



THE CITY OF NEW YORK  
**OFFICE OF THE PRESIDENT**  
BOROUGH OF MANHATTAN

**SCOTT M. STRINGER**  
BOROUGH PRESIDENT

May 19, 2010

**Recommendation on**  
**15 Penn Plaza**  
**Application Nos. C 100047 ZMM, N 100048 ZRM, C 100049 ZSM and C 100050 ZSM**  
**by 401 Hotel REIT, LLC/401 Commercial, L.P.; and C 100237 PQM by Department of**  
**Citywide Administrative Services**

**PROPOSED ACTIONS**

401 Hotel REIT, LLC and 401 Commercial, L.P. (“Vornado”)<sup>1</sup> seeks a zoning map amendment, zoning text amendments, and two special permits, to facilitate the development of a commercial office building on property located at 139 West 32<sup>nd</sup> Street in Manhattan Community District 5. The development site is located on a portion of a city block bounded by West 32<sup>nd</sup> Street, West 33<sup>rd</sup> Street, Sixth Avenue and Seventh Avenue, and is in the Special Midtown District (“MiD”) and partially within the Penn Center Subdistrict (“PCS”) of the MiD.

Vornado seeks approval of a **Zoning Map Amendment (C 100047 ZMM)** to change a portion of an existing C6-4.5 zoning district, mapped from a line 150 feet westerly of Sixth Avenue to a line 200 feet easterly of Seventh Avenue, to C6-6 zoning.

Vornado also seeks approval of **Zoning Text Amendments (N 100048 ZRM) to Sections 81-066 (Applicability of Article VII Provisions), 81-254 (Special Permit for Height and Setback Modifications), and 81-541 (Rail Mass Transit Facility Improvement) of the Zoning Resolution (“ZR”)**. The proposed amendments to ZR §§ 81-066 and 81-254 would allow, through special permit, developments or enlargements on zoning lots with lot area of at least 60,000 square feet located wholly or partly in the PCS to modify height and setback regulations and certain Mandatory District Plan Elements of the MiD. The proposed amendment to ZR § 81-541 would: define the administrative process for obtaining approvals from the involved transit entities; allow the entire zoning lot to be eligible for the mass transit improvement bonus if the lot is partially within the PSC; permit the bonus floor area to be located anywhere on the zoning lot; and allow the transit bonus floor area to be retained for later use on the zoning lot, pending completion of transit improvements.

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<sup>1</sup> 401 Hotel REIT, LLC and 401 Commercial, L.P. are subsidiaries of Vornado Realty Trust.

Vornado also seeks a **Special Permit (C 100049 ZSM) pursuant to ZR § 81-066(b) and ZR § 81-254 (amended)** to modify the height and setback regulations and certain Mandatory District Plan Elements of the MiD including: pedestrian circulation space, street wall continuity, retail continuity, and location of a major building entrance.

In order for the City Planning Commission (“CPC”) to grant a special permit pursuant to the modified ZR §§ 81-066(b) and 81-254 (relating to the requested height, setback, and Mandatory District Plan Elements modifications), the application must meet the following findings: (1) the proposed modifications of Mandatory District Plan Elements result in a better site plan; (2) the design, scale, and location of the new buildings are compatible with the character of the surrounding area and existing buildings to remain on the zoning lot; (3) such modifications will not unduly obstruct the access of light and air to surrounding properties; (4) adverse impacts on retail continuity are minimized by a site plan that requires pedestrian-oriented uses; (5) the modifications are consistent with the basic strategy of the Special Midtown District and the purposes of the Mandatory District Plan Elements; (6) the improvements to the below-grade pedestrian circulation network provided by the development or enlargement significantly increase public accessibility to and from the subway and/or mass transit facilities in and around Pennsylvania Station; and (7) the modifications of height and setback regulations are necessary due to site constraints and will provide an appropriate distribution of bulk on the zoning lot with due consideration of the basic strategy of the MiD and the purpose of the District’s height and setback regulations. In considering whether such distribution of bulk is appropriate, the CPC shall consider a complete daylight evaluation for the proposed design.

Further, it seeks a **Special Permit (C 100050 ZSM) pursuant to ZR §§ 81-541 and 74-634 (amended)** to allow a floor area bonus, no greater than 20 percent of the permitted zoning lot for subway and rail mass transit facility improvements.

In order for CPC to grant a special permit pursuant to the modified ZR §§ 81-541 and 74-643 (relating to the requested transit improvement bonus), the application must meet the following finding: In determining the amount of floor area bonus, the CPC shall consider the degree to which: (i) the general accessibility and security of subway station will be improved by the provision of new connections, additions, or reconfigurations of circulation space, including provision of escalators or elevators; and (ii) significant improvements to the station’s environment by provision for direct daylight access, or improvements to noise control, air quality, lighting or rider orientation and satisfactory integration of the street level entryway into the development or enlargement will occur.<sup>2</sup>

In a related application, the Department of Citywide Administrative Services (“DCAS”) seeks approval of the **acquisition of easements (C 100237 PQM)**, to facilitate the construction of transit entrances, a below-ground passageway, and other mass transit improvements. Section 197-c of the New York City Charter mandates that acquisition by the City of real property be subject to the Uniform Land Use Review Procedure. There are no findings that need to be met to make a property eligible for acquisition under Section 197-c.

