenance of the public open areas as documented by the applicant;
- (c) the layout and design of the #publicly accessible open area# will promote public use and free and easy pedestrian circulation throughout the space;
- (d) any approved design element that limits public access, as specified in paragraph
- (e) a design element that limits public access shall:
  - (1) be of a design that is integrated with the design of the #publicly accessible open area# in a manner that would promote the attractiveness of the space for public use and enjoyment;
  - (2) not exceed five feet in height;
  - (3) be fully removed from the #publicly accessible open area# during the hours of public access; however, barriers not to exceed three feet, six inches in height may have posts or supports that remain during the hours of public access provided that such posts or supports do not exceed six inches in width;
  - (4) not involve stanchions or cabinets for barrier storage located with the #publicly accessible open area#, except for stanchions or cabinets located at the edges of the #publicly accessible open area#;
  - (5) not inhibit or diminish access to the #publicly accessible open area# nor impede pedestrian circulation into, through, or along the frontage of the #publicly

accessible open area#, and not obstruct access during the hours of public access;  
and

(6) be substantially transparent;

(f) public access to the #publicly accessible open area# between the hours of 7:00 a.m. and 10:00 p.m. from April 15 to October 31 and from 7:00 a.m. to 8:00 p.m. from November 1 to April 14, or a schedule specified by the Commission, is assured by appropriate legal documents and that an hours of access plaque shall be affixed to the enclosure or barrier which shall indicate the hours of public access to the #publicly accessible open area#, as specified in Section 37-751, paragraph (c). However, if an open air cafe or kiosk is located within the #publicly accessible open area#, such #publicly accessible open area# shall remain open to the public during the hours of operation of the open air cafe or kiosk;

(g) plans have been submitted that demonstrate that, where appropriate, the #publicly accessible open area# will be improved, to the maximum extent feasible, in accordance with the standards set forth for #public plazas#;

(h) a program for continuing maintenance of the #publicly accessible open area# has been established in accordance with Section 37-77.

## RESOLUTION

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant adverse impact on the environment; 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 (C 190273 ZSM) submitted by One Penn Plaza LLC, pursuant to Sections 197–c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 81-231 (a) and 74–761 of the Zoning Resolution to allow the reduction of bonused plaza and arcade area for which a bonus has been granted and utilized, on a

property located at One Penn Plaza (Blocks 783, Lots 1, 34 and 70) in C6-4 and C6-6 Districts, within the Special Midtown District, Borough of Manhattan, Community District 5, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 190273 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 MdeAS Architects and Mathews Nielsen Landscape Architects, filed with this application and incorporated in this resolution:

<b>Drawing No.</b>	<b>Title</b>	<b>Date Revised</b>
Z-003.00	Plaza & Area Reduction Plan	6/14/2019
Z-004.00	Proposed Zoning Lot Site Plan	6/14/2019
Z-010.00	West Plaza - Zoning Calculations (Special Permit)	6/28/2019
Z-011.00	West Plaza - Layout Plan	6/14/2019
Z-012.00	West Plaza - Seating, Signage & Amenities Plan	3/07/2019
Z-013.00	West Plaza - Materials, Paving & Grading Plan	3/07/2019
Z-014.00	West Plaza - Permitted Obstructions Plan	6/14/2019
Z-015.00	West Plaza - Planting Plan	3/07/2019
Z-016.00	West Plaza - Lighting Plan	6/14/2019
Z-017.00	West Plaza - Photometric Plan	6/14/2019
Z-018.00	West Plaza - Transparency Calculations	3/07/2019
Z-019.00	West Plaza - Transparency Calculations	3/07/2019
Z-020.00	West Plaza - Transparency Calculations	3/07/2019
Z-021.00	West Plaza - Sections	3/07/2019
Z-022.00	West Plaza - Signage Details	6/14/2019
Z-200.00	West Plaza - Seating Details	3/07/2019
Z-201.00	West Plaza - Seating Details	6/14/2019
Z-202.00	West Plaza - Seating Step Details	3/07/2019
Z-030.00	North Plaza - Zoning Calculations (Special Permit)	6/28/2019
Z-031.00	North Plaza - Layout Plan	6/14/2019
Z-032.00	North Plaza - Seating, Signage & Amenities Plan	3/07/2019
Z-033.00	North Plaza - Materials, Paving & Grading Plan	3/07/2019
Z-034.00	North Plaza - Permitted Obstructions Plan	6/14/2019
Z-035.00	North Plaza - Planting Plan	3/07/2019
Z-036.00	North Plaza - Lighting Plan	3/07/2019
Z-037.00	North Plaza - Photometric Plan	3/07/2019
Z-038.00	North Plaza - Transparency Calculations	3/07/2019

