



Legislation Details (With Text)

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Title: Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 210369 ZSM, for the grant of a special permit (L.U. No. 867).

Sponsors:

Indexes:

Attachments: 1. Res. No. 1818, 2. September 23, 2021 - Stated Meeting Agenda with Links to Files, 3. Hearing Transcript - Stated Meeting 9-23-21, 4. Calendar of the Zoning Subcommittee Meeting - October 12, 2021, 5. Hearing Testimony - Zoning 10-12-21, 6. Calendar of the Zoning Subcommittee Meeting - November 9, 2021, 7. November 23, 2021 - Stated Meeting Agenda with Links to Files, 8. Hearing Transcript - Stated Meeting 11-23-21, 9. LOCATING ENVIRONMENTAL REVIEW MATERIALS FOR CERTAIN LAND USE APPLICATIONS, 10. City Planning Commission Approval Letter, 11. Restrictive Declaration, 12. Committee Report, 13. Minutes of the Stated Meeting - November 23, 2021

| Date | Ver. | Action By | Action | Result |
|------------|------|-----------------------|--|--------|
| 11/10/2021 | * | Committee on Land Use | Approved by Committee with Modifications and Referred to CPC | |
| 11/23/2021 | * | City Council | Approved, by Council | Pass |

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1818**

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 210369 ZSM, for the grant of a special permit (L.U. No. 867).

By Council Members Salamanca and Moya

WHEREAS, BP 347 Madison Associates, LLC and Metropolitan Transportation Authority, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for, in conjunction with the grant of a special permit pursuant to Section 81-633 of the Zoning Resolution (Special permit for Grand Central public realm improvements), the grant of a special permit pursuant to Section 81-634 to modify the street wall requirements of Sections 81-43 (Street Wall Continuity along Designated Streets) and 81-671 (Special Street Wall Requirements), the height and setback requirements of Section 81-27 (Alternative Height and Setback Regulations - Daylight Evaluation); and the mandatory district plan elements of Section 81-42 (Retail Continuity Along Designated Streets), Section 81-45 (Pedestrian Circulation Space), Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), Sections 81-47 (Major Building Entrances), Section 81-674 (Ground floor use provisions), Section 81-44 (Curb Cut Restrictions), and Section 81-675 (Curb cut restrictions and loading berth requirements); in connection with a proposed commercial development, on property located at 343 Madison Avenue (Block 1279, Lots 23, 24, 25 & 48), in a C5-3 District, which in conjunction with the related action would allow for the development of a commercial building on the property at 317-341 Madison Avenue (Block 1279, Lots 23, 24, 25 & 48) in the East Midtown

neighborhood of Manhattan Community District 5 (ULURP No. C 210369 ZSM) (the “Application”);

WHEREAS, the City Planning Commission filed with the Council on September 27, 2021, its decision dated September 22, 2021 (the “Decision”) on the Application;

WHEREAS, the Application is related to application C 210370 ZSM (L.U. No. 868), a Zoning Special Permit pursuant to ZR Section 81-633 granting additional floor area for the provision of public realm improvements;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 81-634 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 12, 2021;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Positive Declaration issued July 23rd, 2020 (CEQR No. 21DCP020M) and a Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on September 10, 2021, which the significant adverse impacts related to hazardous materials, air quality, and noise would be avoided through the placement of an (E) designation (E-584) on the Development Site. The Proposed Development as analyzed in the FEIS identified significant adverse impacts with respect to transportation (traffic, transit and pedestrians) and the mitigation measures are included in the Restrictive Declaration. The Council has also considered the Technical Memorandum dated November 16, 2021.

RESOLVED:

Having considered the FEIS and Technical Memorandum with respect to the Decision and Application, the Council finds that:

- 1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- 2) The environmental impacts disclosed in the FEIS were evaluated in relation to the social, economic, and other considerations associated with the actions that are set forth in this report; and
- 3) The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval pursuant to the Restrictive Declaration, attached as Exhibit A hereto, all as acceptable to Counsel to the Department, is executed by BP 347 Madison Associates LLC and the Metropolitan Transit Authority, or its successors, and such Restrictive Declaration shall have been recorded and filed in the Office of the Register of the City of New York, County of New York, those project components related to the environmental and mitigation measures that were identified as practicable and the placement of (E) designations (E-584) for Hazardous Materials, Air Quality, and Noise, which form part of the action.

