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Gale A. Brewer, Borough President

March 6, 2018

**Recommendation on ULURP Application No. C 180063 ZSM – 45 Broad Street
By Madison 45 Broad Development, LLC c/o Madison Equities**

PROPOSED ACTION

Madison 45 Broad Development, LLC (“the applicant”) seeks a special permit pursuant to Sections 91-251 and 74-634 of the Zoning Resolution (“ZR”) to allow a floor area bonus not to exceed 20 percent of the basic maximum floor area ratio for a development located on a zoning lot where major improvements to adjacent subway stations are provided in accordance with the provisions of Section 74-634. This special permit for such bonus is sought in connection with a proposed mixed-use development on property located at 45 Broad Street (Block 25, Lots 7 and 10) in a C5-5 District, within the Special Lower Manhattan District in Community Board 1, Manhattan.

Pursuant to ZR § 91-251, applicants may request a special permit for a floor area bonus for subway station improvements, as identified pursuant to the provisions of ZR § 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan). In order for the City Planning Commission (“CPC”) to consider a floor area bonus, the applicant must first meet the following conditions:

- The total additional floor area permitted on the zoning lot shall not exceed the maximum amount permitted in the underlying district by the provisions of Sections 91-21 (Maximum Floor Area Ratio) or 91-22 (Floor Area Increase Regulations);¹
- For the purposes of the Special Lower Manhattan District, the zoning lot that will receive the floor area bonus shall be located within a commercial district with a floor area ratio of 10.0 or above and shall be adjacent to a subway station where major improvements have been provided. Upon completion of the improvement, the zoning lot will physically adjoin a subway station mezzanine, platform, concourse or connecting passageway;²
- Such improvements shall be subject to the approval of the Metropolitan Transportation Authority (“MTA”), New York City Transit (“NYCT”) and the City Planning

¹ If the total floor area requested is granted, the site will have 428,111 square feet of floor area, or 17.99 FAR. A maximum FAR of 18.0 is permitted in the C5-5 District.

² The zoning lot is located within a C5-5, commercial, District, which has a base FAR of 15.0. It is adjacent to an entrance and mezzanine of the Broad Street Station of the Nassau Street (J/Z) line. This station is connected via an underground passageway to the Wall Street Station of the Lexington Avenue (4/5) subway line. Both stations are identified as eligible for improvement.

Commission and shall comply with all applicable design standards of the current station planning guidelines of New York City Transit;³

- The requirements for the submission of schematic or concept plans for the proposed improvement to the Metropolitan Transportation Authority, New York City Transit and the City Planning Commission has been satisfied;⁴ and that
- The application shall include a letter from New York City Transit to the City Planning Commission containing conceptual approval of the improvement and a statement of any special considerations regarding New York City's future operation of the improvement.⁵

Further, in order to grant the special permit, the applicant shall submit all information and justification sufficient to enable the CPC to:

- (1) Evaluate the benefits to the City; and
- (2) Determine the appropriate amount of floor area.⁶

Additionally, the CPC, pursuant to § 74-634 (d)(1), must consider the degree to which:

- (i) The general accessibility and security of the subway station will be improved by the provision of new connections, additions to 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.

Lastly, a restrictive declaration or similar instrument is required, and the CPC may prescribe additional appropriate conditions and safeguards to enhance the character of the surrounding area.

PROJECT DESCRIPTION

The applicant proposes to construct an 80-story mixed use building, approximately 1,115 feet in height, with 206 market-rate residential units on a currently vacant mid-block property located at 45 Broad Street, located between Exchange Place and Beaver Street, in Lower Manhattan. The new building would contain approximately 334,317 square feet of total floor area, of which 59,749 square feet would be commercial office and 274,568 square feet would be for residential use. The ground floor will contain office use and the residential lobby. The office use is proposed

³ The MTA and NYCT has identified the need for two elevators to be provided at the Broad Street Station in order to provide handicap access in compliance with the Americans with Disabilities Act of 1990 (ADA) and the replacement of fare arrays to increase ingress and egress capacity at the Wall Street Station.

