



## Legislation Text

**File #:** Res 2083-2009, **Version:** \*

### THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 2083

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 050260 ZSM (L.U. No. 1077), for the grant of a special permit pursuant to Section 82-33 of the Zoning Resolution to modify: (a) the height and setback requirements of Section 23-632 (Front setbacks in districts where front yards are not required); (b) the inner and outer court regulations of Section 23-841 (Narrow outer courts), Section 23-843 (Outer court recesses), Section 23-851 (Minimum dimensions of inner courts), Section 23-852 (Inner court recesses), Section 24-632 (Wide outer courts), Section 24-633 (Outer court recesses), Section 24-652 (Minimum distance between required windows and certain walls), and Section 23-863 (Minimum distance between legally required windows and any wall in an inner court); (c) the minimum distance between buildings on a zoning lot requirements of Section 23-711 (Standard minimum distance between buildings); and (d) the minimum distance between legally required windows and zoning lot lines requirements of Section 23-861 (General Provisions); Borough of Manhattan.

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on April 27, 2009 its decision dated April 22, 2009 (the "Decision"), on the application submitted by Fordham University, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 82-33 of the Zoning Resolution to modify:

- a. the height and setback requirements of Section 23-632 (Front setbacks in districts where front yards are not required);
- b. the inner and outer court regulations of Section 23-841 (Narrow outer courts), Section 23-843 (Outer court recesses), Section 23-851 (Minimum dimensions of inner courts), Section 23-852 (Inner court recesses), Section 24-632 (Wide outer courts), Section 24-633 (Outer court recesses), Section 24-652 (Minimum distance between required windows and certain walls), and Section 23-863 (Minimum distance between legally required windows and any wall in an inner court);
- c. the minimum distance between buildings on a zoning lot requirements of Section 23-711 (Standard minimum distance between buildings); and
- d. the minimum distance between legally required windows and zoning lot lines requirements of Section 23-861 (General Provisions);

in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60<sup>th</sup> Street, Amsterdam Avenue, West 61<sup>st</sup> Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62<sup>nd</sup> Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, (ULURP No. C 050260

ZSM), Community District 7, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 050269 ZSM (L.U. No. 1078), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 68 spaces; C 050271 ZSM (L. U. No. 1079), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 137 spaces (pursuant to Section 11-42(c), additional time to complete the garage is also requested); and N 090170 ZRM (L.U. No. 1081), a zoning text amendment to Section 82-50 (Off-Street Parking and Off-Street Loading Regulations, Special Lincoln Square District) to clarify the regulations regarding curb cuts on wide streets for off-street loading berths;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 82-33 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 May 12, 2009;

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

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 05DCP020M) and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on April 10, 2009;

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) From among the reasonable alternatives thereto, the action, with the modifications set forth and analyzed in Chapter 27 of the FEIS, is one that avoids adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable; and
- (2) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, 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 this report, C 050260 ZSM, incorporated by reference herein, the Council approves the Decision with the following

modifications:

Matter in double underline is new; to be added by City Council;

Matter in [brackets] is old, to be deleted by the City Council.

1. The application that is the subject of this application (C 050260 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 Cooper, Robertson & Partners (CRP), Pei Cobb Freed & Partners (PCF), and Lee Weintraub Landscape Architecture (LWLA), filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
[Z-7] <u>Z-7</u>	Site Plan - Proposed (CRP) [April 22, 2009]	<u>June 16, 2009</u>
Z-11	Zoning Analysis (CRP)	April 22, 2009
[Z-12] <u>Z-12</u>	Site Plan: Diagrammatic Building Envelopes (CRP) [April 22, 2009]	<u>June 16, 2009</u>
[Z-13] <u>Z-13</u>	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009]	<u>June 16, 2009</u>
[Z-13.1] <u>Z-13.1</u>	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009]	<u>June 16, 2009</u>
[Z-13.2] <u>Z-13.2</u>	Block Sections: Diagrammatic Building Envelopes and Illustrative Massing (CRP) [April 22, 2009]	<u>June 16, 2009</u>
[Z-14] <u>Z-14</u>	Encroachment Diagrams (CRP) [April 22, 2009]	<u>June 16, 2009</u>
[Z-14.1] <u>Z-14.1</u>	Encroachment Diagrams (CRP) [April 22, 2009]	<u>June 16, 2009</u>
Z-14.2	Encroachment Diagrams (CRP)	April 22, 2009
Z-15	Encroachment Diagrams (CRP)	April 22, 2009
[Z-15.1] <u>Z-15.1</u>	Encroachment Diagrams (CRP) [April 22, 2009]	<u>June 16, 2009</u>
Z-18	Parking and Loading - Garage A (CRP)	April 22, 2009
Z-18.2	Parking and Loading - Garage C (CRP)	April 22, 2009
--	Interim Stair Plan & Section (PCF)	April 22, 2009
ZL-0.0	Illustrative Plan (LWLA)	April 22, 2009
ZL-0	Survey (LWLA)	April 22, 2009