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<sup>2</sup> There are two other findings that are not applicable for the proposed development.

## PROJECT DESCRIPTION

### The Project Site

The proposed actions would facilitate the redevelopment of the current Hotel Pennsylvania site (Block 808, Lots 1001 and 1002), on Seventh Avenue between West 32<sup>nd</sup> Street and West 33<sup>rd</sup> Street, as a commercial office building. In order to have the flexibility to respond to changing market conditions, Vornado proposes two development scenarios – a “Single-Tenant Building” and a “Multi-Tenant Building.”

The project site consists of the entire city block bounded by West 32<sup>nd</sup> Street, West 33<sup>rd</sup> Street, Sixth Avenue, and Seventh Avenue. The proposed office building would be constructed at the western end of the project site where the Hotel Pennsylvania currently stands (“development site”). The remainder of the project site is occupied by the Manhattan Mall (Block 808, Lot 40), a 14-story office and retail building of 1.1 million gross square feet (“GSF”). The applicant plans to merge the development site and the Manhattan Mall site into a single zoning lot.

The project site is located partially within two zoning districts, a C6-6 zoning district and a C6-4.5 zoning district. It is also located entirely in the Special Midtown District (“MiD”) and partially within the PCS<sup>3</sup>, both of which impose special use and bulk regulations on development within the underlying zoning districts. The C6-6 district is mapped along the avenues and has a maximum FAR of 15, which can be increased to 18 with a qualifying floor area bonus. The midblock portion of the project site is mapped C6-4.5 and has a maximum FAR of 12, which can be increased to 14.4 through a bonus. In addition, special FAR bonus provisions for transit improvements are available within the PCS.

The project site is located at the center of the 34<sup>th</sup> Street commercial corridor in the southern part of the Midtown Central Business District (“CBD”). The project site is almost entirely surrounded by high density commercial buildings, including One and Two Penn Plaza across the street to the west, and the Empire State Building one block to the east and north. Directly across the street is the Madison Square Garden Arena. Further west is the Special Hudson Yards District, which was created in 2005 to encourage high density transit-oriented development on sites adjacent to the No. 7- subway line extension. The Church of St. Francis of Assisi is located directly across from the development site on West 32<sup>nd</sup> Street. There are also a few residential buildings in the area, the closest of which is the 458-unit Epic, which also fronts on West 32<sup>nd</sup> Street.

The project site is between two regional transportation hubs – Penn Station and Herald Square. Penn Station serves the Long Island Rail Road, New Jersey Transit, and Amtrak, as well as the 1, 2, 3 and A, C, E subway lines. The completion of Moynihan Station, to be located in the Farley Post Office Building on Eighth Avenue between West 31<sup>st</sup> and 33<sup>rd</sup> streets, would increase the capacity of rail lines currently housed in Penn Station. The Herald Square transit complex serves the Port Authority Trans-Hudson (“PATH”) rail service, as well as the B, D, F, N, Q, R, V, and

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<sup>3</sup> The Penn Center Subdistrict is mapped generally to a depth of 100 feet along Seventh Avenue between West 31<sup>st</sup> Street and 100 feet north of West 34<sup>th</sup> Street.

W subway lines. The Access to the Region's Core rail station, another major regional commuter facility, will be located beneath West 34<sup>th</sup> Street between Sixth and Eighth avenues.

The project site includes the Gimbels Passageway, an underground pedestrian connection between Penn Station and Herald Square that has been closed to the public since the 1970s. Two entrances to the 1, 2, and 3 subway lines are currently located in the Hotel Pennsylvania lobby. Within the Manhattan Mall, two existing stair entrances and one ADA elevator serve PATH and all Sixth Avenue subway lines.

## **Building Descriptions**

Both development scenarios – a Single-Tenant Building and a Multi-Tenant Building – would maintain the Manhattan Mall and result in the demolition of Hotel Pennsylvania. Either of the proposed office buildings will have, at minimum, a LEED Silver rating. The applicant proposes the same transit improvements for each development scenario.

The Single-Tenant Building, a 67-story building, contains a total of 2,052,667<sup>4</sup> zoning square feet ("ZSF") of floor area, with 11,126 ZSF of retail space, 310,180 ZSF of trading floors, and 1,731,361 ZSF of office space. The building consists of a 10-story podium, which would rise to a height of 218 feet, and a tower portion that would rise to height of 1,190 feet. The podium would contain retail uses, trading floors and a sky lobby. The building's podium would be set back 10 feet from the property line along West 32<sup>nd</sup> and West 33<sup>rd</sup> streets and 15 feet along Seventh Avenue. The ground floor would include the building's entrances (with the major entrance on Seventh Avenue), lobby space, elevators to the building's trading floors and sky lobby, retail uses, an entrance to a below-grade 100-space accessory parking garage, and a through lot truck loading dock. The tower of the building would be oriented on Seventh Avenue and would extent approximately 207 feet into the midblock.

