



## CITY PLANNING COMMISSION

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May 22, 2013/Calendar No. 3

C 130139 ZSM

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**IN THE MATTER OF** an application submitted by MSG Holdings, L.P. pursuant to Sections 197–c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74–41\* of the Zoning Resolution to allow an arena with a maximum capacity of 22,000 seats within an existing 10–story building on property located at 3–10 Penn Plaza (Block 781, Lots 1, 2 and 10), in C6–4 and C6–6 Districts, partially within the Special Hudson Yards District (Pennsylvania Station Subarea B4) and partially within the Special Midtown District, Borough of Manhattan, Community District 5.

\*197-d(b)2 eligible

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This application (C 130139 ZSM) for a special permit pursuant to Section 74–41 of the Zoning Resolution to allow an arena with a capacity in excess of 2,500 seats was filed by MSG Holdings, L.P. (“MSG”) on December 12, 2012. The special permit, along with the related actions, would facilitate the continued use and operation of Madison Square Garden in Manhattan’s Community District 5.

### **RELATED ACTIONS**

In addition to the special permit which is the subject of this report (C 130139 ZSM), MSG has filed the following applications related to the continued use and operation of the facility which are being considered concurrently with this application:

N 130137 ZRM      Zoning Text Amendment to Sections 37–625 and 74–41 regarding pedestrian–accessible open areas; and Section 93–17 to create a special permit pursuant to new Section 93–171 by which sign regulations applicable within Pennsylvania Station Subarea B4 of the Special Hudson Yards District may be modified

N 130138 ZCM      Chair certification pursuant to Section 37-621 for the elimination of non-bonused open area

C 130140 ZSM Special Permit pursuant to Section 93–171, as proposed, to modify the sign regulations applicable to the Arena

## **BACKGROUND**

Madison Square Garden has a long history as a sports arena, cultural space, and exhibition and civic meeting hall in New York. MSG\* seeks a series of actions including two special permits, a text amendment, and a related chairperson certification to facilitate the continued use and operation of the arena. The MSG Complex is located at 3–10 Penn Plaza (Block 781, Lot 9001) in the Borough of Manhattan. The MSG Site is part of a single Zoning Lot with the rest of the properties on the block including the 2 Penn Plaza office building and a NJ Transit entrance to Penn Station at 380 Seventh Avenue.

The current MSG Complex, which welcomes approximately four million customers annually, is the fourth of a line of entertainment–oriented facilities in New York City built since the late 1870s. The existing MSG Complex, opened in 1968, is located in Midtown Manhattan, above the country’s busiest railroad hub in Penn Station.

The MSG Complex is the busiest arena in the country, with approximately 400 annual events, and the longest active sports facility in New York City. The MSG Complex is the official home of three professional sports teams (the Knicks men’s basketball team, the Rangers hockey team, and the Liberty women’s basketball team), and hosts a variety of other major events serving a diverse community of patrons, including the Westminster Kennel Club dog show; collegiate basketball games; graduation ceremonies; and concerts.

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\* The term "MSG" is used hereinafter to describe the applicant, MSG Holdings, LP. The terms “MSG Arena” or “Arena” will refer to the use subject to the special permit; “MSG Complex” will refer to the overall building which includes the MSG Arena and other uses like the theater; “MSG Site” will refer to the portion of the lot on which the MSG Complex sits and is controlled by the site plan of the MSG Arena special permit; and “Zoning Lot” will refer to the overall lot of which the MSG Site is a portion along with other buildings including the 2 Penn Plaza building to the east.

The MSG Arena was the subject of a special permit approved by the Commission on January 16, 1963, (CP-17682) and the Board of Estimate on January 24, 1963, (Cal. No. 215) for an arena with a capacity in excess of 2,500 seats, pursuant to Section 74-41 of the Zoning Resolution. The Commission resolution approving the 1963 special permit established a maximum capacity of 22,000 seats for the MSG Arena, and included a term limit of 50 years. The MSG Arena was constructed as part of a larger complex of facilities on the MSG Site in accordance with the 1963 special permit and was completed in 1968. Besides the arena, the MSG Complex's original programmatic elements consisted of the Arena, the Felt Forum, a bowling alley, a skating rink, and restaurants. The construction of the MSG Complex was accomplished by the demolition of above-grade elements of Pennsylvania Station and the reconfiguration of the station levels below, including the insertion of new support columns. The demolition of the station, designed by McKim, Mead & White and opened in 1910, is considered one of the key precipitating factors in New York City's adoption of a landmarks preservation law shortly thereafter.

The 1963 special permit was amended by a Minor Modification on August 16, 1989 (M 890725 ZSM) to allow the refurbishment and upgrading of the MSG Complex. The changes made to the MSG Complex pursuant to the Minor Modification included the replacement of the Felt Forum, bowling alley, and skating rink with a new theater; the elimination of pedestrian access to the theater from Eighth Avenue, with primary access provided from Seventh Avenue; the introduction of secondary entrances to and exits from the Arena on West 31st and West 33rd Streets; improvements to vertical pedestrian circulation; and upgrades to Arena facilities.

The MSG Complex is currently undergoing a series of interior renovations and upgrades to maintain its status as a state-of-the-art sports and entertainment facility. Some of the major upgrades will include: a new entrance to the Arena; wider concourses; new first-class food and entertainment amenities; improved sightlines; new scoreboard, suites and hospitality areas; and new pedestrian bridges spanning the Arena bowl. The renovation is within the scope of the 1963 special permit and 1989 Minor Modification and, since there would be no change in the MSG Complex's floor area, would not result in any new "development" or "enlargement" on the Zoning Lot, as either such term is defined in Section 12-10 of the Zoning Resolution. The

renovation is expected to be substantially completed by the end of 2013 or the beginning of 2014. Changes to the open areas and signage on the MSG Site requested pursuant to the land use application would also be completed at this time.

According to the Commission Resolution, the 1963 special permit had a term of fifty years. The 1963 special permit therefore expired on January 24, 2013, requiring a new special permit from the Commission.

## **Area Description**

### *Zoning*

The area surrounding the Zoning Lot is mapped primarily with commercial zoning districts, including portions of the Special Midtown (MiD) and Special Hudson Yards (HY) districts. AC6-4(HY) zoning district extends to the north and northwest of the Zoning Lot, and a C6-6(MiD) zoning district extends to the east and northeast. A portion of the block to the immediate north of the MSG Site is also mapped within a C6-4 district, but it is located within the Special Midtown District rather than the Special Hudson Yards District. Commercial zoning districts are also mapped in the areas farther to the east, west, and north of the Zoning Lot. The area to the south of the Zoning Lot includes M1-5, M1-6, and M1-6D zoning districts, and the area to the immediate southwest of the Zoning Lot is located within a C6-3X zoning district. An area farther to the southwest, beginning at the southern midblock portion of the block bounded by West 31<sup>st</sup> Street, Eighth Avenue, West 30<sup>th</sup> Street, and Ninth Avenue, is mapped as an R8B district.

### *Land Use*

The area surrounding the MSG Site above-grade is a major shopping, tourist and entertainment destination characterized primarily by high-rise commercial buildings. The area is also the location of the busiest transit hub in the City at Penn Station which is below the Zoning Lot. 2 Penn Plaza, located on the Zoning Lot to the immediate east of the MSG Site, is improved with a 32-story office building. The adjacent blocks to the east, north, and northwest are similarly improved with office buildings ranging from 22 to 55 stories in height. The block front on the

east side of Seventh Avenue between West 32<sup>nd</sup> and West 33<sup>rd</sup> Streets is the site of the Hotel Pennsylvania, and is also the site of a proposed 67–story commercial office building known as 15 Penn Plaza, which would be developed pursuant to a 2010 Commission special permit (C 100049 ZSM). The area to the immediate south and southeast of the MSG Site is defined by mid–rise commercial buildings along Seventh Avenue and 12– to 17–story industrial buildings along the cross–town streets. There are also mid–rise residential and mixed–use buildings located along Eighth Avenue and West 30<sup>th</sup> Street to the southwest of the MSG Site.

The block to the immediate west of the MSG Site, across Eighth Avenue, is occupied by the four–story James Farley Post Office building, which is a designated landmark. The Farley building is set back from the street to provide a deep flight of steps along its entire Eighth Avenue frontage. Pedestrians often use the steps as a place to sit, eat, read, and gather, and when doing so face the western façade of the MSG Complex.

There is a variety of signage in the area surrounding the MSG Site. Within the Penn Center Subdistrict of the Special Midtown District, which is located to the east and northeast of the MSG Site along Seventh Avenue (and which includes the easternmost 100 feet of the Zoning Lot), there are several multi–story vinyl signs and billboards located above low–rise buildings and affixed to the facades of larger buildings. A large LCD display is located on the Seventh Avenue frontage of 2 Penn Plaza, which displays messages promoting Arena and theater events. In addition, there is a projecting television display board and an approximately four–story sign on the Macy’s department store building, located on the block bounded by Seventh Avenue, Broadway, West 34<sup>th</sup> Street, and West 35<sup>th</sup> Street, and several other projecting and illuminated signs throughout the area, primarily for retail establishments. The Eighth Avenue corridor contains a variety of accessory signage, as well as a multi–story advertisement painted on the façade of a building two blocks to the north, a multi–story advertisement on a building façade to the west of Eighth Avenue on West 33<sup>rd</sup> Street, and some advertising signs to the south and west.

The Zoning Lot is bounded by Seventh Avenue, West 33<sup>rd</sup> Street, Eighth Avenue, and West 31<sup>st</sup> Street; West 32<sup>nd</sup> Street terminates at the eastern end of the Zoning Lot. Seventh and Eighth

Avenues serve as major north–south “grid” arteries, with Seventh Avenue providing six southbound lanes and Eighth Avenue providing six northbound lanes. West 31<sup>st</sup> and West 33<sup>rd</sup> streets are westbound major streets which provide cross–town connections between the major avenues, as well as a connection to the Lincoln Tunnel, which is located a block and a half to the west of the Zoning Lot.

There are numerous public parking facilities and legal on–street parking spaces within the area. 28 public parking facilities can be found within approximately a quarter–mile of the Zoning Lot, providing a total of approximately 5,300 spaces. The on–street parking regulations for the streets within the quarter–mile radius, which provide approximately 2,400 parking spaces, generally allow curbside parking after 6 PM or 7 PM and are used by Arena visitors during nighttime events. There are no public or accessory parking spaces on the Zoning Lot itself or within the adjacent lay–by lanes located along the northern curb of West 31<sup>st</sup> Street and the southern curb of West 33<sup>rd</sup> Street.

Multiple points of access to mass transportation are provided in the area immediately surrounding the MSG Site. The Zoning Lot is located over Penn Station, a major transit hub with stations for Amtrak, Long Island Rail Road (“LIRR”), New Jersey Transit (“NJ Transit”), and the A, C, E, 1, 2, and 3 subway lines. The MSG Site is also served by the 34<sup>th</sup> Street–Herald Square subway station Complex, located one block to the east at the intersection of Sixth Avenue and Broadway and the Port Authority Trans–Hudson (“PATH”) trains to New Jersey. Bus stops for MTA and regional bus lines are also located in the immediate area.

## **Site Description**

### *The Zoning Lot*

The Zoning Lot comprises the entire block bounded by West 31<sup>st</sup> Street, Seventh Avenue, West 33<sup>rd</sup> Street, and Eighth Avenue. The Zoning Lot consists of the MSG Site (Block 781, Lot 9001), owned by MSG (though certain portions of the above–grade facilities located on the MSG Site are owned by Amtrak); 2 Penn Plaza (Block 781, Lot 9002), owned by Vornado Two Penn Property LLC; and the NJ Transit Property (Block 781, Lot 10), owned by New Jersey Transit

Corporation. The portion of the block located below the slab (Block 781, Lots 1 and 2) is owned by Amtrak and occupied by Penn Station and is not part of the Zoning Lot.

The Zoning Lot is a split lot located within two zoning districts. The eastern portion of the Zoning Lot, occupied by 2 Penn Plaza, is located within a C6-6 zoning district and within the Special Midtown District (MiD). This portion extends from Seventh Avenue to a depth of 250 feet and comprises approximately 113,698 square feet of lot area. The western portion of the block, consisting of the MSG Site and a seven-foot-wide strip of 2 Penn Plaza, is located in a C6-4 zoning district within the Special Hudson Yards District (HY). This western portion comprises approximately 250,097 square feet of lot area, and is contained within the Pennsylvania Station Subarea B4 of the Special Hudson Yards District. The C6-4(HY) and C6-6(MiD) zoning districts within which the Zoning Lot is located allow a maximum base floor area ratio ("FAR") of 10.0 and 15.0, respectively.

The C6-4(HY) portion of the Zoning Lot is subject to the sign regulations of the underlying C6-4 zoning district, which are not modified by the Special Hudson Yards District. Illuminated and non-illuminated signs are permitted with a total surface area not exceeding five times the street frontage of a Zoning Lot (in feet), but in no event more than 500 square feet for interior or through lots or 500 square feet on each frontage for corner lots. Signs are not permitted to extend more than 40 feet above curb level. Advertising signs are not permitted. The balance of the Zoning Lot is located within a C6-6 (MiD) zoning district, and the portion of the Zoning Lot which is located within 100 feet of Seventh Avenue is within the Penn Center Subdistrict of the Special Midtown District. The Penn Center Subdistrict establishes special sign regulations, which permit advertising signs, flashing signs, and illuminated signs above a height of 40 feet by certification by the Commission. The balance of the C6-6 (MiD) district is subject to the same sign regulations as the C6-4(HY) portion of the Zoning Lot.

The MSG Complex was developed pursuant to the prior zoning applicable to the Zoning Lot. Until 2001, the eastern portion of the Zoning Lot, fronting on Seventh Avenue to a depth of 100 feet, was located within a C6-4 zoning district, and the remaining portion of the Zoning Lot was

located within a C6-2 zoning district. As discussed in greater detail below, certain portions of the Zoning Lot were developed as “plazas” pursuant to the plaza standards of the 1961 Zoning Resolution. The C6-4 zoning district allowed for six square feet of bonus floor area for every square foot of plaza provided, and the C6-2 zoning district allowed for four square feet of bonus floor area for every square foot of plaza provided.

In 2001, the C6-4 portion of the Zoning Lot was rezoned to a C6-4(MiD) zoning district (C 010652 ZMM), and in 2005 the entire Zoning Lot was rezoned to its current designation as part of the Hudson Yards project, at which time the zoning district boundary which splits the Zoning Lot was moved from 100 feet west of Seventh Avenue to 250 feet west of Seventh Avenue (C 040499(A) ZMM). This portion of the Zoning Lot was incorporated into Special Hudson Yards District’s Pennsylvania Station Subarea B4. In the Subarea, any development or enlargement is required to provide a variety of public spaces including a north-south through block connection. There is also a special permit available in the Subarea that allows for a floor area increase for commercial use to a maximum floor area ratio of 19.5 for developments or enlargements that significantly enhance the pedestrian environment and provide improvements to access to the public transit facilities on the MSG Site.

The Zoning Lot has a lot area of approximately 363,795 square feet. It is improved with the 10-story MSG Complex on the MSG Site, the 32-story 2 Penn Plaza office building, and an enclosed at-grade entrance to Penn Station on the NJ Transit Property. These buildings have a total of 2,333,263 square feet of floor area. The C6-4(HY) and C6-6(MiD) zoning designations applicable to the Zoning Lot, described above, permit a basic maximum floor area of 4,206,440 square feet on the Zoning Lot.

There are at-grade, pedestrian-accessible open areas on the Zoning Lot, adjacent to the MSG Complex and the 2 Penn Plaza building, which were developed in accordance with the 1963 special permit and filed as bonusable “plazas” under the plaza standards of the 1961 Zoning Resolution. The plazas consist of 70,958 square feet of plaza area on the former C6-2 portion of the Zoning Lot – composed of 67,330 square feet on the MSG Site and 3,628 square feet on the



former C6–2 portion of 2 Penn Plaza – and 11,970 square feet of plaza area on the former C6–4 portion of the Zoning Lot, located entirely on the eastern portion of 2 Penn Plaza.

### The MSG Site and the MSG Complex

The MSG Site occupies the western portion of the Zoning Lot, with frontages of approximately 542 feet 7 inches on West 31<sup>st</sup> and West 33<sup>rd</sup> Streets and a frontage of approximately 454 feet 9 ½ inches on Eighth Avenue. The lot area of the MSG Site is approximately 246,748 square feet.

The MSG Site is occupied by the MSG Complex, designed by Charles Luckman and Associates and completed in 1968 pursuant to the 1963 special permit. The MSG Complex consists of a 10–story, precast concrete–clad cylindrical building with a diameter of approximately 425 feet, as well as a substantial portion of the pedestrian bridge connecting such structure to the 2 Penn Plaza office building. A small portion of the pedestrian bridge is located on the 2 Penn Plaza property. The MSG Complex has a floor area of 987,243 square feet. The MSG Complex includes four vertical escalator towers along its perimeter, located 90 degrees apart at the northeast, northwest, southeast, and southwest corners of the MSG Site. Also located on the MSG Site are at–grade, pedestrian–accessible open areas surrounding the MSG Complex, as well as a mid–block pedestrian area and Taxiway, now closed, connecting West 31<sup>st</sup> and West 33<sup>rd</sup> Streets, as described in greater detail below.

The MSG Complex contains the existing MSG Arena which, pursuant to the 1963 special permit, has a maximum capacity of 22,000 seats. Supportive programming for the MSG Arena includes accessory event and performance spaces, such as the approximately 13,000–square–foot Expo Center located on the fifth level; accessory retail vendors and accessory eating and drinking establishments on multiple levels; suites; internal loading areas on the first level; internal circulation; and back–of–house and mechanical spaces. An internal loading area for Penn Station, owned by Amtrak, is also located within the building on the first level, adjacent to the MSG Arena loading area. The western portion of the MSG Complex contains the theater, which has a maximum capacity of approximately 5,600 seats. Neither the internal loading area serving Penn Station nor the theater would be subject to the MSG Arena special permit. However, all

portions of the MSG Site are governed under the site plan for the MSG Arena required as part of the special permit.

### Pedestrian Circulation

The main pedestrian access point to the MSG Complex is located at the eastern end of 2 Penn Plaza, off Seventh Avenue and opposite West 32<sup>nd</sup> Street. This access point is located directly adjacent to a large stairway and escalators which lead to the below-grade Penn Station facilities. Pedestrians arriving from Penn Station may also access the MSG Complex by stairs and escalators located within the 2 Penn Plaza building and the MSG Complex at the midblock portion of the Zoning Lot, to the immediate east and west of the Taxiway, respectively.

The primary entrances to the Arena and the theater are located at the eastern end of the MSG Complex, on the second and third levels, respectively. Pedestrians arriving at 2 Penn Plaza's Seventh Avenue frontage may access these entrances by traversing either of two weather-protected breezeways, running through the 2 Penn Plaza office building slightly above grade, and then a pedestrian bridge which spans the Taxiway at the second through fourth levels of the MSG Complex. Pedestrians arriving from Penn Station at the midblock portion of the Zoning Lot, adjacent to the Taxiway, are able to directly access the pedestrian bridge at the western end of the breezeways. Secondary pedestrian access points to the MSG Complex are provided along the perimeter of the MSG Complex. They include access points at the northwest and southwest corners of the MSG Complex, which are used primarily as exits but occasionally serve as entrances for Arena and theater events, and VIP and employee entrances located on West 31<sup>st</sup> and West 33<sup>rd</sup> Streets, respectively.

Vertical circulation within the MSG Complex, consisting primarily of the four escalator towers at the perimeter of the MSG Complex and adjacent stairs, provides pedestrians with access to the multiple levels of the Arena bowl which begins on the fifth floor.

### Mass Transportation

There are several points of pedestrian access between the MSG Complex and Penn Station. Primary access to Penn Station is provided by a large stairway and escalators at Seventh Avenue, at the eastern end of the 2 Penn Plaza property, which lead to the central east–west sub–surface corridor connecting the LIRR, NJ Transit, and Amtrak facilities and the Seventh and Eighth Avenue subway lines. This corridor is also accessible from escalators and stairs adjacent to the western end of the 2 Penn Plaza breezeways and the Taxiway. There are also entrances which directly serve the individual Penn Station facilities: entrances to the Amtrak concourse are located on the northwest and southwest corners of the MSG Site, at the intersections of Eighth Avenue and, respectively, West 33<sup>rd</sup> Street and West 31<sup>st</sup> Street; an entrance to the NJ Transit concourse is located on the NJ Transit Property; an entrance to the LIRR concourse is located on West 34<sup>th</sup> Street, to the west of Seventh Avenue; entrances to the Eighth Avenue subway lines are located at West 33<sup>rd</sup> Street, West 34<sup>th</sup> Street, and West 35<sup>th</sup> Street; and entrances to the Seventh Avenue subway lines are located at West 33<sup>rd</sup> Street and West 34<sup>th</sup> Street.

#### Vehicular Access and Traffic Conditions

There is no vehicular access to the MSG Site today other than for loading, and through curbside drop–off areas along the adjacent streets. The Taxiway, which traverses the MSG Site between West 31<sup>st</sup> and West 33<sup>rd</sup> Streets, was originally developed to accommodate two–way vehicular traffic between such streets. It was later modified to provide one–way, northbound access through the MSG Site. However, access to the Taxiway has been limited to pedestrians and loading and service vehicles since September 11, 2011 for security reasons, pursuant to a perimeter protection plan that is being implemented by the Metropolitan Transportation Authority. The MTA perimeter protection plan has been approved by the New York City Department of Transportation in the form of a revocable consent, dated February 11, 2010, and consists of permanent and temporary bollards around the perimeter of the MSG Site, as well as sally ports and security kiosks located at both ends of the Taxiway. The use of the Taxiway for loading operations is described below.

Vehicular access to the site is provided by curbside drop–off areas along Seventh and Eighth Avenues and West 31<sup>st</sup> and West 33<sup>rd</sup> Streets. In accordance with the 1963 special permit, the

portions of West 31<sup>st</sup> and West 33<sup>rd</sup> Streets immediately adjacent to the Zoning Lot were improved with lay-by lanes to accommodate vehicular traffic. Parking is not permitted within these lay-by lanes except, in certain defined areas, by MTA police, Access-A-Ride buses, and press members. Taxi stands are located on Seventh and Eighth Avenues. An additional taxi stand, located on West 31<sup>st</sup> Street and serving primarily Penn Station visitors, was closed in 2010 in connection with the current renovation but is expected to reopen following the completion of such work.