ZL-0.1	Site Demolition & Protection Plan (LWLA) April 22, 2009
ZL-1	Materials Plan (LWLA) April 22, 2009
ZL-2 2009	Dimensions, Elevations and Drainage Plan (LWLA) April 22,
ZL-3	Planting Plan (LWLA) April 22, 2009
ZL-4	Lighting Plan (LWLA) April 22, 2009
ZL-5	Illustrative Sections (LWLA) April 22, 2009
ZL-6	Illustrative Sections & Entry Sign Detail (LWLA) April 22, 2009
ZL-7	Site Details (LWLA) April 22, 2009
ZL-8	Bench Details & Site Furnishings (LWLA) April 22, 2009

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8. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration, as dated on July \_\_, 2009, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed by Fordham University and recorded in the Office of the Register of the City of New York, County of New York.

### Amended Drawings

The Drawings, both as listed in the Special Permits and the Restrictive Declaration, shall be amended as follows:

- Drawing Z-7: Eliminate Site 1 Option 1 and Site 2 Option 1. Modify height limitation on Site 4 to reduce from 630 feet to 598 feet.
- Drawing Z-12: Eliminate Sites 1 and 2 Option 1 height references. Modify maximum envelope heights on Site 4 to reduce from 630 to 598 feet.
- Drawing Z-13: Eliminate Option 1 (Elevation I). Show public access area at corner of 62<sup>nd</sup> and Columbus (area of a minimum of 3,500 square feet with a minimum height of 30 feet). Show area for installation of escalator. On Elevation IV (both options) reduce envelope height for Site 4 building to 598 feet (adjust elevation accordingly).
- Drawing Z-13.1: Modify Elevation III to show public access zone at intersection of West 62<sup>nd</sup> Street and Columbus (area of a minimum of 3,500 square feet with a minimum height of 30 feet). Modify height of Site 4 building to show maximum envelope of 598 feet.
- Drawing Z-13.2: Adjust outlines of buildings shown behind all elevations to correct heights. Relabel buildings to reflect elimination of massing option.
- Drawing Z-14: Eliminate Site 1 Option 1.
- Drawing Z-14.1: Eliminate Site 2, Option 1.

Drawing Z-15.1: Modify Z-15.1 to reduce height of Site 4 envelope to 598 feet in all encroachment drawings.

### **Restrictive Declaration**

The restrictive declaration is amended as follows:

**Design Review.** Amend Section 2.2 of the Restrictive Declaration by adding a new subsection 2.2(m) to read as follows:

