



## **CITY PLANNING COMMISSION**

June 17, 2009 / Calendar No. 18

C 090221 ZSM

**IN THE MATTER OF** an application submitted by the New York City Economic Development Corporation and MMPI Piers LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-41 of the Zoning Resolution to allow a trade exposition facility with a rated capacity in excess of 2,500 persons within an existing building at Piers 92 and 94, westerly of Route 9A (Miller Highway) between West 51st Street and West 55th Streets (Block 1109, Lots 5 and 30, and p/o Marginal Street Wharf or Place), in an M2-3 District, Borough of Manhattan, Community District 4.

This application for the special permit pursuant to Section 74-41 to allow a trade exposition facility with a rated capacity in excess of 2,500 persons was filed by the applicant on November 25, 2008. The special permit, along with its related actions, would facilitate the renovation and enlargement of Piers 92 and 94 and their associated upland areas as a venue for trade shows and exhibitions, as well as the development of new public open space and public amenity space on the project site.

### **RELATED ACTIONS**

In addition to the special permit (C 090221 ZSM) which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following, which are being considered concurrently with this application:

C 090220 PPM	Disposition of City-Owned Property pursuant to zoning;
C 090222 ZSM	Special permit to modify the maximum length and maximum height of buildings or other structures pursuant to Section 62-342;
N 090223 ZAM	Authorization for the modification of waterfront public access requirements pursuant to Sections 62-722(a) and 62-722(b); and
N 090224 ZCM	Chairperson's certification of waterfront public access and visual corridors pursuant to Section 62-711.

### **BACKGROUND**

The project site, Piers 92 and 94 and their associated upland areas, is located on the west side of Manhattan, bounded generally by the Hudson River to the west, Route 9A to the east, the prolongation of West 52<sup>nd</sup> Street to the south, and Clinton Cove Park (part of Hudson River

Park) to the north.

The landward portion of the project site is developed with a headhouse building running approximately 600 feet in length along the bulkhead line. A service drive is located to the east of the headhouse, allowing for passenger drop-off and truck unloading in front of the facility. Piers 92 and 94 are each developed with a piershed building that connects into the headhouse. There is currently no public access to the seaward side of the headhouse or to either of the piers.

Pier 94 and the headhouse are currently utilized as exhibition space, while Pier 92 is used as exhibition space, loading, servicing, and cruise ship terminal use. The Pier 92 rooftop is currently used as a 292-space parking lot for cruise ship passengers.

### Land Uses

East of Route 9A is the Clinton community, a neighborhood characterized by a broad mix of residential, commercial, transportation and light industrial uses. Directly east of the site is Dewitt Clinton Park, which occupies the two city blocks bounded by Route 9A, Eleventh Avenue, West 52nd Street, and West 54th Street. South of the park, west of Eleventh Avenue, is a mix of industrial, retail, light commercial and warehouse uses. North of Dewitt Clinton Park, the blocks between 54th and 56th Streets and sites along Eleventh Avenue have mostly commercial and light industrial uses. A concentration of auto dealerships occupies the western side of Eleventh Avenue from 54th Street to 56th Street. Along West 56th Street from Route 9A to Eleventh Avenue are three large loft buildings that have been recently renovated for commercial and light industrial use. The blocks between West 49th Street and West 56<sup>th</sup> Street on the eastern side of Eleventh Avenue contain a mix of residential, commercial and manufacturing uses.

Immediately north of the project site is Clinton Cove Park, operated by the Hudson River Park Trust, which offers lawn space, benches, and waterfront paths for passive recreation as well kayaking and water access at the Pier 96 Boat House. To the south of the project site are Piers 88 and 90, which have been renovated by the Department of Small Business Services (SBS) and are operated as a passenger ship terminal.