The documented auto share for visitor trips to Arena events ranges from 23 to 38 percent, for private vehicles, and 5 to 9 percent, for taxis and black cars. In contrast, the combined transit share, consisting of visitors traveling by bus, subway, commuter rail, and inter-city rail, is 50 to 61 percent. Visitors traveling by private vehicle typically arrive at the public parking facilities or on-street parking spaces located within the area surrounding the Site, rather arriving at the MSG Site directly. There are approximately 5,300 available parking spaces, in 28 parking facilities, located within approximately a quarter-mile of the Zoning Lot. There are approximately 2,400 legal on-street spaces within the same area which become open to parking at 6 PM or 7 PM.

As a result of these parking patterns and the relatively low rate of private vehicle usage as a travel mode for visiting the Arena, traffic volumes on the streets immediately adjacent to the Site are only marginally higher on days with Arena events than on days without events – and in some cases are approximately the same or lower.

### Loading

The MSG Complex contains internal loading facilities which are accessible from the Taxiway via two truck entrances, located at the northeast and southeast corners of the MSG Site. The 1963 site plan for the arena was designed to allow interior loading from these truck entrances, which provided access to an inner loading area and a ramp which accessed the arena level. Today, the internal loading facilities for the MSG Arena are accessed from the entrance located at the West 33rd Street end of the Taxiway. The internal loading facilities for Penn Station, which are owned by Amtrak, are accessed from the entrance located off the West 31st Street end of the Taxiway. 2

Penn Plaza loading operations occur within and adjacent to the east side of the Taxiway to the south of the pedestrian bridge. The portion of the Taxiway located to the north of the pedestrian bridge is also used for MSG Arena loading operations. The south end of the Taxiway is also used for parking for MTA and Amtrak police vehicles.

Since the MSG Complex was first developed, standards for arena loading have changed. Tractor trailers have increased in size, with typical truck lengths increasing from a range of 42 to 47 feet to 53 feet or, with the cab, 73 feet, and typical truck heights have increased from 12 feet 6 inches to 13 feet 6 inches. Concerts and shows have grown in number and in complexity, with greater requirements for custom lighting, sound, and stage setup and, correspondingly, increased truck volumes. In 2010, concert events at the MSG Arena required an average of approximately ten trucks, with some shows requiring 20 or more. Evolving technology for the broadcasting of sporting events has similarly resulted in increased requirements for on-site parking space for broadcasting trucks. NBA league standards require dedicated parking spaces for up to six trucks, including mobile studios, mobile satellites, and mobile generators.

These changes have resulted in adjustments to loading operations since its construction.

Delivery trucks serving the MSG Arena access the MSG Site from the West 33<sup>rd</sup> Street entrance to the Taxiway and are directed through the adjacent loading entrance into the internal loading area. However, due to a vertical clearance of 12 feet 6 inches at the loading entrance, over-height trucks (which are typically the only type of truck used for concerts and other MSG Arena events) are unable to enter the internal loading area. MSG Arena loading operations for over-height trucks are therefore conducted within the portion of the Taxiway located north of the pedestrian bridge, as well as in the paved area to the immediate west of the Taxiway and adjacent to the loading entrance. This paved area was identified as public plaza areas on the 1963 site plan and also in the 1989 Minor Modifications. Overall, this total area of the MSG Site can accommodate up to four large trucks or tractor trailers and two tour buses, or up to six TV trucks.

Trucks for Arena concert events are typically scheduled to arrive at the MSG Site at 6 AM after travelling from concerts in other cities, and start loading activities at approximately 8 AM.

Trucks for loading-intensive events may begin unloading as early as midnight if concert scheduling allows. When the on-site loading areas are insufficient to accommodate all loading vehicles for an Arena event at once – such as with large concert events – the lay-by lane along the southern curb of West 33<sup>rd</sup> Street is utilized for loading, vehicle parking and staging. In that event, the Arena obtains a permit from the Mayor’s Office of Film, Theatre and Broadcasting to temporarily close West 33<sup>rd</sup> Street beginning at midnight to allow the trucks to access the lay-by lane in an eastbound, contra-flow direction. Once a truck is on-site, forklifts and “hi-low” vehicles are used to unload it and to transport the loads through the Arena’s internal circular ramps to the event space on the fifth level of the MSG Complex. The trucks are unloaded at a rate of two and a half tractor trailers per hour.

After a concert truck has been unloaded, it exits the MSG Site at West 33<sup>rd</sup> Street. The pedestrian bridge provides a vertical clearance of approximately 11 feet 5 inches, such that trucks are unable to move directly between the northern and southern portions of the Taxiway. Trucks that have been unloaded and are no longer needed on the Site are typically moved to a layover area on Tenth or Eleventh Avenue, near the Jacob Javits Center, or to a truck stop in New Jersey. Typically, the last three trucks to unload remain on the Site to begin load-out after an event. These loading activities are orchestrated by the Arena operator so that they are conducted as early in the day as possible, as quickly as possible.

Trucks for sports events arrive at the MSG Site at around 2 AM to 3 AM and, in the case of TV broadcasting trucks, as early as 24 hours before the event. The typical need for a sports event is one broadcasting truck for each of the home team, the away team, and an international broadcast. Satellite trucks, generators, and studio trailers are often required as well. Each NBA arena is required to provide dedicated parking spaces for up to six trucks, which requirement the Site satisfies with spaces located in and immediately adjacent to the Taxiway.

Deliveries made by smaller vehicles are typically able to access the MSG Complex's internal loading area. The northern half of the loading area is used for Arena deliveries, and the southern half is owned and used by Amtrak for deliveries to Penn Station. The two spaces are separated by an overhead door which, with Amtrak's consent, is sometimes raised to allow egress for Arena trucks that are not oversize, or access for food, beverage, custodial, and other Arena deliveries through the Amtrak loading area when the northern portion of the Taxiway is occupied by a concert load-in, television trucks, or similar activities.

### Signage

There are a number of existing signs for the Arena located on the Site. A 1,536-square-foot illuminated sign for the Arena, in the shape of a marquee, is located on the MSG Complex's Eighth Avenue façade and within the interior lot portion of the Zoning Lot. This sign extends to a height of approximately 55 feet 11 inches above curb level, and was included in the 1989 Minor Modifications. The interior lot portion of the Eighth Avenue frontage also contains two 250-square-foot signs, oriented perpendicular to Eighth Avenue and facing West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street, respectively. Last, there are two 700-square-foot signs facing Eighth Avenue, located adjacent to the MSG Complex's Eighth Avenue escalator towers and almost entirely within the corner lot portions of the Zoning Lot. The Arena signs contain advertising, which is not permitted in the zoning district, and exceed the maximum surface area set forth in the Zoning Resolution. The marquee sign located on the midblock portion of the Eighth Avenue façade additionally exceeds the maximum permitted height.

In addition to the Arena signage, the MSG Complex contains a sign for the theater, located on the MSG Complex's Eighth Avenue façade with a surface area of 415 square feet, and signs for Nick & Stef's Restaurant, located on the building's West 33<sup>rd</sup> Street façade with a total surface area of 62 square feet. These signs comply with the applicable regulations of the Zoning Resolution.

### **Project Description**

The proposed arena special permit would allow the continued use and operation of the existing Arena, as described above. In addition, MSG is proposing certain changes to the existing open areas and signage on the MSG Site, as described below.

### Open Area Design

The proposed design changes to the open areas on the MSG Site would consist of improvements to the areas located at the northwest and southwest corners of the MSG Site adjacent to the Penn Station entrances; improvements to the areas located along West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street; improvements to the Taxiway; and enhanced illumination of the open areas.

The entrance areas to Penn Station at the northwest and southwest corners of the MSG Site would be visually delineated with decorative concrete unit paving, arranged in an elliptical pattern. Wayfinding signage, informational signage, and plaza identification plaques would be introduced to improve pedestrian orientation, and etched logos of the Arena and its major sports teams would be set into the pavement. Semicircular benches with LED underlighting would be installed to create seating clusters. Existing round vent structures located adjacent to the Penn Station entrances would be clad with a metal screen, depicting images associated with the Arena, and would be wrapped with additional bench seating.

MSG proposes to enliven the West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street streetscapes at the pedestrian level by adding interpretative pavement inlays commemorating significant people and events associated with the MSG Arena's history, as well as by vitrines to be installed on the facades of the MSG Complex. A metal screen with visual imagery would be installed around the portion of the Taxiway located to the north of the Pedestrian Bridge and the adjacent open areas, used for Arena loading operations, so as to visually screen and demarcate such loading areas. The portion of the Taxiway located directly beneath the Pedestrian Bridge would be enhanced with new lighting and with "Garden of Dreams" pavers that recognize contributions to the charitable Garden of Dreams Foundation.



The open areas on the MSG Site would benefit from enhanced lighting that would be installed on the MSG Complex. The exterior façade recesses of the building would be illuminated in colors that would change in relation to events taking place in the Arena. The compression ring located at the very top of the building would be illuminated in white light.

### Signage

MSG proposes to replace the existing Arena signage on the MSG Site with a state-of-the-art comprehensive and integrated signage program, designed to activate the surrounding streetscape by visually communicating the activity within the Arena to the outside. The signs would deliver varied, dynamic content to engage the public from key viewing angles, thereby giving the Arena a presence comparable to that of other urban arenas and stadiums. The signs would contain images of defining moments in the Arena's history, promotional messages for upcoming events at the MSG Complex and other venues owned or operated by MSG, sponsorship messages, and third-party advertisements (including signs of Arena sponsors displaying sponsorship messages that are classified in the Zoning Resolution as advertising signs).

MSG's materials state that promotional and advertising signs are an integral component of the business model of modern sports and entertainment venues, and point to the fact that a number of arenas and stadiums located in urban environments throughout the country, including Citi Field and the Barclays Center in New York City, have third-party advertising and/or sponsor advertising signs. In many cases, such signs are permitted pursuant to legislation promulgated specifically for such arena or stadium use or pursuant to a special agreement between the arena or stadium owner and the governmental entity having jurisdiction over such use. Thus, the prevalence of advertising signs on arena and stadium sites is, in many cases, the result of targeted policy-making that recognizes the special character of an arena or stadium use.

The proposed signs would consist of 20 mm LED display panels on the building's escalator towers, a 20 mm LED media wall on the building's Eighth Avenue façade, and non-digital pedestrian-level vitrines incorporated into the lower facades of the MSG Complex's West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street frontages. The 20 mm LED signs would provide high-quality video

with uniform color, optimized for multiple viewing angles and distances. The display panels on the four escalator towers would have surface areas of no more than 3,000 square feet each and would extend to a height of 80 feet above curb level. The Eighth Avenue media wall would consist of a series of different-sized display panels forming a band along the building's Eighth Avenue façade, with a height of 18'-8" and a width of 230'-0", and wrapping around the façade's northern and southern ends, with end panels of 18'-8" by 26'-6". The media wall would have a total surface area of approximately 5,300 square feet, if portions of the band occupied by masonry rather than an LED display panel are included, or approximately 4,000 square feet, if such portions are not included, and would extend to a height of 52 feet 2 inches above curb level. Content for the tower display panels and the media wall would include promotions for upcoming events, images of defining moments in the Arena's history, and third-party advertising (including sponsorship messages). The vitrines on the lower facades of the building would not be digital and would contain event promotions and images of historic moments.

### **Actions Necessary to Facilitate the Proposal**

MSG seeks the following actions in connection with the operation of the Arena:

#### Section 74-41 Commission Special Permit (130139 ZSM)

An arena, auditorium, stadium or trade exposition with a capacity in excess of 2,500 seats is not permitted as of right within any zoning district. In C4, C6, C7 or C8 districts or any manufacturing district, the Commission may allow such use by a special permit pursuant to Section 74-41 of the Zoning Resolution. Because the 1963 special permit expired on January 24, 2013, a new special permit is needed for the continued use and operation of the Arena. The MSG Arena would continue to host sports, entertainment, cultural, civic, and political events and would continue to have a maximum capacity of 22,000 seats. The MSG Complex, which includes the Arena as well as the theater and a Use Group 6 retail establishment, would have a total floor area of 987,243 square feet.

#### Text Amendment to Sections 37-625, 74-41 and 93-17 (N 130137 ZRM)

The proposed design changes to the open areas on the MSG Site would consist of improvements to the areas located at the northwest and southwest corners, adjacent to the Penn Station entrances; improvements to the areas located along West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street; improvements to the Taxiway; and enhanced illumination of the open areas, as described above. The design changes would also include accessory directional and building identification signs within the open areas surrounding the MSG Complex. The proposed design changes would affect all of the pedestrian-accessible open areas on the MSG Site, including both the existing plazas to remain and the open spaces to be eliminated as plazas pursuant to a concurrent Section 37-621 Commission chair certification (N 130138 ZCM).

Pursuant to the existing language of Section 37-625, design changes to existing plazas require a certification by the Chairperson of the Commission that such changes bring the plazas into greater compliance with the current standards for public plazas. The proposed text amendment to Sections 37-625 and 74-41 would instead allow the Commission to regulate the design of pedestrian-accessible open areas – including, but not limited to, existing plazas – as a condition of the grant of a special permit pursuant to Section 74-41. In connection therewith, and within Subarea B4 of the Special Hudson Yards District, the text amendment would allow the Commission to approve design changes to existing plazas without a certification by the Chairperson of the Commission.

The proposed signs for the Arena exceed the maximum surface area and height limitations applicable within Subarea B4 of the Special Hudson Yards District and would contain third-party advertising (including sponsorship) messages, as described above. The proposed text amendment to Section 93-17 would create a special permit pursuant to new Section 93-171 by which the Commission could modify Sections 32-63 (Permitted Advertising Signs) to allow advertising signs, 32-64 (Surface Area and Illumination Provisions) to allow increased surface area of signs along specified streets, and 32-65 (Permitted Projection or Height of Signs) in connection with an arena permitted pursuant to a Section 74-41 arena special permit. Separate conditions would be set forth for signs located at or above a height of 12 feet above a curb level and for signs located below such height, regulating the location, height, and total surface area of

such signs. The required findings for the special permit would ensure that the location and placement of such signs have an appropriate relationship to buildings and uses on the Zoning Lot and in the surrounding area. In the case of third-party advertising (including sponsorship messages), the findings would further require that such uses be compatible with the character of the Zoning Lot and of the surrounding area.

#### Section 93-171 Commission Special Permit (130140 ZSM)

As described above, the proposed signs for the Arena would consist of 20 mm LED display panels on the MSG Complex escalator towers, a 20 mm LED media wall on the building's Eighth Avenue façade, and non-digital pedestrian-level vitrines incorporated into the lower facades of the building's West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street frontages. These signs require a special permit pursuant to Section 93-171, as herein proposed.

The display panels on the four escalator towers would have surface areas of no more than 3,000 square feet each and would extend to a height of 80 feet above curb level. The Eighth Avenue media wall would have a total surface area of approximately 5,300 square feet, if portions of the band occupied by masonry rather than an LED display panel are included, or approximately 4,000 square feet, if such portions are not included, and would extend to a height of 52 feet 2 inches above curb level. Content for the tower display panels and the media wall would include promotions for upcoming events, images of defining moments in Madison Square Garden's history, and third-party advertising (including sponsorship messages). The vitrines on the lower facades of the building below 12 feet would not be digital and would contain event promotions and images of historic moments.

The signs located above a height of 12 feet would contain advertising content, currently not permitted under Section 32-63, and would not comply with the 40-foot height limitation set forth in Section 32-65. The signs located both above and below a height of 12 feet would not comply with the total surface area limitations set forth in Section 32-64. Therefore, a special permit pursuant to Section 93-171, as herein proposed, is needed to modify such sections to allow the proposed signs.

## **ENVIRONMENTAL REVIEW**

The proposed action under C 130139 ZSM is classified as a Type II action pursuant to 6 NYCRR Part 617 , Section 617.5 (c) (34) and 62 RCNY Section 6–04(c). See also ECL Section 8–0111, subd.5.

The related actions (C 130140 ZSM, N 130137 ZRM) were reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 13DCP053M. The lead agency is the City Planning Commission.

After a study of the potential environmental impacts of the related actions, a Negative Declaration was issued on December 17, 2012. On May 22, 2013, a Revised Negative Declaration was issued which reflects the modifications by the City Planning Commission, as described below, and adopted herein.

## **UNIFORM LAND USE REVIEW**

This application (C 130139 ZSM), in conjunction with the application for the related action (C 130140 ZSM), was certified as complete by the Department of City Planning on December 17, 2012, and was duly referred to Community Board 5 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2–02(b) along with the related action (N 130137 ZRM) which was referred for information and review in accordance with the procedures for non–ULURP matters.

## **Community Board Public Hearing**

Community Board 5 held a public hearing on this application and related actions on February 14, 2013, and on that date, by a vote of 36 in favor to 0 opposed and 1 abstaining, adopted a resolution recommending disapproval of the application subject to the following conditions:

1) The length of the special permit is restricted to a 10–year period in order to allow for careful plan to be developed for the future of Penn Station and Madison Square Garden recognizing that Penn Station is the most important transportation hub in North America and is desperately in need of improvements to capacity, access, and overall experience. MSG is the oldest stadium in the NBA and the NHL and ultimately CB5 believes a new stadium for MSG will be in its long term interests but more importantly in the long term interests of the tens of millions of people who travel through Penn Station every year and in the long term economic development interest of surrounding property owners, New York City, and the region as a whole. Based on the findings of the special permit CB5 does not believe that “due consideration has been given to the proximity of bus and rapid transit facilities to serve such use”. Furthermore, the Board recognizes that the zoning text allows the City Planning Commission to prescribe appropriate conditions and safeguards to minimize adverse effects. This request is the most important piece of this application and CB5 cannot think of more important safeguard for the future of our transportation system than to restrict the MSG special permit for 10 years in order to allow a careful plan to be developed working with all of the stakeholders.

2) Signage is limited to what is permitted by the underlying regulations – no waiver should be granted. A careful reading of the zoning resolution suggests that some of the existing signage on MSG is not in compliance with the underlying zoning rules so CB5 urges MSG to remove any non–complying signage and encourage the Department of City Planning to notify the Department of Buildings of any violations. CB5 is also concerned about the visual impact of new illuminated signage on the adjacent residential buildings and the landmark Farley Post Office across the street. Furthermore, CB5 recognizes that Eighth Avenue is an entrance to Penn Station and Amtrak in particular and not MSG and additional MSG advertising signage would likely confuse travelers and make this neighborhood even more difficult to navigate for tourists and commuters alike. As DOT launches a wayfinding program it is critical that the City does not undercut its own initiatives by permitting additional signage clutter and confusion. In addition, any new wayfinding signage should be harmonized with DOT’s proposed wayfinding proposals and New York City Transit signage. Additional public transit signage above and beyond what is allowed under the current zoning would be something the Board would be open to if presented with that request; and

3) The elimination of the tax abatement on the Madison Square Garden site. CB5 understands that in 1982 a property tax abatement was granted to Madison Square Garden and in 2012 cost NYC \$16.5 million dollars in lost revenue and over the life of the tax abatement has cost New York City approximately \$350 million dollars. We support the measure adopted overwhelmingly by the City Council in 2008 to reconsider this windfall given to the Garden and urge the State Legislature to correct this mistake. We also urge the City Council to re–affirm its support for this critical issue. It is our understanding that the Garden is one of the few sites in New York City

that has a property tax abatement in perpetuity and given our constrained municipal budgets we believe now is the time to re-evaluate this measure.

4) The Penn Station Visioning team – LIRR, NJ Transit, and Amtrak, working with AECOM and James Carpenter Design Associates – has suggested some useful improvements to the circulation in and around Penn Station. CB5 looks forward to continuing to work with them to develop these ideas and we urge the Department of City Planning and Department of Transportation to engage in a constructive dialogue to ensure that no improvements that are recommended by the Penn Station Visioning Study – particularly with respect to improved ingress/egress to Penn Station — be precluded as a part of the approval for MSG.

At the request of the Borough President and Community Board 5, Community Board 4 held a public hearing on this application and related actions on February 6, 2013, and on that date, by a vote of 37 in favor to 0 opposed and 0 abstaining, adopted a resolution recommending:

On the Arena special permit Term – “the term of the special permit be set so as not to interfere with future improvements to Pennsylvania Station, which most certainly means not in perpetuity.”;

On signage – “CB4 strongly recommends that the requested changes to the sign regulations within the Pennsylvania Station Subarea B4 of the Special Hudson Yards District be denied, and that all signage be in compliance with existing regulations.”;

On plazas – “CB4 recommends that the plazas be optimized to handle Pennsylvania Station traffic.”

### **Borough President Recommendation**

This application, in conjunction with the related actions, was considered by the Borough President, who issued a recommendation disapproving the application for the arena special permit (C 130139 ZSM) and signage special permit (C 130140 ZSM) with the following conditions on March 27, 2013:

1. a term limit of no more than 10 years is included on the Arena special permit in order to reevaluate the application based on future circumstances;
2. the city begins a process to comprehensively plan for changes needed around Penn Station, including the creation of a new special district; and

3. the proposed signage program is amended to remove or significantly reduce the digital signage along Eighth Avenue.

In addition, the Borough President recommended approval of the text amendment (N 130137 ZRM) and associated Chair certification (N 130138 ZCM) with the following conditions:

1. Madison Square Garden imagery is removed from the plaza designs in the vicinity of Penn Station entrances;
2. the loading dock screen is altered to maximize public space and efficient pedestrian circulation;
3. the applicant explore adding greenery to the public plazas, potentially in the form of a living wall; and
4. the conditions under which the CPC regulates public areas around the arena are made both more explicit and more flexible in order to allow future transit improvements to be built on the plazas by CPC Chair certification.

### **City Planning Commission Public Hearing**

On March 20, 2013 (Calendar No. 1), the City Planning Commission scheduled April 10, 2013 for a public hearing on this application (C 130139 ZSM). The hearing was duly held on April 10, 2013 (Calendar No. 24), in conjunction with the public hearing on the applications for the related actions.