Z-039.00	North Plaza - Sections	3/07/2019
Z-040.00	North Plaza - Signage Details	6/14/2019
Z-203.00	North Plaza - Seating Details	3/07/2019
Z-050.00	Southwest Plaza - Zoning Calculations (Special Permit)	6/28/2019
Z-051.00	Southwest Plaza - Layout Plan	6/14/2019
Z-052.00	Southwest Plaza - Seating, Signage & Amenities Plan	3/07/2019
Z-053.00	Southwest Plaza - Materials, Paving & Grading Plan	3/07/2019
Z-054.00	Southwest Plaza - Permitted Obstructions Plan	6/14/2019
Z-055.00	Southwest Plaza - Planting Plan	3/07/2019
Z-056.00	Southwest Plaza - Lighting Plan	3/07/2019
Z-057.00	Southwest Plaza - Photometric Plan	3/07/2019
Z-058.00	Southwest Plaza - Transparency Calculations	3/07/2019
Z-059.00	Southwest Plaza - Sections	3/07/2019
Z-060.00	Southwest Plaza - Signage Details	6/14/2019
Z-205.00	South West Plaza - Seating Details	3/07/2019
Z-207.00	Details	6/14/2019
Z-208.00	Details	3/07/2019
Z-209.00	Accessory Signage Details	3/07/2019
Z-210.00	Planting Details	3/07/2019
Z-250.00	Lighting Fixture Cutsheets	3/07/2019
Z-251.00	Lighting Fixture Cutsheets	3/07/2019

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. 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, sub-lessee or occupant.
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.
7. The authorization (N 190274 ZAM) shall expire twenty (20) years following the effective date of its approval.

The above resolution (C 190273 ZSM), duly adopted by the City Planning Commission on July 8, 2019 (Calendar No. 3), 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.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKLES, Esq.**, *Vice-Chairman*

**MICHELLE R. de la UZ, JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD**,  
*Commissioners*

**ALFRED C. CERULLO, III**, *Commissioner, Recused*



# MANHATTAN COMMUNITY BOARD FIVE

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Vikki Barbero, Chair

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Wally Rubin, District Manager

April 12, 2019

Marisa Lago  
Chair of the City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: Vornado One Penn Plaza application to open up the ground and second floors with a new façade and storefront, expanding the lobby to the north and reducing the current public plaza; improving over an acre of public plazas with structural changes; adding a new Penn Station entrance along the 34th Street facade. The application has three actions – a Special Permit for plaza reduction, kiosk certifications and an authorization for nighttime closures at the East and West Plazas.**

Dear Chair Lago:

At the regularly scheduled monthly Community Board Five meeting on Thursday, April 11, 2019, the following resolution passed with a vote of 28 in favor; 0 opposed; 1 abstaining:

WHEREAS, One Penn Plaza LLC, is seeking approval of several actions (the “proposed actions”) to facilitate the planned expansion of a lobby, reduction and improvements to public plaza areas, and enhanced transit access to Penn Station at the One Penn Plaza property; and

WHEREAS, Applicant is seeking approval for:

- Special Permit pursuant to Zoning Resolution (ZR) Section 74-761 (Elimination or reduction in size of bonused public amenities) to allow
  - a) a proposed 3,240 sf reduction in the area of the North Plaza;
  - b) the proposed elimination of the 1,911 sf Northern Arcade; and
  - c) a 157 sf reduction in the area of the West Plaza, a 21 sf reduction in the area of the Southwest Plaza and a 91 sf reduction in the area of the Southern Arcade;
- Authorization pursuant to ZR Section 37-727 (Hours of access) to allow nighttime closure of the raised portion of the West Plaza (between 10:00 PM and 7:00 AM from April 15th through October 31st; and between 8:00 PM and 7:00 AM from November 1st through April 14th) and the entire East Plaza (between 12:00 AM and 5:00 AM);
- Chairperson’s certification pursuant to ZR Sections 37-73 and 81-231(b) (Kiosks and Open Air Cafes) to allow kiosks on the West Plaza and on the East Plaza; and

- Chairperson's certification pursuant to ZR Section 37-625 (Design changes) to upgrade the East Plaza, the South Plaza and the two Seventh Avenue circulation plazas (no changes are proposed to the Seventh Avenue circulation plazas); and

WHEREAS, One Penn Plaza is a skyscraper located between 33rd Street and 34th Street, west of Seventh Avenue, and adjacent to Pennsylvania Station and Madison Square Garden, owned by Vornado Realty; and

WHEREAS, The applicant is proposing to extend their lobby onto the public plaza as part of an overall refurbishment and upgrade of the building; and

WHEREAS, The applicant is proposing to reduce the amount of commercial space in the building to accommodate for the lobby expansion, which partially offsets the reduction in public plaza space; and

WHEREAS, As part of the general upgrades, the applicant will upgrade the public plazas with new seating design and planting, opening the space and rendering it more inviting, with seating and planting reconfiguration that would be more user friendly and improving pedestrian circulation; and

WHEREAS, The applicant will bring more prominence, including with signage and enlarged doorways, to an existing entrance on West 34<sup>th</sup> Street between 7<sup>th</sup> & 8<sup>th</sup> Avenues, located west of the building entrance (within the building), and providing access to underground connections to the Long Island Rail Road concourse of Pennsylvania Station, located one block to the south; and

WHEREAS, The entrance would be open and monitored from 7am to 7pm; and

WHEREAS, The applicant is proposing to install beverage kiosks on the West Plaza as well as the East Plaza, to be open during the same hours as the plazas themselves; and

WHEREAS, The applicant is proposing to reduce the hours of operation of the East and West Plazas from 24/7 to the hours of 7am to 8pm during the winter months, and 7am to 10pm during summer months; and

WHEREAS, The reduced opening time would allow for better enforcement of nuisances that are frequently occurring in the plazas during nighttime, while allowing cleaning crews to operate more efficiently and safely; and

WHEREAS, The applicant has reported that maintenance crews are regularly faced with issues such as controlled substance paraphernalia, human waste, miscellaneous litter; and

WHEREAS, Despite an enforcement program, the plazas have been the regular site of criminal activity including use and sale of controlled substances; and

WHEREAS, While aspects of the proposed modifications could have an overall positive impact, they do not provide a substantial enough benefit to offset their negative impacts:

- the privatization of FAR generating public space should be offset with a more user friendly transit entrance that must include one or more elevators to provide full accessibility, as well as longer opening hours
- while closure of the plazas can be entertained given the crime and nuisance occurrences at the site, the hours of operations must be extended beyond what is currently proposed,
- while the design changes are sympathetic to a more user-friendly experience, the plazas should be providing a fully monitored public bathroom for pedestrian's comfort;

**WHEREAS**, Community Board Five is making these recommendations based on a very careful review and evaluation of the specific conditions of this site as they exist in 2019 therefore these recommendations may not be applicable to any other site, publicly or privately owned, and should not be interpreted as a reflection of Community Board Five's broader policy position on public plazas, public arcades or POPs; therefore be it

**RESOLVED**, Community Board Five recommends **denial** of One Penn Plaza LLC's request for a Special Permit pursuant to Zoning Resolution (ZR) Section 74-761, the elimination or reduction in size of bonused public amenities for One Penn Plaza, **unless** the Applicant works with the Department of City Planning, and the City Planning Commission to plan and construct at least one ADA accessible elevator from the One Penn Plaza lobby to the concourse of Penn Station, and the Applicant plans and constructs a public restroom within the plaza complex.