⁴ Prior to the special permit application, the applicant developed a schematic plan for proposed improvements at the J/Z Broad Street and the 4/5 Wall Street Station. The plans were refined with input from the MTA and NYCT along with DOT for the elevator street bed installation.

⁵ A letter dated March 29, 2017 from NYCT to the CPC indicating conceptual sign off and describing the benefits of such improvements was submitted.

⁶ No waivers to street wall continuity are requested, therefore § 74-634(b)(3) does not apply.

for the first 10 stories, before the building sets back 15 feet from the street. Floors 12-13 will be for mechanical equipment along with floors 34, 52, and 77-80. Residential amenity space, including recreation space, will be provided, including two windbreaks with landscaped areas accessible to the residents at floors 33 and 53. This recreation space will be provided in accordance with the provisions of ZR § 91-253 and result in an as of right floor area increase for residential use. All other floors will be for residential units. No parking is proposed.

The zoning lot also contains an existing 9-story building, fully occupied by the Lehman Manhattan Preparatory School, with 93,894 square feet of community facility (Use Group 3) floor area. With the proposed building, the total floor area for the zoning lot will be 428,111 square feet of floor area, or 17.99 FAR.

The zoning lot is adjacent to an entrance and mezzanine of the Broad Street Station of the Nassau Street (J/Z) line. This station is connected via an underground passageway to the Wall Street Station of the Lexington Avenue (4/5) subway line. Both stations are identified by NYCT and the MTA as eligible for improvement. Associated with the proposal, and described further below under “Proposed Action,” are proposed improvements at both of these stations.

Area Context

The project site is located in the heart of the Financial District neighborhood of Lower Manhattan, Community Board 1 in the Borough of Manhattan. The site is located within the Historic and Commercial Core of the Special Lower Manhattan District; its underlying zoning district is C5-5. Most of the surrounding blocks are within this core, and the blocks to the north, west and south are also zoned C5-5. Easterly, there is a C6-9 District as well. In both C5-5 and C6-9 districts, the base maximum floor area ratio (FAR) is 15.0 for commercial or community facility uses, and 10.0 for residential uses. The maximum base may be increased up to 18.0 FAR through the utilization of an as-of-right FAR bonus mechanism for the provision of a public plaza. The maximum base may also be increased through a special permit for the transfer of development rights from a New York City landmark or through the provision of covered pedestrian spaces or subway station improvements. In addition, the residential maximum may be increased to 12.0 FAR as of right through the provision of recreation space in accordance with the requirements set forth in ZR § 91-23 (Floor Area Increase for Provision of Recreation Space).

The area’s land use is predominately high density commercial, with a number of mixed-use commercial and residential structures and multi-family high rises. The buildings typically range in height from historically significant institutional buildings at 3-10 stories to commercial buildings over the last 150 years ranging in heights from 20 – 47 stories. Within the immediate vicinity of the project site are multiple New York City Individual Landmarks and sites listed on the State/National Register of Historic Places. These are the William Beaver House, Federal Hall, Broad Exchange Building, the New York Stock Exchange, J.P. Morgan and Co. Building, and the Manhattan Company Building. In the surrounding blocks, landmarks include the American Bank Note Company Office Building, Delmonico’s, City-Bank Farmer’s Trust Building, National City Bank Building, (Former) Bank of New York & Trust Company Building, the Equitable Building and dozens of others. The nearest Historic District is Stone

Street. Lastly, the site itself fronts a street included in the designated landmark known as the Street Plan of New Amsterdam and Colonial New York.

The area is also incredibly well served by mass transit. Immediately adjacent to the site is the terminating station for the Nassau Street (J/Z) line, with entrances along Broad and Exchange Place. At William and Wall Street, one block north, are entrances to the Broadway-Seventh Avenue (2/3) line. One block west along Broadway are the entrances to the Wall Street Station for the Lexington Avenue (4/5) line, and a few blocks farther west are entrances to the Rector Street Station for the Broadway Local (R/W) lines. Access to the M55 and express service bus lines to Staten Island are available to the west along Broadway between Exchange Place and Rector Street. Citibike stations are located at Bowling Green, Hanover Square, and at William and Cedar Street, all within a five minute walk of the site. Fulton Street Station, with access to the A, C, 2, 3, 4, 5, J, Z, R, and W lines is an approximately 10 minute walk over a 20 foot grade change.