At the hearing the testimony was generally divided into two opposing views, with a particular focus on the arena special permit and the need for a term of years. In general, views were expressed that MSG meets the legal requirements of the special permit today and that it should be granted in perpetuity like most other recent Commission permits; further, that MSG has neither caused nor is hampering the ability to improve Penn Station, and that such improvements would not be fostered by a term. The contrasting view was that the needs of Penn Station should take priority in this review and that a permit in perpetuity would forestall the ability to make necessary improvements to Penn Station moving forward. Each of these positions is described in more detail below.



Representatives for MSG, including their attorneys, designers, as well as executives from the company gave testimony and answered questions on a number of topics. They described the overall proposal, and described the ongoing self-funded major renovation of the Complex. They testified that the Arena meets the findings of the special permit and, in their view, that it should be granted in perpetuity as most other special permits have recently been. They expressed understanding about the need to upgrade Penn Station, and noted that there is a continued dialogue with the Railroads on their planning efforts, but expressed the view that the MSG special permit application and Penn Station improvements are unrelated. They argued that, as the only private owner on the site, they were being unfairly treated in the special permit process when the need to improve Penn Station was the responsibility of the Railroads and other government entities, not theirs. Additionally, they noted their earlier efforts to locate the arena to other sites, and that they would consider moving again if it made sense from a business point of view.

MSG's representatives raised a number of legal and economic concerns regarding proposals to restrict the special permit to a term of years. They testified that, in their view, the imposition of a term would be an arbitrary departure from long-standing Commission policy, and was an attempt to use the regulatory process as leverage to force MSG to abandon its home in order to expand Penn Station. In their view, the term would not facilitate improvements to Penn Station insofar as MSG – under the Zoning Resolution, – would continue to have the ability to use the current structure for other uses as well as to develop new as-of-right uses without having any obligation to improve the station. Additionally, they raised two other strong concerns about the term of 10 years suggested by others: first, that a 10-year term would not allow MSG time to amortize its recent investment in the Arena; and second, that it would harm their ability to secure commitments for long-term events like the NCAA tournament.

A number of questions regarding the loading of the MSG complex were addressed. The MSG representatives agreed that the current loading has constraints, but that it was choreographed so as to be highly efficient, and to have as minimal effect on the surrounding areas as possible. In response to questions why the recent renovation did not look to improve loading on the site, they

noted that MSG was a business and that the decision to renovate the interior of the MSG complex was done so as to remain competitive as an arena, and that improvements to loading were not necessary in order to remain competitive. They also noted that such improvements would likely require major structural changes to the MSG Complex and be extremely expensive.

MSG's representatives also described the planned exterior improvements, including the signage and open space improvements. In their view, the new signage, including advertising and sponsorship messages, is a feature of contemporary stadiums and arenas throughout the country, including in New York City, and that it is needed in order for MSG to remain competitive.

A number of business groups also spoke in favor of MSG and the approval of a special permit in perpetuity. A representative of The Real Estate Board of New York spoke of the Garden's importance to New York, and noted the self-funded billion dollar improvement currently underway at the arena. The representative testified that the 10-year time period advocated by others with the goal of building a new Penn station could ultimately cost the city and its taxpayers by injecting uncertainty into the business climate that would stifle economic growth. A representative of the Partnership for New York City spoke about the more than half a billion dollars in economic activity generated by MSG annually and the arena's role as a driver of the City's tourist industry. The representative stated that rejecting or limiting the special permit application in the interest of plans for future development at Penn Station for which there is no current funding or realistic timetable would be unfair to MSG and send the wrong message to the business community. In particular, the representative noted the 10-year term proposal described would hamper MSG's ability to effectively plan for long-term events and programming with such a limit.

A representative of the Building and Construction Trades Council of Greater New York testified that the grant of a special permit limited to 10 years would not bring together the confluence of favorable circumstances necessary for alternative uses of the site and improvements to Penn Station to advance. The representative noted that MSG has effectively been operating with a 10-year term for the last decade and that this has neither positively nor negatively affected efforts to

re-imagine the future of the site. The representative further stated that the organization would be in favor of major improvements to Penn Station and recognizes that this would increase construction jobs, but that they did not believe a term would advance those goals.

In addition, the State Assembly member for the area including the MSG site testified in support of the proposal, stating that while Penn Station improvements are needed the lack of implementation was not MSG's fault. He noted in particular that a 10-year term would accomplish little and that MSG would be left with an un-amortized investment in the building. He suggested that a more reasonable length of time would be in the 25-30 year range. He did, however, believe the signage proposal should be more limited given the context of the area.

Representatives from a number of local businesses spoke about MSG as a good neighbor and described how the arena contributes to the economic vitality of the overall area and their individual businesses. Many further stated that a special permit term would cause uncertainty which would negatively affect their businesses and the local economy.

A number of civic organizations advocated for a special permit limited to a 10-year term. These included the Regional Plan Association, the Municipal Arts Society, Friends of Moynihan Station, the New York chapter of the AIA, and the Historic Districts Council. This view was supported by a number of transit advocates, historians and other interested citizens who spoke about the demolition of the original station, the issues with the current Penn Station, and the need for a new civic gateway for New York. A number of those who spoke in favor of the term saying it would either force or facilitate the relocation of the MSG Complex, and allow for the development of a new Penn Station. Many speakers acknowledged the complex effort that would be necessary to undertake a relocation and the building of a new Penn Station, but asserted that the 10-year term timeframe would give the various stakeholders enough time to develop a plan and begin the process of moving the Arena.

The President of the RPA noted that a term would send a message to MSG and to public officials that the continued location of the Arena over Penn Station should not be permanent and that a

new and expanded station is urgently needed to meet the mobility and economic needs of the City and region. He described some of the current issues with the station and argued that a 10-year term would initiate the process of building a new station on the site with the arena moved to another location. He explained the rationale for the 10-year term as related to the timing for a number of planned transportation projects in Midtown being completed by 2023 which would lower traffic volumes in the station and afford a window of time to permit the phased construction of a new station on the site. The executive director of MAS reiterated these points, testifying that Penn Station serves a vital public purpose and that the crux of the issue before the Commission is whether the advantages of permitting granting the special permit in perpetuity outweigh the burdens.

The Director of Land Use for the Manhattan Borough President reiterated the Borough President's recommendations, in particular that a 10-year term is an appropriate time period by which the Commission would be able to reevaluate the situation around the station, and for the various parties to undertake a master planning process for the area. The executive director of the AIA reiterated this proposal.

Representatives from Community Boards 4 and 5 reiterated the recommendations of their boards, including concerns about the proposed signage and the need for an arena special permit with a term of years to allow for future improvements to Penn Station. The State Senator representing the area immediately surrounding the MSG site echoed Community Board 5's recommendation that the special permit be limited to 10 years and that the proposed signage is not suitable for the neighborhood.

The Commission received testimony from the three Railroads (LIRR, NJ Transit, AMTRAK) which operate in Penn Station. The letter noted the current challenged state of the "makeshift underground station" they operate in and that they expect the situation to worsen without improvements, as demand for access into Midtown continues to grow. They described their ongoing Penn Station Vision Study (Penn Vision Study) for the station to address these issues and to create a roadmap for incremental and longer-term improvements to the station by 2035.

They asked the Commission to consider the preliminary findings and recommendations of the study, and that the special permit process facilitate and preserve opportunities to implement transportation improvements. In particular, they asked that MSG be required to make available, without compensation, portions of the MSG plaza areas to accommodate future station entrance structures and/or daylighting features to be constructed over time. They also noted that that MSG's request to fence the northern portion of the taxiway could impede station access and the ability to make long-term improvements for the station in that area. As such, they asked that the proposed fencing allow for future modifications for access improvements, and that its design create a welcoming pedestrian environment for Penn Station users and access to the midblock-entrance. Finally, they noted the difficulty that users already have in locating the 8<sup>th</sup> Avenue Penn Station entrances and expressed concern that larger signs, as proposed by MSG, could exacerbate this problem.

The Commission also received testimony from the Moynihan Station Development Corporation, which is responsible for the conversion of the Farley building into Moynihan Station. The letter expressed concerns regarding MSG's proposed signage and asked that the Commission take a measured approach to signage plan that could affect the character of the area. In particular, they were concerned that new illuminated signs – particularly, those with moving color imagery – could overwhelm the historic Farley building façade and the lighting recently installed on the historic building and its interior spaces. They also questioned whether advertising content would create a desirable environment for the landmark building and its future role as a major gateway to the City, as well as the surrounding neighborhood. In particular, they asked that no illuminated signage be permitted along the 8<sup>th</sup> Avenue flat façade portions and that signs on the 8<sup>th</sup> avenue corners be reduced in size so as to not dwarf the signage for Penn Station or compromise the historic Farley building façade.

The Commission also received several hundred letters from interested individuals regarding the application, as part of a letter writing campaign sponsored by MAS and the RPA. These letters requested that the Commission include a term of years on the special permit to allow for the development of a new Penn Station.

## **CONSIDERATION**

The Commission believes that the grant of this arena special permit (C 130139 ZSM), as well as the related actions (N 130137 ZRM, C 130140 ZSM), as modified herein, is appropriate.

The Commission believes this application raises a series of fundamental planning and land use issues for the City given the location of the MSG Complex – directly above Penn Station – the most important rail facility in the region and a facility that is vital to the economic success of the Midtown business district. While the Commission is well aware of the history of this site and how Penn Station was demolished to make way for the MSG Complex through a 1963 Commission special permit, the purpose of the current public review for a new special permit is not to unwind this history, nor is this possible in any event. Rather, the focus of the Commission’s review is on conditions at the site today and in the future, taking into account the importance to the City of both MSG and Penn Station.

The Commission recognizes that the MSG Complex is an iconic sports and entertainment venue and important economic generator for the City. Known globally as the world’s most famous arena, it is one of those places that defines New York. The Commission believes that considerations about the Arena’s future are also important to the continued success of Midtown. The Commission further notes that MSG, at its own expense, has made a substantial investment in interior renovations that improve the look and feel of the facility for its patrons and give the City a reinvigorated entertainment venue in the heart of the business district.

However, the Commission believes the unresolved relationship between these two major uses represents one of the most critical planning problems of the City and region and its resolution will be necessary to facilitate the long-term growth of Midtown and, therefore, the continued vitality of the City’s overall economy. As discussed further below, the Commission also believes that addressing the relationship between MSG and Penn Station is directly relevant to its decision regarding the special permit.

Given the importance of the issues, the Commission was pleased by the vigorous and engaged public debate and discussion surrounding this application. The Commission benefited from the views of MSG, the public, civic organizations, industry groups, the community boards and the Borough President in reaching its decisions on the matters before it. The Commission's consideration of this application and the related applications are described separately below.

Section I below considers the current applications. Section II considers the issue of whether the grant of the requested arena special permit should be made subject to a term of years. Section III discusses the modifications to the arena special permit which add a term of years. The Conclusion is set forth in Section IV.

## I. THE CURRENT APPLICATIONS

### A. Arena Special Permit Under Section 74-41 And Section 74-31(a)

The Commission believes that the MSG Arena today meets the specific findings for an arena, auditorium or stadium with a capacity in excess of 2,500 seats under Section 74-41. The findings for this special permit predominantly deal with vehicular access to the arena. The Commission believes that the Arena's location in Midtown Manhattan at a transit hub is, in many respects, optimal for a use which generates a high volume of patrons.

The Commission notes that the Arena would continue to host sports, entertainment, cultural, civic, and political events and would continue to have a maximum capacity of 22,000 seats. The MSG Complex, which includes the Arena as well as the theater and a Use Group 6 retail establishment, would continue to maintain its existing total floor area of 987,243 square feet.

#### *The Arena Findings*

The Commission agrees that the principal vehicular access points for the Arena are found on major streets, with the MSG Site surrounded by north/south avenues and major Midtown east/west streets. The principal vehicular access to the Arena consists of curbside drop-off areas on the portions of Seventh Avenue, Eighth Avenue, and West 31st and West 33rd Streets located immediately adjacent to the Zoning Lot. Taxi stands are located on Seventh and Eighth Avenues,

and on West 31st Street. The portions of West 31st and West 33rd Streets which abut the Zoning Lot are improved with lay-by lanes to accommodate additional vehicles from these streets as well as delivery trucks. The site itself does not contain any public or accessory parking spaces, and it is not accessible by vehicles other than for loading or service.

The Commission notes that the original 1963 special permit and 1989 Minor Modifications included a midblock Taxiway which traversed the site between West 31st and West 33rd Streets that once served as a principal means of vehicular access to the MSG Complex, Penn Station and the adjacent 2 Penn Plaza office building. Access to the Taxiway has been limited to pedestrians and loading and service vehicles since September 11, 2001 for security reasons and is required to remain so limited by a perimeter protection plan that is being implemented by the MTA. This closing was never reviewed or approved by the Commission, and is discussed further below.

The Commission also agrees the use is located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas. The Commission notes that the area surrounding the site is predominately commercial in character. The nearest residential uses are located in a small area of mid-rise buildings along Eighth Avenue and West 30th Street, to the southwest of the site; further, only a small number of residential buildings are located within a 400-foot radius of the site. Neither these, nor any of the other streets within the vicinity of the Arena are considered local streets.

The Commission agrees that the use is not located within 200 feet of a Residence District. The Commission notes that the nearest residence district to the site is an R8B zoning district, the northern and eastern boundaries of which are located on the southern midblock portion of the block bounded by West 31st Street, Eighth Avenue, West 30th Street, and Ninth Avenue. The site is located more than 200 feet from this residence district.

As described above, the current configuration of the site does not include vehicular entrances or exits, nor is public or accessory parking provided on the site. The Commission agrees that the absence of vehicular entrances and exits on the site does not significantly impact traffic



congestion. The applicant's materials state that traffic volumes on the streets adjacent to the site are only marginally higher on days with Arena events than on days without events. Visitors to the Arena who travel by private vehicle typically use one of the multiple public parking facilities or on-street parking spaces located within the vicinity of the site, and visitors who travel by taxi use the designated drop-off areas on Seventh and Eighth Avenues or, less frequently, the lay-by lines on West 31st and West 33rd Streets. The lay-by lanes were developed pursuant to the 1963 special permit as reservoir spaces for the Taxiway and, now that access to the Taxiway is limited to loading and service vehicles, continue to serve such a function with respect to loading operations.

The Commission notes that due consideration has been given to the proximity of bus and rapid transit facilities to serve the use, and that the arena use is well served by mass transit with several bus and rapid transit facilities located within the immediate vicinity of the MSG Site. The Zoning Lot is located directly above Penn Station, a major transit hub with stations for Amtrak, LIRR, NJ Transit, and the Seventh and Eighth avenue subway lines. Direct pedestrian access between the MSG Complex and Penn Station is provided, including a large stairway and escalators located off of Seventh Avenue, which lead to the central east-west corridor connecting the commuter rail facilities and the subway lines. This corridor is also accessible from escalators and stairs located adjacent to the 2 Penn Plaza breezeways and the Taxiway. Secondary entrances directly serving the individual rail and subway facilities are located throughout the area.

The MSG site is also served by the 34th Street-Herald Square subway station complex, located one block to the east, which serves the Broadway and 6<sup>th</sup> Avenue subway lines and the PATH trains to New Jersey. Bus stations for the M4, M7, M20, and Q32 routes are located within the immediate area. There are also bus stops for regional bus lines within the vicinity. The applicant's materials describe how the proximity of the site to these transit systems has facilitated the heavy use of such facilities by visitors to the Arena and that mass transportation is the most frequent mode of travel for visitors to Arena events. Commuter rail services account for a range of 22 to 37 percent of trips, subways for a range of 18 to 35 percent of trips, and buses for a range of 1 to 4 percent of trips.

### *The General Finding*

While all findings of Section 74–41 are met, the Commission must, in addition, find under Section 74–31(a) that the “...hazards or disadvantages to the community at large through the location of such use at the particular site are outweighed by the advantages to be derived by the community from the grant of such special permit use”. MSG has argued that this finding is satisfied simply by virtue of the fact that the arena is sited at a transit hub, and the Commission agrees that this is in fact one of its chief ‘advantages’. However, whether use of the site as an arena is appropriate does not end there. Under the special permit, the MSG Arena operates pursuant to a fixed site plan, and the elements of that site plan are largely the measure by which the ‘advantages’ and ‘disadvantages’ of the arena use at the site should be measured for purposes of Section 74–31(a). As discussed in greater detail below, the site plan, largely unchanged since 1963, poses a number of challenges both in terms of how MSG operates and in how it fails to accommodate adequate entrances and exits to Penn Station below. See discussion at pp. 42-49. As discussed below, the Commission believes that, should there be no plan to relocate MSG in the coming years, MSG and the Railroads must work together to achieve the integration of at-grade transportation improvements on the MSG Site in order to improve access to and egress from Penn Station. In the event that the parties do not reach agreement, a term of years is necessary to ensure that the finding under Section 74–31(a) is satisfied. See discussion at pp. 49-63.

### *Site Plan improvements*

Nevertheless, the Commission believes the improvements to the at-grade public space around the MSG Complex proposed by MSG are appropriate, as modified. The Commission notes that the related text amendment allows the arena site plan which is part of the special permit application to regulate the design of these spaces on the site. As part of the proposal, MSG has proposed to install new seating, paving and way-finding elements in the public spaces around the MSG Complex, as well as screening of its loading operations on West 33<sup>rd</sup> Street. The Commission believes the proposed improvements, while modest, would increase somewhat the usability and attractiveness of these spaces for MSG patrons, Penn Station users and the general

public. While issues remain with regard to the identification of the site as the home of Penn Station, particularly along Eighth Avenue, the Commission is pleased that after the public hearing MSG proposed a series of modifications to their plans to better accommodate the needs of Penn Station users, including removal of MSG and team logos from the plazas, and more comprehensive way-finding signage in these spaces. In addition, the modifications to the proposed screen surrounding the MSG loading area will increase the visibility of the midblock Penn Station entrance.

#### B. Public Spaces and Signage Text Amendment to Sections 37-625, 74-41 and 93-17

The Commission believes the text amendment, as modified herein, is appropriate. Each portion of the text amendment is described separately below.

##### *Public Spaces – Sections 37-625 and 74-41*

The Commission notes that the proposed renovation of the MSG Complex includes a series of improvements to the at-grade public spaces around the block and further notes that such changes affect portions of the site that are considered bonusable plazas, as well as non-bonusable open areas intended to remain. The Commission also notes that the open areas around the MSG Complex are not typical privately-owned public space plazas, given their overall configuration and extremely high pedestrian volumes, and believes that the design of improvements to these spaces should take their use into account. Given this, the Commission believes the proposed text amendment to Sections 37-625 and 74-41 is appropriate as it would allow for the Commission to regulate the design of pedestrian-accessible open areas—including, but not limited to, existing plazas—in a coordinated fashion as a condition of the grant of an arena special permit pursuant to Section 74-41. This would allow all of the spaces on the site to be governed by the site plan required for the arena special permit use, and avoid the situation where some of the spaces are governed by the plaza regulations while others are not. The Commission believes that the text amendment would allow for greater design flexibility for these public spaces around the site in a manner reflective of their location and high pedestrian volumes. The text amendment would also more easily accommodate future Penn Station access points, as discussed in greater detail below.

*Signage– Section 93–17*

The Commission also believes that the text amendment to allow modifications to signage regulations affecting area, size and content by special permit within Subarea B4 of the Special Hudson Yards District, which encompasses the MSG Site, is appropriate as modified.

The Commission notes the unique condition at the site, which is occupied by a large arena structure, and acknowledges the limitations posed by the underlying C6–4 signage regulations which are designed for buildings with smaller frontages. The text amendment would permit increases to the size, height and projection of signs on the arena which would more appropriately reflect its size and prominence on the block.

As certified, the text amendment would also allow for advertising signs, including signs with messages from arena ‘sponsors’. While the Commission heard testimony from MSG that sports arenas throughout the country are often permitted advertising signage on their facades and that such signage is part of the contemporary business model for sports arenas, the Commission believes that the determination whether advertising signage is appropriate at the MSG Arena’s location must be based on land use considerations and must take into account its location. Advertising signage in Midtown is restricted to only very limited areas, particularly Times Square and the Penn Center area along Seventh Avenue; elsewhere in Midtown, accessory signage only is permitted. While the MSG Complex abuts the Penn Center area, the Commission does not believe the spread of additional advertising onto the MSG Site is appropriate. The Commission notes that both West 31<sup>st</sup> and West 33<sup>rd</sup> Streets west of Seventh Avenue are narrow streets and do not share the same character as wider, busier Seventh Avenue where such advertising signage is permitted. Even in Times Square, where advertising signage predominates, this signage type is concentrated along the wide streets of that area, not the narrower side streets. The Commission also notes that the character of the individual streets make them inappropriate for the proposed advertising signage. Neither street sees heavy pedestrian traffic like other streets where advertising signage is permitted in Midtown. On its northern side, West 33<sup>rd</sup> Street contains high–density mixed–use development, and no advertising signage is permitted there beyond the Seventh Avenue frontage. On its southern side, the West 31<sup>st</sup> Street frontage is zoned

as a manufacturing district where advertising signage is permitted, but cannot include illuminated or flashing signs. The Commission further believes that the character of the Eighth Avenue frontage is not appropriate for advertising signage, predominantly because of the adjacent Farley building across the avenue, a historic landmark building and the intended future home of Amtrak's Moynihan Station.

The Commission recognizes that MSG has agreed that there should be no 'third-party advertising' at the site, and would be willing to restrict non-accessory signage to 'sponsor messages'. The Commission further understands that, from the perspective of MSG, the business relationship between MSG and a 'sponsor' may be different from the relationship between a property owner and a party that rents advertising space on a sign. However, from the perspective of land use regulation, third party advertising and 'sponsor messages' are no different, and to the viewer the two types of signs are largely indistinguishable, except for the potential inclusion of a statement on the advertising copy that the advertiser is a 'sponsor'. In view of the foregoing, the Commission modifies the text amendment herein to remove the provision allowing advertising signage in Subarea B4 subject to a special permit. A full discussion of MSG's special permit proposal is included below.

### C. Signage Special Permit Under Section 93-171

The Commission believes the special permit application is appropriate, as modified herein. The Commission notes that the proposed signs for the Arena would consist of 20 mm LED display panels on the MSG Complex escalator towers, a 20 mm LED media wall on the building's Eighth Avenue façade, non-digital pedestrian-level vitrines incorporated into the lower facades of the building's West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street frontages, and other small non-digital pedestrian-level signs. These signs require a special permit pursuant to Section 93-171, as modified above, to modify the size and location standards of the underlying signage regulations.