**RESOLVED**, Community Board Five recommends **denial** of One Penn Plaza LLC's request for a Zoning Authorization pursuant to Zoning Resolution (ZR) Section 37-327, to change the hours of access for One Penn Plaza, **unless** the Applicant adjusts hours of operation of the West Plaza to 5AM to 10PM year round at a minimum, and the Applicant adjusts hours of operation of the refurbished Penn Station entrance in the lobby of One Penn Plaza to match those of the West Plaza.

**RESOLVED**, Community Board Five recommends **approval** of One Penn Plaza LLC's request for a Chairperson's Certification pursuant to Zoning Resolution (ZR) Section 37-73 and 81-231(b), for One Penn Plaza, in connection with the proposed addition of kiosks near the 34<sup>th</sup> Street entry to the West Plaza and near the center of the East Plaza.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero  
Chair



Layla Law-Gisiko  
Acting Chair, Land Use, Housing and Zoning Committee



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Gale A. Brewer, Borough President

May 16, 2019

**Recommendation on ULURP Applications No. 190273 ZSM and N190274 ZAM**

**1 Penn Plaza**

**By One Penn Plaza, LLC**

**PROPOSED ACTIONS**

One Penn Plaza, LLC (the “Applicant”) is the owner and operator of One Penn Plaza, a commercial office building located in the Special Midtown District of Manhattan Community Board 5. The Applicant is proposing a series of renovations to the building exterior, the lobby, and several public plazas that are part of the development. In order to proceed with those planned renovations, the Applicant is seeking the following:

1. Special Permit pursuant to ZR § 37-622 and ZR § 74-761 to allow a reduction in the size of a public plaza;
2. City Planning Commission (CPC) Authorization pursuant to ZR § 37-623 and 37-727 to allow nighttime closure of portions of a bonused plaza;
3. CPC Chairperson’s Certification pursuant to ZR § 37-73 and ZR § 81-231 to allow kiosks in plazas; and
4. CPC Chairperson’s Certification pursuant to ZR § 37-625 to allow design changes to public plazas.

This office is tasked with providing a recommendation regarding the first two items above. In order to grant the Special Permit, the City Planning Commission must find that<sup>1</sup>:

(a) such elimination or reduction is adequately compensated by the substitution of another public amenity or improvement on the zoning lot that shall provide equal or increased public benefit; and

(b) for publicly accessible open areas any remaining bonused open area will comply to the maximum extent feasible with the standards of public plazas as set forth in Section 37-70.

In order to grant an authorization for the closure of a plaza, the Commission must find that<sup>2</sup>:

(a) such existing publicly accessible open area has been open to the public a minimum of one year or there are significant operational or safety issues documented, or for new

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<sup>1</sup> ZR § 74-761 – Elimination or reduction in size of bonused public amenities

<sup>2</sup> ZR § 37-727 – Hours of Access

public plazas significant safety issues have been documented and provided as part of the application for authorization of nighttime closing;

(b) such closing is necessary for public safety within the publicly accessible open area and maintenance of the public open areas as documented by the applicant;

(c) the layout and design of the publicly accessible open area will promote public use and free and easy pedestrian circulation throughout the space;

(d) any approved design element that limits public access, as specified in paragraph (e) of this Section, shall not impede public circulation, visual or physical access within the publicly accessible open area or between the publicly accessible open area and other public areas during hours of public operation;

(e) a design element that limits public access shall:

(1) be of a design that is integrated with the design of the publicly accessible open area in a manner that would promote the attractiveness of the space for public use and enjoyment;

(2) not exceed five feet in height;

