

# Borough President Recommendation

**City Planning Commission**  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
Fax # (212) 720-3488

## INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Applications: C 190273 ZSM

### Docket Description:

**IN THE MATTER OF** a Special permit pursuant to Sections 37-622 and 74-761 to reduce plaza area, and Authorization pursuant to Sections 37-623 and 37-727 to permit a nighttime closure of certain portions of a bonused plaza. Application MAY include one or more open air cafés and a kiosk pursuant to Section 37-73.

COMMUNITY BOARD NO:

5

BOROUGH: Manhattan

## RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached

*John A. Brewer*

\_\_\_\_\_  
BOROUGH PRESIDENT

5/16/2019

\_\_\_\_\_  
DATE



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BOROUGH OF MANHATTAN  
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**Gale A. Brewer, Borough President**

May 16, 2019

**Recommendation on ULURP Applications No. 190273 ZSM and N190274 ZAM  
1 Penn Plaza  
By One Penn Plaza, LLC**

**PROPOSED ACTIONS**

One Penn Plaza, LLC (the “Applicant”) is the owner and operator of One Penn Plaza, a commercial office building located in the Special Midtown District of Manhattan Community Board 5. The Applicant is proposing a series of renovations to the building exterior, the lobby, and several public plazas that are part of the development. In order to proceed with those planned renovations, the Applicant is seeking the following:

1. Special Permit pursuant to ZR § 37-622 and ZR § 74-761 to allow a reduction in the size of a public plaza;
2. City Planning Commission (CPC) Authorization pursuant to ZR § 37-623 and 37-727 to allow nighttime closure of portions of a bonused plaza;
3. CPC Chairperson’s Certification pursuant to ZR § 37-73 and ZR § 81-231 to allow kiosks in plazas; and
4. CPC Chairperson’s Certification pursuant to ZR § 37-625 to allow design changes to public plazas.

This office is tasked with providing a recommendation regarding the first two items above. In order to grant the Special Permit, the City Planning Commission must find that<sup>1</sup>:

(a) such elimination or reduction is adequately compensated by the substitution of another public amenity or improvement on the zoning lot that shall provide equal or increased public benefit; and

(b) for publicly accessible open areas any remaining bonused open area will comply to the maximum extent feasible with the standards of public plazas as set forth in Section 37-70.

In order to grant an authorization for the closure of a plaza, the Commission must find that<sup>2</sup>:

(a) such existing publicly accessible open area has been open to the public a minimum of one year or there are significant operational or safety issues documented, or for new

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<sup>1</sup> ZR § 74-761 – Elimination or reduction in size of bonused public amenities

<sup>2</sup> ZR § 37-727 – Hours of Access

public plazas significant safety issues have been documented and provided as part of the application for authorization of nighttime closing;

(b) such closing is necessary for public safety within the publicly accessible open area and maintenance of the public open areas as documented by the applicant;

(c) the layout and design of the publicly accessible open area will promote public use and free and easy pedestrian circulation throughout the space;

(d) any approved design element that limits public access, as specified in paragraph (e) of this Section, shall not impede public circulation, visual or physical access within the publicly accessible open area or between the publicly accessible open area and other public areas during hours of public operation;

(e) a design element that limits public access shall:

(1) be of a design that is integrated with the design of the publicly accessible open area in a manner that would promote the attractiveness of the space for public use and enjoyment;

(2) not exceed five feet in height;

(3) be fully removed from the publicly accessible open area during the hours of public access; however, barriers not to exceed 3 feet, 6 inches in height may have posts or supports that remain during the hours of public access provided that such posts or supports do not exceed six inches in width;

(4) not involve stanchions or cabinets for barrier storage located within the publicly accessible open area, except for stanchions or cabinets located at the edges of the publicly accessible open area;

(5) not inhibit or diminish access to the publicly accessible open area nor impede pedestrian circulation into, through, or along the frontage of the publicly accessible open area, and not obstruct access during the hours of public access; and

(6) be substantially transparent;

(f) public access to the publicly accessible open area between the hours of 7:00 a.m. and 10:00 p.m. from April 15 to October 31 and from 7:00 a.m. to 8:00 p.m. from November 1 to April 14, or a schedule specified by the Commission, is assured by appropriate legal documents and that an hours of access plaque shall be affixed to the enclosure or barrier which shall indicate the hours of public access to the publicly accessible open area, as specified in Section 37-751, paragraph (c). However, if an open air cafe or kiosk is located within the publicly accessible open area, such publicly accessible open area shall remain open to the public during the hours of operation of the open air cafe or kiosk;

(g) plans have been submitted that demonstrate that, where appropriate, the publicly accessible open area will be improved, to the maximum extent feasible, in accordance with the standards set forth for public plazas;

(h) a program for continuing maintenance of the publicly accessible open area has been established in accordance with Section 37-77.