The Commission heard testimony and received written submissions from the Community Boards, the Borough President and MSDC expressing concerns about aspects of the proposed

signs, with a particular emphasis on the Eighth Avenue façade across from the Farley building. The Commission has considered these issues and hereby modifies the proposal as described below.

The Commission is modifying the special permit application to decrease the surface area of the four escalator tower signs from 44 feet by 66 feet, as originally proposed, to 44 feet by 44 feet. Additionally, the Eighth Avenue tower signs would only be permitted to be installed if additional Penn Station/Railroad signage is installed below the requested MSG signage, in order to create an appropriate size relationship between MSG signage and Railroad signage. Further, the video wall proposed for the Eighth Avenue façade would instead be restricted to a single sign comparable in size and function to the existing MSG marquee on that frontage. It should be noted that while the current marquee extends approximately 8 feet into the Eighth Avenue sidewalk, the proposed sign may pursuant to zoning only extend 18 inches beyond the property line. With these modifications, the Commission believes that the scale of the proposed signage would not conflict with Penn Station on the MSG Site, the surrounding midblock areas, with the Farley building across Eighth Avenue.

As certified, the special permit application contemplated the use of moving video images, a form of “flashing” sign. While flashing accessory signs are permitted pursuant to the underlying C6-4 regulations, the Commission does not believe moving images are appropriate at the scale and height of the signs proposed by MSG, given the location of the signage adjacent to the Farley building and above Penn Station. Accordingly, the sign images will be required to remain ‘static’ for a minimum of 90 seconds, with a gradual fade out and fade in of another image. Given the need to display more-varied information regarding events, images on the Eighth Avenue marquee would be allowed to remain ‘static’ for a shorter period of a minimum of 15 seconds, followed by a gradual fade out and fade in to another image. In all cases, the signage content would be limited to accessory signage, i.e., related to the MSG Complex, events scheduled there, and its resident professional teams. The Commission notes that where an event, such as a concert, has a corporate sponsor, display of the corporate sponsor’s name and logo as part of the event signage may qualify as accessory signage, provided that the sponsor name and logo do not

predominate. This type of event sponsorship is distinct from the type of sponsorship signage discussed above.

The Commission believes these modifications allow for an appropriate comprehensive signage plan for MSG taking into account its unique location, including the uses and adjacent open areas on the Zoning Lot, as well as the site's use as an entryway to Penn Station. In particular, the Commission believes that with these modifications, the signage plan addresses the various comments and concerns relating to signage on the Eighth Avenue façade facing the Farley building.

## II. SHOULD THE ARENA SPECIAL PERMIT HAVE A TERM?

During the public review for the project, the Commission heard a great deal of testimony regarding the need to include a term of years for the arena special permit – as was done in 1963 – given the need to improve Penn Station. While MSG's application proposes a special permit without a term, a number of civic groups, Community Board 5 and the Borough President recommended a 10-year term for the permit. The Commission has been advised by the Office of Counsel to the Department of City Planning concerning the use of terms of years for special permits, and has considered in detail the issues affecting Penn Station which have prompted the request by many to approve the permit with a term of years. The Commission's consideration of these matters is set forth below.

The Commission notes that Section 74-31(e) of the Zoning Resolution provides that "the Commission may authorize any special permit use for such term of years as it deems appropriate." It is clear that the Commission has authority to grant special permits subject to a term of years. However, the provision itself does not answer the question of what the purpose of a term is, and when the use of a term is appropriate.

Based on its review, the Commission recognizes that the purpose of a term is to allow for a reappraisal of whether the use continues to meet the relevant findings and conditions at the time of expiration. The Commission understands that, contrary to some of the testimony received at

the public hearing, the purpose of placing a term of years on a special permit use is not to extinguish or discontinue the use at term expiration. Uses allowed by special permit are generally conforming uses permitted under zoning subject only to a demonstration that specified findings and conditions are met. Therefore, when a term placed on a special permit expires, the holder of the permit has the ability to seek a new special permit and demonstrate that it continues meets the relevant findings and conditions; further, if that new special permit is denied, the property owner remains entitled under zoning to develop and use its property for any use permitted as of right. This is in fact precisely the case with the current application – the original 50-year arena permit has expired and MSG is now seeking a new one. There is nothing in the original permit to indicate that in 1963 the City Planning Commission believed that the MSG Arena should automatically go out of existence at the end of the 50 year term in 2013.

The Commission notes that during the period from 1961 to the early 1970s, the Commission routinely placed terms on use permits of varying lengths – from 5 to 50 years. There is no record of explanation for this practice; however, it is reasonable to infer that the view at the time was simply that terms were an appropriate control measure to ensure that the findings of a special permit continued to be met, as well as to allow the Commission to review compliance with conditions and provide for their modification or adjustment. Since the mid-1970s, the Commission has placed terms on special permit uses infrequently, and not as a matter of routine. Generally speaking, the Commission has done this for uses which can be best described as having potential ‘nuisance’ characteristics, where the continued ability to meet the findings depends to some degree on how the use is operated. One example is for heliports, which can present noise and other issues, particularly when located close to residential uses. The Commission has also sometimes imposed terms on public parking lots, with the understanding that the use is transitional pending planned construction of a building on the site.

The Commission acknowledges that the MSG Arena does not fit the description of the kinds of uses for which the Commission has imposed terms in recent years. However, the fact that the MSG Arena is not like a heliport or parking lot does not compel a conclusion that putting a term on the arena permit would be inappropriate. Instead, the Commission believes the issue



regarding a term is whether, for reasons which may be different from those which have typically resulted in terms being added to special permits in recent years, there is a need to reappraise the findings and conditions of the arena permit at a future date.

To make that decision, the Commission has been guided by the findings of the arena special permit in Section 74-41, as described above, which generally relate to traffic and the adequacy of vehicular entries, as well as that of Section 74-31(a), a provision which states that, in addition to making all the findings required in the applicable sections of the resolution governing the specific use, the Commission shall find that "...the hazards and disadvantages to the community at large through the location of such use at the particular site are outweighed by the advantages to be derived from the community from the grant of such special permit use." The Commission notes that in making this particular finding under the original 1963 special permit, the Commission cited a number of ways in which it viewed the location of the MSG Arena at the site as appropriate at the time. To a large extent, the issues raised through the public review of the current proposal have focused on whether this remains true today or may no longer hold true at a future date, particularly in view of the needs of Penn Station. The Commission reiterates that the focus of this discussion is not simply on the Arena as a use, because the use permit is subject to a condition that the Arena be developed in accordance with a site plan governing the location of the arena structure, access to the arena by patrons as well as for purposes of loading, the surrounding open space, and other features.

The issues concerning the MSG Site plan, the current state and needs of Penn Station, and the relationship between the two, as well as past and ongoing planning efforts to improve the situation, have led to the conclusion that a term of years is appropriate, are described below.

#### *MSG Site Plan Issues*

The Commission believes that there are several unresolved issues regarding MSG operations under current site plan. This is predominantly caused by loading operations on the site. While the 1963 site plan for the arena was designed to allow interior loading from truck entrances off the Taxiway, tractor trailer sizes increased shortly after the building opened such that the existing

entrances could no longer accommodate them, nor could they any longer travel on the Taxiway below the pedestrian bridge connecting the MSG Complex to its Seventh Avenue entrance. As described above, loading for the arena today takes place on the northern portions of the Taxiway as well as adjacent public spaces identified on the 1963 and 1989 site plans. Loading for the theater takes place on the southern plaza at the corner of Eighth Avenue and West 31<sup>st</sup> Street, with trucks parked directly in the open space close to a Penn Station entrance. The Commission notes that the Arena's current loading scheme was never approved by the Commission or reviewed until now.

Today, up to five trucks are located in the Taxiway area and are unloaded using a series of smaller hi-lo vehicles which then enter the MSG Complex itself and travel up to the arena floor. For large shows at the Arena, e.g., concerts, loading activities also take place on West 33<sup>rd</sup> Street. Concert events require an average of 10 trucks, with some shows requiring 20 or more. When necessary, MSG obtains a permit from the Mayor's Office of Film, Theatre and Broadcasting to temporarily close West 33rd Street during early hours of the morning to allow the trucks to access the lay-by lane for marshalling and loading activities. Temporary closures of West 33rd Street occur for short periods of time (typically 5 to 15 minutes) while trucks are maneuvered into loading area. Such permits are obtained for approximately 60 events a year. For NBA games, the arena must be capable of providing parking for up to six trucks, which typically occurs in the Taxiway and adjacent areas, as well as the West 33<sup>rd</sup> Street lay-by lane. As described below, the potential for improvements to this area, including for future Penn Station improvements, would be constrained by this loading arrangement. The Commission also notes that closures of West 33<sup>rd</sup> Street could, in the future, affect truck access to many of the development sites in the Hudson Yards area which are expected to load from West 33<sup>rd</sup> Street. Any new development on the 1 Penn Plaza block to the north (as provided in the adopted 2006 General Project Plan for Moynihan Station) would also require truck access from this street.

Loading also affects the plaza on Eighth Avenue and West 31<sup>st</sup> Street, which is where the theater's loading occurs. While the expansion of the former Felt Forum into the current theater was approved by the Commission as part of the 1989 Minor Modifications, the loading sequence

for the theater was not described or approved in the 1989 application. Use of the plaza for truck loading can impede public access to Penn Station as well as the overall use of this space. The potential for any improvements to this plaza area, including future Penn Station improvements, may be constrained by this loading situation.

Another key feature of the 1963 site plan that is no longer in its original use is the midblock Taxiway, which was intended to act as the main vehicular entrance to the MSG Complex and Penn Station. The location within the Taxiway of the only elevator that serves Penn Station passengers on all levels of the station reflects this original purpose. While the Taxiway continued to serve its intended function as part of the 1989 Minor Modifications, it was closed off after September 11, 2001 and continues to remain closed subject to a perimeter protection plan put forth by the MTA. The only pedestrian access to the Taxiway entrance to Penn Station is now through a pedestrian pathway from West 33<sup>rd</sup> Street; this pathway is relatively unknown to the general public and is seldom used.

The current application would leave the loading operation unchanged and would make closure of the Taxiway permanent. The Commission received testimony from the three Penn Station Railroads expressing concern that by making permanent the current situation, the application would potentially limit the opportunity for future improvements to access Penn Station.

### *Penn Station Issues*

Penn Station itself faces a number of challenges, which generally fall into two related categories: track and station capacity constraints. The station is accessed from the west by two tunnels under the Hudson River; these are over a century old and are generally considered to be at full capacity at peak times, whereas there are four tunnels providing service to the east and under the East River. Given its high usage, this system has no redundancy in case of train problems. Within the station itself, the tracks are tightly hemmed in between West 31<sup>st</sup> and West 33<sup>rd</sup> Street. Thus, the 21 tracks and 11 platforms of the station have had little opportunity for expansion. Coupled with the limited tunnel capacity to the west, Penn Station is generally considered the main bottleneck of the Northeast Corridor rail system and the growing New Jersey commuter shed.

The station itself also has a number of significant capacity issues. Under the 1963 design, Penn Station was designed primarily as an inter-city train station, and reflected a time when rail usage was rapidly falling off and expected by many to continue to decline. Thus, corridors and passenger concourses were designed for a much smaller user population than the station serves today. The station now primarily serves as a greatly-expanded regional commuter terminal into Midtown for Long Island and New Jersey residents, as well as a growing inter-city station served by Amtrak. Historical passenger volume data illustrate this: The station in the 1960s was at its nadir of usage with around 150,000 passengers using the station each day; today, almost 400,000 passengers use Penn Station daily<sup>†</sup>. The current volume is by far the highest the station has historically experienced, and has remained largely unchanged for the past decade; since it is generally assumed no additional trains can be accommodated at peak times without a major overhaul of train operations, it represents the assumed station peak capacity.

With these increased passenger volumes, Penn Station functions poorly in many respects. At track level, the numerous platforms of the station are severely overcrowded at peak hours, are considered far too narrow given current planning standards, and have few vertical access points to upper levels of the station, which further exacerbates the crowding situation. On the higher levels (known as Level A and B), the significant amount of back-of-house space necessary to keep the station and the three Railroads functioning makes for a highly limited pedestrian concourse space relative to passenger volumes. Current passageways are narrow, are poorly connected in ways that create major crowding points, have low ceilings and provide limited daylight, all of which combine to create a sub-optimal experience for station users.

At grade, the number of above-grade access points to the station – three on the MSG Site and two on the 2 Penn Plaza site – is considered far too limited given current user volumes. As noted above, there is only one elevator from ground level to the station below, located in the Taxiway

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<sup>†</sup> The Commission heard testimony that the daily usage of Penn Station is approximately 600,000 people, however, this figure includes users of the adjacent subways. The figures cited above refer to users of the station itself.

which no longer performs its intended function as a main entry to the station. The absence of elevator access severely limits ADA-accessibility and greatly inconveniences passengers with luggage.

As a whole, these deficiencies in the station result not only in severe operational challenges for the Railroads, but also pose safety issues for the traveling public. To illustrate: any train delay of more than 5 minutes in the PM commuting time period results in the need to shut down entrances to the station, since it has no capacity to hold additional users waiting for trains. The station also fails to meet current national standards promulgated by the National Fire Protection Association, an influential nongovernmental organization, for safe egress from platforms and station corridors in an emergency.

#### *Relationship between MSG and Penn Station Issues*

The relationship between MSG and the problems of Penn Station described above can be generally described as a situation in which Penn Station is sandwiched between tracks below and the MSG Complex above, with no room to grow. In addition, new at-grade entrances and exits which would help improve the passenger capacity and safety issues in the station cannot be developed in close proximity to the station without some use of the MSG Site.

The Commission also notes that the arena was constructed at the same time that the original station was being demolished, which has resulted in there being two structural support systems within the station. While perhaps acceptable in the 1960s when no passenger growth was anticipated, the redundancy of column supports has become a significant problem given the large number of passengers who use the station on a daily basis. This problem is most critical at platform level, where the multiple structural systems reduce the amount of space along the already narrow platforms, creating safety issues as well as inconveniencing passengers when disembarking from or entering trains.

### *MSG / Penn Station History Since 1968*

The Commission has also reviewed the history of major efforts to move the MSG Arena and to improve Penn Station since construction was completed in 1968.

In 1986, MSG owners proposed a plan to move the arena and to build a new one on the rail yards to the west. The Penn Station block would have been redeveloped with two large office towers, coupled with at-grade improvements providing better access to the station below. However, by 1988, an economic downturn caused the project to be abandoned. Instead, MSG undertook a renovation of the Arena, approved by the Commission as part of the 1989 Minor Modification, which also included the expanded theater on Eighth Avenue. With the failure of these redevelopment plans, the Railroads developed a proposal for modifications to the current station, the most significant of which was the new station entrance at West 34<sup>th</sup> Street.

In 1992, plans were announced to renovate the Farley Post Office building to the west as a new train hall for use by Amtrak. Planning for the project, later renamed Moynihan Station, went through numerous iterations over subsequent years. The current full plan would move Amtrak off the Penn Station block into the Farley building. From the perspective of the existing station, this would have limited effect on the passenger volumes in Penn Station as Amtrak represents only a small portion of daily users. However, this would free up back-of-house space in Penn Station currently used by Amtrak, allowing for much greater flexibility in improving the station block – its most significant benefit for the bulk of Penn Station users. Early infrastructural work for phase 1 of the current plan began in 2012; however the larger overall project currently lacks full funding or a timeline.

In 2003 and 2004, as part of plans for the West Side Multi-Use Facility for the Olympics and the New York Jets, MSG considered possible participation in the facility with movable seating adaptable to the arena use. Later, MSG decided against the move.

Around 2007, MSG began working with the Railroads and private developers on a plan to locate a new arena in the back end of the Farley Post Office building along Ninth Avenue as part of an

expanded Moynihan Station project. This led to a new effort to begin planning for the Penn Station block, with initial consideration being given to a major ‘overbuild’ scenario with a number of new towers on the block. However, it was eventually determined that such a scenario would unduly interfere with train operations. In response, planning work began on a new Moynihan Station Transfer District that would allow for the distribution of most floor area permitted on the MSG Site to sites within the surrounding neighborhood. An EIS scoping document for the project was released in 2007. Plans for Penn Station included new vertical access from platforms, greatly expanded station concourse levels, and multiple new at-grade access points. The plan required a significant number of public approvals by the federal, state and City governments, and the Railroads, as well as several billion dollars of funding. With changes in State government and the onset of the economic recession, the project faltered and MSG pulled out of the plan, deciding to instead renovate in place. The various government agencies began to consider “Plan B” options to improve the station with the MSG Complex remaining in place. The current continuation of this work, through the Penn Vision Study planning process, is described further below.

The Commission observes that this history shows that MSG has considered moving multiple times, even as it demonstrates that a relocation project is difficult to undertake. Relocation would require significant financing and a series of public approvals; most importantly, of course, relocation requires a large, two-block-wide superblock site, something which is exceedingly rare in Midtown. This history also shows that there has been a near-continuous planning effort by the public sector to improve Penn Station, which also requires complex approvals and a viable funding plan.

#### *Current Planning Efforts*

The Commission notes that four planning efforts are currently underway regarding improvements to Penn Station. The Moynihan Station project to move Amtrak to the Farley Post Office building has begun its initial work on an expanded concourse, new entrances and other infrastructure, but has not yet found a funding source for the larger Amtrak relocation with the result that the timing for this move remains uncertain. In addition, Amtrak is currently

undertaking a planning effort for the overall Northeast Corridor, NEC Future, to define, evaluate and prioritize future investments in the Northeast Corridor that includes Penn Station. Initial work has identified the need for additional track capacity into Penn Station to alleviate this major bottleneck in the system. Amtrak has also begun initial planning work on the ‘Gateway’ Project, which would include new tunnels under the Hudson River and new tracks/platforms south of Penn Station between West 30<sup>th</sup> and West 31<sup>st</sup> streets to alleviate this bottleneck. This work is in the early stages of an initial planning phase. The earliest possible completion date for the project is listed as 2025; however, this multi-billion dollar project currently lacks approvals or funding, although funding may soon be made available for a portion of the tunnel under the Hudson Yards area, a measure designed to ensure that development above-grade on the railyards does not preclude future completion of the Gateway Project.

Finally, the Railroads in Penn Station have begun a joint planning effort for improvements to the station which assumes that Madison Square Garden will remain in place. This effort, known as the Penn Vision Study, seeks to build on the earlier 2007 planning work and the below-grade improvements then planned for the station. The current planning work proposes improvements to the below-grade levels of the station as well as additional access/egress at street level, including four new entrances on the MSG Site. Full implementation of the suggested improvements would require Amtrak to move to the Farley building; as noted, the timing of the Amtrak relocation remains uncertain. It would also require significant changes to the MSG Complex’s loading operations, both along West 33<sup>rd</sup> Street and on Eighth Avenue. The current timeline for the Penn Vision Study assumes all improvements could be completed by 2035 at the earliest; however, planning for the project is in its initial stages only and no implementation funding or approvals have been obtained. In the public review process for the MSG Arena, MSG stated that it would continue to work with the Railroads on the Penn Vision Study, though it noted that any plan for improvement must include a feasible loading solution for the MSG Complex.

The Commission notes that while current planning efforts for Penn Station are not highly advanced, and there are significant funding and other hurdles to their implementation, these



efforts nevertheless reflect a continuing focus on the importance of improving Penn Station to address its significant problems.

### *Timeframes of complex projects*

The Commission also reviewed the timeframes for complex infrastructure projects in the New York area which are either currently underway, or have recently been completed, in order to better understand the potential length of the planning, public review and approval phase of a project to relocate MSG or to improve Penn Station with MSG remaining in place. These projects included the 42<sup>nd</sup> Street redevelopment (15 years, 1979–1994); East Side Access (20 years, 1991–2011); Moynihan Station (13 years, 1993–2006); Second Avenue Subway (9 years, 1995–2004); Access to the Region’s Core (14 years, 1995–2009); and the Tappan Zee Bridge (12 years, 2000–2012). While these timeframes vary, they demonstrate that any project on the scale of a MSG relocation and Penn Station redevelopment would likely take more than a decade simply to move through the planning, public review and approval stage.

### III. WHAT SHOULD THE TERM BE?

In consideration of all of the above, the Commission believes a term of 15 years for the arena special permit is appropriate. The Commission believes this 15 year period will create an opportunity for City, State and Federal government agencies to reach agreement with MSG on a plan to relocate the Arena and rebuild Penn Station. Alternatively, if a relocation plan does not proceed and the MSG Complex remains in place, the Commission believes the term will ensure that improvements are made to Penn Station that will improve pedestrian ingress and egress, make the station more accessible to persons with disabilities, and improve the MSG Complex’s truck loading. Should MSG and the Railroads reach an agreement about these on– site improvements before the 15 year mark, the term would become inapplicable.

While the Commission understands it is fairly unusual to impose a term of years on special permits, the Commission believes – for the reasons discussed in greater detail below – that this is a special circumstance where a term is warranted.

The Commission notes at the outset that the purpose of the term is not to force a relocation of the MSG Complex or extinguish the Arena use. If relocation occurs, it will be because the City, State and Federal governments, working together with MSG, are able to successfully develop and implement a plan to do so. Rather, the purpose of the term is to address the possibility that relocation does not take place. The term recognizes that the arena use cannot be divorced from the fact that the MSG Complex is located over a major public facility, Penn Station. Further, the site plan under which the MSG Complex operates – and which sets forth the location of the arena, entrances and exits, and other features – is an integral part of the special permit.

The Commission believes that in order for the MSG Complex’s operation under the site plan to continue to provide more “advantages” than “disadvantages” under the Section 74–31(a) finding, the arena site plan will need to reasonably accommodate the needs of the railroad operators of Penn Station in terms of access, egress and other above–grade features. If that does not occur through a process of negotiation and agreement between the Railroads and MSG, then reappraisal under the special permit process will be required.