(3) be fully removed from the publicly accessible open area during the hours of public access; however, barriers not to exceed 3 feet, 6 inches in height may have posts or supports that remain during the hours of public access provided that such posts or supports do not exceed six inches in width;

(4) not involve stanchions or cabinets for barrier storage located within the publicly accessible open area, except for stanchions or cabinets located at the edges of the publicly accessible open area;

(5) not inhibit or diminish access to the publicly accessible open area nor impede pedestrian circulation into, through, or along the frontage of the publicly accessible open area, and not obstruct access during the hours of public access; and

(6) be substantially transparent;

(f) public access to the publicly accessible open area between the hours of 7:00 a.m. and 10:00 p.m. from April 15 to October 31 and from 7:00 a.m. to 8:00 p.m. from November 1 to April 14, or a schedule specified by the Commission, is assured by appropriate legal documents and that an hours of access plaque shall be affixed to the enclosure or barrier which shall indicate the hours of public access to the publicly accessible open area, as specified in Section 37-751, paragraph (c). However, if an open air cafe or kiosk is located within the publicly accessible open area, such publicly accessible open area shall remain open to the public during the hours of operation of the open air cafe or kiosk;

(g) plans have been submitted that demonstrate that, where appropriate, the publicly accessible open area will be improved, to the maximum extent feasible, in accordance with the standards set forth for public plazas;

(h) a program for continuing maintenance of the publicly accessible open area has been established in accordance with Section 37-77.

## **PROJECT DESCRIPTION**

### **Background**

One Penn Plaza was built in 1972. The building is 57 stories in height and contains a wide range of commercial tenants, including Cisco Systems and the law firm Rapaport. The ground floor of the building is occupied by retail tenants that include a variety of eating establishments as well as a Kmart department store. Five plazas and two arcades surround the building. The plazas currently encompass 50,095 square feet and provided 300,573 square feet of bonus floor area to One Penn Plaza. The arcades encompass 3,822 square feet and provided 11,466 square feet of bonus floor area. Below is a description of each one of these spaces:

- The West Plaza, which is between 3 feet and 4.75 feet above grade level and fronts 8<sup>th</sup> Avenue between West 33<sup>rd</sup> and West 34<sup>th</sup> Street;
- The North Plaza, which is above grade level and fronts on West 34<sup>th</sup> Street;
- The Northern Arcade which is adjacent to the North Plaza and entrances to One Penn Plaza;
- The East Plaza, which is a grade level through-block space between West 33<sup>rd</sup> and West 34<sup>th</sup> Street;
- The South Plaza, which is above grade level and fronts on West 33<sup>rd</sup> Street;
- The Southern Arcade, which is adjacent to the South Plaza and entrances to One Penn Plaza; and
- The South West Plaza, which is above grade and fronts on West 33<sup>rd</sup> Street.

### **Area Context**

One Penn Plaza is situated within the Special Midtown District, which includes large scale commercial office buildings and retail corridors along the avenues as well as side streets. This portion of Manhattan has a concentration of hotels, including older ones like the Hotel Pennsylvania and the New Yorker Hotel as well as many new hotels within the Special Garment District, located just to the north of One Penn Plaza. Madison Square Garden is one block to the south of One Penn Plaza, while the Manhattan Center, which is home to the Hammerstein Ballroom, is one block to the north. Both performance venues draw audiences from outside New York City. Shopping attractions such as Macy's flagship store, located one block to the east, and the shops around Herald Square, also draw tourists to the area. The plazas and open spaces in the vicinity of One Penn, which include Herald Square, are mostly hardscape spaces, with concrete pavers, seating, and a few plantings. Both spaces are well-used as passive recreation spaces.

One Penn Plaza is particularly well-positioned with access to a variety of public transit options. The building is directly to the north of Pennsylvania Station, which provides access to the 1, 2, 3,

A, C, and E subway lines in addition to the Long Island Rail Road and New Jersey Transit, which provide regional service, and Amtrak, which runs interstate trains. One avenue to the east of One Penn Plaza is the Herald Square train station, which provides access to the B, D, F, M, N, Q, R, and W subway lines as well as the New Jersey PATH.