### Prior Approvals

In 2003, the City Planning Commission approved several applications relating to Pier 94 and the headhouse. Those included applications for a special permit to allow a trade exposition facility, known as the Unconvention Center, with capacity greater than 2500 persons (C 040011 ZSM), an authorization with respect to waterfront public access (N 040012 ZAM), a certification with respect to public access and visual corridors (N 040013 ZCM), and disposition of city-owned property at Pier 94 for the purpose of leasing to the then-applicant (C 040014 PPM). However, the lease was never finalized and improvements contemplated by the then-applicant were not made.

### Proposed Project

In 2008, following issuance of a request for proposals (RFP), the New York City Economic Development Corporation selected the applicant to pursue redevelopment of the piers. The proposed redevelopment program encompasses Pier 92, Pier 94 and the headhouse.

The proposed development will create renovated trade show space at Piers 92 and 94, while allowing both trade show visitors and the public access to the waterfront. Pier 94 would be upgraded for continued exhibition use. Pier 92 would also be upgraded for trade shows, and new loading and storage areas associated with such shows would be developed. It is expected that Pier 92 would be used from time to time for cruise terminal use when Piers 88 and 90 are occupied. Public access areas would be added to Pier 94; a new walkway would be provided along the northern apron, connected to a new public seating area at the western end of the pier. The existing rooftop on Pier 92 would continue to serve as an accessory parking area.

The proposed redevelopment would also create a second level in the headhouse, of approximately 78,000 square feet, for trade show exhibition space. The northern end of the headhouse would be improved with a new glass-walled pavilion space with adjacent public amenity area. Overall, the proposal calls for the renovation and reconfiguration of the facility to result in approximately 489,000 square feet of trade show and exhibition space. Signage for the facility and its events would be mounted on a metal gantry structure affixed to the eastern side of

headhouse at the street frontage of the site. The lower portion of the gantry structure incorporates an awning structure over the entrances to the headhouse.

The proposed pavilion is a glass-enclosed space of approximately 9,000 square feet that would be used for convention events and would be available to the public at scheduled times during the year. The proposed public amenity space would be attached to the pavilion, and contain restrooms and a multipurpose room to facilitate all-season public use that would be open from dawn to dusk. This new public space would have glass doors to open and connect the space to the park, and would also have the ability to open from the interior to the proposed pavilion.

A new pedestrian walkway would be developed along the north apron of Pier 94, which would lead to a viewing area at the west end of the Pier. The walkway would connect at its eastern end to a new shorefront esplanade and viewing area that continues around the indoor public amenity space and the pavilion. These areas, approximately 40 feet back from the bulkhead line, will include additional seating areas. At the northern end of the headhouse, a stepped walkway is proposed to double as a seating area and outdoor event space. This area, and the esplanade area, would provide a transition into Clinton Cove Park. The public open space around the Pavilion and Pier 94 would be open from dawn to dusk.

The redevelopment proposal is designed for improved traffic circulation in and around the project site. The proposed project would allow for onsite storage of packing crates used for trade show exhibits. Onsite storage of packing crates would eliminate the truck trips associated with the movement of empty crates. Currently, unloading and loading operations for the set up and dismantling of trade shows are located in front of the Pier 94 headhouse. Under the proposed project, Pier 92 is reconfigured with ground floor space for truck loading and unloading, so that truck operations could occur within the building and in the circulation area just east of the Pier 94 headhouse. Finally, the proposed project includes a new vehicular exit at the intersection of West 52<sup>nd</sup> Street and Twelfth Avenue. Vehicles currently enter and exit at the same location: the intersection of West 54<sup>th</sup> Street and Twelfth Avenue

### Requested Actions

1. Special permit pursuant to ZR Section 74-41 (Arenas, Auditoriums, Stadiums or Trade Expositions) to permit a trade exposition with a rated capacity in excess of 2,500 persons (C 090221 ZSM).

In an M2-3 zoning district, trade expositions (Use Group 12) are allowed as-of-right up to a capacity of 2,500 persons. Section 74-41 of the Zoning Resolution provides that trade shows with capacities greater than 2,500 person may be allowed by Special Permit. Since a capacity greater than 2,500 is necessary to host the mid-sized trade shows that would be utilizing the facility, this application requests such special permit pursuant to Section 74-41.