The Commission recognizes that the MSG Arena is of great economic importance to New York City. As the property owner at street level and above, it also has a critical role to play in planning for the future of the Penn Station block. MSG’s representatives testified that it has consulted with the Railroads and will continue to work cooperatively with them to accommodate the needs of Penn Station. The special permit term provision is therefore a ‘failsafe’ mechanism designed so that the permit need not expire if agreements are reached. With a lot of hard work and determination, the tools are available to relocate the MSG Arena or, if that does not happen, to reorganize the way that Penn Station is integrated on the site with an active arena operation remaining above. The Commission believes the term provision set forth herein is fair and can work in the interests of all parties – public and private.

### *Relocating MSG*

The Commission strongly believes that the City, State and Federal governments should work jointly with MSG and the Railroads to develop a comprehensive relocation and funding plan to

both rebuild a new arena on another site and fully redevelop Penn Station. Relocating the MSG Arena to another site could provide substantial benefits for Penn Station, as well as for MSG itself.

Most importantly, relocating the MSG Arena would allow for a ‘fresh start’ on the Penn Station site that would permit substantial improvements to be made below grade at the track and concourse levels, provide generous means of access and egress from the ground level to the station below, and could also include a ‘head house’ structure to serve as a train hall in a manner befitting the busiest train station in the country. The Commission notes the many deficiencies of the current station, and the challenges it currently faces being at maximum capacity. Relocating the MSG Arena, allowing for a major reconstruction of the station below grade without the impediments posed by an active use above, and refashioning how the use above grade interacts with the station platforms and pedestrian circulation elements below would – unquestionably – be a pathway to solving many of the problems of Penn Station.

For MSG, the Commission believes a new site could provide a modern, more generously– sized event space and relief from some of the operating constraints at the current site. MSG has recognized the limitations of the current site over the years and has stated before the Commission that, despite having invested almost \$1 billion in its current renovation, it would seriously consider moving if the circumstances were right.

The Commission heard testimony from a number of individuals and organizations that imposing a term of ten years in the special permit is the critical step to making relocation happen. The Commission reiterates, however, that the purpose of the term is to allow for a reappraisal of whether the findings of the permit continue to be met, whether the conditions of the permit have been complied with, and whether those conditions need to be modified or added to based on reappraisal. The Commission does not believe that relocation of the MSG Arena and redevelopment of Penn Station will take place as the result of a special permit term. The history of the 2007 Plan shows that these changes would require a massive effort by all levels of government and MSG itself to plan comprehensively for the area, and to finance the

improvements. This is a multi-year, multi-billion dollar undertaking. It will only happen if there is a concerted will to do so, and a significant commitment of resources. Whether it happens or not will not depend on the term of the arena special permit. Nevertheless, the 15 year period set forth herein allows and gives the relevant parties sufficient time to investigate and plan for relocation.

### *The Possibility of No Relocation*

While relocation of MSG should be pursued, it cannot be assumed that this will happen. The Commission believes that planning must therefore account for the possibility that MSG does not relocate, and that a special permit term is essential to ensure that the public interest is protected in that event.

In the event that the MSG Arena does not relocate, the Commission believes there are several concerns that must, in the absence of agreements between the Railroads and MSG, be addressed through a future reappraisal of the special permit and, more specifically, the site plan which is a condition of the special permit. In this regard, MSG representatives have stated that there is no need to reappraise the findings of the special permit because there is no reason to believe that the traffic- and parking-related findings of Section 74-41 will not continue to be satisfied in the future and thus a permit in perpetuity is appropriate. They have also argued that under Section 74-31(a), there are clear advantages to the current location of the MSG Arena at a transit hub and that these will also continue unchanged.

The Commission acknowledges that the findings of Section 74-41 are likely to continue to be met, and agrees that locating an arena close to mass transit reflects sound planning. However, the Commission believes that consideration of whether use of the site as an arena is appropriate does not end there. Under the special permit, the MSG Arena operates pursuant to a fixed site plan, and the elements of that site plan are largely the measure by which the 'advantages' and 'disadvantages' of the arena use at the site are measured for purposes of Section 74-31(a).

The Commission believes the site plan, largely unchanged since 1963 and modified slightly in 1989, poses a number of challenges, discussed below.

### *MSG Operations at the Site*

Looking first at how the MSG Complex operates today under the site plan, the Commission has observed a number of problems and deficiencies as described above. First and foremost are the problems with loading. The current loading sequence is an improvised arrangement that tries to work around the deficiencies of the building and its internal ramp system by using the public streets, as well as appropriating spaces designated for public use on the site plan, for truck parking and loading.

The testimony from MSG's representatives at the public hearing made clear that it made a business decision to invest in the internal arena renovation and not in rethinking the loading function. The renovation was viewed as necessary to remain competitive; improving the loading operation was not. This may have been a rational business decision by MSG, but it is one that does not address the public realm. The Commission also received additional materials from MSG arguing that solutions to the loading problem, even if physically possible, would be complex and potentially expensive. The Commission appreciates this, but does not believe that this justifies having the current loading situation become permanent and notes further that MSG has not provided any detailed analysis or cost estimates in support of its position.

It is important to make clear that the current loading operation, both on West 33rd Street for the Arena and on the corner of Eighth Avenue and West 31st Street for the theater, was never reviewed or approved by the Department or by the Commission, and that the use of public spaces on the site for this purpose is unauthorized. The Taxiway was closed as a result of security determinations by the MTA and the NYPD; once that occurred, MSG entirely took over the northern portion of the Taxiway for loading.

The Commission believes that if the MSG Arena does not relocate, the loading operation needs to be improved. The current loading sequence is not only unacceptable as a permanent feature of

how the site operates, but may also impinge significantly on the ability to provide improved access to Penn Station. For example, the Penn Vision Study shows four expanded entrances on the MSG Site, two of which (located in the West 31<sup>st</sup> Street plaza area, and the West 33<sup>rd</sup> Street midblock area) would not be feasible with the current loading situation in place. The site plan currently being proposed by MSG should not have the effect of codifying the current loading operation, in effect making it permanent; rather, the Commission believes that the loading arrangements—including the screen on West 33<sup>rd</sup> Street and the loading for the theater that takes place on Eighth Avenue - should be considered interim only and that a permanent, improved loading sequence should be developed.

The Commission notes that the Penn Vision Study identifies West 31<sup>st</sup> Street as the ideal place for a combined loading operation on the site. The Commission believes that a relocation of the loading operations to West 31<sup>st</sup> Street could potentially provide significant advantages over the current loading configuration. Among other things, the West 31<sup>st</sup> Street frontage adjoins a manufacturing district, and West 31<sup>st</sup> Street is a cross-town truck route with very little pedestrian traffic. In addition, this relocation would free up the West 33<sup>rd</sup> Street portion of the MSG Site for additional access points to Penn Station, accommodating pedestrian travel patterns toward Midtown to the north, or toward Hudson Yards to the west. The Commission recognizes that these improvements would only be possible through the coordination and agreement with Amtrak, which owns and operates the loading facility on the southern side of the MSG Complex, and with the owners of 2 Penn Plaza, who load from West 31<sup>st</sup> Street and make use of the southern portion of the Taxiway for this purpose. The Commission therefore urges these parties to explore this option, which can provide advantages to all parties concerned.

The Commission also believes that the closure of the Taxiway reflected in the current application drawings should also be also be considered as interim only. The Taxiway provided vehicular access to what had previously served as the main entry to Penn Station. The Commission hopes that there will come a time when it will be possible to reopen the Taxiway, or perhaps enhance its use as a pedestrian-only entryway, and reestablish this as a significant entryway to the station.

If this is not possible, the permanence of this condition should figure in future site planning intended to better accommodate entry to Penn Station.

In short, there are unresolved site planning issues related to the operation of the MSG Complex which need to be addressed and, the Commission believes, warrant a reappraisal of the site plan conditions of the special permit at a later date pursuant to the process described in detail below.

#### *Penn Station Infrastructure*

Looking beyond these unresolved site planning issues related to the operation of the MSG Complex itself, the Commission believes that if MSG does not relocate, every effort will need to be made to achieve a better resolution of how the site plan accommodates Penn Station below. As described above, the site is woefully inadequate in terms of access to and egress from Penn Station; for example, there is no ADA-compliant elevator or similar access on Eighth Avenue. Tackling these issues can help solve at least some of the issues with Penn Station and the challenges posed by having another use directly above.

Today, planning for how Penn Station pedestrian access and egress might be better integrated into the site is only at a very early stage, through the Penn Visions Study planning process being undertaken by the Railroads. The Commission believes the current special permit should accommodate the possibility that this process will move forward quickly and that the Railroads and MSG will reach agreements about how to achieve and implement this integration. To address this, the Commission is modifying the special permit to include notes on the special permit drawings providing that escalator, elevator and stairway entries and exits and other features which promote more generous access by passengers, greater ADA-accessibility and achievement of a greater level of compliance with National Fire Protection Association standards for evacuation of passengers from platforms in emergencies, may be added to the site plan without need for further land use approval of Minor Modification.

If, however, the Railroads and MSG do not reach agreements during the term of the special permit to address the urgent need for improvements to Penn Station operations, then the

Commission believes that a reappraisal of the special permit would be appropriate. At that point, in order for the MSG Site plan to continue to provide more ‘advantages’ than ‘disadvantages’ in order to meet the finding under Section 74–31(a), the Commission believes the site plan would need to be modified to reasonably accommodate the needs of the Railroads of Penn Station in terms of access, egress and other above–grade features.

The Commission therefore is modifying the special permit application herein to make the special permit subject to a term of years in order to address unresolved site planning and operational issues related to the MSG Complex itself, as well as to address the need to ensure a better integration of Penn Station escalator, elevator and stairway access on the site, both in the event that the MSG Arena does not relocate. More specifically, the permit will expire in 15 years to allow for a reappraisal of the findings and conditions, subject, however, to certain conditions under which it would not expire, as described below:

- First, if 15 years from now the relevant City, State and Federal agencies, the Railroads and MSG have worked out a comprehensive agreement for the relocation of the arena and the redevelopment of Penn Station but the new arena has not been built or opened as of that date, the existing arena will need to continue in operation until relocation occurs. In that event, the permit would continue in effect for a period that the parties jointly identify to the Commission as necessary to complete a relocation.
- Second, if 15 years from now the governmental entities and MSG have not moved forward with a plan for relocation, then the permit would not expire or be subject to reappraisal if a comprehensive agreement between the Railroads has been reached and accepted by the Department for the introduction of additional Penn Station access and egress above grade that includes a reconfiguration of the loading function to accommodate at–grade station improvements and elimination of the use of public streets for loading and unloading activities. The agreement would be required to facilitate enhanced public access to the station, add forms of ADA accessibility, and promote achievement of National Fire Protection Association standards for the station. In



substance, the agreement would provide for the grant of easements and /or other user rights by MSG to the Railroads for the purpose of allowing construction, operation and maintenance of the improvements. It would also include a site plan and description of the type(s) of improvement(s) planned at each location. In order for the agreement to be accepted by the Department, the Railroads would be required to certify that the agreement has obtained all required public approvals, and all parties would be required to certify that it has been duly executed and authorized, and is binding and enforceable with respect to the grant of easements and/or other user rights set forth therein. The Railroads would also be required to provide the Department with a description of the benefits to Penn Station anticipated through use of the easements, as well as a description of the funding authorized for the improvements, future amounts required and requested, and the anticipated construction schedule. MSG would be required to submit special permit site plan drawings delineating the easement areas and the revised loading arrangements for the MSG Complex, together with a description of how the loading sequence is improved under the revised approach. If all these conditions are met, the Department would so notify MSG and the Railroads that the special permit would not expire. In the event that an agreement has been reached but the Railroads have not obtained all public approvals as of the 15 year mark, the Railroads and MSG may jointly request an extension of the term of no more than two years, in order to allow the public approval process to proceed to completion.

During this 15 year period – at the five, 10 and 13 year marks – MSG will be required to report to the Department regarding the status of any discussions and negotiations with the Railroads. The Department will also solicit comparable information from the Railroads themselves.

Except in the case of an extension required in order to allow for completion of the public approval process, in the event that agreements have not been reached at the 15 year mark, the permit will expire. Assuming that MSG proceeds to seek a new arena special permit, a reappraisal would be conducted with a focus on whether the findings of 74–31(a) continue to be met in view of deficiencies in the site plan. As a condition of meeting this finding, the

Commission may require that MSG offer easements and/or other user rights to the Railroads for the purpose of facilitating the construction, operation and maintenance of at-grade transit improvements, as well as require a reconfiguration of the loading sequence for the Arena and theater. It is important to note that, in doing so, the Commission would not be requiring MSG to fund station improvements; the design, funding, construction and maintenance of the improvements (other than the revised loading arrangements for the MSG Complex) would remain the responsibility of the Railroads operating at Penn Station. Likewise, MSG would not be required to offer easements or other user rights at less than fair market value, as determined pursuant to a process acceptable to the Commission. Rather, the purpose of conditions imposed pursuant to the reappraisal would be to allow for an integration of Penn Station infrastructure onto the site.

The Commission recognizes that in the event MSG and the Railroads fail to reach agreement within the 15 year period, it cannot be assumed that one or the other of the parties is at fault. The purpose of the reappraisal process is not to assign responsibility or blame. The site planning issues are complex, and all the parties have legitimate interests to protect, including the avoidance of disruption to their operations. Accordingly, the reappraisal process would need to consider the issues 'de novo' and be undertaken with careful attention to the needs of both Penn Station and MSG. Despite the difficulties inherent in such a process, the Commission believes it would be vitally necessary under circumstances where no agreement has been reached to allow for integration of at-grade Penn Station improvements into the MSG site plan.

The Commission has considered the comments and recommendation made by the Municipal Arts Society and the Regional Plan Association that an agreement entered into by the Railroads and MSG should not be accepted as sufficient for purposes of extinguishing the 15 year term absent a public review, conducted by the City, of the adequacy of the Penn Station improvements it is intended to facilitate. The Commission notes in this regard that it is the Railroads who operate Penn Station, and not the City, who will be responsible for the design, funding, construction, maintenance and operation of the improvements, and that these entities are Federal and State agencies independent of the City and not subject to the jurisdiction of the City Planning

Commission. An agreement must therefore be developed, negotiated, and accepted by those agencies, based on a plan that the governing bodies of the Railroads have approved and are prepared to fund and implement pursuant to their capital plans. The Commission does not believe that conducting a land use process to determine whether a plan and agreement adopted by the Railroads is sufficient or should be modified is either appropriate or feasible, and that grafting onto the special permit a process to exercise jurisdiction over the Railroads could well undermine the very ability of the parties to reach agreement, or to implement an agreement that has been reached. As discussed above, the Commission strongly believes that Section 74–31(a) makes relevant to the special permit whether the MSG site plan accommodates potential access and egress points to Penn Station; the agreement between MSG and the Railroads which the term provision seeks to encourage would provide for easements and other user rights necessary to allow for the construction and operation by the Railroads of this new infrastructure and, in the event that such an agreement is not reached within the 15 year period, the Commission may prescribe the locations of such easements as conditions of a site plan in the context of its review of a new special permit. However, it stretches the special permit finding beyond reasonable bounds to suggest that in prescribing conditions related to the site plan, the Commission may, in effect, approve, disapprove or modify the infrastructure plan of the Railroads.

Most importantly, the Commission believes it is incorrect to assume, as the MAS and RPA recommendation suggests, that absent a City land use process such a plan and agreement would otherwise not be subject to public comment or scrutiny. The development of a plan for the improvement of Penn Station will be a major undertaking that will involve multiple parties, and undoubtedly engage the public and interested civic organizations. Further, each of the Railroad entities is subject to its own public approval processes for major planning and capital construction initiatives; as discussed above, the provision of the special permit allowing for the 15 year term not to apply based on agreement would require that the agreement have been subjected to all required public approval processes and that the Railroads provide a description of the public input received during these processes, as well as how this public input was responded to in the planning process

The Commission believes that, rather than engage in an ultimately unworkable attempt to use the special permit process to superimpose itself upon the Railroads, the City agencies must begin to increasingly engage with the railroads and other government agencies, as they did during the 2007 planning process. The provisions of this special permit which require submission of progress reports at the five-, 10- and 13-year marks within the 15 year term will help ensure that the City is informed of the progress and content of discussions and negotiations. More importantly, however, the City should coordinate its own efforts – with the various levels of government, including the Railroads, with regard to development of an offsite relocation plan, and/or on-site improvements with the MSG Complex remaining in place.

The Commission further notes that it does not accept arguments made by MSG that a term of years would be inappropriate or unauthorized. As discussed above, the purpose of the term is not to force a relocation of MSG or to discontinue its operations, but rather to allow for improved site planning in the event that MSG and the Railroads are unable to reach agreement concerning how to integrate Penn Station access and egress points into the current site plan. Achieving this integration is an appropriate goal, and relevant to consideration of whether the finding under Section 74-31(a) is met. MSG's arguments that the term would not allow for amortization of its investment in improvements to the interior of the Arena assume, incorrectly, that the term is designed to force a relocation of the Arena that would impair this investment rather than allow for on-site improvements that do not affect the building interior. As also noted by numerous parties who testified at the public hearing, MSG elected to make this investment prior to applying for a new special permit, and could have no firm expectation at the time that a special permit would be granted in perpetuity.

Various parties have suggested a 10-year term, arguing that relocation is possible within this timeframe, while others have suggested a term of twenty years or more, often based again on the assumption that the purpose of a term is to force a relocation of the Garden and that MSG should be able to amortize its investment in the current renovation. The Commission has considered this issue from the perspective of identifying a period that is realistic for the development of a comprehensive plan for relocation or for a comprehensive plan for Penn Station access and

egress improvements that retains the MSG Complex in place but also improves its loading function. To do so, the Commission has reviewed the approval timelines for projects in the New York area of similar complexity. In that regard, the Commission believes that 10 years is too short a period to develop such a plan, and that 20 years or more is unnecessarily long to reach agreement. Recognizing that there can be no certainty regarding the work that lies ahead, the Commission believes that 15 years is an aggressive – but realistic – time period for these types of agreements to be reached, recognizing that actual implementation will likely take longer.

#### IV. CONCLUSION

The Commission strongly believes that a comprehensive planning process and funding plan should be undertaken, with the goal of building a new arena on another site and the full redevelopment of Penn Station into a modern train facility with improved track and station capacity and public amenities. Such an effort will require the coordination of federal, state, and City agencies, as well as the close participation of the private sector, most importantly including MSG. With this in mind, the Commission makes the following observations:

First, the various projects being proposed for Penn Station and its surrounding area – Moynihan, NEC Future, Penn Vision Study, and Gateway – should be fully coordinated. While each is being undertaken by different state and federal agencies, each relies on the successful completion of the others to realize its full potential. Coordination of these projects, at the highest levels, is therefore crucial. In effect, there should not be four individual projects – but instead one single Penn Station improvement project. To accomplish this, the various Railroads and agencies should designate a single group with the responsibility of coordination, as well as negotiation, with all parties – including MSG. For its part, the City should coordinate its efforts in the planning process. This type of coordination is needed whether it is for the current four individual projects, a project to relocate MSG, or planning for the integration of Penn Station infrastructure on the site with MSG remaining in place.

Second, the Commission believes that zoning has a role in making a comprehensive plan possible, principally with respect to mechanisms to allow for fuller utilization of the

development rights atop the MSG Site. The Department participated in the development of a proposal for Moynihan Station development rights transfer district in 2007 as part of the proposal to move the MSG Arena to the western end of the Farley building. This proposal resulted from concerns expressed by the Railroads that large, new development on the Penn Station block would affect train operations and the ability to achieve improvements to Penn Station. Creating a zoning mechanism that allows development rights to move off of the block could ameliorate this situation, help fund the development of a new arena and station, and lead to the transformation of the area around Penn Station itself.

Third, the Commission recognizes that there are few sites available for MSG to undertake such a move. The Commission believes that the future use or development of sites which could become a new home for the MSG Arena should be considered with that possibility in mind. In particular, the Commission notes that the 2007 plan intended to move the Arena to the Farley building because of its excellent regional transit access, and that the plan offered a compelling use for the back of the historic structure. The site remains a suitable location for a new MSG in the future, and should continue to be seriously considered as a possible future home of the arena as planning for improvements to the Farley building continues to move forward.

Finally, the Commission heard a great deal of testimony regarding the massive effort that would be necessary to build a new Penn Station – that, in effect, the station could only be improved through a ‘heroic’, once-in-a-century endeavor. The Commission is fully aware of the complexities and difficulties that would need to be overcome. However, the Commission believes this can be accomplished with clear coordination, realistic planning, and reliable funding – provided the public and political will exists to do so. Further, the Commission believes that such a project is not only possible but that there is no more important initiative to consider for the future of the region, the City and Midtown Manhattan. The Commission hopes in the near future to work with all stakeholders, including MSG, in the development of a plan that meets the needs of all parties and results in the development of a station and arena befitting New York City.

Recognizing that relocation of the MSG Arena may not proceed, the Commission believes that planning needs to ensure that improvements to Penn Station will be made with the Arena remaining in place. The Commission believes that the special permit term described herein is an appropriate measure to guarantee that improvements to site planning for the MSG Site can accommodate the reasonable needs of Penn Station—a result that is necessary in order for the Arena itself to continue to meet the requirements of the Zoning Resolution.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74–41 of the Zoning Resolution:

- (a) that the principal vehicular access for such #use# is not located on a local #street# but is located on an arterial highway, a major #street# or a secondary #street# within one-quarter mile of an arterial highway or major #street#;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby #residential# areas;
- (c) that such #use# is not located within 200 feet of a #Residence District#;
- (d) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent traffic congestion; and
- (e) that vehicular entrances and exits for such #use# are provided separately and are located not less than 100 feet apart.
- (f) That due consideration has been given to the proximity of bus and rapid transit facilities to serve such #use#.

The City Planning Commission also finds pursuant to Section 74–31(a) of the Zoning Resolution that any hazards or disadvantages to the community at large through the location of the proposed facility at the particular site are outweighed by the advantages to be derived by the community from the grand of such special permit use.

Pursuant to Section 74-31(e), this special permit is subject to the term of years set forth in Section 8 of the Resolution, and all findings above, including the finding under Section 74-31(a), shall be subject to reappraisal in accordance with the provisions thereof.