4) No development pursuant to this resolution shall be permitted until the Restrictive Declaration attached as Exhibit A, as same may be modified with any necessary administrative or technical changes, all as acceptable to Counsel to the Department of City Planning, is executed by BP 347 Madison Associates, LLC, or its successor, and such Restrictive Declaration shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

The Decision, together with the FEIS and Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of this determination, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 210369 ZSM, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter double struck out is old, deleted by the City Council;
Matter double-underlined is new, added by the City Council

1. The property that is the subject of this application (C 210369 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following approved plans, prepared by Kohn, Pedersen, Fox Associates, PC and Stantec, filed with this application and incorporated into this resolution:

| Drawing No. | Title | Last Date Revised |
|-------------|--|-----------------------------|
| Z-101 | Zoning Calculations | 9/20/2021 <u>11/16/2021</u> |
| Z-102 | Zoning Lot Site Plan | 9/20/2021 |
| Z-103 | Waiver Plan | 9/20/2021 <u>11/16/2021</u> |
| Z-104 | Ground Floor Waiver Plan | 12/15/2020 |
| Z-105 | Pedestrian Circulation Space Plan | 12/15/2020 |
| Z-200 | Building Sections | 9/20/2021 <u>11/16/2021</u> |
| Z-300 | Daylight Evaluation Analysis | 9/20/2021 |
| Z-301 | Daylight Evaluation Analysis | 9/20/2021 |
| Z-302 | Daylight Evaluation Analysis - VP1 | 9/20/2021 |
| Z-303 | Daylight Evaluation Analysis - VP2 | 9/20/2021 |
| Z-304 | Daylight Evaluation Analysis - VP3 | 9/20/2021 |
| Z-305 | Daylight Evaluation Analysis - VP4 | 9/20/2021 |
| Z-306 | Daylight Evaluation Analysis - VP5 | 9/20/2021 |
| Z-307 | Daylight Evaluation Analysis - VP6 | 9/20/2021 |
| KP-1 | Key Plan Street Level | 12/9/2020 |
| KP-2 | Key Plan ESA Concourse & Lexington Line Platform Level | 12/9/2020 |
| KP-3 | Key Plan Flushing Line Platform & Passageway Level | 12/9/2020 |
| PM-1 | On-site Ground Level | 12/9/2020 |
| PM-2 | On-Site Cellar 1 Level 1 | 12/9/2020 |

| | | |
|------|--|-----------|
| PM-3 | On Site ESA Concourse Level | 12/9/2020 |
| PM-4 | On-Site Sections 1 of 2 | 12/9/2020 |
| PM-5 | On-Site Section 2 of 2 | 12/9/2020 |
| XE-1 | Off-Site East End Existing Flushing Line Platform Level | 12/9/2020 |
| XE-2 | Off-Site East End Existing Sections | 12/9/2020 |
| XC-1 | Off-Site Center Core Existing Flushing Line Passageway Level | 12/9/2020 |
| XC-2 | Off-Site Center Core Existing Flushing Line Platform Level | 12/9/2020 |
| XC-3 | Off-Site Center Core Existing Sections | 12/9/2020 |
| XU-1 | Off-Site "U" Stairs Existing Lexington Line Platform Level | 12/9/2020 |
| XU-2 | Off-Site "U" Stairs Existing Flushing Line Passageway Level | 12/9/2020 |
| XU-3 | Off-Site "U" Stairs Existing Sections | 12/9/2020 |
| PE-1 | Off-Site East End Proposed Flushing Line Platform Level | 12/9/2020 |
| PE-2 | Off-Site East End Proposed Sections | 12/9/2020 |
| PC-1 | Off-Site Center Core Proposed Flushing Line Passageway Level | 12/9/2020 |
| PC-2 | Off-Site Center Core Proposed Flushing Line Platform Level | 12/9/2020 |
| PC-3 | Off-Site Center Core Proposed Sections | 12/9/2020 |
| PU-1 | Off-Site "U" Stairs Proposed Lexington Line Platform Level | 12/9/2020 |
| PU-2 | Off-Site "U" Stairs Proposed Flushing Line Passageway Level | 12/9/2020 |
| PU-3 | Off-Site "U" Stairs Proposed Sections | 12/9/2020 |

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. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached herein as Exhibit A to this report, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the City Register, New York County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
5. The Development shall include those mitigation measures listed in the Final Environmental Impact Statement (CEQR No. 21DCP020M) issued on September 10, 2021 and identified as practicable.

6. 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, sublessee, or occupant.
7. Upon 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, agreement, 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.
8. Neither the City of New York nor its employees or agents shall have any liability for money damage 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.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on _____, 2021, on file in this office.

City Clerk, Clerk of The Council