Site Description

The Project Site is a currently a vacant lot located at 45 Broad Street (Block 25, Lot 7) in a C5-5 zoning district within the Historic and Commercial Core of the Special Lower Manhattan District. C5-5 districts are an R10 equivalent and permit a maximum floor area ratio (FAR) of 10.0 for residential use and 15.0 FAR for commercial uses. The permitted uses in a C5-5 zoning district are residential, community facility, local and destination retail, hotels, and wholesale uses such as custom manufacturing (Use Groups 1 through 6 and 9 through 11).

The zoning lot also contains an existing 9-story building fully occupied by the Lehman Manhattan Preparatory School and located at 41 Broad Street (Block 25, Lot 10).

Proposed Action

The applicant seeks a special permit pursuant to ZR § 91-251 and ZR § 74-634 to allow a floor area bonus of 3.0 FAR, resulting in 71,931 square feet of additional floor area, to the basic maximum floor area ratio of 15.0 for a mixed-use development located on a zoning lot (Block 25, Lots 7 and 10), where major improvements to adjacent subway stations at Broad Street and Wall Street are provided in accordance with the provisions of Section 74-634. If approved, the maximum floor area permitted on the project site would be 428,346 square feet, or 18.0 FAR. The applicant proposes a maximum floor area of 428,211 or 17.99 FAR.

As previously stated, the zoning lot is adjacent to an entrance and mezzanine of the Broad Street Station of the Nassau Street (J/Z) line. This station is connected via an underground passageway to the Wall Street Station of the Lexington Avenue (4/5) subway line. Both stations are identified by NYCT and the MTA as eligible for improvement. Conceptual plans have been signed off on by the MTA and NYCT per a letter dated March 29, 2017 to the City Planning Commission (CPC). A restrictive declaration will be recorded which contains complete drawings of the improvements and setting forth the obligations by the owner and developer to construct and provide capital maintenance for the improvements, establish a construction schedule and provide a performance bond for completion of the improvements.

Broad Street Station

For the Broad Street station, NYCT has identified the need for the construction of elevators to provide ADA compliant access to the northbound and southbound terminal platforms of the Nassau Street line. Three potential elevator access points were analyzed, and the MTA expressed concerns about points that would be reliant on passageways of significant length. For the northbound platform, the proposed elevator would be located at the northeast corner of Exchange Place and Broad Street. On the southbound terminal platform, the proposed elevator would be located at the southwest corner of Exchange Place and Broad Street. Portions of the existing street bed Belgian block pavers and granite curb of Broad Street would be elevated and reused to create the bump outs at grade, and the elevator and shaft are proposed to be constructed with safety glass. The disturbance and reuse plan of pavers of the Colonial Street Plan was approved by the Landmarks Preservation Commission on August 30, 2016.

Wall Street Station

NYCT has also identified the need for improvements to ingress and egress of equipment at two control areas at the Wall Street Station, which is connected via an underground passageway to Broad Street. The control areas, identified as R204B and R204A, have seven high exit and entrance turnstiles (“HEET”), each of which allows for a maximum of 17 persons per minute to enter and 36 persons per minute to exit. Each HEET would be replaced with one typical automatic fare control (“AFC”), for a total of seven new AFC units. Each AFC unit increases capacity from 17 to 27 persons per minute to enter and from 36 to 43 persons per minute to exit. In aggregate, for Control Area R204B this would result in 81 persons per minute to enter and 129 persons per minute to exit and for Control Area R204A for 108 persons per minute to enter and 172 persons per minute to exit.

In addition, NYCT has requested that as part of this work, the control area railings are removed and replaced with ones more consistent with the main control areas and reflective of the historic nature of the station.