The Multi-Tenant Building, a 68-story building, also contains a total of 2,052,667<sup>5</sup> ZSF, including 296,392 ZSF of retail and 1,756,275 ZSF of office space. The building consists of a six-story podium, which would rise to a height of 130 feet, and a tower portion that would rise to a height of 1,216 feet. The podium would be set back 7 feet from the property line along West 32<sup>nd</sup> and West 33<sup>rd</sup> streets and 15 feet along Seventh Avenue. The ground floor of the building would include the building's entrances (with the major entrance on Seventh Avenue), lobby and pedestrian circulation space, retail space, an entrance to a below-grade 100-space accessory parking garage, a loading dock for refuse and retail tenant loading on West 32<sup>nd</sup> Street, and an entrance to a below-grade truck loading facility on West 33<sup>rd</sup> Street for commercial loading.<sup>6</sup> Retail uses would be located one story below grade and on the first, second and third floors. The upper three floors within the podium could be used for retail or commercial office space. The

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<sup>4</sup> The Single-Tenant Building will contain 2,821,000 GSF.

<sup>5</sup> The Multi-Tenant Building will contain 2,666,000 GSF.

<sup>6</sup> The proposed truck loading facility for commercial loading is accessed via two elevators on West 33<sup>rd</sup> Street. Trucks would enter head first and would be required to back out of the facility after loading/unloading. The proposed truck loading facility for retail tenant loading and for refuse requires trucks to back-in to the loading dock on West 32<sup>nd</sup> Street.

building's tower portion would be centered on the podium, setting back approximately 73 feet from Seventh Avenue.

### **Zoning Map Amendment (C 100047 ZMM)**

The proposed map amendment would change zoning for the midblock portion of the proposed zoning lot, which encompasses the eastern portion of the development site and the western portion of the Manhattan Mall, from C6-4.5 zoning to a C6-6, thereby increasing the maximum FAR from 12 to 15. The Special Midtown District (in accordance with ZR § 74-634) permits a floor area bonus up to 20 percent of the base FAR for subway station improvements by special permit. However, in the PCS (in accordance with ZR § 81-541) rail mass transit facility improvements may also qualify for the bonus. In this case, the permitted maximum floor area bonus would be 3 FAR.

### **Text Amendment to ZR §§ 81-066 and 81-254 and related Special Permit (C 100049 ZSM)**

The proposed text amendment would allow, by special permit, modification of height and setback regulations and certain Mandatory District Plan Elements for developments or enlargements on zoning lots at 60,000 SF located wholly or partly in the PCS which have been granted a floor area bonus for subway station and/or rail mass transit facility improvements pursuant to ZR § 81-541 (in accordance with ZR § 74-634). ZR § 81-066 does not currently permit the modification of height and setback regulations. The Mandatory District Plan Elements are mandatory planning and urban design elements, which are generally purposed towards the accommodation and well-being of pedestrians. The elements generally require retail continuity, streetwall continuity, maximum building setback allowance from the street line, and the relocation of subway entrances.

The requested special permit would allow certain modifications of height and setback regulations that are needed to facilitate the proposed office building and required due to certain site constraints. The proposed development, under either scenario, would not comply with the height and setback regulations of ZR § 81-27 (Daylight Evaluation). Daylight Evaluation is an alternative setback regulation, which generally describes sky visibility above a zoning lot. The applicant is retaining the Manhattan Mall, which is relatively low scale and therefore provides a significant amount of daylight on Sixth Avenue. However, the bulk of the proposed development has been redistributed towards Seventh Avenue and the side streets near Seventh Avenue. Both side streets, therefore, do not meet the daylight score requirements. Further, Seventh Avenue only meets the daylight score requirements for the Multi-Tenant Building, which has a recess on the avenue that is not found in the Single-Tenant design option. In order to meet daylight requirements, the bulk of proposed development would have to be more evenly distributed across the entire zoning lot.

In addition, the requested special permit would permit modification to certain Mandatory District Plan Elements proposed by the applicant:

- *Retail Continuity* – Pursuant to ZR § 81-42, ground floor uses are limited to retail<sup>7</sup> uses on Seventh Avenue and storefronts cannot be set back more than 10 feet from the street line. Additionally, any lobby space on Seventh Avenue is limited to 40 feet or 25 percent of the building's total street frontage. The proposed building will be set back on Seventh Avenue 15 feet from the property line, and the applicant proposes to have an office lobby of 57 feet, in order to accommodate the projected population of the proposed building.
- *Street Wall Continuity* – Pursuant to ZR § 81-43, the street wall is required to be within 10 feet of the street line; the proposed building would be set back 15 feet from the street line along Seventh Avenue in order to provide greater space for pedestrian circulation.
- *Pedestrian Circulation Space* – Pursuant to ZR § 81-45, developments or enlargement on a zoning lot having a full block frontage on a wide street, with a few exceptions, must provide a minimum of 50 percent of its required pedestrian circulation space on that wide street. The development would be required to provide 6,842 SF of pedestrian circulation space with 3,421 SF of this space on Seventh Avenue. Vornado proposes to provide 15,252.5 SF of pedestrian circulation space, more than twice what is required in total, but only 2,962.5 of this space is on Seventh Avenue.
- *Design Standards for Pedestrian Circulation* – Pursuant to ZR § 37-53, a maximum permitted sidewalk widening is 10 feet and the sidewalk widening must extend along the entire length of the front lot line of the zoning lot. The proposed sidewalk widening along Seventh Avenue exceeds the maximum permitted width of 10 feet, and the sidewalk widenings on the West 33<sup>rd</sup> and West 32<sup>nd</sup> streets frontages are not continuous along the entire length of zoning lot lines.
- *Major Building Entrance* – Pursuant to ZR § 81-47, for zoning lots with full block frontage, a major entrance must be located on at least one narrow street, except if the zoning lot contains a permitted sidewalk widening with a width of 10 feet along a wide street. The proposed office building does not have a qualifying sidewalk widening on Seventh Avenue where the major office entrance will be located.