## **RESOLUTION**

RESOLVED, that for purposes of the State Environmental Quality Review and City Environmental Quality Review, the action is one that was approved and undertaken prior to the effective dates set forth in the State Environmental Quality Review Act and is classified as Type II pursuant to 6 NYCRR Part 617, Section 617.5 (c) (34), and 62 RCNY Section 6-04(c). See also ECL Section 8-0111, subd.5; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration and findings described in this report, the application submitted by MSG Holdings, L.P. pursuant to 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 74-41 and 74-31(a) of the Zoning Resolution to allow an arena with a maximum capacity of 22,000 seats within an existing 10-story building on property located at 3-10 Penn Plaza (Blocks 781, Lots 1, 2 and 10) in C6-4 and C6-6 Districts, partially within the Special Hudson Yards District (Pennsylvania Station Subarea B4) and partially within the Special Midtown District is approved, as modified by the City Planning Commission, subject to the following terms and conditions:

1. The property that is the subject of this application (C 130139 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 Brisbin Brook Beynon, Architects and Matthews Nielsen Landscape Architects, PC filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z-1	Zoning Computations	May 22, 2013
Z-2	Site Plan	May 22, 2013
Z-3	Level 1/Street Level Plan	May 22, 2013
Z-4	Level 2/MSG Lobby Level Plan	May 22, 2013
Z-5	Level 3/Mezzanine Level Plan	December 11, 2012
Z-6	Level 4/Technical Level Plan	December 11, 2012



Z-7	Level 5/Event Level Plan	December 11, 2012
Z-8	Level 6/Lower Concourse Level Plan	December 11, 2012
Z-9	Level 7/Lower Level Suite Plan	December 11, 2012
Z-10	Level 8/Upper Concourse Plan	December 11, 2012
Z-11	Level 9/Upper Suite Plan	December 11, 2012
Z-12	Level 10/Upper Bowl Plan	December 11, 2012
Z-13	Longitudinal Section	May 22, 2013
Z-14	Plaza Computations	December 11, 2012
L-1	Open Area Subject to Special Permit	May 22, 2013
L-2	Open Area Plan	May 22, 2013
L-3	Open Space Details	May 22, 2013
L-4	Open Space Details	May 22, 2013

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. 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, sub-lessee or occupant.

5. Upon the 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, agreements, 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.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages 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.

7. This permit shall expire fifteen (15) years following the effective date hereof (the "Expiration Date"):

A. PROVIDED, that the Expiration Date shall not apply if :

(i) Relevant City, State and Federal agencies and instrumentalities thereof and MSG Holdings, LP. or a successor entity thereto ("MSG") ( collectively, the "Parties"), have entered into agreements providing for the implementation of a plan for the redevelopment of Penn Station and, in connection therewith, the relocation of Madison Square Garden; and

(ii) the Parties, prior to the Expiration Date , have jointly advised the Director of the Department of City Planning ( the "Director") that, pursuant to an agreed-upon timetable for implementation of such agreements, the relocation of Madison Square Garden to a new location is anticipated to be completed upon a date subsequent to the Expiration Date, in which event this permit shall continue in effect and shall not expire until a date jointly identified by the Parties to the Director as necessary to facilitate such relocation (the "Relocation Date").

In the event that Madison Square Garden has not relocated to another location by the Relocation Date, this permit shall expire unless the Parties have, prior to the Relocation Date, certified to the Director that relocation of Madison Square Garden remains reasonably foreseeable pursuant to agreements entered into for such purpose, in which case this permit shall continue in effect and shall not expire until a further date determined by the Director , in consultation with the Parties, as necessary to facilitate such Relocation ( the “Adjusted Relocation Date”). In the event that Madison Square Garden is not relocated by the Adjusted Relocation Date, this permit shall expire as of such date; and

B. PROVIDED FURTHER, that in the event Subparagraph (A) does not apply, the Expiration Date shall not apply if:

(i) prior to such Expiration Date, AMTRAK, Long Island Railroad, and New Jersey Transit, or successor entities thereto, as such parties may be necessary for the purpose hereof (the “Railroad Entities”) and MSG have entered into an agreement (the “Improvement Agreement”) which: (a) is entered into for the purpose of facilitating the construction, maintenance and operation of at-grade transit improvements by the Railroad Entities, such as new stairways, elevators, and escalators, having points of entry and exit located in and around the Subject Property, and which (xx) enhance public access to Penn Station, as well as the visual identity of the Subject Property as the site of Penn Station; (yy) add forms of ADA-access to Penn Station; and (zz) promote greater achievement of National Fire Protection Association Standards governing the safe evacuation of passengers from platforms and stations( the “Improvements”); (b ) provides for the grant of easements and/or other user rights to the Railroad Entities as and to the extent necessary for the Improvements; (c ) provides members of the public with a right of passage to and from the Improvements ; (d ) includes a site plan and description of the potential type(s) of Improvement(s) at each location on the Subject Property; and (e ) includes provisions requiring notification to and the consent of the City of New York for the termination of the Improvement Agreement or any waiver of surrender of an

easement or right or user provided for therein. Nothing herein shall be construed as requiring that the Improvement Agreement include provisions by which easements or other user rights shall be offered by MSG at less than fair market value, or that MSG shall be responsible for the costs of constructing, operating or maintaining the Improvements. No later than the fifth, tenth, and thirteenth anniversaries of the effective date of this permit, MSG shall advise the Department, in writing, of the status of discussions regarding an Improvement Agreement, provided that this shall not apply in the event that the Parties are actively pursuing agreements pursuant to Subparagraph (A). The Department may thereupon request further information from MSG and may seek comparable information from the Railroad entities;

(ii) duly authorized officers or employees of the Railroad Entities and MSG jointly certify to the Director in writing, that : (a) the Improvement Agreement facilitates the purpose set forth in Subparagraph (i)(a) above and includes all provisions described in Subparagraph (i)(b)(c)(d) and (e) above; (b) the Railroad Entities have obtained all public approvals required pursuant to statute or regulation for the Improvement Agreement to be implemented; (c) the Improvement Agreement has been duly authorized by authorized representatives of all signatory parties and has been fully executed and delivered; (d) the Improvement Agreement provided to the Director is a true, correct and complete copy thereof; and (e) the grants of easements and/or other user rights set forth in the Improvement Agreement are binding and enforceable in all respects, subject only to conditions pertaining to the exercise thereof by the Railroad Entities and provided that such grants may be made effective upon receipt of notification from the Director pursuant to Subparagraph (iv) below. Such certification shall be accompanied by statements by the Railroad Entities: (xx) describing the benefits to passenger access to and egress from Penn Station expected to be achieved through the Improvements, the amount of funding currently authorized for the Improvements, as well as future amounts required and requested, and the anticipated construction timetable; and (yy) summarizing the content of public comments received during the public approval process, and any modifications to plans or agreement made in response thereto;

(iii) MSG has submitted amended special permit site plan drawings in a form acceptable to the Department that show (a) easement areas or areas for exercise of similar user rights provided to the Railroad Entities for the purpose of the Improvements pursuant to the Improvement Agreement; and (b) a permanent loading arrangement for the arena and theater that (xx) does not require use of the easement areas or areas for exercise of similar user rights; (yy) eliminates or significantly reduces the loading and unloading of trucks for the theater at the plaza located on 8<sup>th</sup> Avenue and 31<sup>st</sup> Street, and does not impede the potential for Improvements in and around that location; and (zz) eliminates the loading and unloading of trucks upon all or part of West 33<sup>rd</sup> Street, between Seventh and Eighth Avenues or, if loading operations are relocated such that truck entry is at 31<sup>st</sup> Street or a proximate location, provides that the loading and unloading of trucks will not take place on West 31<sup>st</sup> Street, between Seventh and Eighth Avenues. Such site plan drawings shall be accompanied by a statement by MSG describing the loading sequence under the permanent loading arrangement, thereby committing MSG to implementation of the revised loading arrangements; and

(iv) The Director notifies the Parties in writing that the conditions of Subparagraphs (ii) and (iii) above have been satisfied. Within thirty (30) days following receipt of a submission made by the Parties to satisfy the requirements of Subparagraphs (ii) and (iii) above, the Director shall either: (a) provide such notification; or (b) identify, in writing, the provisions of Subparagraph (ii) or (iii) which are not satisfied. The Director shall review any revised submission pursuant to the provisions of this Subparagraph (iv). The determination of the Director shall be final, and no other reviews, determinations or approvals shall be required. The Director shall provide copies of a notification made pursuant to the provisions of this Subparagraph that the conditions of Subparagraphs (ii) and (iii) above have been satisfied, together with copies of all documents submitted by the Parties upon which such notification is based, to the Commission, the Office of the Mayor, and the Speaker of the Council.

( v) Notwithstanding the provisions of Subparagraphs (ii) and (iii) to the contrary, in the event that, as of the Expiration Date, the Improvement Agreement remains subject to a public approval required pursuant to statute or regulation in order for it to become effective and be implemented by a Railroad Entity, the Railroad Entities and MSG may, prior to the Expiration Date, jointly request to the Director that the Expiration Date be extended for a period not to exceed two (2) years in order to allow for completion of the public approval process, in which event this permit shall continue in effect and shall not expire until the date jointly identified to the Director (the “Adjusted Expiration Date”).

In the event this permit expires at the Expiration Date , the Adjusted Relocation Date , or the Adjusted Expiration Date, a new special permit shall be required. The review of any application for a new special permit shall be for the purpose of a reappraisal, based on the facts and circumstances as they exist as at the time of application, of whether the findings applicable to use of the Subject Premises as an Arena under the Zoning Resolution are met and to consider the imposition of conditions upon such permit as the Commission may deem necessary or appropriate for such purpose. In order to satisfy the findings of Section 74–31(a) of the Zoning Resolution or any successor provision thereto, such conditions may include a requirement to: (i) offer easements and/or other user rights to the Railroad Entities for the purpose of facilitating the construction, maintenance and operation of at–grade transit improvements by the Railroad Entities, such as new stairways, elevators, and escalators, having points of entry and exit located in and around the Subject Property, and which (a) enhance public access to Penn Station; (b) add forms of ADA–access to Penn Station; and (c) promote greater achievement of National Fire Protection Association Standards, or successor standards thereto, governing the safe evacuation of passengers from platforms and stations; and (ii) provide a permanent loading arrangement for the arena and theater that: (a) does not require use of the easement areas or areas for exercise of similar user rights; (b) eliminates or significantly reduces the loading and unloading of trucks for the theater at the plaza located on 8<sup>th</sup> Avenue and 31<sup>st</sup> Street, and does not impede the potential for at grade transit improvements in and around that location; and (c) eliminates the loading and unloading

of trucks upon public streets, provided that nothing herein shall be construed as requiring that such easements or other user rights be provided at less than fair market value, as determined by a method acceptable to the Commission, or that MSG shall be responsible for the costs of constructing, operating or maintaining at-grade transit improvements. Nothing herein shall be construed to preclude or limit the Commission, in granting a new special permit pursuant to the provisions of the Zoning Resolution following the Expiration Date, the Adjusted Relocation Date, or the Adjusted Expiration Date, from granting such permit subject to a term of years in accordance with the provisions of Section 74-31(e), or any successor provision thereto, in order to allow for a further reappraisal of whether the findings applicable to use of the Subject Premises as an Arena under the Zoning Resolution are met or to impose such conditions upon such permit as the Commission may deem necessary or appropriate for such purpose.

The above resolution (C 130139 ZSM), duly adopted by the City Planning Commission on May 22, 2013 (Calendar No. 3), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, FAICP Chair**

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.**

**BETTY Y. CHEN, MICHELLE DE LA UZ, MARIA M. DEL TORO, JOSEPH DOUEK,**

**RICHARD W. EADDY, ANNA HAYES LEVIN, ORLANDO MARÍN, Commissioners**



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

**SCOTT M. STRINGER**  
BOROUGH PRESIDENT

March 27, 2013

**Recommendation on  
Madison Square Garden  
ULURP Application Nos. N 130137 ZRM, N 130138 ZCM,  
C 130139 ZSM, and C 130140 ZSM  
By MSG Holdings L.P.**

**PROPOSED ACTIONS**

MSG Holdings, L.P.<sup>1</sup> (“the applicant”) seeks five actions to enable the continued operation of the Madison Square Garden Arena (“the arena”), located at 3-10 Penn Plaza (Block 781, Lot 9001) located in Manhattan’s Community District 5. In addition to permitting the arena to operate, the actions would allow physical improvements to the public areas surrounding the arena and facilitate arena marketing and revenue generation by allowing the use of large digital displays.

The applicant seeks a **special permit pursuant to Zoning Resolution (“ZR”) § 74-41** (“Arena Special Permit”) to allow an arena with a capacity in excess of 2,500 seats. In order to grant an Arena Special Permit, the City Planning Commission (“CPC”) must find that: (a) the principal vehicular access for an arena use is not on a local street; (b) the arena use is located so as to draw minimal vehicular traffic to and through residential areas; (c) the arena use is not located within 200 feet of a residential district; (d) adequate reservoir space at the vehicular entrance and sufficient vehicular entrances and exits are provided to prevent congestion; (e) vehicular entrances and exits are separate and at least 100 feet apart; and (f) due consideration has been given to the proximity of transit facilities to serve the arena.

The applicant further seeks a **certification pursuant to ZR § 37-621** for the elimination of non-bonused plaza areas. According to ZR § 37-621, any existing open area for which a floor area bonus has not been utilized that occupies the same zoning lot as an existing plaza for which a floor area bonus has been utilized may be reduced in size or eliminated only upon certification of the CPC Chairperson.

In addition, the applicant seeks **zoning text amendments to ZR §§ 37-625 and 74-41** to allow the CPC to approve design changes to pedestrian-accessible open areas in conjunction with the

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<sup>1</sup> James L Dolan is Executive Chairman, President and Chief Executive Officer of MSG Holdings, L.P.





Arena Special Permit. The proposed amendments would exempt bonusable plazas from existing plaza regulations, but would allow the CPC to prescribe requirements to all pedestrian-accessible open areas surrounding the arena, in conjunction with the Arena Special Permit.

Finally, the applicant seeks a **zoning text amendment to ZR § 93-17** that would create a special permit to modify sign regulations set forth in the Pennsylvania Station Subarea B4 of the Special Hudson Yards District. In the associated text amendment pursuant to **ZR § 93-171**, the applicant seeks a **special permit** to waive sign regulations under zoning that will allow larger signs than currently permitted and greater flexibility in signage content, specifically for the display of third-party advertising. In granting this special permit, the CPC shall find that location and placement of such signs are appropriate to the buildings and uses on the zoning lot and adjacent open areas, and that advertising signs would be compatible with the character of the arena site, including its use as an entryway to Penn Station.

## PROJECT DESCRIPTION

The applicant seeks these actions in order to enable the continued operation of Madison Square Garden as an arena, to facilitate the improvement of the public areas surrounding the building, and permit the placement of large digital advertising signage on the arena structure's exterior. The arena is located at 3-10 Penn Plaza, on the superblock bounded by 7<sup>th</sup> and 8<sup>th</sup> avenues and West 31<sup>st</sup> and 33<sup>rd</sup> streets in Manhattan's Community District 5. The arena complex sits atop Penn Station, the nation's busiest rail hub which serves approximately 640,000 passengers a day from New Jersey Transit and Long Island Rail Road commuter rail lines, Amtrak long-distance and regional rail lines, and New York City Transit subway lines.<sup>2</sup> The project site is zoned C6-4 and is located within the Pennsylvania Station Subarea B4 of the Special Hudson Yards District ("HY").

The Madison Square Garden complex consists of a 10-story, concrete-clad cylindrical building with a diameter of approximately 425 feet. A pedestrian bridge connects the arena building to Two Penn Plaza, an office tower which occupies the eastern portion of the superblock. Located along the perimeter of the building, at 90 degrees apart, are four vertical escalator towers at the southeast, southwest, northeast and northwest corners of the project site. The complex has a floor area of 987,243 square feet, and includes a variety of uses. In addition to the arena itself, which is permitted for a maximum capacity of 22,000 spectators, a variety of supportive programming is distributed throughout the building. An approximately 13,000-square-foot Expo Center is located on the fifth level, a variety of accessory retail and food vendors occupy multiple levels, and floor area is dedicated to a range of back-of-the-house and mechanical spaces. An approximately 5,600-seat theater (the "Theater")<sup>3</sup> occupies the western portion of the complex, and Nick and Stef's, an upscale steakhouse, occupies a storefront on the 33<sup>rd</sup> Street side of the building. On the eastern side, a first floor loading dock for the arena sits along a private driveway, which is open to pedestrians only. Also located off of the private driveway is an internal loading area currently used by Amtrak.

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<sup>2</sup> Moynihan Station Civic and Land Use Improvement Project Final Amended General Project Plan, June 2010

<sup>3</sup> The Theater is called The Theater at Madison Square Garden.

### *Special Permit History*

Completed in 1968, the current arena is the fourth iteration of Madison Square Garden. The third arena, opened in 1925, was located on 8<sup>th</sup> Avenue and West 50<sup>th</sup> Street. The previous arena seated over 18,000 attendees, but suffered from poor sightlines and ventilation. In order to build the current arena, land above the underground portions of Penn Station was leased to Madison Square Garden by the Pennsylvania Central Company with a term of 50 years. The CPC approved a special permit on January 16, 1963 that allowed the construction of the current Madison Square Garden complex with a maximum capacity of 22,000 seats.

At the time the city granted the special permit, there was significant outcry over the demolition of the original Penn Station. The CPC ruled, however, that the matter of Penn Station's preservation was not a permitted consideration as New York City had no landmarks law and the lease of the land was an agreement between two private actors. As private property in a commercial zone, the site could be used for a wide variety of uses not subject to CPC review. It was, however, the duty of the CPC to determine whether this was a suitable location for an arena.

In its consideration of the 1963 special permit, the CPC sought to ensure that "the transportation and traffic aspects of a large traffic-generating facility are given sufficiently broad and careful consideration, and that suitable provision is made for the safe and convenient movement and assemblage of large numbers of people without adversely affecting the surrounding area or the city as a whole." Based on this finding, the commission voted to approve the special permit, but did place conditions that sub-grade concourses of Penn Station be improved in order to protect the public interest.

The approved special permit had a 50-year term, corresponding with, though not explicitly, the term of the arena's lease. The land on which the arena sits was subsequently purchased by Gulf & Western Industries, the Garden's former parent company, in 1985, who subsequently sold it to Madison Square Garden in 1993. In August of 1989, the Arena Special Permit was amended by a minor modification to allow for physical upgrades of the arena complex. At that time, the Felt Forum, bowling alley and skating rink which had been included in the original development were replaced with the current theater. The term of the special permit expired on January 24, 2013.

### *Land Use and Zoning*

The eastern portion of the block, occupied by a 32-story office building at Two Penn Plaza, is located within a C6-6 zoning district and is a part of the Penn Center Subdistrict of the Special Midtown District ("MiD"). The western portion of the block, consisting of the project site and a seven-foot-wide strip of Two Penn Plaza, is zoned C6-4 and is also located within the Pennsylvania Station Subarea B4 of the HY. Also sharing the project site is Penn Station, which has three entrances through the arena building, two on 8<sup>th</sup> Avenue at West 31<sup>st</sup> and 33<sup>rd</sup> streets and one fronting the private driveway.

Though the arena sits on the 8<sup>th</sup> Avenue side of the superblock, its primary access is through a breezeway entrance on 7<sup>th</sup> Avenue through the Two Penn Plaza building. The 7<sup>th</sup> Avenue

entrance is delineated by Madison Square Garden signs and a digital display, which sits perpendicular to the street. The breezeway connects to a pedestrian bridge over the private driveway, a surface-level connection between West 31<sup>st</sup> and 33<sup>rd</sup> streets. The 7<sup>th</sup> Avenue entrance and sign are not subject to the current application.

The private driveway is located mid-block between Madison Square Garden and Two Penn Plaza, and connects West 31<sup>st</sup> and 33<sup>rd</sup> streets. It contains loading areas for the arena and for Amtrak cargo, as well as a large entrance to Penn Station, but does not provide public entrances to the arena. Large portions of the private driveway are covered by the breezeway, which casts the area in shadows much of the day. The private driveway was once open to public vehicular traffic, but since September 11, 2001 has been closed due to security concerns. A recent decision by the Metropolitan Transportation Authority (“MTA”) indicates that it will continue to be closed to vehicles, though the driveway will remain open to pedestrians.

The area surrounding the site primarily consists of high-rise commercial buildings. The adjacent blocks to the east, north and northeast are characterized by large office towers ranging between 22 to 55 stories. The area to the south is zoned primarily M1-5, which allows commercial, retail, and manufacturing uses. The district currently contains 12- to 17-story industrial buildings and mid-rise office towers. To the south of the arena along 8<sup>th</sup> Avenue are mixed-use and residential buildings. Penn South,<sup>4</sup> a large residential housing development, is located between 8<sup>th</sup> and 9<sup>th</sup> avenues and its northernmost border is West 29<sup>th</sup> Street. The development is two blocks south of the site and within view of the arena.

To the immediate west of the arena on 8<sup>th</sup> Avenue sits the four-story James Farley Post Office, a designated New York City landmark building designed by McKim, Mead & White. The James Farley Post office is the site of the Moynihan Station and upon completion will have significant pedestrian traffic from Amtrak riders. Additionally, the post office not only has postal retail services, but is actively used for the sorting and distribution of mail. The building is set back from the street and has a flight of steps along its entire 8<sup>th</sup> Avenue frontage, from West 31<sup>st</sup> to 33<sup>rd</sup> streets. These steps are a popular spot for pedestrians in nice weather and they directly face the arena’s 8<sup>th</sup> Avenue façade.

### *Open Space*

Currently, the arena and Two Penn Plaza are surrounded by at-grade, publicly-accessible open areas. These open space areas were filed as “public plazas” in accordance with the 1963 special permit, for which floor area bonuses were eligible, all accessible space adjacent to the building’s setback is considered as designated plaza. The existing plazas lack seating, greenery, or landscape treatments. The plazas contain a combined total of 82,928 square feet of open space over two zoning lots, which would have generated a total of 355,652 square feet of bonus floor area for the 10-story arena. Of this plaza-generated floor area bonus, only 72,497.5 square feet (approximately 20 percent) was utilized between the two buildings.

### *Signage*

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<sup>4</sup> Penn South is the common name for the Mutual Redevelopment Houses.