- (m) The provisions of this subsection (m) of Section 2.2 shall apply to the development of the proposed residential buildings to be constructed on Sites 3 and 4 (as shown on Drawings Z-7 and Z-12)(the “**Residential Buildings**”), and the other procedures for design review set forth in this Section 2.2 shall not apply to the development of the design of the Sites 3 and 4 residential buildings:
  - a. Within ten (10) days after Declarant closes on a contract for the sale or lease of either of Site 3 or Site 4 with a private developer, Declarant shall notify the Councilmember and the Borough President of its intent to form a Fordham University Residential Sites Design Review Committee (the “**Residential Sites DRC**”) consisting of at least seven (7) members to review the proposed design of each of the residential buildings to be constructed on either of Site 3 or Site 4 (the “**Site 3 Building**” or the “**Site 4 Building**” as the case may be, or, collectively, the “**Residential Buildings**”), and shall request that the Borough President and Councilmember, acting jointly, designate two members of the Residential Sites DRC. Such members shall be persons with design or planning experience having not fewer than ten years of experience and shall have no conflicts of interest (as determined by each such member’s completion of the standard conflict of interest form signed by Fordham trustees) and shall be neither a member of a Community Board nor an employee or member of any governmental agency, commission or other body (the “**Community Members**”). Such Community Members shall participate in all meetings of the Residential Sites DRC that concern the design of either the Site 3 Building or the Site 4 Building, shall be entitled to one (1) vote each (equal to the vote of each other committee member) on any design matter that comes before the Residential Sites DRC requiring a vote and shall in all respects be treated as bona fide members of the Residential Sites DRC. The Community Members shall be entitled to the same notice that all members of the Residential Sites DRC receive regarding any meeting the subject of which will touch upon or concern either the Site 3 Building or Site 4 Building including their exterior materials, the shape of their envelopes, (including, without limitation, height, setbacks, location of street walls), façades, curtain walls, windows, applied decoration, color and any other matter affecting the aesthetic character or architectural design of the Residential Buildings. As used in this Section 2.2(m), the term “Declarant” means Fordham University and its agents, officers, employees, trustees and representatives only.

Section 2.2 of the Restrictive Declaration shall be amended by adding thereto a new subsection (n) that provides:

- (n) In any contract for the sale or lease of either of Sites 3 or 4 (as shown in Drawings Z-7 and Z-12), Declarant shall reserve the right to approve or disapprove the architectural design of the Site 3 Building or the Site 4 Building, as applicable.

Section 2.2 of the Restrictive Declaration is amended by adding thereto a new subsection 2.2(o) that provides:

- (o) The Committee shall have the authority to review and comment on the proposed layout of any retail uses to be located in Sites 3, 3a and 4 along the Amsterdam frontage of the Property, as well as to consider and make recommendations regarding the types of retail uses to be provided in such locations.

**Parking Garage.** Article II of the Restrictive Declaration is amended by adding thereto a new Section 2.4 that provides:

Section 2.4. Declarant shall, after expiration of the time provided by law for filing an Article 78 proceeding to challenge the Approvals, promptly file with the City Planning Commission an application for a special permit pursuant to Z.R. §§13-561 to allow a parking garage in the area allocated to Garage C, as shown on Drawing 18.2, that is accessed by a curb cut located on West 60<sup>th</sup> Street, west of McMahan Hall, together with an application for an authorization pursuant to Z.R. §13-553 for a new curb cut to permit such access (the “**Garage C Applications**”). If, and at such time as, the Garage C Applications are granted, Declarant shall not exercise the Approval granted under ULURP #N050271ZSM and shall provide a letter to the Department of City Planning, copied to the Speaker of the City Council, irrevocably surrendering such an Approval. Declarant shall diligently and in good faith pursue the relief sought in the Garage C Applications, except that, if the Garage C Applications are not acted upon by the City Planning Commission within six months after the date Declarant formally files and pays an application fee to the DCP, then Declarant shall have no further obligations under this Section 2.4 and may rely upon the Garage C Approval granted under ULURP #N050271ZSM. Declarant shall have no obligations under Section 2.4, if any litigation challenging the Approvals is commenced by any resident or unit owner of the Alfred Condominium or any constituent member of Fordham Neighbors United, any resident of any of the eight buildings represented by Fordham Neighbors United or any member or affiliate of the foregoing.