2. Disposition of City-Owned Property (C 090220 PCM).

Piers 92 and 94, along with their associated upland areas, are owned by the City of New York. The disposition application would allow the Department of Small Business Services to enter into a 49-year lease of the premises to the applicant, MMPI Piers LLC.

3. Special permit pursuant to ZR Section 62-734 (Development on Piers or Platforms) to modify the maximum length and maximum height of buildings or other structures pursuant to Section 62-342 (Developments on Piers) (C 090222 ZSM).

The proposed project includes a new overhang at the end of Pier 94, matching the pitched roofline of the existing piershed, to provide shade and weather protection to users of the proposed pier public access area. ZR Section 62-342(a) provides that the maximum height of a building or other structure on a pier be 30 feet before setback or 40 feet after a setback of 10 feet. ZR Section 62-342(b) provides that the maximum length of a building or structure on a pier is 200 feet. The existing piershed building on Pier 94 is approximately 46 feet in height to the top of the roofline and approximately 744 feet in length, both of which are existing non-compliances. The proposed shade overhang increases the length of the roof structure by approximately 22 feet (to approximately 766 feet), at the same height as the existing roof, increasing the degree of non-compliance with respect to both length and height. Pursuant to Section 62-734(b) of the Zoning Resolution, the City Planning Commission may permit modification of the provisions of ZR Section 62-342, and therefore allow for the proposed shade overhang.

4. Authorization pursuant to ZR Section 62-722 (N 090223 ZAM).

The requested authorization is necessary to modify certain requirements of the Zoning Resolution with respect to waterfront public access (Section 62-41), waterfront yards (Section 62-332), and design standards for the waterfront area (Section 62-60).

The application requests the following modifications with respect to waterfront public access:

ZR Section 62-722(a) – Modifications of Waterfront Public Access and Waterfront Yards

- 62-411 (Requirements for shore public walkways): Due to the presence of the headhouse building, and the proposed covering for the seating area on the west side of the headhouse Pavilion, portions of the shorefront walkway are less than the 40-foot depth for a walkway required by Section 62-411.
- 62-412 (Requirements for public access on piers): On Pier 94, the existing piershed building covers all but approximately 14 feet of the northern side feet of the pier, and at the seaward edge, the existing piershed building and the new shade overhang would leave less than the required 25% of pier length as open area. At the landward edge of the pier, the existing piershed does not allow for any open area. No public access is feasible on the southern edge of Pier 94 or around the edges of Pier 92 due to lack of egress routes from this area and lack of visibility from adjacent land area and the corresponding safety concerns.
- 62-415 (Requirements for supplemental public access areas): The applicable lot area is approximately 453,336 square feet, resulting in a requirement of 68,000 square feet of waterfront public access area. The proposed project provides a total of approximately 19,100 square feet of waterfront public access area (as well as approximately 6,000 square feet of covered public space for approximately 25,000 square feet of public access areas).
- 62-332 (Waterfront Yards): In order to satisfy the RFP requirements to provide 400,000 square feet of exhibition space in the trade show facility, the proposed design of Piers 92 and 94 attempts to provide this space in the most functional manner possible. Expansion

of the first floor of the headhouse is limited by the roadways and open space needs of the site, and so the proposal expands the second floor of the headhouse to provide functional floorplates within the existing building footprint. The enlargement of the second floor of the headhouse to meet these programmatic needs increases the existing non-compliance at the second floor level with the 40-foot waterfront yard requirement of ZR Section 62-332.