#### **Text Amendment to ZR § 81-541 and related Special Permit (C 100050 ZSM)**

The text amendment to ZR § 81-541 would define the administrative process for obtaining approvals from multiple transit entities involved in rail mass transit improvements in and around PCS; permit the bonus floor area to be located anywhere on the zoning lot; and provide that any transit-related bonus floor area may be vested and available for use elsewhere on the zoning lot, subject to application review and approval.

The requested special permit pursuant to ZR § 81-541 and in accordance with ZR § 74-634 would allow a floor area bonus, no greater than 20 percent of the permitted floor area for subway and rail mass transit facility improvements. Both development scenarios include a package of transit improvements that occur on, adjacent to, or in close proximity to the development site. All such improvements shall comply with all applicable design standards of the current station

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<sup>7</sup> Personal services and amusement uses are also permitted. There are exceptions for lobby spaces or certain other uses.

planning guidelines of MTA/NYC Transit and four entrances will be designed to include glass blocks in the sidewalk, which will bring natural light to the stations. These improvements are:

- Reconstruction of and widening the Gimbels Passageway between Penn Station and the Herald Square transit complex;
- Widening the stair from the Seventh Avenue southbound local IRT platform (1 subway line) to the West 32<sup>nd</sup> Street underpass;
- Building a new stairway to the Seventh Avenue center IRT platform (2,3 subway lines) from the West 32<sup>nd</sup> Street/Seventh Avenue underpass;
- Widening a section of the Seventh Avenue northbound local IRT platform between West 32<sup>nd</sup> and West 33<sup>rd</sup> streets;
- Constructing a new street elevator at the Seventh Avenue and West 33<sup>rd</sup> Street entrance to the subway platform concourse;
- Widening the Sixth Avenue and West 32<sup>nd</sup> Street PATH entrance stairs to approximately nine feet and adding one escalator;
- Constructing a new subway entrance at Sixth Avenue and West 33<sup>rd</sup> Street in the Manhattan Mall that would include a nine-foot set of stairs and an escalator;
- Constructing a new 10-foot staircase from the PATH to the B, D, F and V platform near West 32<sup>nd</sup> Street and Sixth Avenue;
- Constructing a 15-foot staircase from the PATH to the B, D, F, and V platform near West 33<sup>rd</sup> Street and Sixth Avenue; and
- Reconfiguring the fare control area on Sixth Avenue near West 33<sup>rd</sup> Street to accommodate new stairs from the PATH to B, D, F, and V platforms.

Vornado is required to replace entrances and stairways that currently exist within Hotel Pennsylvania. The existing entrance on West 32<sup>nd</sup> Street is located 103 feet from the Seventh Avenue property line, and the existing entrance on West 33<sup>rd</sup> Street is located 87 feet from Seventh Avenue property line. In addition, there are two stairways located within the hotel's lobby. Vornado has proposed relocating the two subway entrances onto Seventh Avenue. These two new subway entrances, one at the corner of Seventh Avenue and West 32<sup>nd</sup> Street and one at the corner of Seventh Avenue and West 33<sup>rd</sup> Street, would each include a 10-foot wide set of stairs within the proposed building. The proposed entrances and stairways are proposed as expansions of the existing facilities. These improvements are beyond what would be required for replacement of existing facilities. For this reason, these improvements are considered within the purview of the bonus program and to be valued for 50 percent of their typical bonus value were they not replacement facilities.

Modification of both of these special permits is subject to CPC review and approval. The extent of review depends on the degree of the modification requested.

## **Acquisition of Easements (C 100237 PQM)**

The proposed acquisition of transportation easements by DCAS will facilitate the construction of the proposed transit improvements. Specifically, the proposed easements are required for the reconstruction of Gimbels Passage; the widening of the uptown 1-train subway platform; as well as the new and widened subway stairs, escalators and elevators through the proposed building and in the Manhattan Mall.

## **COMMUNITY BOARD RECOMMENDATION**

At its Full Board meeting on April 15, 2010, Manhattan Community Board 5 (“CB5”) voted to **disapprove** the proposed actions by a vote of 36 in favor, 1 opposed, and 1 abstention. No conditions were stipulated. However, the Board cited several concerns, among them, including:

- the proposed buildings are too dense;
- the proposed transit improvements do not justify a 20 percent development bonus;
- the project would contribute to already overcrowded neighborhood conditions and it would place significant burdens on noise, infrastructure, air quality, traffic while providing no direct community benefits;
- the multi-tenant truck parking scheme presents challenges for truck deliveries and trash-pickup;
- no black car queuing measures are in place;
- proposing two building forms provides too little commitment to building design and construction and the zoning lot merger could permit future development on the Manhattan Mall site that is not a part of this application;
- the lack for a district-wide plan that coordinates area redevelopment and density; and
- the preservation of the Hotel Pennsylvania building.