The site contains a number of existing signs, some of which exceed what zoning allows. Though the arena complex occupies two zoning lots, the entirety of the building itself lies within a C6-4 zoning district. Under zoning, signage along the West 31st Street, West 33rd Street and 8<sup>th</sup> Avenue frontages is limited to 500 square feet extending to a height of up to 40 feet. On corner lots, the permitted signage is 500 square feet on each frontage. There is currently a 1,536-square-foot illuminated marquee for the arena on the building's 8<sup>th</sup> Avenue street front within the interior portion of the zoning lot. This sign extends to a height of approximately 55 feet 11 inches above the curb level, exceeding both the allowable size and height requirements. However, a building permit was issued for the marquee in 1997. In addition to this marquee, there are two 250-square-foot illuminated signs facing West 31<sup>st</sup> and West 33<sup>rd</sup> streets and two 700-square-foot illuminated signs facing 8<sup>th</sup> Avenue, adjacent to the Penn Station entrances. These signs currently contain advertising. While current zoning allows digital signage, it does not permit advertising signs including sponsor messaging.

In addition to arena signage on the site, there are also signs for some of the complex's other uses. A sign for the Theater is located on the building's 8<sup>th</sup> Avenue façade with a surface area of 415 square feet. On West 33<sup>rd</sup> Street, signs for Nick and Stef's Restaurant total 62 square feet. These signs comply with the area's zoning.

The area surrounding the site has a variety of existing signage. The Penn Center Subdistrict, located along the 7<sup>th</sup> Avenue corridor to the east of the site contains several multistory vinyl and illuminated signs, many of which contain advertising. The 8<sup>th</sup> Avenue corridor is predominately defined by a mix of retail signage but does include a multi-story advertising sign painted on a building façade north of the site, at West 34<sup>th</sup> Street, and another multi-story advertisement on a building façade at 9<sup>th</sup> Avenue and West 33rd Street. Both advertisements are visible from the northeast corner of the site. The sign at 9<sup>th</sup> Avenue is non-illuminated and is partially obstructed by the Farley Post Office building. While the large advertisement at 34<sup>th</sup> Street and 8<sup>th</sup> Avenue is visible from both the post office steps and the project site, it is not subject to the same zoning provisions.

## **Proposed Program**

The applicant seeks several actions to allow the facility to continue to operate as an arena and to facilitate the following improvements to the arena's exterior and open space areas:

### *1. Arena Special Permit*

The applicant first seeks an Arena Special Permit, which would allow for the operation of an arena, auditorium, stadium, or trade exposition with a capacity in excess of 2,500 seats. Unlike the original CPC permit, the applicant is seeking an Arena Special Permit without an expiration date. The arena is currently undergoing interior renovations, which are under the scope of the original Arena Special Permit and require no change to the language of the permit.

### *2. Public Open Spaces*

MSG Holdings L.P seeks to eliminate the plaza area for which they are not utilizing the floor area bonus. As these plazas were never used to generate floor area, the plaza designation is not necessary and the action will ensure the zoning reflects the built condition. Additionally, the certification is part of an effort to improve pedestrian flow and aesthetics surrounding the arena complex.

The proposed changes to the pedestrian open space areas would consist of improvements on all four sides of the arena. On the southwest and northwest corners of the site, at 8<sup>th</sup> Avenue and West 31<sup>st</sup> and 33<sup>rd</sup> streets respectively, the entrance areas to Penn Station would be visually delineated with decorative paving in an elliptical pattern. Various wayfinding signage would be added to help improve pedestrian orientation. Within these delineated areas, semicircular benches with LED lighting would be added to create seating clusters. Around existing circular vent structures located near the Penn Station entrance, metal screen cladding would be added depicting images related to the arena's history. Both of these plazas would retain their public plaza designations, but based on the proposed text amendments would not be subject to the normal review process or design guidelines of other public plazas.

The mid-block streetscapes along West 31<sup>st</sup> and 33<sup>rd</sup> streets, site of the existing public plazas, would be decorated with pavement inlays commemorating significant people and events associated with Madison Square Garden history, which are currently located inside the arena. A large metal screen would be installed blocking portions of the private driveway plaza from view. These screens would include imagery and demarcate the loading zones from pedestrian areas without blocking pedestrians from entering the private driveway.

Finally, lighting would be added along the arena façade. The recessed portions of the building's exterior, running in vertical strips, would be illuminated with colors that would change depending on the event taking place in the arena. The compression ring that surrounds the top of the arena would be lit with white light. Lighting would further be added to the underside of the breezeway with the intention of creating a more pleasant atmosphere in the private driveway. The proposed lighting program is as-of-right and is not subject to this application.

### *3. Signage*

The applicant is proposing to install large LED advertising signs on the arena's four glass escalator towers (one on each corner) as well as an LED media wall along the 8<sup>th</sup> Avenue façade. The displays would broadcast promotional messages for upcoming arena events and third-party advertising. The displays on the escalator towers would be no more than 3,000 square feet each and would extend to no more than 80 feet above curb level. Along 8<sup>th</sup> Avenue, the media wall would consist of a series of different sized displays forming a band along the façade. Cumulatively, the displays would be 230 feet long and almost 19 feet high, with end panels of 26 feet by 19 feet. This signage program would total approximately 17,000 square feet of signage, an increase of 13,000 square feet over what is currently allowed.

Along with the large digital displays, the applicant proposes a signage program aimed to improve pedestrian wayfinding and the visibility of Penn Station entrances. Above both 8<sup>th</sup> Avenue Penn Station entrances, the applicant seeks to install larger "Penn Station" signs than currently exist as

well as a large “Amtrak” sign to indicate that this is the proper entrance to access the Amtrak concourse. These proposed signs are not permitted under current zoning. In addition to these signs at the entryways, wayfinding signage built in conjunction with the 34<sup>th</sup> Street Partnership and the Department of Transportation’s new signage program would direct pedestrians to key destinations within the project site, such as the entrances to Madison Square Garden and the various Penn Station entrances.

## **COMMUNITY BOARD RECOMMENDATIONS**

At a Full Board meeting on Thursday, February 14, 2013 Manhattan’s Community Board 5 (“CB5”) voted to deny the application, with conditions, in a vote of 36 in favor, 0 opposed, and 1 abstaining.

CB5 voted to limit the Arena Special Permit to a 10-year period in order to evaluate the future of Penn Station and the potential for moving the arena to another location in the city. In the matter of signage, CB5 advocates that the arena be restricted to the underlying zoning regulations and furthermore that any signs which do not comply with this regulation be removed. Finally, the board voted that any work done in association with this application be done in such a way that it will not impede the ongoing efforts of Penn Visioning, a joint effort of Amtrak, the Long Island Railroad, and New Jersey Transit to improve Penn Station over the next 20 years.

Manhattan Community Board 4 (“CB4”), at the request of CB5, also commented on the application and submitted a letter to CPC Chair Amanda Burden on February 25, 2013. CB4 felt that the proposed signage program is inappropriate for the area, and voted to deny any changes to the signage regulations and that all signs be in compliance with existing regulations. CB4 agreed with CB5’s resolution that the Arena Special Permit should not be granted in perpetuity, but declined to offer a specific timeframe. CB4 further voted that the proposed seating program for the public plazas be denied, as they are potentially dangerous obstructions during rush hour.

## **BOROUGH PRESIDENT’S COMMENTS**

Madison Square Garden sits atop the busiest railroad station in the United States—Penn Station—at the beating heart of Midtown Manhattan’s central business district. Situated between Times Square to the northeast and the new Hudson Yards developments to the west and well-served by regional and mass transit, this neighborhood has the potential to become a model for successful transit-oriented development that contributes to the long-term growth of New York City’s economy. Yet today, sites directly across Penn Station sit with one-story, tax-payer buildings awaiting future developments. New York City has a responsibility to carefully and comprehensively plan for growing transit needs while encouraging new economic opportunities.

The city can no longer afford to allow directionless development of the Penn Station area and must create a new comprehensive master plan, focusing on the district’s development and transportation needs.

A key consideration in the planning of the area is the long-term viability of Madison Square Garden (“The Garden”) in the neighborhood. The venue is an important Manhattan and New York City institution. With more than 400 events each year, the world-famous arena and theater are host to the largest number of shows of any entertainment or sporting venue in the country. The Garden is home to three professional sports teams and additionally hosts a variety of other major events including concerts, graduations, benefit events, award shows, and the annual Westminster Kennel Club dog show. Additionally, the arena has hosted some of the most historic events in New York’s history, from Pope John Paul II’s visit to New York in 1979 to The Concert for New York City, held in October 2001 to benefit the victims of the September 11 attacks. It is little wonder that Garden serves as a tourist attraction to over 54,500 people each year paying for guided tours of the arena apart from scheduled events.

The events held at Madison Square Garden are an important economic boon to our city. According to a study produced by Applesseed for the Madison Square Garden Company, the arena draws 3.6 million guests annually and employs 5,800 people.<sup>5</sup> Madison Square Garden’s total direct and indirect economic impact from employment and spending amounts to \$527.9 million each year. In addition, the visitors who attend events at The Garden spend approximately \$206 million per year, supporting an estimated 2,369 full time equivalent jobs in the New York City area. The economic impact results in over \$137 million in taxes and fees to New York City and New York State.<sup>6</sup>

Garden’s successes generally benefit the city’s growth and help maintain its economic health. However, the community has raised significant concerns about this application. Specifically, issues were raised about the size of the proposed signage, the design of the public plazas, and the renewal of the Arena Special Permit.

While the arena is critical to New York City’s economy, and the city should ensure its continued operation in Manhattan, its benefits cannot overshadow the physical constraints it places on the city’s infrastructure. The arena is built on top of Penn Station, a prominent transportation hub whose growth and modernization are critical to the long-term health of the local, state, and national economies. Failing to account for Penn Station’s current and future needs could have devastating effects and enervate New York’s ability to compete with world cities.

#### *Comprehensive Master Plan for Penn Station*

When Penn Station was demolished 50 years ago, the city lost an important monument. Unfortunately, at that time New York City had no laws that could protect the city’s historic buildings. Elected officials rightly reacted and created new laws to balance development and preservation.

However, the ramifications of losing Penn Station went far beyond the loss of a New York City monument, and the impacts are still being felt today. Penn Station is constrained and in need of

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<sup>5</sup> The 5,804 employees of Madison Square Garden, many of whom are part time and seasonal, were the equivalent of 2,695 full-time employees.

<sup>6</sup> The taxes and fees include all Madison Square Garden Company venues, which includes the subject Arena, the Radio City Music Hall and Beacon Theatre.

expansion and modernization. Unfortunately, real change to Penn Station will require the coordination of development on multiple blocks and rethinking the station's surrounding environment. The city needs a new, comprehensive master plan to address the station, which can utilize zoning tools like a new special district to coordinate infrastructure and real estate development in this critical business district.

The need for a master plan for Penn and Moynihan stations centers around New York City's growing transit needs. As these improvements will span multiple blocks, require multiple stakeholders at every level of government, and may take years to implement, the city cannot afford to wait and must begin a master planning process now.

When the city originally authorized the arena to operate atop the "new" Penn Station in 1963, Penn Station accommodated 200,000 daily passengers, leading the CPC to find that Penn Station and Madison Square Garden could coexist. However, over the past half-century the importance of Penn Station and the popularity of rail travel in the region have grown significantly. Penn Station's daily use has tripled to more than 640,000 riders, which is dangerously well over 100 percent of the station's capacity. Today, Penn Station is the busiest and most congested transportation facility in the United States. It has more daily travelers than LaGuardia, Kennedy and Newark Airports combined. In addition to being the most critical transit hub in the city, Penn Station is the most important intercity rail hub in the nation. Amtrak estimates that 30 percent of intercity rail trips in the entire country, and 60 percent of the intercity trips in the Northeast Corridor (NEC), originate from or terminate at Penn Station.<sup>7</sup>

Moreover, there is no reason to believe that Penn Station has peaked as a transportation hub. Utilization at Penn Station will likely increase as the city continues to move forward with proposed rail projects and fosters new population growth through new developments such as Hudson Yards on the west side.

Locally, Penn Station is the primary anchor of the Midtown West Central Business District, the area of Manhattan that is projected to grow the most over the next decade. In 2010, nearly 110 million passengers came through Penn Station on Amtrak, Long Island Railroad (LIRR), and New Jersey Transit (NJT) trains. Current projections have this number rising by 40 percent over the next 20 years.<sup>8</sup> In addition to commuters and intercity travelers, Penn Station services over 50 million subway riders annually and subway ridership is likely to grow.<sup>9</sup> Citywide, subway ridership in 2012 was the highest it has been in 62 years, despite closures from Superstorm Sandy.<sup>10</sup>

Regionally and nationally, elected officials and transportation advocates are seeking to expand mass transit systems. The East Side Access Project will reroute many Long Island commuters to Grand Central Terminal. Many of the expected riders of that project, however, are commuters who currently drive, and therefore, the future project will not greatly ease the congestion at Penn Station. In fact, any decreased number of LIRR trains through Penn Station could be replaced by

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<sup>7</sup> Moynihan Station Development Project Environmental Impact Statement

<sup>8</sup> Northeast Corridor Infrastructure Master Plan, 2010

<sup>9</sup> MTA Ridership Data, 2011

<sup>10</sup> MTA Press Release: "Despite Sandy, MTA Ridership Rises Again in 2012"



a new Metro North line linking the Bronx to Penn Station via the Hells Gate Bridge. Bringing Metro North service to Penn Station could add up to 32 million passengers in and out of the station in addition to continued projected growth on the Long Island Railroad, even while running fewer trains.

Amtrak's Gateway Project, which includes two new trans-Hudson tunnels to augment the century-old tunnels currently in use, promises to improve and expand high-speed rail service along the Northeast Corridor, while paving the way for a significant increase in the number of NJT trains. Gateway would add new tracks to Penn Station to the south of the existing tracks, further stressing the capacity of the existing station and potentially increasing the distance between the new platforms and exits.

Despite its immense growth and the prospect for future expansion, Penn Station remains a confusing, subterranean, three-level maze with indiscernible entrances, low ceilings, and exit points that are severely limited, unevenly distributed, and do not meet industry standards for safe egress. It is simply unacceptable to continue to subject the current and future users to the existing and projected levels of congestion in Penn Station.

Penn Station's shortfalls have led to various studies on how to improve conditions. The Penn Visioning process presents a worthy effort to ameliorate conditions through internal improvements. Additionally, the Moynihan Station plan creates a new Amtrak terminal inside the Farley Post Office building that will further improve the passenger experience. The new terminal will add vertical circulation on the western side of the station, which is all but non-existent today. It will also move intercity travelers to a separate area, opening up new space for commuters.

Unfortunately, neither of these plans goes far enough, nor addresses the physical constraint of the Garden on meaningful improvements to Penn Station. The existing plans and proposals will assist in bringing the capacity of the station in line with today's ridership, but they do not allow for a significant increase in capacity. If our city and economy are to grow, we need a train station that has the capacity to accommodate new projects and encourage new growth.

In order to truly add new capacity to Penn Station, improvements must be made at the track level. There are currently 21 tracks and 11 platforms, with an average width of 21 feet. The narrowness of the platforms significantly adds to the amount of time trains must sit in the station in order to allow passengers to get off and on, causing delays and limiting the total number of trains that can service the station. Essentially, only one train can use a given platform at a time, effectively reducing the number of active tracks by half. While the current number of trains per hour is largely limited by having only two trans-Hudson tunnels, the addition of the Gateway Tunnels will provide a vast improvement in the number of trains that can enter Penn Station, but *only if* our platforms are prepared to handle the increased load.

Most vertical circulation in the station is concentrated on the eastern end of the station, but stairwells and columns create bottlenecks making it hard to walk up and down the platform. Reconfiguring the platforms at Penn Station is thus a necessary step for increasing both high-speed and commuter service and safely accommodating increased ridership.

Unfortunately, improvements on the track level are limited by the existence of Madison Square Garden, since support columns for the arena travel through Penn Station onto its lowest level. In order to reconfigure and widen the platforms, the columns would have to be moved, which cannot feasibly be done with the arena sitting above.

While moving Madison Square Garden would potentially lead to a new, modern head house serving as a grand gateway into New York City, the true benefits in moving the arena would be increased below-grade flexibility that would allow for efficient track design.

It is time to move Madison Square Garden and take up the effort of building a more spacious, attractive, and efficient train station that will further encourage transit use, reduce driving into the city, and create thousands of jobs and spur the growth of businesses. Moreover, welcoming new forms of national and regional transit is essential to promoting and maintaining New York's place as the economic center for the entire region. Penn Station itself is one of New York City's most important public spaces and an economic engine of its own right. As such, it must provide an inviting atmosphere for all.

Over the last decade there have been several plans to move Madison Square Garden to another location in midtown, plans in which Madison Square Garden was a willing participant. These plans recognize the importance of the arena, but also the fact that it cannot continue to operate indefinitely in its current location. Madison Square Garden is the second oldest arena in the NBA at 45 years old, while the median age of a National Basketball Association arena is 14 years old. While the Garden has recently undergone significant renovation, it cannot exist in its current configuration in perpetuity. Arenas are regularly rebuilt to ensure their continued viability and competitiveness. As Madison Square Garden is a valuable economic engine, the city must find new locations for the arena in order to ensure its continued operation in the borough.

A process must be developed to select an alternative site for the arena and work with stakeholders to execute the move.

Moving the Garden is an important first step to improving Penn Station. This effort will require the transformation of the entire surrounding area. The station's underground tracks stretch over the entire superblock and beyond. A new station would need to be built to be resilient – to have the ability to grow well into the future – and this will require creating infrastructure under much more than the current footprint of the station.

Accommodating and financing a new station will require transforming the entire district, much like Terminal City did for Grand Central a century ago, to create a new signature district that would leverage improvements to the transit network. A new Moynihan-Penn Station proposal will require a true comprehensive master plan that includes zoning and financial incentives for infrastructure improvements.

Further, a transformed Penn Station can have significant positive impacts for economic development. New York City's global competitors are investing in their regional train stations.

London recently redeveloped Kings Cross and St. Pancras International stations. These new stations not only have resulted in a better commuting experience, but are encouraging business opportunities and spurring economic development in the surrounding area.

Creating and implementing a master plan for the area will not be easy, but it must be done and it must start today. This effort requires collaboration between all levels of government. It requires the involvement of public and private players: the community-at-large, community boards, City Council, City Planning, the Mayor, the Governor, the State Legislature, the federal government, the MTA, New Jersey Transit, Amtrak, the owners of Madison Square Garden, and other businesses in the area. A taskforce should be created with representatives from all of these bodies to begin assembling a comprehensive plan for Penn Station and the surrounding area.

The city should, therefore, begin exploring and studying such a special district as a critical piece to a new comprehensive master plan for Penn and Moynihan stations.

The new master plan will likely require a new special zoning district—the Special Moynihan-Penn Station District—that encompasses the entire station as well as surrounding blocks. Zoning for the area currently has no special regulations that accommodate, encourage, or restrict a building's interactions with the underground regional transit system. A new district would likely need regulations that allow density from the station site to be utilized in the surrounding area as a financing mechanism in order to preserve flexibility for the station in perpetuity. Buildings in the area should be required to interface with the station at both the street and the underground level, and the special district should potentially accommodate Madison Square Garden, as-of-right, in a more appropriate location. It is entirely feasible under the city's current powers to propose a special district while details of a new train station are fleshed out by the local community, property owners, and the rail lines.

Master plans for regional and mass transit improvements can take years, sometimes decades, to implement. The city must begin to create a master plan now and not wait until the system is so congested as to be broken.

#### *Arena Special Permit*

While the full improvement of Penn Station will require a much larger planning process, it is clear that moving Madison Square Garden is vital to that goal. The zoning code has a special permit for arenas because they are particularly high intensity uses that are not appropriate in many areas of the city. With large sites required, huge crowds entering and exiting at the same time, and high intensity loading operations on a daily basis, arenas require a site that accommodates these impacts, while minimizing the effects on surrounding communities.

The permit under which the arena operated for the past 50 years carried a time limit. At the time, it was not uncommon for special permits to carry such limits. In the 1963 written decision by the CPC, no explanation was given as to the logic of the time limit or the length of the 50-year term. Today, time limits are much less common. However, ZR § 74-31(e) allows the commission to “authorize any special permit use for such a term as it deems appropriate;” therefore, terms are an appropriate consideration here. Placing a term on special permits is generally appropriate

when the CPC can expect the conditions related to the findings may materially change in order to reevaluate the use and its impacts in the future.

The application meets the majority of the permit's findings. The arena is not on a local street, nor is it in or near a residential district, as defined by the zoning code. The arena does not have vehicular entrances at all, thus nullifying two of the findings pertaining to vehicular entrances.

However, to grant an Arena Special Permit, the CPC must find that "due consideration has been given to the proximity of bus and rapid transit facilities to serve such use." New Yorkers are habituated to analyzing the proximity of transit facilities with the idea that closer is always better. Generally, the arena's location near mass transit is a prime example of transit-oriented development. Siting Madison Square Garden near the nation's largest transit hub provides great access by a number of rail lines from all over the region. Such locations encourage the use of mass transit and reduce vehicle trips, which would contribute to the already overly congested midtown.

However, Madison Square Garden is not simply in near proximity to mass transit, it is directly *above* major transit infrastructure. As a result, the Garden actively contributes to Penn Station's inflexibility and prevents the necessary expansion of transit facilities. Therefore, "due consideration" must by definition include the rare possibility that the proposed use will negatively impact mass transit due to its proximity. While this condition is unlikely to occur outside of the densely built Manhattan core, there are no other arenas permitted to operate in the core and certainly no other arenas located on top of one of the busiest transportation hubs in the country. Therefore, consideration of this finding must incorporate the unique condition of this arena's location.

Penn Station is already over capacity. As noted above, a wide range of infrastructure changes could further increase Penn Station's utilization including both local and regional economic development projects as well as mass transit and regional transit improvements. Based on this high degree of uncertainty, it is impossible to evaluate the merits of this special permit in perpetuity.

Moreover, ZR § 74-31(a) requires that, in addition to the specific findings of each particular special permit, the CPC must find for all special permits that "the hazards or disadvantages to the community at large through the location of such *use* at the particular site are outweighed by the advantages to be derived by the community from the grant of such special permit *use*." As is well noted above, the location of Madison Square Garden at this location causes significant hazards and disadvantages to the community by hampering the expansion of Penn Station.

While Madison Square Garden clearly benefits the city-at-large today, the potential hazards of this location for the arena in the future are unknown. Therefore, it is infeasible for CPC to evaluate the findings to the special permit in perpetuity.