#### ZR Section 62-722(b) – Modifications of Design Standards for the Waterfront Area

- 62-621 (Shore public walkways): A 40-foot wide shore public walkway is required by the Zoning Resolution. The proposed shore public walkway is approximately 16 feet in width where the Pier 94 northern walkway meets the shoreline. The outdoor public area widens to 40 feet at the pavilion. (The remainder of this open space is a waterfront seating area.) At the southern end of the site, a shore public walkway cannot be provided due to the existing headhouse building.
- 62-631 (Shore Public Walkway Prototype II): Planting areas are provided where feasible along the shore public walkway, resulting in approximately 345 square feet of planting areas with 6 shade trees proposed seaward of the circulation path. This is less than the required planting area of 50% of the pedestrian circulation zone and less than the requirement for shade trees landward of the circulation path. A circulation path with a clear width of 12 feet is also required. Due to the presence of benches along the circulation path, this width is approximately 8 foot-1 inch on the seaward side of the bench and 6 foot-2 inches on the landward side of the bench.
- 62-65 (Design Requirements for Public Access on Piers): The proposed circulation path along the pier is less than the required ten feet in areas where benches are located.
- 62-671(a) (Guardrails): The proposed guardrail along the shoreline is designed to match the existing guardrail in Clinton Cove Park. The proposed guardrail has a 14 inch opening between the handrail at 42 inches and the first horizontal bar at 28 inches. This

guardrail does not match the requirement that “the open portions of a guardrail shall be designed to prevent passage of a six inch diameter sphere through any opening.”

- 62-671(c)(1)(Gates): A gate is proposed at the southern end of the waterfront seating area by the pavilion to control access to the pier circulation path during times when the park is dark. This gate is located at the pier entrance (rather than at the connection of the public space to the street, where it would be permitted), to maximize the open and public areas in the remainder of the public access areas in order to provide the greatest degree of safety and security around the pier.
  - 62-676 (Paving): The pier walkway may be paved with poured concrete, instead of the required unit pavers or wood decking.
5. Certification from the Chair of the City Planning Commission pursuant to ZR Section 62-711 to certify compliance, as applicable, with Waterfront Public Access and Visual Corridor Requirements (C 090224 ZCM).

## **ENVIRONMENTAL REVIEW**

This application (C 090221 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 City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 09SBS002M. The lead agency is the Department of Small Business Services.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on February 11, 2009.

## **UNIFORM LAND USE REVIEW**

This application (C 090221 ZSM), in conjunction with the application for the related actions, (C

090220 PPM, C 090222 ZSM) was certified as complete by the Department of City Planning on February 17, 2009, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related non-ULURP applications (N 090223 ZAM and N 090224 ZCM), which were referred for review and comment.

### **Community Board Public Hearing**

Community Board 4 held a public hearing on this application and the related actions, and on April 1, 2009, voted to adopt a resolution recommending conditional approval of the application,

...provided that the following conditions are met, and are incorporated into a lease between the developer and the City of New York or an MOU between the City of New York, the developer and CB4. The developer has agreed all 14 conditions in a letter to CB4 on 1 April 2009.

1. The traffic flow plan as presented will be implemented, including the reduced number of vehicle / pedestrian / bikeway conflicts and a new exit at the south end of Pier 94.
2. The proposed plan to load and unload trucks inside the body of Pier 92 will be maintained.
3. An empty-crate storage capability inside Pier 92 will be provided that will reduce truck round trips required during all but the largest of shows.
4. Pedestrian crossing safety measures will be installed as recommended by CB4 including stop signs and other signage and control signals.
5. The use of shuttle busses will be encouraged and supported by the developer, with the understanding that the shuttle busses will actually be provided by the show tenants, not the developer, and that very small shows may not support the use of shuttle busses.
6. The developer will agree to provide space for one or more MTA busses to load and unload in front of the facility, and will support CB4's efforts to seek the requested route changes from the MTA.
7. A landing for a future pedestrian bridge, including an elevator, will be provided.