## **BOROUGH PRESIDENT’S COMMENTS**

### **General Comments**

New York City’s gross metropolitan product was \$1.13 trillion in 2005. It is the largest financial center and the second largest CBD in the world. Midtown Manhattan, as the largest CBD in the United States, is inextricably linked to the economic health of not only the City but the nation.

Economic studies in recent years have highlighted the City’s need for new Class A office space – particularly in Midtown – in order to maintain competitiveness both regionally and globally.<sup>8</sup> In light of such studies, the City has taken steps to encourage the expansion of Midtown’s office base in areas such as the Hudson Yards Special District. As one of the few remaining areas within the CBD that has both significant development potential and rich access to transit, the middle portion of the 34<sup>th</sup> Street corridor represents a superb location for high density commercial growth.

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<sup>8</sup> Senator Charles E. Schumer’s June 2001 report, "Preparing for the Future: A Commercial Development Strategy for New York City," recommended an expansion of Midtown’s CBD by at least 20 million square feet of new office space.



Vornado's proposed office building, situated between Penn Station and Herald Square, will have unparalleled connectivity to regional, long-distance and subway mass transportation and represents a unique opportunity for high-density transit oriented development. Regionally-accessible office space at the proposed site would minimize congestion in surrounding areas and across the City while adding significant office capacity. Additionally, the proposed development will contribute to the much needed improvement and maintenance of transportation infrastructure in and around Penn Station and Herald Square.

Further, the proposal will have a significant positive economic impact on New York City. During construction, the project will create 6,100 fulltime-equivalent jobs and add an additional \$47.7 million in tax revenue for New York City. In the long term, the project will result in a net increase of 7,010 to 7,050 fulltime jobs on the site and result in an addition of approximately \$42.8-50.2 million in tax revenue to New York City and \$71.1-84.9 million in tax revenues to New York State. Additionally, both the construction and the new office space will have a significant positive impact on other areas of the economy in terms of indirectly creating or inducing new jobs and tax revenues.

### **Environmental and Community Concerns**

While the potential benefit of Vornado's proposal to the City's economy and infrastructure is evident, sound planning requires that the proposed development respond to community concerns and potential adverse impacts on the surrounding area. The Draft Environmental Impact Statement ("DEIS") analyzed both the Single-Tenant Building and Multi-Tenant Building scenarios in comparison to a "No-Action" condition that consists of 1.1 million ZSF (at least 1.6 million GSF) commercial building with office and retail space, as well as a 100-space accessory parking garage. The DEIS identified significant adverse impacts on open space, traffic, transit and pedestrians, and local conditions during construction.

#### *Open Space*

The Midtown CBD contains limited open space as compared to other parts of the city. Though the proposed project will not eliminate any existing open space, it will contribute to greater use of already overtaxed local open space, in particular passive open spaces. It is anticipated that the open space ratio within a quarter-mile radius of the site will decrease by 3 percent. Consequently, the proposed development triggers a significant adverse impact on open space.

Potential mitigations were identified in the DEIS, which included funding for improvements, renovation or maintenance at existing open spaces or adding amenities to existing open spaces. The applicant has committed to working with Department of Parks and Recreation ("DPR") to explore the feasibility of these potential measures and to undertake some form of open space mitigation. Vornado has recently reaffirmed this commitment and conversations with DPR and DCP are on-going.

Vornado has also committed to create new outdoor open space on the podium roof in the Single-Tenant Building scenario. Even if only accessible to building tenants and users, this space would reduce the proposed project's impact on surrounding open space by providing alternative open spaces to the crowded open spaces in that area that are available to the general public.

### *Traffic*

The DEIS identified significant adverse impacts on many intersections at various peak time periods. Mitigation measures will be implemented at all intersections with significant impacts. Mitigations include signal phases and timing, parking regulation changes, daylighting, intersection improvements, lane markings and signage, and/or prohibition of turns.

The Department of Transportation (“DOT”) has proposed certain traffic initiatives that may significantly affect the Midtown traffic system that were not considered in the traffic analysis of the DEIS. The Green Light for Midtown Project, a pedestrian mall along Broadway, was implemented last year and has since become permanent; consequently, the DEIS traffic analysis may need to be updated to reflect this permanent change, as was recommitted to by Vornado.

Additionally, DOT has proposed the 34<sup>th</sup> Street Transitway, a bus rapid transit program that may significantly affect the surrounding area’s traffic patterns and regulations. Therefore, the proposed mitigations in the DEIS may need to be further revised in order to take into consideration any effects of the Transitway on local traffic conditions. As details have not yet been finalized, a quantitative analysis cannot be performed at this time. Vornado is currently in discussions with DOT and DCP to determine if an analysis of the cumulative impact of the proposed development and the new Transitway is necessary.

CB5 has raised concerns about increased taxi usage and potential idling and congestion issues related to black car queuing. While adjustments to an existing taxi stand across the street at Penn Plaza should accommodate any additional demands for taxis, the queuing of black cars could have a significant impact on local traffic. Vornado has committed to have a black car management plan for evening hours in place prior to tenancy, which would include queuing cars at an off-site location.