A new entrance to the Long Island Rail Road Corridor of Pennsylvania Station will be built on West 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue, just to the south of One Penn Plaza.

### Proposed Renovations

The Applicant proposes to complete a series of renovations to the building, including façade improvements, a lobby renovation, and a redesign of the plazas. The lobby, which is currently 50 feet away from the sidewalk, will be extended so that it is within 15 feet of the street line. The Applicant has expressed that these improvements will make the building feel more open and its public plazas more inviting to the public.

As the table below demonstrates, the lobby expansion and plaza improvements will result in an overall reduction of approximately 5,420 square feet of public plaza and arcade space.

**Table 1 – Current and Proposed Public Plazas**

		<b>Existing Square Footage</b>	<b>Proposed Square Footage</b>	<b>Differential</b>
<b>Plazas</b>	West Plaza	24,109.32	23,952.23	(157.09)
	North Plaza	8,880.00	5,640.00	(3,240.00)
	East Plaza	7,900.00	7,900.00	-
	Eastern Corners	1,054.68	1,054.68	-
	South Plaza	5,977.75	5,977.75	-
	South West Plaza	2,173.75	2,152.50	(21.25)
	<b>Plazas Subtotal</b>	<b>50,095.50</b>	<b>46,677.16</b>	<b>(3,418.34)</b>
<b>Arcades</b>	Northern Arcade	1,911.00	-	(1,911.00)
	Southern Arcade	1,911.00	1,820.00	(91.00) <sup>3</sup>
	<b>Arcades Subtotal</b>	<b>3,822.00</b>	<b>1,820.00</b>	<b>(2,002.00)</b>
	<b>Total</b>	<b>53,917.50</b>	<b>48,497.16</b>	<b>(5,420.34)</b>

Because these public spaces provided floor area bonuses to the building, the applicant will re-balance the building square footage with removals of floor area on the second and third floors of the building. These removals will result in a taller Southern Arcade as well as a taller lobby height—both of which are designed to meet the goal of creating a more inviting presence for One Penn Plaza. In total, approximately 7,000 square feet of the building will be removed.<sup>4</sup>

<sup>3</sup> Reduction reflects as-built conditions

<sup>4</sup> Approximately 400 square feet of retail space will be removed to accommodate a transit entrance; this figure was not included in the total square footage calculation.

The Applicant also proposes improvements to an existing Penn Station entrance that is located inside One Penn Plaza. Under the proposed plans, commuters would be able to also access the station through the North Plaza. This new access point will include design elements to maximize visibility from the street, including a canopy, lighting, and signage.

Lastly, the Applicant proposes nighttime closings for the East Plaza and the West Plaza—both spaces that span from West 33<sup>rd</sup> to West 34<sup>th</sup> Street. The application notes that cleaning crews often encounter “strewn bottles, drug paraphernalia, and other trash” in the plazas and that the security staff is “unable to dissuade bad behaviors because they are harassed and often physically threatened by nighttime plaza occupants.” The West Plaza is between 3 and 4.75 feet above grade level and is partially concealed by a one story retail building that fronts on 8<sup>th</sup> Avenue. Thus, the Applicant proposes to close the West Plaza from 10PM until 7AM from April 15<sup>th</sup> through October 31<sup>st</sup> and from 8PM until 7AM from November 1<sup>st</sup> through April 14<sup>th</sup>. The Applicant has agreed to keep the West Plaza open longer if the café in the plaza is open beyond those hours. The East Plaza, which is at grade level and is widely used as a walkway, would be closed from midnight until 5AM throughout the year.