8. The capability Pier 92 to serve as a docking location for ships, including passenger ship overflow as well as special events such as Fleet Week, OpSail and other tall ship events and the like, will be retained.
9. The developer will agree to certain signage limitations, regarding both the maximum total square footage of signage as well as the height, as follows:
  - a. Maximum total square footage of signs will be limited to 4200 square feet.
  - b. Signs will not be hung higher than 55 ft from the floor of the hall.
  - c. No more than 7 of the panels would be used for signage at any one time.
10. The pavilion will be provided for a minimum of 30 days a year free for community groups, to be selected for a pool of dates during periods when it is not planned to be used for trade show or other commercial activities. The open dates from which the 30 days may be selected will be provided to CB4 at least one year in advance. CB4 will oversee the selection of qualified users, which will be drawn from local groups, including schools, block associations and not-for-profits, city wide groups of a similar nature, the Hudson River Park Trust and the Friends of Hudson River Park.
11. The developer will provide a reasonable quantity of chairs and tables from its existing stock if requested by the user at no charge, as well as use of a room-wide sound system and general lighting.
12. The developer will provide public open space on an enlarged esplanade just west of the pavilion with seating and some shade, as well as public open space along the north side of the pier connecting to a large public area at the end of the pier, also with seating and some shade, including a projection of the roof over the end of the pier for shade purposes. Further, the developer agrees to create these spaces using the design palette created by the Trust in the adjacent Clinton Cove Park, including pavers, railings and furniture so as to provide a nearly seamless interface.
13. The developer will provide for exclusive public use of a smaller public space amenity, within the envelope of the larger pavilion, in the north-east corner, which will include public restrooms and a seating area roughly equivalent to a small classroom. Such space will be no less than 1850 square feet, including a storage closet for park related paraphernalia. The space will include wide doors to both the outside as well as to the pavilion inside. The developer will build and set up this space in consultation with the Trust, which will take over the management of the space, including cleaning and security, as part of Clinton Cove Park.

### **Borough President Recommendation**

This application (C 090221 ZSM), in conjunction with the related actions, was considered by the

Borough President, who issued a recommendation approving the application on April 24, 2009 with the condition that "...MMPI follow through on the commitments identified in its letter to CB4."

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

On May 6, 2009 (Calendar No. 5), the City Planning Commission scheduled May 20, 2009, for a public hearing on this application (C 090221 ZSM). The hearing was duly held on May 20, 2009 (Calendar No. 24) in conjunction with the public hearings on the applications for the related actions (C 090220 PPM and C 090222 ZSM).

There were ten speakers, nine in favor and one opposed.

The Executive Director of Hudson River Park stated that he was pleased that the applicant worked with the community and responded to their concerns. He also stated that he believes the physical connection between the public space on the project site and the adjacent Clinton Cove Park will be a benefit to both park users and those attending shows on Piers 92 and 94.

A representative from the Economic Development Corporation described the goals of the Request for Proposals for the piers, and explained that the applicant met the goals, and have also interacted with and responded to the community.

The attorney representing the applicant explained the history of the project and the physical changes proposed for the piers. The Senior Vice President and General Manager of Merchandise Mart Properties, Inc (MMPI) described the company, their properties and their trade show operations. He also stated that the proposed project would improve traffic flow through and around the site, improve pedestrian space on the site and would also provide an economic benefit to the city and the community. The architect for the project explained that the project would include renovating the existing buildings to make them more efficient, incorporating the buildings into the Hudson River Park and improving the pedestrian space and environment on the site. The architect also described the proposed truck actions required to set up and break

down a tradeshow. The project's traffic engineer explained the existing and proposed traffic patterns in and around the project site. He also described the new ramp system currently under construction to the south of the site at Piers 88 and 90.

The Vice President of The Armory Show, an art show that uses the piers for exhibitions, described the Armory Show and explained that the proposed project would allow them to have a permanent home at the piers.

A representative from the Manhattan Borough President's Office reiterated the Borough President's recommendation. The co-chair of the Waterfront Committee of Community Board 4 reiterated parts of the Board's recommendation and explained that the Board received a letter from the applicant agreeing to all conditions listed in the recommendation. He stated Community Board 4 would like the agreement to be codified in a Memorandum of Understanding. He also stated that the community board has concerns about traffic generated by the trade shows, but is pleased that the applicant has increased the size of the public space.

A representative of the DeWitt Clinton Park Conservancy spoke in opposition of the project, stating his belief that the project should have completed an Environmental Impact Statement rather than an Environmental Assessment Statement. He also explained that the Conservancy would like to see the piers used for recreation and water-related uses only---not for tradeshows. The Conservancy also believes that the pavilion space in the proposed project should be open to the public at all times, and that EDC did not follow through on an agreement for public use in the pavilion.