The community board also raised concerns about the impact of the Multi-Tenant Building’s loading docks on traffic and congestion. In order to minimize disruption to pedestrian and vehicular traffic by vehicles entering and exiting the building’s loading areas, Vornado has presented revised designs for the truck loading facility, which includes below-grade loading bays that allow all delivery vehicles to “head-in” and “head-out” of the building. This design change represents a significant improvement to the original proposal which required some vehicles to back out of the facility. However, the Multi-Tenant Building would still include a service dock on West 32<sup>nd</sup> Street, which will require sanitation trucks to back in, once a day, for garbage collection. Vornado has committed to having an on-site Dock Master to manage these facilities so as to minimize their potential impact on pedestrian flow, traffic and congestion.

### *Transit and Pedestrians*

The DEIS indicated that the Single-Tenant Building would impact ten pedestrian elements (sidewalk and corners) and that the Multi-Tenant Building would impact 16 pedestrian elements. Proposed mitigations include creating corner bulb outs, widening crosswalks, and relocating certain sidewalk obstructions such as planters. With the proposed pedestrian improvements, it is anticipated that pedestrian impacts from the Single-Tenant Building will be fully mitigated and almost all the pedestrian impacts from the Multi-Tenant Building will be mitigated. It should be

noted that the DEIS considered DOT's "Green Light for Midtown Project," also known as "Herald Square Plaza," as a temporary plaza and, therefore, it was not fully considered in the DEIS's pedestrian analysis. As this plaza will now become permanent, its likely beneficial effect on pedestrian circulation will be considered as part of the Final Environmental Impact Statement.

Both building scenarios provide greater amounts of pedestrian circulation space than is currently required. The additional space is intended to allow for an acceptable level of service for pedestrians particularly during peak hours. Vornado has committed to work with DOT to widen crosswalks as much as is permitted and with the 34<sup>th</sup> Street Partnership to relocate sidewalk planters that have been identified as obstructions.

### *Construction Impacts*

The DEIS indicated that construction activities would result in elevated noise levels at the Epic residences and the Church of St. Francis of Assisi. While some noise mitigation can often be provided to individual buildings, Epic Residences and the Church of St. Francis of Assisi already have double glazed windows and alternative ventilation. Therefore, the applicant has committed to implement path controls (e.g., placement of equipment, barriers and/or enclosures between equipment and sensitive receptors), to the extent feasible. Additional measures are currently being studied to reduce noise mitigation. This study will likely be concluded in mid-May.

Further, Vornado has committed to establish a construction task force to address and respond to construction impacts and issues, such as noise, pedestrian safety, truck staging, delivery of construction materials and equipment and other aspects of the construction process. The task force will meet regularly as required by the phasing and nature of construction, and will include representatives from the community board, the local council member's office, and other local stakeholders. Vornado has also committed to maintain a single point of contact for community members during the construction process.

### **Zoning Map Amendment (C 100047 ZMM)**

The existing C6-4.5 and C6-6 districts are high density zoning districts mapped in the Midtown to encourage commercial development. The C6-4.5 zoning district is unique to the MiD and, though relatively high density, is intended to protect the traditionally lower-scale side streets of the Midtown South neighborhood. Lower density zoning in midblock areas is typical in many parts of the city. However, this area of Midtown does not have the typical midblock character found in more residential areas. While several midblock buildings are low scale, several others buildings rise to heights up to 26 stories.

Vornado proposes to extend the existing C6-6 districts, mapped along the avenues, through to the midblock areas. Through an as-of-right zoning lot merger (of the development site and the Manhattan Mall site) and the extension of the C6-6 zoning district<sup>9</sup>, Vornado would be able to distribute the floor area throughout the entire zoning lot. The proposed development scenarios and site planning for the entire block, however, result in massing that does in effect provide for a different treatment for the midblock area and for Seventh Avenue. Both the Multi-Tenant

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<sup>9</sup> The existing split lot zoning imposes restrictions on the distribution of floor area on the block.

Building and the Single-Tenant Building have a podium base that maintains the existing dominant midblock character (6 to 10 stories respectively) defined by the existing Manhattan Mall and the varied scale of buildings directly to the north and south of the site.

Further, the density of the proposed development is consistent with other buildings within the 34<sup>th</sup> Street corridor, which includes One Penn Plaza (2.36 million ZSF) and Two Penn Plaza (1.56 million ZSF) across the street, Macy's department store (2.09 million ZSF) two blocks north of the site, and the Empire State Building (2.81 million ZSF) two blocks to the east of the site. High density commercial development is also planned further west, not only in the Special Hudson Yards District, which allows new development at densities up to 33 FAR, but also contemplated as part of the redevelopment of Farley Post Office as Moynihan Station.

While the proposed development would introduce a significant number of new workers into the area, additional density on this site is appropriate given this block's proximity to two major transportation hubs. In addition, the proposed buildings' designs address the impact of additional pedestrian volumes by setting the buildings back along their entire street frontage to provide more pedestrian circulation space. It is anticipated that the re-opening of the Gimbels Passageway would alleviate some of the pedestrian congestion at street-level. Vornado has also committed to working with DOT to address traffic and pedestrian congestion issues.

There are other examples of successful high density transit-oriented development in Manhattan, most notably, the Grand Central Subdistrict. It should be noted that the Grand Central Subdistrict allows up to a maximum density of 18 FAR, similar to the zoning proposed on this site, for transit improvements. Additional floor area (up to 21.6 FAR) can be achieved by purchasing air-rights from a landmarked building.<sup>10</sup> Neither Grand Central nor the anticipated Hudson Yards developments offer the level of regional transportation access and commuter capacity provided by Penn Station, which currently serves over 425,000 passengers a day, 300,000 more passengers than Grand Central.