**Environmental Matters.** A new section 3.3 is added to the Restrictive Declaration:

3.3 For each New Building to be constructed by Declarant on Sites 1, 2, 3a, 6 and 7, Declarant shall design, build and operate each New Building, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Gold Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Gold Certification. For each New Building to be constructed by Declarant on Sites 5 and 5a, Declarant shall design, build and operate the School of Law, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Silver Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Silver Certification. For each New Building to be constructed on either of Sites 3 or 4, Declarant shall require the designated developer of each site to design, build and operate the New Building on each such site in accordance with the standards required to achieve LEED NC v. 3 Certification and shall require such developers to apply for and use good faith efforts to obtain LEED NC v. 3 Certification. Should any LEED NC

v. 3 Gold, Silver or basic Certification criterion, or elements thereof, change materially (including the adoption of any new rating or guideline systems as successor to the foregoing), and Declarant reasonably determines that compliance with the new standards will materially increase the costs of construction of New Buildings not designed as of the date of the change beyond the cost premium associated with implementation of the standards in LEED NC v.3 as it exists today, Declarant may, in its sole discretion, elect to design, build and operate New Buildings not designed or constructed as of the date of the change according to the LEED NC v.3 standard or the modified standard and, in the event it elects to proceed under the standards in effect prior to the change in

criterion or element, shall not be required to seek LEED NC v.3 Gold or Silver Certification and shall not require its designated developers to seek LEED NC v. 3 Certification.

Section 4.3 is renumbered as Section 4.4 and a new Section 4.3 is inserted as follows:

Section 4.3. **Public Amenities.** (a) In connection with the construction of a New Building on Site 1, Fordham shall cause the design and construction of (a) a publicly accessible atrium having a minimum area of 3500 square feet and a minimum height of 30 feet in the ground floor of the building at the intersection of Columbus Avenue and West 62<sup>nd</sup> Street (the “**Atrium**”), and (b) a publicly accessible enclosed escalator adjacent to the northern side of the 61<sup>st</sup> Street Access Stair and leading from the level of the street to the level of the Plaza (the “**Escalator Area**”), both as shown on Drawings Z-7 within notes, Z-12 within notes, Z-13 with notes and Z-13.1 with notes (each, an “**Indoor Public Space**” and both, together, the “**Indoor Public Spaces**”). The Atrium shall be capable of supporting retail uses, but shall be open and accessible to the public and contain a facility for non-alcoholic beverage and light refreshment service, as well as seating with tables. The Atrium may contain other programmatic elements related to the Fordham University program, provided that each is open and accessible to the public and is installed without permanent walls that obstruct the visual openness of the Atrium space. Other obstructions shall be permitted in the Atrium and the Escalator Area in accordance with the provisions of Section 37-726(a) of the Zoning Resolution, adapted for an indoor space. The design of the Indoor Public Spaces, including the signage announcing the availability of the Atrium for public access; the hours of operation; the size, configuration, location within the Atrium, signage and hours of operation of the required non-alcoholic beverage and light refreshment service; and the amount and type of seating and tables, shall be subject to the design review process described in Section 2.2 (but not including the process described in Section 2.2(m)). Fordham University shall be responsible for the maintenance of the Atrium and Escalator Area, including but not limited to litter control, management of rodents, maintenance of lighting and the care and replacement of furnishings and plantings. Fordham University shall have sole discretion over the form and management of security in the Indoor Public Spaces, so long as security measures are not used to deny members of the public free access to such spaces.

(b) If, after each of the Indoor Public Spaces has been open for public use for a period of three (3) years, Fordham determines that either of the Indoor Public Spaces has become a public nuisance, either because it has attracted users who threaten the health, safety or well-being of other members of the public or users of the Campus (as evidenced by incident reports filed with the local police precinct or with campus security) or because it is not regularly used by a significant number of members of the public, Fordham may give notice to the Committee of its intent to alter the use or layout of an Indoor Public Space or the hours of access thereto. The Committee may request a meeting with Fordham to discuss alternative uses or other matters relating to the reprogramming of an Indoor Public Space. The Committee’s views shall be advisory only. In making any such reprogramming decision, Fordham will endeavor to maintain public access to and use of the Indoor Public Spaces in a manner consistent with the public’s health, safety and well-being and to improve the extent of public use of such spaces.

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 June 30, 2009, on file in this office.

City Clerk, Clerk of The Council