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

### **Waterfront Revitalization Program Consistency Review**

This application (C 090221 ZSM), in conjunction with those for the related actions (C 090220 PPM, C 090222 ZSM, N 090223 ZAM, and N 090224 ZCM), was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront

Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 22, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 09-009.

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

### **CONSIDERATION**

The Commission believes that the application for a special permit (C 090221 ZSM), in conjunction with the applications for the related actions, is appropriate.

The Commission understands the actions would facilitate the renovation and enlargement of Piers 92 and 94 and their associated upland areas as a venue for trade shows and exhibitions with a capacity in excess of 2,500 people, as well as the development of new public open space and public amenity space on the project site. The Commission notes that the vehicular entrance for the site is on an arterial highway, Route 9A, and the site is located more than 200 feet away from a residence district. Due to its waterfront location to the west of Route 9A, there is no direct access to the site through the local street network and thus the project is located so as to draw a minimum of vehicular traffic through local streets in the nearby neighborhood. There is adequate reservoir space at the entrance to Pier 94, which is off a service road and thus buffered from the flow of highway traffic. The site also would contain an area in front of the headhouse for tradeshow attendee drop-off and pick-up. The Commission understands that truck loading and unloading would no longer take place in the drop-off and pick-up area, but rather trucks would enter Pier 92 and use loading docks in the pier to mitigate vehicle congestion at the pier entrance. The vehicular entrances and exits are separate and are approximately 500 feet apart so as not to create any potential conflicts between traffic entering and leaving the site. Finally, consideration has been given to the proximity of bus and rapid transit to the pier. The surrounding area is served by several bus routes, and one subway line, all having stops within four blocks of the site.

The Commission understands that the proposed project includes a new overhang at the end of Pier 94, matching the pitched roofline of the existing piershed. The Commission believes the renovation of Piers 92 and 94, which would include new public access areas on Pier 94, have been designed as to significantly enhance public use and enjoyment of the waterfront. The proposed overhang at the western end of Pier 94 would provide shade and weather protection to the public.

The Commission believes that the existing accessory and public parking and loading facilities have been arranged and designed so as to not adversely impact public access areas anywhere on the zoning lot. The parking and loading facilities are located to the south of the public access areas, and the loading facilities are proposed to be within Pier 92.

The Commission notes that the proposed development does not violate the bulk provisions of Section 62-341 (Developments on land and platforms), and, within the seaward lot, the ratio of floor area on the pier to water coverage of the pier does not exceed the maximum floor area ratio for the use as set forth in the district regulations.

The Commission believes the bulk modification to provide an overhang at the western end of Pier 94 would not unduly obstruct the light and air or waterfront views of neighboring properties, including Clinton Cove Park to the north. The Commission also believes the overhang would not adversely affect the essential character, use or future growth of the waterfront and the surrounding area.

The Commission recognizes that in order to improve public access along the pier and from Clinton Cove Park, and to fulfill programmatic requirements for the piers, strict adherence to the provisions of Section 62-20 is not possible and modifications need to be made to the requirements of the waterfront zoning. The Commission believes that the plan, as proposed, would provide a significant new public space amenity to the city and to the community by providing additional access to the waterfront, including new seating and viewing areas, an indoor public space with public restrooms, and the use of the larger pavilion for community

programming thirty days per year.

The Commission believes that in order to provide 400,000 square feet of trade show space that would attract types of trade exhibitions that are not served by existing larger or smaller venues in the City, and given the size and use limitations on the zoning lot and the existing uses on adjacent zoning lots, it is not feasible to provide additional public access areas at an alternate location. The proposed public open space on Pier 94 and to the north of the headhouse would be seamlessly integrated into Clinton Cove Park and provide public restrooms for park users.