Further, an increase in station utilization would increase congestion, and it is important to consider the resulting impacts. If congestion, crowding, and delays experienced at Penn Station are a result of its inability to grow, then the station's conditions would discourage transit use in

favor of driving. As the current EIS assumes a high rate of mass transit use, any shift may introduce a new unaccounted environmental impact in the future.

For all the reasons stated above, the City Planning Commission should include a term to the Arena Special Permit that requires the reevaluation of this site in the near future.

The time period for which this permit is granted should then be linked to the period over which we can reasonably predict the conditions at Penn Station. Within the next two decades, it is likely that significant movement or completion will occur for a number of projects including East Side Access, Moynihan Station, Penn Visioning and further development within the Hudson Yards Special District. Additionally, within the next ten years the federal government will be considering a new transportation plan for the Northeast Corridor, which may have great impact on Penn Station. This plan may include the Gateway Plan that will add significant ridership to Penn Station. In giving due consideration to the proximity of Madison Square Garden to the mass transit system, it is necessary to assess expected use in the near term. With the number and variety of infrastructure projects in pipeline, the relationship between Penn Station and Madison Square Garden cannot be accurately predicted beyond 10 years.

Therefore, rather than granting the special permit in perpetuity, it should be granted for a term of no more than 10 years.

#### *Public Open Space*

The public areas surrounding Madison Square Garden are not typical public plazas. These small open spaces serve as the entrances and exits to Penn Station, as meeting places for event attendees, as waiting areas for delayed travelers, as well as public sidewalks in an often crowded section of midtown Manhattan.

The applicant's proposal for special consideration outside of the typical framework used for public plazas is thus well considered. Tying regulation of the plazas to the Arena Special Permit will allow the city to continue to regulate the plazas, while freeing the open spaces from the incompatible aspects of plaza regulations, which are appropriate on other, less traveled sites.

An area designed for café tables, benches, and planters, as required in plaza regulations, would certainly not be appropriate in the subject area, and the applicant has found a suitable middle ground. In the proposed design of the public plazas, the applicant adds limited amenities while maintaining important circulation corridors and, overall, this minimalist design is appropriate. Additionally, the proposed addition of wayfinding signage, the "walk of fame" mid-block on the side streets, the larger Penn Station and Amtrak signs at entrances and new pavers are generally appropriate.

However, on 8<sup>th</sup> Avenue the applicant proposes cladding the cylindrical vents next to the Penn Station entrances with a screen depicting famous moments throughout the arena's history. On the other side of the station's entrance, the semicircular benches would be ornamented with etched team logos in the pavement. The applicant's attempts to add visual interest to this drab area are laudable, but Garden-centric messaging is inappropriate near the entryway that does not

actually lead visitors into the arena. As the entrance for Amtrak travelers, the 8<sup>th</sup> Avenue side of the building should be treated more as a part of Penn Station than a part of Madison Square Garden.

Additionally, the applicant proposes a screen to better delineate loading from pedestrian areas along 33<sup>rd</sup> Street. This will create a safer environment around the loading areas. The proposed screen, however, will block sightlines for those who exit Penn Station under the breezeway, and create a narrow passageway between the loading area fence and Two Penn Plaza. Wayfinding signage should, therefore, be added to help orient pedestrians who either enter the private driveway from 31<sup>st</sup> Street or from the Penn Station exit located on the private driveway. In addition, the proposed screens extend from Two Penn Plaza and abruptly jut into the arena building at the western edge of the fence. This design potentially creates a bottleneck and dead zone, and should be altered to allow the fence to more gently slope from the private driveway towards the arena to create more room for movement.

Furthermore, though the plaza areas are being exempted from the onerous requirements of other public plazas, it is important that they still abide by the spirit of the intention of zoning code. In exchange for bonus floor area, developers are to provide amenities to the public. Though much of what is called for in ZR § 37-70 (Public Plazas) would be ill-advised in this space, every effort should be made to reflect the intent of its requirements.

Thus, while providing the proper number of trees or planters would be impossible in this space, efforts should nonetheless be undertaken to “provide comfort, shade and textural variety.”<sup>11</sup> The applicant should explore adding greenery to these plazas in creative ways that will not create obstructions. Two suggestions are to incorporate plantings into the proposed benches and construct a living wall around portions of Madison Square Garden.

Finally, any changes to the plaza’s design or the zoning code should be done in such a way as to ensure flexibility in the future. The Penn Visioning study, to be released shortly, includes new entrances into the station built onto these plazas. If the new entrances were to be built, the design for the plaza approved in this application may no longer be appropriate. In all cases, necessary improvements to Penn Station, especially expansion of ingress and egress points, should take priority over the arena’s open space designs, including the opening up of new entrances along 31<sup>st</sup> and 33<sup>rd</sup> streets. Under current regulations, major changes to a special permit typically require reentering the public review process. While such a review may be appropriate for an aesthetic change of design, it is an unnecessary burden for mass transit infrastructure, which serves a more critical need. The text should thus be modified to allow the CPC to permit changes to the public plaza through chair certification, provided that such alterations are intended to incorporate mass transit infrastructure such as signage, entrances, or ventilation.

### *Signage*

The applicant proposes a signage program intended to activate the surrounding streetscape through the use of large digital screens. The proposed signage totaling approximately 17,000

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<sup>11</sup> ZR § 37-742

square feet would be a 350% increase over what is currently allowed at the site. The large screens would play video content composed of images of Madison Square Garden's history, promotional messages for upcoming events, sponsorship messages, and third party advertising."

The applicant cites legislative history, specifically the creation of the Penn Center Subdistrict and the Times Square Subdistrict, to indicate that advertising signs are appropriate in areas that have significant entertainment or transit uses. Additionally, the arena is in close proximity to the Penn Center Subdistrict, which currently allows large signage. Therefore, the text amendment to create a special permit to allow larger signs in this area is generally appropriate.

The Penn Center Subdistrict, which sits immediately to the east of the site, is indeed characterized by large signs, many of which are flashing and illuminated. The 7<sup>th</sup> Avenue corridor from West 30<sup>th</sup> to 34<sup>th</sup> streets is characterized by multistory vinyl and illuminated signs erected on top of low-scale buildings and affixed to the sides of taller ones. The signs include: a four-story red shopping bag and a projecting television display on the Macy's department store; an illuminated, projecting sign for Fuse at the northeast corner of 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue; a multistory, three-dimensional sign above the one-story Bank of America on the northwest corner of 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue; and a number of other projecting and illuminated signs throughout the area. The two proposed midblock signs sit on the eastern edge of the zoning lot closest to this subdistrict and face towards 7<sup>th</sup> Avenue would primarily be viewable from this district which is already characterized by similar signs, and are in proximity to where users of the arena would congregate, and would thus be appropriate.

The signs along the 8<sup>th</sup> Avenue corridor, however, are more troublesome. In this area, 8th Avenue has a very different character than 7<sup>th</sup> Avenue only one block away. In general, the avenue is characterized by smaller scale retail signs and has only two large advertising signs. To the north of the site is indeed a highly built commercial district, but it is not characterized by large signs immediately surrounding the project site. To the south of the site is a much lower-scale mixed-use district with residences that would have views of the proposed signage. Of the two large signs, the sign at 9<sup>th</sup> Avenue is partially obstructed by the historic Farley Post Office building. The large advertisement to the north of the site is visible over a one-story building, currently housing a one-story Duane Reade, which is a soft site and likely to be developed. Were the site to be developed, the sign that sits in the more commercial district to the north would not be visible from the 8<sup>th</sup> Avenue vantage point. Finally, the proposed large 8<sup>th</sup> Avenue signs are intended to be viewed from several blocks from Madison Square Garden and many of these areas do not contain high intensity uses, such as the Penn South Residential Development.

Additionally, the applicant proposes panel signage that would be mainly viewable from the Moynihan Station steps. As Moynihan Station is a significant New York City landmark, it is inappropriate to bathe it in the light of advertising signage that is out of context with the surrounding area. While attempts to improve the Madison Square Garden façade are welcome, the 230-foot-long-panel of advertisements is incompatible with the surrounding area's landmarks and would introduce unwelcome visual pollution.

Finally, the proposed findings require that the signage be in proper relation to the various Penn Station entrances. As mentioned above, the primary users of the 8<sup>th</sup> Avenue plazas are Penn

Station travelers rather than arena guests, who can only enter on 7<sup>th</sup> Avenue. The proposed signs would have 3,000 square-foot displays playing Madison Square Garden content above Penn Station signage. As these entrances are already hard to find on 8<sup>th</sup> Avenue, this juxtaposition of arena content would only add to pedestrian confusion. For the same reasons that the arena logos in the plazas should be eliminated, the proposed screens are inadvisable above the entrances to Penn Station.

Therefore, the proposed large signs on 8<sup>th</sup> Avenue are inappropriate and not in character with the surrounding area. These signs should be eliminated or significantly reduced

Though the specific 8<sup>th</sup> Avenue advertising signage proposed in this application is unacceptable in its current form, the larger Penn Station and Amtrak signs are appropriate. The text amendment is necessary to allow more prominent transportation signage.

### **BOROUGH PRESIDENT'S RECOMMENDATION**

**Therefore, the Borough President recommends conditional disapproval of ULURP Application Nos. C 130139 ZSM and C 130140 ZSM for special permits to operate an arena and for signage greater than allowed under the underlying zoning, unless the following modifications are made:**

- 1. a term limit of no more than 10 years is included on the Arena Special Permit in order to reevaluate the application based on future circumstances;**
- 2. the city begins a process to comprehensively plan for changes needed around Penn Station, including the creation of a new special district; and**
- 3. the proposed signage program is amended to remove or significantly reduce the digital signage along 8<sup>th</sup> Avenue.**

**Further, the Borough President recommends conditional approval of Application Nos. N 130137 ZRM and N 130138 ZCM as the decertification of the plaza will clean up the zoning text, regulation of plaza space under the Arena Special Permit will allow greater flexibility in improving these important public spaces, and the special permit for larger signage will allow larger transportation signs. Approval of these applications is contingent on the conditions that:**

- 1. Madison Square Garden imagery is removed from the plaza designs in the vicinity of Penn Station entrances;**
- 2. the loading dock screen is altered to maximize public space and efficient pedestrian circulation;**
- 3. the applicant explore adding greenery to the public plazas, potentially in the form of a living wall; and**



4. the conditions under which the CPC regulates public areas around the arena are made both more explicit and more flexible in order to allow future transit improvements to be built on the plazas by CPC Chair certification.



Scott M. Stringer  
Manhattan Borough President

## 36Manhattan Community Board Five

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Vikki Barbero, Chair

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Wally Rubin, District Manager

February 15, 2013

Hon. Amanda Burden  
Chair  
Department of City Planning  
22 Reade Street, Room 2E  
New York, NY 10007

**RE: AN APPLICATION FOR A RENEWAL OF SPECIAL PERMIT FROM MADISON SQUARE GARDEN AND RELATED ACTIONS.**

Dear Chair Burden:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, February 14, 2013, the Board passed the following resolution by a vote of 36 in favor, 0 opposed, 1 abstaining:

WHEREAS, MSG Holdings, L.P., seeks a series of actions including two special permits, a text amendment, and a chairperson certification to facilitate the continued use and operation of the arena as well as changes to its existing open areas and signage; and

WHEREAS, The current Madison Square Garden is the fourth of a line of facilities in New York since the late 1870s and the existing Madison Square Garden, opened in 1968, is located above the country's busiest railroad hub in Penn Station; and

WHEREAS, MSG is the subject of a special permit approved by CPC on January 16, 1963, (CP-17682) and the Board of Estimate on January 24, 1963, (Cal. No. 215) for an arena with a capacity in excess of 2,500 seats, pursuant to Section 74-41 of the Zoning Resolution; and

WHEREAS, The CPC resolution approving the 1963 Special Permit established a maximum capacity of 22,000 seats for MSG and included a term limit of 50 years. The Garden and 2 Penn were constructed in accordance with the 1963 Special Permit and were completed in 1968; and

WHEREAS, The Special Permit expired on January 24, 2013, requiring a new special permit; and

WHEREAS, MSG is currently undergoing an extensive renovation including a new entrance; wider concourses; new restaurants; improved sightlines; new scoreboard, suites and hospitality areas; and new pedestrian bridges. The renovation is expected to be completed by the beginning of 2014; and

WHEREAS, The area surrounding MSG is mapped primarily with commercial zoning districts. The C6-4 (HY) zoning district extends to the north and northwest and the C6- 6(MiD) zoning district extends to the east and northeast. The area to the south includes M1-5, M1-6, and M1-6D zoning districts, and the area to the immediate southwest is located within a C6-3X zoning district. Critically, an area farther to the southwest, bounded by West 31st Street, Eighth Avenue, West 30th Street, and Ninth Avenue, is mapped as an R8B District; and

WHEREAS, An arena use cannot be located within 200 feet of a Residence District. The nearest residence district is an R8B zoning district, the northern and eastern boundaries of which are located on the southern midblock portion of the block bounded by West 31st Street, Eighth Avenue, West 30th Street, and Ninth Avenue. It is not clear based on the applicant's materials how far the use is from this district and how that measurement is made but the proximity of that residential district raises concerns about the illuminated signage; and

WHEREAS, The block across Eighth Avenue, is occupied by the James Farley Post Office building, which is a designated landmark; and

WHEREAS, MSG is located over Penn Station, a major transit hub with stations for Amtrak, Long Island Rail Road, New Jersey Transit, and the A, C, E, 1, 2, and 3 subway lines; and

WHEREAS, The C6-4 (HY) portion of the lot is subject to the sign regulations of the underlying C6-4 zoning district. Illuminated and non-illuminated signs are permitted with a total surface area not exceeding five times the street frontage of a zoning lot, but no more than 500 square feet for interior or through lots or 500 square feet on each frontage for corner lots. Signs are not permitted to extend more than 40 feet above curb level. Advertising signs are not permitted at all; and

WHEREAS, There are several points of pedestrian access between MSG and Penn Station. Primary access to Penn Station is provided by a stairway and escalators leading from Seventh Avenue, at the eastern end of 2 Penn Plaza, which lead to the central corridor connecting the LIRR, NJ Transit, and Amtrak facilities and the A, C, E, 1, 2, and 3 subway lines. Eighth Avenue also serves as a critical access point for transit riders particularly those going on Amtrak and the A,C,E lines; and

WHEREAS, There are a number of existing signs on MSG. Based upon the applicant's materials there is a 1,536-square foot illuminated sign located on the MSG's Eighth Avenue façade. The interior lot portion also contains two 250-square-foot signs facing West 31st Street and West 33rd Street. There are also two 700-square-foot signs facing Eighth Avenue. In addition there are signs on the Theater, located on the MSG Complex's Eighth Avenue façade with a surface area of 415 square feet, and signs for a restaurant, located on the building's West 33rd Street façade with a total surface area of 62 square feet; and

WHEREAS, The proposed arena special permit would allow the continued use and operation of MSG on the site in perpetuity. The proposed design changes to the open area would consist of improvements to the areas located at the northwest and southwest corners of the site, adjacent to the Penn Station entrances, improvements to the areas located along West 31st Street and West 33rd Street; and additional lighting; and

WHEREAS, Wayfinding signage, informational signage, and plaza identification plaques would be introduced and etched logos of MSG and its major sports teams would be set into the pavement. Semicircular benches with LED underlighting would be installed to create seating clusters. Existing round vent structures would be clad with a metal screen, depicting Garden events, and would be wrapped with additional bench seating; and

WHEREAS, An arena, auditorium, stadium or trade exposition with a capacity in excess of 2,500 seats is not permitted as of right within any zoning district. An arena is allowed by a special permit pursuant to Section 74-41 of the Zoning Resolution. Because the 1963 Special Permit expired on January 24, 2013, a Special Permit is needed for the continued use and operation of MSG; and

WHEREAS, There are at-grade, pedestrian-accessible open areas on the lot, adjacent to MSG and 2 Penn Plaza which were developed in accordance with the 1963 Special Permit and filed as plazas under the plaza standards of the 1961 Zoning Resolution. The plazas consist of 70,958 square feet of plaza area on the former C6-2 portion of the site—composed of 67,330 square feet on the site and 3,628 square feet on the former C6-2 portion of 2 Penn Plaza—and 11,970 square feet of plaza area on the former C6-4 portion located entirely on the eastern portion of 2 Penn Plaza; and

WHEREAS, The proposed design changes to the open areas would consist of improvements to the areas located at the northwest and southwest corners, adjacent to the Penn Station entrances, improvements to the

areas located along West 31st Street and West 33rd Street, improvements to the driveway, and enhanced illumination of the open areas. The design changes would also include accessory directional and building identification signs within the open areas surrounding MSG; and

WHEREAS, The proposed signs on the building would consist of 20 mm LED display panels on the escalator towers, a 20 mm LED media wall on the building's Eighth Avenue façade, and non-digital pedestrian-level signs incorporated into the lower facades of the building's West 31st Street and West 33rd Street frontages. The 20 mm LED signs would provide video for multiple viewing angles and distances. The display panels on the four escalator towers would have surface areas of no more than 3,000 square feet each and would extend to a height of 80 feet above curb level. The Eighth Avenue media wall would consist of a series of different-sized display panels forming a band along the building's Eighth Avenue façade, with a height of 18'-8" and a width of 230'-0", and wrapping around the façade's northern and southern ends, with end panels of 18'-8" by 26'-6". The media wall would have a total surface area of approximately 5,300 square feet. Content for the tower display panels and the media wall would include promotions for upcoming events, images of defining moments in Madison Square Garden's history, sponsorship messages, and third-party advertising. The total amount of signage would increase from approximately 4,000 square feet today to 17,000 under the proposal; and

WHEREAS, These signs require a special permit pursuant to Section 93-171; and

WHEREAS, MSG sits on top of Penn Station constraining opportunities to make significant improvements. Over the years many plans have been developed to build a dramatically improved Penn Station and a great new MSG; and

WHEREAS, Penn Station was designed for a capacity of approximately 200,000 people but now has approximately 650,000 daily users and is woefully outdated; and

WHEREAS, The three railroads – Amtrak, LIRR, and NJ Transit – have hired AECOM and James Carpenter Design Associates to look at ways of improving circulation within Penn Station and they have a number of modest interventions they're recommending including additional stairway capacity and better wayfinding signage. This study is called Penn Station Visioning; and

WHEREAS, CB5 recognizes the important economic impact of MSG to the City of New York; and

WHEREAS, CB5 recognizes the improvements to the lighting around MSG and modest public space improvements; and

WHEREAS, CB5 also recognizes that although not the subject of these land use actions MSG has been granted a property tax abatement which is not limited by a term of years and has meant a loss of approximately \$350 million in property tax revenue since 1982; and

WHEREAS, The New York City Council passed a measure in 2008 asking for the state legislature to remove this property tax abatement; and

WHEREAS, It is CB5's understanding that MSG is unique in having a property tax abatement which is not limited by a number of years; and

WHEREAS, CB5 believes that a world class train station and a great arena should not be mutually exclusive goals; therefore be it

**RESOLVED**, That Community Board Five **recommends the denial of the proposed application unless:**

1. The length of the special permit is restricted to a 10-year period in order to allow for careful plan to be developed for the future of Penn Station and Madison Square Garden recognizing that Penn Station is the most important transportation hub in North America and is desperately in need of improvements to capacity, access, and overall experience. MSG is the oldest stadium in the NBA and the NHL and ultimately CB5 believes a new stadium for MSG will be in its long term interests but more importantly in the long term interests of the tens of millions of people who travel through

Penn Station every year and in the long term economic development interest of surrounding property owners, New York City, and the region as a whole. Based on the findings of the special permit CB5 does not believe that “due consideration has been given to the proximity of bus and rapid transit facilities to serve such use”. Furthermore, the Board recognizes that the zoning text allows the City Planning Commission to prescribe appropriate conditions and safeguards to minimize adverse effects. This request is the most important piece of this application and CB5 cannot think of more important safeguard for the future of our transportation system than to restrict the MSG special permit for 10 years in order to allow a careful plan to be developed working with all of the stakeholders.

2. Signage is limited to what is permitted by the underlying regulations – no waiver should be granted. A careful reading of the zoning resolution suggests that some of the existing signage on MSG is not in compliance with the underlying zoning rules so CB5 urges MSG to remove any non-complying signage and encourage the Department of City Planning to notify the Department of Buildings of any violations. CB5 is also concerned about the visual impact of new illuminated signage on the adjacent residential buildings and the landmark Farley Post Office across the street. Furthermore, CB5 recognizes that 8<sup>th</sup> Avenue is an entrance to Penn Station and Amtrak in particular and not MSG and additional MSG advertising signage would likely confuse travelers and make this neighborhood even more difficult to navigate for tourists and commuters alike. As DOT launches a wayfinding program it is critical that the City does not undercut its own initiatives by permitting additional signage clutter and confusion. In addition, any new wayfinding signage should be harmonized with DOT’s proposed wayfinding proposals and New York City Transit signage. Additional public transit signage above and beyond what is allowed under the current zoning would be something the Board would be open to if presented with that request; and
3. The elimination of the tax abatement on the Madison Square Garden site. CB5 understands that in 1982 a property tax abatement was granted to Madison Square Garden and in 2012 cost NYC \$16.5 million dollars in lost revenue and over the life of the tax abatement has cost New York City approximately \$350 million dollars. We support the measure adopted overwhelmingly by the City Council in 2008 to reconsider this windfall given to the Garden and urge the State Legislature to correct this mistake. We also urge the City Council to re-affirm its support for this critical issue. It is our understanding that the Garden is one of the few sites in New York City that has a property tax abatement in perpetuity and given our constrained municipal budgets we believe now is the time to re-evaluate this measure.
4. The Penn Station Visioning team - LIRR, NJ Transit, and Amtrak, working with AECOM and James Carpenter Design Associates - has suggested some useful improvements to the circulation in and around Penn Station. CB5 looks forward to continuing to work with them to develop these ideas and we urge the Department of City Planning and Department of Transportation to engage in a constructive dialogue to ensure that no improvements that are recommended by the Penn Station Visioning Study – particularly with respect to improved ingress/egress to Penn Station - be precluded as a part of the approval for MSG.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero  
Chair



Raju Mann  
Acting Chair, Land Use & Zoning Committee