### **Special Permit for Height, Setback, and Mandatory District Plan Element Waivers (C 100049 ZSM) and related text amendment**

The proposed text amendment modifies an existing special permit, primarily to introduce height and setback waivers for developments and enlargements located on large sites in the Penn Center Subdistrict. The amendment also introduces additional findings pursuant to ZR §§ 81-254 and 81-066(b), including that the waivers are necessary to achieve a feasible building design, and that disadvantages in terms of light and air are more than offset by the advantage of new commercial development paired with improvement to mass transit and pedestrian infrastructure. The proposed text amendment would allow for better site planning considerations and flexibility as similarly provided for through the large-scale development special permitting process, which is not available for sites in the MiD.

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<sup>10</sup> Sites eligible to receive a bonus for landmark air rights in the Grand Central Subdistrict must be at least 50 percent within the Subdistrict and front Lexington Avenue, Madison Avenue, or 42<sup>nd</sup> Street if the site is east of Lexington Avenue or west of Madison Avenue.

As proposed, the two development scenarios pair large scale commercial development with improvements to mass transportation and pedestrian infrastructure. Both scenarios require height and setback waivers to provide for more efficient building design, and both require similar modifications of Mandatory District Plan Elements.

#### *Height and Setback Waiver*

The DEIS demonstrates that shadows from either development scenario would not result in significant adverse impacts on light and air to neighborhood open spaces or historic structures. Further, bulk distribution in both scenarios, with a tower on or near the avenue and a lower-rise midblock form, respects conditions typical in the surrounding area and encouraged by the Special Midtown District. Additionally, the applicant has received letters of support for the project from the two residential buildings nearest the site.

Both development scenarios require waivers to the daylight height and setback regulations due to the proposed development program and site conditions. By retaining the Manhattan Mall, additional density on the zoning lot must be located towards the midblock and Seventh Avenue. While shifting the bulk reduces the amount of available sky and overall daylight scores, it has the positive benefit of preserving the amount of light on public open spaces at Herald Square and Greeley Square, and on the new Herald Square Plaza.

While the tower portion of the proposed Multi-Tenant Building is located towards the midblock and away from Seventh Avenue – creating compliance on Seventh Avenue but not on the side streets. This design takes into account the encroachment of rail tracks under the development site particularly near Seventh Avenue and terra firma in the midblock area. The Single-Tenant Building, however, cannot locate its bulk towards the midblock because the development program requires that the building's core not penetrate the trading floors. Because of these constraints, the Single-Tenant Building creates noncompliance on both the midblock and Seventh Avenue. While both development scenarios would result in disadvantages in terms of reduced light and air, these are offset by the proposed package of transit improvements and the optimal use of the site for high density commercial development. Therefore, the proposed height and setback waivers are necessary to achieve the proposed development program given site conditions, and meet the findings of ZR § 81-066(b).

#### *Mandatory District Plan Elements Waivers*

Many of the proposed waivers to the Mandatory District Plan Elements are minimal and are needed to increase space for pedestrian circulation around the proposed development. Such waivers will address heavy pedestrian flows around the building and Penn Station, and along cross-town streets traveling between the two transportation hubs. Further, while the proposed development scenarios reduce the amount of retail space along Seventh Avenue, both scenarios include retail along West 33<sup>rd</sup> and West 32<sup>nd</sup> streets, which are not required. This retail will not only enliven these streets but connect the avenue shopping corridors. As the design of the Single-Tenant Building reduces the amount of ground-floor space available for retail along West 32<sup>nd</sup> Street, the applicant has committed to incorporate street wall design elements such as artistic lighting or displays to enliven the pedestrian experience.

These proposed waivers are minimal and will still produce development that is consistent with the intent of the Mandatory District Plan Elements, which are in place to promote the well-being of pedestrians, adequate pedestrian circulation spaces and a generally positive pedestrian environment. Further, the proposed waivers will result in a better site plan by providing for more efficient programming of space, increasing pedestrian circulation space, and rationalizing building entryways. Therefore, the proposed development meets the findings for this special permit.

Additionally, sidewalk conditions prevent the applicant from fully complying with street tree planting requirements (only 24 out of 80 required street trees will be planted on site). Vornado has committed to working with the DPR and CB5 to identify 56 offsite planting locations for street trees. This will provide the local community with an opportunity to identify neighborhood locations that are most in need of greening and shade.

### **Special Permit for Subway and Rail Mass Transit Facility Improvements Bonus (C 100050 ZSM) and related text amendment**

#### *The Transit Improvement Bonus*

The proposed package of transit improvements includes new or enhanced elements located on the development site, as well as in areas that are adjacent to and in close proximity to the development site. The proposed improvements would re-open and enhance Gimbel's Passageway; expand and improve existing stations and station entrances; and create new vertical access points. In exchange for these improvements, the applicant seeks a 20 percent increase in total density. The proposed text amendment would allow improvements to rail mass transit and subway facilities as part of one special permit process. For the CPC to determine the appropriate amount of bonus floor area generated by the package of transit improvements, the special permit requires consideration of the improvements in light of general accessibility, circulation, environmental quality, rider orientation, and satisfactory integration of street level entrances.