In an effort to integrate the proposed public open space on the project site with Clinton Cove Park visually as well as physically, the Commission believes it is appropriate to modify the design standards for the waterfront area so that any new guardrails and paving match the existing guardrails and paving in Clinton Cove Park. The Commission also believes the proposed site for the gate is appropriate in that it will leave the connection to Clinton Cove Park unfettered, but will allow the public access area on Pier 94 to be closed to the public at the permitted hours.

The proposed project is exempt from the requirements for public access and visual corridors pursuant to Section 62-711 because the site contains an existing structure in what would have been the visual corridor.

The Commission is pleased to note that the applicant has responded to each of Community Board 4's conditions in a letter to the board dated April 1, 2009. The Commission urges the applicant to encourage the use of shuttle buses by trade show operators; to work with the MTA to extend an existing bus route to the west side of Twelfth Avenue; to limit the signage to no more than 4,200 square feet in the aggregate of show signage, placed on no more than seven of the nine signage columns that comprise the gantry at any one time, and limit the height of signage to 55 feet; to make available the pavilion space for programmed public use free of charge for a minimum of thirty days per year, with Community Board 4 overseeing the selection of qualified users; and to provide, free of charge, chairs and tables, on-site sound equipment and general lighting for the pavilion space.

The Commission recognizes the concerns raised by the DeWitt Clinton Park Conservancy, but understands the Department of Small Business Services issued a negative declaration on February 11, 2009, after a thorough and complete environmental review. The Department of Small Business Services responded to the testimony of the Conservancy, in a letter to the Commission dated June 10, 2009. The Department of Small Business Services asserts that the winter garden was not a required element in the redevelopment of the piers, that the size of the facility is not doubling, but increasing by thirty percent, that a detailed traffic study was completed in the Environmental Assessment Statement and shows no significant adverse traffic impacts, and that the agency followed all applicable regulations and guidelines governing environmental review. The Commission believes the proposed development of new public open space and public amenity space on the project site will be a benefit to the community and the City as a whole, as will the renovation and enlargement of an existing mid-sized trade show venue.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-41 (Areas, Auditoriums, Stadiums or Trade Expositions):

- (a) that the principal vehicular access for such use is not located on a local street but is located on an arterial highway, a major street or a secondary street within one-quarter mile of an arterial highway or major street;
- (b) that such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;
- (c) that such use is not located within 200 feet of a Residence District;
- (d) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exists, are provided to prevent traffic congestion;
- (e) that vehicular entrances and exits for such use are provided separately and are located not less than 100 feet apart; and
- (f) that due consideration has been given to the proximity of bus and rapid transit facilities to serve such use.

## **RESOLUTION**

**RESOLVED**, by the City Planning Commission finds that the action described herein will have no significant effect on the environment; and be it further

**RESOLVED**, that the City Planning Commission in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 201 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by the New York City Economic Development Corporation and MMPI Piers LLC for the grant of a special permit pursuant to Section 74-41 of the Zoning Resolution to allow a trade exposition facility with a rated capacity in excess of 2,500 persons within an existing building at Piers 92 and 94, westerly of Route 9A (Miller Highway) between West 51st Street and West 55th Streets (Block 1109, Lots 5 and 30, and p/o Marginal Street Wharf or Place), in an M2-3 District, Borough of Manhattan, Community District 4, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 090221 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 Dattner Architects, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-101	Site Plan	November 5, 2008
Z-101A	Zoning Calculations	November 5, 2008
Z-102	Pier 92/94 Floor Plans	April 6, 2009
Z-103	Waterfront Bulk Requirements	April 6, 2009
Z-105	Waterfront Public Access	April 6, 2009
Z-106	Waterfront Details	November 5, 2008
Z-107	Site Details	April 6, 2009

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.

The above resolution (C 090221 ZSM), duly adopted by the City Planning Commission on June 17, 2009 (Calendar No. 18), 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., ANGELA R. CAVALUZZI, AIA,**

**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**

**RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. McRAE,**

**KAREN A. PHILLIPS, Commissioners**

**RAYANN BESSER, Commissioner, Abstained**