## PROJECT DESCRIPTION

### Background

One Penn Plaza was built in 1972. The building is 57 stories in height and contains a wide range of commercial tenants, including Cisco Systems and the law firm Rapaport. The ground floor of the building is occupied by retail tenants that include a variety of eating establishments as well as a Kmart department store. Five plazas and two arcades surround the building. The plazas currently encompass 50,095 square feet and provided 300,573 square feet of bonus floor area to One Penn Plaza. The arcades encompass 3,822 square feet and provided 11,466 square feet of bonus floor area. Below is a description of each one of these spaces:

- The West Plaza, which is between 3 feet and 4.75 feet above grade level and fronts 8<sup>th</sup> Avenue between West 33<sup>rd</sup> and West 34<sup>th</sup> Street;
- The North Plaza, which is above grade level and fronts on West 34<sup>th</sup> Street;
- The Northern Arcade which is adjacent to the North Plaza and entrances to One Penn Plaza;
- The East Plaza, which is a grade level through-block space between West 33<sup>rd</sup> and West 34<sup>th</sup> Street;
- The South Plaza, which is above grade level and fronts on West 33<sup>rd</sup> Street;
- The Southern Arcade, which is adjacent to the South Plaza and entrances to One Penn Plaza; and
- The South West Plaza, which is above grade and fronts on West 33<sup>rd</sup> Street.

### Area Context

One Penn Plaza is situated within the Special Midtown District, which includes large scale commercial office buildings and retail corridors along the avenues as well as side streets. This portion of Manhattan has a concentration of hotels, including older ones like the Hotel Pennsylvania and the New Yorker Hotel as well as many new hotels within the Special Garment District, located just to the north of One Penn Plaza. Madison Square Garden is one block to the south of One Penn Plaza, while the Manhattan Center, which is home to the Hammerstein Ballroom, is one block to the north. Both performance venues draw audiences from outside New York City. Shopping attractions such as Macy's flagship store, located one block to the east, and the shops around Herald Square, also draw tourists to the area. The plazas and open spaces in the vicinity of One Penn, which include Herald Square, are mostly hardscape spaces, with concrete pavers, seating, and a few plantings. Both spaces are well-used as passive recreation spaces.

One Penn Plaza is particularly well-positioned with access to a variety of public transit options. The building is directly to the north of Pennsylvania Station, which provides access to the 1, 2, 3,

A, C, and E subway lines in addition to the Long Island Rail Road and New Jersey Transit, which provide regional service, and Amtrak, which runs interstate trains. One avenue to the east of One Penn Plaza is the Herald Square train station, which provides access to the B, D, F, M, N, Q, R, and W subway lines as well as the New Jersey PATH.

A new entrance to the Long Island Rail Road Corridor of Pennsylvania Station will be built on West 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue, just to the south of One Penn Plaza.

### Proposed Renovations

The Applicant proposes to complete a series of renovations to the building, including façade improvements, a lobby renovation, and a redesign of the plazas. The lobby, which is currently 50 feet away from the sidewalk, will be extended so that it is within 15 feet of the street line. The Applicant has expressed that these improvements will make the building feel more open and its public plazas more inviting to the public.

As the table below demonstrates, the lobby expansion and plaza improvements will result in an overall reduction of approximately 5,420 square feet of public plaza and arcade space.

**Table 1 – Current and Proposed Public Plazas**

		<b>Existing Square Footage</b>	<b>Proposed Square Footage</b>	<b>Differential</b>
<b>Plazas</b>	West Plaza	24,109.32	23,952.23	(157.09)
	North Plaza	8,880.00	5,640.00	(3,240.00)
	East Plaza	7,900.00	7,900.00	-
	Eastern Corners	1,054.68	1,054.68	-
	South Plaza	5,977.75	5,977.75	-
	South West Plaza	2,173.75	2,152.50	(21.25)
	<b>Plazas Subtotal</b>	<b>50,095.50</b>	<b>46,677.16</b>	<b>(3,418.34)</b>
<b>Arcades</b>	Northern Arcade	1,911.00	-	(1,911.00)
	Southern Arcade	1,911.00	1,820.00	(91.00) <sup>3</sup>
	<b>Arcades Subtotal</b>	<b>3,822.00</b>	<b>1,820.00</b>	<b>(2,002.00)</b>
	<b>Total</b>	<b>53,917.50</b>	<b>48,497.16</b>	<b>(5,420.34)</b>

Because these public spaces provided floor area bonuses to the building, the applicant will re-balance the building square footage with removals of floor area on the second and third floors of the building. These removals will result in a taller Southern Arcade as well as a taller lobby height—both of which are designed to meet the goal of creating a more inviting presence for One Penn Plaza. In total, approximately 7,000 square feet of the building will be removed.<sup>4</sup>

<sup>3</sup> Reduction reflects as-built conditions

<sup>4</sup> Approximately 400 square feet of retail space will be removed to accommodate a transit entrance; this figure was not included in the total square footage calculation.

The Applicant also proposes improvements to an existing Penn Station entrance that is located inside One Penn Plaza. Under the proposed plans, commuters would be able to also access the station through the North Plaza. This new access point will include design elements to maximize visibility from the street, including a canopy, lighting, and signage.