The proposed transit improvements will enhance and expand existing access points to Penn Station and to the transit complex under Herald Square, create a new passage between these two transit hubs, and improve circulation within the Seventh Avenue IRT subway station. Newly relocated station entrances will improve rider access and orientation, and will be better integrated with the streetscape. By rehabilitating passageways, widening entryways, widening the IRT platform, and introducing direct daylight to the subway system, the proposed improvements will have a significant positive effect on the mass transit system. In fulfillment of ZR § 74-634 and 81-541, the MTA-NYC Transit has reviewed and determined the proposed improvements are feasible. Further, the proposed waivers' benefits are acknowledged by letters of support from the Regional Plan Association, New Jersey Transit, Tri-State Transportation Campaign, and the New York City Transit Riders Council.

Without the proposed development, the package of transit improvements, and the associated benefits, would not be realized. Under an as-of-right development scenario, only the two subway access points that currently exist within the Hotel Pennsylvania would be replaced. As the majority of the proposed improvements exist directly on the applicant's property, they would not be performed by any other private developer. Furthermore, even if the transit authorities

were willing to undertake the other improvements, many of them could not be achieved without complicated acquisition processes. The positive benefits of the transit improvements would not be achieved without the proposed development. The application meets the findings for this special permit.

#### *The Text Amendment*

The related proposed text amendment would allow the applicant to retain unused transit bonus floor area for use elsewhere on the zoning lot under a different future development scenario. The ability to vest this floor area serves an important purpose in that it ensures the completion of the proposed transit improvements even if the proposed development cannot advance as envisioned.

While Vornado anticipates a construction process for the proposed development of approximately 4-½ years, the project may not commence until the next development cycle. Consequently, the two building scenarios may require design modifications, possibly including reduced square footage, to accommodate the needs and demands of future tenant(s). As a result, new construction may not require the total density generated by the special permit. If density remains unused, the Manhattan Mall site, which is part of the same zoning lot, could be the recipient of this bonus floor area.

It is important that the development rights derived through the proposed special permit not be used unchecked. The special permit allowing bulk waivers (previously mentioned) requires that the proposed development be constructed substantially in accordance with application drawings which include the Manhattan Mall site. Any modification of the proposed development must require public review – including any changes to the Manhattan Mall site.

#### **Acquisition of Transportation Easements (C 100237 PQM)**

The proposed acquisition of transportation easements by DCAS will enable the proposed package of transit improvements to be realized. As a result, access to and between the transit hubs at Penn Station and Herald Square will be improved, ultimately providing significant public benefits. The proposed acquisition of the easements is necessary to facilitate the construction of these mass transit improvements and is an appropriate City acquisition.

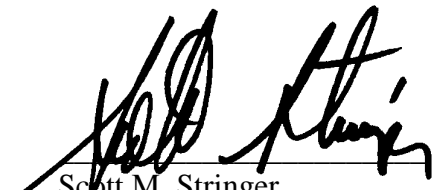
#### **BOROUGH PRESIDENT’S RECOMMENDATION**

The proposed development represents a unique opportunity to encourage high-density transit-oriented development, strengthen the nation’s largest central business district, and improve local and regional mass-transit systems. The scale of the proposed project is consistent with buildings in the surrounding area and the City’s development goals and policies, and is appropriate for the development site. The proposed development scenarios meet the findings for the special permits.

**Therefore, the Manhattan Borough President recommends conditional approval of the Zoning Map Amendment (C 100047 ZMM); the Special Permit for waivers of Height, Setback and Mandatory District Plan Elements (C 100049 ZSM); the Special Permit for Subway and Rail Mass Transit Facility Improvements (C 100050 ZSM); and the**

**Acquisition of Easements (C 100237 PQM) provided that the applicant follows through on commitments relating to:**

- **Open space by:**
  - Working with DCP and DPR to determine the appropriate form of mitigation for open space impacts; and
  - Providing accessible open space on the proposed building's podium to reduce impacts on nearby public open spaces;
- **Traffic by:**
  - Implementing the new off-street truck loading plan for the Multi-Tenant Building that will allow trucks to enter and exit head first;
  - Creating a black car management plan for the Single-Tenant Building;
  - Hiring a dock master to coordinate loading and unloading activities; and
  - Updating traffic studies to reflect new traffic initiatives in Midtown;
- **Pedestrian impacts by:**
  - Working with DOT to widen crosswalks and other pedestrian elements; and
  - Working with the 34<sup>th</sup> Street Partnership to relocate any planters which may serve as an obstruction to pedestrian movement;
- **Construction by:**
  - implementing path controls to address construction noise issues;
  - studying additional measures that may be undertaken to reduce noise impacts;
  - establishing a construction taskforce to address and respond to construction impacts and issues, which meets regularly as required by the phasing and nature of construction and includes representatives from the community board, local council member and other local stakeholders; and
  - having a single point of contact during construction to resolve any community concerns;
- **Improve sidewalk conditions by:**
  - working with CB5 and DPR to determine appropriate locations for the 56 street trees that cannot be planted at the perimeter of the development site; and
  - incorporating street wall design elements to the West 32<sup>nd</sup> Street façade of the Single-Tenant Building to enliven the pedestrian experience;



Scott M. Stringer  
Manhattan Borough President