COMMUNITY BOARD RECOMMENDATION

At its full board meeting on January 23, 2018, Manhattan Community Board 1 (“CB1”) recommended approval of this application with conditions for the applicant, NYPD and MTA. The vote was 42 in favor, 1 opposed, and 1 abstention.

The resolution noted the board’s disappointment over the aesthetic elements at grade of the two subway elevator bulkheads, and recommended that the MTA and the applicant work together to create an elevator bulkhead more contextually appropriate to the historic architecture of the immediate vicinity. In response to security concerns raised during their review timeframe, the board requested that NYPD Counterterrorism study potential risks to the New York Stock Exchange area from individuals entering from the elevators.

BOROUGH PRESIDENT COMMENTS

In judging whether the findings are met for this special permit, the City Planning Commission must make the decision based on the extent to which the station is improved in terms of

pedestrian flow and connectivity, as well as the quality of the improvements to the station's environment. This decision must be made while more generally considering the benefit to the City of such improvements and what amount of floor area bonus is appropriate based on that benefit.

This is no easy task. Only a handful of developers in Manhattan have sought this particular floor area bonus under ZR § 74-634 – in 1988 at the 50th Street Station at 8th Avenue, pre-ADA requirements, in 2002 for Columbus Circle, and in 2015 for the 15 Penn Plaza proposal, which the CPC just renewed and the improvements have yet to be realized. The One Vanderbilt proposal, delivering a package of improvements to the Grand Central subway and LIRR system and connections, had slightly different, though comparative considerations before the CPC. All of these special permit applications share a request for the maximum floor area bonus that can be granted, and all were granted the maximum floor area bonus permitted under the zoning.

While the project site is incredibly well served by mass transit, it is important to note that 80 percent -355 out of 472 - of subway stations are NOT compliant with ADA. In some instances, the next accessible stop can be as far as 8 stations away. This number also does not include stations that continually have elevators out of service. To travel to the next available accessible station can be a challenge as well, given the state of the city's sidewalks and curb cuts. In the Manhattan Borough President's July 2015 report, *Accessible Manhattan: Making Sidewalks Safe and Navigable for All*, we found that fewer than 10% of curb cuts along Broadway were fully compliant with ADA, and we believe that this statistic is likely to hold for any city street. More problematic is that we found 142 curb cuts completely missing, just along Broadway.⁷

The stations at Broad Street and Wall Street, those that are most adjacent to the project site, fall within the non-accessible category. Fulton Street, which is fully accessible, is a 10 minute walk over a path with a 20 foot change in grade, with cobble stones and some of the narrowest sidewalks in the city, reflective of its significant colonial street plan. The Borough President does not believe such a distance is actually accessible to those in a wheel chair or pushing a stroller, or those of any age who have difficulty walking.

While the MTA is working to increase the number of accessible stations to 144 by 2020, therefore making about 31 percent of the entire subway system accessible, this is an expensive and difficult undertaking. At the MTA and NYCT's current rate of progress, the entire subway system won't be accessible until 2100. As such, with so few developers utilizing the subway improvement bonus, we believe it is fair to grant the bonus in its entirety given that the J/Z terminating station will be made fully accessible, bringing the number of accessible stations on this line to 6 out of its 30 stations.

⁷ DOT disagrees with the assessment, claiming that 96.8% of the city's 162,355 corners have had curb cuts installed. DOT also informed the office that they plan to install another 50-100 each year. The city began installing curb cuts where they didn't exist before only as a result of a 2002 settlement that forced them to bring the city's corners up to ADA standards. Yet, 14 years later, we have yet to see 100% of the city's curb cuts fully installed. Assuming for a moment that DOT is correct that we only have 800 curb cuts left to install in Manhattan, the city won't fully complete this work for another 8-16 years if they only install 50-100 curb cuts each year at the current pace of work. The work would obviously take even longer if there are more than 800 curb cuts still missing, as our report would suggest. These numbers do not take into account the time needed for curbs that need to be repaired.