Lastly, the Applicant proposes nighttime closings for the East Plaza and the West Plaza—both spaces that span from West 33<sup>rd</sup> to West 34<sup>th</sup> Street. The application notes that cleaning crews often encounter “strewn bottles, drug paraphernalia, and other trash” in the plazas and that the security staff is “unable to dissuade bad behaviors because they are harassed and often physically threatened by nighttime plaza occupants.” The West Plaza is between 3 and 4.75 feet above grade level and is partially concealed by a one story retail building that fronts on 8<sup>th</sup> Avenue. Thus, the Applicant proposes to close the West Plaza from 10PM until 7AM from April 15<sup>th</sup> through October 31<sup>st</sup> and from 8PM until 7AM from November 1<sup>st</sup> through April 14<sup>th</sup>. The Applicant has agreed to keep the West Plaza open longer if the café in the plaza is open beyond those hours. The East Plaza, which is at grade level and is widely used as a walkway, would be closed from midnight until 5AM throughout the year.

## COMMUNITY BOARD RESOLUTION

Manhattan Community Board 5 held a hearing on the application on April 3, 2019. On April 12 2019, the Board passed a resolution recommending:

- *Denial* of the application for Special Permit to reduce the sizes of the plazas *unless* the Applicant constructs an elevator to access Penn Station from One Penn Plaza and builds a new public restroom within the plazas;
- *Denial* of the application to allow nighttime closure of the plazas *unless* the Applicant agrees to only close the West Plaza and the new Penn Station access point and entrance from 10PM to 5AM; and
- *Approval* of the application for kiosks on the East Plaza and the West Plaza.

## BOROUGH PRESIDENT’S COMMENTS

One Penn Plaza includes a number of design elements that pose public realm challenges. It is a tower that sits slightly above grade level and sets back significantly from the property line—effectively eliminating the “eyes on the street” that have become a tenet of good urban planning. I am pleased to see that the Applicant has plans to create a more open lobby and more welcoming public plazas. If successful, these plazas will provide a well-used respite from the hustle and bustle of Midtown.

I agree that the Applicant should work to provide elevator access to Penn Station, particularly given that the improvements to the existing station entrance will not include widening the staircase. I also believe that such an entrance needs to be abundantly demarcated to ensure that it will be widely used by the public. The current layout of the entrance makes it infamously difficult to find and if the new access point were just as hard to locate, we could not in good conscience call it a public benefit.

I also encourage the Applicant to include affordable spaces for artists in One Penn Plaza. There is an extensive need for the following types of spaces: performance, rehearsal, and administrative spaces.

- *Performance spaces* for off-Broadway theaters
  - 10,000-15,000 square feet, including 99 to 149 seats
- *Rehearsal spaces* for theater and dance
  - 5-10 suites ranging from 700 to 1,600 square feet
- Administrative spaces for theater companies
  - 5-10 offices ranging from 300 to 800 square feet
- Individual artist studios
  - 20-30 studios ranging from 250 to 600 square feet

Art New York, which is located three blocks to the north of One Penn Plaza, continues to receive requests for such spaces despite already being at capacity. Furthermore, the presence of these artists creates an opportunity to activate plazas with public programming. In the spirit of creating a public realm that truly welcomes the public, the Applicant should include this component in its development.

I understand that the safety issues the Applicant raised are widely recognized by area residents and employees. I believe that the proposed nighttime closings are appropriate given those concerns. Furthermore, I am concerned that a new public restroom within the plazas would welcome the same kind of behaviors that the Applicant seeks to deter. The Applicant has also noted that there is a restroom on the northwest corner in the intermediate level of Penn Station, 250 feet from One Penn Plaza. However, I believe that the proposed expansion of the Long Island Rail Road concourse provides an opportunity for an additional public restroom. While I understand the public safety concerns that the Applicant may have about such a restroom, public restrooms like the ones at Bryant Park prove that a successful solution is possible. I encourage the Applicant to explore the feasibility of this addition, which would be well-used by the public.


Finally, the plazas should be designed in a manner that encourages people to use them. For example, the eastern plaza should be furnished in a way that preserves a pedestrian thoroughfare in the center while placing tables and chairs on both sides, adjacent to the retail spaces. I believe that the work of creating a successful public space is an iterative process and I urge the Applicant to maintain an open dialogue with the Community Board, the 34<sup>th</sup> Street Partnership, and other area stakeholders to ensure that the spaces are enjoyed to their full potential.

## **BOROUGH PRESIDENT'S RECOMMENDATION**

I therefore recommend **approval** of applications No. 190273 ZSM and N190274 ZAM **with the following conditions:**

1. That the Applicant provide a new elevator to access Penn Station from the northwestern portion of One Penn Plaza;

2. That the- Applicant provide adequate signage for the new access to Penn Station and agree to keep that access and train entrance open during the same hours that the West Plaza will be open;
3. That the Applicant incorporate affordable spaces for performance artists into its building; and
4. That the Applicant provide a new public restroom within the Long Island Rail Road concourse.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style with a large initial "G" and "A".

Gale A. Brewer  
Manhattan Borough President