## COMMUNITY BOARD RESOLUTION

Manhattan Community Board 5 held a hearing on the application on April 3, 2019. On April 12 2019, the Board passed a resolution recommending:

- *Denial* of the application for Special Permit to reduce the sizes of the plazas *unless* the Applicant constructs an elevator to access Penn Station from One Penn Plaza and builds a new public restroom within the plazas;
- *Denial* of the application to allow nighttime closure of the plazas *unless* the Applicant agrees to only close the West Plaza and the new Penn Station access point and entrance from 10PM to 5AM; and
- *Approval* of the application for kiosks on the East Plaza and the West Plaza.

## BOROUGH PRESIDENT’S COMMENTS

One Penn Plaza includes a number of design elements that pose public realm challenges. It is a tower that sits slightly above grade level and sets back significantly from the property line—effectively eliminating the “eyes on the street” that have become a tenet of good urban planning. I am pleased to see that the Applicant has plans to create a more open lobby and more welcoming public plazas. If successful, these plazas will provide a well-used respite from the hustle and bustle of Midtown.

I agree that the Applicant should work to provide elevator access to Penn Station, particularly given that the improvements to the existing station entrance will not include widening the staircase. I also believe that such an entrance needs to be abundantly demarcated to ensure that it will be widely used by the public. The current layout of the entrance makes it infamously difficult to find and if the new access point were just as hard to locate, we could not in good conscience call it a public benefit.



I also encourage the Applicant to include affordable spaces for artists in One Penn Plaza. There is an extensive need for the following types of spaces: performance, rehearsal, and administrative spaces.

- *Performance spaces* for off-Broadway theaters
  - 10,000-15,000 square feet, including 99 to 149 seats
- *Rehearsal spaces* for theater and dance
  - 5-10 suites ranging from 700 to 1,600 square feet
- Administrative spaces for theater companies
  - 5-10 offices ranging from 300 to 800 square feet
- Individual artist studios
  - 20-30 studios ranging from 250 to 600 square feet

Art New York, which is located three blocks to the north of One Penn Plaza, continues to receive requests for such spaces despite already being at capacity. Furthermore, the presence of these artists creates an opportunity to activate plazas with public programming. In the spirit of creating a public realm that truly welcomes the public, the Applicant should include this component in its development.

I understand that the safety issues the Applicant raised are widely recognized by area residents and employees. I believe that the proposed nighttime closings are appropriate given those concerns. Furthermore, I am concerned that a new public restroom within the plazas would welcome the same kind of behaviors that the Applicant seeks to deter. The Applicant has also noted that there is a restroom on the northwest corner in the intermediate level of Penn Station, 250 feet from One Penn Plaza. However, I believe that the proposed expansion of the Long Island Rail Road concourse provides an opportunity for an additional public restroom. While I understand the public safety concerns that the Applicant may have about such a restroom, public restrooms like the ones at Bryant Park prove that a successful solution is possible. I encourage the Applicant to explore the feasibility of this addition, which would be well-used by the public.


Finally, the plazas should be designed in a manner that encourages people to use them. For example, the eastern plaza should be furnished in a way that preserves a pedestrian thoroughfare in the center while placing tables and chairs on both sides, adjacent to the retail spaces. I believe that the work of creating a successful public space is an iterative process and I urge the Applicant to maintain an open dialogue with the Community Board, the 34<sup>th</sup> Street Partnership, and other area stakeholders to ensure that the spaces are enjoyed to their full potential.

## **BOROUGH PRESIDENT'S RECOMMENDATION**

I therefore recommend **approval** of applications No. 190273 ZSM and N190274 ZAM **with the following conditions:**

1. That the Applicant provide a new elevator to access Penn Station from the northwestern portion of One Penn Plaza;

2. That the- Applicant provide adequate signage for the new access to Penn Station and agree to keep that access and train entrance open during the same hours that the West Plaza will be open;
3. That the Applicant incorporate affordable spaces for performance artists into its building; and
4. That the Applicant provide a new public restroom within the Long Island Rail Road concourse.

A handwritten signature in black ink that reads "gale A. Brewer". The signature is written in a cursive, flowing style with a large, stylized "g" and "B".

Gale A. Brewer  
Manhattan Borough President