The Borough President also strongly believes that improvements to access qualify as improvements to the station in terms of the level of connectivity and access, and as an overall improvement to the station. Lastly, the changes in the fare arrays for the Wall Street station for ingress and egress represent a significant increase and are beneficial to the city in terms of ensuring faster and safer entry and exit from a heavily utilized station.

Safety concerns were brought up by various local residents before and throughout the public review process. Specifically, the concern was whether the elevator would enable an individual to more easily bring to this significant financial and historic hub an instrument of destruction. We do not wish to dismiss the concerns, but only to frame them in practical probability. This hub has significant security camera presence, and the area is already blockaded against vehicular access of any kind. Elevator access from the subway or street does not diminish or increase the ability of an individual's access, and unfortunate experience has shown us that if the instrument is heavy enough to require mechanical assistance to transport, it is likely going in a vehicle, and if the instrument is portable, it is most likely going in a bag. Elevators are not likely to encourage those with intent to do harm, but elevators will make a substantial difference to commuters with mobility challenges.

More generally, we do take issue that the exterior design, versus engineering standards, of the kiosk structure was not presented as part of Commission purview given that the Commission has the right to "evaluate the benefits to the city." The Borough President believes that the benefit should not be limited to the cost of the improvement and the Zoning Resolution does not limit or define benefit in monetary terms. In the case of One Vanderbilt, cited at the November 27, 2017 Review Session, the zoning text allowed CPC to similarly exercise significant discretion in weighing "the public benefit" when determining the amount of bonus for transit improvements.⁸ Ultimately for One Vanderbilt, the Borough President and CPC agreed that while the financial benefit to the city was a significant criteria and something that could be quantified in assessing the benefit derived from the improvements, the quality of the improvements, including design, merited consideration as well.

For this special permit in this historic corridor, recognized as historic in the Zoning Resolution and on the city, state, and federal level, the assessment of the benefit should have included the improvements' relationship to these historic surroundings. The exterior design at street level should have been on the table from the start as a consideration of the CPC given that the CPC is also asked to evaluate the "satisfactory integration of street level entry into the development."⁹ Lastly, the CPC may "prescribe additional conditions and safeguards to enhance the character of the surrounding area" which the adjacent individual landmarks and historic street certainly merit.

It is our understanding that the process in place by the MTA today does not make it practically feasible at this time to condition approval on significant changes. However, the Borough

⁸ When it comes to determining the appropriate amount of FAR bonus in East Midtown, the text states that the Commission find that "the public benefit derived from the proposed above or below-grade improvements to the pedestrian or mass transit circulation network merits the amount of additional floor area being granted." This does not give the CPC any parameters or factors to consider.

⁹ In this instance, the MTA asked for a stand-alone structure but satisfactory integration with the street should still be a primary consideration.

President strongly cautions for the future that the City and MTA consider the streetscape and historic and other specific locational characteristics of future improvements in a more holistic fashion from the beginning, instead of presenting a structure as a fait accompli from the start of public review.

We believe this can be accomplished within the parameters of the existing special permit text as a matter of good public policy to show real responsiveness during the city's Uniform Land Use Review Procedure (ULURP). ZR § 74-634 states that a submission of schematic or concept plans for the proposed improvement to the Metropolitan Transportation Authority, New York City Transit and the City Planning Commission must be submitted prior to submitting an application for the special permit itself; the CPC should be free to raise and incorporate feedback related to the design, streetscape, and context concerns raised in this proposal. In addition, since New York City Transit must also receive approval from the Landmarks Preservation Commission (LPC) in addition to the approval from the Public Design Commission for improvements in historic districts, there is no reason not to have the appropriate design context discussion at that time as well. We would also remind all parties that the only requirement for certification is conceptual approval, not final, and that such conceptual sign off was granted on March 29, 2017. Almost a year has passed without any design change. Again, a degree of flexibility should be accepted as standard practice during ULURP in which public feedback is requested and required.

Notwithstanding the concerns on design which should be addressed in future applications, the Manhattan Borough President believes the conditions and findings have been met for the requested special permit.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval of ULURP Application No. C 180063 ZSM.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, slightly stylized font.

Gale A. Brewer
Manhattan Borough President